



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN
Enforcement Department

Before Javed K. Siddiqui, Executive Director (Company Law)

In the matter of
M/s. Wali Oil Mills Limited

(Under Sub-section (3) of Section 245 of the Companies Ordinance, 1984.)

Number and date of show cause notice	EMD/ENF-II/550/2003 Dated June 02, 2005
Date of hearing	June 17, 2005
Present	Mr. Hafeez-ur-Rehman Ch. & Malik Asif Iqbal, Advocates
Date of Order	June 17, 2005

Order

This Order shall dispose of the proceedings initiated against the Directors of M/s. Wali Oil Mills Limited (hereinafter referred to as the “Company”) for default made in complying with the requirements of Sub-section (1) of Section 245 of the Companies Ordinance, 1984 (the “Ordinance”).

2. The facts leading to this case, briefly stated, are that in terms of the provisions of Section 245 of the Ordinance, the Company was required to prepare and transmit to the members and simultaneously file with the Commission and the Registrar its quarterly accounts for the 3rd quarter ended March 31, 2005 by April 30, 2005, whereas the Company failed to file aforesaid quarterly accounts. Consequently, a show cause cum hearing notice was issued on June 02, 2005 to all the Directors including the Chief Executive of the Company calling upon them to show cause in writing within seven days of the said notice and also to appear for hearing in person or through a legally authorized representative before the undersigned on June 17, 2005 to show cause as to why penalties for the aforesaid contravention as provided under Sub-section (3) of Section 245 read with Section 476 of the Ordinance may not be imposed on them.

3. In response to the show cause notice, a written reply dated June 14, 2005 was filed by Mr. H. Muhammad Bashir, Chief Executive of the Company, wherein it was contended that the Company, its



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Chief Executive and Directors are not liable for imposition of penalty under Section 245 of the Ordinance because the Company and its management have always been very keen to fulfill all the legal requirements and obligations in respect of the business affairs of the Company within time. He further stated that in order to finalize the accounts for the 3rd quarter ended March 31, 2005, BOD's meeting was convened on April 04, 2005 and after detailed discussions formal accounts were approved and the Chief Financial Officer (CFO) was advised to prepare documents for filing of accounts with SECP and other concerned departments. However, the CFO who was entrusted the said task unfortunately fell ill and proceeded on sick leave from April 05 to April 24, 2005. The requisite accounts could not, therefore, be prepared and filed in time. It was further submitted that the delay in filing of accounts was not willful and intentional but was inadvertent; hence they are not liable for imposition of penalty.

4. On the date of hearing, M/s. Hafeez-ur-Rehman Ch. & Malik Asif Iqbal, Advocates appeared before me to argue the case on behalf of all the Directors. During the course of hearing Mr. Hafiz-ur-Rehman while admitting the default, urged that the same was not deliberate/ intentional. He repeated almost the same arguments as were advanced by the Chief Executive in his written reply dated June 14, 2005 to the show cause notice. He also regretted for the delay and requested for a lenient view and assured strict compliance of the provisions of the Ordinance in time in future.

5. I have given due consideration to the written as well as verbal submissions of the representatives of the Directors and observed that the arguments advanced for the default do not carry any merit because filing of quarterly accounts is a mandatory requirement of law. The plea that the accounts were delayed due to the illness of the Chief Executive Officer of the Company who proceeded on leave cannot be taken as a valid ground for the violation. It is the responsibility of the Directors to ensure proper compliance of legal requirements within prescribed time. A perusal of the track record reveals that in the past too the management has committed similar defaults for which penalties were imposed on the Chief Executive of the Company. The repetition of default shows that the management of the Company does not take the provisions of law seriously. The default under Section 245 is, therefore, established, which attracts the penal provisions of Sub-section (3) of Section 245 of the Ordinance.

6. Though the willful default is established, yet in view of the fact that the Company has filed the requisite quarterly accounts, though with a delay, and respondent's assurance for future compliance, I



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am inclined to take a lenient view in the matter and instead of imposing the maximum fine of Rs. 100,000/- on every Director and a further fine of Rs. 1,000/- per day for continuous default, I impose the fines under Sub-section (3) of Section 245 of the Ordinance on the Chief Executive and responsible Directors of the Company as per details given hereunder:-

S. #	Name	Penalty (Rupees)
		For 3 rd quarter ended 31-03-2005
1	Mr. H. Muhammad Bashir, Chief Executive	20,000
2	Mr. M. Farooq Asghar, Director	20,000
3	Mr. Muhammad Aamir, Director	20,000
4	Mr. Ahmad Bilal, Director	20,000
5	Mr. Zafar Iqbal, Director	20,000
6	Mr. Badar Muneer, Director	20,000
7	Mr. Fayyaz Ahmed, Director	20,000
	Total	140,000

7. The Chief Executive and Directors of the Company are hereby directed to deposit within thirty days of the date of receipt of this Order the aforesaid fines aggregating to Rs.140,000/- (Rupees one hundred and forty thousand only) in the Commission's designated bank account No. 75010-6 maintained at Central Branch, 102/ 103, Upper Mall, Lahore or by a DD/Pay order issued in the name of Commission and send a copy of the receipted vouchers to the Commission for information and record, failing which proceedings under the Land Revenue Act, 1967 will be initiated which may result in the attachment and sale of their movable and immovable property. It should also be noted that the said penalty is imposed on the Chief Executive and the Directors in their personal capacity, therefore, they are required to pay the said amounts from their personal resources.

Javed K. Siddiqui
Executive Director (CL)