

(1)

BEFORE THE HON'BLE PESHAWAR HIGH COURT, PESHAWAR
(Company Jurisdiction)

C.C. No. ____ / 2018

In the matter of **M/s Shaffi Chemical Industries Ltd**

Deputy Registrar of Companies
Company Registration Office, Peshawar
Securities & Exchange Commission of Pakistan

... Petitioner

Versus

1. **M/s Shaffi Chemical Industries Ltd**
Plot No. 25, Gadoon Amazai Industrial Estate, District Swabi,
Through Chief Executive
2. Mr. Iftikhar Shaffi, Chief Executive/Director,
93-D, Model Town, Lahore.
3. Mr. Hashim Aslam Butt, Director,
House No.619-G, Gulshan Ravi, Lahore
4. Mr. Mohib Hussain, Director,
Street-6, Hameed Park, Lajpat Road, Shahdara, Lahore.
5. Mr. Muhammad Sameer, Director,
House No. 7-A, St. 6-A, Muhammad Nagar, Lahore.
6. Mr. Abdul Shakoore, Director,
House No. 545, Street No. 20, Omer Block Allama Iqbal Town, Lahore
7. Mr. Imran Kabir, Director,
House No. 120, Block-3, Rehman Road, Karim Park, Lahore
8. Mr. Qaiser Saleem Khan, Director,
House No. 52, Madina Park, Near Sabzazar Scheme, Block-B, Lahore

... Respondents

PETITION UNDER SECTION 301 (M) AND 304 (B) OF THE COMPANIES
ACT, 2017 READ WITH SECTION 305 (C) AND 309 (B) OF THE REPEALED
COMPANIES ORDINANCE, 1984 AND ALL OTHER ENABLING
PROVISIONS OF LAW FOR WINDING UP OF RESPONDENT COMPANY
(M/S SHAFFI CHEMICAL INDUSTRIES LIMITED)

Respectfully Sheweth:

1. That the names and addresses of the parties as given in the title of the Petition are true and correct as per the record maintained by the office of the Petitioner and the same are sufficient for the purposes of effecting service upon them.

2. That the Petitioner is an officer of the Securities & Exchange Commission of Pakistan ("SECP") established under Section 3 of the Securities and Exchange Commission of Pakistan Act, 1997, *inter alia*, for the establishment of the Securities and Exchange Commission of Pakistan for the beneficial regulation of the capital markets, superintendence and control of corporate entities and for matters connected therewith and incidental thereto. The Petitioner, being the Deputy Registrar of Companies and Incharge Companies Registration Office, Peshawar, SECP is fully conversant with the facts of the instant Petition and is duly authorized under Section 304(b) of the Companies Act, 2017 (the "Act") to present this Petition before this Hon'ble Court after taking due sanction in this behalf from the SECP.

3. That the Respondent company namely, **M/s Shaffi Chemical Industries Limited**, (hereinafter the "**Company**") was incorporated on 27.09.1994 as a public limited company, under the Companies Ordinance, 1984 (the 'repealed Ordinance).

(Copy of the Certificate of Incorporation is Annexure "A")

4. That the registered office of the Company is situated at Plot No. 25, Gadoon Amazai Industrial Estate, District Swabi.

(Copy of Form 21 is attached as Annexure "B")

5. That the authorized capital of the Company is Rs.120,000,000/- divided into 12,000,000/- shares of Rs.10/- each. While the paid-up capital of the Company is Rs.120,000,000/-.

(Copies of latest Form A of the Company made up to 30.10.2016 , Form 29 dated 04.01.2017 and latest Form-29 dated 06.06.2017 are attached herewith marked as Annexure "C", "D" and "D-1" respectively)

6. That the objects for which the Company was established, *inter alia*, is to carry on the business of Manufacturing, Processing of Di-Octyl-Ortho Phthalates (DOP) Chemicals .

(Copies of Memorandum of Association and Articles of Association is attached as Annexure "E")

7. That upon examination of the annual audited accounts of the Company and other available record of the Company by the concerned department for the year 2015, it was, *inter alia*, observed that the Company has suspended its operations since 2014.

(Copy of Annual Audited Account for the year 2015-2016 is attached as Annexure "F")

8. That after consideration of the above said, a Show Cause Notice dated 11.07.2016 (the "Notice") was issued to the Company and all its directors on

the ground that the company has suspended its business since 2014. The Company and its directors, were given an opportunity of hearing and to make representations on 01.08.2016, against the granting of sanction to file a winding-up petition against the Respondent Company under Section 304(b) read with section 301 (m) of the Act. The Company responded to the above mentioned Notice vide letter dated 28.07.2016, wherein, extension in time for hearing was requested citing therein the reason that their legal advisor was not available. Accordingly, the hearing was adjourned to 18.08.2016, however no one appeared and the company again requested further time through letter dated 17.08.2016. Thereafter final opportunity was scheduled for 07.09.2016.

(Copies of Show Cause Notice, letter dated 28.07.2016 and letter dated 17.08.2016 are attached as Annexure "G", "H" and "I" respectively)

9. That Mr. Zahoor Ahmed, authorized representative appeared on the 07.09.2016 and submitted a written reply. He stated that on the onset it is admitted that the Company for the time being and since quite some time is not in position to conduct its manufacturing activities due pending litigations with Allied Bank Limited (ABL) since the year 2005 which forced the company to become non-operational.

10. That the Company also gave arguments against the proposal of Winding up the company. They said that the company and its directors, particularly its minority shareholders are not at any fault for the inability, for the time being, of the Company to operate as a going concern. The sponsors and directors of the Company do not wish their innocent shareholders to suffer

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15.	Wakalatnama		


Petitioner

Through


Junaid Zaman
Advocate High Court (s)

Office No. 4, 2nd Floor, Cantonment Plaza
Fakhr-e-Alam Road, Peshawar Cantt, Peshawar
091-5270500

any further and for this reason, the management of the company is seriously thinking for the de-listing of the company from the Pakistan Stock Exchange. The directors and sponsors are willing, able and have undertaken to bear all reasonable costs to be incurred for de-listing of the company and payments to the shareholders. In this connection paper work/remedy for delisting of company are under process by M/s Saleem Ahsan and Company Chartered Accountants with the co-operation of auditors of the company which will be presented, discussed and its approval will be sorted by its directors and shareholders in forthcoming meeting.

11. That keeping in view of the submission of the company, it was decided to give 60 days' time for completing the process of buy-back from minority shareholders. Hearings in the matter were fixed on December 28, 2016, January 19, 2017 and February 2, 2017 but no one appeared on the dates of hearings. The authorized representative finally appeared for hearing on March 20, 2017 on behalf of respondents and reiterated the earlier submissions made in the written reply.

12. That the comments of the authorized representative are not cogent as despite elapse of approximately three years since suspension of business of the Company, the management of the Company has not been able to buy-back shares from minority shareholders through delisting of the Company from the stock exchange and further failed to formulate any viable revival plan. It has been observed that the Company is considered as a non-going concern in the financial years 2015, 2016 and 2017. In the current circumstances, the chances of revival of the Company are bleak.

13. That after taking into consideration of the above mentioned facts, as well as all other relevant material, vide order dated 04.04.2017, the Executive Director, Corporate Supervision Department (CSD), SECP (while exercising the powers of the Commission as per the authority delegated to him vide SRO No. 751(I)/2017 dated August 2nd, 2017 granted sanction to the Petitioner to file a petition before this Hon'ble Court for the winding up of the Respondent Company.

(Copies of SRO No. 751(I)/2017 dated August 2nd, 2017 and Sanction Order dated 04.04.2017 are attached as Annexure 'J' and 'K')

14. That the Respondent Company is liable to be wound-up, *inter alia*, on the following:

GROUND

- A. That the Respondent Company has ceased its operational activities since 2014. Therefore, the Respondent Company is liable to be wound up under Section 301(m) of the Act (Section 305 (c) of the repealed Ordinance), on this score alone;
- B. That it is a settled principle of law that a company is liable to be wound up under clause (m) of section 301 of the Act (clause (c) of Section 305 of the repealed Ordinance if a listed company suspends its business for a whole year.
- C. That respondent Company is a listed company and it was incumbent upon the management to comply with the statutory requirements laid down in the Act and the repealed Ordinance.

- D. That it is just and equitable to wound up the Respondent Company, as the respondent company has suspended its operations since 2014 and there is no reasonable plan or grounds for its revival.
- E. That the business operations of the respondent company are still closed as reported vide quarterly accounts dated 30.09.2017.
- F. That additional grounds may kindly be allowed to be raised during the hearing of the petition.
- G. That in view of the above it is therefore in the interest of justice and also just and equitable that the Respondent Company (i.e. M/s Shaffi Chemical Industries Limited) is wound-up.

PRAYER:

It is, therefore, most respectfully prayed that this Honourable Court may be pleased:


- i. to order the Winding-Up of the Respondent Company (i.e. **M/s Shaffi Chemical Industries Limited**) under the provisions of the Companies Act, 2017.
- ii. to appoint Official Liquidator/Provisional Manager to conduct the winding-up proceedings and perform related duties, and be directed to record the statement of affairs of the Company within the contemplation of Section 320 of the Companies Act, 2017.

iii. to pass such further order or orders and to issue all consequential and necessary directions as this Hon'ble Court may deem fit and proper in the circumstances;

Any other relief which this Hon'ble Court deems fit and proper in the peculiar circumstances of the instant petition may very kindly be awarded.


Petitioner

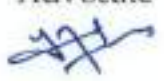
through


Junaid Zaman
Advocate High Court (s)

Certificate:

As per instructions it is the first petition on the subject matter.

Advocate



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AFFIDAVIT

I, Saqib Aslam, *Deputy Registrar of Companies, Securities & Exchange Commission of Pakistan, Company Registration Office, 1st Floor, State Life Building, The Mall, Peshawar Cantt.*, do solemnly affirm and declare on oath that the contents of the accompanied petition are true and correct to the best of my knowledge and belief and that nothing has been concealed or withheld from this Hon'ble Court.

Saqib Aslam
DEPONENT

CNIC NO. 17301-1631770-5

Identified By:

Junaid Zaman *[Signature]*
Advocate High Court (s)

SAQIB ASLAM
Deputy Registrar of Companies
Securities & Exchange Commission
of Pakistan
Company Registration Office
PESHAWAR

No. <u>17248</u>
Certified that the above was verified on solemnly affirmation before me in office this <u>18</u> day of <u>May</u> <u>2018</u> by <u>Saqib Aslam</u> s/o <u>Dep Reg</u> who was identified by <u>Junaid Zaman</u> Who is personally known to me: <u>[Signature]</u>
Oath Commissioner Peshawar High Court, Peshawar.

Nadra Verified

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MEMO OF ADDRESSES

PETITIONER

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