



**Before Abid Hussain – Executive Director**

*In the matter of*

**Brothers Textile Mills Limited**

Number and date of show cause notice	CSD/ARN/248/2015 dated January 09, 2017
Date of Hearing	January 23, February 13 and April 17, 2017
Present	None

## **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 dated January 09, 2017 under Section 309 read with Section 305 of the Companies Ordinance, 1984 (“Ordinance”) issued to Brothers Textile Mills Limited (“Company”) and board of directors including the Chief Executive (“respondents”) of the Company.

2. The facts leading to this case, briefly stated, are that the Company Registration Office Lahore, approached this office for grant of sanction in terms of clause (b) of Section 309 read with clause (c) of Section 305 of the Ordinance to present a petition before the Honorable High Court for winding up of the Company on the ground that the annual accounts of the Company reflect that the business has been suspended since 2013. Further, the Company has not filed its annual accounts for the year June 30, 2015 and June 30, 2016.

3. Show cause notice dated January 09, 2017 was served on the respondents and the Company under Section 309 read with Section 305 of the Ordinance indicating the aforesaid ground to present a petition for winding up of the Company. The Company failed to provide written submissions in response to the said show cause notice. The respondents were provided opportunities of personal hearings on January 23, 2017 and February 13, 2017 and April 17, 2017 however no one appeared on behalf of the respondents nor

SECURITIES AND EXCHANGE  
COMMISSION OF PAKISTAN  
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



# SECURITIES & EXCHANGE COMMISSION OF PAKISTAN

Corporate Supervision Department  
Company Law Division

Continuation Sheet - 1 -

submitted any written reply. Failure to respond to notices thereby has resulted in this ex parte order against the respondents and the Company.

4. In terms of notification S.R.O 1003(I)/2015 dated October 15, 2015 the power to adjudicated cases under Section 309 of the Ordinance has been delegated to Executive Director (Corporate Supervision Department).

5. Before elaborating the facts of the case, it is necessary to advert to the following relevant provisions of the Ordinance:

Clause (b) and (c) of section 305 of the Ordinance states that,

*"A company may be wound up by the Court-*

- (b) 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;*
- (c) if the company does not commence its business within a year from its incorporation, or suspends its business for a whole year"*

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 authorized by the Commission in that behalf."*

6. It is imperative to state certain important facts having significance on to the subject proceedings. The Company is a public limited company, incorporated under the Ordinance in 1986 and its shares were listed on then Karachi and Lahore Stock Exchange now Pakistan Stock Exchange. The principal business of the Company is manufacturing and sale of yarn. The records of this Company reflect the following:

- The Company failed to hold annual general meetings (AGMs) for two consecutive years i.e. June 30, 2015 and June 30, 2016.
- As per the latest available annual audited accounts, i.e. for the year ended June 30, 2014, nil sales had been reported for 2014 and 2013. The unappropriated loss of the Company in the year



# SECURITIES & EXCHANGE COMMISSION OF PAKISTAN

Corporate Supervision Department  
Company Law Division

Continuation Sheet - 2 -

2014 stood at Rs. 122,913,985. Its current liabilities exceed its current assets by Rs. 26,383,047.

- Moreover, the Company has stated in the accounts for year 2014 that its overdue outstanding receivable balances, amounting to Rs. 262 million from its ex-associated undertaking, is under litigation. The said receivable form 38% of the total assets of the Company.
- The Company itself acknowledged in its accounts for year 2014 that the aforesaid conditions cast significant doubt on the ability of the Company to continue as going concern.
- The auditors in their report to shareholders for the year ended June 30, 2014 have drawn attention to the material uncertainty and significant doubt on the ability of the Company to continue as going concern owing to financial position of the Company as well as outstanding receivable under litigation as stated above.
- Further, the directors in their report to the members for quarter ended December 30, 2014 have stated that the lease agreement with Din Textile Mills Ltd expired on 12<sup>th</sup> November 2014 and consent has not been received to renew the lease. It was also stated that the Company is not viable to operate however despite the adverse situation it is optimistic to find new party.
- The Company failed to file annual or interim accounts after December 31, 2014
- The respondents failed to justify or provide any plans / projections that could demonstrate the intention of the Company to renew the lease or continue its operations.

7. In view of circumstances above, the likelihood of restoration or revival of operations of the Company is bleak. The aforesaid is further strengthened by the fact that credible financial information is not provided to the shareholders since the management failed to hold AGMs as well as publish and circulate audited accounts. Moreover, the Company, despite been given multiple opportunities failed to respond to the Commission which is also indicative to lack of intent to revive or regularize its conduct. The management of the Company and respondents have thus failed to present justification or show intention for viably managing the affairs of the Company and have not discharged their responsibility to prepare financial statements as per the applicable law.

8. From the facts asserted above, I am of the view that there are no substantive grounds or underlying records i.e. financial statements/ financial plans/ submissions etc. that could be construed as intention or commitment of the directors for revival of the Company since closure of operations. After considering the



# SECURITIES & EXCHANGE COMMISSION OF PAKISTAN

Corporate Supervision Department  
Company Law Division

Continuation Sheet - 3 -

facts placed before me by the Department and carefully reviewing circumstances of the case, I am of the view that the Company is liable to be wound up and has failed to demonstrate that the same shall be revived.

9. For the forgoing, I, in exercise of the powers conferred on me under Section 309 of the Ordinance, hereby authorize the Deputy Registrar, Company Registration Office, Lahore to present a petition for winding up of Brothers Textile Mills Limited.

**Abid Hussain**  
Executive Director

**Announced:**  
April 26, 2017  
Islamabad