



Corporate Supervision Department  
Company Law Division

SECP Before Abid Hussain – Executive Director (Corporate Supervision Department)

*In the matter of*

**Mohib Exports Limited**

Number and date of notice: EMD/233/224/2002-1135-55, dated May 21, 2010  
Hearing held on: February 12, 2015  
Present: Mr. Asif Saigol, Chief Executive

**ORDER**

**UNDER SECTION 309 READ WITH SECTION 305 OF THE COMPANIES ORDINANCE, 1984**

This order shall dispose of proceedings in the matter of show cause notice (the “SCN”) dated May 21, 2010 under Section 309 read with Section 305 of the Companies Ordinance, 1984 (“Ordinance”) issued to the chief executive and directors (together referred to as the “respondents”) of **Mohib Exports Limited** (the “Company”) whose names are given below:

- |                                     |                      |
|-------------------------------------|----------------------|
| 1. Mr. Asif Saigol, Chief Executive | 5. Mr. M. Sharif     |
| 2. Mr. Arif Saigol                  | 6. Mr. Faisal Sharif |
| 3. Mr. Abid Saigol                  | 7. Mr. Asif Jamil    |
| 4. Mr. Kamran Zali                  |                      |

The Company is a public listed company and was incorporated in Pakistan on March 8, 1982 under the Companies Act, 1913 [now the Companies Ordinance, 1984 (“the Ordinance”)]. The principle business of the Company is manufacture and sale of cloth.

2. The brief facts leading to this case are that the Joint Registrar of Companies, Company Registration Office, Lahore, on May 18, 2010 approached this office for grant of sanction in terms of clause (b) of section 309 read with clauses (b) of section 305 of the Ordinance to present a petition before the Honorable High Court for winding up of the Company on the grounds that the Company has failed to hold its annual general meetings (“AGM”) and file statutory returns for the last several years.

3. Consequently, the SCN was issued to the respondents on May 21, 2010 on the grounds that the Company has not been holding the AGMs and filing its statutory returns for past several



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years. Through the SCN, the respondents were called upon to show cause in writing as to why sanction in terms of proviso (b) of section 309 of the Ordinance may not be granted to the Registrar of Companies. They were further advised to inform within a week, in case they intended to appear in person or through their representative to clarify the queries raised in the SCN. The SCN was issued to the respondents at the registered address of the Company, office address and personal addresses of all the directors, as available in the record of the Commission. The SCN was returned undelivered from the registered and office address of the Company and personal addresses of respondents mentioned at serial number 5 and 6 above. Subsequently, the Commission also dispatched the show cause notice on April 18, 2013 through dispatch rider at the registered address, office address and personal addresses of all the respondents. It was also communicated to the respondents that they must submit the response within five days failing which the Commission proceed to decide the proceedings ex-parte. As reported by the dispatch rider, the letter and the show cause notice were delivered on April 23, 2013 at the personal addresses of the first three respondents including the chief executive. However, the letter and the SCN could not be delivered at the Company's registered office and at the personal addresses of other respondents, due to wrong or incomplete addresses and non-existence of the Company at the registered address. Thereafter, through letter dated January 29, 2015, another hearing was fixed on February 12, 2015 and the respondents were informed that in case of their failure to appear in person or through representative, the case will be decided ex-parte as per the law. Again the hearing notice was delivered to three respondents mentioned at serial number 1 to 3 and was returned undelivered from all other addresses.

4. On due date of hearing, Mr. Asif Saigol, the chief executive of the Company appeared before the Head of Department (CSD, *previously Enforcement*), through video conferencing from Company Registration Office, Lahore. With reference to the contents of the SCN, he only made verbal submissions, which are briefly produced below:

- The respondent, Mr. Asif Saigol resides in Dubai and is engaged in business of petroleum products there.
- In the year 2000 i.e. 15 years ago, the creditors took possession of the factory premises and have taken away the equipment regarding which the Company had moved the Court.
- Company's assets comprising land & building have good worth.



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- Bankers Equity Limited and IDBP, which are involved in the case filed in the Court by the Company, are also in liquidation and do not respond to court notices for hearing.
- Receiver has been appointed.
- Company is taking up the matter with the Banks. Banks' claims are for Rs15 million. Counter claim of the Company is Rs45 million (*which is only the value of the machinery*) that is larger than the Banks' claims
- The CEO requested that till cases of Banks are decided, winding up proceedings should be stayed. He also provided status of other directors of the Company, as under:

1. Arif Saigol (in Lahore)
2. Abid Saigol (in Canada)
3. Kamran Zali (resigned, no more a director)
4. M. Sharif (Resigned, **deceased**)
5. Faisal Sharif (Resigned)
6. Asif Jamil (representative of shareholders as nominee)

The CEO during hearing also mentioned that the EFU had refused the Company's insurance claim on the basis that assets had been taken over by the creditors who had filed an appeal for the claim from EFU Insurance. During the hearing, Mr. Saigol was advised to submit a written reply to SCN. Subsequently, through email dated February 12, 2015 sent at his email address [asifsaigol@gmail.com](mailto:asifsaigol@gmail.com) provided by Mr. Saigol, he was reminded to submit reply in writing along with supporting documents. However, no written reply or response has been submitted by Mr. Saigol, till date. The Commission through hearing notice dated January 29, 2016 addressed to all the respondents at their personal addresses, as well as at the registered office of the Company, fixed another hearing in the matter on February 11, 2016, before the undersigned. The hearing notices were returned undelivered from the registered address of the Company but was delivered at the personal addresses of the respondents. However, no response to the hearing notice has been received.

5. Before proceedings further, it is necessary to advert to the relevant provisions of the Ordinance:

Clauses (b) of Section 305 of the Ordinance states that *a company may be wound up by the Court if default is made in delivering the statutory report to the registrar or in holding the statutory meeting or any two consecutive annual general meetings;*



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Clause (b) of Section 309 of the Ordinance states that:

*"An application to the Court for the winding up of a company shall be by petition presented, subject to the provisions of this section, either by the company, or by any creditor or creditors (including any contingent or prospective creditor or creditors), or by any contributory or contributories, or by all or any of the aforesaid parties, together or separately, or by the registrar, or by the Commission or by a person authorised by the Commission in that behalf."*

In terms of the Commission's notification SRO 1003 (I)/2015 dated October 15, 2015, the powers to adjudicate cases under section 309 of the Ordinance have been delegated to Executive Director (Corporate Supervision Department).

6. The record of the maintained at the SECP reflects that the Company has not held its AGMs for the past several years and also has not filed its financial statements and other statutory returns. As per record, the Company has not filed its annual audited accounts since the year 1999. The only available financial statements in the file are unaudited half yearly accounts for the period ended March 31, 1996 and March 31, 1997. In the directors' report attached to the half yearly account for the period ended March 31, 1997, it has been stated that *"In August 1996, as a result of mala fide action taken by one of the financial institutions against the Company and one of its sister concern, the operational activities of the group suspended. This led to severe financial crisis because most of the Company's working capital facilities were cancelled. In October, 1996, the management of the Company started its limited operations and chalked out a phased plan with the objective of revival of the Company's normal operations. By the grace of Allah Almighty, and as a result of the measures taken by the management, the objective has been achieved."* A brief of financial position of the Company based on unaudited half yearly accounts for March 31, 1997 is given below:

Description	Rs	Description	Rs
<b>Total Non-Current Liabilities</b>	<b>77,823,344</b>	<b>Total Current Assets</b>	<b>394,492,828</b>
Redeemable Capital	15,161,000	Cash & Bank	2,371,388
Long Term Loan	55,007,820	Trade Debts	258,263,094
Liab. Against Asset sub to Fin lease	5,234,657	Stock in Trade	53,500,642
Deferred Liabilities	2,419,867	Other Current Assets	80,357,704
<b>Total Current Liabilities (Trade Pay.)</b>	<b>606,793,580</b>		
<b>Shareholders' Equity</b>	<b>-11,644,037</b>	<b>Total Fixed Assets (Revalued)</b>	<b>278,480,059</b>
		Owned	240,777,558
		Subject to Finance Lease	32,494,317
		Long Term Deposits	5,208,184
<b>Total</b>	<b>672,972,887</b>	<b>Total Assets</b>	<b>672,972,887</b>



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During the half year ended March 31, 1997, the Company reported sales of Rs168,993,143 which was almost three times lesser than the sales during the corresponding period in the previous half year. The Company sustained after tax loss of Rs41,844,898 which was 223% higher than corresponding figure of previous half year.

Thereafter, the company has failed to publish its annual and interim accounts, keeping the shareholders, other stakeholders and the Commission in dark regarding the affairs of the company. Therefore, it is inferred that the Company has been failed to prepare and file annual accounts and statutory returns with the Commission thereby contradicting the afore-referred statement in director's report and there is no reliable source of creditable financial information to assess the financial position and performance of the Company. The Company has not held its AGMs and has neither prepared nor filed its audited financial statements afterwards. There is no information available regarding financial position, performance and existence of any assets of the Company. Furthermore, apparently the company is also not maintaining a registered office and correspondence from the registered address has returned undelivered. The aforesaid facts clearly indicates that affairs of the Company have not been managed in a prudent manner and in the best interest of the shareholders who have been deprived of their right to have knowledge of state of affairs and performance of the Company.

7. The respondents, despite being given ample opportunities, have failed to properly respond to the SCN or present any documentary evidence or any revival plan of the Company and there does not appear to be any viable option for revival of the Company. The management including chief executive of the Company have not made any serious efforts for Company's revival and all they have submitted during hearing was unsubstantiated and without any lucid basis. The submissions have only been made verbally by the chief executive and nothing has been presented in writing. Despite elapse of several years after the issuance of the SCN, no serious effort or response has been received from the respondents. This shows lack of seriousness on the part of the respondents regarding revival of the Company. Keeping in view the forgoing facts, it is clear that the Company seems unable to carry on as a going concern.

8. Holding of AGMs, preparation and filing of annual and interim financial statements are very important statutory obligations. AGMs provide opportunity to the shareholders, including



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those in minority, to participate in discussion and vote on agenda items including consideration and approval of a company's annual financial statements, which not only show the financial position and performance of the company but also show the results of management's stewardship of resources entrusted to it. The timeline of the provision of financial statements to the shareholders is of utmost importance as any delay in presentation of the said information could lead to either uninformed decision by the users or have an adverse effect with respect to its timing. In order to ensure transparency, the company must meticulously follow the procedure prescribed by the Ordinance. In addition to their responsibilities 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. In the current circumstances, when the Company has continually failed to meet the basic statutory requirements i.e. preparation, filing and circulation of accounts and filing of the other statutory documents, it is unrealistic expectation that the company's directors can discharge their fiduciary duties, as envisaged in the statute, towards the shareholders. From the above discussion and after careful consideration of all the facts and circumstances of the case, I am of the view that the Company is liable to be wound up.

9. For the forgoing, in exercise of the powers conferred by section 309 of the Ordinance, I hereby authorize the concerned Registrar, Company Registration Office, Lahore, to present a petition for winding up of **Mohib Exports Limited** before the competent court.

**Abid Hussain**  
Executive Director (CSD)

**Announced:**  
February 25, 2016  
Islamabad