



Corporate Supervision Department  
Company Law Division

Before Amina Aziz – Director

*In the matter of*

**Shakarganj Limited Employees Provident Fund**

Number and date of notice: CSD/ARN/322/2016-1819-21 dated December 13, 2016  
Date of hearing: February 14, 2017  
Present: Mr. Rashid Sadiq  
Authorized Representatives

**ORDER**

**RULE 5 OF THE EMPLOYEES PROVIDENT FUND (INVESTMENT IN LISTED SECURITIES)  
RULES 1996 READ WITH SECTION 476 OF THE COMPANIES ORDINANCE, 1984**

This order shall dispose of the proceedings initiated against board of trustees of the provident fund (the "respondents") of Shakarganj Limited (the "Company"). These proceedings were initiated through show cause notice ("SCN") dated December 13, 2016 under rule 5 of the Employees Provident Fund (Investment in Listed Securities) Rules 1996 ("Rules") read with section 476 of the Companies Ordinance 1984 (the "Ordinance").

2. The brief facts of the case are that review of annual audited financial statements for the year ended on September 30, 2015 ("Accounts") and information subsequently provided by the Company, revealed that investment of the Shakarganj Limited Employees Provident Fund Trust ("Fund") in the listed securities exceed 30% of the Fund. The detail of which is tabulated as under;

Description	Rupees in million	
	2015	2014
Total size of the Fund (net assets)	153.480	156.820
Total investment in equities	80.309	80.309
Percentage of the investment	52%	51%

3. The respondents have invested in shares of the Company in the following manner;

Nature of investment	No. of shares	Amount Rs.
Shakarganj Preference Shares	1,700,500	7,533,215
Skakarganj Ordinary shares	526,222	9,319,392

4. The board of trustees of the provident fund, prima facie, contravened provisions of sub-rule (i), (iv)(b) and (v) of rule 3 of the Rules by making investment in listed securities exceeding the prescribed limit of 30% of the provident fund, invested in shares of listed company which has not declared/paid dividend to its shareholders during preceding consecutive years and has not



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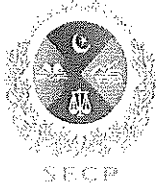
been rated as an investment grade with minimum rating of "BBB" for such securities by credit rating company. Consequently, the SCN was issued to the respondents requiring them to show cause in writing as to why penal action may not be taken against them in terms of rule 5 of the Rules.

5. In response to the SCN, Mr. Rashid Sadiq ("authorized representative") submitted reply vide letter dated January 21, 2017. A brief of the reply relevant to the contents of the SCN is given below:

- a) The Employees Provident Fund (Investment in Listed Securities) Rules, 1996 under which the Notice has been issued on December 13, 2016 were repealed by the issue of SRO 770(I)/2016 issued on August 17, 2016 by operation of clause 7 of the SRO.
- b) The new rules were promulgated on August 17, 2016 and the Notice was issued on December 13, 2016. The Commission has erred in applying the repealed rules to initiate the instant proceedings against the trustees of the Fund.
- c) With regard to the investment in listed equities in excess of 30% threshold, it is respectfully submitted that firstly, the percentage of investment is not 52% of the size of the Fund and secondly, the same will be brought down to the threshold stipulated under the new rules within the transitional timeline in terms of rule 1(3) of the new rules.
- d) The new rules allow two years' time with effect from August 17, 2016 to bring investments into conformity with the requirements of the provisions of the new rules. Therefore, the Fund undertakes to comply with the new rules within the stipulated time.
- e) It is submitted that investment in preference shares have been redeemed, the investment in equities will be brought in to conformity with the new rules within the stipulated time of transitional provisions in terms of rules 1(3) of the new rules.

6. In order to provide opportunity of personal hearing; the case was fixed before the undersigned on February 14, 2017. Mr. Rashid Sadiq, on behalf of respondents appeared, and reiterated the submissions made in the written reply.

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



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Rule 3 of the Rules provides *conditions for investment in listed securities, etc.-- Where it is decided to make investment, out of the provident fund constituted for the employees of a company, in securities of the companies listed on any stock exchange in Pakistan, such investment shall be subject to the following conditions, namely: -*

- (i) *Total investment in listed securities shall not exceed thirty percent of the provident fund;*
- (ii) *investment in shares or other listed securities of a particular company shall not exceed five per cent of its paid up capital;*

8. Having gone through the facts of the case, provisions of the law and submissions of the authorized representative, it has been observed that as at September 30, 2015 the Rules were applicable and the respondents have violated the provisions of sub-rule (i), (iv)(b) and (v) of rule 3 of the Rules. However keeping in view subsequent redemption of preference shares and commitment of respondents that the investment in equities will be brought in to conformity with the new rules within the stipulated time of transitional provisions of the new rules. I hereby conclude the case with a warning to the respondents to ensure future compliance of applicable legal provisions.

**Amna Aziz**  
Director

**Announced:**  
May 3, 2017  
Islamabad

