



Corporate Supervision Department
Company Law Division

Before Abid Hussain – Executive Director

In the matter of

Pangrio Sugar Mills Limited

Number and date of notice: CSD/ARN/229/2015-1741-49 dated December 1, 2015

Date of hearing: September 29, 2016

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 Pangrio Sugar Mills Limited (*the "Company"*) through show cause notice ("SCN") dated December 1, 2015 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 financial statements of the Company for the period ended September 30, 2014 (*the "Accounts"*) were audited by Aslam Malik & Company Chartered Accountants (*the "Auditor"*). The auditor, in their audit report dated January 3, 2015, expressed adverse opinion, stating that the accounts do not give true and fair view due to pervasive impact of the following issues.

- The Company, as at year ended September 30, 2014 has incurred a loss of Rs. 43.742 million (2013: loss of Rs. 112.650 million). The Company's equity is negative by Rs. 865.632 million (2013: Rs. 821.890 million), its accumulated loss amount to Rs. 974.132 million (2013: Rs. 930.390 million) and its current liabilities exceed current assets by Rs. 628.104 million (2013: 499.60 million).
- The equity of the Company is negative, it has adverse current ratio, it has not carried out any operations and start of operation is not imminent, it generated insufficient cash flows and its financial liabilities are long overdue.
- The Company has defaulted in payment to National Bank of Pakistan and company's appeal against BEL has been dismissed by High Court and official assigned issued letter for publication of sale of mortgage properties.
- The aforesaid conditions indicate material uncertainty on the company's ability to continue as going concern. The financial statements have been prepared on going concern basis by the management.



SECURITIES & EXCHANGE COMMISSION OF PAKISTAN

Corporate Supervision Department
Company Law Division

Continuation Sheet - 1 -

3. The Auditor also expressed an adverse audit opinion on the accounts for the year ended September 30, 2013, on similar basis i.e. negative equity, adverse current ratio, limited operations, insufficient cash flows and overdue financial liabilities that cast significant doubt on the ability of the Company to continue as going concern. The auditors further pointed out default in payment of financial institutions, which entitles the financial institutions to recover entire deferred amount. The Company however continued to prepare accounts on going concern basis.

4. Note 2 to the financial statements states that the financial statements have been prepared in accordance with approved accounting standards i.e. International Financial Reporting Standards issued by the International Accounting Standard Board as are notified under the Ordinance, provisions and directives issued under the Ordinance. Moreover, the directors in their reports to the members annexed with the accounts for year 2013 and 2014, responded to the auditors' observations which were found unsatisfactory. The auditors, in para (d) of Auditors' report stated that financial statements do not confirm with approved accounting standards as applicable in Pakistan, and don not give the information required by the Ordinance, in the manner so required and respectively do not give a true and fair view of the state of the Company's affairs as at September 30, 2014 and of the loss, comprehensive loss, its cash flows and changes in equity for the year then ended, due to significance of the matters discussed in paragraph (a) of the report.

5. Preparation of financial statements on the basis of going concern, *prima facie*, was inappropriate in view of the above referred factors, however, since the financial statements have been prepared on the going concern assumption, the board of directors of the Company despite being aware of material uncertainties that may cast significant doubt upon the Company's ability to continue as a going concern have failed to disclose the assets at net releasable value, in the financial statements.

6. The adverse opinion by the auditors in their respective reports, the materiality and pervasiveness of the qualification and inadequate explanation in the Directors' Reports, *prima facie*, renders the audited financial statements for the years ended September 30, 2014 misleading, false and incorrect. Consequently, a SCN was served upon the respondents on December 1, 2015 to show cause as to why penalty be not imposed under Section 492 of the Ordinance for the alleged



SECURITIES & EXCHANGE COMMISSION OF PAKISTAN

Corporate Supervision Department
Company Law Division

Continuation Sheet - 2 -

violations by the respondents. The respondent failed to reply the SCN as well as to the reminder issued dated April 22, 2016.

7. Subsequently, several opportunities for personal hearing were granted to respondents on May 5, 2016; May 23, 2016; June 02, 2016, June 16, 2016, but no response was received. In order to provide a final opportunity, the case was fixed for hearing on September 29, 2016 through hearing notice dated September 29, 2016. It was explicitly mentioned in the hearing notice that in case of failure of the respondents to make an appearance in person or through authorized representative, the Commission will proceed to issue ex-parte on the basis of material available on record. The respondents, excluding Mr. Muhammad Asif, the nominee director from National Investment Trust Limited (the "NITL"), neither responded to the hearing notices nor made any personal appearance on any of the hearing dates. Mr. Muhammad Asif appeared in the hearing held on September 29, 2016 and submitted stated in his verbal and written submissions that:

- a) That he has contributed to the improvement of overall compliance of laws by the Company in the capacity of a director, which can be witnessed from the minutes of Board of Directors (BOD) meetings dated January 3, 2014, and January 3, 2014 :
- b) He particularly raised the issue of adverse audit opinion issued by the auditors on the Accounts-2013 and Accounts2014 in the board meeting including the inappropriate use of going concern assumption in the preparation of accounts, and discussed the measures to address the basis of adverse opinion (worsening financial position, loan defaults), as well as to provide relevant information to the auditors.

8. 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."

In terms of the Commission's notification SRO 1003 (I)/2015 dated October 15, 2015, the powers to adjudicate cases under section 492 have been delegated to the Executive Director (Corporate Supervision Department).

7th Floor, NIC Building, 63-Jinnah Avenue
Islamabad, Pakistan

PABX + 92-51-9207091-4, Fax +92-51-9100454, 9100471, Email: webmaster@secp.gov.pk, Website: www.secp.gov.pk



SECURITIES & EXCHANGE COMMISSION OF PAKISTAN

Corporate Supervision Department
Company Law Division

(Continuation Sheet - 3 -)

9. I have analyzed the facts of the case, relevant provisions of the Ordinance, arguments put forth by the representative during the hearing and observed that Financial Statements for the year ended September 30, 2014 have failed to give a true and fair view of the state of affairs of the Company, by not bringing the facts before the shareholders and due to inappropriate use of going concern assumption. The Company also failed to remove qualifications of the auditor in the financial year 2013, and the auditor has again given adverse opinion in their audit report in year 2014. Further the Company is listed on securities exchange therefore provision of accurate and reliable information becomes more imperative.

10. It is my considered view that the directors of the Company are responsible for the misstatement in the financial statements. One of the main objectives and intent of Section 492 of the Ordinance is to protect the users, which may include investors, shareholders, creditors, bankers, customers etc., of financial statements against misstatements so that reliable financial information which is vital for making a well informed decision is available to them.

11. 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. 900,000/- (Rupees Nine hundred thousand only) in aggregate on the following 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
1.	Mr. Abbas Ali Agha (Chief Executive)	200,000
2.	Begum Akhtar Abid (Director)	100,000
3.	Ms. Naheed Zafar Mirza (Director)	100,000
4.	Mr Aftab Ahmad (Director)	100,000
5.	Mr. Ali Ghazi Mirza (Director)	100,000
6.	Mr Abdullah Kamran Soomro (Director)	100,000
7.	Mr. Asif Saeed (Director)	100,000
8.	Mr. Akber Ali Mirza (Director)	100,000
	Total	900,000

Mr. Muhammad Asif, the nominee director of NITL has not been imposed with the fine based on his participation in the BOD meetings, highlighting the core problems of the Company and



SECURITIES & EXCHANGE COMMISSION OF PAKISTAN

Corporate Supervision Department
Company Law Division

Continuation Sheet - 4 -

inviting the attention of the management to address the same. However, Mr. Muhammad Asif is warned for his failure to timely report the non-compliances and deteriorating financial and operational conditions of the Company to the Commission as per the spirit of Code of Corporate Governance, 2012. The role of nominee director is more important as compared to executive director as he can independently exercise an objective review of the management's performance and discharge his fiduciary duties as director.

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 under Section 42B of Securities and Exchange Commission of Pakistan Act, 1997. 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.

Abid Hussain
Executive Director

Announced:

November 10, 2016

Islamabad