



KHALID SIRAJ TEXTILE MILLS LIMITED

135-UPPER MALL, LAHORE

Tel: +92-42-35761706-07, Fax: +92-42-35761708

Date: 16-Nov-22

Mr. Hafiz Maqsood Munshi

Senior Manager,

Listed Companies Compliance Department – RAD

Pakistan Stock Exchange Limited,

Stock Exchange Road,

Karachi.

Subject: **SUSPENSION OF TRADING IN THE SHARES OF THE COMPANY**

Dear Sir,

With reference to your letter PSX/GEN-2089 dated 25-10-2022 on the subject matter.

We are pleased to inform you that Honorable Supreme Court of Pakistan has passed a Judgment in our favor and cancelled the winding up proceedings titled M/s Khalid Siraj Textile Mills (KSTM) Lahore and others versus Additional Registrar of Companies, Securities and Exchange Commission of Pakistan, Islamabad and others bearing number CP. 835/22 against the judgment dated 20-01-2022.

You are kindly requested to please regularize KSTM on PSX we have also requested SECP for issuance of NOC so that we can proceed further at PSX.

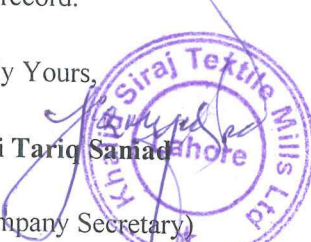
Copy of detailed Judgment issued by Honorable Supreme Court of Pakistan is attached for your reference and record.

Truly Yours,

Haji Tariq Samad

(Company Secretary)

Khalid Siraj Textile Mills Limited



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19650
L-123/r

SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

Mr. Justice Syed Mansoor Ali Shah
Mrs. Justice Ayesha A. Malik

CIVIL PETITION NO.835 OF 2022

[Against the order dated 20.01.2022 of the Lahore High Court,
Lahore, passed in Civil Original No.64572 of 2019]

M/s Khalid Siraj Textile Mills Limited, Lahore
and others ...Petitioner(s)

Versus

Additional Registrar of Companies, Securities
and Exchange Commission of Pakistan,
having its head office at Islamabad and
another ...Respondent(s)

For the Petitioner(s) : Barrister Haris Azmat, ASC
Ch. Akhtar Ali, AOR

For Respondent(s) : Mr. Tariq Aziz, ASC
M. Jehangir, Joint Director (SECP)

Date of Hearing : 26.10.2022

JUDGMENT

AYESHA A. MALIK, J.- This Civil Petition for Leave to Appeal under Article 185(3) of the Constitution of the Islamic Republic of Pakistan, 1973, is directed against order dated 20.01.2022, passed by the Lahore High Court, Lahore (High Court), whereby the winding up petition filed by the Respondent, was allowed and an Official Liquidator was appointed to forthwith start the performance of his duties and functions till the conclusion of the winding up proceedings.

2. The grievance of Petitioner No.1, a listed company, is that a petition for winding up the company was filed by the Additional Registrar of the Companies, Security and Exchange

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Commission of Pakistan, Respondent No.1. An order for compulsory winding up was passed on 20.01.2022 on the ground that the business operations of the company have been shut down since November, 2013, which falls under Section 301(m) of the Companies Act, 2017 (Act). The counsel argued that the order for winding up has been made without considering the record, particularly, the fact that the company in its extraordinary general meeting held on 30.04.2021 put forward a business plan on the basis of which the company has been able to generate profits which are to be used in the repair of the plant and machinery in order for the company to be run the mill itself. The counsel further stated that the Respondent, Securities and Exchange Commission of Pakistan, Islamabad (SECP) was well aware of the business plan and failed to place the same before the Court. So far as the Petitioner is concerned, they were only given one opportunity to file its reply and having not done so, the Court ordered the winding up on the next date of hearing. The learned counsel further stated that it is important to note that no opportunity of meaningful hearing was granted to the Petitioner wherein it could have placed information of the business plan before the Court and secondly Respondent No.1 conveniently chose to ignore the revival of business and notwithstanding the fact that the company did shut down its operations in the year 2013 a successful effort had been made in the year 2021 to revive the company's business. The counsel argued that winding up of the company is an extreme measure and the Courts are generally cautious in doing so as it amounts to closing down the business, which leads to loss of

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employment and loss of revenue. In this case, the Court ordered for the winding up of the company without giving the Petitioner an opportunity to place its revival plan before the Court.

3. On behalf of the SECP, concise statement with the relevant record has been placed before the Court. It is their case that the winding up petition was filed under Section 301 read with Section 304 of the Act, as the company stopped its business operations since 2013. A show cause notice was issued by the Corporate Supervision Department, Company Law Division of the SECP on 26.01.2017 and again on 19.04.2017, for which, a reply was filed on 08.02.2018 wherein the company stated that it was making efforts to revive its business. The counsel stated that admittedly the company stopped its business operations in 2013, which is the primary ground for winding up the company. He further explained that proof of the same was available from the audit reports for the year and June 2013, hence, as such no illegality has been made out as the company, in fact, did not operate from 2013 to 2021. He also argued that after issuance of the show cause notice, some time was given to the company as they claimed that they were making an effort to revive their business, however, they failed to do the same, hence, ultimately the winding up petition was filed. The counsel stated that the business plan was neither approved nor rejected by the SECP, however, the financial reports for the financial year 2020-2021 and financial 2021-2022 does reveal that the company made a profit of Rs.16 millions and Rs.1 million, respectively.

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4. We have heard the learned counsel at length and examined the record. It is an admitted fact that the company shut down its business in 2013 and despite all efforts the business remained closed till the year 2021. The company executed a business plan whereby they leased the factory for 3 years in order to generate funds, which was then to be reinvested in the company in order to make the factory functional. This fact is not disputed by the SECP and they also do not dispute the financial reports tendered by the company under Section 223 (7) of the Act 2017, which shows that the company has generated business and is making profit. Therefore, for all intent and purposes, the company had revived its business in the year 2021. The issue before the Court is that this revival took place between the time when the winding up petition was filed in 2019 and the final winding up order was passed in 2022.

5. The record shows that the petition was filed on 29.10.2019 on behalf of the SECP for compulsory winding up of the company on the ground that the company ceased to carry out its business since November, 2013 and, therefore, is not in compliance of its statutory duties. The Court sought a reply from the company on two dates that is 06.02.2020 and 11.11.2021. Given that the reply was not filed on 11.11.2021, the right to file a reply was closed and the case was fixed for arguments on 20.01.2022, being the date when the order for winding up was passed. Although, the company failed to file a reply but the record shows that an effort was made by the company to bring into the notice of the Court their business revival plan by way of filing CM

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No.1 of 2021, in which notice was issued on 02.03.2021 but the SECP did not file any reply to the said application nor did they inform the Court of the same. As a result, the impugned order relies upon the contents of the winding up petition in totality and ordered for the winding up of the company. Mr. Muhammad Jahangir, Joint Director, has appeared in person on behalf of the SECP and does not have any response as to why the revival of the business was not considered by the SECP. The very fact that the SECP opted to ignore the revival plan reflects on their unnecessary focus on winding up the company rather than working on the revival of the company's business. In this regard, we note that the SECP must protect the interests of the shareholders of the company and more so where the SECP seeks winding up of a company, at its own instance. It must consider all relevant facts and record and if there is a chance of avoiding winding up then it should consider that option rather than push for winding up. It is in the public interest that businesses are encouraged. So the commercial operations of a business must be preserved and protected such that it is able to revive itself when faced with financial hardships. The SECP, in this regard, should make all efforts to ensure that companies are able to run their business and can improve their commercial viability especially when there is a financial crunch. In this case, the SECP focused more on the fact that the business operations were shut down in November, 2013 notwithstanding the fact that they waited more than six years before filing the winding up petition and it took two years with just a few hearings for the order of winding up to be passed.


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6. In view of the above, we are of the opinion that the Court acted in haste not only in passing an order for winding up but despite issuance of notice in CM No.1 of 2021 ignored the contents of the same which provided the business plan and indicated that the company has become operational and has made some profits as per its annual audit report of June, 2021. We also note that as per the contents of the application over 350 persons are employed with the Petitioner who would lose their jobs on the winding up of the company. These facts were all relevant to the winding up petition and in the very least, the High Court should have satisfied itself that the business remains closed even in 2022 when the order was passed. Winding up a business has serious consequences both economic and social and even though this is a matter for the discretion of the judge, winding up should be ordered with extreme caution, as a last resort, when it is evident that the business cannot be saved.

7. In the above circumstances, we convert this petition into an appeal and allow the same while setting aside the impugned order of the High Court.

Sd/-J

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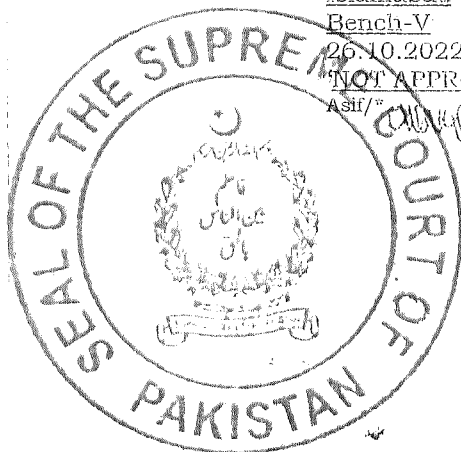
Islamabad

Bench-V

26.10.2022

NOT APPROVED FOR REPORTING

Asst/



20152/2022

GR No:	20152/2022
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