



Securities and Exchange Commission of Pakistan

BEFORE THE APPELLATE BENCH

In the matter of

Appeal No. 16 of 2021

Directors of Yousaf Weaving Mills Limited

...Appellants

versus

Executive Director-Corporate Supervision Department

...Respondents

Date of hearing:

March 09, 2023

Present:

For the Appellants:

Mr. Nadeem Anwar – Company Secretary

For the Respondent:

1. Mr. Amir Saleem, Additional Director, Adjudication-I, SECP
2. Sardar Sohaib Amin, Assistant Director, Adjudication-I, SECP

ORDER

1. This Order shall dispose of Appeal No. 16 of 2021 filed by the Directors (the “**Appellants**”) of M/s. Yousaf Weaving Mills Limited (the “**Company**”), under section 33 of the Securities and Exchange Commission of Pakistan Act, 1997 (the “**SECP Act**”).

 ML.



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2. The brief facts of the case are that review of the annual audited accounts of the Company (the “**Accounts**”) for the year ended June 30, 2017 and the Company’s response dated April 11, 2017 to the Securities and Exchange Commission of Pakistan (the “**Commission**”) revealed that the core business of the Company was weaving/spinning; however, the management of the Company entered into dairy farm business in 2010 by acquiring dairy farm building and civil works of Rs. 29.781 million and live-stock, dairy equipment/tools/herd of Rs. 10.450 million. The Company disclosed the dairy farm business assets as “assets held for disposal” from the year 2012 till disposal. The dairy farm business assets were reported at Rs. 220.2 million in the Accounts for the year ended June 30, 2015 (2014: Rs. 198.4 million) and sold at Rs. 45.31 million during the year ended June 30, 2016. The Company, for the period June 30, 2012 till June 30, 2015, did not recognize the aforesaid assets at lower of carrying amount and fair value less cost to sell as required by IFRS-5 (non-current assets held for sale and discontinued operations) as the sale price was materially lower than the last reported price. The Company, *inter alia*, submitted its written response vide letter dated May 23, 2019 and subsequently a hearing was, *inter alia*, fixed for November 16, 2020, however, no person appeared on behalf of the Appellants. The Respondent vide *ex-parte* order dated December 03, 2020 (the “**Impugned Order**”) concluded that, the Appellants, for the year ended June 30, 2012 to June 30, 2015, have failed to recognize the aforesaid assets at lower of carrying amount and fair value less cost to sell as required by IFRS-5 (non-current assets held for sale and discontinued operations) as the sale price was materially lower than the last reported price. Furthermore, the Appellants failed to demonstrate that as to why an abrupt loss of Rs. 175 million was recorded against sale of its dairy division which comprised of biological and non-biological assets. The Company’s fair value determination mechanism did not truly reflect the market conditions, and deteriorated assets of the dairy division were disclosed at significant higher amounts in relevant financial years of 2012 to 2015 and ultimate disposal of assets was recorded in the financial year 2016 by reporting a loss of Rs. 175 million against such disposals; and thus, vide Impugned Order imposed a penalty of Rs. 400,000/- (Rs. 50,000/- each Appellant) under Section 492 read with Section 476 of the repealed Companies Ordinance, 1984 (the “**Ordinance**”).
3. The authorized representative appearing on behalf of the Appellants *inter alia* contended that the act of the Respondent is not good in the ‘eyes-of-the-law’ as the same acted arbitrarily to satisfy his sheer will



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which is illegal and passed an *ex-parte* order without giving an opportunity to the Appellants to be heard in person keeping in view the facts of the case. Moreover, he argued that the Appellants believe that adequate disclosures have been made in the accounts and the difference is not material and significant to attract the provision of default and thus a lenient view may be taken.

4. Controverting the arguments of the Appellant, the Respondent vehemently denied the contentions of the Appellants for being contrary to the facts. It was submitted that multiple hearing opportunities were afforded to the Appellants i.e. on May 05, 2020, July 03, 2020, September 01, 2020, September 23, 2020, and November 16, 2020, however, neither the Appellants nor their authorized representative ever appeared before the Respondent. As far as the merits of the case are concerned, the Respondent contended that the Impugned Order does not suffer from any illegality and the same is in accordance with the facts of the case.
5. The Appellate Bench (the “**Bench**”) has heard the parties and perused the record. At the outset, the authorized representative of the Appellants, when confronted regarding the hearing opportunities given by the Respondent before passing the Impugned Order, admitted the stance of Respondent. The same is also apparent from the record which shows that before every date of hearing fixed before the Respondent, notice of hearing was sent to the Appellants to which they responded with requests for extension on one pretext or another. With regards to the merits of the case, the Respondent failed to identify any illegality with respect to the Impugned Order and stressed upon insignificance of the difference disclosed in the Accounts. The said contention is not tenable under the law as the mandate of the relevant provision i.e. Section 492 of the Ordinance is unambiguous, which makes a person liable to penalty where any statement, in any return, report, certificate, balance sheet, profit and loss account, income and expenditure account, prospectus, offer of shares, books of accounts, application, information or explanation required by or for the purposes of any of the provisions of this Ordinance or pursuant to an order or direction given under this Ordinance, is false or incorrect in any material particular, or omits any material fact knowing it to be material.



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6. In view of the above, the Bench does not find any reason to interfere with the Impugned Order and thus upholds the same; resultantly the instant Appeal is **dismissed** with no order as to cost.

(Akif Saeed)
Chairman/Commissioner

(Mujtaba Ahmad Lodhi)
Commissioner

Announced on:

19 APR 2023