



Corporate Supervision Department
Company Law Division

Before Amina Aziz – Director

In the matter of

Tri-Pack Films Limited

Number and date of notice: CSD/ARN/179/2015-336-339 dated August 21, 2015
Date of hearing: January 13, 2016
Present: Mr. Nasir Jamal

ORDER

UNDER RULE 5 OF THE EMPLOYEES PROVIDENT FUND (INVESTMENT IN LISTED SECURITIES) RULES, 1996 READ WITH SECTION 476 OF THE ORDINANCE.

This order shall dispose of the proceedings initiated against the trustees of the provident fund (the "respondents") of Tri-Pack Films Limited (the "Company"):

1. Mr. Nasir Jamal
2. Mr. Muhammad Asad Ullah Butt
3. Mr. Babar Saddiq Baig
4. Mr. Adil Saeed Khan

These proceedings were initiated through show cause notice ("SCN") dated August 21, 2015 under the Provident Fund (Investment in listed Securities) Rules, 1996 ("Rules").

2. The brief facts of the case are that on examination of the annual audited accounts of the Company for the year ended December 31, 2014 ("Accounts") revealed that 66% of the total provident fund was invested in the mutual funds.

3. Rules and S.R.O. 261(I)/2002 ("S.R.O.") provides that investment in mutual funds shall not exceed the fifty percent of the fund and investment in single fund not to exceed the twenty percent limit.

4. Investments in one mutual fund i.e. IGI Income Fund exceed the limit of 20% and investment in provident fund exceed the fifty percent limit, prima facie, in contravention of Rules. 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 rule 5 of the Rules.

5. The respondents replied vide letter dated September 4, 2015 and submitted that all investments made by the Fund are in accordance with Rules and SRO and Commission clarification on this matter established that any fresh investments may be assessed at cost for the



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purpose of the Rules.

6. In order to provide opportunity of personal hearing; the case was fixed before the undersigned on September 15, 2015. Mr. Nasir Jamal – trustee, appeared and reiterated the earlier stance. Mr. Nasir Jamal was asked to provide detail working in this regard. The trustee vide letter dated September 28, 2015 submitted the following along with detailed working;

- After the last investment at cost made in mutual fund the total investment in mutual fund as percentage of total provident fund size (including un-realized gains and receivables etc) as at December 31, 2014 was less than 50% i.e. 44.96%. On date of investment in October 2014 this percentage was 47.66%.
- No investment in one mutual fund at cost is more than 20% of provident fund as at December 31, 2014 actually it was 19.44%. On the date of investment in October 2014 this percentage stood at 20.6%.
- While making an investment, we believe that we need to make sure that the ceiling set under Rules has not been crossed. The ceiling is based on the cost of investments divided by total fund size which includes all the receivable and unrealized surplus and other being part of the total fund.

7. The aforesaid submission of the respondent was not tenable therefore, the case was fixed for hearing on January 13, 2016, Mr. Nasir Jamal appeared and reiterated the earlier submissions. The trustee was advised to provide power of attorney from rest of respondents, which was provided on February 2, 2016.

8. Before proceeding further, it is necessary to advert to the following relevant provisions of S.R.O.

- (i) That the total investment in unit trust schemes registered under asset management companies rules, 1995 shall not exceed fifty percent of the provident fund;
- (ii) That the total investment in any one unit trust scheme registered under Asset Management Companies Rules, 1995 shall not exceed 20% of the provident fund.



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9. 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).

10. I have analyzed the facts of the case, relevant provisions of Rules and S.R.O., arguments put forth by the respondent and representative and observed that the respondent were incorrect to assume that the ceiling is based on the cost of investments divided by total fund size which includes the entire receivable and unrealized surplus. The Company itself mentioned in note 42.2 to the Accounts that the investment made be the Fund in mutual funds during the year is more than the authorized 50% of total investments as per the rules of the fund.

11. For the foregoing reasons, I am of the firm opinion that the provisions of Rules and S.R.O. have been violated as 66% of the total provident fund was invested in the mutual funds and investment in one mutual fund exceed the 20% limit. However, the respondents have shown their willingness to rectify the default; I hereby conclude the case with direction to the respondents to ensure future compliance of applicable legal provisions.

Amina Aziz
Director

Announced:
March 11, 2016
Islamabad