



Corporate Supervision Department
Company Law Division

Before Amina Aziz – Director

In the matter of

Asian Food Industries Limited

Number and date of notice: CSD/ARN/451/2017-3184-86 dated March 27, 2017
Date of hearing: May 3, 2017
Present: Mr. Mussadiq Islam
("authorized representative")

ORDER

UNDER SECTION 246 READ WITH SECTION 476 OF THE COMPANIES ORDINANCE, 1984

This order shall dispose of the proceeding initiated against directors and chief executive ("respondents") of Asian Food Industries Limited (the "Company") through show cause notice (the "SCN") dated March 27, 2017 under the provisions of Section 246 read with Section 476 of the Companies Ordinance 1984 (the "Ordinance").

2. The facts leading to this case, briefly stated, are that, review of the annual audited accounts of the Company for the year ended June 30, 2016 revealed that the Company has made donations amounting to Rs. 2.143 million (2015; Rs. 3.404 million). The Company has not provided descriptive as well as monetary disclosures of the Corporate Social Responsibility activities undertaken by it during the year in the directors' report as required under the Companies (Corporate Social Responsibility) General Order, 2009 ("Order").

3. Section 2 of the Order provides that;

2. Obligations under the law- (1) Every company shall provide descriptive as well as monetary disclosures of the Corporate Social Responsibility activities undertaken by it during each financial year.

(2) Such disclosures shall be made in the directors' report to the shareholders annexed to the annual audited accounts. The disclosure of such activities will be in addition to the disclosure requirements already mentioned in the Ordinance.

(3) The disclosures, wherever required, shall include, but shall not be limited to the following:

(i) corporate philanthropy

(ii) energy conservation

(iii) environmental protection measures

(iv) community investment and welfare schemes

SECURITIES AND EXCHANGE
COMMISSION OF PAKISTAN
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- (v) consumer protection measures
- (vi) welfare spending for under-privileged classes
- (vii) industrial relations
- (viii) employment of special persons
- (ix) occupational safety and health
- (x) business ethics and anti-corruption measures
- (xi) national-cause donations
- (xii) contribution to national exchequer
- (xiii) rural development programmes.

(4) It shall be the duty of every person referred to in sub-section (2) of section 246 of the Ordinance to comply with the provisions of this General Order.

4. Sub-section 2 of Section 246 of the Ordinance provides that;

In the event of a default in complying with the order of the Commission issued under sub-section (1), the company, and every officer of the company who knowingly and wilfully authorises or permits the default, shall be liable to a fine 7 [not exceeding one million rupees and to a further fine] which may extend to 8 [ten] thousand rupees for every day during which the default continues.

5. AND WHEREAS, the directors of the Company has, *prima facie*, failed to comply with section 2 of the Order which attracts penal provisions of sub-section (2) of section 246 of the Ordinance. Consequently, SCN was issued to the respondents under Section 246 of the Ordinance.

6. In response to the SCN, Company submitted reply vide letter dated April 10, 2017. A brief of the reply relevant to the contents of the SCN is given below:

- a) The donations were approved by all the directors, at the time of approval of the donations and till date, the directors have held 100% of the shares of the Company. The directors are themselves closely related to each other.
- b) The purpose of section 2 of the Order is to protect the shareholders of a company from actions of errant directors. However, to penalized directors who are themselves 100% shareholders, would be contrary to the purpose and intent of section 2 of the Order.
- c) The donations were inadvertently not included in the director's report. The default is not willful and section 246 is not attracted.



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7. Hearing in the matter was held on May 3, 2017 and the authorized representatives Mr. Mussadiq Islam appeared on behalf of respondents and reiterated the submissions made in the written reply and assured that default will not happen in future.

8. In terms of the Commission's notification SRO 1003 (I)/2015 dated October 15, 2015, the powers to adjudicate cases under section 246 of the Ordinance have been delegated to the Director (Corporate Supervision Department).

9. I have analyzed the facts of the case, relevant provisions of the Ordinance and Order, arguments put forth by the respondents in writing and during the hearing, and observed that section 2 of the Order mandated companies to provide descriptive as well as monetary disclosures of the corporate social responsibility activities undertaken by them in the director's report. The purpose of this section is to promote reporting of CSR activities to given better picture and improve image of the company. By reporting on CSR activates, a company is able to engage with stakeholders and maintain a meaningful dialogue on the direction of the business. The respondents acceded the default and assured for future compliance. Therefore, I am taking a lenient view and the case is hereby disposed of with warning to the respondent to be careful in future regarding compliance with applicable legal framework.

Amina Aziz
Director

Announced:
June 1, 2017
Islamabad

