



Corporate Supervision Department
Company Law Division

Before Ms. Amina Aziz – Director (CSD)

In the matter of

Dewan Automotive Engineering Limited

Number and date of SCN: EMD/233/435/02-988 dated January 6, 2015 read with addendum
CSD/ARN/95/2015-2683-95 dated January 19, 2016
Hearing held on: April 15, 2016
Present: Mr. Haroon Iqbal and Mr. M. Hanif German, representatives

ORDER

**UNDER SUB-SECTION (3) OF SECTION 245 READ WITH SECTION 476 OF THE
COMPANIES ORDINANCE, 1984**

This order shall dispose of the proceedings initiated against the chief financial officer and the following directors including chief executive (together referred to as "respondents") of Dewan Automotive Engineering Limited (the "Company"):

- | | | | |
|---|---------------------------------|----|-------------------------------|
| 1 | Mr. Dewan M. Yousaf Farooqui | 8 | Mr. Ishtiaq Ahmed |
| 2 | Mr. Dewan Asim Mushfiq Farooqui | 9 | Mr. Syed Maqbool Ali |
| 3 | Mr. Dewan Abdullah Ahmed | 10 | Mr. Wasim Ul Haque Ansari |
| 4 | Mr. Dewan Abdul Baqi Farooqui | 11 | Mr. Manzoor Ahmed |
| 5 | Mr. Dewan Abdul Rehman Farooqui | 12 | Mr. Muhammad Baqar Jaffri |
| 6 | Mr. Haroon Iqbal | 13 | Mr. Muhammad Naeemuddin Malik |
| 7 | Mr. Azizul Haque | | |

These proceedings against the respondents were initiated through show cause notice (the "SCN") dated January 6, 2015 and subsequent addendum to the SCN dated January 19, 2016 under the provisions of sub-section (3) of section 245 read with section 476 of the Companies Ordinance, 1984 (the "Ordinance").

2. The brief facts of the case are that as per record, the Company failed to file the interim financial statements ("Quarterly Accounts") for the following periods with the Commission, as per requirements of section 245 of the Ordinance:

| Quarter Ended | Due date of filing |
|---------------|--------------------|
| 30-Sep-13 | 31-Oct-13 |
| 31-Dec-13 | 28-Feb-13 |



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| | |
|-----------|-----------|
| 31-Mar-14 | 30-Apr-14 |
| 30-Sep-14 | 31-Oct-14 |

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 sub-section (3) of section 245 of the Ordinance for delay in filing the aforesaid Quarterly Accounts, as detailed below:

- i. Respondents mentioned at serial no. 1 to 7 as the addressees of the SCN, in respect of non-filing the Quarterly Accounts:

| Quarter Ended | Due On |
|---------------|-----------|
| 30-Sep-13 | 31-Oct-13 |

- ii. Respondents mentioned at serial no. 6 to 12 as the addressees of the SCN, in respect of non-filing the Quarterly Accounts:

| Quarter Ended | Due On |
|---------------|-----------|
| 31-Dec-13 | 28-Feb-14 |
| 31-Mar-14 | 30-Apr-14 |

- iii. Respondents mentioned at serial no. 6 to 11 and serial no. 13 as the addressees of the SCN, in respect of non-filing the Quarterly Accounts:

| Quarter Ended | Due On |
|---------------|-----------|
| 30-Sep-14 | 31-Oct-14 |

3. The respondents failed to submit any response to the SCN. The case was fixed for hearing on April 28, 2015 and October 2, 2015 by serving the hearing notices at the registered address of the Company. However, later it transpired that there was change in directors of the Company during the relevant time, therefore, through addendum dated January 19, 2016 to SCN, the names of the respondents were correct in respect of each alleged default in filing of Quarterly Accounts. The respondents were given fourteen days' time to submit reply to the SCN. Since, no response to the SCN was received, a hearing the matter was fixed on April 6, 2016, which upon the respondents request was rescheduled for April 25, 2016. However, Mr. Haroon Iqbal, the chief executive and Mr. M. Hanif German, appeared before the undersigned on April 15, 2016 as authorized representatives of the respondents and requested to hold the hearing. Their request was acceded to and hearing was held. The representatives stated that the Company had laid off its



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staff and it was not possible to prepare accounts due to shortage of qualified staff. They further stated that more than 80% of the Company's shareholding vests with the sponsors / directors. However, no definite timeline was given by them for preparation of annual and interim accounts and holding of the AGM of the Company.

4. Before proceeding further, it is important to mention that in terms of Sub-section (1) of section 245 of the Ordinance all listed companies are, inter alia, required to file their quarterly accounts with the Commission within stipulated time.

Sub-section (3) of section 245 of the Ordinance provides as under:

"If a company fails to comply with any of the requirements of this section, every director, including chief executive and chief accountant of the company who has knowingly by his act or omission been the cause of such default shall be liable to a fine of not exceeding one hundred thousand rupees and to a further fine of one thousand rupees for every day 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 245 of the Ordinance have been delegated to the Director (Corporate Supervision Department).

5. I have analyzed the facts of the case, relevant provisions of the Ordinance, and submissions made by the respondents. The aforesaid provisions of the law are clear and explicit. A listed company is required to file its quarterly accounts within the stipulated time that is one month from the close of first and third quarters and two months from the close of second quarter. Initially listed companies were only required to circulate annual accounts and the shareholders did not have information about the affairs of companies during the year. The requirement to circulate interim accounts was introduced so that the shareholders could have timely access to information about the affairs of companies. Keeping in view the fact that timing of interim financial statements is of essence the disclosure and audit requirements of these accounts have been kept to a bare minimum. Interim financial statements prepared properly and in a timely manner not only provide to its users a reliable source of information regarding a company's financial position and performance but these also show the results of management's stewardship of resources entrusted to it. In order to ensure transparency, all the companies must meticulously follow the legal requirement for preparing and circulation of interim accounts. In addition to their



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responsibility 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 terms of the Ordinance the directors are primarily responsible for approval of accounts. It is also pertinent to mention that the Company failed to hold its overdue AGMs for the year ended June 30, 2013 through to 2015 and prepare and file the respective annual and interim accounts.

6. In view of the above stated facts, I have concluded that the provisions of the law have been violated and the respondents are liable to fines in terms of section 245 of the Ordinance, as they failed to prepare and file the respective Quarterly Accounts of the Company as per requirements of the law. Therefore, in exercise of the powers conferred by sub-section (4) of section 158 of the Ordinance, I hereby impose a fine of Rs70,000/- (Rupees seventy thousand only) on the respondents who are the existing directors of the Company, as per following details:

| Name of Respondents | Amount in Rs. |
|-------------------------------|-----------------|
| 1. Mr. Aziz Ul Haque | 10,000 |
| 2. Mr. Haroon Iqbal | 10,000 |
| 3. Mr. Ishtiaq Ahmed | 10,000 |
| 4. Mr. Manzoor Ahmed | 10,000 |
| 5. Mr. M. Naeemuddin Malik | 10,000 |
| 6. Mr. Syed Maqbool Ali | 10,000 |
| 7. Mr. Waseem Ul Haque Ansari | 10,000 |
| TOTAL | Rs70,000 |

The proceedings against the remaining respondents are hereby concluded with a stern warning to them in respect of the aforesaid violation of the law.

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 receipted bank vouchers must be furnished to the Commission. In case of failure of the respondents to deposit of the fines, proceedings for recovery of the fines as arrears of land revenue will be initiated. It may also be noted that the aforesaid fines are imposed



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on the respondents in their personal capacities; therefore, they are required to pay the said amounts from personal resources.

Amna Aziz
Director (CSD)

Announced:
May 5, 2016
Islamabad