



Corporate Supervision Department
Company Law Division

Before Amina Aziz – Director

In the matter of

Attock Cement Pakistan Limited

Number and date of notice: CSD/ARN/401/2016-141-47 dated July 21, 2017
Date of hearing: August 21, 2017
Present: Mr. Irfan Amanullah, Company Secretary
(Authorized Representative)

ORDER

UNDER SECTION 227 READ WITH 476 OF THE COMPANIES ORDINANCE, 1984

This order shall dispose of the proceedings initiated against the directors (*the "respondents"*) of Attock Cement Pakistan Limited (*the "Company"*). These proceedings were initiated through show cause notice ("*SCN*") dated July 21, 2017 under Section 227 of the Companies Ordinance 1984 (*the "Ordinance"*).

2. The brief facts of the case are that the examination of annual audited financial statements (*the "Accounts"*) of the Company for the year ended June 30, 2016 submitted with the Commission in pursuance of section 233 of the Ordinance and information subsequently provided by the Company, revealed that the Company has deposited the amounts due to the provident fund with delays. The Company in the letter dated May 9, 2017 submitted month-wise detail for the movement in the Provident Fund contributions for the period of two years from July 2014 up to June 2016. The information submitted has been analyzed and it has been observed that *prima facie*, the Company has made the payments of the contribution for the provident fund with delays as depicted in the following table:



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Salary Disbursement/ Contribution Deduction Date	Due Date of Payment to Prov. Fund	Payment Date	Delay (Days)	Payable/ (Receivable) to/from Fund (Rs.)	Amount Paid (Rs.)	Amount Under- Paid (Rs.)
17-Jul-14	1-Aug-14	12-Sep-14	42	4,773,137	4,700,000	(73,137)
21-Aug-14	5-Sep-14	15-Sep-14	10	6,195,194	6,000,000	(195,194)
30-Sep-14	15-Oct-14	20-Oct-14	5	5,331,302	5,300,000	(31,302)
22-Nov-14	7-Dec-14	17-Dec-14	10	982,206	980,000	(2,206)
22-Dec-14	6-Jan-15	13-Jan-15	7	4,145,739	4,000,000	(145,739)
21-Jan-15	5-Feb-15	14-Feb-15	9	4,792,223	4,700,000	(92,223)
23-Feb-15	10-Mar-15	25-Mar-15	15	4,886,609	4,800,000	(86,609)
20-Mar-15	4-Apr-15	14-Apr-15	10	972,777	900,000	(72,777)
21-Apr-15	6-May-15	11-May-15	5	3,472,062	3,400,000	(72,062)
24-Jun-15	9-Jul-15	23-Jul-15	14	6,105,910	6,000,000	(105,910)
16-Jul-15	31-Jul-15	29-Aug-15	29	4,433,565	4,000,000	(433,565)
21-Aug-15	5-Sep-15	29-Sep-15	24	5,901,942	5,900,000	(1,942)
17-Sep-15	2-Oct-15	17-Oct-15	15	112,488	100,000	(12,488)
22-Oct-15	6-Nov-15	11-Nov-15	5	2,000,027	2,000,000	(27)
21-Nov-15	6-Dec-15	12-Dec-15	6	3,663,648	3,600,000	(63,648)
21-Dec-15	5-Jan-16	26-Jan-16	21	3,302,826	3,300,000	(2,826)
22-Feb-16	8-Mar-16	15-Mar-16	7	1,986,877	1,900,000	(86,877)
22-Mar-16	6-Apr-16	9-Apr-16	3	2,896,481	2,800,000	(96,481)
21-Apr-16	6-May-16	27-May-16	21	669,154	600,000	(69,154)
22-Jun-16	7-Jul-16	15-Jul-16	8	1,088,702	1,000,000	(88,702)

3. The SCN was issued to the respondents on July 21, 2017 requiring them to show cause in writing as to why penal action may not be taken against them. The Company in response vide letter dated July 26, 2017 requested for a hearing opportunity to present its point of view on the observations raised in the SCN.

4. In order to provide opportunity of a hearing to the respondents the hearing was fixed before the undersigned on August 21, 2017. The hearing was attended by Mr. Irfan Amanullah, Company Secretary (the "Authorized Representative"). It was pleaded that the accounts of the fund have duly been audited however this needs to be brought in to the information of the Commission that the salary of the employees is processed in advance around 3rd week of each month so that salary may reach the concerned employees in the accounts in different areas in time at the end of the month. Therefore it may be seen that if the delay in payment to provident fund is calculated after the end of each month then there be no delay in payment to the provident fund. It was also stated that the



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Company will ensure that in future the contributions are paid to the provident fund in time and therefore a lenient view may please be taken in the matter.

5. In terms of the Commission's notification SRO 1003 (I)/2015 dated October 15, 2015, the powers to adjudicate cases under section 227 read with section 229 of the Ordinance have been delegated to the Director (Corporate Supervision Department).

6. Before proceeding further, it is necessary to advert to the following relevant provisions of the Ordinance:

Section 227 of the Ordinance provides that:

"Sub-section (1): All moneys or securities deposited with a company by its employees in pursuance of their contracts of service with the company shall be kept or deposited by the company within fifteen days from the date of deposit in a special account to be opened by the company for the purpose in a scheduled bank or in the National Saving Schemes, and no portion thereof shall be utilized by the company except for the breach of the contract of service on the part of the employee as provided in the contract and after notice to the employee concerned

Sub-section (2): Where a provident fund has been constituted by a company for its employees or any class of its employees, all moneys contributed to such fund, whether by the company or by the employees, or received or accruing by way of interest, profit or otherwise from the date of contribution, receipt or accrual, as the case may be, shall either—

(a) be deposited—

(i) in a National Savings Scheme;

(ii) in a special account to be opened by the company for the purpose in a scheduled bank; or

(iii) where the company itself is a scheduled bank, in a special account to be opened by the company for the purpose either in itself or in any other scheduled bank; or

(b) be invested in Government securities; or

(c) in bonds, redeemable capital, debt securities or instruments issued by the Pakistan Water and Power Development Authority and in listed securities subject to the conditions as may be prescribed by the Commission..



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Sub-section 3 of Section 227 of the Ordinance provides that:

"where a trust has been created by a company with respect to any provident fund referred to in sub-section (2), the company shall be bound to collect the contributions of the employees concerned and pay such contributions as well as its own contributions, if any, to the trustees within fifteen days from the date of collection, and thereupon, the obligations laid on the company by that sub-section shall devolve on the trustees and shall be discharged by them instead of the company."

Section 229 of the Ordinance provides that whoever contravenes or authorizes or permits the contravention of any of the provisions of section 227 shall be punished with a fine which may extend to five thousand rupees and shall also liable to pay the loss suffered by the employee on account of such contravention.

7. Having gone through the facts of the case, provisions of the law and submissions of the authorized representative, it has been observed that the viewpoint of the Company is not justified. However, in view of the future assurance for compliance with law, I am, inclined to take a lenient view of the matter and hereby conclude the case with a warning to the respondents to ensure compliance of applicable legal provisions in letter and spirit in future.

Amina Aziz
Director

Announced:
November 28, 2017
Islamabad