

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

In the matter of
M/s. Khairpur Sugar Mills Limited
(Under Sub-section (3) of Section 245 of the Companies Ordinance, 1984)

Number and date of show cause notice	EMD/Enf-II/349/2003 dated July 21, 2005
Date of hearing	November 22, 2005
Present	1) Mr. Wasful Hassan Siddiqi, FICS FCMA 2) Mr. Asif Hussain Siddiqi, LLB 3) Mr. Shoaib-ul-Haque, Manager Finance
Date of Order	November 30, 2005

Order

This Order shall dispose of the proceedings initiated against the Directors of M/s. Khairpur Sugar Mills 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 its members and simultaneously file with the Registrar and the Commission its quarterly accounts for the 2nd quarter ended March 31, 2005 by May 31, 2005. The Company failed to file the aforesaid accounts with the Commission within prescribed time and the same were actually received on July 02, 2005 i.e. with a delay of 1 month and 2 days. Consequently, a show cause notice dated July 21, 2005 was served on all the Directors including the Chief 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. The said notice was responded by Mr. Muhammad Mubeen Jumani, Chief Executive of the Company vide his letter dated July 30, 2005 which was examined, however, the reply was not found satisfactory.

3. In order to give an opportunity of personal hearing, the case was fixed on October 11, 2005. No one appeared to attend the hearing, instead, a written reply was received from the Chief Executive



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of the Company vide letter dated September 26, 2005, whereby the reasons for late submission of accounts were explained and request was made to conduct hearing at Karachi. The matter was, therefore, re-fixed on November 22, 2005 at Karachi. On the date of hearing, Mr. Shoaib-ul-Haque, Manager Finance and M/s. Wasful Hassan Siddiqi and Asif Hussain Siddiqi, Cost & Management Accountants of Siddiqi & Company appeared on behalf of all the directors of the Company. During the course of hearing, while admitting the default, they contended that the company had transmitted the financial results to the Karachi Stock Exchange on May 30, 2005 by fax but due to law and order situation created due to bomb blast and torching of KFC outlet in their area (Gulshan-e-Iqbal, Karachi), the printer was not able to deliver the printed copies of accounts on time. It was further stated that the printed accounts were dispatched through courier on June 30, 2005 to the Commission, as such, the delay was of 30 days only for which they had deposited late filing fee. They added that the delay in submission of accounts was a functional problem and was neither on the part of CFO nor the directors of the Company. They also regretted for the delay and contended that the said delay was for the first time in the history of the company which may be condoned.

4. The explanation furnished by the representatives of the Company has been examined and not found satisfactory. According to the Company, the aforesaid accounts were sent to the Karachi Stock Exchange on May 30, 2005 which shows that the said accounts were ready with the Company on May 30, 2005. Due to law and order situation created as a result of bomb blast on May 30, 2005, the Company could have filed these accounts with the Commission within the next week, whereas, the same were dispatched on June 30, 2005 i.e. with a delay of more than one month. Therefore, the reasons furnished for the delay are not cogent to justify the default. Filing of quarterly accounts is mandatory requirement of law. It is the duty of the directors of the Company to ensure compliance with all the statutory requirements within prescribed time. Accordingly, the directors of the Company are responsible for timely preparation and submission of quarterly accounts to its members and file the same with the Registrar and the Commission within prescribed time period. Since the respondents have failed to furnish any cogent justification for late submission of quarterly accounts, therefore, the default is established. Moreover, the track record of the Company with regard to filing of annual, half yearly and quarterly accounts is also not satisfactory. The Company has also defaulted in the past but the delays were ignored by the Commission. This led me to believe that the directors have no respect for law and they have again deprived the shareholders of their statutory right to receive the quarterly accounts of the Company within the prescribed time limit. Had there been serious efforts on the part of the directors to manage the timely finalization of accounts, there would have been no delay in preparation and circulation of the quarterly accounts. The responsibility for preparation and circulation



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of accounts rests with the directors of the Company and in case they do not take appropriate action at appropriate time the default is considered willful.

5. Although the default is established, yet keeping in view the fact that the Company has filed the aforesaid quarterly accounts though with delay, I am inclined to take a lenient view in the matter and instead of imposing 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 a fine of Rs. 20,000/- (Rupees twenty thousand only) under Sub-section (3) of Section 245 of the Ordinance on the Chief Executive and each of the directors of the Company in the following manner:-

S. No	Name of Director	Penalty (in Rs.)
1	Mr. Muhammad Mubeen Jumani, Chief Executive	20,000/
2	Mr. Faisal Mubeen Jumani, Director	20,000/
3	Mr. Muhammad Bux, Director	20,000/
4	Mr. Ghulam Ali, Director	20,000/
5	Mr. Ahmed Ali, Director	20,000/
6	Mrs. Yasmeen, Director	20,000/
7	Mr. Raza Abbas Jafri, Director (NIT Nominee)	20,000/
	Total	140,000/

6. The Chief Executive and other directors of M/s. Khairpur Sugar Mills Limited are hereby directed to deposit the aforesaid fines in the designated bank account maintained in the name of Securities and Exchange Commission of Pakistan with Habib Bank Limited or pay through a demand draft in the name of Securities and Exchange Commission of Pakistan within thirty days from the receipt of this Order and furnish receipted vouchers to the Commission failing which proceedings for recovery of the fines as an arrear of land revenue will be initiated. It should also be noted that the said penalty is imposed on the Chief Executive and directors of the company in their personal capacity, therefore, they are required to pay the said amounts from their personal resources.

Dr. Sajid Qureshi

Executive Director (Company Law)