

No.Co.263/2/EM/99  
SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN  
(Enforcement & Monitoring Division)  
State Life Building, 7-Blue Area  
\* \*\* \* \*

ORDER UNDER SECTION 263 OF THE COMPANIES ORDINANCE, 1984  
IN THE MATTER OF M/S. SERVICES INDUSTRIES TEXTILE MILLS LTD.

An application dated 29th September, 1999 was received from the Deputy Managing Director of the Investment Corporation of Pakistan complaining that M/s. Services Industries Textile Mills Ltd. has been on the defaulters list of the Karachi Stock Exchange for the last 2 years and its management has not taken any measures to remove defaults. It was requested that SECP may appoint an "Inspector" to determine mis-management and oppression by the management and company's value upon liquidation. The Commission vide its letter No. 263/2/EM/99 dated 7th October, 1999, in terms of requirements of the provision of section 263 ibid. asked the Investment Corporation of Pakistan to submit proof of holding not less than one-tenth of the total voting powers in the company and also to give an undertaking that ICP will bear the cost of investigation which may be around rupees one hundred thousand (Rs. 1,00,000/-) and to furnish documentary evidence in support of the allegations of mis-management and oppression, if any.

2. Investment Corporation of Pakistan (ICP) vide its letter dated 15th February, 2000 furnished details of their holdings in the company which comes to 14.31% of the total shares capital. ICP also gave assurance to bear the cost of investigation as advised by the SECP. As regards furnishing of evidence in support of the alleged mis-management and oppression, ICP stated that the company is on defaulters list of the Karachi Stock Exchange since 06-08-1997 and the company has not paid any dividend since 1990, it qualifies for delisting and according to company law could be followed by winding up for which it is necessary to determine whether or not the company can be saved and if not what value will be realized upon its liquidation. It may be mentioned here that clause (c) of section 305 provides that a listed company which ceases to be a listed company may be wound-up. ICP accordingly prayed that it may be determined whether the company can be saved and if not what would be its realizable value upon its liquidation.

3. A perusal of the company's accounts for the period ended 30-9-1999, it appears that it carries accumulated losses of Rs. 561.406 million against equity (including share deposit money) of Rs. 117.541 million, its current liabilities are about 8 times of its current assets and its manufacturing activities have been consistently resulting into huge gross losses for the last several years.

4. The manufacturing and trading results of the company for the last three years were as follows:-

	<u>Rs. in million</u>		
	<u>1999</u>	<u>1998</u>	<u>1997</u>
Sales	333.905	333.456	161.261
Cost of Sales including depreciation	<u>370.577</u>	<u>379.799</u>	<u>233.217</u>
Gross loss	<u>36.672</u>	<u>46.343</u>	<u>61.956</u>
Depreciation charged			
to cost of sales	<u>40.866</u>	<u>40.669</u>	<u>45.186</u>
Gross profit (loss) before depreciation.	4.194	(5.674)	(16.776)

5. The above comparison would reveal that company suffered gross loss in the years 1997 and 1998 even before charging depreciation and in the year 1999, there was nominal gross profit of Rs. 4.194 million before charging depreciation. This is really very serious situation that the company is even not able to meet its manufacturing expenses and ICP appears to be rightly concerned about workings of the company. The company is consistently suffering from losses for the last several years and has not paid any return to its shareholders for the last 10 years.

6. Section 263 of the Companies Ordinance, 1984 empowers the Commission to appoint an inspector to investigate the affairs of a company on the application of members holding not less than one tenth of the total voting powers. Unlike section 265 ibid. where before appointment of an inspector the Commission is required to give the company an opportunity to show-cause against the proposed appointment of inspector, section 263 ibid. even does not require a show-cause notice to the company or opportunity of hearing before ordering an investigation. The intention of law appears to be that the member of a company holding more than 10% voting powers if not satisfied with workings of the company may get the affairs of the company investigated without any hindrance as and when they so desire. Investigation into affairs of a company is not a punitive action but a fact finding exercise and section 263 of the Companies Ordinance, 1984 provides for an easy mechanism for this if share holders having more than 10% voting powers desire so. The applicant i.e. I.C.P. in this case has even deposited the amount of Rs. 100,000 being estimated cost of investigation and it holds 14.31% of the shares capital of the company, I am convinced that in this case where the company has been put on defaulters list and even its manufacturing and trading activities are consistently resulting into gross loss, investigation into affairs of the company is

necessary so as to determine the followings:-

- (i) Mis-management and oppression if any.
- (ii) Reason for heavy losses suffered by the company in the previous years specially why the company was even unable to meet its manufacturing costs.
- (iii) Whether or not proper record was kept by the company as required by section 230 and 234 of the Companies Ordinance, 1984, and what has been the decision making level.
- (iv) Whether or not an adequate system of internal controls exists so as to prevent mis-appropriation and mis-application of company's assets.
- (v) What would be the present approximate realizable value estimated of the company's assets upon liquidation and actual existing liabilities.
- (vi) Without in any way limiting the scope of investigation, the Inspector shall conduct investigation on all aspects of the operations of the company and shall after scrutiny of the entire records and books of accounts furnish his report indicating specifically whether it will be in the interest of the minority share-holders to take the company towards compulsory winding up.

7. I accordingly, in exercise of the powers conferred on me under section 263 of the Companies Ordinance, 1984 hereby appoint M/s. Riaz Ahmed & Co, Chartered Accountants, Lahore to act as Inspector to investigate into the affairs of M/s. Services Industries Textile Mills Limited who will also draw a statement of assets and liabilities as on 31st March, 2000 and also indicate approximate reliable value of assets and actual liabilities.

8. The Inspector shall submit a detailed report to the Commission (in quadruplicate) within 60 days from the date of this order. and will be paid fee of Rs. 100,000/- including out of pocket expenses on submission of the report.

**(M. ZAFAR-UL-HAQ HIJAZI)**  
COMMISSIONER (Enf.)

Place: Islamabad  
Dated: 3rd April, 2000