



Before

Tahir Mahmood, Executive Director (Enforcement)

In the matter of

Mustehkam Cement Limited

UNDER SECTION 244 READ WITH SECTION 476 OF THE COMPANIES ORDINANCE, 1984

Number and date of notice:	No.EMD/233/384/2002-2586 dated January 18, 2008
Date of hearing:	March 12, 2008
Present through written submissions:	MJ Panni & Company, Corporate and Capital Market Consultants
Present in the hearing:	Mr. M. Javed Panni, Authorized Representative

ORDER

This order shall dispose of the proceedings initiated against the directors of Mustehkam Cement Limited (hereinafter called as the "Company") vide show cause notice dated January 18, 2008 under the provisions of Section 244 read with Section 476 of the Companies Ordinance, 1984 (hereinafter called as the "Ordinance").

2. In order to fully appreciate the issue in hand, it is necessary to have a glance into the relevant background facts of the case. The examination of annual accounts for the year ended June 30, 2007 (hereinafter called as the "annual accounts") of the Company, submitted with the Commission under provisions of Section 233 of the Ordinance revealed that the Company has failed to annex following information / report / statement with the aforesaid annual accounts:

- Corporate information;
- Notice of Annual General Meeting;
- Directors' Report;
- Statement of compliance with the Code of Corporate Governance;
- Pattern of Shareholding as on June 30, 2007.

3. Further, the examination of quarterly accounts filed with the Commission under the provisions of Section 245 of the Ordinance for the period ended on September 30, 2007 (hereinafter called as the "quarterly accounts") of the Company has revealed that the Company has failed to annex Directors' Report with the aforesaid quarterly accounts.



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4. Consequently, a show cause notice (hereinafter called as the "SCN") dated January 18, 2008 was served upon the directors of the Company to show cause in writing as to why penalty as provided under Section 244 read with Section 476 of the Ordinance, may not be imposed on them.

5. The SCN was responded by M/s. MJ Panni & Company, Corporate and Capital Market Consultants (hereinafter called as the "Counsel") on behalf of the Chief Executive and all the directors of the Company through its letter dated February 21, 2008. The Counsel, through its letter, made following submissions:

- While filing the original signed copies of the annual accounts with the Commission, the documents as mentioned in the SCN were inadvertently missed which are now annexed with this letter.
- As regard annexing Directors' Report with the quarterly accounts is not specifically required under Section 245 of Ordinance. However, being a requirement of the Code of Corporate Governance, which is part of the Karachi Stock Exchange (Guarantee) Limited (hereinafter called as the "KSE") listing rules, the matter is being taken up with the KSE.

6. In order to provide an opportunity of personal hearing the case was fixed for March 12, 2008. Mr. Muhammad Javed Panni of M/s. MJ Panni & Company appeared as Counsel on behalf of all the directors to argue the case. During the course of hearing, the Counsel reiterated the same facts as were narrated in response to the SCN, however, admitted the default and requested for lenient view in the light of commitment that the Company shall be careful in complying with the requirements of law in future.

7. I feel it appropriate to quote here the relevant provisions of the Ordinance. Section 244 of the Ordinance provides that:

"if any copy of a balance-sheet is issued, circulated or published without there being annexed or attached thereto, as the case may be, a copy each of (i) the profit and loss account or income and expenditure account, (ii) any accounts, report, notes or statements referred therein, (iii) the auditor's report, and (iv) the directors report, the company, and every officer of the company who is knowingly and willfully in default shall be punishable with fine which may extend to five thousand rupees."

8. I have taken into consideration the written and verbal submissions made before me by the Counsel and have also perused the relevant provisions applicable in this case. The Counsel admitted the default. The default was not inadvertent as the management of the Company does not pay serious attention towards complying with the mandatory provisions of the Ordinance. Further, the SCN was



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issued to the Company not for violation of the provisions of Section 245 of the Ordinance but for violation of provisions of Section 244 of the Ordinance which clearly states that if any copy of a balance-sheet is issued, circulated or published without there being annexed or attached thereto, as the case may be, a copy each of (i) the profit and loss account or income and expenditure account, (ii) any accounts, report, notes or statements referred therein, (iii) the auditor's report, and (iv) the directors report, the company, and every officer of the company who is knowingly and willfully in default shall be punishable with a fine which may extend to five thousand rupees. In view of aforesaid provisions of law, it is clear that a company is required to annex a directors' report with any of its balance-sheets circulated to the shareholders. However, in the case under review, the Company and directors of the Company have failed to annex directors' report with the annual accounts and with the quarterly accounts as well. This indicates that the Company and directors of the Company have violated the provisions of Section 244 of the Ordinance.

9. However, considering the fact that the Legal Counsel has provided directors' report for the annual accounts and has given assurance for future compliance, I am taking a lenient view of the default and instead of imposing penalty of Rs. 5,000 on each director of the Company impose a penalty of Rs.5,000 (rupees five thousand only) on the Mr. Zameer Mohammad Choudery, Chief Executive of the Company. Mr. Zameer Mohammad Choudery, is directed to deposit the aforesaid fine in the designated bank account maintained in the name of the Securities and Exchange Commission of Pakistan with Habib Bank Limited within thirty days from the receipt of this order and furnish receipted bank voucher to the Commission, failing which proceedings for recovery of the fine as an arrear of land revenue will be initiated. It may also be noted that the said penalty is imposed on him in his personal capacity; therefore, the same shall be paid from his personal resources.

Tahir Mahmood
Executive Director (Enforcement)

Announced
March 25, 2008
Islamabad.