



# Securities and Exchange Commission of Pakistan

Adjudication Division  
Adjudication Department-I

Before

**Amir M. Khan Afridi- Director/ Head of Department**

**In the matter of Show Cause Notice issued to Suhail Jute Mills Limited**

Dates of Hearing

January 10, 2022; January 17, 2022

## Order-Redacted Version

Order dated June 8, 2022 was passed by Director/Head of Department (Adjudication-I) in the matter of Suhail Jute Mills Limited. Relevant details are given as hereunder:

Nature	Details
1. Date of Action	Show cause notice dated November 2, 2021
2. Name of Company	Suhail Jute Mills Limited
3. Name of Individual*	The proceedings were initiated against the Company and its Directors
4. Nature of Offence	<p>Proceedings were initiated in terms of the Sections 492 and 476 of the Companies Ordinance, 1984</p> <p>Facts of the case are that inspection of the books of the Company was authorized vide Order dated April 05, 2019. The Inspectors submitted the Inspection Report dated March 03, 2020 (the Inspection Report). As per the Inspection Report, M/s Amir Alam Khan &amp; Co. Chartered Accountants, the statutory auditors of the Company (the Auditors) carried out statutory audit of the Company for the financial year (FY) ended June 30, 2012 to 2016. The Auditors expressed modified opinions on the Company's financial statements for the FYs 2012 to 2016.</p> <p>The Inspection Report, inter alia, stated that the Chief Executive Officer (CEO) of the Company has informed that in case of the land of Colony Sarhad, it was purpose-specific land i.e. can only be used for industrial concerns. As per the documents provided, this land was acquired in 1961. The acquisition as explained by CEO was done by the Government to promote industry and thus is for specific purpose only and cannot be sold for any other purpose as per the explanation provided to the inspectors. The aforesaid conditions may affect the liquidity of an asset and such conditions</p>



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	<p>make it difficult to liquidate an asset. The Company, however, failed to disclose the conditions attached to its freehold land.</p> <p>It was also reported that ***, during the years 2013 to 2016, made certain payments on behalf of the Company, from his own bank accounts. However, the inspectors in their report concluded that majority of these payments were not backed by documentary evidences. No substantiating evidence was provided by the Company to the Inspection team to verify the aforesaid expenses, therefore, resulting in mis-statement in the annual audited accounts as listed above with regard to the directors' loans figure. The Company in its reply dated January 21, 2020, has stated that the Respondents have not contested the observations of the inspectors regarding the fact of payment of expenses by the *** personally from his own bank account.</p> <p>Keeping in view the above, the Accounts of the Company for the FYs 2012, 2013, 2014, 2015, and 2016, <i>prima facie</i>, were materially mis-stated and omitted facts due to:</p> <ul style="list-style-type: none"><li>(i) qualifications/adverse opinions by the Auditors highlighted in the respective auditors' reports,</li><li>(ii) reportedly, *** paid expenses on behalf of the Company but no substantiating evidence/supporting document is available on record manifesting such expenses. This establishes material mis-statement of directors' loans reported in respective financial years and; deficient disclosure with regards to the condition of restriction on the sale of land of the Company.</li></ul> <p>Hence, proceedings under Sections 492 and 476 of the Ordinance were initiated against the Respondents and they were advised to show cause in writing within fourteen (14) days of the date thereof as to why action should not be initiated, for the aforesaid violations of the Ordinance.</p>
5. Action Taken	<p>Key findings were reported in the following manner:</p> <p>I have gone through facts of the case, replies furnished and stance taken during the hearing and arguments made by the Authorized Representative and state that:</p> <ul style="list-style-type: none"><li>(i) In terms of auditors 'report for the year ended June 30, 2012, the auditors modified their opinion and highlighted qualifications for not having provision against doubtful receivables of Rs. 63.1 million, not having provision against stores, spare parts amounting to Rs. 10.29 million, and ongoing concern issue due to</li></ul>



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various issues including net loss of Rs. 70.88 million. As per available information, the operations of the Company were closed since 2012. In this regard, the relevant directors' report for the year 2012, *inter alia*, stated that: *"The Company is of the view that the material uncertainty referred to in the Auditor's Report shall be substantively mitigated by the Scheme of Arrangement which was initiated after obtaining the Shareholder's approval through a Special Resolution in the Extraordinary General Meeting held on 31 October 2010. The said Scheme has now been prepared and approved by the Board. A petition will be filed with the Court of appropriate jurisdiction seeking the Courts fixation of a date to convene a General Meeting of the Company's shareholders for consideration and approval of the Scheme, under Courts supervision. It is intended to file the Petition once the Accounts have been authorized as the Financial Statements are to be annexed with the Petition in accordance with the Law"*. The aforesaid stance clearly transpires that the Scheme of Arrangement was not filed till the close of the financial year 2012 and in view of the given qualifications the Accounts for the year ended June 30, 2012, were materially misstated and were not prepared on Net Realizable Value or alternate basis. The Respondents are of the view that due to Scheme of Arrangement and *subjudice* matter they did not comply with the given requirements and did not remove qualifications of the Auditor, however, the said stance is not tenable as pendency of a merger application in the Court does not absolve the Company from compliance of relevant law, especially when there is no specific order by the Court allowing such exception. In addition to above, the stance of the Respondents given in director's report of 2012 refers to the future compliance which is uncertain and in fact it amounts to admission on part of the Company with regard to material uncertainty. The arguments put forth by the Respondents are not cogent, hence, violation of Section 492 of the Ordinance is attracted.

- (ii) For auditors' qualifications on non-provision against doubtful trade debts due from the associated company as reported by the Auditors in their reports for the years 2013, 2014, 2015 and 2016 respectively, the Respondents are of the view that said trade debts were to be settled pursuant to Scheme of Arrangement with the associated company and the matter was *subjudice*. In this regard, I am of the view that doubtful trade debts due from associated as of June 30, 2013, was amounting



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Rs 64.541 million and I am of the view that the Company was able to make a provision against the said amount, as there was no constraint to provide for the said amount owing to the fact that the Scheme of Arrangement was filed in the year 2014. Moreover, the balance of doubtful trade debts was increased from Rs. 66.033 million (2014) to Rs. 69.04 million (2016), which reflects the mere increase of Rs 3.007 million i.e. amount of doubtful debt subsequent to the filing of the Scheme of Arrangement. Therefore, the Respondents' stance for not making provision against doubtful debt is not tenable, which attracts the provision of Section 492 of the Ordinance.

(iii) For auditors' qualifications on going concern assumption in reports for the years 2013, 2014, 2015, and 2016, the Respondents are of the view that through the filing of Scheme of Arrangement alternate plan for revival of the Company was submitted.

(iv) For auditors' qualification in their report on Accounts for the year 2016, in terms of which the Company did not comply with the requirements of IAS 16 (Property, Plant and Equipment) as PPE was not revalued since 2011, the directors' report of 2016 stated that: *"It was not considered proper to revalue and incorporate any altered value in respect of Property, Plant and Equipment as of 30 June 2016, since the agreed, and now approved, 'swap ratio' was derived from the valuation conducted in 2011. In the light of the special circumstances of the ongoing merger proceedings any incorporation of altered values was not considered feasible. The Company intends to fully comply with IAS 16 by undertaking a revaluation of the combined Property, Plant and Equipment once the merger process is completed."*

In this regard, relevant paras of IAS-16 state that:

*31 After recognition as an asset, an item of property, plant and equipment whose fair value can be measured reliably shall be carried at a revalued amount, being its fair value at the date of the revaluation less any subsequent accumulated depreciation and subsequent accumulated impairment losses. Revaluations shall be made with sufficient regularity to ensure that the carrying amount does not differ materially from that which would be determined using fair value at the end of the reporting period.*



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	<p>34. <i>The frequency of revaluations depends upon the changes in fair values of the items of property, plant and equipment being revalued. When the fair value of a revalued asset differs materially from its carrying amount, a further revaluation is required. Some items of property, plant and equipment experience significant and volatile changes in fair value, thus necessitating annual revaluation. Such frequent revaluations are unnecessary for items of property, plant and equipment with only insignificant changes in fair value. Instead, it may be necessary to revalue the item only every three or five years</i></p> <p>I am of the view that in terms of IAS 16 exception for not to revalue PPE in the circumstances stated by the Company has not been provided, hence, the stance of the Respondents is not cogent.</p> <p>(v) As regards the auditors' qualification on non-recording of impairment in non-compliance of IAS 36 (Impairment) in Accounts for the year 2016, the directors in their report stated that: <i>"The same constraints generally apply on our ability to have provided for any alteration in values due to the possible impairment of operating fixed assets. It is contended that there are intrinsic constraints on the Company that prevents the alteration of asset values in the intervening period while the Scheme was being considered by the Court. The Net Asset Values, which had determined the agreed (and now sanctioned) swap ration were an integral part of the on-going merger process. It is intended to carry out the necessary exercise to fully comply with IAS 36 once the merger process is completed. In any event the company had expended in excess of Rs. 110 million to rehabilitate the operating fixed assets in 2010-11 (post flood damage) and have kept up the maintenance and care required to ensure that the capabilities of the said operating assets are not impaired"</i>.</p> <p>Relevant paras of IAS 36 provide that:</p> <p>59. <i>If, and only if, the recoverable amount of an asset is less than its carrying amount, the carrying amount of the asset shall be reduced to its recoverable amount. That reduction is an impairment loss.</i></p> <p>60 <i>An impairment loss shall be recognised immediately in profit or loss, unless the asset is carried at revalued amount in accordance with another Standard (for example, in accordance with the revaluation model in IAS 16). Any impairment loss of a revalued asset shall be treated as a revaluation decrease in accordance with that other Standard.</i></p> <p>61. <i>An impairment loss on a non-revalued asset is recognised in profit or loss. However, an impairment loss on a revalued asset is recognised in other comprehensive income to the extent that the impairment loss does not exceed</i></p>
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*the amount in the revaluation surplus for that same asset. Such an impairment loss on a revalued asset reduces the revaluation surplus for that asset.*

Keeping in view of the aforesaid stance of the Respondents that swap ratio was sanctioned, hence, impairment was not charged. However, the aforesaid view is not cogent as IAS 36 (Impairment) does not provide any exception from the compliance requirements to the given circumstances of the Company. Hence, stance of the Respondents is not tenable.

(vi) It was reported that \*\*\* of the Company, during the years 2013 to 2016, made certain payments on behalf of the Company, and these amounts were extended as loan to the Company. As per available information loan from the director increased from Rs. 22.975 million since the year 2013 to Rs. 91.484 million as of June 30, 2016. The Respondents are of the view that information regarding directors' loans was provided through its letters dated February 27, 2015, and October 18, 2019, the same provided relevant account details of \*\*\* of the Company in terms of which such loan was disbursed. However, in order to support the evidence, copies of bank statements and evidence of such payments like cheques were not made available to substantiate their case at the relevant time of off-site review and at the time of inspection. During the course of the proceedings, the Respondent, however, furnished copies of cheques issued by the Respondent for making certain payments and the total amounts of such cheques for the stated period i.e. July 1, 2012 to June 30, 2016 is Rs. 60 million approx. only as against loan amount of Rs. 69 million approx. extended during the said period i.e. 2013 to 2016. The aforesaid payments were, however, not routed through Company's bank account and rather were made directly to the beneficiaries. In addition to this, it may be added that the Rs. 9 million, out of the total amount, lacked evidence and could not be traced back. I am of the view that the Respondents have not furnished complete evidence of the loan extended by \*\*\* of the Company as stated above. Hence, violation of Section 492 of the Ordinance is attracted.

(vii) The inspection report stated that the Chief Executive of the Company has informed that in the case of the land of Colony Sarhad Textile Mills Limited (CSTML), it was



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	<p>purpose-specific land i.e. can only be used for industrial concerns. As per the documents provided, this land was acquired in 1961. The acquisition as explained by the Chief Executive was done by the government to promote industry and thus is for a specific purpose only and cannot be sold for any other purpose as per the explanation provided to the inspectors. However, during the course of instant proceedings, the Respondents through their aforesaid reply have stated that: <i>"The land of <u>Suhail Jute Mills Limited</u>, was not acquired under the provisions of the Land Acquisition Act, 1894, and as such did not require any specific disclosure in this regard in the relevant period."</i> I am of the view that the land of CSTML was made part of the Company subsequent to the merger in the year 2017, hence, relevant disclosures about restrictions imposed for such land of CSTML were not required in the Accounts of the Company for the years of 2012 to 2016.</p> <p>Keeping in view the above, it is stated that provisions of Section 492 of the Ordinance are attracted. I, therefore in terms of Section 492 of the Ordinance, hereby impose an aggregate penalty of <b>Rs. 200,000/- (Rupees Two Hundred Thousand only)</b> on the *** and warn other Respondents to be careful. Moreover, the Company is advised to prepare its financial statements reflecting the true and fair view of the state of affairs of the Company, complying with the applicable accounting framework i.e. IFRS/IAS, including the proper record of expenses paid by the Chief Executive of the Company.</p> <p>The Respondent is, hereby, directed to deposit the aforesaid amount of penalties in the designated bank account maintained in the name of the Commission with MCB Bank Limited within thirty (30) days from the date of this Order and furnish a receipted bank challan to the Commission forthwith. In case of failure to deposit the penalty, the proceedings under Section 485 of the Companies Act, 2017 / as per relevant requirements will be initiated for recovery of the fines as arrears of land revenue.</p> <p>Nothing in this Order may be deemed to prejudice the operation of any provision of the Ordinance providing for the imposition of penalties in respect of any default, omission, or violation of the Ordinance.</p>
6. Penalty Imposed	<b>Rs. 200,000/- (Rupees Two Hundred Thousand only)</b>
7. Current Status of Order	Appeal was filed.