



BEFORE APPELLATE BENCH NO. II

In the matter of

Appeal No. 60-E, 60-F, 60- G of 2006

1. Service Fabrics Limited.
2. Farooq Hameed, Chief Executive,
3. Muhammad Hameed, Director,
4. Ijaz Hameed, Director,
5. Aamer Hameed, Director,
6. Tariq Hameed, Director,
7. Sajid Salim Minhas, Director,
8. Muhammad Salim, Director,
of Service Fabrics Limited

..... APPELLANTS

Versus

Director (Enforcement)
Securities and Exchange Commission of Pakistan

..... RESPONDENT

ORDER

Date of hearing

28-07-10

Present:

For the Appellants:

Muhammad Pervaiz Tahir
G.M Finance, Service Fabrics Limited

Departmental representative:

Sumaira Siddiqui
Joint Director (Enforcement)

Appellate Bench No. II

Appeal No. 60-E, F, G of 2006

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1. This order shall dispose of appeal No. 60-E, 60-F, 60-G of 2006 filed under section 33 of the Securities and Exchange Commission of Pakistan (the "Commission") Act, 1997 against:

- a) the order dated 07-06-04 passed by the Respondent (Appeal No. 60-E).
- b) the order dated 29-06-05 passed by the Respondent (Appeal No. 60-F).
- c) the order dated 24-03-06 passed by the Respondent (Appeal No. 60-G).

collectively referred to as "Impugned Orders".

2. In terms of the provisions of section 158 (1) of the Companies Ordinance, 1984 (the "Ordinance"), Service Fabrics Limited (the "Company") was required to hold its Annual General Meetings ("AGMs") for the year ended 30-09-03 on or before 31-01-04; for the year ended 30-09-04 on or before 31-01-05 and for the year ended 30-06-05 on or before 31-10-05 respectively. The failure of the Company to hold the AGMs necessitated action against the Company and its directors in terms of section 158(4) of the Ordinance.

3. Show cause notices ("SCNs") were issued to the Appellants under section 158(4) read with section 476 of the Ordinance. The Appellants failed to respond to the SCNs. The Appellants' representative, however, appeared before the Respondent on the date of hearing and was heard. The Respondent, dissatisfied with response of the Appellants, passed the Impugned Orders and imposed penalties on the Appellants in the following manner :



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In Rupees

Serial No.	Penalty imposed on	Order dated 07-06-04	Order dated 29-06-05	Order dated 24-03-06	Total Penalties
1.	M/s Service Fabrics Limited		25,000	20,000	45,000
2.	Farooq Hameed, Chief Executive	20,000	25,000	20,000	65,000
3.	Muhammad Hameed, Director		25,000	20,000	45,000
4.	Ijaz Hameed, Director		25,000	20,000	45,000
5.	Aamer Hameed, Director		25,000	20,000	45,000
6.	Tariq Hameed, Director		25,000	20,000	45,000
7.	Sajid Salim Minhas, Director		25,000	20,000	45,000
8.	Muhammad Salim, Director		25,000	20,000	45,000

4. The Appellants have preferred the instant appeals against the Impugned Orders. The Appellants were represented by Muhammad Pervaiz Tahir (the "representative"). The representative at the outset admitted the defaults for non-holding of the AGMs and pleaded that lenient view may be taken by



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reducing the penalties. The representative informed the Appellate Bench (the "Bench") that the Company ceased its operations in the year 2004 and is in the process of voluntarily winding up. It was argued that the Company has no assets and under the present circumstances cannot pay the penalties to the Commission. The representative informed the Bench that one of the Appellants namely Muhammad Salim has passed away in the year 2008.

5. The departmental representative argued that the Commission has already taken a lenient view by imposing lesser penalties as compared to the maximum penalty of Rs. 50,000 each for each default provided under section 158 of the Ordinance. The Appellants failed to hold the AGMs and deprived the shareholders from receiving the audited annual accounts of the Company. It was argued that the Impugned Orders should, therefore, be upheld.
6. We have heard the parties and have perused the record. The Appellants failed to hold the AGMs which deprived the shareholders of their statutory right to receive the annual audited accounts of the Company. Transmission of timely, adequate and meaningful information to the investors/ shareholders is essential for conducting the affairs of the Company and non-holding of AGMs deprive the investors/ shareholders from participating in matters such as approval of accounts, appointment of auditors and election of directors. The Company made repetitive default which shows that the act of not holding the AGMs was willful. The Respondent has already taken a lenient view by not imposing the maximum penalty on the Appellants. We have been informed that one of the Appellants namely Muhammad Salim has passed away in year 2008. The penalties have been imposed on the Chief Executive and directors in their personal capacity and they are directed to deposit the penalties from their own resources and not from the coffers of the Company.



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In view of the above, the penalty to the extent of Muhammad Salim is being set aside. The other Appellants are directed to deposit the fine within (15) days of receipt of this Order.

(SALMAN ALI SHAIKH)

Chairman

(S. TARIQ ASAF HUSAIN)

Commissioner (LD)

Announced on: **13** August 2010