



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

Adjudication Department-I

Adjudication Division

ORDER	
Name of Company:	M/s. Attock Cement Pakistan Limited
Number and Date of Show Cause Notice (SCN):	CSD/ARN/401/2016-316 dated June 05, 2024
Name(s) of Respondent(s):	(i) Mr. Shuaib A. Malik, Chairman; (ii) Mr. Laith G. Phaaraon, Director; (iii) Mr. Wael G. Phaaraon, Director; (iv) Mr. Abdus Sattar, Director; (v) Mr. Shamim Ahmad Khan, Director; (vi) Mr. Mohammad Haroon, Director; (vii) Mr. Agha Sher Shah, Director; (viii) Mr. Babar Bashir Nawaz, Chief Executive Officer; and (ix) M/s. Attock Cement Pakistan Limited.
Date(s) of Hearing(s):	(i) September 03, 2024; and (ii) October 30, 2024.
Case represented by:	(i) Mr. Irfan Amanullah, Chief Operating Officer; and (ii) Mr. Muhammad Rehan, Chief Financial Officer (as the Authorized Representatives.)
Provisions of law involved:	Section 510 of the Companies Act, 2017 read with SRO 633(I)/2014 dated July 10, 2014.
Date of the Order:	May 23, 2025

This Order shall dispose of proceedings initiated through the Show Cause Notice No. CSD/ARN/401/2016-316 dated June 05, 2024 (“SCN”) by the Securities and Exchange Commission of Pakistan (the “Commission”) against M/s. Attock Cement Pakistan Limited (the “Company”) and its Board of Directors (“BOD”) including Chief Executive Officer (“CEO”), hereinafter collectively referred to as the “Respondents”, issued under Section 510 of the Companies Act, 2017 (the “Act”) read with SRO 633(I)/2014 dated July 10, 2014 (the “SRO”).

2. The provisions of Appendix B-98 (d) of International Financial Reporting Standards 10 (“IFRS 10”), ‘Consolidated Financial Statements’, requires that if a parent loses control of a subsidiary, it shall recognize any resulting difference as a gain or loss in profit or loss attributable to the parent.

3. The violation of the aforesaid requirement, as notified through the SRO, attracts a penal action in terms of section 510(2) of the Act which provides that any person, who obstructs or contravenes or does not comply with any directive, prudential requirements, codes, circulars or notifications, given under this section shall be liable to a penalty of level 3 on the standard scale.

4. Brief facts of the matter are that A.F. Ferguson & Co., Chartered Accountants, auditor of the Company (the “Auditor”), issued a qualified opinion in its audit report on the interim financial statements of the Company for the period ended December 31, 2023 (the “Accounts”) on the grounds that the Company did not prepare the Accounts in accordance with IFRS 10. The Auditor’s report, inter alia, stated that:

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“As disclosed in note 12 to the condensed interim financial statements, recognised investment in its associated company arising out of loss of control of the subsidiary at fair value as required by the applicable accounting and reporting standards in Pakistan however it recognized the resulting gain on disposal of subsidiary partially in profit or loss and the remaining in other comprehensive income. Had the gain on disposal of subsidiary been recognised entirely in the statement of profit or loss as required by the applicable accounting standards, the gain on disposal of subsidiary and resulting tax charge for the half year ended would have been higher by Rs. 2,134.56 million and Rs. 832.48 million respectively. Accordingly, profit after tax for the half year ended December 31, 2023 would have been higher by Rs. 1,302.08 million and other comprehensive income would be lower by the same amount. Consequently, Company’s earnings per share for the half year then ended would have been higher by Rs. 9.47”.

5. In order to probe the matter, the Commission sought clarification from the Company vide letter dated March 13, 2024 to which the Company responded vide letter dated March 29, 2024, *inter alia*, as under:

“BOD of the Company has carefully reviewed the status of the Sale & Purchase Agreement of shares which is to be implemented in multiple tranches and found that only one tranche has taken place yet and the other two are likely to be closed towards the end of 2024. The major portion of the gain thus far is due to devaluation of PKR against USD. The Board, considering the volatile economic and financial condition of Pakistan particularly the exchange rate, finds it prudent that the unrealized gain on remaining divestment proceeds in M/s. Saqr Al Keetan for Cement Production Company Limited (SAKCPCL) must be recognized under the head of other comprehensive income instead of Statement of Profit or Loss. The Board is of the considered view that only upon completion of share transfer in accordance with the Sale & Purchase Agreement of shares dated May 26, 2023 & applicable laws of Islamic Republic of Iraq and the receipt of entire divestment proceeds in Pakistan, the actual gain shall be recognized in Statement of Profit or Loss in the relevant periods, in line with the practice adopted by the Company in its annual accounts for the year ended June 30, 2023.”

6. The aforesaid response of the Company was not found cogent as the Company should have recognized gain of Rs. 2,134.56 million on disposal of its subsidiary in profit and loss in terms of IFRS 10. Thus, the Company, *prima-facie*, contravened the requirements of IFRS 10 which attracts penal action in terms of Section 510(2) of the Act.

7. Taking cognizance in the matter, SCN was issued to the Respondents to show the cause in writing as to why a penal action may not be taken against them for non-compliance of the requirements of IFRS 10. In response to the SCN, the Company Secretary vide letter dated June 14, 2024, requested an extension in submitting the response, which was duly granted.

8. Subsequently, the Company Secretary vide letter dated July 02, 2024, *inter alia*, made the following written response:

- (i) *The Company entered into a Joint Venture Agreement (JVA) with an Iraqi Company- Al Geetan Commercial Agencies (AGCA) through its representative, Abdul Latif Mohsin Al Geetan, for, inter alia, setting-up of a cement production unit in Basra, Iraq.*

Handwritten signature and date: 23-05-2025

(ii) *Despite best efforts to implement applicable corporate and legal requirements of both Iraq and Pakistan, it became impossible to implement aforesaid because of the attitude displayed by the Iraqi Partner. The BOD, thereafter, decided that it would be in the best interest of the Company and shareholders to part ways with the local JV partner and divest all investment in such a way that no loss should occur to the Company's shareholders. Accordingly, BOD decided to recognize this transaction subject to; (a) realization of amount in Pakistan; coupled with (b) transfer of shareholding before the Company Registrar in Iraq.*

(iii) *It is reiterated and restated that the settlement pay-out unless realized in Pakistan could have at any time be rescinded by the Iraqi JV Partner without any justification for which reason the unrealized gain was recorded under the head of other comprehensive income. This practice has been adopted by the BOD in order to take a prudent view of entire divestment transaction.*

9. In order to provide opportunity of personal representation to the Respondents, hearing in the matter was fixed for September 03, 2024 which was attended by Mr. Irfan Amanullah, Chief Operating Officer (COO) and Mr. Muhammad Rehan, Chief Financial Officer (CFO) of the Company, as the Authorized Representatives of the Respondents (the "**Authorized Representatives**"). During the course of hearing, the Authorized Representatives reiterated the written response to SCN submitted vide letter dated July 02, 2024 and, *inter alia*, stated that the said transaction was properly booked and disclosed along with the explanation in the Directors' Report. Further, there was no movement in the share price of the Company.

10. Subsequent to the hearing, the Company Secretary vide letter dated September 12, 2024, made additional submissions which, *inter alia* included:

(i) *The Company entered into a JVA on April 08, 2023 with AGCA. In respect thereof, a subsidiary was incorporated namely SAKCPCL under the laws of Iraq.*

(ii) *Unfortunately, the Company faced several complications and difficulties in SAKCPCL due to complicated Iraqi corporate/security related legal procedures and other administrative issues in respect of operations of SAKCPCL.*

(iii) *The BOD decided to sell the Company's shares in a manner that no loss is incurred to the shareholders of the Company. The BOD concluded, as an extreme caution, the transaction shall be recognized subject to (i) realization of the amount in Pakistan and (ii) transfer of the shareholding before the registrar in Iraq. The Extra-Ordinary General Meeting was scheduled for 25 May, 2023 (the EOGM) for the disposal of 18,000,000 shares representing 60% of the entire share capital of SAKCPCL by way of a Share Purchase Agreement (SPA). The Company has consistently maintained transparency with its shareholders and has disclosed all the relevant information in respect of the aforementioned transactions in compliance of sub-section (3) of Section 183 of the Act.*

(iv) *The total sale consideration for the sale of the shares is USD 23.4 Million which was supposed to be received in three tranches: (a) First tranche of USD 9 Million to be received by 3 months of signing of the SPA; (ii) second tranche of USD 5.85 Million to be*

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received within 15 months, (due date is September, 2024); (iii) third tranche of US\$ 5.85 Million to be received within 3 months from the date of second tranche i.e. last date is December, 2024.

(v) The first tranche of USD 11.7 Million (50% of the total sale consideration) was received in June, 2023, however, shares were not transferred to the buyer, therefore, the same reported as 'consideration received against divestment of subsidiary'. Subsequently, the concerned shares were transferred to the buyer in July, 2023 at the Registrar office in Baghdad, Iraq. Hence, the gain against first tranche was realized in the Profit & Loss in the first half of the year 2023-24. Although the first tranche was received in June 2023, there was a lot of uncertainty as to when the remaining payments would be received in view of AGCA's unprofessional behavior and unreliable banking system prevailing in Iraq. The Company was concerned that these payments could have been rescinded by AGCA without any justification.

(vi) It seemed suitable at the time to record the unrealized gain under the head of 'Other Comprehensive Income' rather than 'Profit & Loss' in the financial statements till such time that the amount was actually realized. This measure was adopted to protect the interest of the shareholders in the best possible manner. This was to be reflected in the financial statement for only the first half of the year 2023 and the same would be rectified eventually once the payments were realized. It is pertinent to mention here and it is emphasized, that this entry was made with the added note whereby it was acknowledged, that this has been done in contravention of the IFRS with the added surety that the same shall be rectified with the relevant amount mentioned under 'Profit & Loss' once the remaining payments have been realized. The shareholders have been kept informed and transparency has been maintained in respect of the above.

(vii) As a result of constant efforts, the remaining amounts have been received and accordingly, the Company's annual financial statement has been rectified as the entries have been made under Profit & Loss for the year 2024 in compliance of the IFRS.

11. In order to conclude the matter and to meet the ends of justice, another hearing in the matter was fixed for October 30, 2024 which was attended by the Authorized Representatives. During the course of hearing, the Authorized Representatives reiterated the earlier written submission made vide letter dated September 02, 2024 and, *inter alia*, stated that due to uncertainty in receipt of the remaining amount, the received amount was not booked under profit and loss, and same position was reflected in the Accounts, but the Auditor issued a qualified opinion.

12. Subsequent to the last hearing, the Company Secretary vide letter dated November 08, 2024, reiterated their earlier stance and, *inter alia*, made the following further submissions:

(i) During the limited review of half yearly accounts for the half year ended December 31, 2023, the external Auditors opined that the Company may recognize the entire gain on remaining two outstanding tranches in the 'Condensed Interim Statement of Profit or Loss and other Comprehensive Income'. However, the matter was discussed in detail with the Auditors and it was appraised to them that considering the prevailing uncertain legal and structural matters in Iraq and keeping in view the uncertain and unprofessional conduct of AGCA besides unreliable banking system being prevailed in Iraq, it is prudent that the

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Company should recognize this gain when the Company has clear understanding about receipt of 2nd and 3rd tranche. It was also respectfully submitted to them that this matter may defer till June 30, 2024 and till such time the Company would make every effort with AGCA for early disposal of this entire transaction matter. Furthermore, the Company also appraised Auditors that the Company would adopt the same approach in recognition of 2nd and 3rd tranche which it adopted in recognition of 1st transaction while finalizing the accounts of June 30, 2023. The Directors' in their review report for the half year December 31, 2023 clarified the Company's position through an explanatory note in a detailed manner.

(ii) It is submitted that the Company considered the Auditors qualification for the half year accounts ended December 31, 2023 very seriously and further as the Commission also issued notices, the Company especially engaged the AGCA for the release of the payments earlier than the due dates and as a result of the constant efforts, the remaining amounts have been received and accordingly, the Company's annual financial statement has been made to the utmost satisfaction of the Auditors and accordingly they have removed their qualification. It is pertinent to mention that shareholding of SAKCPL has not yet been transferred on the name of AGCA due to regulatory issues in Iraq. The receipt of 2nd and 3rd tranche has been duly notified to PSX via letters dated August 16, 2024 and September 09, 2024. Therefore, requested to take a lenient view in the matter.

13. I have gone through the requirements of IFRS 10, the provisions of Section 225 of the Act, and considered the facts of the case along with the available record of the Company as well as written and verbal submissions of the Respondents and their Authorized Representatives. I have also perused Section 510(2) of the Act, which stipulates penal action for contravention of the afore-referred requirements. It is essential to note that pursuant to the provisions of the SRO, the Company was required to comply with the requirements of IFRS 10, which aims to ensure uniformity, transparency, and comparability in financial reporting. Furthermore, Appendix B-98(d) of IFRS 10 requires parent company to recognize any resulting gain or loss in profit and loss, if it loses control of a subsidiary; which ensures that investors and stakeholders have an accurate view of the financial impact of such transactions, enabling them to make informed decisions. However, in the instant matter, the Company had recognized the gain of Rs. 2,134.56 million on disposal of its subsidiary partially under 'other comprehensive income' rather than entirely in the 'profit or loss account'; thus, resulted in the understatement of profit after tax and earnings per share in Accounts.

14. Furthermore, it is pertinent to observe that the Respondents asserted that the reason for recognizing gain in other comprehensive income instead of profit and loss was due to uncertainty in receipt of outstanding payments from the Iraqi counterpart, citing an unreliable banking system and AGCA's alleged unprofessional conduct. However, it is a settled accounting principle that when a parent company loses control of a subsidiary, it must derecognize the assets and liabilities of the subsidiary and recognize any resulting gain or loss in profit or loss, regardless of whether the consideration has been received or the receipt is deferred, as the requirement is based on the loss of control and not on receipt of consideration.

15. Furthermore, Section 225 of the Act explicitly requires that, "The financial statements shall give a true and fair view of the state of affairs of the company, comply with the financial reporting standards notified by the Commission and shall be prepared in accordance with the requirements contained in the Third Schedule for different class or classes of companies." In Mst. Alia Riaz v.

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Government of Punjab [2015] CLC 1640, the Honorable Lahore High Court held that, “.....where a thing is required to be done in a particular manner, it must be done in that manner or not at all.” Accordingly, the financial statements should have been prepared on the basis of requirements of IFRS and other applicable laws rather than considering commercial uncertainties

16. It is also pertinent to note that the Authorized Representatives shared that the aforesaid matter was placed in BOD meeting, where it was duly deliberated, and necessary measures were initiated to rectify the same. The subsequent correction of the annual financial statements for the year ended June 30, 2024, the removal of the auditor’s qualification, and the restatement of comparative figures in the half-yearly financial statements for the period ended December 31, 2024, collectively reaffirm the fact that there was a contravention with the requirements of IFRS 10 at the relevant point in time. However, it is imperative to note that subsequent rectification/compliance does not exonerate the Respondents from the earlier non-compliance, as financial reporting standards are required to be applied accurately and consistently at the time of approval and issuance of financial statements to ensure transparency and facilitate informed decision-making by investors and other stakeholders.

17. It is also important to observe that all stakeholders, who are recipients of the audited financial statements, evaluate the reports in the light of financial reporting standards to make their investment decisions. Any wrong recording, as is the case in the instant matter, results in incorrect reporting not only of performance, but also for the resulting factors, i.e., taxation, profit after tax, and earnings per share, etc. Moreover, the Auditor, in fulfillment of its professional responsibilities under the applicable auditing standards, issued a qualified conclusion on the Accounts; thereby appropriately highlighting the non-compliance with IFRS 10.

18. Furthermore, it is essential to underscore that the BOD of a company holds fiduciary responsibility for the overall governance, strategic direction and regulatory compliance of the company. Among its key duties are ensuring the integrity of the company’s financial reporting process and approving financial statements that present a true and fair view in accordance with the applicable financial reporting framework and the law. Furthermore, the CEO of a company holds a broader and more hands-on role, as he, in his capacity as the in-charge of the affairs of the company and head of management, has an operational obligation to ensure that the financial statements present a true and fair view of the company’s financial position, are free from material misstatements, and accurately reflect the company’s operations and financial condition as of the reporting date. Moreover, the CEO must exercise oversight over the entire financial reporting process, including ensuring that the finance team and internal controls are adequate and effective, and overseeing the preparation of quarterly and annual financial reports and plays a central role in ensuring that financial statements are not only technically compliant but also truly represent the company’s financial reality.

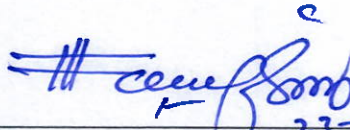
19. In light of the aforesaid, the contravention with the requirements of the IFRS 10 has been established beyond doubt in the instant matter relating to the Accounts which attracts penal action in terms of Section 510(2) of the Act. I have also given due attention to the arguments presented by the Authorized Representatives to the said non-compliance, however, none of the argument justifies the non-compliance with the provisions of the SRO and Act. I, therefore, in terms of powers conferred under Section 510(2) of the Act read with S.R.O. 1545(I)/2019 dated December 06, 2019, impose an aggregate penalty of **Rs.170,000/- (Rupees One Hundred and Seventy Thousand only)** on the Respondents on account of established default in the following manner:

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[Signature]
23-05-2025

Sr. #	Names of the Respondents	Penalty Amount
1	M/s. Attock Cement Pakistan Limited	50,000
2	Mr. Shuaib A. Malik	10,000
3	Mr. Laith G. Phaaraon	10,000
4	Mr. Wael G. Phaaraon	10,000
5	Mr. Abdus Sattar	10,000
6	Mr. Shamim Ahmad Khan	10,000
7	Mr. Mohammad Haroon	10,000
8	Mr. Agha Sher Shah	10,000
9	Mr. Babar Bashir Nawaz, CEO	50,000
	Total Amount	170,000

The Respondents are also advised to remain vigilant and ensure meticulously compliance with the applicable and legal framework in future.

20. The Respondents are, hereby, directed to deposit the aforesaid amount of penalty in the designated bank account maintained in the name of the Commission with MCB Bank Limited or United Bank Limited within thirty (30) days from the date of this Order and to furnish a receipted bank challan to the Commission forthwith. In case of failure to deposit the penalty, the proceedings under Section 485 of the Act will be initiated for recovery of the penalty/fines as arrears of land revenue pursuant to provision of Section 42B of the Securities and Exchange Commission of Pakistan Act, 1997.


 (Sohail Qadri)
 Director/ HOD
 Adjudication Department-I

Announced:
 Dated: May 23, 2025
 Islamabad

