



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/211/2015-4084, dated April 19, 2016  
Hearing held on: May 3, 2016  
Present: Mr. Noman M. Zubairi, Liquidator, Mr. Khurram M. Siddiqui,  
Advocate

**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 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 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 review of record revealed that the Company did not 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 On	Remarks
31-Mar-14	30-Apr-14	Not Filed
30-Sep-14	31-Oct-14	Not Filed
31-Dec-14	28-Feb-15	Not Filed
31-Mar-15	30-Apr-15	Not Filed
30-Sep-15	31-Oct-15	Not Filed

Consequently, the SCN was issued to the respondents whereof they were called upon to show cause in writing within fourteen days as to why penal action may not be taken against them under sub-section (3) of section 245 of the Ordinance for not filing the aforesaid Quarterly Accounts. 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



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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 its revival.
- 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 and accounts will be accordingly approved and submitted.

The undersigned allowed one weeks' time to the respondent to submit the written reply and timeline for holding the overdue AGMs and filing of account. 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 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.



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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 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 including preparation and filing of annual and interim account. Therefore, a liquidator is the one responsible for overseeing and managing affairs of the Company under winding up. Therefore, a liquidator is required to be vigilant and perform his duties with due care and prudence. For all purposes liquidator acts as trustee who is



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entrusted with the task of ensuring that all assets are sold off and possible recoveries are made on behalf of the Company thereby making it possible for the Company to pay off its debts and also to the extent possible return the equity invested by the shareholders. 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 and filing of quarterly account of a listed company under winding up till its final dissolution. In this context the respondent cannot absolve himself of his statutory duties regarding preparing and filing of quarterly accounts.

6. In view of the above stated facts, I have concluded that the provisions of the law have been violated and the respondents is liable to fines in terms of section 245 of the Ordinance, as he has failed to prepare and file the respective Quarterly Accounts of the Company, in a timely manner. However, I take cognizance of the fact that the respondent has undertaken to hold the AGMs of the Company by June 19, 2016, which will enable the Company to prepare and file the respective accounts. Therefore, instead of imposing maximum fines on the respondent, in exercise of powers under sub-section (3) of section 245 of the Ordinance, I hereby impose an aggregate fine of Rs25,000/- (Rupees twenty five thousand only) on the respondent for each default in filing of the Quarterly Accounts.

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 fines, 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 amounts from personal resources.

**Amina Aziz**  
Director (CSD)

**Announced:**  
May 30, 2016  
Islamabad