



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN
Securities Market Division
Market Supervision and Capital Issues Department

Before the Director/HOD (MSCID)

In the matter of Show Cause Notice issued under Section 224(4) of the Companies Ordinance, 1984 to Attock Refinery Limited, a beneficial owner of more than ten percent of equity security of Attock Petroleum Limited

Date of Hearing:

November 30, 2012

Present at Hearing:

Representing the Respondent:

(i) Mr. Saif ur Rehman Mirza

Company Secretary
Attock Refinery Limited

Assisting the Director/HOD (MSCID):

(i) Mr. Muhammad Farooq

Joint Director

(ii) Mr. Muhammad Sadiq Shah

Deputy Director

Order

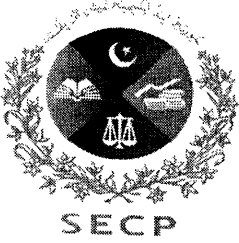
This order will dispose of the proceedings initiated under Section 224(4) of the Companies Ordinance, 1984 ("**Ordinance**") by the Securities and Exchange Commission of Pakistan through Show Cause Notice No. SMD/BO/11(726)2005 dated 30/07/2012 ("**Notice**") issued to Attock Refinery Limited ("**Respondent**"), a beneficial owner of more than ten percent equity security of Attock Petroleum Limited ("**Issuer Company**").

2. The facts of the matter leading up to aforesaid Notice are that the Issuer Company is a public listed company and the Respondent being a beneficial owner of more than ten percent of its ordinary shares was required to file return of beneficial ownership on Form 32, within the period stipulated under Section 222 of the Ordinance. However, it failed to discharge the said obligation which attracts penal provisions contained in Section 224(4) of the Ordinance.

3. Section 222(2)(c) of the Ordinance stipulates the period within which the Form 32 is required to be submitted. For convenience, the provisions of the said Section are reproduced hereunder:-

"where there is any change in the position or interest as aforesaid including a change in the beneficial ownership of any equity, security, within fifteen days of such change"

4. It is worth mentioning that in order to provide an opportunity to directors/beneficial owners of listed companies to file their over due returns of beneficial ownership without facing penal action, the Commission through Notices dated 07/09/2009 and 21/09/2010 asked them to file their returns of beneficial ownership with Head Office of the Commission by 31/10/2009 and 31/10/2010



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respectively and to ensure timely compliance of Section 222 of the Ordinance in future. The aforesaid Notices were sent to all listed companies and were also disseminated through stock exchanges and print media.

5. On account of scrutiny of record of this office, it was observed that the Respondent has failed to file return of change in beneficial ownership on Form 32. The Respondent was, therefore, asked vide letter dated 01/06/2012 to file return of beneficial ownership on Form 32 alongwith reasons for non-filing of the same, within the period stipulated in Section 222 of the Ordinance.

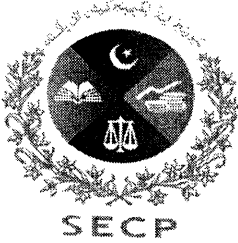
6. In response to the aforesaid letter, the Respondent filed Form 32 with this Commission on 14/06/2012. The said Form 32 showed that the Beneficial Owner received 2,485,419 bonus shares on 08/11/2010. Thus, the Beneficial Owner was required to file the said return with this Commission latest by 23/11/2010, but the same has been filed on 14/06/2012 with delay of 565 days, in contravention of Section 222(2)(c) of the Ordinance. The said contravention attract penal provisions of Section 224(4) of the Ordinance, which provides as under:-

“Whoever knowingly and wilfully contravenes or otherwise fails to comply with any provision of section 222, section 223 or section 224 shall be liable to a fine which may extend to thirty thousand rupees and in the case of a continuing contravention, non-compliance or default to a further fine which may extend to one thousand rupees for every day after the first during which such contravention, non-compliance or default continues”.

7. The Commission took cognizance of the aforesaid default and issued Notice to the Respondent under Section 224(4) of the Ordinance, calling upon it to explain through written reply alongwith documentary evidence, if any as to why action may not be taken against it pursuant to Section 224(4) of the Ordinance, for aforesaid contravention of Section 222(2)(c) of the Ordinance. Moreover, the Respondent was also advised to inform in writing if it wishes to be heard in person or through authorized representative to present the stance in person. The Chief Executive Officer of the Respondent vide letter dated 09/08/2012 filed written response to the Notice.

8. In order to provide an opportunity of being heard in person, hearing in the matter was fixed for 30/11/2012 at Commission's Head Office, Islamabad. On the said date, Mr. Saif ur Rehman, Company Secretary of the Respondent (“**Authorized Representative**”) appeared before me on behalf of the Respondent. The submissions made by the Chief Executive Officer of the Respondent in writing as well as verbally by the Authorized Representative during the course of personal hearing be summarized as under:-

- a) *At time of the issuance of the bonus shares,, the management of the Respondent was deeply troubled by the act of a broker, M/s Live Securities Limited (**Broker**) who delayed in transferring the Company's shares from CDC sub account No. 04978-6247 to Respondent's CDC account No. 04705-68395 (**Investor Account**). In this regard, the Respondent also lodged a formal complaint with the Commission.*



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- b) *The contravention was not committed knowingly and willfully.*
- c) *The delay in filing of the return may be condoned.*
- d) *The Authorized Representative ensured that the Respondent will comply with the requirement of Section 222 of the Ordinance within the prescribed time period in future.*

9. I have considered the aforesaid submissions made by the Respondent in writing as well verbally by the Authorized Representative during the course of hearing. The Respondent has admitted the default with the plea that:-

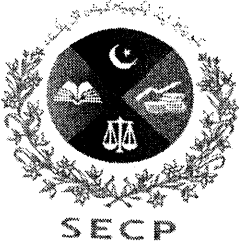
- (i) The returns could not be filed within the stipulated time period due to non-transfer of shares by the Broker from the sub-account of Investor Account.
- (ii) The default was not committed knowingly and willfully.

10. My observations in this regard are as under:-

- (i) In order to check the validity of the plea that *the "return could not be filed timely due to dispute with the Broker"* I have gone through the documents specifically copy of the foresaid complaint, furnished by the Chief Executive Officer of the Respondent in support of his plea. The said complaint reveals that in August 2005, the Respondent opened a CDC sub-account with the Broker. Later on, in 2009, the Respondent opened aforementioned Investor Account with the CDC and asked the Broker for transfer of shares from sub-account to Investor Account. But, the Broker did not transfer the entire shares. Thus, the Respondent filed a complaint dated 25/09/2010 with the Commission, alleging that the Broker despite various letters/reminders failed to transfer 187,100 shares of Attock Petroleum Limited out of total 12,600,096 shares from the sub-account to the Investor Account.

Thus, the complaint in question was filed with the Commission on 25/09/2010 for non-transfer of only 187,000 shares from the sub-account to Investor Account. While, the under reference return of beneficial ownership pertains to reporting of 2,485,419 bonus shares, which were received by the Respondent on 08/11/2010. Therefore, the said bonus shares were neither the part of the said complaint nor the same were credited to the sub-account of the Respondent maintained with the Broker. Accordingly, in my view, the argument that the *"return could not be filed within the stipulated time limit due to dispute with the Broker"* does not have any merit and relevance.

- (ii) Concerning the plea that the *"default was not committed knowingly and willfully"* it is pointed out that the affairs of the Respondent are dealt by professional personnel who are supposed to be fully acquainted with the requirements of the Ordinance



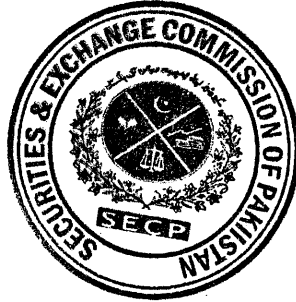
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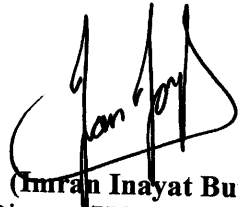
and to ensure timely compliance of regulatory and corporate requirements on behalf of the Respondent. But despite having services of professional personnel, the Respondent failed to discharge its liability entailed under Section 222 of the Ordinance.

11. In view of the foregoing discussion, it is evident that the aforementioned arguments advanced on behalf of the Respondent do not have any merit. The shares in question were not part of the dispute referred by the Respondent. Furthermore, Respondent was fully aware about its liability of filing of the returns of beneficial ownership, but it failed to do so within the stipulated time limit. Thus, in the light of aforesaid discussion, I am of the view that the Respondent has contravened the provisions of Section 222 of the Ordinance despite having knowledge of the requirement of the law. However, on receipt of aforesaid letter from the Commission, the Respondent has filed the Form 32. Taking a lenient view of the default, in exercise of powers conferred under Section 224 (4) of the Ordinance, I hereby impose a fine of Rs. 30,000 (thirty thousand rupees only) on the Respondent and no further fine for continuous default is imposed.

12. The Respondent is directed to deposit the fine in the account of the Commission being maintained in the designated branches of MCB Bank Limited, within 30 days of the date of this order and furnish Original Deposit Challan to this office.

13. This Order is issued without prejudice to any other action that the Commission/Registrar may initiate against the Respondent in accordance with the law on matter subsequently investigated or brought to the Notice of the Commission.




(Imran Inayat Butt)
Director/HOD (MSCID)

Islamabad.
Announced on January 09, 2013