



Securities and Exchange Commission of Pakistan
Enforcement and Monitoring Division

[Islamabad]

Before Rashid Sadiq, Executive Director

Order

In the matter of
M/S KHYBER TOBACCO COMPANY LIMITED

Number and date of notice	EMD/233/389/2002 September 23, 2002
Date of hearing	April 22, 2003
Present	Mr. Shams Uddin Accountant
<u>Date of Order</u>	<u>June 27, 2003</u>

This is a case of violation of the provisions of Section 246 of the Companies Ordinance, 1984 (the “Ordinance”), by M/S Khyber Tobacco Company Limited, a listed company (the “Company”).

02. The relevant facts for the disposal of this case, briefly stated, are that in terms of SRO No.764 (I) 2001 dated November 05, 2001, the Company was required to prepare and transmit to its members, stock exchanges registrars and the Commission its quarterly accounts for the period ended March 31, 2002 by April 30, 2002. The failure of the Company to comply with the aforesaid mandatory requirement necessitated action in terms of the aforesaid provisions of law.

03. Consequently, a notice dated September 23, 2002 was issued to the Company, its directors and Chief Executive to show cause in writing as to why fine as provided in Sub-section (1) of Section 246 of the Ordinance may not be



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imposed. The response of the Company was received through letter dated October 01, 2002, which was personally delivered by Mr. Shams Uddin, Accountant on October 02, 2002 who assured that the quarterly accounts would be submitted within ten days. In order to provide an opportunity of hearing, the case was fixed on April 22, 2003 on which date, Mr. Shams Uddin, Accountant appeared before me and argued the case. He did not file any written submissions on the date of hearing.

04. In the reply to the show cause notice as well as verbal arguments at the time of hearing, it was argued that the quarterly accounts could not be filed because the factory has been lying closed for the last several months and neither accounting staff was available nor the relevant data was available for the preparation and circulation of quarterly accounts, however, a lenient view was pleaded with assurance that strict compliance will be observed in future. The quarterly accounts were filed with the Commission on October 14, 2002 as undertaken by the Accountant on October 02, 2002. The Company and its directors have admitted the default and have provided assurance for timely compliance of this requirement in future.

05. In view of the above discussion and the fact that the Company has promptly acted on receipt of show cause notice and circulated the quarterly accounts, I take a lenient view of the default and impose a token fine of Rs.5,000/- only on the Chief Executive of the Company under Sub-section (1) of Section 246 of the Ordinance read with section 476 of the Ordinance instead of imposing maximum fine of Rs. 1,000/- for each day of default on the Company and every officer of the Company. As this is the first default of the Company in transmitting the quarterly accounts, the other directors of the Company are issued a warning to be careful in future and ensure the compliance of this requirement within prescribed time.



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07. The Chief Executive of the Company is directed to deposit the fine amounting to Rs.5,000/- (Rupees five thousands only) in the designated bank account maintained in the name of Securities and Exchange Commission of Pakistan with Habib Bank Limited within thirty days from the date of this Order and furnish receipted challan to the Securities and Exchange Commission of Pakistan.

Rashid Sadiq

Executive Director (Enforcement & Monitoring)

Announced
June 27, 2003
ISLAMABAD