



Corporate Supervision Department
Company Law Division

Before Amina Aziz – Director (CSD)

In the matter of

Annoor Textile Mills Limited

Number and date of SCN: CSD/ARN/63/2015-2458-2464, dated January 13, 2016

ORDER

UNDER SECTION 158 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 **Annoor Textile Mills Limited** (the “Company”):

- | | | | |
|---|-------------------------------------|---|---------------------|
| 1 | Mr. Muhammad Ibrahim, Chairman | 5 | Mr. Muhammad Arshad |
| 2 | Mr. Farooq Ibrahim, Chief Executive | 6 | Mr. Muhammad Anees |
| 3 | Mr. Muhammad Arif | 7 | Mr. Muhammad Irshad |
| 4 | Mr. Abdul Qadir | | |

The proceedings against the respondents were initiated through show cause notice (the “SCN”) dated January 13, 2016 under the provisions of section 158 read with section 476 of the Companies Ordinance, 1984 (the “Ordinance”).

2. The brief facts of the case are that the Company was required to hold its annual general meeting (“AGM”) for the year ended June 30, 2015 on or before October 31, 2015, in terms of subsection (1) of section 158 of the Ordinance. However, review of record revealed that the Company failed to convene the AGM as per requirements of the law. 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 section 158 of the Ordinance for not holding the AGM. The respondents were required to submit their reply to the SCN within fourteen days, however, they failed to respond.

3. The case was fixed for hearing on February 15, 2016 through hearing notice dated February 2, 2016. The respondents through letter dated February 9, 2016 requested for adjournment. Another hearing was fixed on February 29, 2016 as a final opportunity to the respondents to appear before the undersigned to clarify their position. It was clearly communicated that in case, the respondents fail to appear in person or through authorized representative the Commission will proceed to issue ex-parte order. In response, Mr. Farooq



SECURITIES & EXCHANGE COMMISSION OF PAKISTAN

Corporate Supervision Department Company Law Division

Continuation Sheet - 1 -

Ibrahim, the chief executive of the Company through letter dated February 25, 2016 confirmed that he or his representative will appear in the hearing through video conferencing facility available at the Company Registration Office of the Commission in Karachi. He further confirmed that the hearing via video link would constitute a valid opportunity of hearing as recognized by law. However, no one appeared on the appointed date and time.

3. It has been noted that respondents have neither submitted any written response to clarify their position with respect to the alleged violation of section 158 of the Ordinance for not holding the AGM nor have they appeared in the hearings. It is clear that they do not have any tenable arguments to justify the default in holding of the AGMs of the Company. Moreover the Company has a poor track record of holding the AGMs as it has not held its AGMs for the year 2013 through to 2015. Previously, two proceedings under section 158 for not holding the AGMs for 2013 and 2014 have been concluded with penalties imposed on the respondents. The respondents despite their commitment to hold the overdue AGM for the year 2013, the same has not been held till date, as per record. It is also relevant to note that in previous proceedings under section 158, the respondents pleaded that AGM for the year 2013 was not held due to which AGMs for 2014 and 2015 could also not be held. They cited that there were issues regarding audit of annual accounts for the year 2013. In respect of issues relating to audit of financial statements of the Company for the year ended June 30, 2013, as were cited by the authorized representative during the previous proceedings, a letter was written by the Commission to Rahman Sarfraz Rahim Iqbal Rafiq, Chartered Accountants, who were stated to be the auditor of the Company by the representative. The stated auditor was requested to provide information on the impediments in finalization of audit of financial statements of the Company for the years ended June 30, 2013 and June 30, 2014 along with tentative dates of completion of respective audits. In response, the stated auditor submitted that it has not been approached so far by the Company for audit of financial statements of the Company for aforesaid periods.

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

Sub-section (1) of section 158 of the Ordinance, inter alia, provides as under:

"Every company shall hold, in addition to any other meeting, a general meeting, as its annual general meeting, within eighteen months from the date of its incorporation and thereafter once at least in every



SECURITIES & EXCHANGE COMMISSION OF PAKISTAN

Corporate Supervision Department Company Law Division

Continuation Sheet - 2 -

calendar year within a period of four months following the close of its financial year and not more than fifteen months after the holding of its last preceding annual general meeting:

Provided that, in the case of a listed company, the Commission, and, in any other case, the registrar, may for any special reason extend the time within which any annual general meeting, not being the first such meeting, shall be held by a period not exceeding thirty days."

Sub-section (4) of section 158, inter alia, provides as under:

"If default is made in complying with any provision of this section, the company and every officer of the company who is knowingly and willfully a party to the default shall be liable,--

(a) if the default relates to a listed company, to a fine not less than fifty thousand rupees and not exceeding five hundred thousand rupees and to a further fine not exceeding two thousand rupees for every day after the first during which the default continues;"

In terms of the Commission's notification SRO 1003 (I)/2015 dated October 15, 2015, the powers to adjudicate cases under section 158 of the Ordinance 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 company is required to hold its AGM within four months from the close of its financial year. Holding of the AGM is a very important statutory event and provides an opportunity to the shareholders including those in minority, to participate in discussion and voting on agenda items of the AGM that include consideration and approval of a company's financial statements. The financial statements not only show the financial position and performance of a company but also show the results of management's stewardship of resources entrusted to it. In order to ensure minority participation and transparency, all the companies must meticulously follow the procedure prescribed by the Ordinance for holding an AGM. 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. Directors of a listed company while filing their



SECURITIES & EXCHANGE COMMISSION OF PAKISTAN

Corporate Supervision Department
Company Law Division

Continuation Sheet - 3 -

consents to act as directors, inter alia, give an undertaking that they are aware of their duties under the Ordinance and that they have read the relevant provisions contained therein. It is mandatory for the directors of a listed company to have knowledge of provisions of the applicable laws and in terms of the Ordinance the directors are primarily responsible for holding the AGM. In this context the respondents' cannot absolve themselves of their statutory duties regarding holding of AGMs and preparing and filing of annual and quarterly accounts.

6. I have observed that the respondents, despite their earlier commitment in writing to submit an update to the Commission by February 10, 2015 regarding holding of the overdue AGMs for previous year ended June 30, 2013, did not submit the same. They have also failed to provide any update regarding subsequent AGMs and accounts. In the previous proceedings, an undertaking signed by six out of seven respondents was also submitted whereof, it was stated that the overdue AGMs will be held by June 30, 2015. However, the undertaking was not backed by action as the Company did not even approach the auditor for audit of its financial statements for the years ended June 30, 2013 and June 30, 2014. This shows the lax behavior of the respondents towards their duty to ensure compliance with applicable legal provisions. Despite being given ample opportunity of hearing to clarify their position, the respondents have not appeared in hearings. Therefore, I am proceeding to issue ex-parte order based on available record.

7. In view of the above stated facts, I have concluded that the provisions of the law have been violated by the respondents as they have failed to hold the AGM of the Company for the year ended June 30, 2015. Therefore, in exercise of powers under sub-section (4) of section 158 of the Ordinance, I hereby impose an aggregate fine of Rs350,000/- (Rupees three hundred fifty thousand only) on the respondents, as per following details:

Name of Respondents	Total
1. Mr. Muhammad Ibrahim, Chairman	Rs50,000
2. Mr. Farooq Ibrahim, Chief Executive	Rs50,000
3. Mr. Muhammad Arif, Director	Rs50,000
4. Mr. Abdul Qadir, Director	Rs50,000
5. Mr. Muhammad Arshad, Director	Rs50,000
6. Mr. Muhammad Anees, Director	Rs50,000
7. Mr. Muhammad Irshad, Director	Rs50,000
TOTAL	Rs350,000



SECURITIES & EXCHANGE COMMISSION OF PAKISTAN

Corporate Supervision Department
Company Law Division

Continuation Sheet - 4 -

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.

Amina Aziz
Director (CSD)

Announced:
April 7, 2016
Islamabad