SECP

Corporate Supervision Department
Company Law Division

Before Abid Hussain – Executive Director

In the matter of

Johnson & Phillips (Pakistan) Limited

Number and date of notice:	CSD/ARN/33/2015-954-960 dated January 5, 2018
Date of hearing:	March 29, 2018
Representation:	Mr. Tariq Ahmed, Company Secretary (Authorized Representative)

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 Johnson & Phillips (Pakistan) Limited *(the "Company")* through show cause notice dated January 5, 2018 *(the "SCN")* 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 examination of annual audited accounts of the Company for the year ended June 30, 2016 (*the "Accounts"*) revealed following:

a) Misstatements in the accounts of the Company for year ended June 30, 2014 & 2015 which were rectified by the Company retrospectively in the accounts for the year ended June 30, 2016.

Rs in '000

	2015	2014
	Understated by	Understated by
Surplus on Revaluation	2,819	1,448
Deferred Tax	41	41
Accum. Loss	2,812	1,489

b) Elmetec (Private) Limited (*"Elmetec"*) is related party of the Company in terms of International Accounting Standard - 24 as 99.57% shares of Elmetec are held by Mr. Faisal Bilal Qureshi who is son of Mr. Bilal Ahmed Qureshi who is Chairman on the board of directors of the Company. The Company failed to disclose Elmetec as its related party up-till Accounts for the year ended June 30, 2015. Transactions and

SECURITIES AND EXCHANGE
COMMISSION OF PAKISTAN
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

balances with Elmetec were not disclosed in said accounts contrary to the requirement of IFRS.

c) The Company operates unfunded gratuity scheme for all its permanent employees according to terms of employment, subject to minimum qualifying period of service. Annual provision up till 2015 was being made on the basis of management's assessment and not through actuarial valuation of the scheme contrary to the requirement of IAS 19.

d) Auditor has qualified consolidated financial statements of the Company for the year ended June 30, 2016. Following are major qualifications by the auditor;

   i. Subsidiaries of the Company namely Johnson & Philips Industries (Pakistan) Limited, Johnson & Philips Transformers (Pakistan) Limited & J&P EMO Pakistan (Private) Limited do not maintain certain customary accounting records and supporting documents relating to transactions with its customers and suppliers, particularly with respect to receivables, payables, bank balances, fixed assets and inventories.

   ii. Property, plant and equipment of Rs. 23.870 million is held for sale is required to be carried at lower of fair value less cost to sell and carrying amount. The group has not complied with the same.

e) The directors' report on the accounts has omitted to disclose the following as required by the Section 236(2) of the Ordinance:

   "contain the fullest information and explanation in regard to any reservation, observation, qualification or adverse remarks contained in the auditor's report;"

f) The director of the Company have not attached directors' report to the consolidated accounts of the group as required by section 236(5) of the Ordinance.

3. Subsequently, the SCN was issued to the directors of the Company including the chief executive wherein the respondents were called upon to show cause in writing as to why penal action may not be taken against them. Ms. Tariq Ahmed, Company Secretary (*the "Authorized Representative"*) submitted reply dated February 13, 2018 on behalf of respondents along with power of attorney from all the respondents. The reply is reproduced hereunder;

i. Rectification of Mistakes in The Financial Statements For Accounts 2014 & 2015:

The incremental depreciation on surplus on revaluation of fixed assets was erroneously adjusted with amount of deferred tax by recognizing the tax in profit & loss account, but no deferred tax in balance sheet was recognized. Also the incremental depreciation on leasehold land was incorrectly calculated. As a result of these errors, surplus on revaluation was understated. Management has treated omission of the fact as prior period error as per IAS 8 -- Accounting policies, changes in accounting estimates and errors.

The Company made adjustments in the comparative figures of the accounts for the year ended June 30, 2016 as per requirements of IAS in respect of following:

- Change in accounting policy for defined benefit plan; and
- Error in computation of incremental depreciation and related deferred tax effects.

The related effects of these adjustments has been reflected in the accounts for the year ended June 30, 2016 and all the disclosure requirements of the applicable financial reporting framework related to these retrospective adjustments have been made in the accounts in accordance with requirements of IAS-1 -- Presentation of Financial Statements. Further, the restatement for change in accounting policy and correction of error did not have material impact on the financial position as well as the financial performance of the Company.

A calculation error occurred while computing the deferred taxation on the surplus on revaluation of fixed assets during the year ended June 30, 2015 which was discovered during the finalization of the accounts for the year ended June 30, 2016. However, the error did not have any major impact on the Company's profitability or on other financial ratios.

ii. Classification of Related Party:

The management carries out assessment for the identification of related parties at regular intervals as per the requirements of the Companies Ordinance, 1984 and International Accounting Standards 24 - Related Parties Disclosures. The management has taken view as defined in clause 11 of International Accounting Standards 24 that there is absolutely no related party relationship between Elmetec Pvt. Ltd and Johnson & Phillips Pakistan Limited. However, the Auditors of the

Company, Nazir Chaudhry & Co, Chartered Accountants have different opinion as per their assessment; they concluded that a related party relationship does exist between Elmetec Pvt. Lid and Johnson & Phillips Pakistan Limited as defined in clause 9 of the International Accounting Standards 24 and accordingly made the disclosure. It is pertinent to note that same Auditors agreed in 2015 that no related party relationship exist, therefore it was not disclosed as related party in 2015. This was a judgment call made by the Auditors and management has been guided by the opinion of the Auditors.

iii. Actuarial Valuation Of Unfunded Gratuity Scheme:

The Company operates unfunded gratuity scheme for all its permanent employees according to terms of employment. The company did not carry out actuarial valuation for the gratuity scheme as at June 30, 2015, instead, the Company used other valuation method, as the management was of the view that the values determined by actuarial valuation method would not materially differ from the amounts provided in the books of accounts. Since this practice was not in accordance with the International Financial Reporting Standards therefore, the Company carried out the actuarial valuation for gratuity scheme as at June 30, 2015 in the year 2016. The effect of this change in accounting policy have been adjusted retrospectively as per IAS 8. Further, the management has presented three years balance sheet in accordance with IAS 1.

iv. Auditors Qualified Reports:

- Consolidated Financial Statements:

  As per Auditors' Report for the consolidated Accounts they have mentioned that the subsidiaries have not maintained certain customary accounting records and supporting documents relating to transactions with its customers and suppliers, particularly with respect lo receivables, payables, bank balances, fixed assets and inventories.

  This is to confirm that we do maintain accounting records and supporting documents for our subsidiaries. The operation of subsidiaries are closed. Certain negligible activities were overlooked. However, we confirm that such negligible activities will be shown to the auditors in the present year.

- Assets Held For Sale:

The subsidiary companies are not operational on an ongoing basis, therefore, it has been decided to dispose of its property, plant and equipment of such companies. The written down value of property, plant and equipment of Rs.23.870 million is being shown separately under current assets as per IFRS Non-current Assets Held for Sale and Discontinued Operations, and is measured at the lower of carrying amount and fair value less costs to sell.

According to management, the estimated selling price is not likely to be less than carrying amount (WDV) since company has offers for the sale of machineries and stock of raw materials and work in progress which is far in excess of the book value of these assets. We confirm that all this material will be shown to the auditors and will be appropriately addressed.

v. The directors' report on the Accounts 2016 has erroneously omitted to disclose certain detailed information & explanation in respect to the reservation, observation, qualification or adverse remarks contained in the auditor's report. We confirm that we have mentioned the same in the Notes to the Accounts. However, the observation has been noted for future compliance.

vi. The Company has erroneously omitted the directors' report to the consolidated accounts of the group. We confirm that all the details / explanation to be provided in the consolidated directors report were given in the notes lo the accounts. However, the observation has been noted for future compliance.

In light of the submissions above, it is requested that the Notice under reply may please be discharged. Moreover, it is respectfully submitted that the Company and the management will be making all efforts to ensure compliance with the requirements of the relevant applicable laws. In this context we would like to state that the Company as well as the Directors have rectified / revised the accounts of 2014 & 2015 retrospectively in the accounts of 2016.

We trust that the above has clarified our Company's position, however, it is submitted that the omission in prior years was not knowingly or willfully rather it was a mistake. In this regard it is humbly requested that the SECP take a lenient view in the matter and condone the un-intentional lapse and no fine or penalty be imposed upon the Company.

It may also be noted that apart from the CEO, all other Directors are non-executive and not involved in day-to-day management and therefore have to rely on the management/Auditors. They are not involved in any of the alleged acts/omissions.

4. In order to provide opportunity of personal hearing, the case was fixed on March 29, 2018. The Authorized Representative appeared on the date of the hearing and reiterated the stance as earlier taken in the submissions made in the written reply. The Authorized Representative further submitted that some of the matters raised in the SCN have already been resolved and retrospective corrections have been made as per the applicable accounting standards whereas all the remaining issued will be resolved before the audit of the accounts for year ended June 30, 2018 and he provided assurance that the 2018 annual audited accounts of the Company will be free from all the observations raised in the SCN.

5. Before proceeding further, it is necessary to advert to the relevant provisions section 492 of the Ordinance provides 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 fine not exceeding five hundred thousand rupees."*

6. In terms of the Commission's notification SRO 751 (I)/2017 dated August 2, 2017, the powers to adjudicate cases under section 492 of the Ordinance have been delegated to the Executive Director (Corporate Supervision Department).

7. I have analyzed the facts of the case, relevant provisions of the Ordinance, arguments put forth by the Authorized Representative in the written response as well as during the hearing and observed that the provisions of Section 492 of the Ordinance have been violated. The misstatements and omissions in the Accounts were multiple as listed above in Para 2 above. The issue of non-availability of subsidiaries record for consolidated accounts has still not been addressed and the fact that they are not operational does not absolve the respondents from their responsibility to ensure that the record of the subsidiaries of the Company is kept as per the

requirements of law. The defaults have been admitted and directors are liable for the penalties as defined in the aforesaid provisions of the Ordinance.

8. Considering that majority of the misstatements have already been corrected and the rest of defaults have been assured to be removed in the annual audited accounts of the Company for the year ended June 30, 2018, I, hereby take a lenient view in the matter and impose a token penalty of Rs. 10,000 on each of the respondents aggregating to Rs.70,000 (Rupees seventy thousand only). The breakdown of the penalty imposed on the respondents is as follows:

S.No.	Name of Respondent	Penalty
1	Mr. Shehryar Saeed, Chief Executive	Rs.10,000
2	Mr. Bilal Ahmed Qureshi, Director	Rs.10,000
3	Ms. Mariam Shafi, Director	Rs.10,000
4	Mr. Muhammad Tariq Anjum, Director	Rs.10,000
5	Mr. Abid Saeed Khan, Director	Rs.10,000
6	Mr. Muhammad Azhar Ul Islam, Director	Rs.10,000
7	Mr. Syed Jamshed Zaidi, Director	Rs.10,000
	Total	Rs. 70,000

The aforesaid fines 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 the penalties, 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 respondents in their personal capacity; therefore, they are required to pay the said amount from personal resources.

Abid Hussain
Executive Director
Corporate Supervision Department

Announced:
April 4, 2018
Islamabad