Before Mr. Tahir Mahmood – Commissioner (Company Law Division)

In the matter of

AHN Colloid Chemicals (Pvt.) Limited

Number and date of notice:	EMD/242/L/384/2012 dated September 19, 2014
Date of hearing:	June 11, 2015
Present:	Barrister Qadir Buksh – Authorized Representative Mr. Aitzaz Hussain

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 AHN Colloid Chemicals (Pvt.) Limited (the "Company") through show cause notice ("SCN") dated September 19, 2014 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 the financial statements (the "financial statements") of the Company for the year ended June 30, 2012 revealed that the Company revalued its "Building" and "Plant and Machinery". The break-up of the amounts and the deferred tax impact is as follows:

Description	Year	Cost Rs. in (million)	Revalued Rs. in (million)	Difference Rs. in (million)	Deferred Tax Impact (Difference*35%)
Building	2009	14.514	51.750	37.235	13.032
	2010	51.750	76.786	25.036	8.762
Plant & Machinery	2009	38.072	45.047	6.942	2.429
	2010	45.047	120.079	75.032	26.261

The aforesaid significant deferred tax liabilities on revaluation of fixed assets have not been accounted for in the afore-referred Accounts. Therefore, it appears, prime facie, that the deferred tax impact of the revaluation has not been incorporated in the financial statements by the Company for the years ended June 30, 2009 and June 30, 2010.

3. As per section 11 of Accounting and Financial Reporting Standard for Medium Sized Entities ("AFRS") a deferred tax liability shall be recognized for all taxable temporary differences, except to the extent that the deferred tax liability arises from the initial recognition of goodwill or the initial recognition of an asset or liability in a transaction which is not a business combination and at the time of the transaction, affects neither accounting profit nor taxable profit (tax loss). Current tax and deferred tax shall be recognized as income or an expense respectively and included in profit or loss for the period, except to the extent that the tax arises from a transaction or event which is recognized, in the same or a different period, directly in equity); or a business combination. Current tax and deferred tax shall be charged or credited directly to equity if the tax relates to items that are credited or charged, in the same or a different period, directly to equity.

4. The aforesaid deviation from Section 11 of AFRS has resulted in reporting of liability at other than its actual value thereby rendering the accounts as, prima facie, misstated. Consequently a SCN was served upon the respondents on September 19, 2014 to show cause as to why penalty be not imposed under Section 492 of the Ordinance for the alleged violations by the respondents. The respondents failed to reply to SCN.

5. The respondents were granted an opportunity of personal hearing on June 11, 2015. Barrister Qadir Buksh and Mr. Aitzaz Hussain– Authorized Representatives attended the hearing and submitted that there was no impact of deferred tax on tax liability of the Company and no tax evasion is done by the Company. There is no impact of deferred tax on cash flows of the Company and the omission is not deliberate and the Company charged deferred tax impact in financial year 2013 and 2014.

6. I have analyzed the facts of the case, arguments put forth by the respondents during the hearing and observed as under:

a) The Company failed to comply with requirements of Section 11 of AFRS which requires that if an asset's carrying value is increased as a result of revaluation, the increase shall be recognized in other comprehensive income and accumulated in equity. Section 12 of AFRS requires current tax and deferred tax to be recognized outside profit or loss if the tax relates to items that are recognized outside profit and loss. The Company failed to charge deferred tax. Consequently:

I. Deferred tax liability is understated by Rs. 15.461 million in 2009 and Rs. 35.023 million in 2010;

II. Surplus on revaluation of assets is overstated by Rs. 15.461 million in 2009 and Rs. 35.023 million in 2010; and

III. Total other comprehensive income is overstated by Rs. 15.461 million in 2009 and Rs. 35.023 million in 2010.

b) The Company is a medium sized company and has to follow AFRS for medium sized entities as are notified by the Commission in the official Gazette under Section 234 of the Ordinance. Section 11 of AFRS prescribes the accounting treatment of deferred taxes. Moreover, deferred tax accounting is vital for the fair presentation of the financial statements as it provides accurate calculation of accrual earnings and moderates earnings in accordance with the circumstances as they may prevail.

c) The amount and effect of above referred observations are material; the financial statements for the year 2009 to 2012 do not give true and fair view.

7. 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."

8. The aforesaid provisions of the law are clear and explicit. It is my considered view that the respondents in their capacity as directors of the Company are responsible for the misstatement in the financial statements and the aforesaid misstatements are material and falls within the ambit of the provision of Section 492, as incorrect figures have been reported. One of the main 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 which is vital for making a well informed decision is available to them.

9. For the foregoing reasons, I am of the firm opinion that the provisions of Section 492 of the Ordinance have been violated and the respondents are liable for the penalties as prescribed by this Section. Therefore, in exercise of the powers conferred by the aforesaid provisions of the Ordinance, I hereby impose a fine of Rs. 40,000(Rupees forty thousand only) in aggregate on all the respondents for contravening the provisions of Section 492 of the Ordinance. The respondents are directed to deposit the fine in following manner:

Name of Respondents	Amount in Rupees
Mr. Naveed Anwar, Chief Executive	10,000
Mr. Haroon Anwar, Director	10,000
Mr. Haseeb Haroon, Director	10,000
Mian Anwar Elahi, Director	10,000
Total	**40,000**

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, 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.

Tahir Mahmood
Commissioner
Company Law Division

Announced:
September 18, 2015
Islamabad