Before Ali Azeem Ikram, Executive Director/HOD (Adjudication-I)

In the matter of Jubilee Spinning & Weaving Mills Limited

Dates of Hearing	September 22, 2020, October 13, 2020, November 16, 2020

Order-Redacted Version

Order dated February 3, 2021 was passed by Executive Director/Head of Department (Adjudication-I) in the matter of Jubilee Spinning & Weaving Mills Limited. Relevant details are given as hereunder:

Nature	Details
1. Date of Action	Show cause notice dated August 7, 2019
2. Name of Company	Jubilee Spinning & Weaving Mills Limited
3. Name of Individual*	The proceedings were initiated against the directors of the Company i.e. Jubilee Spinning & Weaving Mills Limited
4. Nature of Offence	Violations of section 492 and section 476 of the Companies Ordinance, 1984.
5. Action Taken	Key findings were reported in the following manner: I have gone through the facts of the case, submissions made in writing and relevant arguments made by the Respondents during the hearing proceedings. The matter is summarized in the following manner: (i) As regards to the observation that the Company had only one natural gas driven generator having cost and WDV of Rs. 20.889 million and Rs. 1.765 million, however, the inspectors observed three generators working at the premises of the Company. In this regard, the Authorized Representative submitted that the generators were not recognized as assets in the Accounts of the Company because the aforesaid did not belong to the Company and were on test run basis. In view of reply, relevant financial statements for the period ended December 31, 2018 have been reviewed which disclosed the addition of Rs. 10.999 million for addition of operating fixed assets. However, the auditor in review report for the period ended December 31, 2018 made qualified opinion that: *"Previously these alternate* ***power house generators, generating the aforesaid revenue had not been***

__recognized in the books of account of the Company__ nor did any rent being charged in the condensed interim financial statements. However, during the month of October and November 2018, the Company has recorded purchase of two generators replacing the previously unrecorded generators. However, the arrangement of such replacement could not be substantiated due to the lack of information as to the fate of the previously unrecorded generators".

Moreover, it is also relevant to highlight that the Respondents, during the course of the said proceedings, was advised to provide the relevant supporting documents to support the argument that these generators were on trial basis. The Respondents however did not furnish any supporting evidences that the said generators, as observed by the inspection team, were on trial run basis, at the relevant time of inspection. In absence of any supporting evidences, and aforesaid auditors' qualification and inspection report on the aforesaid matter, I, am of the view that the Respondents stance is not tenable.

(ii) It was observed that the Company was producing electricity for sale to various companies. In this regard, following service agreements were also furnished for sale of electricity: (i) service agreement dated January 1, 2015 with PML (ii) service agreement dated August 1, 2014 with PPL (iii) service agreement dated September 28, 2016 made with RIEAL for sale of electricity. It was informed that the natural gas supplied for the five months period (Sep, 2015, Dec 2015, Jan 2016, Feb 2016 and Jun 2016) was of Rs. 11.694 million. In this connection, the Company has furnished a letter dated April 16, 2015 addressed to SSGCL, made by PPL, in terms of which gas connection transfer request was made in favor of PPL and also furnished SSGCL bills for the months of July 2015, September 2015, December 2015 and May 2016. I have gone through the copies of bills provided by the Respondents and these bills clearly disclose that the gas connections were in the name of the Company i.e. Jubilee Spinning & Weaving Mills Limited bearing customer number 5901831000. I, am of the view that the Company however did not incorporate the SSGC bills in its relevant period financial statements. As per available information, SSGC bills of 11,694,655 were not incorporated in the Accounts of 2016:

The aforesaid are material and otherwise significant amounts which were required to be recorded in case of cost of fuel.

In view of the aforesaid, the stance of the Respondents is not tenable as SSGC has claimed amounts against the Company. I am of the view that during the course of proceedings the document of relevant transfer request, were not provided to the inspection team as without which it can be construed that the Company was producing electricity from the consumption of gas and was being sold to various customers as cited above and an amount of Rs. 11.694 million as SSGC bills for various months of 2016 were relevant to the Company which was never recorded in the Accounts of the Company. Relevant Accounts for the year 2016 were hence misstated by the aforesaid amounts.

(iii) It was highlighted that examination of copies of sales invoices amounting to Rs. 7.516 million, issued during the financial year 2016, were not reconciled with the sales ledger in case of sales of electricity made to related company. The Company has submitted that invoices of the amounts of Rs. 8.474 million were cancelled or debited and necessary adjustments in this regard were made on June 30, 2016. In this regard, I have gone through the copy of ledger provided by the Respondent wherein it is disclosed the that the invoices amounting to Rs 245,957/-, Rs 967,815/-, 931,970/-, Rs 2,129,230/- and Rs 2,026,483/- were recorded and reversed. However, I, observe that the invoices amounting Rs 444,009/- and Rs 771,301/- have been issued and were not recorded in the books of accounts. Hence, I, am of the view that the mentioned invoices were cancelled for which necessary justification is not available.

(iv) For disclosure in note 1.1 to the Accounts that the said disclosure was false and incorrect which stated that the Company operated electric power generation facilities to meet in-house requirements, however, the Company was producing electricity on commercial basis and supplying the same to various companies. In this regard, reliance has been placed on the following disclosures given in the respective note:

"Due to intermittent availability of raw material owing to shortage of working capital and continuous losses, the company has closed its core operations since 2014. The company has rented out its premises to earn rental income and services revenue from the use of in-house power plant."

The above reveals that the Company has rented out its premises and the tenant was utilizing such premise for production of electricity. I, am of the view that the additional information mentioned in note 1.1 does not warrant any further action, in this regard.

(v) For incorrect recording of gratuity of the amount of Rs. 35.259 million, it has been furnished that the aforesaid amount was payable and was gradually paid by the Company. Following relevant details of gratuity payable has been made available during the course of the proceedings:

Gratuity Payable on 31.10.2020:	*14,142,981*

Hence, the assertion that incorrect gratuity was recorded in the Accounts of the Company for the year 2016 is not valid.

(vi) For accrued mark-up of Rs. 24.52 million, payable to National Bank of Pakistan. In this connection, an account statement of Packing Finance facility of NBP has been provided in terms of which the balance of Rs. 25,483,808 was adjusted on March 20, 2014. It was also informed that NBP never claimed the said amount as observed by the inspection team. In this regard, a letter dated March 19, 2014 addressed to NBP was also furnished in terms of which an amount of Rs. 25,483,808 was settled towards Principal amount and an amount of Rs. 6,903,324 was settled towards mark-up. Moreover, the Respondent provided the copy of statement issued by the bank wherein the aforesaid amount were adjusted by the bank in the name of company. However, the company did not adjust the said amount in the books as on June 30, 2016 and the adjusted NBP liability was disclosed as accrued mark-up of Rs. 24.52 million. Hence, relevant Accounts 2016 were false and incorrect on account of the aforesaid.

(vii) For income tax payable of the amount of Rs. 14.685 million, it was informed that the aforesaid amount still exists in Accounts. The Company in aforesaid reply has furnished that: *"The amount Rs. 14.685 million is the combination of three ledgers: (i) Income tax at source of Rs. 11.986 million (ii) Income tax at source-salary of Rs. 2.685 million (iii) Income tax surcharge payable of Rs. 0.0136 million. Further an amount of Rs. 9.928 m has been charged as provision for penalty for income tax payable and is being shown on the face of the Balance Sheet"*. Moreover, as per latest available Accounts for the year 2020, income tax deducted at source of Rs. 15,542,033 (2019:14,883,555) was disclosed, which reflects that said amount is still payable. As per available information, withholding tax were mainly withheld against salary payments. The Respondents, however, did not furnish supporting documents for

	recording of provision of penalty of Rs.9.928 million on account of non-deposit of withholding tax. (viii) For the write back of liabilities amounting to Rs. 7.5 million (2015: Rs. 26.426 million), no documentary evidence has been furnished and it was informed that the creditors did not call for the aforesaid liabilities over the passage of time. The Company has also furnished details of liabilities written back in the year 2015 in terms of which an amount of Rs. 26.426 million was written back from corporate clients including salary and wages of a director amounting to Rs. 10.308 million. In case of salary payable of Rs. 10.308 million for a director, relevant aeging period i.e. since when the aforesaid amount was payable, was not provided. I, am of the view that in terms of IAS 39, 'financial instruments- recognition and measurement', the liability of the entity does not extinguish by mere passage of time, and the same can only be-recognized when the related contractual obligation is discharged, cancelled or expired. In absence of any supporting documents, I, am of the view that for write back of liabilities (i.e. reversal of liabilities) amounting to Rs. 7.5 million (2015: Rs. 26.426 million) necessary supporting documents were not provided to the inspection team and during the course of the proceedings as the copy of ledger or break-up of the amount of liabilities does not suffice to de-recognize the said liabilities based on passage of time assumption. Hence in absence of any supporting evidences, Accounts 2016 were false and incorrect on account of de-recognition of liabilities of the aforesaid amounts of Rs. 7.5 million (2015: Rs. 26.426 million). In view of the foregoing, I, am of the view that in terms of section 492 of the Ordinance, Accounts 2016 were materially false and incorrect as it omitted material facts in disclosures or the amounts reported were without substantiating evidences. I, therefore in terms of section 492 of the Ordinance, hereby impose aggregate penalty of **Rs. 350,000/- only (Rupees three hundred and fifty thousand)** on the Respondents (Rs. 50,000 per Respondent). Nothing in this Order may be deemed to prejudice the operation of any provision of the Act providing for imposition of penalties in respect of any default, omission or violation of the Act.
6. Penalty Imposed	Penalty of Rs. 350,000/- was imposed on all the respondents.
7. Current Status of Order	Penalty was deposited. No Appeal has been filed by the respondents.

Redacted version issued on June 08, 2021 for placement of website of the Commission.