



Corporate Supervision Department
Company Law Division

Before Abid Hussain – Executive Director

In the matter of

M/s M. Akhtar & Co. Chartered Accountants
Auditor of Dadabhoy Construction Technology Limited

Number and date of notice: CSD/ARN/121/2015 -4042 dated April 14, 2016
Date of hearing: May 18, 2016
Present: Mr. Mahmood Akhtar Haroon

ORDER

**UNDER SECTION 260 READ WITH SECTION 255 & 476 OF THE COMPANIES
ORDINANCE, 1984**

This order shall dispose of the proceedings initiated against M. Akhtar & Co. Chartered Accountants ("respondent") through show cause notice (the "SCN") dated April 14, 2016 under the provisions of Section 260 read with Section 255 and 476 of the Companies Ordinance 1984 (the "Ordinance").

2. The facts leading to this case, briefly stated are that, examination of audited financial statements (the "Accounts") of Dadabhoy Construction Technology Limited ("Company") for the year ended June 30, 2015, revealed existence of material uncertainties regarding the ability of the company to continue as going concern due to the following:

- (i) Accumulated losses of the Company have reached Rs. 62.582 million against the paid capital of Rs. 23.228 million.
- (ii) During the year under review the Company has reported sale of only Rs. 0.824 million which is a reduction of 72% as compared to the sales in the year 2014.
- (iii) The capability of the Company in generating sales in absence of plant and machinery was not discussed in the accounts.

3. The Accounts of the Company were also found lacking with respect to the following disclosures:

- Note 4.2 to the accounts (2010 and prior years) state that all property plant & machinery except computer and motor vehicle, remained idle. However, the operational status of assets was not discussed in the subsequent accounts.



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- Fixed assets list do not include plant and machinery and no relevant disclosure is given notes to accounts regarding sales.
 - Number of employees and date of authorization of the financial statement is not given as per Fourth Schedule.
 - The Company is dependent on loans from directors and associates. Directors loan is interest free, recorded at historical cost, whereas IAS39 requires the same to be reported at fair value or amortized cost as appropriate with an impact on income through profit and loss account, the amount of which has not been determined by the Company and the auditor has also not reported the same.
4. Following non- compliances with the Code of Corporate Governance, 2012 (CCG) and statement of compliance with CCG were also revealed:
- Omission regarding the QCR status of the statutory auditors;
 - Failure to appoint independent director;
 - Non-attendance directors training programe by directors;
 - Disclosure the reason for continued losses;
 - Policy for appointment of Company Secretary, CFO and internal auditor;
 - Non-adoption of code of conduct instead of statement of ethics;
 - Omission of disclosures at serial 21-23 of the compliance report format;

5. Sub-section (3 & 4) of section 255 of the Ordinance prescribes requirements and the manner of auditors' report on the Accounts. The auditor of a company prepares the Audit Report (the "Report") as per format of the Report provided in Form 35(A) of the Companies (General Provisions and Forms) Rules, 1985 (the "Rules") . As per paragraph 3 of the afore-referred Report of the Rules states that:

"We conducted our audit in accordance with the auditing standards as applicable in Pakistan. These standards require that, we plan and perform the audit to obtain reasonable assurance about whether the above said statements are free of any material misstatement....."

The aforesaid Rules were notified by the Commission vide S.R.O 1235(I)/85 dated December 14, 1985. Rule 17(A) of the subject Rules states that:

"The auditors' report on the accounts and books of accounts and balance sheet and profit and loss account of a company required by section 255 shall be in FORM 35(A)."



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6. Relevant provisions of International Standard of Auditing ("ISA") 570 regarding auditor's responsibility in respect of going concern assumption are quoted below:

6. The auditor's responsibility is to obtain sufficient appropriate audit evidence about the appropriateness of management's use of the going concern assumption in the preparation of the financial statements and to conclude whether there is a material uncertainty about the entity's ability to continue as a going concern. This responsibility exists even if the financial reporting framework used in the preparation of the financial statements does not include an explicit requirement for management to make a specific assessment of the entity's ability to continue as a going concern.

11. The auditor shall remain alert throughout the audit for audit evidence of events or conditions that may cast significant doubt on the entity's ability to continue as a going concern.

12. The auditor shall evaluate management's assessment of the entity's ability to continue as a going concern.

18. If the auditor concludes that the use of the going concern assumption is appropriate in the circumstances but a material uncertainty exists, the auditor shall determine whether the financial statements: (a) Adequately describe the principal events or conditions that may cast significant doubt on the entity's ability to continue as a going concern and management's plans to deal with these events or conditions; and (b) Disclose clearly that there is a material uncertainty related to events or conditions that may cast significant doubt on the entity's ability to continue as a going concern and, therefore, that it may be unable to realize its assets and discharge its liabilities in the normal course of business.

20. If adequate disclosure is not made in the financial statements, the auditor shall express a qualified opinion or adverse opinion, as appropriate, in accordance with ISA 705.6 The auditor shall state in the auditor's report that there is a material uncertainty that may cast significant doubt about the entity's ability to continue as a going concern.

7. In view of the aforementioned provisions of the ISAs, auditor of the Company M/s M. Akhtar & Company, Chartered Accountants was prima facie required to express a qualified or



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adverse opinion as material uncertainty exist regarding going concern and adequate disclosure is not made in the financial statements, however, the Audit Report (the "Report") to the members of the Company does not include any qualification based on the above observation. The statutory auditor of the Company for the year ended June 30, 2015 have prima facie, failed to bring out material facts about its affairs and, prime facie, have not reported in conformity with Section 255 read with Section 260 of the Ordinance. Therefore, SCN was issued to the respondent for contravention of Section 260 of the Ordinance.

8. The reply to the SCN was submitted by the respondent vide letter dated April 18, 2016. The seriatim reply is summarized below.

- The tremendous reduction in sales is due to high competition and cost which forced to low production and turnover. The Company uses imported chemical locally purchased to produce high quality sealer/bond whereas other manufacturers are using locally manufactured low quality chemical.
- The Company manufactures sealing chemicals/bond used in construction and it is processed with the help of tools and equipment, jigs and fixtures which is termed as plant and machinery as appears in depreciation schedule.
- Depreciation has been charged on all fixed assets. The note 4.2 of Accounts 2010 was felt un-necessary hence deleted from 2011 and onwards.
- There were four factory workers/officers and executive staff. No remuneration is given to chief executive and other director. Compliance will be done in next year.
- The Company has availed borrowings from its directors which are interest free and will be amortized if there is any reduction announced by the directors. Till today no reduction was announced, hence no amortization in this regard was reported through profit and loss as observed.
- We have given the review report to the members on statement of compliance with best practices of code of corporate governance. Additional information as desired will also be reported in future and if deemed necessary the company may be directed to report additional information.
- The Company has operated through finances taken from directors, reported as loan from directors which are unsecured and interest free. The loans from directors are taken to meet



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shortfall of the working capital. Your observation as regards to Report Company's inability to run smoothly or otherwise will be complied with in the next year's report.

9. In order to provide opportunity of personal hearing; the case was fixed before the undersigned on May 18, 2016. Mr. Mahmood Akhtar Haroon, proprietor of the firm appeared and maintained the same plea as per written submissions.

10. Before proceeding with the order, it is appropriate to quote the provisions of Section 255(3) of the Ordinance stipulating duties of auditors. It requires that the auditor shall make a report to the members of the company on the accounts and books of account of the company and on every balance sheet and profit and loss account and on every other document forming part of the balance sheet and profit and loss account, including notes, statements or schedules appended thereto, which are laid before the Company in general meeting during their tenure of office, and the report shall state:

(d) whether or not in their opinion and to the best of their information and according to the explanations given to them, the said accounts give the information required by this Ordinance in the manner so required and give a true and fair view in the case of the balance-sheet, of the state of the company's affairs as at the end of its financial year; in the case of the profit and loss account or the income and expenditure account, of the profit or loss or surplus or deficit, as the case may be, for its financial year; and in the case of the statement of changes in financial position or sources and application of funds of a listed company, of the changes in the financial position or the sources and application of funds for its financial year;

11. Furthermore, the provisions of Section 255(4) requires that where any of the aforesaid matters is answered in negative or with a qualification, the report shall state the reason for such answer along with the factual position to the best of the auditors' information.

12. In terms of the Commission's notification SRO 1003 (I)/2015 dated October 15, 2015, the powers to adjudicate cases under section 260 of the ordinance have been delegated to Executive Director (Corporate Supervision Department).



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13. I have analyzed the facts of the case, relevant provisions of the Ordinance, arguments put forth by the respondent in writing during the hearing and observed the following:

- As per ISA 570 the auditor's responsibility is to obtain sufficient appropriate audit evidence about the appropriateness of management's use of the going concern assumption in the preparation of the financial statements and to conclude whether there is a material uncertainty about the entity's ability to continue as a going concern. The auditor needs to evaluate management's assessment of the entity's ability to continue as a going concern. Based on the audit evidence obtained, the auditor needs to conclude whether, in the auditor's judgment, a material uncertainty exists related to events or conditions that, individually or collectively, may cast significant doubt on the entity's ability to continue as a going concern. When material uncertainty exists the auditor has to express a qualified opinion or adverse opinion, as appropriate, in accordance with ISA 705.
- The respondent stance that the Company maintains a going concern status is not tenable. Accumulated losses of the Company have reached Rs. 62.582 million against the paid capital of Rs. 23.228 million. Its liabilities exceed its assets by Rs. 39.354 million. During the year under review the Company has reported sale of only Rs. 0.824 million which is a reduction of 72% as compared to the sales in the year 2014. The director's report does not disclose any efforts by the management to change the situation of the company. These indications cast significant doubt on the entity's ability to continue as going concern and make it incumbent on the respondents to assess the management's assumption on going concern, moreover the Company failed to adequately disclose regarding going concern issue and the respondent failed to express a qualified opinion or adverse opinion.
- The Company failed to follow the requirements of IAS 39 in case of directors loan which is interest free but recorded at historical cost, whereas IAS39 requires the same to be reported at fair value or amortized cost as appropriate with an impact on income through profit and loss account, the amount of which has not been determined by the Company and the auditor has also not reported the same.
- The Company was non-compliant with various CCG requirements and statement of compliance with CCG also revealed omission regarding the QCR status of the statutory auditors, failure to appoint independent director, non-attendance of directors training



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program by directors, disclosure regarding the reason for continued losses, policy for appointment of Company Secretary, CFO and internal auditor, non-adoption of code of conduct instead of statement of ethics, omission of disclosures at serial 21-23 of the compliance report format. The respondent failed to highlight these omissions in his review report to the members on statement of compliance with bet practices of CCG.

14. Before deciding this case, I deem it necessary to make some observations on the role of auditors of a company. The duties and responsibilities of an auditor appointed by the shareholders under the law can best be understood if we look at the place of an auditor in the scheme of the company law. The capital required for the business of a company is contributed by its shareholders who may not necessarily be the persons managing the company. Such persons do not have any direct control over the company except that they elect directors and entrust the affairs of the company to them in the hope that they will manage the company to their benefits. As there is no such arrangement in place whereby the shareholders can have an independent view as to how the directors have managed the affairs of the company. The law, therefore, recognizing this situation, has provided for the appointment of auditors who shall be responsible to audit the books of account, documents and statements required by the law and make out a report to them at the end of each year. This being the only safeguard provided by law to the shareholders to ensure accountability of the management, put a high level of responsibility over the auditors in case they fail to make out a report in accordance with the legal requirements. It is, therefore, extremely important for the auditors to be qualified, duly accredited in their profession, vigilant and perform their duties and obligation with due care while auditing the accounts and books of accounts. It has been noted with concern that the respondent is not a QCR rated auditor and still engaged with audit of listed company in violation of CCG. In this regard, the department is advised to immediately take up the matter with ICAP.

15. For the foregoing reasons, I am of the firm opinion that the respondent failed to bring about material facts about the affairs of the Company and accordingly audit report have not been made in conformity with Section 255 & 260 of the Ordinance and is liable for the penalty as prescribed by Section 260 of the Ordinance. Therefore, in exercise of the powers conferred by the aforesaid provisions of the Ordinance, I hereby impose a fine of Rs.50,000 (Rupees fifty thousand only) on the respondent.



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The respondent is hereby directed to deposit aforesaid fine in the designated bank account maintained in the name of Securities and Exchange Commission of Pakistan with MCB Bank Limited within thirty days from the receipt of this Order and furnish receipted vouchers for information and record, failing which proceedings under the Land Revenue Act, 1967 will be initiated.

Abid Hussain
Executive Director

Announced:
June 27, 2016
Islamabad