



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

Before the Director/HOD (MSCID)

In the matter of Show Cause Notice issued under Section 246 of the Companies Ordinance, 1984
to Khairpur Sugar Mills Limited

Date of Hearing: December 30, 2011

Present at Hearing:

Representing the Respondent:

- (i) Mr. Abdul Wahid Naviwala,
Company Secretary,
Khairpur Sugar Mills Limited
- (ii) Mr. K.D. Rajani,
Advocate High Court

Assisting the Director/HOD (MSCID):

- (i) Mr. Muhammad Farooq,
Joint Director (SMD)

Order

This order will dispose of the proceedings initiated under Section 246(2) 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.156(101)93 dated 21/12/2011 (“**Notice**”) issued to Khairpur Sugar Mills Limited (“**Respondent**”).

2. The facts of the matter leading up to aforesaid Notice are that it was observed from the record of this office that the Respondent is a public listed company. Thus, pursuant to this office Notifications Number S.R.O 763(1)/85 dated 7/8/1985 & S.R.O 1014(1)/86 dated 12/11/1986 issued in exercise of the powers conferred by sub-section (1) of Section 246 of the Ordinance, Circular No. 4 of 1992 and Circular No. 6 of 2001, the Respondent was required to file annual return in Form-A of the Third Schedule specified in Section 156 of the Ordinance, 1984 and the prescribed additional information regarding pattern of shareholding and soft copy of list of members (**Annual Return**) with Head Office of the Commission within the stipulated time limit. But, the Respondent failed to the said Annual Returns for the Annual General Meetings held in the years 2009, 2010 and 2011.

3. The aforesaid Notification No. S.R.O 763(1)85 stipulates the time period within which the said Annual Return is required to be submitted as under:-

“within forty-five days from the date of the annual general meeting held in the year or, when no such meeting is held or if held is not concluded, from the last day of the calendar year to which it relates”.



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4. It is worth mentioning that the Commission through Notices dated 07/09/2009 and 21/09/2010 provided an opportunity to all listed companies to file their over due Annual Returns with Head Office of the Commission by 31/10/2009 and 31/10/2010 respectively and to ensure timely compliance in future. The said notices were sent to all listed companies and were also disseminated through Stock Exchanges and print media.

5. On scrutiny of record it was noticed that the Respondent failed to file the Annual Returns, for the Annual General Meetings held in the years 2009, 2010 and 2011. The Company Secretary of the Respondent was, therefore, asked vide letter dated 07/10/2011 to file the said Annual Returns alongwith reasons for non-filing of the same within the stipulated time limit.

6. In response to aforementioned letter, the Respondent filed the said Annual Returns for the Annual General Meetings held in the years 2009, 2010 and 2011 with this Commission on 20/10/2011 with a delay of 948 days, 583 days and 219 days respectively, in contravention of aforementioned Notifications/directive issued by the Commission. The said defaults attract penal provisions of Section 246(2) of the Ordinance, which provides as under:-

"In the event of a default in complying with the order of the Commission issued under sub-section (1), the company, and every officer of the company who knowingly and willfully authorizes or permits the default, shall be liable to a fine which may extend to one thousand rupees for every day during which the default continues."

7. The Commission accordingly took cognizance of the aforesaid default and issued Notice, calling upon the Respondent to explain through written reply alongwith documentary evidence, if any as to why action may not be taken against it pursuant to Section 246(2) of the Ordinance, for aforesaid contraventions of the abovementioned Notification.

8. In order to provide an opportunity of being heard in person, hearing in the matter was fixed for 30/12/2011 at the Commission's Regional Office, Karachi. On the given date Mr. Abdul Wahid Naviwala, Company Secretary of the Respondent and Mr. K.D. Ranjani, Advocate High Court ("**Authorized Representative**") appeared before me and made the followings submissions on behalf of the Respondent:-

- a) *The Annual Returns were filed with Company Registration Office, Karachi, within due date, however due to misunderstanding and omission the returns could not be filed with the Commission.*
- b) *The delay in filing of Annual Returns was not willful and is regretted.*
- c) *The Representative requested to condone the default and assured that the return will be filed within the stipulated time limit, in the future.*



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9. I have considered the submissions made by the Authorized Representatives on behalf of the Respondent during the course of personal hearing. The Respondent claimed that it has been filing the said annual returns within the stipulated time limit. The Respondent further claimed that as per its practice, the Form A for the year 2010 was also filed with the Company Registration Office, within the prescribed time limit and its copy was dispatched to the Commission.

10. In order to arrive at conclusion, I have reviewed available record of this office and the documentary evidence furnished by the Respondent. The record of this office reveals that the Respondent has previously filed its returns with the Commission, within the stipulated time limit. Furthermore, the documents submitted by the Respondent in support of its claim reveal that the under reference return was filed with the Company Registration Office, Karachi on 26/01/2011 i.e. within the period stipulated in Section 156 of the Ordinance. Considering the arguments and the documentary evidence furnished by the Respondent, I am of the view that the Respondent may have dispatched the return in question to the Commission, within the period specified in foresaid Notification. Therefore, a lenient view of the matter has been taken and the contention of the Respondent is accepted.

11. 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 20, 2012