



# SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

Before Tahir Mahmood Executive Director (Enforcement)

Order in the matter of

Thatta Cement Company Limited

Number & Date of the Show Cause Notice:	EMD/233/694/2008 dated March 26, 2009
Hearing Date	Nil

## ORDER

Under Section 195 read with and Section 476 of the Companies Ordinance, 1984

The order shall dispose of the proceedings initiated against the chief executive and Directors of M/s. Thatta Cement Company Limited (the "Company") under Section 195 read with Section 476 of the Companies Ordinance, 1984 (the "Ordinance").

2. The brief facts of the case are that it was noticed from the examination of annual audited accounts of the Company for the year ended June 30, 2008 that the Company has provided loans to its chief executive. The detail of the loan is as follows:

Loans and advances-secured	(Rupees in thousands)	
	2008	2007
To chief executive	4,925	14,000

3. On perusal of record, it was observed that the Company has not taken the approval of the Commission for making said loans to its chief executive. Furthermore, no particulars have been filed with the concerned Registrar of Companies in terms of sub-section (4) of section 195 of the Ordinance. The Commission vide letter dated March 2, 2009 required copy of the agreement of the loan to chief executive, however, the same was not provided.

4. In the above circumstances, Enforcement Department of the Commission apprehended violation of the statutory provision of section 195 of the Ordinance, and it was decided to take up the matter with the Company. Consequently, a show cause notice dated March 26, 2009 (the "SCN") was issued under Section 195 read with Section 476 of the Ordinance to the chief executive and directors of the Company.

5. The company secretary, on behalf of all of the directors and chief executive, submitted reply vide letter dated April 7, 2009 and stated that:

- a. The Company granted a loan of Rs. 14 million to Mr. Fazallullah Sharif on January 26, 2007 as an employee of the Company before being appointed as chief executive of the Company on February 28, 2008;
- b. Mr. Fazallullah Sharif was required under section-195(4) of the Ordinance to file with the Registrar the particulars of loan taken by him prior to his appointment as chief executive of the Company;
- c. The loan has been repaid regularly and only an amount of Rs. 2.5 million is outstanding as of March 31, 2009 which would be repaid by June 2009 as per terms of the loan;



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN  
Enforcement Department

Computation Sheet - I

- d. No loss has been caused to the Company and its directors did not know or has express notice at the time when the loan was made that clause (4) of section 195 was being contravened as provided in section 195 (8) of the Ordinance.
6. The company secretary also submitted a copy of the return dated April 7, 2009 addressed to the Registrar, Company Registration Office, Karachi, narrating the following detail:

Loan received on December 22, 2006:	Rs. 1,400,000/-
Loan received on January 26, 2007:	Rs. 12,600,000/-
Total:	Rs. 14,000,000/-
Loan repaid till the appointment as Chief executive:	Rs. 8,550,000/-
Loan balance as on February 28, 2008:	Rs. 5,450,000/-

However, evidence of payment of house loan of Rs. 8.550 million was not submitted.

7. I would like to refer to sub-section (4) of section 195 of the Ordinance, which states that:

*"every person shall within fourteen days of his appointment as director or chief executive of a company file with the registrar the particulars of any loan taken, or guarantee or security obtained, prior to his becoming director and chief executive of the lending company which could not have been taken or obtained without the prior approval of the Commission had he at the time of taking loan or obtaining the guarantee or security been the director or chief executive of the lending company."*

8. Keeping in view, the above facts, I am of the view that the Company has breached the mandatory requirements of section 195 of the Ordinance by not filing the particulars of above mentioned loan with the Company Registration Office, Karachi within 14 days of the date of appointment of chief executive i.e February 28, 2008 and till April 7, 2009. However, due to the nature of the default, as well as circumstances of the case as narrated in the Company's reply, I, take a lenient view, and warn the chief executive and directors to be careful in future. Further, I direct the chief executive of the Company to submit an undertaking within 14 days of the date of this order that the loans obtained and re-paid by him were in accordance with the board approved policies and section 195 of the Ordinance.

**Tahir Mahmood**  
Executive Director (Enforcement)

**Announced:**  
April 21, 2009