



Securities and Exchange Commission of Pakistan

Adjudication Division Adjudication Department

Before

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

In the matter of Show Cause Notice issued to Dewan Textile Mills Limited

Date of Hearing

August 28, 2019, February 20, 2020, March 09, 2020,
July 20, 2020

Order-Redacted Version

Order October 23, 2020 was passed by Executive Director/Head of Department (Adjudication-I) in the matter of Dewan Textile Mills Limited. Relevant details are given as hereunder:

Nature	Details
1. Date of Action	Show cause notice dated February 21, 2019.
2. Name of Company	Dewan Textile Mills Limited
3. Name of Individual*	The proceedings were initiated against Dewan Textile Mills Limited and its board of directors.
4. Nature of Offence	Under Clause (m) of Section 301 read with Clause (b) of Section 304 of the Companies Act, 2017.
5. Action Taken	<p>Key findings were reported in following manner:</p> <p>I have gone through the fact of case, relevant provisions of the law and the record placed me. Based on the aforesaid, following is noted:</p> <p>(i). In cases of Suit Nos. 1251, 1252, 1253, 1254 & 1255 of 2017 (plaintiff include Dewan Mushtaq Textile Mills Limited, Dewan Muhammad Yousaf and the Company versus HBL, NBP, NIB BANK Limited, Summit Bank Limited & UBL) the Hon'ble High Court of Sindh passed the following order vide dated 12.5.2017:</p> <p><i>“Basically, the Plaintiffs have approached this court for the implementation of the consent letter dated 22.6.2016 (available at page 293 of suit no. 1251/2017) and sought directions against the defendants to fulfill their obligation. Learned counsel submits that earlier some consent decrees were passed between the same parties by this court, thereafter, some novation was made in the earlier agreed terms. The consent letter dated 22.6.2016 was acknowledge on 15.7.2016 by the representative of HBL who is also Secretary, Steering Committee (available at page 333 of suit no. 1251/2017). Learned counsel argued that the defendants have committed breach of consent letter dated 22.6.2016 through which certain terms & conditions were restructured, but at the same time want to get execution of the consent decree passed in the year 2011. Issue notice to the defendants for 18.5.207. Till next date no action shall be taken against the plaintiffs in violation of the terms and conditions consent letter.”</i></p> <p>Honorable Sindh High Court Vide its Order dated May 12, 2017 has restrained to take action against the plaintiffs in violation of the terms and conditions of consent letter and therefore does not restrain the Commission from subject proceedings of winding up of</p>



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Company. The Company is at liberty to agitate before the august Court its reservation if any at the time of winding up proceedings before the Court.

(ii). Respondents in the directors' report annexed with latest available annual audited financial statements for the year ended June 30, 2019 of the Company, have disclosed the following:

"Company's operational sales for the year remained nil due to closure of operations, the sales appearing in financial statements represent raw material sales during the year under consideration. The Company, for the time being has suspended its manufacturing operations since December 2015 which could not be resumed due to adverse scenario faced by the industry, lesser market demand and working capital constraints.

In financial year ended 2012, Company had settled with its lenders through Compromise Agreement against consent decrees had been passed by the Honorable High Court of Sindh, Karachi. Company's short term and long-term loans had been rescheduled in the form of long-term loans, however certain banks having suits of Rs. 419.065 million, didn't accept the restructuring proposal at that time. Consequent to default in repayment of restructured liabilities as per compromise agreement, the lenders filed for execution of consent decrees. The Company filed suits in Honorable High Court of Sindh at Karachi wherein it has been strongly contested that filing of executions is unjust and against the law. Management of the Company expects favorable outcome therefrom.

Certain lenders did not become signatory of the compromise agreement and continued to pursue their suits filed in Honorable High Court of Sindh at Karachi for recovery of their liabilities through attachment and sale of Company's hypothecated / mortgaged properties. The aggregate suits amount in respect of these is Rs.419.065 million, out of total, suits, amount a bank having suit of Rs. 193.266 million has also filed winding up petition u/s 305 of the repealed Companies Ordinance, 1984 (now 301 of the Companies Act, 2017). The Company strongly contested the cases as banks have filed wrong claims. The management of the Company expects favorable outcome.

As certain banks covering suits amounting to Rs 275.008 million has not yet accepted the restructuring proposal and also one of the banks had filed winding petition under section 305 of the Companies Ordinance, 1984. The Company strongly contested the cases as banks have filed wrong claims. The management of the Company expects favorable outcome. The management of the Company is quite hopeful that these banks will also accept restructuring proposal in near future. Accordingly, no provision the said mark-up has been made in these financial statements. "

The disclosures under directors' report disclosed that the Company has suspended its operations since 2015 and that the matter of creditors' winding up is sub-judice before the Court.

(iii). The Company in its financial statements for year ended June 30, 2019 acknowledged that the operations of the Company are suspended since December 2015, note 2 to the said financial statements state the following:

"The financial statements of the Company for the year ended 30 June 2019 reflect that the Company has sustained a net loss after taxation of Rs.874.172 million (2018: Rs.601.985 million), and as of that date the Company's negative revenue reserves of Rs.4,049.248 million (2018: Rs.3,228.889 million) have resulted in negative equity of Rs.2,794.511 million, 2018: Rs.1,927.222 million) and its current liabilities exceeded its current assets by Rs.4,147.861 million (2018: Rs. 3,3228.889 million) and total assets by Rs. 2,484.122 million (2018: Rs.1,557.549 million). Further the Company's short-term borrowing facilities have expired and not been renewed and the Company's has been unable to ensure scheduled payments of liabilities due to the liquidity problems. Following course, majority



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	<p><i>of the lenders had gone into litigation for repayment of liabilities through attachment and sale of Company 's hypothecated/ mortgaged properties and one lender had also filed winding up petitions under section 301 of the Companies Act, 2017 as more fully explained in note 12.1 and note 12.2 to the financial statement. The Company has suspended its manufacturing operations since December 2015. These conditions indicate the existence of material uncertainty which may cast significant doubt about the Company's ability to continue as a going concern, therefore, the Company may not be able to realize its assets and discharge its liabilities during the normal course of business. "</i></p> <p>(iv). The Respondents have contended that neither the Company, nor the creditors nor any of the contributory is interested for the winding up of the Company rather all desire for the resumption of the operation of the Company. However, disclosures in financial statements by the Respondents clearly reflect that the majority of the lenders had gone into litigation for repayment of liabilities through attachment and sale of Company's hypothecated/ mortgaged properties and one lender had also filed winding up petitions under section 301 of the Companies Act, 2017. Further, the Company has not provided any business plan working that would demonstrate the intention and ability of the Respondents to resume operations.</p> <p>Considering the afore mentioned facts, I am of the considered view that the grounds or the basis of which winding up proceedings were initiated through the subject SCN i.e. suspension of business operations for more than a year is duly acknowledgment by Respondent and no supporting evidence was submitted before me that would support assertion of resumption of business activities. Therefore, it is evident that the business operations of the Company have remained suspended for more than a year in terms of the provision of section 301(m) of Act. I, therefore, in exercise of the powers conferred under 304 of the Act. hereby, authorize the Registrar, Company Registration Office, Karachi, to present a petition of winding up of the Company before the august Court.</p> <p>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, violation of the Act.</p>
6. Penalty Imposed	Nil
7. Current Status of Order	No appeal has been filed by the respondents.