



# SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

Adjudication Department- I

Adjudication Division

Say No to Corruption

December 29, 2022

No. CSD/ARN/294/2016/2157

Dewan Farooque Motors Limited,  
Dewan Centre, 3-A, Lalazar,  
Beach Hotel Road,  
Karachi.

**SUBJECT: Orders in respect of CSD/ARN/294/2016-170 dated August 18, 2022 Under Section 301 of the Companies Act, 2017 read with Section 304 thereof**

Dear Sir,

Please find enclosed herewith copy of the Order dated December 29, 2022 in the title matter for your record and compliance.

Thank You & Best Regards,

**Adnan Naseer**  
Assistant Director  
Adjudication Department-I





# SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

## Adjudication Department- I

### Adjudication Division

Before

Mr. Shahzad Afzal Khan -Director/ Head of Department

*In the matter of*

**Dewan Farooque Motors Limited**

Number and date of show cause notice: CSD/ARN/294/2016-170 dated August 18, 2022

Date of hearings: December 05, 2022 and December 27, 2022

Hearing attended by (Authorized Representative): Mr. Muhammad Hanif German (Company Secretary) Mr. Mehmood-ul-Hassan Asghar (Director), and Syed Maqbool Ali, Director Corporate Affairs

### ORDER

#### Under Section 301 of the Companies Act, 2017 read with Section 304 thereof

This Order shall dispose of the proceedings initiated in the matter of Show Cause Notice dated August 18, 2022 (the SCN) issued under clause (m) of Section 301 read with clause (b) of Section 304 of the Companies Act, 2017 (the Act), to Dewan Farooque Motors Limited (the Company) and its board of directors; hereinafter collectively referred to as the Respondents.

2. The facts leading to this case, briefly stated, are that the Additional Registrar of Companies, Company Registration Office (CRO) Karachi approached the Securities and Exchange Commission of Pakistan (the Commission) for grant of sanction in terms of clause (m) of Section 301 read with clause (b) of Section 304 of the Act to present a petition before the Honorable High Court for winding up of the Company on the grounds that the Company has suspended its operations since February 2014.

3. In this regard, SCN was served on the Respondents requiring them to show cause as to why petition for winding up of the Company may not be presented by the Additional Registrar before the Court.

4. In response to the SCN, the Company vide letter dated October 07, 2022 stated that (relevant extract):

"1. ...

2. *That DFML has a commercially fully viable production facilities and it has capacity to achieve its objects for which it was incorporated. That neither any of the creditors nor*



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*the shareholders have any adverse opinion with regards to the capabilities and potential of the company to resume its operations.*

3. *That since the company was allowed commercial production in the year 2000 it had manufactured renowned vehicles at first through interim facility and then later on from its own state-of-the-art plant built and located in District Sajawal, Sindh. Prominent brands of the vehicles manufactured include "Shehzore, KIA Classic, KIA Sportage and "Santro". Company was in production of vehicles till March 2014. Afterwards the company's operations were suspended due to the reason of disturbance in the provision of banking lines available through various banks/financial institutions due to the reason that automobile industry needs import of CKD, technology & parts and requires inevitable & continuous working capital lines [i.e. Letters of credit etc]. The said stoppage of production was not permanent and Company after robust efforts got successful in resumption of its operations through manufacturing vehicles on contract/toll basis during the year 2017-18. That the Company's operations could not continue for longer duration of time due to the Covid related economic slowdown and intermittent lockdown all over the world that had affected the global supply chain. Now after Covid, the Company, in order to resolve its problem, has once again taken up the issue of re-profiling / rescheduling of its debts with financial institutions with no markup condition. This time along with the Company, the financial institutions as represented by the Steering Committee (formulated specifically for the resolution of the borrowing issues of the Company), are also quite eager to resolve the matter and agree on the debt restructuring proposal on sustainable terms to enable the plant to be operational for the benefits of all stakeholders including Banks and shareholders. The Company is very confident and hopeful that negotiations will be concluded and agreed along with the execution of restructuring/settlement agreements by the end of current financial year and operations of the company will be resumed in the near future. Resumption of its production will be beneficial for the shareholders and will also result in up-gradation in the standard of living, increased employment and higher income of the inhabitants in the vicinity of plant on one hand and will contribute in the economic development and revenues of the province and of the country as a whole on the other.*
4. *That it is mentioned in the notice that the company's operations are suspended since 2014 as per the Audited Financial Statements for the year ended June 30, 2021, in this regard, we would like to mention that in note # 1 to these Financial Statements we disclosed that company got successful on 01 August 2016, to enter into an agreement with Daehan-Dewan Motor Company (Pvt.) Limited for assembly of vehicles on contract basis. The Company manufactured vehicles under this arrangement during the year 2017-18. Now once again management is undergoing evaluation of various options for revival of its operations and is quite confident that the positive signs of which will be quite visible by coming June.*



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5. *That you may please consider the fact that increase and decrease or ups and downs are common phenomenon, which cannot be considered to form an adverse opinion as neither there is uncertainty nor any doubt about the entity's ability to continue as a going concern as the Company is hopeful to re-commence its operations in near future, we are confident that the company would be able to finalize the financial restructuring with the lenders and will come out of current situation shortly.*
6. *That the provisions of Section 301 (m) & 304 of the Companies Act, 2017 may not be applied under the all attending circumstances, as the said provisions are not of mandatory in nature as the legislators have intentionally used the word "may" which provides an authority to SEC to avoid any adverse action detrimental to efforts undertaken by a company and ultimately disadvantageous to the shareholders and if the DFML is put to face winding up petition, it will jeopardize the position of the Company and will cause adverse impact on the efforts undertaken for the resumption of commercial activities of the Company and to the benefits of shareholders and other stake holders.*  
..."

5. An opportunity of hearing was provided to the Respondents on December 05, 2022 wherein Mr. Muhammad Hanif German, Company Secretary, and Mr. Mehmood-ul-Hassan Asghar, Director, appeared as authorized representatives and submitted that the Company is trying to collaborate with a foreign company as they recently got license for KIA motors for production of commercial units. Banks are on board and the Company will begin operations soon.

6. Subsequent to the hearing:

- a. the Company vide its letter dated December 05, 2022 submitted that (relevant extract):

*"Reference to the hearing held on December 5, 2022 regarding the captioned subject and our previous letter dated October 7, 2022. In this regard, we would like to state that by the grace of Almighty ALLAH, Dewan Farooque Motors Limited (DFML) has entered into Technical License Agreement (TLA) with KIA Corporation, Republic of Korea. The TLA has been executed for the assembly / manufacturing of special purpose commercial vehicles (Shehzore), you are aware that we have already announced this fact as material information to Pakistan Stock Exchange (PSX) as well as Securities & Exchange Commission of Pakistan (SEC) vide our letter dated November 7, 2022.*

*Now the FML has resumed its operational activities in order to manufacture commercial vehicles as mentioned above. Production of vehicles is aimed at benefiting its stakeholders and reinforcing Company's commitment for participation in the economic growth of the country by generating employment opportunities. DFML acted in good faith for its objectives and*



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*adhered to the compliance of the regulations and hence no adverse inference is requested to be drawn against the Company."*

b. the Company vide its letter dated December 20, 2022 requested withdrawal/ disposal of SCN u/s 301 of the Act and stated that (relevant extract):

*"Reference to the hearing held on December 5, 2022 regarding Show Cause Notice under Section 301 of the Companies Act, 2017 and our previous letters dated October 7, 2022 and December 5, 2022, wherein we submitted various factors, reasons and activities including Company's resumption of its operational activities in order to manufacture commercial vehicles.*

*We would like to submit that our Company was placed on defaulters' segment on February 7, 2019 by Pakistan Stock Exchange Limited (PSX), on the basis of Auditors' opinion on going concern assumption.*

*In this regard, we had a meeting with the Chief Regulatory Officer of the PSX and explained the recent positive and favorable developments of the Company those will enable to place the Company's shares at normal counter instead of defaulters' segment. He responded that the Company is currently placed in the defaulters' segment on account of non-compliance of 5.11.1 (b) (i) & (l) of the PSX Regulations. After our detailed submissions in the meeting in respect of commercial activities of the Company including entering into Technical License Agreement (TLA) with KIA Corporation, Republic of Korea and various other steps for resumption of operational activities, he expressed PSX's intention to remove the Company's shares from defaulters' segment for clause 5.11.1 (b) & (i) of PSX Regulations on the basis of provision of latest Auditor's opinion.*

*PSX official further informed that even with the removal of the reasons mentioned in 5.11.1 (b) & (i) of PSX Regulations, we would still be bound to keep the Company's shares on defaulters' segment due to show cause for winding up issued by the SECP on August 18, 2022.*

*We, in the hearing with your good self, on the basis of latest developments, had submitted plausible and convincing reasons for the non-application of further proceedings under Section 301 of the Companies Act, 2017. In this regard, Auditors of the Company have also expressed their opinion on going concern, resumption of commercial activities and categorically mentioned the reasons and basis for their opinion in favor of the Company's stance. The same has been attached for your ready reference.*

*Now the conclusion / disposal of show cause proceedings will remain major impediment for taking the Company's shares to normal counter.*

*Company has mobilized its resources for the purposes of commercial activities in the principal line of business and will directly or indirectly affect about 6000 persons including staff & employees, vendors, suppliers, dealers, customers, authorities, shareholders, other stakeholders and their families etc. Furthermore, the Company would positively impact the economy amid*



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*the various other unfavorable factors, at present, being faced by the Country.*

*At this point of time, if the Company's shares are not removed from the defaulters' segment, then certainly it would not only adversely impact the restructurings of the Company but will also shake the confidence of investors, public and our principal on one side and will create hurdles & irreparable loss at multiple fronts that would result in blocking the resumption of operations of the Company on the other.*

*Therefore, under the circumstances, we request you to kindly withdraw / dispose of the proceedings under Section 301 of the Companies Act, 2017, on the basis of the reasons mentioned above, in our previous hearing & Correspondence and confirm the same at your earliest possibility."*

c. the Company vide letter dated December 22, 2022 further stated that (relevant extract):

*"Reference to our letters dated 20th December 2022, 7th October 2022, 5th December 2022 and the hearing held on 5th December 2022 regarding Show Cause Notice under Section 301 of the Companies Act, 2017.*

*In our previous correspondence and hearing we had submitted multiple factors reasons and activities of the Company for the resumption of its commercial activities in principal line of its business of manufacturing commercial vehicles. During the hearing we had also explained the commercial activities of the Company including entering into Technical License Agreement (ILA) with KIA Corporation, Republic of Korea for the assembly / manufacturing of special purpose commercial vehicles (Shehzore). We were given positive gesture by the bench in respect of the issues of show cause notices for winding up of the Dewan Farooque Motors Limited and Dewan Automotive Engineering Limited due to the resumption of the commercial activities of both inter trading sister concerns.*

*We have already submitted to your good office Auditors Certificate / opinion attached with Company's letter dated 20th December, 2022 wherein they have certified the Company's commercial activities undertaken towards the manufacturing of vehicles with reference to going concern assumption's application. They have also certified Company's stance of undertaking substantial measures and arrangements for the implementation of its operational plans those will remove the uncertainties over the use of the going concern assumption which has led to reverse the expression of adverse opinion by them previously.*

*On the basis of this Auditors confirmation, Pakistan Stock Exchange (PS) has cleared the Company in respect of clause 5.11.1 (b) and (i) of the PSX Regulations. We are enclosing the PSX letter dated 22nd December, 2022 wherein they have removed their points for above regulations and highlighted the only one requirement left in order to remove the Company's shares from defaulters' segment that is the resolution of show cause issued by Securities and Exchange Commission of Pakistan (SEC) under Section 301 of the Companies Act, 2017. So,*



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*in affect they are bound to keep the Company on defaulters' segment even after successful compliance of other factors namely non-operation and adverse opinion of the Auditors.*

*In nutshell, now the conclusion / disposal of show cause proceedings have remained major impediment for taking the Company's shares to normal counter.*

*Company's operations are going to affect directly or indirectly about 6000 persons including staff & employees, vendors, suppliers, dealers, customers, authorities, shareholders, other stakeholders and their families etc. Furthermore, the Company would positively impact the economy amid the various other unfavorable factors, at present, being faced by the Country.*

*At this point of time, if the Company's shares are not removed from the defaulters' segment, then certainly it would not only adversely impact the restructurings of the Company but will also shake the confidence of investors, public and our principal on one side and will create hurdles & irreparable loss at multiple fronts that would result in blocking the resumption of operations of the Company on the other.*

*Therefore, under the circumstances, we humbly request you to kindly withdraw / drop the proceedings under Section 301 of the Companies Act, 2017, on the basis of the reasons mentioned above and in our previous correspondence & hearing. And kindly confirm the same at your earliest possibility in order to avoid additional delay to be further caused due to undue placement of Company on defaulter segment."*

7. Owing to transfer of Authorized Officer, hearing in the matter was re-fixed before the undersigned on December 27, 2022. On the date of hearing, Mr. Muhammad Hanif German, Company Secretary, Mr. Mehmood-ul-Hassan Asghar, Director, and Syed Maqbool Ali, Director Corporate Affairs, appeared as authorized representatives and reiterated their earlier submission. The authorized representatives also submitted that they will provide a roadmap for revival of Company's operations.

8. Subsequent to the hearing, the Authorized Representative through letter dated December 27, 2022 submitted that (relevant extract):

*"Reference to the today's hearing regarding the captioned subject and our previous letters dated 22nd December 2022, 20th December 2022, 7 October 2022, 5th December 2022 and the hearing held on 5th December 2022 regarding Show Cause Notice under Section 301 of the Companies Act, 2017.*

*In this regard, as discussed in the meeting we are submitting the road map of the operations of the Company: -*

- Technical License Agreement (TLA) signed on November 7, 2022, with KIA Corporation, Republic of Korea for the assembly / manufacturing of special purpose commercial vehicles (Shehzore).*
- Company has already resumed its operational activities in order to manufacture commercial vehicles and is engaged in the process of maintenance of the production facilities.*



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- Company has made required adjustments in the jigs and fixtures at plant site for the manufacturing of the vehicles.
- Company is in the process of hiring of technical and other required staff members for full operations of the Company.
- The process for import of required CKDs will be started in the first quarter of calendar year 2023.
- Market launch of first commercial vehicle (Shehzore) will be in June 2023, Insha Allah.

Therefore, under the circumstances mentioned above and in our previous hearing & correspondences, we humbly request you to kindly withdraw / drop the proceedings under Section 301 of the Companies Act, 2017, on the basis of the developments in operations of the Company. Kindly confirm the same at your earliest, if possible, in order to avoid additional delay to be further caused due to undue placement of Company on defaulters' segment of Pakistan Stock Exchange."

9. The relevant provisions of the Act are reproduced below:

**Section 301 (m) of the Act:**

"301. Circumstances in which a company may be wound up by Court. -A company may be wound up by the Court-

(m) if a listed company suspends its business for a whole year."

**Section 304(b) of the Act:**

"304. Provisions as to applications for winding up. - An application to the Court for the winding up of a company shall be by petition presented, subject to the provisions of this section, either by the company, or by any creditor or creditors (including any contingent or prospective creditor or creditors), or by any contributory or contributories, or by all or any of the aforesaid parties, together or separately or by the registrar, or by the Commission or by a person authorised by the Commission in that behalf:

Provided that-

(b) the registrar shall not be entitled to present a petition for the winding up of a company unless the previous sanction of the Commission has been obtained to the presentation of the petition: Provided that no such sanction shall be given unless the company has first been afforded an opportunity of making a representation and of being heard;"

10. I have gone through the facts of the case, record available with the Commission along with written and verbal submission made during hearing proceedings. In this context, it is hereby pointed out that the operations of the Company were suspended since February 2014. The Company however has recently entered into a Technical License Agreement (TLA) with KIA Corporation for assembly/manufacturing of special purpose commercial vehicle. The Company in this regard, also made necessary announcement on PSX vide letter dated



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November 11, 2022. Furthermore, the Company vide its letter dated December 20, 2022 addressed to Chief Regulatory Officer of PSX, provided the Auditors certificate wherein the auditor states that the Company has recently undergone certain steps, including execution of TLA with KIA Corporation and various measures in order to be operational and enable itself for manufacturing of vehicles. Besides above, the Company vide letter dated December 27, 2022 also provided the road map for revival of operations of the company, which is stipulated in para 8 above.

In view of the aforesaid submissions, tangible measures taken by the Company for revival of its operations including but not limited to TLA signed with KIA Corporation and auditors' certificate; I have observed that the ground of the SCN i.e. suspension of business of the Company has been duly addressed. I, therefore, find no reason to continue the winding up proceedings initiated against the Company through the SCN and hereby drop the same with no further action.

11. Nothing in this Order may be deemed to prejudice the operation of any provision of the Act providing for imposition of penalties in respect of any default, omission, violation of the Act.

(Shahzad Afzal Khan)  
Director/Head of Department  
Adjudication Department-I

**Announced:** December 29, 2022  
Islamabad