বাংলাদেশ সিকিউরিটিজ অ্যান্ড এক্সচেঞ্জ কমিশন
জীবন বীমা টাওয়ার (১৫, ১৬, ১৭ ও ২১তম তলা), ১০ দিলকুশা বা/এ, ঢাকা-১০০০, বাংলাদেশ।

নং-বিএসইসি/এনফোর্সমেন্ট/২২০১/২০১৪/২২০ তারিখঃ ১৩ জুলাই ২০১৫ ইং

আদেশ

যেহেতু, কমিশন এর আদেশ নং BSEC/Surveillance/2014-0840/427 dated 9th November 2014 এর মাধ্যমে একটি তদন্ত কমিটি গঠিত হয় এবং উক্ত তদন্ত কমিটির দাখিলকৃত প্রতিবেদন অনুযায়ী findings and contraventions নিম্নরূপঃ

Quote

"----1. From the Note 12 of un-audited statement of financial position for the quarter ended September 30, 2014 it appeared that Petromax Refinery Limited, Subsidiary of Shahjibazar Power Company Limited has issued, subscribed and paid-up capital during the said period of Tk.90,00,00,000 fully paid in cash. But, from the statement of cash flows and financial position it appeared that no cash received regarding share money in this period only share money deposit were Tk.9,93,33,400. From review of un-audited statement of financial position for the quarter ended September 30, 2014 apparently it appeared that Petromax Refinery Limited has issued shares of Tk.90,00,00,000 against share money deposits of Tk.9,93,33,400 and loan of Tk.80,06,66,600. In this regard, Petromax Refinery Limited, Subsidiary of Shahjibazar Power Company Limited has given misleading or false or incorrect information in the Note 12 of un-audited statement of financial position for the quarter ended September 30, 2014 although they knows or has reasonable cause to believe to be false or incorrect the said information.

Contravention: Through the aforesaid activities **Petromax Refinery Limited, Subsidiary of Shahjibazar Power Company Limited** has contrvened Section 18 of Securities and Exchange Ordinance, 1969.

2. From the Commission's consent letter No. SEC/CI/CPLC-327/2011 dated December 12, 2011 it appears that consent has been given under Securities and Exchange Commission (Issue of Capital) Rules, 2001 for raising the paid up capital of Petromax Refinery Limited, Subsidiary of Shahjibazar Power Company Limited from Tk.10,00,00,000 to Tk.100,00,00,000 by issuing of 9,00,00,000 Ordinary shares of Tk.10 each totaling Tk.90,00,00,000 **only to the existing shareholders of the company. This consent for raising of capital of** Petromax Refinery Limited should valid for three months from the date of issuance of the letter failing which the permission will stand cancelled to the extent of un-subscribed portion. From the audited financial statement for the year ended 30th June 2013 and 2014 it appeared that share capital and share money deposit were Tk.10,00,00,000 and 9,93,33,400 respectively. Thus, under the said consent, Petromax Refinery Limited did not issue any shares. It also appeared from the un-audited statement of financial position for the period ended September 30, 2014 that Petromax Refinery Limited has issued shares of Tk.90,00,00,000 against share money deposits of Tk.9,93,33,400 and loan of Tk.80,06,66,600 without any further consent from BSEC.

Contravention: Through the aforesaid activities **Petromax Refinery Limited, Subsidiary of Shahjibazar Power Company Limited** has contravened Rule 3 and 4 of Securities and Exchange Commission (Issue of Capital) Rules, 2001.

4. The Enquiry Committee has reviewed analyzed audited financial statements of Shahjibazar Power Company Limited & Petromax Refinery Limited of their Subsidiary and found that the said company declared 25% cash dividend and 5% stock dividend for the year ended 30th June 2014 through manipulating profit by understating expenses in the following way:

From the collected audited financial statements for the year ended 30th June 2013 and 30th June 2014 Petromax Refinery Limited, Subsidiary of Shahjibazar Power Company Limited, it appears that balances of non current liabilities (loan), short term loan and long term loan current maturity were shown in the balance sheet by the following Way:

Particulars	30th June 2014 (Tk.)	30th June 2013 (Tk.)
Non current Loan	215,06,07,888	270,06,68,959
Short term loan	60,50,12,262	87,32,54,726
Long Term Loan current maturity	47,10,55,704	-
Total	**322,66,75,854**	**357,39,23,685**

Under the above context interest should be charged on the aforesaid loan amount against revenue. But no interest had been charged against revenue for the year ended 30th June 2013. Mentionable that only financial expenses amount of Tk.25,44,79,783 **(including bank charges on L/C Liabilities amount of Tk.159,03,96,052)** has been charged for the year ended 30th June 2014. Also mentionable that as per Note 16 and 17 of audited financial statements for the year ended 30th June 2013 and 30th June 2014 Petromax Refinery Limited, Subsidiary of Shahjibazar Power Company Limited there is no interest free loan. As such, Petromax Refinery Limited had overstated huge amount of profit for the year ended 30th June 2014 by understating financial expenses. Same has been reflected in the consolidated financial statement of Shahjibazar Power Company Limited as well as EPS and NAV overstated of Shahjibazar Power Company Limited. Thus, it is barrier of true and fair presentation financial statement of issuer and its subsidiary company.

As per Rule 12(2) of Securities and Exchange Rules, 1987, the financial statements of an issuer of a listed security shall be prepared in accordance with the requirements laid down in the Schedule and the International Accounting Standards as adopted by the Institute of Chartered Accountants of Bangladesh. Thus, considering above, Shahjibazar Power Company Limited did not prepare financial statements in accordance with the requirements laid down in the Schedule and the International Accounting Standards as adopted by the Institute of Chartered Accountants of Bangladesh.

Contravention: Through the aforesaid activities **Petromax Refinery Limited, Subsidiary of Shahjibazar Power Company Limited** has contravened Rule 12(2) of Securities and Exchange Rules, 1987."**Unquote**

যেহেতু, কমিশন উপরোল্লিখিত প্রতিবেদন অনুযায়ী সিকিউরিটিজ আইন পরিপালনে ব্যর্থতার জন্য পেট্রোম্যাক্স রিফাইনারি লিমিটেড. এর বরাবরে একটি show-cause-cum-hearing notice সূত্র নং- SEC/Enforcement/2201/2014/719 তারিখ ডিসেম্বর ২১, ২০১৪ ইং প্রেরণ করে এবং জানুয়ারি ০৭, ২০১৫ ইং তারিখে শুনানীর দিন ধার্য্য করে এবং ধার্য্যকৃত তারিখে পেট্রোম্যাক্স রিফাইনারি লিমিটেড এর প্রতিনিধি উপস্থিত হয়ে জানুয়ারি ০৭, ২০১৫ ইং তারিখের পত্রের মাধ্যমে লিখিত বক্তব্য দাখিল করেন। যাতে অন্যান্যের মধ্যে, নিম্নোক্ত বিষয়গুলির উল্লেখ আছে:-

"----1. From the Note 12 of un-audited statement of financial position for the quarter ended September 30, 2014 it appeared that Petromax Refinery Limited, Subsidiary of Shahjibazar Power Company Limited has issued, subscribed and paid-up capital during the said period of Tk. 90,00,00,000 fully paid in cash. But, from the statement of cash flows and financial position it appeared that no cash received regarding share money in this period only share money deposit were Tk.9,93,33,400. From review of un-audited statement of financial position for the quarter ended September 30, 2014 apparently it appeared that Petromax Refinery Limited has issued shares of Tk.90,00,00,000 against share money deposits of Tk.9,93,33,400 and loan of Tk.80,06,66,600. In this regard, Petromax Refinery Limited, Subsidiary of Shahjibazar Power Company Limited has given misleading or false or incorrect information in the Note 12 of un-audited statement of financial position for the quarter ended September 30, 2014 although they knows or has reasonable cause to believe to be false or incorrect the said information.

Contravention: Through the aforesaid activities **Petromax Refinery Limited, Subsidiary of Shahjibazar Power Company Limited** has contravened Section 18 of Securities and Exchange Ordinance, 1969.

EXPLANATION OF THE COMPANY: In the prospectus of Shahjibazar Power Co.Ltd. Which was duly vetted and approved by Bangladesh Securities and Exchange Commission on February 18, 2014 at page number 42 under the head of "Advance to Subsidiary and Associate" it was clearly disclosed that, ***"SPCL has paid its subsidiary and associate an amounting of Tk. 1,206,495,226/-as investment to meet up Capital Expenditure and the above amount will be converted into Paid Up Capital at face value of the both company."*** Further it was disclosed at page number 81 of the same prospectus under the head of "Management Disclosure Regarding Share Money Deposit" that, ***"The share money deposit which was deposited on 24.04.2012 has not been converted into paid up capital as yet. The above amount will be converted into paid up capital after Commercial Operation Date (COD) of Petromax Refinery Ltd. (PRL)".*** Furthermore, it was disclosed in Note No. 32 of the Financial Statements of Petromax Refinery Ltd (Subsidiary of Shahjibazar Power Co. Ltd.) under the head of "Events after Reporting Period" which was submitted as asked by the said enquiry committee that, ***"The company was indebted to its Parent Company for capital expenditure requirement. On July 24, 2014 80,066,660 shares have been allotted at face value to its parent company against the said indebtness. Furthermore, 9,933,340 no. of shares have been allotted against "Share Money Deposit" on the same date."*** Amounts that have been converted into shares are taken in the form of cash by Petromax Refinery Ltd from Shahjibazar Power Company Ltd. All such evidences are attached herewith this letter which may kindly be seen in this regard. Therefore it is justified that, Petromax Refinery Ltd did not give any misleading, false or incorrect information to the Commission at any level which may be impugned as contravention of Section 18 of Securities and Exchange Ordinance, 1969.

2. From the Commission's consent letter No. SEC/CI/CPLC-327/2011 dated December 12, 2011 it appears that consent has been given under Securities and Exchange Commission (Issue of Capital) Rules, 2001 for raising the paid up capital of Petromax Refinery Limited, Subsidiary of Shahjibazar Power Company Limited from Tk.10,00,00,000 to Tk.100,00,00,000 by issuing of 9,00,00,000 Ordinary shares of Tk.10 each totaling Tk.90,00,00,000 **only to the existing shareholders of the company. This consent for raising of capital of** Petromax Refinery Limited should valid for three months from the date of issuance of the letter failing which the permission will stand cancelled to the extent of un-subscribed portion. From the audited financial statement for the year ended June 30, 2013 and 2014 it appeared that share capital and share money deposit were Tk.10,00,00,000 and 9,93,33,400 respectively. Thus, under the said consent, Petromax Refinery Limited did not issue any shares. It also appeared from the un-audited statement of financial position for the period ended September 30, 2014 that Petromax Refinery Limited has issued shares of Tk. 90,00,00,000 against share money deposits of Tk. 9,93,33,400 and loan of Tk.80,06,66,600 without any further consent from BSEC.

Contravention: Through the aforesaid activities **Petromax Refinery Limited, Subsidiary of Shahjibazar Power Company Limited** has contravened Rule 3 and 4 of Securities and Exchange Commission (Issue of Capital) Rules, 2001.

EXPLANATION OF THE COMPANY: As per the said consent of Bangladesh Securities and Exchange Commission (BSEC) to **Petromax Refinery Ltd (Subsidiary of Shahjibazar Power Co. Ltd.), Shahjibazar Power Co. Ltd.** was supposed to subscribe the full 9,00,00,000 ordinary shares of Tk.10 each totaling Tk. 90,00,00,000. Accordingly SPCL has collected the fund from its existing shareholders to subscribe the said quantity of shares of Petromax Refinery Ltd (PRL). PRL has received this amount from Shahjibazar Power Company Ltd as loan. It was disclosed in every version of prospectus of Shahjibazar Power Co. Ltd which was submitted before BSEC for their kind review from time to time that the said amount will be converted into paid up capital at the face value of both the Company. In the published prospectus of SPCL it was disclosed in page 42 to be read with page 81 which may kindly be seen in this regard. Therefore, it is evident that, PRL does not deliberately perform this act which may be impugned as contravention of Rule 3 and 4 of Securities and Exchange Commission (Issue of Capital) Rules, 2001.

4. The Enquiry Committee has reviewed analyzed audited financial statements of Shahjibazar Power Company Limited & Petromax Refinery Limited of their Subsidiary and found that the said

company declared 25% cash dividend and 5% stock dividend for the year ended 30th June 2014 through manipulating profit by understanding expenses in the following way:
From the collected audited financial statements for the year ended 30th June 2013 and 30th June 2014 Petromax Refinery Limited, subsidiary of Shahjibazar Power Company Limited, it appears that balances of non-current liabilities (loan), short term loan and long term loan current maturity were shown in the balance sheet by the following Way:

Particulars	30th June 2014 (Tk.)	30th June 2013 (Tk.)
Non-Current Loan	215,06,07,888	270,06,68,959
Short term loan	60,50,12,262	87,32,54,726
Long Term Loan current maturity	47,10,55,704	-
Total	**322,66,75,854**	**357,39,23,685**

Under the above context interest should be charged on the aforesaid loan amount against revenue. But no interest had been charged against revenue for the year ended 30th June 2013. Mentionable that only financial expenses amount of Tk.25,44,79,783 **(including bank charges on L/C Liabilities amount of Tk. 159,03,96,052)** has been charged for the year ended 30th June 2014. Also mentionable that as per Note 16 and 17 of audited financial statements for the year ended 30th June 2013 and 30th June 2014 Petromax Refinery Limited, subsidiary of Shahjibazar Power Company Limited there is no interest free loan. As such, Petromax Refinery Limited had overstated huge amount of profit for the year ended 30th June 2014 by understating financial expenses. Same has been reflected in the consolidated financial statement of Shahjibazar Power Company Limited. Thus, it is barrier of true and fair presentation financial statement of issuer and its subsidiary company.
As per Rule 12(2) of Securities and Exchange Rules, 1987, the financial statements of an issuer of a listed security shall be prepared in accordance with requirements laid down in the Schedule and the International Accounting Standards as adopted by the Institute of Chartered Accountants of Bangladesh. Thus, considering above, Shahjibazar Power Company Limited did not prepare financial statements in accordance with requirements laid down in the Schedule and the International Accounting Standards as adopted by the Institute of Chartered Accountants of Bangladesh.
<u>Contravention:</u> Through the aforesaid activities **Shahjibazar Power Company Limited** and **Petromax Refinery Limited, Subsidiary of Shahjibazar Power Company Limited** has contravened Rule 12(2) of Securities and Exchange Rules, 1987.

<u>EXPLANATION OF THE COMPANY:</u> To payout the declared dividend of 25% cash and 5% stock the Company has enough reserve to payout. Therefore, it can be said that no manipulation of profit by understating expenses is required.
Further to that, Note 16 and 17 of audited financial statements for the year ended 30th June 2013 and 30th June 2014 Petromax Refinery Limited, subsidiary of Shahjibazar Power Company Limited there was no such disclosure which can stand that, there is no interest free loan, rather in page 62 of the published prospectus under the title of "ADDITIONAL DISCLOSURE BY THE AUDITOR" Point number 3 "There are agreements between SPCL with Petromax Refinery Ltd. and Midland Power Co. Ltd. The rate of interest is Zero as the amount of Advance will be converted to Equity Shares."
As per the Note 16 of the audited financial statements for the year ended 30th June 2014 and 30th June 2013 under the head of Loan Other Than Bank amounting to Tk. 1,283,637,425 and Tk. 1,143,088,704 is interest free. On rest of the amount interest was duly charged in both financial years under account.
Therefore, it can be said that, no contravention of Rule 12(2) of Securities and Exchange Rules, 1987 did take place in that case.

Therefore we hope the above explanations are well enough to justify the stand of the Company in reply of said queries."

বাংলাদেশ সিকিউরিটিজ অ্যান্ড এক্সচেঞ্জ কমিশন

জীবন বীমা টাওয়ার (১৫, ১৬, ১৭ ও ২১তম তলা), ১০ দিলকুশা বা/এ, ঢাকা-১০০০, বাংলাদেশ।

যেহেতু, পেট্রোম্যাক্স রিফাইনারি লিমিটেড তারিখ জানুয়ারি ০৭, ২০১৫ ইং পত্রের মাধ্যমে উল্লিখিত ব্যর্থতা তথা বিধি বিধান লংঘন সংক্রান্ত অভিযোগ স্বীকার করে যে লিখিত ব্যাখ্যা প্রদান করেছে তা কমিশনের নিকট গ্রহনযোগ্য বলে বিবেচিত হয়নি এবং পেট্রোম্যাক্স রিফাইনারি লিমিটেড এর উক্ত লংঘন ইচ্ছাকৃত;

যেহেতু, পেট্রোম্যাক্স রিফাইনারি লিমিটেড এর পরিচালকমন্ডলীর সদস্যবৃন্দ কোম্পানীর প্রতিনিধিত্বকারী তারা প্রত্যেকে উল্লিখিত কর্মকান্ড তথা সিকিউরিটিজ আইন ও উহার অধীনে জারিকৃত বিধি-বিধান ভঙ্গের জন্য দায়ী যা Securities and Exchange Ordinance, 1969 এর Section 22 এর অধীন শাস্তিযোগ্য অপরাধ;

যেহেতু, কমিশনের বিবেচনায়, সিকিউরিটিজ আইন ও বিধি-বিধান পরিপালনে উল্লিখিত ব্যর্থতার জন্য, পুঁজিবাজারের শৃংখলা, স্বচ্ছতা এবং জনস্বার্থে আলোচ্য ইস্যুয়ারের পরিচালকগণের প্রত্যেককে জরিমানা করা প্রয়োজন ও সমীচীন; এবং

অতএব, সেহেতু, কমিশন, উল্লিখিত যাবতীয় বিষয় বিবেচনাপূর্বক, Securities and Exchange Ordinance, 1969 (Ordinance No. XVII of 1969) এর section 22 [যা The Securities and Exchange (Amendment) Act, 2000 দ্বারা সংশোধিত] এ প্রদত্ত ক্ষমতাবলে উক্ত ইস্যুয়ারের পরিচালক জনাব আনিস সালাউদ্দিন আহমেদ এর উপর ১০ (দশ) লক্ষ টাকা জরিমানা ধার্য্য করল যা অত্র আদেশের তারিখ হতে ১৫ (পনের) দিনের মধ্যে 'বাংলাদেশ সিকিউরিটিজ অ্যান্ড এক্সচেঞ্জ কমিশন' এর অনুকূলে ইস্যুকৃত ব্যাংক ড্রাফট/পে-অর্ডারের মাধ্যমে কমিশনে জমা করতে হবে।

বাংলাদেশ সিকিউরিটিজ অ্যান্ড এক্সচেঞ্জ কমিশনের আদেশক্রমে,

13/7/15

মোঃ আঃ সালাম সিকদার
কমিশনার

বিতরনঃ

জনাব আনিস সালাউদ্দিন আহমেদ, পরিচালক, পেট্রোম্যাক্স রিফাইনারি লিমিটেড।
প্রধান নির্বাহী কর্মকর্তা, ঢাকা ষ্টক এক্সচেঞ্জ লিমিটেড।
প্রধান নির্বাহী কর্মকর্তা, চট্টগ্রাম ষ্টক এক্সচেঞ্জ লিমিটেড।

অবগতির জন্য অনুলিপিঃ

১। নির্বাহী পরিচালক, আইন, বিএসইসি।
২। নির্বাহী পরিচালক, সার্ভেইল্যান্স, বিএসইসি।
৩। নির্বাহী পরিচালক, এমআইএস, বিএসইসি।
৪। চেয়ারম্যান মহোদয়ের দপ্তর, বিএসইসি।

ফোন (পিএবিএক্স) : +৮৮০-২-৯৫৬৮১০১-২, +৮৮০-২-৯৫৬১৫২৫, ফ্যাক্স : +৮৮০-২-৯৫৬৩৭২১, ই-মেইল : secbd@bdmail.net, ওয়েব : www.secbd.org, www.sec.gov.bd