



# Securities and Exchange Commission of Pakistan

## BEFORE APPELLATE BENCH NO. I

In the matter of

Appeal No. 78 of 2006

Umar Saleem, Director

Mukhtar Textile Mills Limited

...Appellant

Versus

Commissioner (SMD)

Securities and Exchange Commission of Pakistan

...Respondent

## ORDER

Date of hearing

16/01/15

### Present:

#### Appellants:

Nemo

#### Department representatives:

Mr. Muhammad Farooq, Joint Director (SMD)

Mr. Nazim Ali, Assistant Director (SMD)


1. This order is in appeal filed by the Appellant against order dated 22/08/06 passed by the Respondent. The appeal was fixed for hearing on 01/01/15; however, it was adjourned due to non-

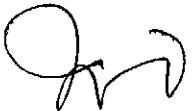


## Securities and Exchange Commission of Pakistan

appearance of the Appellant's counsel. Final opportunity was provided to the Appellant's counsel to appear and defend the case on 16/01/15. The appeal was called for hearing at 10:15 am; the department representatives were present, however, the Appellant's counsel failed to appear. The appeal is, therefore, dismissed for non-prosecution.

2. Further, in the case of *The Securities and Exchange Commission of Pakistan through Commissioner versus First Capital Securities Corporation Limited and another in Civil Appeal No. 946/2005* cited at *PLD 2011 Supreme Court 778*, it was held that in the event the gains are not tendered to the Company within a period of six months or the fact of the gain was not brought in the notice of the Company and the Commission, the gains at all times shall remain the property of the Company. In the instant case, in view of the above judgment, the gain shall not be tenderable to the Commission. The Appellant had already tendered the amount of Rs. 254,325 to the Company on 07/04/05. We amend the Impugned Order and direct the Appellant to transfer the balance amount of tenderable gain of Rs. 151,313 to the Company.

  
**Tahir Mahmood**  
Commissioner (CLD)

  
**Fida Hussain Samoo**  
Commissioner (Insurance)

Announced on: 16/1/15