



Corporate Supervision Department
Company Law Division

Before Amina Aziz – Director (CSD)

In the matter of

Genertech Pakistan Limited

Number and date of SCN: EMD/233/395/02-1128, dated January 15, 2015
Hearing held on: February 22, 2016
Present: Mr. Tariq Latif, Director and Company Secretary

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 **Genertech Pakistan Limited** (the “Company”):

- | | | | |
|---|-------------------------------------|---|----------------------------|
| 1 | Mr. Jahangir Elahi, Chief Executive | 5 | Mr. Sheikh Muhammad Ashraf |
| 2 | Mr. Tanvir Elahi | 6 | Mr. Tariq Latif |
| 3 | Mr. Amir Jahangir | 7 | Mr. Muhammad Ashfaq Nadeem |
| 4 | Mr. Shahrukh Elahi | | |

The proceedings against the respondents were initiated through show cause notice (the “SCN”) dated January 15, 2015 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 meeting (“AGM”) for the year ended June 30, 2014 on or before October 31, 2014, in terms of sub-section (1) of section 158 of the Ordinance. However, review of record revealed that the Company had not submitted the notice of the AGM and annual audited financial statements for the year ended June 30, 2014 with the Commission. Moreover, there was no other evidence available including placement of notice of the AGM on the website of the Karachi Stock Exchange. Consequently, the SCN was 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 their, prima facie, failure to hold the AGM in terms of the law.

3. Since, no response to the SCN was received a hearing in the matter was fixed on April 29, 2015, however, no one appeared on the due date. Another hearing in the matter was fixed on September 18, 2015 through hearing notice dated September 8, 2015 in response to the which the



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respondents through letter dated September 16, 2015 stated that the operations of the Company was closed for past several years, all the staff had left their jobs and the Company was hardly managing the statutory compliances. They requested for a time of sixty days to submit reply to the content of the SCN. The case was again fixed for hearings on October 28, 2015 and February 10, 2016, however, the respondents again requested for rescheduling of hearings. The hearing was finally held on February 22, 2016 and Mr. Tariq Latif, appeared on behalf of the respondents. He stated that the AGM of the Company for the year ended June 30, 2014 was duly held, however, the notice of the AGM was not submitted to the Commission. He was given one week's time for providing evidence of holding of AGM. Subsequently, through letter dated March 8, 2016 Mr. Tariq Latif provided the copy of annual audited accounts of the Company for the year ended June 30, 2014 along with notice of the AGM dated October 9, 2014 which reflected that the AGM was held on October 31, 2014.

4. 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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5. 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. Keeping in view the importance of the AGM, the Commission through the circular 5 of 2002 has made it mandatory for listed companies to submit notice of AGM to the commission through fax and mail on the same day these are transmitted to the members. Moreover, in terms of section 233 (5) of the Ordinance a listed company is required to send five copies of annual accounts to the Commission, the stock exchange and the registrar simultaneously with the dispatch to the shareholders along with notice of the AGM. However, the Company ignored these very important requirements and neither submitted notice of the AGM nor submitted copy of audited annual accounts for the year ended June 30, 2014 to the Commission. However, the copy of the notice of the AGM submitted after hearing in the subject proceedings reveals that the Company held its AGM for the year ended June 30, 2014 on October 31, 2014. Subsequently, as confirmed by the Company Registration Office ("CRO"), Lahore, the Company has not submitted Form A, showing holding of the AGM, however, copy of Accounts for the year ended June 30, 2014 was filed with the CRO contained the notice of the AGM held on October 31, 2014.

6. In view of the foregoing and as per notice of AGM provided by the Company, it appears that the AGM for the year ended June 30, 2014 was held within due time even though the notice of the AGM along with annual audited accounts of the Company for the year ended June 30, 2014 was not submitted to the Commission as per requirements of the law. Keeping in view these facts, I hereby conclude the subject proceedings against the respondents without any adverse order. The respondents are advised to ensure meticulous compliance with applicable provisions of the law including section 233 (5) and the Commission's circular 5 of 2002.



Amina Aziz

Director (CSD)

Announced:

April 19, 2016

Islamabad