



Corporate Supervision Department
Company Law Division

Before Mr. Tahir Mahmood – Commissioner (Company Law Division)

In the matter of

OK Feed Mills (Pvt.) Ltd.

Number and date of notice: EMD/242/L/256/11-824-826 dated December 23, 2014
Date of hearing: June 9, 2015
Present: Mr. Ghulam Hasnain – Chief Accountant

ORDER

UNDER SECTION 492 READ WITH SECTION 476 OF THE COMPANIES ORDINANCE, 1984

This order shall dispose of the proceedings initiated against the Directors including the Chief Executive (the “respondents”) of OK Feed Mills (Pvt.) Ltd. (the “Company”) through show cause notice (“SCN”) dated December 23, 2014 issued under the provisions of Section 492 read with Section 476 of the Companies Ordinance 1984 (the “Ordinance”).

2. Brief facts of the case are that the examination of the annual audited accounts (the “Accounts”) for the years ended June 30, 2011 and 2012 of the Company filed under Section 242 of the Ordinance with the Registrar revealed that the comparative figures in the Accounts for the year ended June 30, 2012 have been revised/re-stated without proper disclosures. The Accounts for the year ended June 30, 2011 were audited by M/s Phinehas & Co. Chartered Accountants and the Accounts for the year ended June 30, 2012 were audited by M/s Rafaqat Mansha Mohsin Dossani Masoom & Co. Chartered Accountants. The figures reported in the said Accounts and their difference is as follow;

	Accounts, 2011 (Rs. in Million)	Comparative figures in Accounts, 2012 (Rs. in Million)	Difference (Rupees in Million)
Auditor of the Company	Phinehas & Co. Chartered Accountants	Rafaqat Mansha Mohsin Dossani Masoom & Co.	
Profit and Loss Account			
Turnover	454.579	2,141.550	1,686.971
Cost of Sales	399.530	1,980.621	1,581.091
Gross profit	55.048	160.928	105.880
Administrative Expenses	7.869	17.667	9.798
Distribution Cost	5.353	73.903	68.550
Finance and other cost	17.778	40.605	22.827
Taxation	14.105	11.310	(2.795)
Profit after Taxation	9.941	17.440	7.499



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	Accounts, 2011 (Rs. in Million)	Comparative figures in Accounts 2012 (Rs. in Million)	Difference (Rupees in Million)
Auditor of the Company	Phinehas & Co. Chartered Accountants	Rafaqat Mansha Mohsin Dossani Masoom & Co.	
Balance Sheet			
Revenue Reserve	9.941	17.440	7.499
Deferred Liabilities	9.360	-	(9.360)
Trade and other payables	133.210	249.528	116.318
Provision for taxation	4.744	22.352	17.608
Total			132.07
Property, plant and equipment	356.012	343.031	(12.981)
Deferred tax assets	-	11.041	11.041
Stock-in-trade	238.785	223.785	(15.000)
Store, spares and loose tools	5.867	4.867	(1.000)
Trade debts	108.854	178.854	70.000
Loans and advances	22.688	102.688	80.000
Total			132.07

The comparative balance shows an increase of Rs. 132 million (17.77%) in total assets of the Company, an increase of Rs. 1,687 million (471%) in turnover and an increase of Rs. 106 million (293%) and Rs. 7.5 million (175%) in gross and net profit of the Company respectively as compared to the figures reported in the 2011 Accounts. In brief it can be said that all balance sheet and profit and loss figures are stated at different values. The above stated differences are material and have been incorporated without providing any explanation as required by International Accounting Standard 8 -Accounting Policies, Changes in Accounting Estimates and Errors.

3. The contrasting values for assets, turnover, gross and net profit for the year ended June 30, 2011 in the aforesaid Accounts indicates an apparent misstatement. Consequently SCN was served upon the respondents on December 23, 2014 to show cause as to why penalty be not imposed under Section 492 of the Ordinance for the prima facie violations by the respondents.

4. The respondents in reply to the SCN, dated December 29, 2014 denied the allegations and stated that M/s Rafaqat Mansha Mohsin Dossani Masoom & Co. Chartered Accountants have been appointed/ reappointed auditors of the Company since 2010. The said firm is the duly appointed statutory auditors and the Accounts appended along with their audit report are the true accounts of the Company. The Company also appended with the reply copies of the Accounts for the year



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2010, 2011 and 2012 along with their respective auditor's reports. On perusal, it was observed that Accounts for the year ended June 30, 2011 were different from initially submitted to the Commission on July 20, 2012. The Accounts submitted to the Registrar on July 20, 2012 were audited by M/s Phinehas & Co. Chartered Accountants which reported total turnover of Rs. 454.58 million and net profit after tax of Rs. 9.9 million for the year, but the Accounts of 2011 submitted through letter dated December 31, 2012 were audited by M/s Rafaqat Mansha Mohsin Dossani Masoom & Co. Chartered Accountants reported total turnover for the year of Rs. 2.141 billion and net profit after tax was Rs. 17.44 million for the year. Similarly, all other items appearing on the balance sheet and profit and loss are stated with different values.

5. In the interest of natural justice the respondents were granted an opportunity of personal hearing on June 9, 2015. Mr. Ghulam Hasnain – Authorized Representatives attended the hearing and submitted that Accounts of 2011 audited by M/s Phinehas & Co. Chartered Accountants were prepared for the financial institutions to secure loan and were erroneously submitted to the Commission.

6. Before proceeding further, it is necessary to advert to the following relevant provisions of Section 492 of the Ordinance, which states as under:

“ Whoever in any return, report, certificate, balance sheet, profit and loss account, income and expenditure account, prospectus, offer of shares, books of accounts, application, information or explanation required by or for the purposes of any of the provisions of this Ordinance or pursuant to an order or direction given under this Ordinance makes a statement which is false or incorrect in any material particular, or omits any material fact knowing it to be material, shall be punishable with a fine not exceeding five hundred thousand rupees. ”

7. Before proceeding to analyze the case in hand I deem it necessary to advert to the duties of directors. It is director's duty to keep proper book of accounts with respect to all sum of money received and expended by the company and the matters in respect of which the receipt and expenditure takes place, all sales and purchases of goods by the company and all liabilities of the company. Directors have fiduciary duty composed of an overarching duty to the corporation, which contains two component duties, a duty to protect shareholder interests from harm, and a procedural duty of fair treatment for relevant stakeholder interests.



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8. As regards the matter at hand, I have analyzed the facts of the case, relevant provisions of the Ordinance, arguments put forth by the respondents in writing and during the hearing and observed that the Company made false statement regarding profit and loss accounts for year 2011 and maintaining two books of accounts as it is evident from two different set of Accounts for the year ended June 30, 2011 were submitted to the Commission. I, therefore, before parting with this order, recommend that both set of Accounts for the year ended June 30, 2011 should be sent to Federal Board of Revenue for their perusal.

9. For the foregoing reasons, I am of the firm opinion that the provision of Section 492 of the Ordinance has been violated and the respondents are liable for the fine as prescribed by this Section. Therefore, in exercise of the powers conferred by the aforesaid provision of the Ordinance, I hereby impose a fine of Rs.1,500,000/- (Rupees one million and five hundred thousand only) in aggregate on all the respondents for contravening the provision of Section 492 of the Ordinance. The respondents are directed to deposit the fine in the following manner:

Name of Respondents	Amount in Rupees
Syed Mushahid Shah, Chief Executive	Rs.500,000
Syed Muhammad Adnan Raza Naqvi, Director	Rs.500,000
Mst. Nageen Mushahid, Director	Rs.500,000
	Rs.1,500,000
(Rupees one million and five hundred thousand only)	

The aforesaid fines must be deposited in the designated bank account maintained with MCB Bank Limited in the name of the "Securities and Exchange Commission of Pakistan" within thirty days from the receipt of this order and furnish receipted bank vouchers to the Commission. In case of non-deposit of fine, proceedings for recovery of the fines as arrears of land revenue will be initiated. It may also be noted that the said fines are imposed on the respondents in their personal capacity; therefore, they are required to pay the said amount from personal resources.

Tahir Mahmood
Commissioner
Company Law Division

Announced:
July 8, 2015
Islamabad