



Corporate Supervision Department
Company Law Division

Before Abid Hussain – Executive Director

In the matter of

Khyber Textile Mills Limited

Number and date of notice: CSD/ARN/214/2015-890-91 dated October 7, 2015
Date of hearings: December 14, 2015, December 28, 2015, December 31, 2015, January 7, 2016, January 27, 2016, February 11, 2016, March 31, 2016, June 29, 2016, July 18, 2016, March 6, 2017, July 24, 2017 and January 18, 2018.
Representation: Mr. M. Javed Panni, MJ Panni & Associates
(Authorized Representative)
Mr. Adam Jadoon, Chief Executive Officer
Mr. Sadaqat Khan, Company Secretary

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 October 7, 2015 under Section 309 read with Section 305 of the Companies Ordinance, 1984 ("Ordinance") issued to Khyber Textile Mills Limited ("Company") and directors ("respondents") of the Company.

2. The facts leading to this case, briefly stated, are that the Company Registration Office Peshawar, 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 grounds that the Company's business has been suspended since July 1, 2007.

3. Show cause notice dated October 7, 2015 was served on the Company under Section 309 read with Section 305 of the Ordinance indicating the aforesaid grounds to present a petition for winding up of the Company.

4. In response to the SCN, the respondents submitted reply vide letter dated November 4, 2015 through MJ Panni & Associates ("Authorized Representative"). A brief of the reply relevant to the contents of the SCN is given below:

- The Company's business is suspended since July 2007 due to various adverse market conditions and non-cooperation on part of National Bank of Pakistan ("NBP") a major financier of the Company. Most of the employees had to be laid off after suspension of mill's operation.
- The only impediment in the revival of the mills is the inter-court appeal filed by NBP in the Peshawar High Court on May 31, 2014 against order of the Peshawar High Court (special judge banking) who dismissed NBP's recovery petition filed in 1998. The appeal is pending before the Hon'ble High Court.
- Some of the assets of the Company including land, building, plant and machinery etc. were mortgaged with NBP in respect of loan under litigation and the mortgage charge has to be vacated for the revival plan. Due to filing of appeal to NBP, the Company is constrained to move ahead and prepare a revival plan for yarn manufacturing or to consider any new line of business.



SECURITIES & EXCHANGE COMMISSION OF PAKISTAN

Corporate Supervision Department
Company Law Division

Continuation Sheet - 1 -

- The intent of management to restart operations is very clear from the fact that the management has successfully negotiated a decree awarded to PICIC for Rs. 2.45 billion and discharge it fully as per agreement concluded out of court for Rs. 25 million. The fact that the management in all these years has maintained its assets and its responsibilities under the Ordinance also points to the resolve of the Company to reinitiate operations.
- In light of above submissions and the fact that the legal process is always time consuming, the Company requested time of three years for closure of litigation and to prepare and submit a revival plan for consideration of the Commission.

5. In order to provide opportunity of personal hearing, the case was fixed on December 14, 2015, the Authorized Representative appeared on the date of the hearing and reiterated the earlier submissions made in the written reply. The Authorized Representative was advised to provide copies of the decision of the sick unit committee and the correspondence with NBP. Hearings fixed on December 28, 2015 and December 31, 2015 were adjourned on request of authorized representative. On hearing fixed for January 7, 2016, the Authorized Representative attended the hearing and provided documents advised in previous hearing held. He further stated that CIB of the Company needs to be cleared to arrange funding for revival. He was advised to provide area of land owned, generation of fund through internal sources and follow-up made in the court case. Further hearing was scheduled on January 27, 2016 however it was adjourned on request of the Authorized Representative.

6. Next hearing was scheduled on February 11, 2016 in which the Authorized Representative appeared and submitted that further time would be required to present a revival plan of the company. In this regard, three months time was provided to the Company to present a revival plan with alternative business options. The Company vide letter dated March 1, 2016 requested for a meeting and in this regard a hearing was scheduled on March 31, 2016. Mr. Sadaqat Khan ("the Company Secretary") and Mr. Taj Muhammad appeared on behalf of the respondents and submitted that revival of Company is totally dependent on decision of intra-court appeal filed by NBP. They were informed that three months time has already been given to the Company to present a revival plan with alternative business options. Hearing was again fixed on June 29, 2016 which was adjourned on request of the Company and in the meantime the Company vide letter dated June 29, 2016 provided revival plan regarding initiating a business of cattle farming. In the hearing dated July 18, 2016 attended by the Company Secretary, six months time was provided to the Company for implementation of the revival plan. In the hearing dated March 6, 2017 the Company Secretary submitted that the Company is earning revenue income of Rs. 1.5 million however, Company is operating in loss and the management of the Company is meeting with NBP for out of court settlement. Next hearing was held on July 24, 2017, attended by the Company Secretary, however it was observed during the hearing that the Company is earning rental income however it is operating in losses. The Company submitted further arguments through letters dated July 26, 2017 and July 31, 2017. The Company reiterated efforts made with regards to settlement of liabilities with PICIC, NBP and ICP in its written submissions. The Company also informed about business activity returning and a small income stream being generated.

7. A final hearing opportunity was provided on January 18, 2018 before concluding the proceedings. Mr. Adam Jadoon, Chief Executive Officer of the Company, Mr. Waqar Ayub, the Company Secretary appeared before me and informed in detail about the progress made as regards generating income from alternative businesses and provided written submissions. They submitted that the business of cattle farming is being increased gradually and will continue to be increased till the financial year 2020. The Company has been able to make a profit from the sale of

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SECURITIES & EXCHANGE COMMISSION OF PAKISTAN

Corporate Supervision Department
Company Law Division

Continuation Sheet - 2 -

cattle heads. They also submitted documents by the Company providing projections and project details for cattle farming. They also informed that other agricultural options are also being considered and implemented to generate revenues. The Company has approached the KP Agriculture Research Department for assistance in plantation of Olive trees on the vacant mill's land. The plantation of live trees will be commencing from February 2018 apart from the Cattle farming business already initiated by the Company. Further, it has been submitted that the Company is also implementing a solar power plan in order to generate power for the operations of mill tube wells and electrical needs thereby reducing the Company's reliance on PESCO grid.

8. It has been noted that the Company's shares are being traded on the stock market above the par value and minority shareholders seem to have an avenue available for liquidating their investment if they desire to do so.

9. I have analyzed the facts of the case and the arguments made during the hearing proceedings and written submissions of the Company. I would like to mention that the SCN was issued on the basis that the Company had suspended its operation for more than one year. However, I have observed that the Company after a long period, has started the business of cattle farming to generate revenues and also has explored other options like olive tree plantation while taking initiatives for cutting the operational costs through self-generated solar power. I have observed that the Quarterly Accounts for the period ended September 30, 2017 reveal that the Company reported sale of Rs. 650,000. Furthermore, the projections submitted by the Company reveal that the sales from cattle farming are expected to be Rs. 12,000,000 and net profit of above Rs. 5 million is expected in the third year of the business. Furthermore, it is also pertinent to highlight the fact that the Company has held its AGM and prepared its financial statements till September 30, 2017. Further, the Company has submitted that through resumption of business activity the Company has once again become an active tax payer with Rs.0.85 million advance payment during the year ended June 30, 2017 and Rs. 0.76 million advance tax payment during the first half of the current financial year.

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

11. From the facts stated above and after careful consideration, I, hereby conclude that the proceedings initiated against the Company be dropped with no further action. It is further directed under Section 475 of the Companies Act, 2017 that the respondents may make necessary amendments in Company's articles and memorandum of association in light of the alternative business being undertaken and to change the name of the Company in accordance with the provisions of the Companies Act, 2017.

Abid Hussain
Executive Director

Announced:
January 26, 2018
Islamabad

