

**Before Ali Azeem Ikram, Director (Enforcement)**

*In the matter of*

**M/s. Service Fabrics Limited**

(Under Sub-section (4) of Section 158 of the Companies Ordinance, 1984)

No. & date of show cause notice	EMD/Enf-II/231/2003 dated December 13, 2005
Date of hearing	February 27, 2006
Present	Mr. Ralph Nazirullah
Date of Order	March 24, 2006

## Order

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This Order shall dispose of the proceedings initiated against M/s. Service Fabrics Limited (hereinafter referred to as the “Company”) and its directors for default made in complying with the provisions of Sub-section (1) of Section 158 of the Companies Ordinance, 1984 (the “Ordinance”).

2. The facts leading to this case, briefly stated, are that in terms of the provisions of sub-section (1) of Section 158 of the Ordinance, the Company was required to hold its Annual General Meeting (the “AGM”) for the year ended June 30, 2005 on or before October 31, 2005. The Company failed to hold the aforesaid AGM within the prescribed time. The failure of the Company to comply with the aforesaid mandatory requirements necessitated action against the Company and its directors in terms of Sub-section (4) of Section 158 of the Ordinance. Consequently, a show cause notice dated December 13, 2005 was served on the Company and its directors including the Chief Executive calling upon them to show cause as



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to why penalties as provided under Sub-section (4) of Section 158 read with Section 476 of the Ordinance may not be imposed on them. No response was received to the aforesaid show cause notice.

3. In order to provide an opportunity of personal hearing the case was fixed for February 07, 2006. However, neither anybody appeared on the date of hearing nor any written explanation was received. To afford another opportunity, the matter was re-fixed for February 21, 2006. Again no one attended the hearing, however, a written request was received from the Company Secretary vide his letter dated February 20, 2006 for adjournment of hearing till February 27, 2006. The hearing was, therefore, finally fixed for February 27, 2006.

4. On the date of hearing, Mr. Ralph Nazirullah, Company Secretary appeared before me to argue the case on behalf of the directors of the Company. During the hearing, Mr. Nazirullah contended that the Company's last Annual General Meeting was held on January 06, 2006 whereas the last preceding AGM was held on June 29, 2005. He contended that as required under Section 158 of the Ordinance, the AGM was duly held, at least once in a calendar year. He was informed that the Company has held the AGM for the year ended June 30, 2004 on January 06, 2006 whereas, the AGM for the year ended June 30, 2005 has not been held till date. In reply, Mr. Nazirullah stated that the Company's accounts for the period ended June 30, 2005 have not been audited, therefore, the AGM for the year ended June 30, 2005 could not be held. He added that the Executive Director (Company Law) has already imposed penalty vide his Order dated December 27, 2005 for non-submission of accounts, therefore, show cause notice issued to the Company and its directors under Section 158 may be withdrawn.

5. I have given due consideration to the arguments advanced by the Company Secretary on behalf of the Company and its directors verbally as well as in writing for failure to hold the AGM and to circulate the annual accounts for the year ended June 30, 2005 within the mandatory time period but none of them justify the default. As per requirement of Section



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158 of the Ordinance, every Company is required to hold, in addition to any other meeting, a general meeting, as its annual general meeting, within eighteen months from the date of incorporation and thereafter once at least in every calendar year within a period of four months following the close of its financial year and not more than fifteen months after the holding of its last preceding annual general meeting. In view of the foregoing, the Company was required to hold its AGM for the year ended June 30, 2005 within four months of the close of its financial year which has not been held till date. As regards plea of the representative of the directors that penalty has already been imposed by the Executive Director (Company Law), the plea is not correct as the aforesaid penalty was imposed under Section 245 of the Ordinance for their failure to file the quarterly accounts for the quarter ended September 30, 2005. It is the responsibility of the Company to ensure that accounts are timely prepared and audited and presented before the shareholders in the AGM. I also consider it necessary to highlight the importance of the strict observance of the aforesaid mandatory provisions of the law. The protection of the investors/shareholders is one of the primary objectives of the Ordinance. It is investors/shareholders who provide seed for capital formation. If the interest of the investors is protected, they will save and invest more. Their interest is protected by transmission of timely, adequate and meaningful information to them. It is the annual and interim accounts, which provide information to the investors about the affairs of the companies. Annual General Meeting is a forum where the investors can freely discuss, speak and vote on important matters concerning approval of accounts, appointment of auditors, election of directors etc. It has unfortunately been noted that the directors of M/s. Service Fabrics Limited are not observing these compulsory requirements of law.

6. In view of the foregoing circumstances, it can be legitimately inferred that the Chief Executive and directors have failed to protect the interest of the shareholders. The aforesaid state of affairs is a cause of great concern for the Commission. The track record of the Company with regard to holding of AGMs is also not satisfactory. The Company is committing defaults in holding of AGMs since September 30, 2000 for which the directors were penalized earlier also. It has been noticed that the directors have also failed to deposit



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the amount of most of the penalties imposed for the previous defaults. This led me to believe that the directors have no respect for the law and they have again deprived the shareholders of their statutory right to receive the annual accounts of the Company within the prescribed time limit. The responsibility for holding AGMs and preparation/circulation of annual accounts rests with the directors of the Company and they have to take appropriate action at appropriate time. Moreover, at the time of hearings held for the previous defaults under various provisions of the Ordinance, Mr. Ralph Nazirullah, Company Secretary had committed that no default would occur in future. The repetition of default clearly shows that the Company is not making any serious efforts to comply with the provisions of the law. For the foregoing reasons, the default under Sub-section (1) of Section 158 of the Ordinance regarding non-holding of AGM for the year ended on June 30, 2005 is considered willful.

7. Though the default is considered willful, yet, keeping in view the financial position of the Company, I am inclined to take a lenient view in the matter and instead of imposing the maximum fine of Rs.50,000 on the Company and every director and a further fine of Rs.2,000 per day for the continuous default, I impose the following penalties on the Company, its Chief Executive and other directors under Sub-section (4) of Section 158 of the Ordinance for non-holding of AGM for the year ended June 30, 2005:-

<b>S. #</b>	<b>Name</b>	<b>Penalty (Rupees)</b>
		<b>For the year ended 30.06.2005</b>
1	M/s. Service Fabrics Limited	20,000
2	Mr. Farooq Hameed, Chief Executive	20,000
3	Mr. Muhammad Hameed, Director	20,000
4	Mr. Ijaz Hameed, Director	20,000
5	Mr. Sajid Salim Minhas, Director	20,000
6	Mr. Aamer Hameed, Director	20,000
7	Mr. Tariq Hameed, Director	20,000
8	Mr. Muhammad Salim, Director	20,000
	<b>Total:</b>	<b>160,000</b>



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8. The Company, its Chief Executive and directors of M/s. Service Fabrics Limited are hereby directed to deposit the aforesaid fines aggregating to Rs.160,000/- (Rupees One hundred and sixty thousand only) in the designated bank account maintained in the name of Securities and Exchange Commission of Pakistan with Habib Bank Limited within thirty days from the receipt of this Order and furnish receipted vouchers or pay by a DD/pay order issued in the name of Commission for information and record, failing which proceedings under the Land Revenue Act,1967 will be initiated which may result in the attachment and sale of movable and immovable property. It may also be noted that the penalties are imposed on the Chief Executive and other directors in their personal capacity who are required to pay the said amount from their personal resources.

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**Ali Azeem Ikram**  
Director (Enforcement)