



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

Adjudication Department-I

Adjudication Division

ORDER	
Name of Company:	Zahur Cotton Mills Limited
Show Cause Notice No. & Date:	No. CSD/ARN/178/2015-401 dated September 05, 2024
Respondents:	(i) Mr. Imran Zaid, Chairman; (ii) Ms. Javeria Malik, Director; (iii) Ms. Sana Malik, Director; (iv) Mr. Muhammad Faheem Qureshi, Director; (v) Ms. Azra Perveen, Director; (vi) Mr. Muhammad Sheraz, Director; (vii) Syed Jawad Ali, Chief Executive; and (viii) Zahur Cotton Mills Limited
Date of Hearing:	November 07, 2024;
Case represented by:	(i) Mr. Nadeem Mehmood Butt, CEO-FAPL; and (ii) Mr. Wasif Ali Rana, Director-FAPL
Provision of law involved:	Section 227 and 479 of the Companies Act, 2017
Date of Order:	March 21, 2025

This Order shall dispose of the proceedings initiated by the Securities and Exchange Commission of Pakistan (the “Commission”) through the Show Cause Notice No. CSD/ARN/178/2015-401 dated September 05, 2024 (the “SCN”) against Zahur Cotton Mills Limited (the “Company”) and its Directors and CEO, hereinafter collectively referred to as the “Respondents”, issued under Section 227 and 479 of the Companies Act, 2017 (the “Act”).

2. The brief facts of the case are that the directors’ report annexed to the financial statements of a public company is required to state the information and explanation in regard to any contents of modification in the auditor’s report, in terms of Section 227(2)(e) of the Act. A review of the annual audited financial statements of the Company for the year ended June 30, 2023 (the “Accounts”) revealed that the statutory auditor of the Company namely M/s Ali Akhtar Adnan, Chartered Accountants (the “Auditor”) issued an adverse audit opinion in its audit report to the said Accounts, on the basis of six observations including the following:

- Preparation of Financial Statements on going concern basis;
- Non-application of IFRS-5;
- Inability to verify the existence and valuation of trade creditors, advances form customers and accrued liabilities & advances;
- Inability to verify the existence and valuation of long-term deposits.

3. However, perusal of the director’s report annexed to the Accounts, *prima facie*, transpired that no explanation was rendered therein with regard to the above observations of the Auditor, forming basis of its adverse audit opinion, and the director’s report merely stated that the “*new management is committed to remove all observations.*” In view of the foregoing, the Commission vide letter dated March 20, 2024 sought comments from the Company and in response, the Company vide letter dated April 01, 2024 *inter-alia* submitted that it has negotiated a merger plan with an information technology company, a scheme of arrangement has been filed before the Honorable Lahore High Court, and after approval of the scheme, the Company will be merged and its commercial operations will resume. The Company admitted the omission on its part and submitted that this comprehensive plan for addressing the auditor’s modifications was inadvertently omitted during the issuance of financial statements, given the intense focus on merger proceedings and documentation. Nevertheless, the Company showed its commitment to uphold regulatory compliance.

4. The relevant provisions of law are reproduced hereunder:

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“227. Contents of director’s report and statement of compliance.- (2) In the case of a public company or a private company which is a subsidiary of a public company, the director’s report, in addition to the matters specified in sub-section (1) must state—

(e) the information and explanation in regard to any contents of modification in the auditor’s report.

(6) Whoever contravenes any of the provisions of this section shall ---- (a) in respect of a listed company, be punishable with a penalty of level 2 on the standard scale;”

5. Taking cognizance of the aforementioned alleged non-compliance, a SCN was served upon the Respondents on September 05, 2024 requiring them to show the cause as to why penal action as provided under sub-section (6) of Section 227 of the Act, may not be taken against them for the aforementioned contravention of the law. However, the Respondents did not submit any reply in response to the SCN.

6. In order to meet the ends of justice and provide an opportunity of being heard to the Respondents, hearing in the matter was fixed for November 07, 2024, which was attended by Mr. Nadeem Mehmood Butt, CEO-Frontier Advisory (Private) Limited (“FAPL”) and Mr. Wasif Ali Rana, Director-FAPL on behalf of the Respondents as their Representatives. The Representatives *inter-alia* also referred to the scheme of merger filed before the Honorable Lahore High Court being at final stage and submitted that the operations of the Company will restart soon after the same is sanctioned. In relation to non-application of IFRS-5, the Representatives requested that the unintentional omission may be condoned. The Representatives further explained that the balances identified by the auditor are outstanding for more than last 20 years and the same will be written-off in next year as the beneficiaries are not traceable.

7. Subsequently, the CEO of the Company vide letter dated November 12, 2024, *inter-alia*, reiterated the aforesaid submissions of the Representatives and submitted that despite the fact that the balance sheet of the Company for the financial year ended June 30, 2023 (“FY 2023”) does not have any material assets, the Accounts were prepared on the basis of going concern assumption primarily on the basis of management’s firm commitment for merger with an international IT company. It was stated in the said letter that this business development has been explained by the board of the Company in the director’s report for FY 2023. With regards to non-applicability of IFRS-5, the CEO acknowledged that the assets should have been classified as non-current assets held for sale and discontinued operations and it was an unintentional omission; however, it was submitted that the net outcome of disposal of these assets was fairly presented in the financial statements. The above-referred letter further informed that the Company was non-operational for more than 20 years, and the referred balances of trade creditors and long-term loans are left over amounts that have never been claimed by any party and now after 20 years it is not possible to trace the beneficiaries of these payable amounts.

8. I have gone through the relevant provisions of Section 227 of the Act, and considered the facts of the case, & written and verbal submissions of the Respondents. I have also perused Section 227(6) of the Act, which stipulates penal provisions for contravention of the afore-referred provision of law. I have noted that the directors were obligated to provide information and explanation in the director’s report with regards to the modifications in the auditor’s report for FY 2023; however, contrary to the explicit requirements of Section 227 of the Act, which clearly specifies the constituents of directors’ report, the Respondents have clearly failed to provide the requisite explanation in the director’s report.

9. It is imperative to observe that during the course of instant proceedings, the Respondents have resorted to providing explanation on the observations by the Auditors that lead to their adverse opinion instead of providing the relevant requisite explanation for not including a sufficient explanation in the director’s report on such adverse opinion by the Auditor. It is also pertinent to note that the Respondents claimed to have ‘intense focus’ on the ongoing merger proceedings and documentation in the director’s report. However, any such business development/decision or ‘focus’ does not, in any way, absolve the Respondents from ensuring meticulous compliance of applicable laws at all times, especially with respect to director’s report that is intended for informed decision-making by the shareholders of a public listed company. It is further evident from the fact that the Respondents, during the proceedings, have themselves admitted the default on their part.

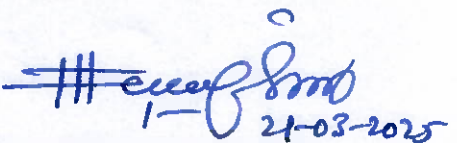
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10. The cruciality of the role of board of directors in ensuring accurate and timely provision of information to the concerned stakeholders cannot be overemphasized. In 2013 CLD 706, the fundamental duty of directors was held as "...The directors in addition to the day to day running of the company and the management of its business, also have 'fiduciary duties' i.e. duties held in trust and some wider duties imposed by statute...hence the directors are gauged against a higher standard of accountability which requires them to be vigilant and perform their duties with due care. In the instant case, the directors have failed to perform their duties with due care and prudence. As the directors are supposed to be well aware of their legal obligations..." In 2014 CLD 299, it was held that "...the appellants did not exercise due skill and care required of them as directors of the Company at the time of submission of accounts. The default, therefore, would be considered as willful..." Similarly, in 2014 CLD 263 [Appeal No. 02 of 2012 decided on September 11, 2013], one of the grounds for initiating inspection of books and accounts of the company was that the directors in their report to the members on the respective annual accounts failed to give satisfactory and complete information & explanation in regard to the reservations, observations, qualifications or adverse remarks contained in the respective auditors' report; the inspection proceedings were upheld by the Appellate Bench of the Commission.

11. After careful consideration of all the facts of the case in light of the relevant provisions of the law, and the written and verbal submissions made by the Respondents, I am of the considered view that the Respondents have contravened the provisions of Section 227(2)(e) of the Act, and such contravention attracts penal action as provided under Section 227(6) of the Act. I, therefore, in exercise of the powers conferred upon me under sub-section (6) of Section 227 read with Section 479 of the Act in terms of S.R.O. 737(I)/2023 dated June 12, 2023, hereby impose an aggregate penalty of **Rs.140,000/- (Rupees One Hundred and Forty Thousand Only)** on the Respondents on account of the aforesaid established default in the following manner:

Sr. No.	Name of Respondent(s)	Penalty (Rs.)
1.	Mr. Imran Zaid	20,000
2.	Ms. Javeria Malik	20,000
3.	Ms. Sana Malik	20,000
4.	Mr. Muhammad Faheem Qureshi	20,000
5.	Ms. Azra Perveen	20,000
6.	Mr. Muhammad Sheraz	20,000
7.	Syed Jawad Ali	20,000
Total		140,000

12. The Respondents are, hereby, directed to deposit the aforesaid amount of penalty in the designated bank account maintained in the name of the Commission with MCB Bank Limited or United Bank Limited within thirty (30) days from the date of this Order and to furnish a receipted bank challan to the Commission forthwith. In case of failure to deposit the penalty, the proceedings under Section 485 of the Act will be initiated for recovery of the penalty/fines as arrears of land revenue pursuant to provision of Section 42B of the Securities and Exchange Commission of Pakistan Act, 1997.


 21-03-2025

Sohail Qadri
 Director/ HOD
 Adjudication Department-I

Announced:
 March 21, 2025
 Islamabad.

