

2013 CLD 1735
Before Muhammad Ali Mazhar, J
ABDUL RAUF---Petitioner
versus
ARY CEMENT LIMITED--Respondent
J.M. No.2 of 2012, decided on 18th December, 2012.
Faiz Durrani for Petitioner.
Manzoor-ul-Haq. for Respondent. _
Date of hearing: 18th December, 2012.
ORDER
Petition accepted.

Companies Ordinance (XLVII of 1984)---7-Ss. 305, 328 & 329---Winding up of a company, petition for--- Non-commencement of business by company for more than sixteen (16) years due to non-obtaining of certificate from Securities and Exchange Commission of Pakistan"-Effect---Court would wind up a company in case of failing to commence its business within one year from date of its incorporation or suspending its business for the whole year--- High Court accepted such petition and "appointed Official Liquidator in circumstances.

MUHAMMAD ALI MAZHAR, J.--This is a winding up petition under section 305 of the Companies Ordinance, 1984 which has been filed by one of the share holders of the respondent company, ARY Cement Ltd., in which it is stated that the company was incorporated on 16-10-1994. The principal business was to engage in manufacturing Portland cement and other like products. The Company after its incorporation was required to obtain certificate for commencement of business from Securities and Exchange Commission of Pakistan and since no business has been commenced, therefore, no certificate for commencement was obtained. The publication of this petition was made in newspapers daily "Jang" and daily "The News" but no objection or any claim have been filed nor any creditor approached this court. Initially the company filed their comments in which intention was shown to revive the company, however, the Chief Executive of the company, subsequently, filed his personal affidavit in which it was stated that members and subscribers of the company are not ready to add any equity in the company and they do not want to commence any business hence realizing this factor, the company has decided to dissolve it hence the Chief Executive of the company has endorsed his no. objection to grant of this petition for winding up "ARY Cement Ltd ".

Under section 305 of the Companies Ordinance, one of the grounds in Clause (C) is available for winding up if the company does not commence its business within a year from its incorporation or suspends its business for a whole year. The Securities and Exchange Commission of Pakistan has also tiled its comments in which they have confirmed that the company- was incorporated in the year 1994 but it has not yet applied for commencement of business since its incorporation on 16-10-1994.

Keeping in View the above position, it is ordered that the company, ARY Cement Limited be wound up. Official Assignee is appointed as Official Liquidator for winding up. The company shall make out and submit the statement of affairs of company to the Official Liquidator as required to be made under

section 328 of the Companies Ordinance and then Official Liquidator after complying with all requisite formalities and requirements, will submit his report under section 329 of the Companies Ordinance with him thirty days. Fee of Official Liquidator shall be at Rs.50,000, which will be paid in advance by the petitioner.