



Securities & Exchange Commission of Pakistan
Enforcement and Monitoring Division
NIC Building, Jinnah Avenue, Blue Area, Islamabad

Before M. Zafar-ul-Haq Hijazi, Commissioner (E &M)

In the matter of
M/S SAITEX SPINNING MILLS LIMITED

Number and date of show cause notice under Section 158 (for non-holding of AGM for the year ended 30.09.02)	EMD/233/181/2002/6098-6107 April 10, 2003
No. and date of show cause notice under Section 245 (for non-filing of quarterly accounts for the quarter ended 31.12.02)	EMD/233/181/2002/6117-25 April 10, 2003
Date of hearing	July 29, 2003
Present	Mr. M. Iqbal Saigal, Chief Executive

Order

This Order shall dispose of the proceedings initiated against M/S Saitex Spinning Mills 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 and Sub-section (1) of Section (245) of the Companies Ordinance, 1984 (the “Ordinance”).

2. The underlying facts of this case briefly stated are that the Company was required to prepare and transmit to the members and simultaneously file with the Commission quarterly accounts for the quarter ended December 31, 2002 and was also required to hold its annual general

meeting (AGM) for the Calendar year 2003 on or before March 31, 2003. The Company applied for extension in holding of the aforesaid AGM on the ground that since business of the company was closed in May 2002 and the staff was laid off, therefore, the Company was unable to prepare its annual accounts for the year ended September 30, 2002 and hold annual general meeting. The application of the Company was rejected and the Company was advised to follow the mandatory provisions of law to avoid penal consequences. The Company, however, failed to hold AGM within prescribed time. Moreover, the quarterly accounts for the period ended December 31, 2002 were also not prepared and circulated as required under the law. Consequently, two show cause notices dated April 10, 2003 were issued to the Company, its Chief Executive and directors calling upon them to show cause in writing as to why penalties as provided under Sub-section (4) of Section 158 and Sub-section (3) of Section 245 of the Ordinance may not be imposed upon them for the aforesaid contraventions. Three of the directors namely Mr. M. Iqbal Saigal, Mr. M. Sameer Saigal and Mr. M. Nadeem Saigal refused to accept the show cause notices whereas show cause notice addressed to Mr. Mansoor-ul-Haq returned back undelivered.

3. In reply to the aforesaid show cause notices, Mr. Salman Aslam Butt, Advocate of M/S Cornelius, Lane and Mufti, Advocates on behalf of the directors applied for thirty days extension in submission of reply whereas nominee directors of NIT and ICP submitted their replies vide letter dated April 23, 2003. Nominee directors submitted that they had been consistently pursuing the Company through its Chief Executive and the Secretary for compliance with the mandatory provisions of the Companies Ordinance, 1984 and the Code of Corporate Governance. However, the management

had not paid any heed to their letters and subsequent reminders. In support of this argument, they also submitted copies of the letters written to the Chief Executive and the Secretary of the Company. No reply was, however, received from the other directors. In order to provide an opportunity of personal hearing, the case was fixed on May 26, 2003 on which date, no one appeared before me to defend this case. The nominee directors of NIT and ICP, however, requested vide their letter dated May 12, 2003 to condone the requirement of personal appearance as they had already submitted their replies and had no further submissions in this matter. In order to give a final opportunity of hearing to the other directors, the case was adjourned and fixed on July 29, 2003 on which date Mr. M. Iqbal Saigal, Chief Executive appeared on behalf of all the directors and pleaded the case.

4. In the written submissions as well as at the time of hearing of this case, Mr. M. Iqbal Saigal submitted that the project of the Company was closed since May 2002 and there was no staff in the accounts department. Resultantly, annual and interim accounts could not be prepared within time limit prescribed under the law. He also stated that the audit of the accounts for the year ended September 30, 2002 was in progress and promised to hold AGM by the end of October 2003.

5. I have given due consideration to the submissions of the directors, however, none of them in my view are tenable. The Company failed to comply with the requirements of holding AGM and preparation and submission of quarterly accounts. It appears that the directors have no respect to these mandatory provisions of law, which is also strengthened from the fact that the management has also *prima facie* failed to run the

Company in accordance with sound business principles and prudent commercial practices as is evident from the auditors report on accounts for the year ended September 30, 2001 wherein the auditors have expressed their reservation regarding the ability of the Company to continue as a going concern. The Company's past record is also unsatisfactory as the management of the company has been found habitual in seeking extensions for holding of the AGMs in the past two years instead of making serious attempts to ensure compliance with the requirements of law. As far as nominee directors of NIT and ICP Mr. Shahid Anwar and Mirza Khurshid Baig are concerned their reply has been found to be satisfactory, as they have performed their duties by pursuing the management to ensure the compliance of mandatory provisions of law.

6. Taking into account all the relevant facts and circumstances of this case and the past record of the Company, I feel that the defaults under Section 158 and Section 245 were intentional and willful. However, keeping in view that the management had not committed default in the past in holding of AGM, I am inclined to take a lenient view and impose a fine of Rs. 10,000/- only on the Chief Executive for non-holding of annual general meeting under Section 158 of the Ordinance instead of imposing maximum fine of Rs. 20,000/- and further fine of Rs. 2,000/- per day prescribed for continuous default on every director of the company. I also impose a fine of Rs. 5,000 /- only on the Chief Executive of the company for failure to prepare and transmit quarterly accounts under Section 245 of the Ordinance instead of imposing maximum fine of Rs. 100,000/- and further fine of Rs. 1,000/- per day prescribed for continuous default on every director of the company. It is hoped that the management will react

positively to this lenient view and will be careful in future in holding annual general meeting and filing of quarterly accounts within prescribed time. If the same defaults are repeated in future, a very strict view of the defaults will be taken and maximum fines will be imposed on the directors and the Chief Executive including the Secretary and the Chief Accountant of the company.

7. The Chief Executive of the company is directed to deposit the fine imposed upon him 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 the receipted challan to the Commission.

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

August 06, 2003
ISLAMABAD