

Appellate Bench Orders

Order in the matter of Appeal No. 1 of 2001 before Appellate Bench No. 1 in respect of M/s. Elahi Cotton Mills Limited.

April 20, 2001

Securities and Exchange Commission of Pakistan

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BEFORE THE APPELLATE BENCH NO. 1

Mr. Mehboob Elahi,

Chief Executive, Elahi Cotton Mills Limited

Islamabad and four others..... Appellants

VERSUS

Commissioner (E&M)

Securities and Exchange Commission of Pakistan..... Respondent

Present:

Mr. Imtiaz Majeed, FCA

Mr. Mehboob Elahi, Chief Executive of the Company

Ms. Nasira Taskeen On behalf of the Appellants

Mr. Ashfaq Ahmad Khan, Additional Registrar

Mr. Mubasher Saddozai, Deputy Director

..... On behalf of the Respondent

Date of hearing: April 18, 2001

ORDER

IN THE MATTER OF M/S. ELAHI COTTON MILLS LIMITED

This is an appeal under section 33 of the Securities and Exchange Commission of Pakistan Act, 1997 filed by Mr. Mehboob Elahi, Chief Executive, and four other directors of M/s. Elahi Cotton Mills Limited,

against the order dated 20.12.2000 passed by the then Commissioner (Enforcement) of the Commission, imposing a penalty of Rs.900,000/- on the appellants for violating the provisions of section 208 of the Companies Ordinance, 1984.

2. The appeal came up for hearing on April 18, 2001 and Mr. Imtiaz Majeed, FCA while arguing on behalf of the appellants stated that the penalty imposed by the learned Commissioner (Enforcement) is harsh and unjustified as the company had advanced an amount of Rs. 23.171 million to one of its associated undertakings namely (Taxila Cotton Mills Limited) in 1997 and the increase of Rs. 4.261 million thereon during the year 1998 was due to charging of mark up. He further argued that infact this amount was advanced considering it as a part of normal trade but afterwards when it was pointed out that the company has exceeded the aggregate limit of 30% prescribed under section 208 of the Companies Ordinance, 1984, steps were immediately taken to recover the amount of loan. The Chief Executive also confirmed that mark up for the period of advance was duly paid and now the total amount has been recovered.

3. Mr. Ashfaq Ahmad Khan, Additional Registrar, appearing on behalf of the then Commissioner (Enforcement) repeated almost the same points as covered in the impugned order.

4. After hearing both the appellants and representative of the respondent and having examined the documents produced before us, we have come to the conclusion that the company had made investment in an associated company in violation of the provisions of section 208 of the Companies Ordinance, 1984 but it has recovered the full amount alongwith interest and the shareholders hence suffered no loss.

5. Under the circumstances, we are inclined to reduce the amount of penalty to Rs.200,000/- on the Chief Executive and exonerate all the other four directors. The amount of penalty should be deposited in the SEC account within one month of the date of this Order and proof furnished for record.

Announced : 20th April, 200

(N.K. SHAHANI)
Commissioner
(Securities Markets & Insurance)

(M. Zafar-ul-Haq Hijazi)
Commissioner