



**Before the Director/HOD (MSRD)**

In the matter of Show Cause Notice issued under Section 224(4) of the Companies Ordinance, 1984 to Mr. Jamal Nasim, Director of Pioneer Cement Limited.

**Order**

This Order will dispose of the proceedings initiated under Section 224(4) of the Companies Ordinance, 1984 ("**Ordinance**") by the Securities and Exchange Commission of Pakistan ("**Commission**") through Show Cause No.SMD/BOW/CO.222/9(131)/14 dated 19/12/2014 ("**Notice**") issued to Mr. Jamal Nasim, ("**Respondent**"), Director of Pioneer Cement Limited ("**Issuer Company**").

2. The facts of the matter leading up to aforesaid Notice are that the Issuer Company is a public listed company and the Respondent being its Director was required to file Form 31, on occupying the position of Director of the Company and Form 32, for the change took place in his beneficial ownership thereafter, within the period stipulated under Section 222 of the Ordinance. However, he failed to discharge the said obligations which attract penal provision contained in Section 224(4) of the Ordinance.

3. Section 222(2)(b) and Section 222(2)(c) of the Ordinance stipulate the period within which the Form 31 and Form 32 respectively are required to be submitted as under:-

*222(2)(b) "in any other case, including a case where the company is listed on the stock exchange after the commencement of this Ordinance or after the person has occupied the position or office specified in sub-section (1) or has acquired interest as beneficial owner of securities as aforesaid, within thirty days of occupying the office in the company or acquisition of interest as beneficial owner requiring submission of the return aforesaid or listing of the company on the stock exchange, as the case may be";*

*222(2)(c) "where there is any change in the position or interest as aforesaid including a change in the beneficial ownership of any equity, security, within fifteen days of such change".*

4. The Respondent filed Form 31 and Form 32 with this Commission on 11/08/2014. The said Form 31 showed that he acquired beneficial ownership in the Company on 21/11/2013 and 110,000 ordinary shares of the company were beneficially owned by him. Thus, he was required on his own to file the said return with this Commission latest by 20/12/2013, but the same has been filed on 11/08/2014, with delay of 233 days, in contravention of Section 222(2)(b) of the Ordinance.





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5. The aforesaid Form 32 revealed that the Respondent sold 10,000 shares of the Issuer Company on 02/01/2014. Thus, he was required to report the said change in beneficial ownership to the Commission latest by 17/01/2014, but the same has been reported on 11/08/2014, with delay of 206 days, in contravention of Section 222(2)(c) of the Ordinance.

6. The aforesaid contraventions attract penal provision of Section 224(4) of the Ordinance, which provides as under:-

*"Whoever knowingly and wilfully contravenes or otherwise fails to comply with any provision of section 222, section 223 or section 224 shall be liable to a fine which may extend to thirty thousand rupees and in the case of a continuing contravention, non-compliance or default to a further fine which may extend to one thousand rupees for every day after the first during which such contravention, non-compliance or default continues".*

7. The Commission took cognizance of the aforesaid default and issued Notice to the Respondent under Section 224(4) of the Ordinance, calling upon him to explain through written reply alongwith documentary evidence, if any, as to why action may not be taken against him pursuant to Section 224(4) of the Ordinance, for aforesaid contraventions of Section 222 of the Ordinance. Further, the Respondent was also provided an opportunity of being heard in person on 06/01/2015 at the Commission's Head Office, Islamabad.

8. The Respondent responded the Notice vide letter dated 31/12/2014, wherein, he *inter alia* stated that due to suffering with Trigeminal Neuralgia, he would not be able to attend the hearing scheduled on 06/01/2015 at Islamabad. He requested to consider his submissions submitted in writing, which be summarized as under:-

- a) *The Issuer Company sent him the consent forms and other related documents in November 2013, for the offer to be co-opted as director which were duly returned to Company after completion but the decision taken by the Company to offer him the directorship was conveyed in February 2014.*
- b) *The Respondent assumed the position of the director of the Issuer Company in February 2014 and 110,000 shares were beneficially owned by him. Before said date, he was not informed by Company for his appointment as director. Therefore, the returns of beneficial ownership could not be filed.*
- c) *The Respondent is nominee director in other six companies, where Form 31 is not required to be filed. While in the instant case, he is an independent directorship as well as holding beneficially owned shares. Therefore, his secretariat staff could not identify the difference which resulted in late submission of statutory form 31/Form 32.*
- d) *10,000 shares were sold on 02/01/2014, much before the time of receiving intimation as appointment of Director of the Issuer Company, so Form 32 for said change in holding could not be filed timely.*





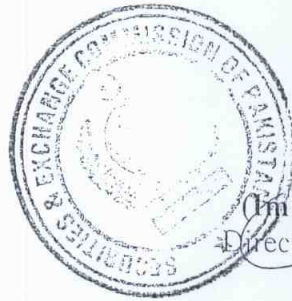
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- e) *The default has not been committed willfully. But, it is error due to misunderstanding.*
- f) *The Respondent requested to condone the delay.*

9. I have considered the aforesaid submissions made in writing by the Respondent. The Respondent has admitted the default of late filing of the return of beneficial ownership, with the contention that the Issuer Company did not intimate him timely for appointment as independent director. He further stated that the default has not been committed willfully and knowingly. In order to arrive at decision, I have also reviewed the record of this office, which reveals that since July 2014, the Respondent has made two sale transactions, which have been reported to the Commission, within the stipulated time period. Considering the submissions made by the Respondent, I intend to agree with the contention of the Respondent and of the view that late filing of said return may not be willful. Therefore, a lenient view of the matter has been taken and the Respondent is hereby warned to ensure timely compliance of Section 222 of the Ordinance in future.

10. This Order is issued without prejudice to any other action that the Commission/Registrar may initiate against the Respondent in accordance with the law on matter subsequently investigated or brought to the Notice of the Commission.



*(Imran Inayat Butt)*  
Director/HOD (MSRD)

Islamabad.  
Announced on January 26, 2015