



Corporate Supervision Department
Company Law Division

Before Amina Aziz – Director (CSD)

In the matter of

Metropolitan Steel Corporation Limited

Number and date of SCN: (i) CSD/ARN/62/2015-1668-74, dated November 25, 2015; and
(ii) CSD/ARN/62/2015-2871-77, dated January 26, 2016
Hearings held on: January 5, 2016 and March 29, 2016
Present: Mr. Mehmood Ali Mehkari, Chairman
Mr. Muhammad Umer Mehkari and Mr. Khalid Mustafa

ORDER

UNDER SECTION 158 READ WITH SECTION 476 OF THE COMPANIES ORDINANCE, 1984

This order shall dispose of the proceedings initiated against the following directors including the chief executive officer (together referred to as “respondents”) of **Metropolitan Steel Corporation Limited** (the “Company”):

- | | | | |
|---|------------------------------------|---|-------------------------------|
| 1 | Mr. Mehmood Ali Mehkari, Chairman | 5 | Mrs. Uzma Mehmood Ali Mehkari |
| 2 | Engr. Syed Asghar Jamil Rizvi, CEO | 6 | Mrs. Safia Shakir |
| 3 | Mr. Muhammad Shakir | 7 | Mr. Syed Habibullah Qadri |
| 4 | Mr. Mushtaq Ahmed | | |

The proceedings against the respondents were initiated through show cause notices (the “SCNs”) dated November 25, 2015 and January 26, 2016 under the provisions of section 158 read with section 476 of the Companies Ordinance, 1984 (the “Ordinance”).

2. The brief facts of the case are that the Company was required to hold its annual general meetings (“AGM”) for the years ended June 30, 2014 and June 30, 2015 on or before October 31, 2014 and October 31, 2015, respectively, in terms of sub-section (1) of section 158 of the Ordinance. However, review of record revealed that the Company failed to convene its AGMs as per requirements of the law. Consequently, the SCNs were issued to the respondents whereof they were called upon to show cause in writing as to why penal action may not be taken against them under section 158 of the Ordinance for not holding the AGM within the prescribed time.

3. In response to the first SCN, the respondents submitted reply vide letters dated December 1, 2015 and January 22, 2016 whereof they stated as under:



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- The Company could not hold the AGM for the year ended June 30, 2013 in time as a result of which the finalization of the Accounts for the year ended June 30, 2014 and the AGM for the year 2014 were considerably delayed;
- The Accounts for the year ended June 30, 2014 were finalized after rescheduling of loan with Summit Bank Limited and were under process of audit that was expected to be completed by the end of February 2016.
- The Company would endeavor to hold the AGM for the year 2014 by March 31, 2016.

In respect of second SCN, through letter dated March 9, 2016, the respondents stated as under:

- Reasons for delay in holding the AGM for the year 2014 have been communicated in response to the previous SCN. The AGM for 2014 will be held by April 31, 2016.
- As earlier communicated in the meeting and through letter dated January 22 2016, we will submit application to seek Commission's directions to hold AGM for 2015 on or before June 30, 2016.
- Because of the non-availability of our approved and previous auditors Grant Thornton, (their letter dated February 25, 2016 attached), we accepted their resignation and have hired new auditor A letter dated February 18, 2016 from Haroon Zakria and Company was provided whereof they have given consent to act as auditor of the Company. We will be updating our Form 29 in the next few days. The audit work has been completed and completion of other formalities including signing of auditors report etc. is awaited, which will be completed within the given deadline.

4. Hearings in the matter of aforesaid SCNs were held on January 5, 2016 and March 29, 2016, respectively. Mr. Mehmood Ali Mehkri, the Chairman of the Board of Directors ("BOD") of the Company appeared in the first hearing and Mr. Muhammad Umer Mehkari, the representative of the respondents along with Mr. Khalid Mustahq appeared in the second hearing before the undersigned. They mainly reiterated the earlier written submissions and further stated, as under:

- The factory has been closed for last two years.



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- The Company has paid off its liabilities of employees' provident fund and gratuity and was in process of settlement with banks.
- The management is working on restructuring and the mill will be operational afterwards.
- The Company plans to convene the overdue AGM for the year 2014 by end of April 2016 or first week of May 2016. The Company plans to hold AGM for the year 2016 will by the end of June, 2016.
- The Company shall apply and seek Commission's directions under section 170 of the Ordinance to hold the overdue AGMs.
- Power of attorney from other respondents will be submitted soon.

Based on the above submissions, the representatives requested for a lenient view in the matter.

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

Sub-section (1) of section 158 of the Ordinance, inter alia, provides as under:

"Every company shall hold, in addition to any other meeting, a general meeting, as its annual general meeting, within eighteen months from the date of its incorporation and thereafter once at least in every calendar year within a period of four months following the close of its financial year and not more than fifteen months after the holding of its last preceding annual general meeting:"

Sub-section (4) of section 158, inter alia, provides as under:

"If default is made in complying with any provision of this section, the company and every officer of the company who is knowingly and willfully a party to the default shall be liable,--

(a) if the default relates to a listed company, to a fine not less than fifty thousand rupees and not exceeding five hundred thousand rupees and to a further fine not exceeding two thousand rupees for every day after the first during which the default continues;"

In terms of the Commission's notification SRO 1003 (I)/2015 dated October 15, 2015, the powers to adjudicate cases under section 158 have been delegated to the Director (Corporate Supervision Department).



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6. I have analyzed the facts of the case, relevant provisions of the Ordinance, and facts available on record. The aforesaid provisions of the law are clear and explicit. A company is required to hold its AGM within four month from the close of its financial year provided that the Commission may extend the time for thirty days based on application by the company. Holding of AGM is a very important statutory event and provides an opportunity to the shareholders, including those in minority, to participate in discussion and voting on agenda items of the AGM. This includes consideration and approval of a company's financial statements, which not only show the financial position and performance of the company but also show the results of management's stewardship of resources entrusted to it. The timeline of the provision of financial statements to the shareholders is of utmost importance. The investment decisions of the shareholders are based on the information presented to them in financial statements. Delay in presentation of the said information could lead to either uninformed decision or have an adverse effect with respect to its timing. In order to ensure transparency, the company must meticulously follow the procedure prescribed by the Ordinance for holding the AGMs. In addition to their responsibilities of overseeing and managing affairs of the Company, directors also have fiduciary duties towards the Company and its shareholders. They are, therefore, liable to a higher level of accountability which requires them to be vigilant and perform their duties with care and prudence. It is directors' responsibility to oversee the functioning of the company, to keep it appropriately staffed and organized to ensure due compliance of law. In this context the respondents cannot absolve themselves of their statutory duties regarding holding of AGMs and preparing and filing of annual and quarterly accounts in a timely manner as required by the law. The Company held its AGM for the year ended June 30, 2013 with an inordinate delay of more than sixteen months while its previous AGM for the year 2012 was also not held within stipulated time, which shows unsatisfactory record of the Company in respect of compliance with legal requirements for holding AGMs. However, I take into account that fact that the respondents have responded to the SCNs and have also appeared in hearings to clarify their positions. Further they have given commitment to hold the overdue AGMs for the years 2014 and 2015 latest by the first week of May, 2016 and June 30, 2016, respectively.

7. In view of the foregoing, I have concluded that the provisions of the law have been violated and the respondents are liable to fine in terms of section 158 of the Ordinance. However, I



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consider the respondents' willingness to hold the overdue AGMs and to comply with legal requirements in future. Therefore, instead of imposing maximum fines on all the respondent, I take a lenient view and in exercise of the powers conferred by sub-section (4) of section 158 of the Ordinance, I hereby impose a fine of Rs50,000/- for each default in holding of AGM, aggregating to Rs.100,000 (Rupees one hundred thousand only) on the chief executive of the Company.

The aforesaid fine 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 receipted bank vouchers must be furnished to the Commission. In case of failure of the respondent to 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 personal capacity; therefore, he is required to pay the said amounts from personal resources.

Amina Aziz
Director (CSD)

Announced:
March 31, 2016
Islamabad