



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

Adjudication Department- I

Adjudication Division

Before

Shahzad Afzal Khan - Director/Head of Department

In the Matter of

Hira Textile Mills Limited

Number and Date of SCN: CSD/ARN/532/2018-146 dated March 12, 2024

Dates of Hearings: April 25, 2024 and May 03, 2024

Present: Mr. Imran Bashir

ORDER

UNDER SECTION 218 OF THE COMPANIES ACT, 2017 READ WITH SECTION 219 THEREOF

This Order shall dispose of the proceedings initiated against Hira Textile Mills Limited (the Company), through Show Cause Notice CSD/ARN/532/2018-146 dated March 12, 2024 (the SCN) issued under Section 218 of the Companies Act, 2019 (the Act) read with Section 219 thereof.

2. Brief facts of the case are that examination of the Annual Financial Statements of the Company for the year ended June 30, 2022 (the 2022 Accounts) and the information provided through Company's letter dated December 27, 2023 mentions the following details of monthly contributions along-with deduction and payment dates:

S No.	Month	Due Date	Date of Deposit	Delays (in days)
1.	July 2020	15-Aug-2020	14-Nov-2020	-91
2.	August 2020	15-Sep-2020	28-Nov-2020	-74
3.	September 2020	15-Oct-2020	24-Dec-2020	-70
4.	October 2020	15-Nov-2020	20-Jan-2021	-66
5.	November 2020	15-Dec-2020	22-Feb-2021	-69
6.	December 2020	15-Jan-2021	10-Mar-2021	-54
7.	January 2021	15-Feb-2021	29-Mar-2021	-42
8.	February 2021	15-Mar-2021	16-Apr-2021	-32
9.	March 2021	15-Apr-2021	25-May-2021	-40
10.	April 2021	15-May-2021	No Deposits made	N/A
11.	May 2021	15-Jun-2021	No Deposits made	N/A
12.	June 2021	15-Jul-2021	No Deposits made	N/A



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3. The information shared by the Company regarding monthly payments revealed that *prima facie*, the Company failed to transfer the provident fund contributions in to the separate bank account maintained by the Company within the prescribed time, contrary to the requirements of Section 218 of the Companies Act, 2017 (the Act) punishable under Section 219 of the Act.

4. To provide opportunity of personal representation, hearing in the matter was fixed for April 25, 2024, however, the hearing was adjourned. Subsequently, hearing was re-fixed for May 03, 2024, wherein, Mr. Imran Bashir, on behalf of the Respondents, as their Authorized Representative (the Representative), appeared before the undersigned and admitted the default with a request to condone the proceedings giving a binding assurance of compliance in future.

5. Subsequently, the Representative also through letter dated May 17, 2023 *inter alia* submitted that:

The Company attached a detail of monthly contributions which showed that contribution to the provident fund was fully made in separate bank account, although with delays. This was primarily because the fact that the Company was suffering from liquidity distress which led to delay in disbursement of salaries and consequently liability towards provident fund was made. It is clarified that delays mentioned in the notice is altogether incorrect as salaries were being paid with delays and upon disbursement of salaries, liability towards provident fund were made within 15 days from the date of disbursements of salaries. It is pertinent to mention that the Fund has also settled the liabilities towards members upon separation from the Company.

It is stated that in the past the Company has tried it level best to ensure that a timely deposit is made towards the provident fund contribution, but in the previous few years the Company has undergone some major structural, managerial, and other changes. However, despite all difficulties, the Company has ensured that the interest of the employees is protected at the best and the contribution has been made towards the provident fund, albeit with a minor delay.

The Company realizes the importance of complying with relevant laws and regulations which are in place and your office is assured that the Company is trying its level best to meet the relevant timelines but because the company lacks financial liquidity it has been a difficult time for the Company and management.



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6. Before proceeding further, it is necessary to refer to relevant legal provisions, which are reproduced as under:

Section 218 of the Act provides that:

(1) *All moneys or securities deposited with a company by its employees in pursuance of their contracts of service with the company shall be kept or deposited by the company within fifteen days from the date of deposit in a special account to be opened by the company for the purpose in a scheduled bank or in the National Saving Schemes, and no portion thereof shall be utilized by the company except for the breach of the contract of service on the part of the employee as provided in the contract and after notice to the employee concerned.*

(2) *Where a provident fund, contributory pension fund or any other contributory retirement fund has been constituted by a company for its employees or any class of its employees, all moneys contributed to such fund, whether by the company or by the employees or by both, or received or accruing by way of interest, profit or otherwise from the date of contribution, receipt or accrual, as the case may be, shall either –*

(a) *be deposited –*

(i) *in a National Savings Scheme;*

(ii) *in a special account to be opened by the company for the purpose in a scheduled bank; or*

(iii) *where the company itself is a scheduled bank, in a special account to be opened by the company for the purpose either in itself or in any other scheduled bank; or*

(b) *be invested in –*

(i) *Government securities; or*

(ii) *bonds, redeemable capital, debt securities or instruments issued by a statutory body, units of collective investment schemes registered as notified entities with the Commission, and in listed securities including shares of companies, bonds, redeemable capital, debt securities and equity securities, subject to the conditions as may be specified.*

(3) *Where a trust has been created by a company with respect to any provident fund or a contributory pension fund or any contributory retirement fund referred to in sub-section (2), the company shall be bound to collect the contribution of the employees concerned and pay such contributions as well as its own contributions, if any, to the trustees within fifteen days from the date of collection, and thereupon, the obligations laid on the company by that subsection shall devolve on the trustees and shall be discharged by them instead of the company.*

Section 219 of the Act provides that:

219. *Any contravention or default in complying with requirements of sections 217 or 218 shall be an offence liable to a penalty of level 1 on the standard scale and shall also*



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be liable to pay the loss suffered by the depositor of security or the employee, on account of such contravention.

7. I have reviewed the submissions made in writing and during the hearing as well as issues highlighted in the SCN. In this connection, I am of the view that scheme of law stipulated in Section 218 of the Act requires the company to transfer contributions to the provident fund within the prescribed time. However, the Company contrary to the requirements of Section 218 of the Act, which attracts penal provision provided in Section 219 of the Act, failed to transfer the contributions within the prescribed time. The Company in its reply had shared the dates of employee contributions and relative deposit dates in the Bank, highlighting significant delays as mentioned in para 2 above. Therefore, the employee provident fund deduction dates mentioned in the notice were provided by the Company signifying substantial delays.

8. Keeping in view the facts that due to significant delays the Company has contravened the provisions of Section 218 of the Act and, therefore, is liable to be penalized under Section 219 of the Act. I, therefore, in exercise of powers conferred on me in terms of Section 219 of the Act, hereby, impose a penalty of **Rs 25,000 (Twenty Five Thousand only)** on the Company.

9. The Company is, hereby, directed to deposit the aforesaid amount of penalty in the designated bank account maintained in the name of the Securities and Exchange Commission of Pakistan with MCB Bank Limited or United Bank Limited within thirty (30) days from the date of this Order and to furnish a receipted bank challan to the Commission forthwith. In case of failure to deposit the penalty, the proceedings under Section 485 of the Act will be initiated for recovery of the fines as arrears of land revenue.

10. Nothing in this Order may be deemed to prejudice the operation of any provision of the Act providing for imposition of penalties on the Company in respect of any default, omission or violation of the Act.

Shahzad Afzal Khan
Director/ HOD
Adjudication Department-I

Announced:
May 29, 2024, Islamabad