



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

Before the Director/HOD (MSCID)

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

Date of Hearing:

26/10/2011

Present at Hearing:

Representing the Respondent:

*Mr. Hasinuddin,
Manager Corporate Affairs,
Rao and Company Chartered Accountants*

Assisting the Director (SMD):

*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(73)93 dated 17/10/2011 ("**Notice**") issued to Bawany 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 762(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 Meeting held in the year 2011.



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3. The aforesaid Notification No. S.R.O 762(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”.

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 Return, for the Annual General Meeting held in the year 2011. The Company Secretary of the Respondent was, therefore, asked vide letter dated 15/09/2011 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 under reference Annual Returns on 23/09/2011. The documents revealed that Annual General Meeting of the Respondent was held on 31/01/2011. Thus the said Annual Returns have been filed with a delay of 190 days, in contravention of aforementioned Notifications/directive issued by the Commission. The said default attracts 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.



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8. In order to provide an opportunity of being heard in person, hearing in the matter was fixed for 26/10/2011 at the Commission's Regional Office, Karachi. On the given date Mr. Hasinuddin, Manager Corporate Affairs ("**Authorized Representative**") appeared before me on behalf of the Respondent. The Authorized Representative filed written reply to the Notice and made the followings submissions on behalf of the Respondent that:-

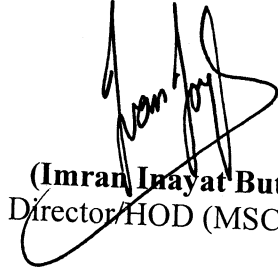
- a) *The Respondent was taken over by the present management in 29/11/2010. Soon after the take over, the management remained busy for making arrangements for the start of seasonal operations of the Mill for which financial arrangements and other logistics work was required.*
- b) *The Annual Returns were filed with Registrar Company Registration Office, Karachi, within due date, however due to misunderstanding and omission the returns could not be filed with the Commission.*
- c) *The delay in filing of Annual Returns was accidental and not willful and no harm or loss was caused to anybody due to late filing of Annual Return. No advantage or benefit has been made to any Director/Chief Executive or Officers of the Company with the late filing of Annual Returns to the Commission.*
- d) *The delay in filing of Returns being first default of the present management may be condoned and assured that no such default will not be repeated in the future.*

9. I have considered the submissions made by the Authorized Representative on behalf of the Respondent during the course of personal hearing. The Respondent has admitted the default of late filing of the Annual Returns with the contention that said default was not committed willfully and knowingly. The Respondent has assured for timely filing of the Annual Returns in future and requested to condone the default in question. In order to arrive at conclusion, I have also reviewed the available record which reveals that the Respondent has filed the under reference Annual Returns with Company Registration Office, Karachi, within the period stipulated in Section 156 of the Ordinance. Considering the arguments advanced on behalf of the Respondent, I intend to agree with the contention of the Respondent and of the view that the late filing of the under reference Annual Returns may not be willful. Therefore, a lenient view of the matter has been taken and the Respondent is hereby strictly warned to ensure timely compliance of aforesaid Notifications/directives issued by the Commission in future.



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10. 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 November 03, 2011