



Corporate Supervision Department  
Company Law Division

Before Amina Aziz – Director (CSD)

*In the matter of*

**Gharibwal Cement Limited**

Number of SCN:

No. CSD/ARN/230/2015-1676-83

Date of the SCN

November 25, 2015

**ORDER**

**UNDER SUB-SECTION (3) OF SECTION 245 READ WITH SECTION 476 OF THE  
COMPANIES ORDINANCE, 1984**

This order shall dispose of the proceedings initiated against the following directors including chief executive (together referred to as "respondents") of **Gharibwal Cement Limited** (the "Company"):

1	Mr. Muhammad Tousif Peracha, CEO	5	Mr. Ali Rashid Khan
2	Mr. Abdul Rafique Khan	6	Mr. Muhammad Rahman
3	Mrs. Tabassum Tousif Peracha	7	Mian Nazir Ahmed Piracha
4	Mr. Mustafa Tousif Ahmed Paracha	8	Mr. Khalid Siddique Tirmizi

These proceedings were initiated through show cause notice (the "SCN") dated November 25, 2015, under the provisions of sub-section (3) of section 245 read with section 476 of the Companies Ordinance, 1984 (the "Ordinance").

2. The brief facts of the case are that as per record, the Company did not file the interim financial statements ("Quarterly Accounts") for the following periods with the Commission, in a timely manner as per requirements of section 245 of the Ordinance:

Quarter Ended	Due On	Filing Date	Status
30-Sep-13	31-Oct-13	25-Nov-13	Delay of 25 days
31-Mar-14	30-Apr-14	--	Not Filed

3. Consequently, the SCN was issued to the respondents whereof they were called upon to show cause in writing as to why penal action may not be taken against them under sub-section (3) of section 245 of the Ordinance for delay in filing the aforesaid Quarterly Accounts. Since, no reply to the SCN was received the case was fixed for hearing on February 19, 2016, through hearing



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notice dated February 10, 2016. In response, the Company Secretary vide letter dated February 11, 2016 submitted that the Company highly value timely reporting of financial results to its shareholders to ensure regulatory compliance and availability of financial statement to the stakeholders in a timely manner. The Company held the meeting of its board of directors ("BOD") to approve respective Quarterly Accounts in a timely manner and the same were communicated to the stock exchanges within due dates. For approval of Quarterly Accounts for September 30, 2013, the BOD meeting was held on October 31, 2013 and quarterly results were communicated to the stock exchanges on next working day i.e. November 1, 2013. To approve Quarterly Accounts for March 31, 2014, the BOD meeting was held on April 30, 2014 and result were communicated to stock exchanges on next working day i.e. May 2, 2014. As per requirements 200 copies of the respective Quarterly Accounts were also sent to the respective stock exchanges subsequently. The aforesaid Quarterly Accounts were also uploaded on the Company's website for information of all the stakeholders, which shows that statutory obligation regarding availability of financial statements to the stakeholders were complied with. In respect of non-filing and late filing of aforesaid Quarterly Accounts, it was stated that those were sent for dispatch to the Commission, however, the non-filing might have occurred due to oversight and was not intentional. A copy of Quarterly Accounts for March 31, 2014 was also provided along with the reply. Based on the submissions, a lenient view was requested.

4. Before proceeding further, it is important to mention that in terms of Sub-section (1) of section 245 of the Ordinance all listed companies are, inter alia, required to file their quarterly accounts with the Commission within stipulated time.

Sub-section (3) of section 245 of the Ordinance provides as under:

*"If a company fails to comply with any of the requirements of this section, every director, including chief executive and chief accountant of the company who has knowingly by his act or omission been the cause of such default shall be liable to a fine of not exceeding one hundred thousand rupees and to a further fine of one thousand rupees for every day during which the default continues."*

In terms of the Commission's notification SRO 1003 (I)/2015 dated October 15, 2015, the powers to adjudicate cases under section 245 (3) have been delegated to the Director (Corporate Supervision Department).

5. As per record maintained at the respective Company Registration Office ("CRO") it has been confirmed that the Quarterly Accounts for September 30, 2013 and March 31, 2014 were not



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e-filed within due time. Moreover, the record of the Commission also reflects that Quarterly Accounts for September 30, 2015 were filed with a delay while those for March 31, 2014 were not filed with the Commission. In connection with this it is important to note that the applicable legal framework, i.e. section 245 of the Ordinance requires separate filing of Quarterly Accounts with the Commission and the Registrar of Companies. In respect of filing of Quarterly Accounts with the Registrar, e-filing mode has been adopted; however, it does not currently cater for filing of accounts with the Commission. As such, companies are still required to file their quarterly and annual accounts in physical form at the Commission's head office. This fact has been amply clarified by the Commission through a press release dated January 2, 2014.

6. I have analyzed the facts of the case, relevant provisions of the Ordinance, and submissions made by the respondents. The aforesaid provisions of the law are clear and explicit. A listed company is required to file its quarterly accounts within the stipulated time, which is one month from the close of first and third quarters and two months from the close of second quarter. The requirement to circulate interim accounts was introduced so that the shareholders could have timely access to information about the affairs of companies. Keeping in view the fact that timing of interim financial statements is of essence the disclosure and audit requirements of these accounts have been kept to a bare minimum. Interim financial statements prepared properly and in a timely manner not only provide to its users a reliable source of information regarding a company's financial position and performance but these also show the results of management's stewardship of resources entrusted to it. In order to ensure transparency, all the companies must meticulously follow the legal requirement for preparing and circulation of interim accounts. It is directors' responsibility to oversee the functioning of the company, to keep it appropriately staffed and organized to ensure due compliance of law. In this context, the directors of a Company cannot absolve themselves of their statutory duties regarding preparing and filing of quarterly accounts with the Commission.

7. It is clear from the record that the Company failed to file the aforesaid Quarterly Accounts for March 31, 2014 with the Commission while Quarterly Accounts for September 30, 2013 were filed with a delay. Therefore, the provisions of sub-section (3) of section 245 have been contravened by the respondents. However, keeping in view the submissions made by the respondents that the Quarterly Accounts were submitted to stock exchanges and were uploaded on the Company's



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website in a timely manner, instead of imposing fines, I hereby take a lenient view and conclude the proceedings with a warning to the respondents to be careful in future.

Before parting with the order I hereby direct the respondents in terms of section 473 of the Ordinance to duly file the Quarterly Accounts for quarter ended March 31, 2014 along with the challan evidencing payment of filing fee.

Amina Aziz  
Director (CSD)

**Announced:**  
February 18, 2016  
Islamabad