



Corporate Supervision Department
Company Law Division

Before Amina Aziz – Director (CSD)

In the matter of

Khyber Tobacco Company Limited

Number and date of SCN: CSD/ARN/21/2015-3375 dated February 23, 2016
Date of hearing: March 8, 2016
Present for Respondent: Mr. Sardar Dawood, Authorized Representative

ORDER

UNDER SECTION 495 READ WITH SECTION 476 OF THE COMPANIES ORDINANCE, 1984 AND
SRO 634 (I)/2014 DATED JULY 10, 2014

This order shall dispose of the proceedings initiated against Chief Executive (the “respondent”) of Khyber Tobacco Company Limited (the “Company”). The proceedings against the respondent were initiated through show cause notice (the “SCN”) dated February 23, 2016, issued under the provisions of section 495 read with section 476 of the Companies Ordinance, 1984 (the “Ordinance”) and S.R.O. 634(I)/2014 dated July 10, 2014 (the “SRO-I”).

2. The brief facts of the case are that the Commission through the SRO-I directed every public listed and public unlisted company to maintain a functional website with effect from August 30, 2014 and place stipulated mandatory information thereon. Furthermore, the Commission through S.R.O. 684 (I)/2015 dated July 15, 2016 (the “SRO-II”), also directed all public companies to place website link of SECP investor education portal “JamaPunji” (www.jampunji.pk) along with its logo, available on SECP’s website (www.secp.gov.pk) at a prominent place on the homepage of their website.

3. It was observed from website address www.khybertobacco.com of the Company that it has not placed the mandatory information on its website in contrary to the requirements of SRO-I and SRO-II. Consequently, the SCN was issued to the respondent whereof he was called upon to show cause in writing as to why penal action may not be taken against him under sub-section (1) of section 495 of the Ordinance for not complying with the Commission’s direction given in the SRO-I & II along with fixing hearing for March 8, 2016.

4. On the date of hearing, Sardar Dawood (the “Authorized Representative”) appeared before the undersigned and he was questioned about the maintenance of website and placement of mandatory information as per direction given by the Commission through SRO-I & II. The authorized representative while accepting the default pledged that complete information in accordance with SRO-I & II will be placed on Company’s website within a month.

SECURITIES AND EXCHANGE
COMMISSION OF PAKISTAN

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5. Before proceeding further, it is necessary to advert to the following relevant provisions of Ordinance:

In terms of the Commission's SRO-I issued in pursuance of powers conferred by section 506 B of the Ordinance, listed companies have been directed to maintain a functional website and provide mandatory information including placement of quarterly and annual accounts and specific information relating to: (A) profile of the company, (B) governance, (C) investors relations, (D) media, (E) election of directors, (F) investors information. The aforesaid notification, inter alia, requires listed companies to place on their website:

- Latest annual accounts at least twenty one days before holding of the annual general meeting ("AGM") and annual accounts and reports adopted by shareholders within seven days after the AGM; and
- Interim accounts i.e. latest available quarterly accounts as well as accounts for the last three quarters.

Moreover, SRO-II requires that all public companies in addition to the information required to be place on website in pursuance of SRO-I, shall place website link of SECP investor education portal "JamaPunji" (www.jampunji.pk) along with its logo, available on SECP's website (www.secp.gov.pk) at a prominent place on the homepage of their website

The SRO-I further provides that where a company does not comply or makes default in compliance with the requirements of the notification, every officer of the company and every other person responsible for non-compliance shall be punished in accordance with provisions of section 495 of the Ordinance.

Sub-section (1) of section 495 of the Ordinance states that where any directive is given or order is issued by the Court, the officer, the Commission, the registrar or the Federal Government under any provision of this Ordinance, non-compliance thereof within the period specified in such direction or order shall render every officer of the company or other person responsible for non-compliance thereof punishable, in addition to any other liability, with fine not exceeding fifty thousand rupees and, in the case of a continuing non-compliance, to a further fine not exceeding two thousand rupees for every day after the first during which such non-compliance continues.

In terms of the Commission's notification SRO 1003 (I)/2015 dated October 15, 2015, the powers to adjudicate cases under the SRO-I read with section 495 of the Ordinance have been delegated to the Director (Corporate Supervision Department).



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6. In accordance with SRO-I, the detailed mandatory information is required to be placed on website by a listed company under the following heads: (A) Profile of the Company, (B) Governance, (C) Investors Relations, (D) Media, (E) Election of Directors, (F) Investors Information and scanned copy of the Compliance Certificate. Furthermore, placement of Jamapunji Logo on Company's homepage along with access to Jamapunji portal is mandatory as per SRO-II. The review of website of the Company www.khybertobacco.com has revealed that the Company has not placed the requisite information on its website within prescribed time.

7. I have gone through the facts of the case, provisions of the Ordinance, requirements of the SRO-I & II and arguments of the authorized representative during the course of hearing. I am of the view that the default committed by the Company is established and admitted as it has not complied with the requirements of SRO-I & II. Therefore, taking cognizance of the fact, I hereby conclude the proceedings initiated under section 495 (1) of the Ordinance and impose a fine of Rs10,000 on the respondent with a warning to be careful and ensure meticulous compliance with applicable laws and directions of the Commission within prescribed time.

The aforesaid fines must be deposited in the designated bank account maintained with MCB Bank Limited in the name of the "Securities and Exchange Commission of Pakistan" within thirty days from the receipt of this order and furnish receipted bank voucher to the Commission. In case of non-deposit of the fine, proceedings for recovery of the fines as arrears of land revenue will be initiated. It may also be noted that the aforesaid fine is imposed on the respondent in his personal capacity; therefore, he is required to pay the said amount from his personal resources.

Before parting with the order, I invoke the provisions of section 473 of the Ordinance and direct the respondent to place the mandatory information as per SRO-I & II under appropriate heads and submit a compliance certificate as per SRO-I by April 15, 2016. The Company is also advised to keep the website updated in future.

It may be noted that continued non-compliance with the Commission's direction may render the respondent liable for action under sub-section (2) of section 495 of the Ordinance.

Amna Aziz
Director (CSD)

Announced:
March 15, 2016
Islamabad