



Balochistan Particle Board Limited

3rd Floor, Imperial Court, Dr. Ziauddin Ahmed Road, Karachi, Phones: 35680036-9 Fax: 92-21-35684086

Ref : BPBL/SD/2019/1144

October 11, 2019

The General Manager
Pakistan Stock Exchange Limited
Stock Exchange Building
Stock Exchange Road
Karachi.

Subject: **MATERIAL INFORMATION**

Dear Sir,

Enclosed please find the Order under Clause (m) of Section 301 read with clause (b) of Section 304 of the Companies Act, 2017 and Clause (b) of Section 305 read with Clause (b) of Section 309 of repealed Companies Ordinance, 1984 received from SECP for your kind perusal.

The company disputes the order and will soon file an appeal before the SECP Appellate Bench against the above order. Needless to emphasize the matter was initiated by the Additional Registrar, Karachi as informed by SECP vide their letter No. EMD/519/540/2002-3722 dated November 11, 2003 and the company had been protesting against winding up as proposed by the Additional Registrar.

We shall keep you posted for the development in the matter.

Yours Sincerely

Irfan Ghulam Muhammad
Company Secretary

Encl.: Copy of Order dated October 03, 2019



Corporate Supervision Department
Company Law Division

Say No To Corruption

Through Courier
October 03, 2019

No. CSD/ARN/457/2017 • 782

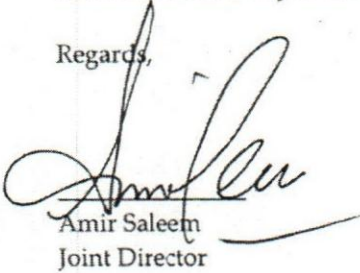
All the Directors
Through Company Secretary
Balochistan Particle Board Limited
Imperial Court, 3rd Floor
Dr. Ziauddin Ahmed Road
Karachi

Subject: Order in respect of Show Cause Notice No. CSD/ARN/457/2017 dated March 28, 2017 under section 301 read with section 304 of the Companies Act, 2017.

Dear Sir/Madam,

Please find enclosed herewith copy of the order dated October 03, 2019 in the titled matter for your record and necessary action.

Regards,



Amir Saleem
Joint Director

Encl.: Copy of Order dated October 03, 2019.



Corporate Supervision Department
Company Law Division

Before Abid Hussain – Executive Director

In the matter of

Balochistan Particle Board Limited

Number and date of notice: CSD/ARN/457/2017 dated March 28, 2017
Date of hearings: April 17, 2017, August 16, 2017, December 04, 2017, December 28, 2017, January 24, 2018, October 29, 2018, March 25, 2019, April 01, 2019, July 29, 2019
Authorized representatives: Mr. Ali Niaz Akhtar, Director
(on behalf of the Company) Mr. Amir Bashir Ahmed, CFO & Company Secretary

ORDER

Under Clause (m) of Section 301 read with clause (b) of Section 304 of the Companies Act, 2017

[Clause (b) of Section 305 read with Clause (b) of Section 309 of repealed Companies Ordinance, 1984]

This order shall dispose of proceedings in the matter of show cause notice dated March 28, 2017 under Section 309 read with Section 305 of the repealed Companies Ordinance, 1984 (the “Ordinance”) now replaced with Companies Act, 2017 (the “Act”) issued to Balochistan Particle Board Limited (“the Company”) and directors (collectively called “respondents”) of the Company.

2. The facts leading to this case, briefly stated, are that the Company Registration Office Karachi, approached this office for grant of sanction in terms of clause (b) of Section 309 read with clause (c) of Section 305 of the repealed Ordinance (corresponding Clause (m) of Section 301 read with clause (b) of Section 304 of the Act) to present a petition before the Honorable High Court for winding up of the Company on the grounds that the Company has suspended its operations since 1997.

3. Show cause notice dated March 28, 2017 was served on the respondents under clause (b) of Section 309 read with clause (c) of Section 305 of the Ordinance indicating the aforesaid grounds to present a petition for winding up of the Company.

SECURITIES AND EXCHANGE
COMMISSION OF PAKISTAN
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SECURITIES & EXCHANGE COMMISSION OF PAKISTAN

Corporate Supervision Department
Company Law Division

Continuation Sheet - 1 -

4. The Company vide its letter dated April 14, 2017 provided written submission in response to the aforesaid show cause notice. It was stated that it would not be just and equitable to file a winding up petition before the court as it would frustrate all the efforts made by the Company during the last two decades. It was also stated that subsequent to the closure of business in 1997, various steps for the benefit of the Company were taken that are briefly enumerated below:

- a) In view of reputation of Dawood Habib Group and in hope of revival of the Company, the sponsor directors arranged loan amounting to Rs. 54.37 million. These funds were utilized to repay long term finances to banks, financial institutions, leasing companies, creditors etc. and there has been no default in meeting the financial obligations of the Company.
- b) The government of Sindh raised the demand of Rs. 57.4 million in respect of vend and permit fee; and Rs. 14.1 million in respect of excise duty on transportation of methanol from Karachi to Hub alongwith interest at rates applicable on Khas Deposit Certificates treating methanol as liquor under the Sindh Abkari Act 1878. The demands are not acknowledged by the Company and in the year 2003-04 the Honorable High Court of Sindh decided these cases in favour of the Company by maintaining that methanol does not fall within the purview of Sindh Abkari Act 1878 and such fee cannot be levied. Sindh Government has filed an appeal before Honorable Supreme Court of Pakistan which is pending judgement / decision. The hearing was previously fixed and the case was heard from 29 to 31 March 2017. The legal counsel is hopeful of positive decision in favour of the Company.
- c) From December 2004, the Company has rented out part of its premises to third parties for their storage and commercial operations which has generated sufficient revenue for meeting running expenses inclusive of legal expenses for the aforementioned suit by Sindh Government.
- d) The Company is fully compliant with all the contractual and statutory obligations under the Companies Ordinance, 1984 and Code of Corporate Governance.
- e) Presently no dues are payable to outside creditors except the contingent liability in respect of demands raised by Sindh Government pending in honorable court. The Company is hopeful of favorable decision that will have material bearing on the future course of action to be taken by the Company.

5. The respondents were provided opportunity of personal hearing on April 17, 2017. Mr. Ali Niaz Akhtar, director of the Company, was authorised on behalf of the Company to appear on the date of hearing.



SECURITIES & EXCHANGE COMMISSION OF PAKISTAN

Corporate Supervision Department
Company Law Division

Continuation Sheet - 2 -

The authorised representative reiterated the written submissions stated above and requested time for resumption of operations. Subsequently, the Company vide letter dated August 12, 2017 once again reiterated the written submission provided earlier and stated that appeal filed against the Company by Sindh Government is still pending before the Supreme Court. Another opportunity of hearing was fixed on August 16, 2017 wherein the authorised representative appeared along with Mr. Amir Bashir Ahmed, CFO & company secretary. The grounds stated earlier by the Company were reiterated w.r.t the court case pending before the honorable Supreme Court of Pakistan and further time period of three (3) months was requested.

Another opportunity of hearing was fixed on December 04, 2017 which was adjourned on request of the Company and rescheduled on December 28, 2017. However no one appeared on the stated date of hearing. The Company vide its letter dated January 22, 2019 submitted written submissions primarily reiterating the grounds submitted earlier vide letter of the Company dated April 14, 2017. Subsequently, an opportunity of hearing was fixed on January 24, 2018 wherein the authorised representative appeared reiterating the grounds stated earlier w.r.t the appeal against the Company in court and reaffirming the intention to restart operations. A time of 6 months was requested to enable the Company to revive its operations.

The Commission vide letter dated July 31, 2018 sought details of the status of revival alongwith relevant supporting evidence. In response, the Company vide its letter dated August 06, 2018 repeated its stance of constraints of restarting its operation based on suit filed by Sindh Government. Further, the Company vide its letter dated October 27, 2018 once again stated that the Company is awaiting decision on suit filed by Sindh Government while it is generating income by renting its premises to third parties. The Company was given opportunity of hearing on October 29, 2018 reiterating grounds stated repeatedly by the Company, informing that rental income is being received by the Company and requesting a time of 3 months for revival of the Company.

Consequently, hearing on the matter was fixed on March 25, 2019 adjourned on two separate requests of the Company and rescheduled on July 29, 2019 and August 07, 2019, respectively. The authorized representative appeared on the stated date of hearing and provided written submissions dated August 05, 2019 on behalf of responded stated the following:

- a) Hearing in matter of appeal filed by Sindh Government against the Company was held before the honorable Supreme Court on May 08, 2019 wherein the learned counsel of the appellant (Sindh Government) submitted that the provincial government is ready to withdraw appeals and surrender the indemnity bonds/ guarantee but will not refund any amount paid to the government on account of vend fee, permit fee and excise duty in this regard.



SECURITIES & EXCHANGE COMMISSION OF PAKISTAN

Corporate Supervision Department
Company Law Division

Continuation Sheet - 3 -

- b) The board of directors in its meeting held on June 14, 2019 considered the aforesaid proposal and accorded its approval for unconditional acceptance of the proposal made by the learned counsel on behalf of Sindh Government. Later the case was adjourned which may be taken during month of August i.e. after Eid ul Azha vacations.
- c) Copy of order of Supreme Court of Pakistan dated May 08, 2019 was provided.
6. The Commission is also in receipt of a letter of the Company dated August 20, 2019 addressed to Pakistan Stock Exchange, copy marked to Commission, wherein it is stated that the Company is undertaking its operations which comprise of renting out its premises to third parties for purpose of storage or commercial activities. However the principal line of business that is commercial production of Urea Formaldehyde continued to remain closed on account of pending litigations before the Honorable Supreme Court of Pakistan. The factors hindering the resumption of principle line of business are beyond the control of the Company. Further, the status of appeal based on hearing on May 08, 2019, as stated in letter of the Company dated August 05, 2019, was reiterated.
7. It is necessary to advert to the following relevant provisions of the Ordinance:

Section 305 of the Ordinance states:

"305. Circumstances in which company may be wound up by Court.- A company may be wound up by the Court:

(c) if the company does not commence its business within a year from its incorporation, or suspends its business for a whole year;"

Section 309 of the Ordinance states:

"309. Provisions as to applications for winding up. - An application to the Court for the winding up of a company shall be by petition presented, subject to the provisions of this section, either by the company, or by any creditor or creditors (including any contingent or prospective creditor or creditors), or by any contributory or contributories, or by all or any of the aforesaid parties, together or separately, or by the registrar, or by the Commission or by a person authorised by the Commission in that behalf."



SECURITIES & EXCHANGE COMMISSION OF PAKISTAN

Corporate Supervision Department
Company Law Division

Continuation Sheet - 4 -

8. In terms of the Commission's notification SRO 1003 (I)/2015 dated October 15, 2015, the powers to adjudicate cases under section 309 of the Ordinance have been delegated to Executive Director (Corporate Supervision Department).

9. Before proceeding further, it would be necessary to deliberate upon certain important facts regarding the Company. The Company was incorporated in Pakistan as a public limited company with shares quoted on Pakistan Stock Exchange. Principal business of the Company is manufacturing of Urea Formaldehyde. The commercial operations of the Company are ceased since the year 1997. The financial statements for year ended June 30, 2018 reflect that operations remained ceased and the Company has suffered recurring losses resulting in the equity eroded by Rs. 6.5 million. The auditor Tanzeem & Company, Chartered Accountants have expressed qualified opinion on financial health of the Company for the aforesaid year. In addition to other qualifications, the auditors had specifically stated that the Company is not in a position to realize its assets in the ordinary course of business and settle its outstanding liabilities and in absence of management's plan for revival of operations these conditions raise significant doubt that the company will be able to continue as a going concern. Moreover, the latest available financial statements for the quarter ended March 31, 2019 continue to reflect closure of operations and dismissal financial position whereby the accumulated losses are 36.883 million as opposed to share capital amounting to Rs. 30.00 million, the current liabilities exceed its current assets by Rs. 9.010 million. There are no concrete plans or efforts disclosed to members that could validate the intention of directors to resume commercial operations and revive the Company. The directors have also failed to submit any prospective plans to the Commission with respect to its operational or financial viability and efforts for revival of the Company despite being given ample opportunities.

10. The comments of the authorized representative have also not found to be cogent as they either primarily focused on outcome of appeal filed by provincial government in Supreme Court of Pakistan against the Company for more than a decade ago or uncertain future of the Company. Despite giving ample opportunities to the respondents, extending a time period of more than two years, to provide plans or evidence validating the assertions by representatives, no working plan was provided and the operations of the Company remained closed. The Company is generating income from renting its premises however the same is not its principle line of business. Contrary to the assertions of the Company, any chances of revival by reliance on mere outcome of the legal suit, if favorable, remains unrealistic and not based on any concrete plans or projections. Without prejudice to the above, it may be noted that the Company had provided the



SECURITIES & EXCHANGE COMMISSION OF PAKISTAN

Corporate Supervision Department
Company Law Division

Continuation Sheet - 5 -

court order dated May 08, 2019 explicitly stating that the legal counsel of the respondents, Company being one of them, had submitted that the option (by Sindh Government) is unacceptable. It was stated by the Company through its correspondence of August 05, 2019 that the Board of Directors in its meeting held on June 14, 2019 accorded its approval for unconditional acceptance of the proposal made by counsel of the Sindh Government and that the case is adjourned till after end of August. The authorized representative also conveyed that the aforesaid stance of Company. However, neither any evidence of accepting the proposal of Sindh Government was provided nor any legal restraint imposed by court to undertake revival of operations was provided to the Commission. Therefore, it is established fact that the primary business of the Company continues to remain closed for more than two decades and in the current circumstances, the chances of revival of the Company are bleak. The invoked provisions of the Ordinance are unambiguous in allowing closure of business for more than one year as a basis for seeking winding up of the Company, from the court of law.

11. From the above discussion and after careful consideration of all the facts of this case, I am of the view that the Company is liable to be wound up as its business has been suspended since 1997. It is a settled principle of law that a company is liable to be wound up under (c) of section 305 of the Ordinance as it has suspended its business for a whole year furthermore there is no reasonable plan on grounds for its revival.

12. For the forgoing, I, in exercise of the powers conferred on me under Section 309 of the repealed Ordinance replaced by Section 304 of the Act, hereby authorize the Additional Registrar, Company Registration Office, Karachi to present a petition for winding up of Balochistan Particle Board Limited.

Abid Hussain
Executive Director

Announced:
October 3, 2019
Islamabad