



Corporate Supervision Department Company Law Division

Before Abid Hussain – Executive Director

In the matter of

Premier Sugar Mills & Distillery Company Limited

Number and date of Notice: CSD/ARN/351/2016-2937 dated February 24, 2017

Date of hearing: May 8, 2017 and January 25, 2018

Present: Mr. Muhammad Haroon Advocate M/s Hafian Al-Bar
Associates – Authorized Representatives

ORDER

UNDER SECTION 258 READ WITH SECTION 476 OF THE COMPANIES ORDINANCE, 1984

This Order shall dispose of the proceedings initiated against the Directors (*the Respondents*) of Premier Sugar Mills & Distillery Company Limited (*the "Company"*) through Show Cause Notice (*the "SCN"*) dated February 24, 2017 issued under the provisions of Section 258 read with Section 476 of the Companies Ordinance 1984 (*the "Ordinance"*).

2. Brief facts of the case are that record available with the Commission revealed that the Company filed application for appointment of cost auditor for the year ended September 30, 2016, which was received in Commission on October 31, 2016. Examination of the said application revealed that the Company recommended M/s Munawar Associates for the appointment of Cost Auditor. It was observed that M/s Munawar Associates did not hold satisfactory Quality Control Review ("*QCR*") Program rating. Circular 7/2016 of the Commission dated February 15, 2016 requires all public listed companies to recommend name of Chartered Accountants/Cost and Management Accountants firms which hold satisfactory rating under QCR Program of ICAP/ICMAP respectively for appointment as cost auditor. The Commission vide its letters dated November 1, 2016, December 21, 2016, December 26, 2016, January 5, 2017 and January 13, 2017 repeatedly advised the Company to rectify and submit valid application with the Commission. However, it was observed that the Company did not remove the deficiencies in the application. The Company failed to appoint the cost auditor for the year ended June 30, 2016 within sixty days from the close of financial year as prescribed in Rule 3(ii) of the Rules.



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3. In view of the foregoing, SCN dated February 24, 2017 was issued to the directors of the Company for noncompliance with Section 258 of Ordinance and the Sub-rule (ii) of Rule 3 of Companies (Audit of Cost Accounts) Rules, 1998 (the "Rules").

4. M/s Hafian Al-Bar Associates submitted the reply to the SCN on behalf of the Company vide letter dated March 3, 2017. Brief of the reply is mentioned below:

The application for appointment of cost auditor was submitted in time i.e. October 28, 2016. Personal visits were made in the Commission to understand the new appointment procedure for cost auditor. On January 3, 2017, the appointed advocate/legal advisor requested the Commission to facilitate the Company with suitable time as this matter is very much complicated and first time came in the knowledge of the Company. Nevertheless, requirement for appointment of the Cost auditor was completed and submitted with the Commission on January 24, 2017. The Commission issued the approval letter to the Company on January 26, 2017.

5. Considering the reply, a hearing in the matter was fixed on May 8, 2017. Mr. Muhammad Haroon Advocate of M/s Hafian Al-Bar Associates attended the hearing as Authorized Representative. During the hearing, the Authorized Representative reiterated the same stance as submitted in reply to the SCN. Subsequent to this, another hearing was fixed January 25, 2018 before the Executive Director. However, it was observed that no one appeared in the said hearing. Therefore, I am constrained to conclude the proceeding based on the available record.

6. Before proceeding further, it is necessary to advert to the relevant provisions of law:

a. Section 258 of the Ordinance states that where any company or class of companies is required under clause (e) of sub-section (1) of section 230 to include in its books of account the particulars referred to therein, the Federal Government may direct that an audit of cost accounts of the company shall be conducted in such manner and with such stipulations as may be specified in the order by an auditor who is a chartered accountant within the meaning of the Chartered Accountant Ordinance, 1961 (X of 1961), or a cost and management accountant within the meaning of the Cost and Management Accountants Act, 1966 (XIV of 1966); and such auditor shall have the



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same powers, duties and liabilities as an auditor of a company and such other powers, duties and liabilities as may be prescribed.

b. Rule 3(ii) of the Rules prescribes that:

The cost auditor shall be appointed by the directors with the prior approval of the Corporate Law Authority within sixty days of the close of financial year of the company.

c. Rule 3(iii) of the Rules prescribes that:

The company shall apply to the Corporate Law Authority in the form set out in Appendix I for appointment of cost auditor not later than thirty days before the date on which cost auditor is to be appointed.

7. In terms of the Commission's Notification S.R.O. 751 (I)/2017 dated August 2, 2017, the powers to adjudicate cases under Section 259 of the Ordinance have been delegated to the Executive Director (Corporate Supervision Department).

8. As regards the matter at hand, I have analyzed the facts of the case, relevant provisions of the Ordinance, representation given by the Authorized Representative and observed that the Respondents are in contravention of the provisions of Section 258 of the Ordinance read with Rule 3 of the Rules. However, the Respondents appointed M/s Zahid Jamil & Company Chartered Accountant as Cost Auditors of the Company, who was QCR rated and the Commission has also approved the said appointment. Further, in light of the fact that the cost audit requirement for the companies has been removed in the newly promulgated Companies Act, 2017, I am inclined to take a lenient view of the matter and in exercise of the powers conferred by aforesaid provision of the Ordinance, hereby, warn the respondents to ensure meticulous compliance of law in future.

ABID HUSSAIN

Executive Director

Corporate Supervision Department

Announced:

May 15, 2018

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