



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

Adjudication Department- I

Adjudication Division

ORDER	
Name of Company:	M/s. Frontier Ceramics Limited
Show Cause Notice No. and Date:	CSD/ARN/308/2016-530 dated June 05, 2025
Name(s) of Noticee(s):	M/s. Frontier Ceramics Limited <i>through the Chief Executive</i>
Date(s) of Hearing(s):	(i) July 31, 2025; and (ii) August 05, 2025
Case represented by:	(i) Mr. Mushtaq Ahmed, Chief Financial Officer; and (ii) Mr. Rehman Khan Sherwani, Company Secretary <i>As the Authorized Representatives on behalf of the Noticee</i>
Provision of law involved:	Section 218 read with Section 219 and Section 479 of the Companies Act, 2017
Date of Order:	September 09, 2025

This Order shall dispose of the proceedings initiated by the Securities and Exchange Commission of Pakistan (the "Commission") through the Show Cause Notice No. CSD/ARN/308/2016-530 dated June 05, 2025 ("SCN") issued to M/s. Frontier Ceramics Limited (the "Company"), hereinafter referred to as the "Noticee", for contravention of the requirements of Section 218 read with Sections 219 and 479 of the Companies Act, 2017 (the "Act").

2. The brief facts of the case are that examination of Annual Audited Financial Statements for the year ended June 30, 2024 (the "Account") of the Company and the information provided by the Company respectively through its letter dated March 21, 2025 and email dated May 21, 2025 revealed that it maintains a Provident Fund Trust (the "Trust") for its employees. The Commission, vide letters dated February 24, 2025 and February 7, 2024, respectively, highlighted a persistent non-compliance by the Company in terms of requirements of Section 218 of the Act with a clear warning to ensure future adherence on account of regular utilization of the provident fund balance for Company's operations instead of depositing the same in a separate bank account as required in terms of the provisions of sub-section (2) of Section 218 of the Act. The Company through letter dated March 21, 2025 submitted its response which *inter alia* stated as follows:

"...while the provident fund was temporarily utilized for operational needs, the company duly compensated the Fund by charging markup on the amount used till December 31, 2024. This was done to ensure that fund members did not suffer any financial loss due to the temporary usage of funds. The markup rate applied was in line with prevailing bank deposit rates. Further an amount of Rs. 21,190,606/- was deposited into a separate Bank Account"

3. The Company's financials and the reply indicated that it had not only utilized the provident fund for its own operations but had also failed to deposit the entire provident fund's contribution in a separate bank account, constituting contravention of sub-section (2) of Section 218 of the Act. The information shared by the Company regarding monthly payments revealed that the Company failed to transfer the provident fund trust contributions collected between January 2021 to July 2024 within the prescribed time i.e., fifteen (15) days of the date of deposit by employees, with delays ranging upto 1,019 days in certain instances in complete contravention to the requirements of Section 218 (3) of the Act which is punishable under Section 219 of the Act.

4. The relevant provisions of the Act stipulate as under:

*# ceef/omb
1-09-2025*

“218. Employees’ provident funds, contributory retirement funds and securities. –

(2) *Where a provident fund, contributory pension fund or any other contributory retirement fund has been constituted by a company for its employees or any class of its employees, all moneys contributed to such fund, whether by the company or by the employees or by both, or received or accruing by way of interest, profit or otherwise from the date of contribution, receipt or accrual, as the case may be, shall either—*

(a) be deposited—

(i) in a National Savings Scheme;

(ii) in a special account to be opened by the company for the purpose in a scheduled bank; or

(iii) where the company itself is a scheduled bank, in a special account to be opened by the company for the purpose either in itself or in any other scheduled bank; or

(b) be invested in—

(i) Government securities; or

(ii) bonds, redeemable capital, debt securities or instruments issued by a statutory body, units of collective investment schemes registered as notified entities with the Commission, and in listed securities including shares of companies, bonds, redeemable capital, debt securities and equity securities, subject to the conditions as may be specified.

(3) Where a trust has been created by a company with respect to any provident fund or a contributory pension funds or any contributory retirement fund referred to in sub-section (2), the company shall be bound to collect the contribution of the employees concerned and pay such contributions as well as its own contributions, if any, to the trustees within fifteen days from the date of collection, and thereupon, the obligations laid on the company by that sub-section shall devolve on the trustees and shall be discharged by them instead of the company.

“219. Penalty for contravention of section 217 or 218. – Any contravention or default in complying with requirements of sections 217 or 218 shall be an offence liable to a penalty of level 1 on the standard scale and shall also be liable to pay the loss suffered by the depositor of security or the employee, on account of such contravention.”

5. Taking cognizance of the aforesaid alleged violation of law, a SCN was served upon the Noticee to show the cause in writing as to why penal action may not be taken for non-compliance of the Act. In response to the SCN, the Company Secretary vide letter dated July 22, 2025 *inter alia*, submitted as under:

- (i) *The Company has duly recognized the Provident Fund liability in its financial records and has also been regularly accruing interest on the outstanding balances in favor of the employees to ensure their entitlements are not adversely impacted.*
- (ii) *Due to temporary cash flow constraints arising from external market and operational challenges, the Provident Fund contributions have been internally utilized with the intent of short-term liquidity management. This measure was adopted purely out of necessity and without any intention to deny or delay employees' entitlements. We are confident that no employee has been denied access to his/her dues as and when required.*
- (iii) *We acknowledge the legal requirement under Section 218 of the Act to deposit the Provident Fund in a separate bank account maintained solely for this purpose. The Company is currently in the process of preparing a structured repayment plan, and we are actively to ensure phased transfer of the outstanding amount into a separate Provident Fund account in compliance with the law.*

Handwritten signature and date: 09-09-2025

- (iv) *In view of the above, we respectfully request the SECP to kindly grant us a reasonable time frame of 12 months to regularize the situation and fully comply with the requirements, including the transfer of the Provident Fund into a designated bank account.*
- (v) *We propose to submit a quarterly progress report on the repayment schedule to demonstrate transparency and seriousness of intent. We assure the Commission that the management remains fully committed to upholding the fiduciary responsibility towards employees and regulatory compliance. Your understanding and support in allowing us time to rectify the situation shall be greatly appreciated.*

6. In order to provide an opportunity for personal representation and to meet the ends of justice, hearing in the matter was fixed for July 31, 2025. However, no one appeared to represent the Noticee. Accordingly, another hearing opportunity was fixed for August 05, 2025 where, Mr. Mushtaq Ahmed, Chief Financial Officer alongwith and Mr. Rehman Khan Sherwani, Company Secretary, appeared as the “**Authorized Representatives**” on behalf of the Noticee. The Authorized Representatives, during the hearing, reiterated the earlier furnished response and assured for future compliance with a request for taking leniency in the matter. They further requested that the Company may be allowed timeline of twelve (12) months period to achieve complete compliance with the requirements of Section 218(2) and 218(3) of the Act including to ensure complete separation of the fund and due investments by the Trustees. During the hearing it was also revealed that the senior members of the management were themselves acting as Trustees of the Trust.

7. I have gone through the relevant provisions of Section 218 of the Act, considered the facts of the case and the written and verbal submissions of the Company and its Authorized Representatives. I have also perused Section 219 of the Act, which stipulates penal and compensatory provisions for contravention of the afore-referred provisions of law. It is observed that the provisions of Section 218 of the Act are clear and unambiguous. The objective of these provisions is to secure and separate the amounts collected from the employees for the provident fund as well as the contribution made by the employer so as to ensure that the same are not utilized by the Company and are not exposed to any unwarranted risk. Especially, where a provident fund has been established in the form of a Trust, the separation of assets and contributions is essential to achieve the bankruptcy remote model to safeguard the rights and claims of the employees. In case cited as 2010 CLD 1725 [Appeal No. 08 of 2006 decided on January 14, 2010], it was held that “...the provident fund belongs to the employees and not to the Company. The objective of section 227 of the Ordinance [pari materia to Section 218 of the Act] is to secure the provident fund of the employees and to ensure that the provident fund is not depleted due to any exigency of the Company. The directors are under a duty to protect the provident fund...”

8. It is also important to observe that the amounts collected from employees along with Company’s own contributions in pursuance of the contracts of their service are in the nature of trust moneys in the hands of a company and the same must be paid to the Trustees within the prescribed timelines i.e. fifteen (15) days. In a case cited as 2010 CLD 60 [Dandot Cement Company Ltd.], the company failed to pay the provident fund contributions to provident fund trust within fifteen (15) days of collection as required under Section 227 of the then Companies Ordinance, 1984 and failed to repay its past liabilities towards provident fund trust. It was thus aptly observed therein that “...the amounts collected from employees as contributions to a provident fund constituted by the company are in the nature of trust moneys in the hand of a Company and the same must be paid to the trustees within the stipulated time...” [reliance also placed on 2009 CLD 951]. It is crucial that such payments are made by a company to the trustees in a timely manner in order to enable the trustees to fulfill their obligations of managing/ investing such amounts in accordance with the law. In this respect, an order passed by the Appellate Bench of the Commission [Appeal No. 75 of 2021] is considered relevant, where it was held that “...Section 218 of the Act prescribes a clear timeline for the deposit of all monies into the requisite account within 15 days...”. It is, therefore, evident that in the instant matter by not paying the Provident Fund’s contribution amounts to the Trustees in a timely manner, the Company restricted the ability of the respective Trustees to perform their due responsibilities as envisaged in sub-section (2) of Section 218 of the Act.

*# confirmed
1-5-2025
09-09-2025*

9. It is also important to observe that immediately upon the deduction of the amounts from the salaries and contributions made by the Company, the same are actually beyond the scope of the Company's management and stand vested into the Trustees who then, in their sole discretion and as per provisions of law/by-laws, may allow grant of loans out of the same or make final settlements to the employees/members of the Trust or invest the same. However, in the instant matter, admittedly, the Company utilized the contribution for its own operational needs; where the Trustees of the Provident Fund Trust, who are members of senior management of the Company, failed to undertake their responsibility of safeguarding the assets of the Trust by allowing such utilization of funds for the operations of the Company. It must be emphasized that, in no manner whatsoever, it is allowed for the Company's management to utilize the provident fund moneys for its own operations and the Trustees are expected to act vigilantly and independently to safeguard such rubicon at all times.

10. Moreover, as submitted by the Authorized Representatives, the Company does not have any existing policy or practice of compensating the provident fund, i.e. employees who are its members, for the loss incurred due to delay in payment of contribution which is necessary to mitigate the impact of delayed payments and to compensate for the lost profit/accumulation opportunities of the provident fund and its members.

11. In the instant matter, it has also been observed that the provisions of Section 218 of the Act do not, in any way, grant any exception from the mandatory requirement to deposit the contribution amounts within the prescribed timeline of fifteen (15) days. The argument of cash flow constraints resulting in utilization of Provident Fund moneys for Company's operations, problems faced in opening of Trust's bank account and shifting from gratuity scheme to provident fund trust in the year 2023 do not hold any logical or legal grounds to walk away from a regulatory requirement. Clear guidance in the matter can be sought from 2010 CLD 60 [Dandot Cement Company Ltd.], where it was determined that "... Compliance with the said provisions of the Ordinance also become important due to the fact that such amounts are unsecured and in case a Company goes insolvent, the employees would be the worst victims. The Companies therefore cannot be allowed to withhold such moneys on any pretext whatsoever and any default in this regard cannot be ignored."

12. It is evident from the above that contrary to the mandatory requirement of Section 218 of the Act to pay the collected amounts within fifteen (15) days, the amounts were not paid to the Trust and remained outstanding for extended periods; where the contributions in respect of year 2024 and 2025 also yet remain pending thereby exposing the employees to financial loss. The law clearly requires that when a trust has been created by a company with respect to any provident fund, the company has an obligation to pay the contributions including its own contributions to the trustees within fifteen (15) days from the date of collection.

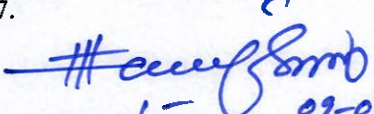
13. After careful consideration of all the facts of the case, in light of the relevant provisions of the law and the written and verbal submissions made by the Company and its Authorized Representatives, it is established beyond doubt that the Noticee has contravened the provisions of sub-sections (2) and (3) of Section 218 of the Act at the relevant points in time and is liable for penal and compensatory action under Section 219 of the Act read with Section 479 thereof. I, therefore, in exercise of the powers conferred under Section 219 of the Act in terms of S.R.O. 1545(I)/2019 dated December 6, 2019, conclude the instant proceedings with imposition of a penalty of **Rs.25,000/- (Pak Rupees Twenty-Five Thousand Only)** on the Company/Noticee on account of the aforesaid established default and further hold it liable to duly pay/compensate the loss suffered by the employees on account of delay in payment without fail with a strict advice to ensure meticulous compliance with all applicable laws in the future.

14. Furthermore, in exercise of powers as conferred under in Section 475 of the Act read with S.R.O. 1545(I)/2019 dated December 6, 2019, the Company is **DIRECTED** to compute the loss incurred by the Trust due to delayed payments of both employees' contributions and the Company's own contributions in the instant matter and to deposit the entire amount in a separate bank account as required in terms of sub-section (2) of Section 218 of the Act. The said computation should be based on the promised rate of return

Handwritten signature and date:
1-09-2025

on pending payments for the subject review period and the Company/Noticee shall remit the same to the Trustees of the Provident Fund within a period not exceeding forty-five (45) days from the date of this Order and provide an auditor's certificate verifying such compensation so made. The Company is further directed to report compliance of this direction to the Commission within the afore stipulated time without fail.

15. The Company is, hereby, further 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 fines as arrears of land revenue pursuant to provision of Section 42B of the Securities and Exchange Commission of Pakistan Act, 1997.


1-09-2025
Sohail Qadri
Director/ HOD
Adjudication Department-I

Announced:
September 09, 2025
Islamabad.

