



Corporate Supervision Department
Company Law Division

Before Amina Aziz – Director

In the matter of

Railway Construction Pakistan Limited

Number and date of notice: EMD/242/I/172/11/396 dated October 31, 2011
Date of hearing: November 17, 2015
Present: Mr. Muhammad Zubair Hussain - Authorized Representative

ORDER

**UNDER SECTION 226 READ WITH SECTION 229 AND SECTION 476 OF THE COMPANIES
ORDINANCE, 1984**

This order shall dispose of the proceedings initiated against the following directors including the Chief Executive (the “respondents”) of Railway Construction Pakistan Limited (the “Company”):

- | | |
|-----------------------|---------------------------|
| 1. Mr. Shahid Baig | 3. Mr. Ejaz Ahmed Qureshi |
| 2. Mr. Asad Saeed | 4. Mr. Gulrez Hashmi |
| 5. Mr. Humayun Fareed | 6. Mr. Saeed Akhtar |
| 7. Mr. Shakeel Durani | 8. Ms. Shaukat Muhammad |
| 9. Mr. T.M. Sheikh | |

These proceedings were initiated through show cause notice (“SCN”) dated October 31, 2011 under the provisions of section 226 read with section 229 and section 476 of the Companies Ordinance 1984 (the “Ordinance”).

2. The brief facts of the case are that examination of the annual audited accounts of the Company for the year ended June 30, 2010 (“Accounts”) revealed that an amount of Rs. 25,646,542 represents security deposits under current liabilities. The Company failed to deposit aforesaid security deposits in a special account with the scheduled bank, prima facie, in contravention with Section 226 of the Ordinance. Consequently, the SCN was issued to the respondents requiring them to show cause in writing as to why penal action may not be taken against them in terms of section 229 of the Ordinance.

3. The respondents replied vide letter dated November 10, 2011 and submitted that in order to comply with the provisions of Section 226 of the Ordinance the Company has moved a resolution to its board of director for opening of special bank accounts in the schedule bank and vide letter dated September 27, 2012 submitted that in compliance, bank accounts have been opened in Company head office and branch offices at Lahore, Karachi and Sukkur and retention



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money/security deposits has been transferred to these special accounts.

4. In order to provide opportunity of personal hearing; the case was fixed before the undersigned on November 17, 2015. Mr. Muhammad Zubair Hussain, Authorized Representative on behalf of respondents appeared and submitted that special account has been opened for security deposits. The Authorized Representative was advised to provide balances of security deposits as at June 30, 2015 with related bank statements, which was provided vide letter dated December 2, 2015.

5. Before proceeding further, it is necessary to advert to the following relevant provisions of Ordinance:

Section 226 of the Ordinance, inter alia, provides that no company, and no officer or agent of a company, shall receive or utilise any money received as security or deposit, except in accordance with a contract in writing; and all moneys so received shall be kept or deposited by the company or the officer or agent concerned, as the case may be, in a special account with a scheduled bank:

Provided that this section shall not apply where the money received is in the nature of an advance payment for goods to be delivered or sold to an agent, dealer or sub-agent in accordance with a contract in writing.

Section 229 of the Ordinance provides that whoever contravenes or authorises or permits the contravention of any of the provisions of section 226 or section 227 or section 228 shall be punished with a fine which may extend to five thousand rupees and shall also be liable to pay the loss suffered by the depositor of security or the employee on account of such contravention.

In terms of the Commission's notification SRO 1003 (I)/2015 dated October 15, 2015, the powers to adjudicate cases under section 229 of the Ordinance have been delegated to the Director (Corporate Supervision Department).

6. Having gone through the facts of the case, provisions of the law and submissions of the respondents and Authorized Representative, I am of the view that the Company has violated the provision of Section 226 of the Ordinance as it failed to deposit securities deposit in a special account with the scheduled bank during the financial year 2010. However keeping in view the subsequently compliance of Section 226 of the Ordinance by the Company by opening security



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deposit account, I hereby conclude the case with a warning to the respondents to be careful in future regarding compliance with applicable legal provisions.

Amina Aziz
Director
Corporate Supervision Department

Announced:
December 18, 2015
Islamabad