



Corporate Supervision Department  
Company Law Division

Before Amina Aziz – Director (CSD)

*In the matter of*

**Moonlite (Pak) Limited**

Number and date of SCN: CSD/ARN/211/2015-4083, dated April 19, 2016  
Hearing held on: May 3, 2016  
Present: Mr. Noman M. Zubairi, Liquidator, Mr. Khurram M. Siddiqui,  
Advocate

**ORDER**

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

This order shall dispose of the proceedings initiated against the liquidator (the "respondent") of Moonlite (Pak) Limited (the "Company"). The proceedings against the respondent were initiated through show cause notice (the "SCN") dated April 19, 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 in terms of sub-section (1) of section 158 of the Ordinance, the Company was required to hold its annual general meeting ("AGM") for the year ended June 30, 2014 and June 30, 2015 on or before October 31, 2014 and October 31, 2015, respectively. However, review of record revealed that the Company failed to convene the aforesaid AGMs within the prescribed time, as per requirements of the law. Consequently, the SCN was issued to the respondents whereof they were called upon to show cause in writing with fourteen days as to why penal action may not be taken against them under section 158 of the Ordinance for not holding the AGM, in terms of the law. The respondent was also provided an opportunity of hearing in person or through authorized representative on May 3, 2016 to clarify his position with regard to the aforesaid alleged violation of the law.

3. The respondent through his consent letter dated April 21, 2016 confirmed that he will attend the hearing through video link facility from Karachi. On due date of hearing, Mr. Noman M. Zubairi along with Mr. Khurram M. Siddiqui, advocate, appeared before the undersigned and made the following submissions:

- Bunny's Limited, an unlisted company, is going to merge into the Company for revival of the Company.



# SECURITIES & EXCHANGE COMMISSION OF PAKISTAN

Corporate Supervision Department  
Company Law Division

Continuation Sheet - 1 -

- Mr. Zubairi has resigned as liquidator of the Company with effect from April 16, 2016
- AGM's of the Company for the year 2014 and 2015 will be held soon.

The undersigned allowed one weeks' time to the respondent to submit the written reply and timeline for holding the overdue AGMs. Subsequently, the respondent through letter dated May 10, 2016, submitted a written reply and stated as under:

- The proposed scheme of arrangement under sections 284 to 287 of the Ordinance envisages that all assets and liabilities of Bunny's Limited will be transferred to the Company and Bunny's Limited will stand dissolved, as a result of merger.
- Voluntary winding up of the Company will be reversed / cancelled.
- The scheme of arrangement and filing of petition in Honorable High Court of Lahore under sections 284 to 287 of the Ordinance has been approved by the respective boards of directors of both the companies as well as liquidator of the Company. However, scheme of arrangement has been only approved 'in principle' and is not material or significant, since for the scheme/merger to become effective steps to be completed include filing of application in the high court (already done), passing of special resolution of shareholders of both the companies under supervisions of court by appointing chairman and sanction of merger by Honorable Lahore High Court.
- The scheme specifically envisages that voluntary winding up of the Company needs to be reversed on sanction of merger by the High Court. Therefore, voluntary winding up will only be reversed once, inter alia, special resolution of shareholders of the Company has been passed at a duly convened extraordinary general meeting for which at least 21 days' notice shall be given.
- We are expecting to hold the EOGM on above subject on June 10, 2016. We request to kindly allow us to hold the AGMs on 19<sup>th</sup> June, 2016.

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*



# SECURITIES & EXCHANGE COMMISSION OF PAKISTAN

Corporate Supervision Department  
Company Law Division

Continuation Sheet - 2 -

*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:*

*Provided that, in the case of a listed company, the Commission, and, in any other case, the registrar, may for any special reason extend the time within which any annual general meeting, not being the first such meeting, shall be held by a period not exceeding thirty days."*

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 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 company is required to hold its AGM within four months from the close of its financial year. Holding of the 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 that include consideration and approval of a company's financial statements. The financial statements not only show the financial position and performance of a company but also show the results of efforts employed by the liquidator to realize the company's assets and the position of the company viz-e-viz repayment of the liabilities and possible payments to the shareholders. In terms of section 402 of the Ordinance a company for the companies being wound up, from the date of commencement of the winding up, the liquidator is deemed to have taken the place of the directors and chief executive of the Company and is required to discharge duties in terms of the Ordinance, as such. It is his duty to ensure that till the final dissolution in accordance with the provisions of this Ordinance, all the applicable provisions and requirements of this Ordinance relating to companies are meticulously complied with. Therefore, a liquidator is the one



# SECURITIES & EXCHANGE COMMISSION OF PAKISTAN

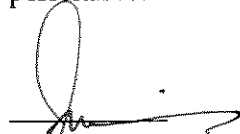
Corporate Supervision Department  
Company Law Division

Continuation Sheet - 3 -

responsible for overseeing and managing affairs of the Company under winding up. He is, therefore, required to be vigilant and perform his duties with due care and prudence. It is mandatory for the liquidator of a listed company to have knowledge of provisions of the applicable laws and in terms of the Ordinance he is responsible for holding the AGM till the final dissolution of the company. In this context the respondent cannot absolve himself of his statutory duties regarding holding of AGMs and preparing and filing of annual and quarterly accounts.

6. In view of the above stated facts, I have concluded that the provisions of the law have been violated by the respondent as he has failed to hold the AGM of the Company for the years ended June 30, 2014 and 2015. As far as proposal for merger of the Company is concerned, it is not relevant to the instant proceedings which relate to violation of mandatory provisions regarding holding of AGM of a company. However, I take cognizance of the fact that the respondent has given a definite timeline of June 19, 2016 for holding the overdue AGMs, instead of imposing maximum fine, I hereby impose a fine of Rs50,000/- (Rupees fifty thousand only) on the respondent for non-holding of the AGM for the year ended June 30, 2014. With regard to non-holding of AGM for the year ended June 30, 2015, the respondent is strictly warned to be careful in future and ensure meticulous compliance with applicable legal provisions in future.

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 fine 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 amount from personal resources.

  
**Amina Aziz**  
Director (CSD)

**Announced:**  
May 30, 2016  
Islamabad