



Before Abid Hussain – Executive Director

In the matter of

Dadabhoy Cement Industries Limited

Number and date of Show Cause Notice: CSD/ARN/226/2015-611-12 dated August 22, 2016

Dates of Hearing: September 7, 2016, February 2, 2017, March 27, 2017, October 6, 2017, August 13, 2018, October 1, 2018, October 22, 2018, December 24, 2018, February 11, 2019, March 21, 2019, April 8, 2019, August 21, 2019, September 18, 2019

Present: Mr. Fazal Karim Dadabhoy (Deputy Managing Director)
Syed Haroon Aziz (Authorized Representative)
Mr. Rahat Aziz (Authorized Representative)

ORDER

Under Clause (m) of Section 301 read with Clause (b) of Section 304 of the Companies Act 2017
(Under Clause (b) of Section 309 read with Clause (c) of Section 305 of the Companies Ordinance, 1984)

This Order shall dispose of proceedings initiated through Show Cause Notice dated August 22, 2016 (the "SCN") under Section 309 read with Section 305 of the Companies Ordinance, 1984 (the "Ordinance") issued to Dadabhoy Cement Industries Limited (the "Company") and its board of directors (the "Respondents").

2. The facts leading to this case, briefly stated are that the Company was incorporated in Pakistan as public limited company on August 9, 1979 under the Companies Act 1913 and its shares are listed on Pakistan Stock Exchange (previously Karachi, Lahore and Islamabad Stock Exchanges). As per the

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Memorandum of Association the principal business of the Company is manufacturing and sale of ordinary Portland, slag and sulphate resistant cement. It was observed that the business of the Company has been suspended for past several years, since 2008. In this context, Companies Registration Office, Karachi approached the Commission for grant of sanction in terms of Section 309 read with Section 305 of the Ordinance to present a petition before the Honorable High Court for winding up of the Company on the grounds that the Company has suspended its business for more than a year i.e. since year 2008.

3. Therefore, SCN dated August 22, 2016 was issued to the Company and its board of directors where in Respondents were called upon to show cause in writing as to why office of the Registrar, Company Registration Office, Karachi, may not be given sanction to present a petition for winding up of the Company. Simultaneously, hearing in the matter was fixed on September 7, 2016. Mr. Fazal Karim Dadabhoy (Deputy Managing Director) attended the said hearing and submitted that the Company has entered into MOU with China Triumph International Engineering Company Limited (CTIEC) for refurbishment of existing cement plant as well as setting up of new cement plant of 5000 ton per day capacity and hopefully we will be able to refurbish our plant incoming 8 to 10 months.

4. The Commission thereafter vide letter dated January 5, 2017 requested to substantiate the documentary evidence with reference to the hearing held on September 7, 2016 and written reply dated September 9, 2016. In response to the Commission's letter, Mr. Fazal Karim Dadabhoy (*Deputy Managing Director*) vide letter dated January 12, 2017 submitted the copy of MoU and certain correspondence documents and elucidated that the Company has already entered into an agreement with CTIEC for financing and optimization of the existing cement plant. The matter was then fixed for hearing on February 2, 2017. In response to the hearing notice, Company vide letter dated January 25, 2017 requested for re-schedule the said hearing any time in March 2017. The Commission acceded to the request of the Company and fixed the matter for hearing on March 27, 2017. Syed Haroon Aziz attended the said hearing. During hearing proceedings, he submitted that the company is facing financing problems as the funding from China is in process and not yet finalized.



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5. In this regard, the matter was fixed for hearing on October 6, 2017. Mr. Fazal Karim Dadabhoy (Deputy Managing Director) attended the said hearing. During the hearing proceedings he asserted that the Chinese visited the plant premises and beside existing plant and machinery, new addition plant will be installed. It will take one and half year to revive the plant. The Company will arrange the funding in three months and existing plant will be operational. Considering the submission of the Authorized Representative, six months' time was given to the Respondents till March 2018 for revival of plant and machinery. The Company later on vide letter dated April 2, 2018 submitted written reply wherein it was stated that we some positive developments are expected in respect of finalization of the revival plan for operations of the Company.

6. The matter again fixed for hearing on August 13, 2018. However, the Company vide letter dated August 7, 2018 requested to reschedule the hearing date in the last week of September 2018. Hearing was fixed on October 1, 2018, however Company vide its letter dated September 28, 2018 requested to schedule the hearing to mid of November 2018. The request of the Company was not acceded and matter fixed for October 22, 2018. The Company vide letter dated October 22, 2018 requested for re-fix the hearing in the last week of December 2018, owing to the death of Mr. Amin Dadabhoy (CEO of the Company). The request of the Company was acceded and matter fixed for hearing on December 24, 2018. The Company in reply vide its letter received by this office on December 22, 2018 requested for an extension of three weeks. Thereafter, hearing was fixed on February 11, 2019. The Company vide letter dated February 7, 2019 requested to reschedule the hearing in first week of March 2019.

7. The hearing again fixed on March 21, 2019, which was responded by Mr. Rahat Aziz (*Authorized Representative*) vide letter dated March 21, 2019 wherein he sought 45 days extension to submit the written explanation/ clarification. The request of the Authorized Representative was not acceded and two weeks' time was allowed and hearing in the matter was then fixed on April 8, 2019. Resultantly, the Authorized Representative of the Company vide letter dated April 8, 2019 submitted the following written reply to SCN. Brief of his reply is as follows:

The Company's Management has already paid off the creditors, which means balance sheet of the Company is debt free, which is an attractive situation of our client proposed JV partner.



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Now interest of minority shareholders is left, for which on behalf of management we can assure the same will also be looked after by the step/action of signing MOU for joint venture.

As per the discussion, the management is confident to strike that deal/ MOU of JV by June this year. This deal's negotiation is taking some time as Chinese are recently back from their holidays so, allow us clear time by the end of June where we will represent the Regulator with following:

- *MOU-JV for future project*
- *Whole project planning in feasibility format*
- *Its approval from General Meeting in shape of Special Resolution*

8. Considering the reply of the Company the matter was fixed on August 21, 2019. The Authorized Representative vide letter dated August 21, 2019 requested for extension of 15 days, which was granted and hearing was fixed on on September 18, 2019 wherein Authorized Representative attended the said hearing and submitted the written response vide letter dated September 18, 2019 extracts of which as are under:

The Company signed an MOU with a renowned Chinese company with name of M/S Guangzhou China Engineering Limited and both the parties started execution on the said MOU initially in the quick pace, but when the financial institutional role come the proceeding has gone slow due to economic activity and decision making, specially financing the mega projects.

In para 4.1 of the MOU, both parties re committed for the period of one year and looking for different avenues and very much hope to come up with a viable solution within this time to revive the company. on the basis of the said submissions, we would request to your office that at least give our client time till the expiry of our MOU i.e. June 10, 2020.

9. Before proceeding further, it is necessary to advert to the following relevant provisions of Section 301 and 304 of the Companies Act 2017 (the "Act"), which state as under:

- Section 301 of the Act states that:

A company may be wound up by the Court-

(m) if a listed company suspends its business for a whole year.



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- Section 304 of the Act, states that:

"An application to the Court for the winding up of a company shall be by petition presented, subject to the provisions of this section, either by the company, or by any creditor or creditors (including any contingent or prospective creditor or creditors), or by any contributory or contributories, or by all or any of the aforesaid parties, together or separately or by the registrar, or by the Commission or by a person authorized by the Commission in that behalf.

10. In terms of notification S.R.O. 889 (I)/2019 dated July 29, 2019, the power to adjudicated cases under Section 304 of the Act has been delegated to Executive Director (Corporate Supervision Department).

11. At this juncture, I would also like to mention here that the business operations of the Company are suspended since 2008, which can also be substantiated from Note 1 to annual audited accounts of the Company for the year ended June 30, 2017. It is reported in the said note that due to closure of operations, the company is facing financial and operational difficulties and is unable to discharge financial and operational liabilities in due course of business. The Company reported nil sales since then and is totally dependent on the financial support of directors and sponsors. As on June 30, 2017, the Company has accumulated losses of Rs 839.742 million (2016: Rs 861.439 million). This shows that the Company is dire financial troubles and cannot be revived.

12. The Commission issued the SCN in the matter on August 22, 2016 and ample time and hearing opportunities have been provided to the Company to revive its business operations. I however, observed that no concrete efforts have been made by the Company to revive its business operations. Authorized Representatives have only argued that the Company is in negotiations with the Chinese company and signed the MOU. However, I do not witness any progress for the revival of the business operations of the Company. The Authorized Representative admitted that the Company is facing acute financial problems and is not capable to coup up with these problems. Moreover, I observe that the trading in the shares of the Company was suspended by Pakistan Stock Exchange on April 13, 2015 due to noncompliance with the PSX Regulations.



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13. At this juncture, I hereby reiterate that the relevant provisions of the Act are very clear and unambiguous, which require a company to be wound up in case it suspends its business for the whole year. I am of the view that the provisions stated above are attracted and the Company is liable to be wound up. I, therefore, in exercise of the powers conferred on me under Section 304 of the Act (Section 309 of the repealed Ordinance); hereby authorize the Registrar, Company Registration Office Karachi to present a petition for winding up of the Company.

ABID HUSSAIN
Executive Director
Corporate Supervision Department

Announced:
October 28, 2019
Islamabad