Republic of the Philippines
Department of Finance
Securities and Exchange Commission
SEC Building, EDSA, Greenhills, Mandaluyong City

IWAKI CO., LTD.,
Petitioner,

- versus -

IWAKI CHEMICAL PUMPS PHILIPPINES, INC.,
Respondent.

SEC Admin. Case No. 02-12-143
For: Revocation of Corporate Registration

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DECISION

Before the Commission En Banc is the Petition for Revocation of Corporate Registration under Sec. 121 of the Corporation Code in relation to Section 6 of PD 902-A filed by Iwaki Co., Ltd. ("petitioner") on 27 January 2012 against Iwaki Chemical Pumps Phils., Inc. ("respondent").

Respondent is a duly-registered corporation with the Securities and Exchange Commission on 05 April 2000 under SEC Registration No. A200005087.[1] Petitioner, on the other hand, is a foreign corporation and was one of respondent's stockholders.[2]

In the Petition,[3] it was alleged that petitioner, Nikko Sources International Corporation ("Nikko") and Iwaki-Taiwan entered into a Joint Venture Agreement ("JVA") for the establishment of respondent to be named *"Iwaki Chemical Pumps Philippines, Inc."* on 14 February 2000 and subsequently, petitioner and respondent entered into an Exclusive Distribution Agreement ("EDA") on 01 January 2005 giving the latter license to be the sole distributor in the Philippines of Iwaki products. It was also alleged that petitioner, through a Notice dated 24 December 2008, terminated the EDA with respondent due to the latter's failure to settle its obligations, and thereafter, terminated the JVA with Nikko.

Petitioner averred that respondent ignored its demand and continues to exist today as a body corporate using the expression "Iwaki" and the Iwaki logo although no longer authorized to the utmost prejudice of petitioner. It pointed out that respondent no longer filed with the Commission its General Information Sheet since 2009 and its Audited Financial Statements for the years 2005, 2008, 2009, 2010 and 2011.[4]

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[1] Records, p. 35.
[2] Id., p. 33.
[3] Id., pp. 1 - 58.
[4] Id., pp. 2 – 3.

On 09 March 2012, respondent filed an Entry of Appearance and Motion for Extension of Time to File an Answer.[5] On 2 April 2012, respondent filed an Answer[6] arguing, among others, that the petition should have been summarily dismissed on the ground of SEC's lack of jurisdiction for being an intra-corporate controversy that should be resolved in regular courts. It was also averred that the petition shows no evidence that respondent is still doing business under the name and logo of "Iwaki" in its business operation.

On 3 April 2012, petitioner filed a Motion to Render Judgment,[7] insisting that respondent should be declared in default because the latter's Answer was filed beyond the prescribed period under Section 3-11, Rule III of the 2006 SEC Rules of Procedure. It alleged that its Motion for Extension of Time to File Answer is a prohibited pleading under Section 3-6, Rule III of the same Rules, thus, it did not toll the running of the period to file an Answer.

The ultimate issue to be resolved in this Petition is whether there is sufficient ground to revoke Iwaki Chemical Pump Philippines Inc.'s Certificate of Registration.

At the outset, respondent filed its Answer beyond the prescribed period given by Section 3-11, Rule III of the 2006 SEC Rules of Procedure. Respondent's Motion for Extension of Time to File Answer is a prohibited pleading as provided for in Section 3-6, Rule III of the same Rules, which did not toll the running of the period to file an Answer. Thus, respondent is considered to be "in default" pursuant to Section 3-12 of the same Rules.

Granting for the sake of argument that the Answer could be taken cognizance of by the Commission, we still find the Petition to be meritorious.

Section 5 (m) of the Securities Regulation Code and Section 6, paragraph (l) of Presidential Decree No. 902-A (PD 902-A), as amended, empowers the Commission to suspend, or revoke, after proper notice and hearing the franchise or certificate of registration of corporations, partnerships or associations, upon any of the grounds provided by law.

Section 6, paragraph (l) (6) of PD 902-A, as amended, expressly provides that failure to file reportorial requirements is one of the grounds for revocation of the certificate of registration of corporations, *viz* –

> "Sec. 6. In order to effectively exercise such jurisdiction, the Commission shall possess the following powers: xxx xxx xxx
>
> (l) To suspend, or revoke, after proper notice and hearing, the franchise or certificate of registration of corporations, partnerships or associations, upon any of the grounds provided by law, including the following: xxx xxx xxx

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[5] Records, pp. 70-73.
[6] Id., pp. 84-105.
[7] Id., pp. 106 - 113.

(6) Failure to file required reports on appropriate forms as determined by the Commission within the prescribed period."

In the present case, records show that respondent continuously failed to file its 2005, 2008, 2009, 2010, 2011 and 2012 Audited Financial Statements and 2009, 2010, 2011, 2012 and 2013 General Information Sheets,[8] among other reports required by the Commission pursuant to Sec. 141 of the Corporation Code.[9] Clearly, there is sufficient ground to revoke the Certificate of Registration issued to respondent.

WHEREFORE, premises considered, the instant petition is hereby **GRANTED**. Accordingly, the Certificate of Registration of **IWAKI CHEMICAL PUMPS PHILIPPINES, INC.** is hereby **REVOKED**.

Let a copy of this Order be furnished the Company Registration and Monitoring Department for its information and appropriate action.

SO ORDERED.

Mandaluyong City, 12 September 2013.

TERESITA J. HERBOSA
Chairperson

MA. JUANITA E. CUETO
Commissioner

MANUEL HUBERTO B. GAITE
Commissioner

ELADIO M. JALA
Commissioner

ANTONIETA F. IBE
Commissioner

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[8] Records, pp. 2-3, 115.

[9] Sec. 141. Annual report of corporations.- Every corporation, domestic or foreign, lawfully doing business in the Philippines shall submit to the Securities and Exchange Commission an annual report of its operations, together with a financial statement of its assets and liabilities, certified by any independent certified public accountant in appropriate cases, covering the preceding fiscal year and such other requirements as the Securities and Exchange Commission may require. Such report shall be submitted within such period as may be prescribed by the Securities and Exchange Commission.

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