



BEFORE
RE-CONSTITUTED APPELLATE BENCH NO.III

In the matter of

Appeal No. 20 of 2004

Karim Cotton Mills Limited
14/E, 2nd Floor, Writers Chambers
Mumtaz Hassan Road, Karachi.....Appellant

Versus

1. Executive Director (Enforcement & Monitoring) SEC
2. The Additional Registrar
Company Registration Office, SEC
Karachi.....Respondents

Date of Impugned Order June 16, 2004
Date of Hearing August 27, 2004

Present:

Mr. Muhammad Idrees Haji Ebrahim, CEO for the Appellant



ORDER

1. This appeal No. 20 of 2004 was filed under section 33 of the Securities and Exchange Commission of Pakistan Act, 1997 by Karim Cotton Mills Limited against the order dated 16-06-2004 ('Impugned Order') passed by Executive Director (Enforcement & Monitoring). The Joint Registrar, Company Registration Office Karachi had sought the sanction of the Executive Director under section 309 of the Companies Ordinance, 1984 to file a winding up petition against the appellant company as it had suspended its business since year 1995. The Executive Director vide the Impugned Order had granted the sanction to the Joint Registrar to file the winding up petition.

2. The appeal was heard on 27-08-2004 when Mr. Muhammad Idrees Haji Ebrahim chief executive officer of the appellant company appeared before us. Mr. Ebrahim admitted that the appellant company had suspended its business since some time. He further confessed that the appellant company was a shell company. He however, contended that the appellant company had cleared all its liabilities by selling its assets. In addition, the rights of the minority shareholders had been properly protected by the sponsor directors who had bought their shares at a price of Rs.16/- when the market value of the said shares was less than Re.1/- per share. This, he contended, showed the bonafide intention and honesty of the sponsor directors. Furthermore, the appellant company was complying with all the requirements of law by holding its AGM and filing the necessary returns within time.

3. He prayed that the sponsor directors should be given time to revive the appellant company or sell it to some interested party who in turn would revive it. He stated that the appellant company had goodwill in the market and the sponsors want to preserve that. He presented a future program whereby the sponsor directors would advance an interest free loan of Rs. 5 million to the company. In addition, they were negotiating with a prospective investor to invest another Rs.5 million against which the sponsor directors will hand over management shares to that investor. He prayed that the



SECURITIES & EXCHANGE COMMISSION OF PAKISTAN

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sponsor directors should be given time till the end of year 2004 to revive the company. He stated that in case they failed, they undertake to wind up the company voluntarily.

4. We have heard the arguments presented by Mr. Ebrahim and are of the opinion that the sponsor directors should be given a chance to revive the company. The Commission strives for providing impetus for high economic growth and development of modern and efficient corporate sector. And in order to meet its mission of beneficial regulation, it must make all efforts to assist the corporate sector in its development rather than confining itself to mechanical application of punitive provisions of law. The sponsor directors of the appellant company have shown their honesty and professionalism by protecting the interest of the minority shareholders even in trying times. Further, they are fulfilling the requirements of law by filing the necessary returns and holding its annual general meetings within time. We have also noted that the appellant company is an old institution and carries goodwill in the market. We therefore are of the view that an effort should be made to revive the company before it is finally put to rest. The sponsor directors are given time till 31-12-2004 to finally revive the company, either by injecting funds themselves or selling the company to some other sound business party who should also revive the company by the above time. In case the sponsor directors fail to do the above, they will initiate voluntary winding up of the company within 15 days of the extended time, failing which the Enforcement & Monitoring Department may provide a fresh sanction to the Registrar concerned to file a winding up petition against the appellant company in the court of law. The appeal is disposed off accordingly.

(SHAHID GHAFAR)
Commissioner

(ETRAT H. RIZVI)
Commissioner

Announced in Islamabad on August _____ 2004