



Corporate Supervision Department
Company Law Division

Before Ms. Amina Aziz – Director (CSD)

In the matter of

Fateh Textile Mills Limited

Number and date of SCN: EMD/233/250/2002-1227 dated January 23, 2015

ORDER

UNDER SUB-SECTION (3) OF SECTION 245 READ WITH SECTION 476 OF THE COMPANIES ORDINANCE, 1984

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

1	Mr. Gohar Ullah	2	Mr. Muhammad Saleem
3	Mr. Humayun Barkat	4	Mr. Maqsood Ahmed Khan
5	Mr. Muhammad Ayub, NIT’s nominee	6	Mr. Sofi Taj Muhammad
7	Mr. Hasinuddin		

These proceedings were initiated through show cause notice (the “SCN”) dated January 23, 2015, under the provisions of sub-section (3) of section 245 read with section 476 of the Companies Ordinance, 1984 (the “Ordinance”).

2. The brief facts of the case are that as per record, the Company did not file the interim financial statements (“Quarterly Accounts”) for the following periods with the Commission, as per requirements of section 245 of the Ordinance:

Sr. No.	Quarter Ended	Due Date
1	31-Dec-12	28-Feb-13
2	31-Dec-13	28-Feb-14
3	31-Mar-14	30-Apr-14
4	30-Sep-14	31-Oct-14

Consequently, the SCN was issued to the respondents whereof they were called upon to show cause in writing as to why penal action may not be taken against them under sub-section (3) of section 245 of the Ordinance for not filing the aforesaid Quarterly Accounts in terms of the law. In response to the SCN the respondents vide letter dated February 28, 2015 submitted as under:



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- Due to the Company's statutory auditor's refusal to conduct and complete the audit of accounts of the Company for the year ended June 30, 2013, opening balances as of July 1, 2013 could not be derived for preparation of accounts of the Company for subsequent periods;
- Without availability of audited opening balances, preparation and filing of subsequent period's accounts were considered to be a futile exercise by the management. The matter will be resolved very soon.
- The delay in filing of periodical accounts is neither deliberate nor willful. The Company has always been meeting the filing requirements in time. If the Commission views filing of quarterly accounts with unaudited opening balances, it may be confirmed so that the Company may proceed accordingly.

Based on the above submission, the respondents requested to withdraw the proceedings.

3. The case was fixed for hearing on August 26, 2015, however, neither anyone appeared on the due date, nor was any response submitted by the respondents. By way of providing a final opportunity to the respondents the case was again fixed for hearing on September 15, 2015. It was clearly communicated to the respondents that in case they fail to attend the hearing in person or through a representative, the Commission will proceed to pass an ex parte order on the basis of material available on record. However, no one appeared on the due date. One of the respondents namely Mr. Hasinuddin through letter dated September 7, 2013 submitted that he had resigned as director and company secretary of the Company with effect from October 29, 2014 and September 5, 2015, respectively.

4. Before proceeding further, it is important to mention that in terms of Sub-section (1) of section 245 of the Ordinance all listed companies are, inter alia, required to file their quarterly accounts with the Commission within stipulated time.

Sub-section (3) of section 245 of the Ordinance provides as under:

"If a company fails to comply with any of the requirements of this section, every director, including chief executive and chief accountant of the company who has knowingly by his act or omission been the cause of



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such default shall be liable to a fine of not exceeding one hundred thousand rupees and to a further fine of one thousand rupees for every day during which the default continues."

In terms of the Commission's notification SRO 154 (I)/2015 dated February 19, 2015, the powers to adjudicate cases under section 245 (3) have been delegated to the Director (Corporate Supervision Department).

5. I have analyzed the facts of the case, relevant provisions of the Ordinance, and submissions made by the respondents. The aforesaid provisions of the law are clear and explicit. A listed company is required to file its quarterly accounts within the stipulated time that is one month from the close of first and third quarters and two months from the close of second quarter. Interim financial statements prepared properly and in a timely manner not only provide to its users a reliable source of information regarding a company's financial position and performance but these also show the results of management's stewardship of resources entrusted to it. Keeping in view the fact that timing of interim financial statements is of essence, the disclosure and audit requirements of these accounts have been kept to a bare minimum. In order to ensure transparency, all the companies must meticulously follow the legal requirement for preparing and circulation of interim accounts. In addition to their responsibility of overseeing and managing affairs of the Company, directors also have fiduciary duties towards the Company and its shareholders. They are, therefore, liable to a higher level of accountability which requires them to be vigilant and perform their duties with care and prudence. It is directors' responsibility to oversee the functioning of the company, to keep it appropriately staffed and organized to ensure due compliance of law. It is mandatory for the directors of a listed company to have knowledge of provisions of applicable laws and in terms of the Ordinance the directors are primarily responsible for approval of accounts.

6. In the instant case, the respondents have stated that filing of the interim financial statements has been delayed due to delay in audit and approval of annual audited financial statements for the year ended June 30, 2013. They have further stated that they are ready to file the Quarterly Accounts if the Commission allows them to prepare those based on unaudited opening balances. This merely shows a lax approach of the respondents towards mandatory legal requirements. The respondents' cannot absolve themselves of their statutory duties that include holding of AGMs and preparing and filing of annual and quarterly accounts. As informed by Mr.



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Hasinuddin, he resigned as director of the Company with effect from October 2014, however, the resignation does not absolve him of his responsibility in respect of defaults in filing of Quarterly Accounts that corresponds to the periods prior to his resignation. I have also observed that the respondents, despite being given ample opportunity of hearing failed to appear in person or through authorize representative during the hearing. Therefore, I am constrained to pass an ex parte order based on the material available on record.

7. In view of the above stated facts, I have concluded that the provisions of the law have been violated and the respondents are liable to fines in terms of section 245 of the Ordinance, as they failed to prepare and file the respective Quarterly Accounts of the Company. Therefore, in exercise of powers under sub-section (3) of section 245 of the Ordinance, I hereby impose an aggregate fine of Rs140,000/- (Rupees one hundred forty thousand only) on the respondents, as per following details:

Name of Respondents	Total
1. Mr. Gohar Ullah	Rs20,000
2. Mr. Muhammad Saleem	Rs20,000
3. Mr. Humayun Barkat	Rs20,000
4. Mr. Maqsood Ahmed Khan	Rs20,000
5. Mr. Muhammad Ayub, NIT's nominee	Rs20,000
6. Mr. Sofi Taj Muhammad	Rs20,000
7. Mr. Hasinuddin	Rs20,000
TOTAL	Rs140,000

The aforesaid fines must be deposited in the designated bank account maintained with MCB Bank Limited in the name of the "Securities and Exchange Commission of Pakistan" within thirty days from the receipt of this order and receipted bank vouchers must be furnished to the Commission. In case of failure of the respondents to deposit of the fines, proceedings for recovery of the fines as arrears of land revenue will be initiated. It may also be noted that the aforesaid fines are imposed on the respondents in their personal capacities; therefore, they are required to pay the said amounts from personal resources.

Before concluding the order I hereby invoke the provisions of section 473 of the Ordinance and direct the respondents to immediately take steps to prepare and approve all the overdue interim



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accounts of the Company latest by December 31, 2015. They are further directed to file the overdue interim accounts with the Commission within thirty days of the approval. The respondents' failure to comply with the aforesaid directions will render them liable for action under section 495 and any other relevant provisions of the Ordinance.

Amina Aziz
Director (CSD)

Announced:
October 6, 2015
Islamabad