

No.19(857)CF/ISS/95-
SECURITIES & EXCHANGE COMMISSION OF PAKISTAN
(Enforcement & Monitoring Division)
State Life Building, 7-Blue Area
Islamabad

Subject: ORDER TO ISSUE NOTICE UNDER SECTION 472 OF THE COMPANIES ORDINANCE, 1984 - M/S. NAZIR COTTON MILLS LIMITED.

It was noticed from the published accounts of M/s. Nazir Cotton Mills Limited for the year ended 30-9-1999 that the company had sold its long-term investment i.e. 3.6 million shares of Rs. 10/- each in M/s. Silver Fibre Spinning Mills Limited to M/s. Sargodha Jute Mills Limited at a loss of Rs. 21.6 million. Subsequently Karachi Stock Exchange also requested attention of the Commission towards this. This investment was made in the year 1995. In view of huge loss suffered by the company on this account, an inquiry was made from the company to ascertain the facts. The company informed that this investment was made on the basis of a special resolution passed in the extra-ordinary general meeting of the company held on August 26, 1995. The statement under section 160(1)(b) of the Companies Ordinance, 1984 annexed with the notice of the meeting dated August 5, 1995 indicated that the company had entered into an agreement with a foreign supplier of textile machinery for purchase of certain machinery but owing to adverse conditions prevailing in the textile sector, the board of directors of the company felt that it would not be possible for the company to incur additional capital expenditure and accordingly board of directors of the company decided to transfer major part of the machinery to an associated company i.e. M/s. Silver Fibre Spinning Mills Limited. In return, the company obtained 3.600 million shares in M/s. Silver Fibre Spinning Mills Limited.

2. The company never received any return on this investment till 27th May, 1999, when the company entered into an agreement with M/s. Sargodha Jute Mills Limited to dispose of these shares at Rs.4/- per share. The decision was statedly taken in view of the adverse circumstances in the textile industry and that the company was not in a position to raise additional funds to continue its operation. It was further stated that value of the said shares was consistently decreasing and had the company held the said investment for some further period the price would have gone down further and being cash starved, the company could not have continued as a going concern.

3. In view of the fact that the long prevailing crisis in the textile industry had been over in the year 1999, it was felt in SECP that the decision to sell these shares may not be in the interest of the company at this point of time. Accordingly, an inquiry was conducted about the relationship of M/s. Sargodha Jute Mills Limited (the company which purchased these shares) and it was shocking to know that this company is held by none others but the family members and relatives of directors of Nazir Cotton Mills Ltd., and four limited companies of the same group which (companies) held 85% shareholding in Sargodha Jute Mills Limited as under:-

	<u>No. of Shares</u>	<u>% held</u>
(i) Sajjad Enterprise (Pvt) Ltd.	6,00,000	
	10.099%	
(ii) Shaheen Fabrics (Pvt)Ltd.	26,00,000	
	43.763%	
iii) Shahzad Textile Mills Ltd.	3,00,000	5.049%
iv) Shaheen Cotton Mills Ltd.	17,50,000	
	29.456%	

4. On further probe it has found that Mian Shahzad Aslam, the

Chief Executive of Nazir Cotton Mills Limited is son of Mian Mohammad Aslam (who is director of Sargodha Jute Mills Limited, whose another son Mian Parvez Aslam, the real brother of the Mian Shahzad Aslam is director in all the above mentioned four companies namely Sajjad Enterprises (Pvt) Limited, Shaheen Fabrics (Pvt) Limited, Shahzad Textile Mills Ltd., and Shaheen Cotton Mills Limited. In other words, the Chief Executive of Nazir Cotton Mills Limited, i.e., Mian Shahzad Aslam who himself participated in both the meetings of the board of directors of Nazir Cotton Mills dated 4th May 2000 and 26th May 2000, sold shareholding of Nazir Cotton in Silver Fibre Mills Limited to Sargodha Mills Limited to none else but to a company owned and controlled by his own family.

5. The inquiry further revealed that by obtaining 3.6 million shares of Silver Fibre Spinning Mills Ltd., M/s. Nazir Cotton Mills Limited, obtained 53% shares in Silver Fibre Spinning Mills Ltd. and as such it became holding company of Silver Fibre Spinning Mills Ltd. but the disclosures made regarding this investment in the published accounts of M/s. Nazir Cotton Mills Ltd. for the years 1995 to 1998 never reflected this vital position. The disclosure requirements laid down in Para 3(A) of Part-II of the Fourth Schedule to the Companies Ordinance, 1984 require that investment in case of subsidiary companies had to be disclosed separately and Para 3(D) of Part-II of the Fourth Schedule to the Companies Ordinance, 1984 which requires an investing company to disclose the percentage of equity held in the investee company were not complied with. The accounts of the subsidiary company were never attached with the accounts of the holding company as required by section 237 of the Companies Ordinance, 1984. Director's reports were always silent on the affairs of subsidiary company and in this way the shareholders of holding company were kept in complete darkness about the affairs of the subsidiary company.

6. In the published accounts for the year ended on 30.9.1998

and in earlier years it was stated that no provision is required for diminution in the value of shares as in the opinion of the management diminution in the value of investment was temporary. However, the investment in the very next year i.e. in the year 1999 was sold at a very huge loss.

7. These all facts lead to the conclusion that the very decision of investment in the subsidiary company was not purely in the interest of the shareholders of the company. In my view the project of the associated company i.e. Silver Fibre Spinning Mills Ltd. was financed mainly through resources of this company under a pre conceived plan, shares were accepted against the machinery transferred instead of recovering it from associated company as loan and affairs of subsidiary company were always run at back of shareholder of this company till these shares were disposed of at huge loss.

8. After having invested funds of the company in the associated company for about 5 years, the investment was sold in a manner which is not transparent. Interestingly the agreement to sell the shares was made on May 27, 1999, where as payment against that was reportedly received on May 17, 1999. In my view the shares were disinvested against the interest of the shareholders of this company at a point of time when Textile Industry was reviving and the current financial year has, reportedly brought huge profits to the industry. As mentioned in following paras M/s. Silver Fibre Spinning Mills Limited was a subsidiary company of M/s. Nazir Cotton Mills Limited and as such it was an undertaking which directors could not sell without prior approval of the shareholders of the company as required by section 196(3)(a) of the Companies Ordinance, 1984.

9. It is an established fact that the shares have been sold to a company which is held by none others but by same family. This is a classic case of treating assets of listed

companies as family assets for settlement/division among family member not realizing that these assets belong to other shareholders as well. In view of this let a notice under section 472 of the Companies Ordinance, 1984, go to the directors of the company directing them either to bear the loss on sale of shares along with mark-up not less than the company's own borrowing costs on the total amount of investment for the period from which this investment was outstanding or to make arrangements to take back the subject shares ensuring control of this company over Silver Fibre Spinning Mills Ltd. as a holding company. Directors of the company will be given 30 days time to do the needful and in case they have any view point, they may appear before the undersigned on July 17 2000, before I proceed further in the matter.

(M. Zafar - ul - Haq Hijazi)
Commissioner (Enforcement)

Place: Islamabad
Dated: June 17, 2000