



Corporate Supervision Department
Company Law Division

Before Amina Aziz –Director

In the matter of

Sargodha Spinning Mills Limited

Number and date of notice: CSD/ARN/259/2015-2598-2604 dated January 18, 2016
Date of hearing: February 12, 2016, March 28, 2016
Present: Mr. Furqan Naveed Advocate
Mr. Tariq Aleem

ORDER

UNDER SECTION 158 READ WITH SECTION 476 OF THE COMPANIES ORDINANCE, 1984

This order shall dispose of the proceedings initiated against following directors including chief executive (together referred to as “respondents”) of **Sargodha Spinning Mills Limited** (the “Company”) through show cause notice (the “SCN”) dated January 18, 2016, issued under section 158 read with section 476 of the Companies Ordinance, 1984 (the “Ordinance”).

S.#	Names of Directors
1	Mr. Main Farrukh Naseem, Director
2	Mr. Mian Aamir Naseem, Director
3	Mr. Saad Naseem, Director
4	Mr. Main Shahazad Aslam, Director
5	Mr. Sajjad Aslam, Director
6	Mr. Ahmad Ali Tariq, Director
7	Mr. Muhammad Mudassar, Director

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 sub-section (1) of section 158 of the Ordinance. However, review of record revealed that the Company failed to convene the AGM as per requirement 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.

3. The respondent 4-7 replied vide letter dated February 9, 2016 submitting that they had been denied access/involvement in the company affairs by the minority directors due to their physical control of the Company and its projects. Therefore, challenged the unlawful actions of the minority directors by filing a petition under Section 290 read with other applicable provisions of



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the Ordinance before Lahore High Court. The case is still pending adjudication therefore, quarterly accounts could not be approved and the AGM could not be held as provided in the Ordinance.

4. In order to provide opportunity of personal hearing the case was fixed before the undersigned on February 12, 2016 Mr. Furqan Naveed Advocate appeared before the undersigned on behalf of respondent 1-3 and submitted that board of directors are in dispute and the case is pending adjudication. Another hearing in this regard, held on March 28, 2016 which was attended by Mr. Tariq Aleem of Tariq Aleem & Company Chartered Accountants authorized representative of respondents 1 (Director and Chief executive) and submitted that petitions in the High Court are disposed of in term of the settlement agreements between board of directors and provided copies of the Order.

5. The chief executive of the Company vide letter dated April 5, 2016 submitted that they filed an application under Section 170 of the Ordinance for holding AGM of the Company for the year ended June 30, 2015 and further submitted that the accounts has been finalized and board meetings and AGM will be called soon.

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

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;

7. 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 Director (Corporate Supervision Department).



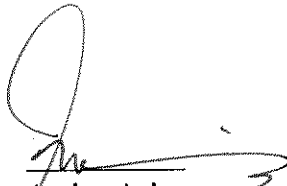
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8. I have analyzed the facts of the case, relevant provisions of the Ordinance, and submissions made by the respondents. The aforesaid provisions of the law are clear and explicit. A company is required to hold its AGM within four month from the close 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 companies' financial statements, which 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 transparency and to protect the shareholders right, the company must meticulously follow the procedure prescribed by the Ordinance for holding the AGMs. 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 and to ensure due compliance of law. It has been observed from record that the Company submitted notice of AGM to the Commission via fax for the financial year 2015 to be May 20, 2016.

9. Holding AGM within the stipulated time is a requirement of law but unfortunately it has been noted that the directors of the Company have not observed the compulsory requirements of law and deprived the shareholders their basic right as envisaged in law by not holding AGM within stipulated time. However, keeping in view of the submissions of the respondents and good past track record of holding general meetings; instead of imposing fine, I hereby, conclude the proceedings with a warning to the respondents to be careful and ensure compliance with mandatory provisions of the Ordinance, in true letter and spirit; in future.



Amina Aziz

Director

Announced:
May 30, 2016
Islamabad

7th Floor, NIC Building, 63-Jinnah Avenue
Islamabad, Pakistan

PABX: + 92-51-9207091-4, Fax: +92-51-9100454, 9100471, Email: webmaster@secp.gov.pk, Website: www.secp.gov.pk