



Corporate Supervision Department
Company Law Division

Before Abid Hussain – Executive Director (CSD)

In the matter of

Service Fabrics Limited

Number and date of SCN: CSD/ARN/199/2015-502-508, dated August 11, 2016 read with addendum CSD/ARN/199/2015-586 dated August 19, 2016
Hearing held on: October 6, 2016
Present: Mr. Ahmed Bashir, Mr. Musa Janjua and Mr. Zafar Iqbal

ORDER

UNDER SECTION 208 READ WITH SECTION 476 OF THE COMPANIES ORDINANCE, 1984

This order shall dispose of the proceedings initiated against the following directors including the chief executive officer (together referred to as “respondents”) of **Service Fabrics Limited** (the “Company”):

- | | | | |
|---|-------------------------------------|---|-----------------------------------|
| 1 | Mr. Aurangzeb Noor, Chief Executive | 5 | Mr. Irfan Noor, Director |
| 2 | Mrs. Mudassara Aurangzeb, Director | 6 | Mrs. Sara Anjum, Director |
| 3 | Mrs. Azmat Akbar, Director | 7 | Mr. Ali Anwar, Director |
| 4 | Mr. Muhammad Waqas, Director | 8 | Mr. Omer Salah Ahmed, Ex-Director |

The proceedings against the respondents were initiated through show cause notice dated August 11, 2016 under the provisions of section 208 read with section 476 of the Companies Ordinance, 1984 (the “Ordinance”) and subsequent addendum dated August 19, 2016 (together referred to as the “SCN”).

2. The brief facts of the case are that pursuant to an inspection order dated May 5, 2016 under section 231 of the Ordinance, an inspection of the Company was carried out by the Commission. During the course of inspection, review of interim financial statements of the Company for the period ended March 31, 2016 along with the underlying record revealed that the Company had extended an advance of Rs. 296,875 to HK Securities Private Limited (“HKSP”), an associated company. It appeared that the Company, prima facie, violated the provisions of sub-section (1) of section 208 of the Ordinance by extending advance to HKSP without the authority of a special resolution of the shareholders. Consequently, the SCN was issued to the respondents calling upon them to show cause in writing as to why penalty may not be imposed on them for contravening the afore-referred provisions of the Ordinance.



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3. In response to the SCN, Ahmed Bashir & Associates through letter dated September 9, 2016 requested for extension in time for submission of reply till September 30, 2016. The requested extension was allowed and the case was fixed for hearing on October 6, 2016. Subsequently, the respondents submitted written reply dated September 30, 2016. A brief of the reply relevant to the contents of the SCN is produced below:

- a) The amount of Rs. 296,873/- was in fact payment to HKSP, to cover the Company's expenses pertaining to travelling, hotel bookings etc. The amount of Rs. 296,873/- was inadvertently entered in the books of accounts and financial statements of the Company.
- b) This transaction does not reflect any trade or sale activity between two companies. This is evident from the fact that Rs. 296,873/- is an exact amount representing an expense and is too small to be advanced as a loan.
- c) The Company has not willfully and intentionally contravened section 208 read with section 476 of the Ordinance.

4. Hearing in the matter was held on October 6, 2016 and on behalf of the respondents, Mr. Ahmed Bashir, Mr. Musa Janjua and Mr. Zafar Iqbal appeared before the undersigned. They mainly reiterated the earlier written submissions and requested to conclude the proceedings without any adverse order. They further stated that the nominal amount of Rs.296,873 was transmitted to HKSP for incurring expenses on behalf of the Company for its business related travelling, booking and lodging expenses for which copies of receipts, invoices and other evidence would be furnished in a week's time. Subsequently, through letter dated October 17, 2016, they provided copies of journal voucher date April 8, 2016 along with the underlying invoices for boarding, lodging, travelling, entertainment expenses etc. incurred during the period from March to April 1, 2016. The record, as provided by the Company appears to be consistent on the face of it.

5. Before proceeding further, it is necessary to advert to the following relevant provisions of the Ordinance.

Sub-section (1) of section 208 of the Ordinance provides as under:

"Subject to sub-section (2A) a company shall not make any investment in any of its associated companies or associated undertakings except under the authority of a special resolution which shall indicate the nature, period and amount of investment and terms and



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conditions attached thereto. Moreover the return on investment in the form of loan shall not be less than the borrowing cost of investing company.

Explanation: The expression 'investment' shall include loans, advances, equity, by whatever name called, or any amount, which is not in the nature of normal trade credit. (Emphasis added)

Sub-section (3) of section 208 of the Ordinance provides as under:

"If default is made in complying with the requirements of this section, or regulations, every director of a company who is knowingly and willfully in default shall be liable to fine which may extend to ten million rupees and in addition, the directors shall jointly and severally reimburse to the company any loss sustained by the company in consequence of an investment which was made without complying with the requirements of this section."

In terms of the Commission's notification SRO 1003 (I)/2015 dated October 15, 2015, the powers to adjudicate cases under section 208 of the Ordinance have been delegated to the Executive Director (Corporate Supervision Department).

6. I have analyzed the facts of the case, relevant provisions of the Ordinance and the arguments put forth by the respondents. It appears that the Company transmitted the amount of advance to HKSPIL for incurring expense on its behalf, however, there was lack of disclosure in the Quarterly Accounts in this regard, which resulted in the aforesaid proceedings under section 208 of the Ordinance. The Company should have been more careful while disclosing the nature of the amount given to the associated company by giving full disclosure and also should have disclosed it under the related parties' transactions. Having considered the facts of the case in light of the provisions of the law, submissions made by the respondents, I hereby concluded the proceedings against the respondents without any adverse order. The respondents are advised to be careful with regard to disclosures in the financial statements, especially with regard to transactions with related parties.

Abid Hussain
Executive Director (CSD)

Announced:

October 21, 2016
Islamabad