



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

Before the Director/HOD (MSCID)

In the matter of Show Cause Notice issued under Section 224(4) of the Companies Ordinance, 1984 to Mr. Muhammad M. Ismail, Director of Ismail Industries Limited

Date of Hearing: June 20, 2012

Present at Hearing:

Representing the Respondent: Mr. Ghulam Farooq,
Company Secretary,
Ismail Industries Limited

Assisting the Director/HOD (MSCID): (i) Mr. Muhammad Farooq,
(Through Video Conference Link) 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 (“**Commission**”) through Show Cause Notice No. S.M(B.O)C.O.222/18(1284)90 dated 10/05/2012 (“**Notice**”) issued to Mr. Muhammad M. Ismail (“**Respondent**”), Director of Ismail Industries 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 its Director was required to file return of change in his beneficial ownership on Form 32, within the period stipulated under Section 222 of the Ordinance. However, he 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



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31/10/2010 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 returns of changes in beneficial ownership on Form 32. The Respondent was, therefore, asked vide letter dated 01/02/2012 to file returns 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 twelve Forms 32, with this Commission, for the following changes in beneficial ownership:-

Sr. No.	Date	No. of Shares	Rate	Nature	Delay in Days
1	21/11/2006	2,500	54.85	Purchase	1,899
2	15/12/2006	2,000	41.52	Purchase	1,875
3	08/02/2006	22,500	36.84	Purchase	1,820
4	02/10/2007	1,500	48.14	Purchase	1,584
5	25/06/2009	11,000	53.83	Purchase	952
6	12/10/2009	15,559	58.65	Purchase	843
7	03/11/2009	14,188	77.59	Purchase	821
8	09/03/2010	22,031	93.00	Purchase	695
9	29/04/2010	1,665,612	30.00	Right Shares	644
10	30/06/2010	36,667	102.00	Purchase	582
11	28/10/2010	47,863	66.21	Purchase	462
12	12/09/2011	19,629	70.35	Purchase	143

The aforesaid changes in shareholding have been reported to the Commission with delay ranges from 1,899 days to 143 days, in contravention of Section 222(2)(c) of the Ordinance. The said contraventions 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 him to explain through written reply alongwith documentary evidence, if any as to why action may not be taken against him



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pursuant to Section 224(4) of the Ordinance, for aforesaid contravention of Section 222(2)(c) of the Ordinance.

8. In order to provide an opportunity of being heard in person, hearing in the matter was fixed for 24/05/2012 at the Commission's Head Office, Islamabad. In response, Mr. Ghulam Farooq (the "**Authorized Representative**") vide letter dated 15/05/2012 requested on behalf of the Respondent to change venue of the hearing from Islamabad to Karachi, which was accepted and the hearing was re-fixed for 20/06/2012. On the given date, the Authorized Representative appeared before me on behalf of the Respondent and submitted written reply to the Notice. The submissions made on behalf of the Respondent by the Authorized Representative in writing as well as verbally during the course of hearing be summarized as under:-

- a) *The returns for the under reference changes in beneficial ownership were timely filed with the Company Registration Office, Karachi, but due to oversight the said returns could not be filed with the Commission.*
- b) *The delay in submission of the return of beneficial ownership was not willful.*
- c) *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 on behalf of the Respondent. The entire arguments of the Respondent revolve around the contention that the returns could not be filed with the Commission due to oversight. In this regard it is pointed out that the Respondent is on the Board of Directors of the Issuer Company since last twenty years. He is supposed to be fully acquainted with the requirements of Section 222 of the Ordinance. But the Respondent failed to discharge his liability entailed under Section 222 of the Ordinance, until, the same was pointed out by this office through letter dated 03/02/2012. Moreover, I am of the view that Sections 220 to 224 of the Ordinance speak about a Scheme. Under the said Scheme such beneficial owners/persons are required to report their shareholding as well as changes in shareholding at the same time to the Company, Registrar of Companies and the Commission. The said officers and more than ten percent shareholders of a listed company are required to fulfill their statutory requirements within the time period provided in the law. The inevitability of the filing of the return of beneficial ownership with the Commission may be adjudged from the fact, that it enables the Commission to monitor the trading activities of the returnee.

10. In view of the foregoing discussion, it is evident that the Respondent was aware about his liability of filing of the returns of beneficial ownership, but he failed to do so within the stipulated time limit. In my opinion, the Respondent has contravenes the provisions of Section 222 of the Ordinance. 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



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conferred under Section 224 (4) of the Ordinance, I hereby impose a fine of Rs. 15,000 (fifteen thousand rupees only) on the Respondent and no further fine for continuous default is imposed.

11. 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, to the effect.

12. 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.

Islamabad.
Announced on June 26, 2012



(Imran Inayat Butt)
Director/HOD (MSCID)