



Corporate Supervision Department
Company Law Division

Before Abid Hussain – Executive Director

In the matter of

Frontier Ceramics Limited

Number and date of notice: CSD/ARN/308/2016-1890-97 dated December 15, 2016

Date of hearing: April 12, 2017, April 26, 2017, April 23, 2018

Present: No one appeared.

ORDER

UNDER SECTION 492 READ WITH SECTION 476 OF THE COMPANIES ORDINANCE, 1984

This order shall dispose of the proceedings initiated against the directors including the Chief Executive (*the "Respondents"*) of Frontier Ceramics Limited (*the "Company"*) through show cause notice (*the "SCN"*) dated December 15, 2016 issued under the provisions of Section 492 read with Section 476 of the Companies Ordinance 1984 (*the "Ordinance"*).

2. Brief facts of the case are that the statutory auditors of the Company namely M/s BDO Ebrahim & Company, Chartered Accountants (*the "Auditors"*) issued qualified audit report to the members of the Company on annual financial statements for the year ended June 30, 2014. The Auditors reported that the Company has not accounted for any provision against staff retirement benefit in term of gratuity and provident fund or both as per the requirement of sub-clause 6 of the Clause 12 of the Schedule to the Industrial and Commercial Employment (Standing Orders) Ordinance, 1968. The estimated amount of this liability in term of gratuity amounts to Rs 18 million as at June 30, 2014.

3. The Commission in this regard, vide its letter dated June 9, 2015, sought clarification from the Company for non-provisioning of gratuity in its annual financial statements for the year ended June 30, 2014. The Company responded vide its letter dated July 14, 2015 that the management has considered the option of gratuity in year 2015 for compliance with the Industrial and Commercial Employment (Standing Orders) Ordinance, 1968. However, despite the aforesaid, no provision of gratuity was made in the financial statements for the year ended June 30, 2015. In this regard, the Commission issued Notice dated November 30, 2015 under Section 472 of the Ordinance to the Company to rectify the cause of auditors' observation. The Company in its reply dated



SECURITIES & EXCHANGE COMMISSION OF PAKISTAN

Corporate Supervision Department
Company Law Division

Continuation Sheet - I -

December 30, 2015, submitted that in current year financial performance had been improved and Company started gratuity working in full swing for compliance with the Industrial and Commercial Employment (Standing Orders) Ordinance, 1968 and removal of auditors qualifications.

4. Subsequently, to authenticate the aforesaid stance of the Company regarding the provision of gratuity, financial statements of the Company for the period ended December 31, 2015, March 31, 2016 and audited financial statement for the year ended June 30, 2016, were examined. It was, however observed that the Company had not made provision for staff gratuity. This non-provision of gratuity was material with respect to profit and loss assertions and profit of the Company was *prima facie* overstated due to this non-provisioning. Detail in this regard is mentioned below:

Rs in million

Particulars	Jun 30, 2016	Mar 31, 2016	Dec 31, 2015	Jun 30, 2015
Gratuity not provided	25.16	N.A	23.00	21.00
Profit after tax	2.55	14.72	4.68	18.17

5. From the above mentioned, it was observed that the Company apparently misstated its financial statements which attracted the provisions of Section 492 of the Ordinance. Therefore, SCN under Section 492 of the Ordinance was issued to the Respondents for misstatements in the financial statements for the period December 31, 2015, March 31, 2016 and June 30, 2016.

6. Subsequent to the issuance of SCN, hearing in the matter was fixed on April 12, 2017 and thereafter on April 26, 2017. The Company Secretary in reply vide his letter dated April 13, 2017 requested to close the proceedings of the case initiated through the above said SCN in consideration of reply submitted vide letter dated March 25, 2017. It was observed that the Company in its letter dated March 25, 2017 submitted the reply to the proceedings initiated against the Company under Section 472 of the Ordinance, which did not relate to the matter at hand. However, the Company in the letter dated April 13, 2017 assured that it will fulfill all the legal compliance/obligation of the Companies Ordinance in future.

7. In order to conclude the case, final hearing opportunity was provided to the Respondents and a hearing was fixed on April 23, 2018. It was mentioned in the hearing notice that in case of non-appearance the Commission will proceed to pass an ex-parte order based on the material available in record in the matter. It was observed with concern that the Respondents neither



SECURITIES & EXCHANGE COMMISSION OF PAKISTAN

Corporate Supervision Department
Company Law Division

Continuation Sheet - 2 -

submitted any written response nor appeared in the hearing. I am therefore constrained to conclude the proceeding based on the available record.

8. Before proceeding further, it is necessary to advert to the following relevant provisions of Section 492 of the Ordinance, which states as under:

“Whoever in any return, report, certificate, balance sheet, profit and loss account, income and expenditure account, prospectus, offer of shares, books of accounts, application, information or explanation required by or for the purposes of any of the provisions of this Ordinance or pursuant to an order or direction given under this Ordinance makes a statement which is false or incorrect in any material particular, or omits any material fact knowing it to be material, shall be punishable with a fine not exceeding five hundred thousand rupees.”

9. The aforesaid provisions of the law are clear and explicit. It is my considered view that the Respondents are responsible for any omission and misstatement in the financial statements. Prime objectives and intent of Section 492 of the Ordinance is to protect the users, which may include investors, shareholders, creditors, bankers, customers etc., of financial statements against misstatements so that reliable financial information is available to them to make well informed decision. As regards the matter at hand, I have analyzed the facts of the case, relevant provisions of the Ordinance, and the written submissions. The Respondents have not made any provision for the gratuity despite the fact that the matter was being pursued with Company for quite a long time and same was highlighted by the auditors of the Company. The Company acknowledged to make provision for gratuity in the financial statement for the period ended December 31, 2015 and to remove the auditor's observations. However, the Company remained non-complaint and did not record the provision for gratuity in its financial statement for the period ended March 31, 2016 and later in June 30, 2016 as well. I have also reviewed the financial statement of the Company for the period ended December 31, 2016 and annual accounts for the year ended June 30, 2017. I have observed with concern that the Company has remained non-compliant in subsequent period also. The auditors of the Company issued qualified Auditors' Report on financial statements for the period ended December 31, 2016 and June 30, 2017. This shows that the Company has failed to address the auditors' qualification and has misstated its financial statements by non-recording the provision of gratuity, which has escalated to Rs 26.110 million as on June 30, 2017.

7th Floor, NIC Building, 63-Jinnah Avenue
Islamabad, Pakistan

PABX: + 92-51-9207091-4, Fax: +92-51-9100454, 9100471, Email: webmaster@secp.gov.pk, Website: www.secp.gov.pk



SECURITIES & EXCHANGE COMMISSION OF PAKISTAN

Corporate Supervision Department
Company Law Division

Continuation Sheet - 3 -

10. In terms of notification S.R.O 751(I)/2017 dated August 2, 2017 the power to adjudicate cases under Section 492 of the Ordinance has been delegated to Executive Director (Corporate Supervision Department).

11. For the foregoing reasons, I am of the considered opinion that the Company has misstated in the financial statements for the period December 31, 2015, March 31, 2016 and June 30, 2016 and the respondents have made themselves liable under the provision of Section 492 of the Ordinance for the fine as prescribed by this Section. While exercising the powers conferred by the aforesaid provision of the Ordinance, I hereby impose a fine of Rs.50,000 (Rupees fifty thousand only) on Mr. Nadeem Khalid, the Chief Executive of the Company under the provisions of Section 492 of the Ordinance.

The aforesaid fine must be deposited in the designated bank account maintained with MCB Bank Limited in the name of the "Securities and Exchange Commission of Pakistan" within thirty days from the receipt of this order and furnish receipted bank vouchers to the Commission. In case of non-deposit of fine, proceedings for recovery of the fines as arrears of land revenue will be initiated. It may also be noted that the said fines are imposed on the Respondents in their personal capacity; therefore, they are required to pay the said amount from personal resources.

Before parting with the order I hereby direct the Chief Executive in terms of Section 475 of the Companies Act, 2017 ("the Act") to ensure presentation of true and fair financial statements for the financial year ending on June 30, 2018, by recording provisions for gratuity, failing which he shall be liable for proceedings under Section 499 of the Act.

ABID HUSSAIN
Executive Director
Corporate Supervision Department

Announced:
May 29, 2018
Islamabad