

*Before*

**Amir M. Khan Afridi, Director/Head of Department**

*In the matter of*

**Frontier Ceramics Limited**

---

Dates of Hearings

August 31, 2021, September 13, 2021, and  
October 20, 2021

---

**Order-Redacted Version**

Order dated December 28, 2021, was passed by Director/Head of Department (Adjudication-I) in the matter of Frontier Ceramics Limited. Relevant details are given as hereunder:

<b>Nature</b>	<b>Details</b>
1. Date of Action	Show Cause Notice dated June 22, 2021
2. Name of Company	Frontier Ceramics Limited
3. Name of Individual*	The proceedings were initiated against the Company and its board of directors.
4. Nature of Offence	Brief facts of the case are that upon examination of annual audited financial statements of the Company for the year ended June 30, 2020 (the Accounts), it was transpired that the Company made Advance to its associated company namely ***, amounting to Rs.5,494,109/- as disclosed under note number 14 to the aforesaid Accounts. As per the available information, both the Company and *** are associated companies due to common directorship. The Securities and Exchange Commission of Pakistan (the Commission) vide letter dated February 12, 2021 requested the Company to provide evidence of compliance with the requirements of Section 199(1) of the Act for the aforesaid advance extended to the associated company i.e. ***. The Company vide letter dated March 10, 2021 submitted that: <i>"With reference to section 199 of Companies Act, 2017 regarding investments in associated companies and undertaking, the Board decided to put the matter in forthcoming Annual General Meeting."</i> The above stated position of the Company implied that an advance amounting to Rs.5,494,109/- was extended by the Company to its associated company *** without the authority of special resolution which, <i>prima facie</i> , is violation of Section 199(1) of the Act. Hence, proceedings under Sections 199 and 479 of the Act were initiated against the Respondents through the SCN.
5. Action Taken	Key findings are given as hereunder:  I have analyzed the facts of the case, relevant provisions of the Act, written responses submitted and arguments made by the Representative and state that:

---

- (i) As per note 14 & 14.1 to the Accounts, following disclosures are relevant in the instant matter:

*“Advances against expenses (note 14.1) 2020: 5,494,109  
2019: 297,053*

*14.1 Advances to related party:*

*This represents amount advanced to \*\*\*. The advanced amount is repayable on June 30, 2021. The advance is considered unsecured. The maximum aggregate amount outstanding at any time during the year is same as the above carrying amount of advance.”*

In this regard, it is highlighted that the term ‘investment’ as explained in Section 199(1) of the Act also includes advances. Hence, the advance amounting to Rs. 5,494,109 extended by the Company to its associated company namely \*\*\*, during the year 2020, is actually an investment made in terms of Section 199(1) of the Act. The Respondent Company by making the said investment without the authority of special resolution has contravened Section 199(1) of the Act.

- (ii) Although, the Respondents have submitted that authorization of members of the Company in terms of Section 199 of the Act has been obtained on *post facto* basis, however, I am of the view that subsequent compliance of obtaining special resolution of members in terms of Section 199(1) of the Act on *post facto* basis does not absolve the Respondents and they are liable for the aforesaid non-compliance, which attracts applicability of the penal action in terms of Section 199(6) of the Act.

Keeping in view that investments in associated company namely \*\*\* were made with out approval of the members by way of special resolution, which is contrary to the requirements of Section 199(1) of the Act. The Respondents’ failure and negligence to obtain prior approval of the members of the Company by way of special resolution, attracts applicability of the penal provision of sub-section (6) of Section 199 of the Act read with Section 479 thereof. I therefore, in exercise of the powers conferred under Section 199 of the Act, hereby impose a penalty of Rs. 340,000/- (Rupees Three Hundred and Forty Thousand only) on the Respondents.

The Respondents are, hereby, directed to deposit the aforesaid amount of penalties in the designated bank account maintained in the name of the Commission with MCB Bank Limited within thirty (30) days from the date of this Order and furnish receipted bank challan to the Commission forthwith evidencing payment of the said penalty. In case of failure to deposit the penalty, proceedings under the Section 485 of the Act will be initiated for recovery of the fines as arrears of land revenue. It may also be noted that the said penalties are imposed on the Respondents in

	<p>personal capacity; therefore, the Respondents are required to pay the said amount from their personal resources.</p> <p>Nothing in this Order may be deemed to prejudice the operation of any provision of the Act providing for imposition of penalties in respect of any default, omission, violation of the Act.</p>
6. Penalty Imposed	Rs. 340,000/-
7. Current Status of Order	The penalty was not deposited. An appeal was filed.