

**Before Dr. Sajid Qureshi, Executive Director (Company Law)**

*In the matter of*

**M/s. Transmission Engineering Industries Limited**

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

No. & date of show cause notice	EMD/Enf-II/432/2005 dated February 24, 2006
Date of hearing	April 27, 2006
Present	Mr. Anwar Kashif Mumtaz, the authorized representative
Date of Order	May 12, 2006

## **Order**

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This Order shall dispose of the proceedings initiated against the directors of M/s. Transmission Engineering Industries Limited (hereinafter referred to as the “Company”) for default made in complying with the provisions 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 Registrar and the Commission its quarterly accounts for the 1<sup>st</sup> quarter ended September 30, 2005 within the prescribed time period which were actually received in the Commission on February 10, 2006 i.e. with a delay of 3 months and 10 days. Failure of the Company to comply with the aforesaid mandatory requirements within the prescribed time necessitated action against the responsible directors of the Company in terms of Sub-section (3) of Section 245 of the Ordinance. Consequently, a show cause notice dated February 24, 2006 was served on all the directors including the Chief



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Executive of the Company calling upon them to show cause as to why penalties as provided under Sub-section (3) of Section 245 read with Section 476 of the Ordinance may not be imposed on them for the aforesaid contravention. In response to the show cause notice, Mr. Ausaf Hussain Agha, Chief Executive of the Company contended vide his letter dated March 10, 2006 that due to installation and debugging of new ERP software in their computer system, their finance department could not finalize the accounts within the prescribed time. He further stated that due to the aforesaid reason, the accounts for the quarter ended December 31, 2005 were also delayed for 10 days. He also requested to condone the delay in filing of quarterly accounts.

3. The reply furnished to the show cause notice was not found satisfactory. In order to provide an opportunity of personal hearing the matter was fixed for April 13, 2006, which was adjourned and re-fixed for April 20, 2006. The hearing was again adjourned and finally fixed for April 27, 2006 at Karachi. On the date of hearing, Mr. Anwar Kashif Mumtaz, from M/s. Saiduddin & Co.( the authorized representative) appeared for hearing on behalf of the directors of the Company. During the hearing, Mr. Mumtaz, while admitting the default reiterated the same arguments as were advanced by the Chief Executive of the Company in his written reply dated March 10, 2006. He also filed a certificate from M/s. Softronic Systems (Pvt.) Limited to the effect that M/s. Transmission Engineering Industries Limited had signed an agreement with them on September 21, 2004 to purchase their ERP system and that the Software was in installation and debugging stage from January, 2006.

4. The explanation furnished by the Chief Executive of the Company as well as by the representative of the directors at the time of hearing has been examined and not found cogent because the quarterly accounts have been filed with a considerable delay of 3 months and 10 days. Moreover, from the examination of the Certificate issued by M/s. Softronic Systems (Pvt.) Limited, it has been observed that the installation and debugging of the ERP System was started from January, 2006 whereas the quarterly accounts for the 1<sup>st</sup> quarter ended



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September 30, 2005 were due on October 31, 2005. In view of the foregoing, the reasons furnished for late submission of quarterly accounts cannot be treated as cogent reason

5. However, before proceeding to decide this case, I consider it necessary to highlight the importance of the strict observance of the aforesaid mandatory provisions of the law. The protection of the investors/shareholders is one of the primary objectives of the Ordinance. It is investors/shareholders who provide seed for capital formation. If the interest of the investors is protected, they will save and invest more. Their interest is protected by transmission of timely, adequate and meaningful information to them. It is the annual and interim accounts, which provide information to the investors about the affairs of the companies. It has unfortunately been noted that the directors of M/s. Transmission Engineering Industries Limited are not observing these compulsory requirements of law.

6. In view of the foregoing, it can be legitimately inferred that the Chief Executive and directors have failed to protect the interest of the shareholders. The aforesaid state of affairs is a cause of great concern for the Commission. The track record of the Company with regard to filing of quarterly accounts is also not satisfactory. The Company has also defaulted in filing of quarterly accounts in the past but the Commission always took a lenient view and condoned the defaults. This led me to believe that the directors have no respect for the law and they have deprived the shareholders of their statutory right to receive the quarterly accounts of the Company within the prescribed time limit. The responsibility for preparation/circulation of quarterly accounts rests with the directors of the Company and they have to take appropriate action at appropriate time. The repetition of default clearly shows that the Company is not making any serious efforts to comply with the provisions of the law. For the foregoing reasons, the default under Sub-section (1) of Section 245 of the Ordinance regarding late submission of quarterly accounts for the 1<sup>st</sup> quarter ended on September 30, 2005 stands established.



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7. However, instead of imposing the maximum fine of Rs.100,000 on every director and a further fine of Rs.1,000 per day for the continuous default, I impose the following penalties on the Chief Executive and each director of the Company under Sub-section (3) of Section 245 of the Ordinance:-

<b>S. No</b>	<b>Name</b>	<b>Penalty (in Rs.)</b>
1.	Mr. Ausaf Hussain Agha, Chief Executive	5,000
2.	Mr. Muhammad Aslam Khan, Director	5,000
3.	Mr. Tausif Hussain Agha, Director	5,000
4.	Mr. Asif Hussain Agha, Director	5,000
5.	Mr. Fasih Hussain Agha, Director	5,000
6.	Mr. Uzair Ashir, Director	5,000
7.	Ms. Sabahat Agha, Director	5,000
	<b>Total</b>	<b>35,000</b>

8. The Chief Executive and directors of M/s. Transmission Engineering Industries Limited are hereby directed to deposit the aforesaid fines aggregating to Rs.35,000/- (Rupees thirty five thousand 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 receipt of this Order and furnish receipted vouchers or pay by a DD/pay order issued in the name of 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 movable and immovable property. It may also be noted that the said penalties are imposed on the Chief Executive and other directors in their personal capacity who are required to pay the said amount from their personal resources.

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**Dr. Sajid Qureshi**  
Executive Director (Company Law)