



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN
Enforcement Department

Islamabad

Before Tariq Bakhtawar, Director Enforcement

In the matter of M/S. Frontier Ceramics Limited

For non-compliance with provisions of Section 74 of the Companies Ordinance, 1984

Number and date of Notice	No. C-1459/EM/039/2004 January 26, 2005
Date of final hearing	February 24, 2005
Present -Representing the Company	1. Mr. Noman Ghani, Company Secretary/Director 2. Mr. Iftikhar A. Khan, General Manager/Director

ORDER

This order shall dispose off the proceedings initiated against M/S. Frontier Ceramics Limited (the "Company") and its directors including the Chief Executive of the Company under the provisions of Section 74 of the Companies Ordinance, 1984 (the "Ordinance") through show cause notice dated January 26, 2005.

2. The Company was incorporated under the Ordinance as a public company limited by shares in the year 1982. The shares of the Company are listed on Karachi and Lahore Stock Exchanges. The paid-up share capital of the Company is Rs. 77,412,000 divided into 7,741,200 ordinary shares of Rs.10 each. The Company is principally engaged in manufacturing and sale of sanitary and related ceramic tiles. The Company has 2,799 shareholders comprising individuals, investment companies, insurance companies, financial institutions etc. The object for which the Company was established and its powers are contained in its Memorandum and Articles of Association. The Board of Directors of the Company as per its latest annual report for the year ended June 30, 2004 comprises as follows:

1. Mr. Hafeez Akhtar Randhawa – Chairman and Chief Executive
2. Mr. Shams-ul-Hassan - Director
3. Mr. Noman Ghani - Director / Company Secretary
4. Mr. Iftikhar Ahmad Khan – Director
5. Mr. Muhammad Fayaz Khan – Director
6. Mr. Muhammad Iqbal – Director
7. Mr. Hukam Khan Badshah – Director



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3. In order to fully appreciate the issue in hand, it is necessary to have a glance on the relevant background facts of this case. Mr. Muhammad Tauqir Malik, Stock Broker of Lahore Stock Exchange (Guarantee) Limited (hereinafter referred to as the "Complainant"), has filed a complaint with the Commission vide his letter dated June 11, 2004 regarding alleged contravention by the Company with the mandatory provisions of the Ordinance in relation to transfer of his shares. According to the complainant, he had bought 1,500 shares (hereinafter referred to as the "Shares") of the Company through the clearing house of the Lahore Stock Exchange (the "LSE") and lodged the same with the Company along with all requisite documents and duly executed instruments of transfer deed on November 03, 2003, for transfer in his name in CDC ID No. 2003-118944. His sole grievance was that according to law these shares were required to be transferred to his Central Depository Company (CDC) account in his name within five working days.

4. The aforesaid complaint was forwarded to the Company vide this Commission's letter dated June 22, 2004 with the advice to the Chief Executive of the Company to look into the matter and take appropriate necessary action for redressal of the grievance of the Complainant on priority basis under intimation to the Commission, failing which the Commission will be constrained to initiate action as provided by law. The said instructions were also followed by five reminders, however these were neither complied with by the Company or its Registrar nor any response was received by the Commission in this context. The Commission has examined this matter and found that the Company has *prima facie* contravened the provisions of Section 74 of the Ordinance by not transferring the Shares within five days in the CDC as stipulated under Sub-section (1) of Section 74 of the Ordinance. Since the Company failed to comply with the aforesaid mandatory statutory requirements and have also neglected to respond to the Commission's directives in this context, it was decided to initiate necessary proceedings under the Ordinance against the Company and its directors including the Chief Executive.

5. Consequently, a notice dated January 26, 2005 under Section 74 of the Ordinance was served upon the Company and its directors including the Chief Executive calling upon them to show-cause and to explain as to why penalty for the contravention with the mandatory provision of Sub-section (1) of Section 74 of the Ordinance may not be imposed upon them. However, no response was received from the Company to the aforesaid Show Cause Notice. Subsequently, in order to meet the ends of justice, several hearings were fixed for providing an opportunity to the Company to represent the case, however nobody appeared. In order to provide a final opportunity, hearing in the matter was again fixed for February 24, 2005 where



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Mr. Noman Ghani, and Mr. Iftikhar A. Khan, directors appeared and informed that the business of the Company has been closed since November 2003 due to severe problems therefore, the company has not been able to continue transactions of its shares with CDC and other relevant authorities/members as the staff members have also been laid off. They also informed that during the aforesaid period, the Company has changed its Registrar for some legal requirements and M/S. Saeed Methani Mushtaq & Company; Chartered Accountants were replaced by M/S. Mushtaq Akbar & Company, Chartered Accountants. It was also informed that the shares which were sent by the complainant to the previous Registrar i.e. M/S. Saeed Methani Mushtaq & Company were misplaced during shifting of their record to the new Registrar and therefore, the Registrar was unable to transfer these shares in time, however, a few days back they have succeeded to locate these shares and the same have been transferred in the complainant's CDC Account on February 8, 2005 vide Transaction ID No. 2003-118944, Participant ID No. 01792, Account No. 13. However, the same was not confirmed by the Company in writing till the date of signing of this order. They submitted that delay in transfer of the aforementioned shares was neither willful nor intentional; therefore the same may be condoned.

6. It is not out of place to mention that there are other 14 (fourteen) complaints filed with the Commission against the Company for non-transfer of their shares within the prescribed period. The complaints related to the shares lodged for transfer even dates back to the year 2003. During the hearing held on February 24, 2005 the Company's representatives were advised to resolve these 14 (fourteen) other complainants within next 14 days and transfer shares which are pending to be transferred by the Company as per the annexed list. No information has been received from the Company regarding resolution of the aforesaid complaints till signing of the order.

7. Before proceeding to decide this case, I consider it necessary to refer to the provisions of the Ordinance, which have *prima facie* been violated by the Company. Sub-section (1) of Section 74 requires that every company shall within forty five days of the application for transfer of shares complete and have ready for delivery the certificates of all shares and unless sent by post or delivered to the person entitled thereto, within that period, shall give notice of this fact to the shareholders immediately thereafter in the prescribed manner. Proviso to sub-section (1) of Section 74 provides that the company shall, within five days after an application is made for the registration of the transfer of any shares, debentures or debenture stock to a central depository, register such transfer in the name of the central depository. The provisions of Sub-section (2) of



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Section 74 of the Ordinance provides per day fine in case of delay in transfer of shares by a company. The provisions of Section 77 of the Ordinance provides that the directors of a company shall not refuse to transfer any fully paid shares unless the transfer deed is, for any reason, defective or invalid. The company is also required to notify within five days, where transferee is CDC, the defect or invalidity to the transferee, who shall after the removal of the defect or invalidity be entitled to re-lodge the transfer deed with the Company.

8. The Company has not pointed out any defect or invalidity in the instruments of transfer lodged by the Complainant and has not been able to justify the delay to transfer these Shares in the name of the Complainant, therefore, the Company has committed default under Sub-section (1) of Section 74 of the Ordinance. As the complainant initially lodged shares for transfer on November 3, 2003 therefore, the default continues for 463 days till February 8, 2005 i.e. date of transfer of the shares as informed by the Company. The delay in transfer of the shares attracts the penal provisions of Sub-section (2) of Section 74 of the Ordinance, which provides fine of Rs. 100 for every day during which default continues and the default continued for 463 days amounting a fine of Rs. 46,300 on each director and the Company. However, instead of imposing a maximum fine of Rs. 46,300 on the Company and its each director, I impose a fine of Rs. 15,000 (Rupees fifteen thousand only) on the Company, Rs. 25,000 (Rupees twenty five thousand only) on the Chief Executive and Rs. 15,000 (Rupees fifteen thousand only) each on other directors (total penalty Rs. 130,000) as follows:

S. #	Names	Designation	Penalty (Rupees)
1.	M/S. Frontier Ceramics Ltd	Company	15,000
2.	Mr. Hafeez Akhtar Randhawa	Chairman & Chief Executive	25,000
3.	Mr. Shams-ul-Hassan	Director	15,000
4.	Mr. Noman Ghani	Director / Company Secretary	15,000
5.	Mr. Iftikhar Ahmad Khan	Director	15,000
6.	Mr. Muhammad Fayaz Khan	Director	15,000
7.	Mr. Muhammad Iqbal	Director	15,000
8.	Mr. Hukam Khan Badshah	Director	15,000
		Total	130,000

9. The Company, its Chief Executive and directors (as indicated above) are directed to deposit the fine amounting Rs.15,000, Rs. 25,000 and Rs. 15,000 respectively, aggregating to Rs. 130,000 (Rupees one hundred thirty thousand only) in the designated bank account of the Securities and Exchange Commission of Pakistan, maintained with Habib Bank Limited and furnish a receipted challan to the Securities & Exchange Commission of Pakistan or pay through a demand draft drawn on Habib Bank Limited in the name of Securities and Exchange Commission of Pakistan within thirty days of the date of this Order, failing which proceedings for recovery of the fines as arrears of land revenue will be initiated .



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10. As the Company has informed that the aforesaid shares have been transferred to the Complainant's CDC account on February 8, 2005, the Company is directed to furnish documentary evidence to the Commission to this effect. The Company is further directed to resolve the complaints of 14 (fourteen) other complainants within 14 days of this order whose shares were also pending to be transferred by the Company as per the list annexed with this order and also provided to the representatives of the Company at the time of hearing. This direction is being given under Section 473 of the Ordinance, non-compliance of which shall render the directors of the Company liable for punishment under Section 495 of the Ordinance.

TARIQ BAKHTAWAR
Director Enforcement

Announced
March 28, 2005
Islamabad