REPUBLIC OF KENYA

OFFICE OF THE AUDITOR-GENERAL

Enhancing Accountability

REPORT

OF

THE AUDITOR-GENERAL

ON

MIWANI SUGAR COMPANY (1989) LIMITED (IN RECEIVERSHIP)

FOR THE YEAR ENDED 30 JUNE, 2023

OFFICE OF THE AUDITOR GENERAL
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MIWANI SUGAR COMPANY (1989) LIMITED

(IN RECEIVERSHIP)

MIWANI SUGAR COMPANY (1989) LIMITED (IN RECEIVERSHIP)

ANNUAL REPORT AND FINANCIAL STATEMENTS

FOR THE YEAR ENDED 30 JUNE 2023

MIWANI SUGAR COMPANY (1989) LIMITED (IN RECEIVERSHIP)
REPORT OF THE JOINT RECEIVERS/MANAGERS AND FINANCIAL STATEMENTS
FOR THE YEAR ENDED 30 JUNE 2023

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COMPANY INFORMATION

JOINT RECEIVERS/ MANAGERS	Harun Kirui Francis Ooko - Terminated on 22 May 2023
REGISTERED OFFICE	Miwani Sugar Factory Private Bag MIWANI
BANKERS	Standard Chartered Bank Kenya Ltd Kisumu Branch KISUMU
SOLICITORS	Otieno Ragot & Company Advocates P. O. Box 3051- 40100 KISUMU
	Kale Maina & Bundotich Teleposta Towers - 13th Floor Kenyatta Avenue P.O. Box 10674 - 00100 NAIROBI

MIWANI SUGAR COMPANY (1989) LIMITED (IN RECEIVERSHIP)
REPORT OF THE JOINT RECEIVERS/MANAGERS AND FINANCIAL STATEMENTS
FOR THE YEAR ENDED 30 JUNE 2023

REPORT OF THE RECEIVERS/ MANAGERS

The Joint Receivers/Managers submit their report and the audited financial statements for the year ended 30 June 2023, which show the state of the company's affairs.

1 MANAGEMENT

Miwani Sugar Company (1989) Limited (in Receivership) is a cane growing and manufacturing entity incorporated under the Kenyan Companies Act (Cap 486). The company was placed under receivership on 15 March 2001 by its debenture holders Delphis Bank Ltd (now Oriental Commercial Bank Limited) and Kenya Sugar Authority / Kenya Sugar Board (Now Agriculture and Food Authority (AFA)). The debenture holders appointed joint receivers/managers to secure the repayment of monies loaned, protect the assets of the company and to revive the operations of the company. The joint receivers/managers assumed the management and control of affairs and business of the company to the exclusion of the board of directors. Oriental Commercial Bank Ltd ceased to be a creditor in 2008 after Kenya Sugar Board took over its liabilities together with the related debentures. The company was still under the management of the joint receivers/managers at the date of this report.

2 PRINCIPAL ACTIVITIES

The principal activity of the company is sugarcane production and sugar processing. However, the sugar-milling factory was closed in March 2001 and had not reopened by the date of this report. The company maintains cane in its nucleus estate which is sold to other sugar millers.

3 RESULTS

The results for the year are set out in the statement of comprehensive income on page 7.

4 DIVIDENDS

The joint receivers/managers do not recommend the payment of a dividend in respect of the year.

5 RECEIVERS/MANAGERS

The joint receivers/managers during the year and to the date of this report are set out on page 1.

6 STATEMENT AS TO DISCLOSURE TO THE COMPANY'S AUDITORS

With respect to each receiver/manager at the time this report was approved:-

(a) There is so far as the person is aware, no relevant audit information of which the Company Auditor is unaware; and

(b) The person has taken all the steps that the person ought to have taken as a Director so as to be aware of any relevant audit information and to establish that the Company's Auditor is aware of that information.

BY ORDER OF THE JOINT RECEIVERS/MANAGERS

……………………………………………
Joint Receiver/Manager

Date 3RD APRIL 2023

STATEMENT OF JOINT RECEIVERS/MANAGERS RESPONSIBILITIES ON THE FINANCIAL STATEMENTS

The Kenyan Companies Act requires the joint receivers/managers to prepare financial statements for each financial year, which give a true and fair view of the state of affairs of the company as at the end of the financial year and of its operating results for that year. It also requires the joint receivers/managers to ensure that the company keeps proper accounting records which disclose with reasonable accuracy at any time the financial position of the company. They are also responsible for safeguarding the assets of the company.

The joint receivers/managers are responsible for the preparation and fair presentation of these financial statements in accordance with International Financial Reporting Standards. This responsibility includes: designing, implementing and maintaining internal controls relevant to the preparation and fair presentation of the financial statements that are free of material misstatement, whether due to fraud or error, selecting and applying appropriate accounting policies and making appropriate estimates that are reasonable in the circumstances.

The joint receivers/managers accept responsibility for the annual financial statements, which have been prepared using appropriate accounting policies supported by reasonable and prudent judgments and estimates, in conformity with International Financial Reporting Standards and in the manner required by the Kenyan Companies Act. The joint receivers/managers are of the opinion that the financial statements give a true and fair view of the state of the financial affairs of the company and of its operating results. The joint receivers/managers further accept responsibility for the maintenance of accounting records, which may be relied upon in the preparation of financial statements, as well as adequate systems of internal financial control.

The joint receivers/managers acknowledge that the continued existence of the company as a going concern depends on continued support from debenture holders and the government.

……………………………………………
Joint Receiver/Manager

Date…3RD APRIL……………….2023

REPUBLIC OF KENYA

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REPORT OF THE AUDITOR-GENERAL ON MIWANI SUGAR COMPANY (1989) LIMITED (IN RECEIVERSHIP) FOR THE YEAR ENDED 30 JUNE, 2023

PREAMBLE

I draw your attention to the contents of my report which is in three parts:

A. Report on the Financial Statements that considers whether the financial statements are fairly presented in accordance with the applicable financial reporting framework, accounting standards and the relevant laws and regulations that have a direct effect on the financial statements.

B. Report on Lawfulness and Effectiveness in Use of Public Resources which considers compliance with applicable laws, regulations, policies, gazette notices, circulars, guidelines and manuals and whether public resources are applied in a prudent, efficient, economic, transparent and accountable manner to ensure Government achieves value for money and that such funds are applied for the intended purpose.

C. Report on Effectiveness of Internal Controls, Risk Management and Governance which considers how the entity has instituted checks and balances to guide internal operations. This responds to the effectiveness of the governance structure, the risk management environment and the internal controls, developed and implemented by those charged with governance for orderly, efficient and effective operations of the entity.

An unmodified opinion does not necessarily mean that an entity has complied with all relevant laws and regulations and that its internal controls, risk management and governance systems are properly designed and were working effectively in the financial year under review.

The three parts of the report are aimed at addressing the statutory roles and responsibilities of the Auditor-General as provided by Article 229 of the Constitution, the Public Finance Management Act, 2012 and the Public Audit Act, 2015. The three parts of the report, when read together constitute the report of the Auditor-General.

REPORT ON THE FINANCIAL STATEMENTS

Disclaimer of Opinion

I have audited the accompanying financial statements of Miwani Sugar Company (1989) Limited (In Receivership) set out on pages 4 to 18, which comprise of the statement of financial position as at 30 June, 2023, and the statement of comprehensive income, statement of changes in equity, statement of cash flows and statement of comparison of budget and actual amounts for the year then ended, and a summary of significant accounting policies and other explanatory information in accordance with the provisions of Article 229 of the Constitution of Kenya and Section 35 of the Public Audit Act, 2015.

I do not express an opinion on the accompanying financial statements. Because of the significance of the matters described in the Basis for Disclaimer of Opinion section of my report, I have not been able to obtain sufficient appropriate audit evidence to provide a basis for an audit opinion on these financial statements.

Basis for Disclaimer of Opinion

1. Variances in the Financial Statements

Review of the annual report and financial statements revealed variances between balances reflected in the statement of comprehensive income and statement of financial position with the ledgers and supporting documents as indicated below:

(i) The statement of comprehensive income and as disclosed in Note 5 to the financial statements reflects cost of sales amounting to Kshs.44,558,621. However, the general ledger reflects an amount of Kshs.45,526,867 resulting to unreconciled variance of Kshs.968,246.

(ii) The statement of comprehensive income and as disclosed in Note 6 to the financial statements reflects an amount of Kshs.8,629,241 in respect of other income which include miscellaneous income amounting to Kshs.1,718,481 and which differs with the amount of Kshs.767,416 reflected in the ledgers and supporting documents. In addition, the other income includes an amount of Kshs.1,458,288 described as reduction in leave provision and Kshs.17,578 described as interest on bank deposits, which was not supported with any documentary evidence.

(iii) The statement of financial position reflects a balance of Kshs.17,998,068,209 in respect of trade and other payables, which as disclosed in Note 20 to the financial statements includes trade payables, other creditors and accruals and agency taxes and penalties payable amounting to Kshs.402,106,151, Kshs.255,100,619 and Kshs.17,340,861,439 respectively, which differs with the supporting ledger balances of Kshs.402,108,762, Kshs.170,277,435 and Kshs.17,341,398,026 respectively. The resulting variances were not reconciled.

In the circumstances, the accuracy and validity of the balances reflected in the financial statements could not be confirmed.

2. Revenues from Sale of Cane

The statement of comprehensive income reflects an amount of Kshs.115,753,283 in respect to revenue, which as disclosed in Note 4 to the financial statements relate to sale of sugarcane. Review of records provided on cultivation and sale of sugarcane revealed the following unsatisfactory matters;

2.1 Unconfirmed Pricing and Sale of Cane

Review of records provided for audit revealed that the Company produced and sold 24,899.29 tons of sugar during the year under review. It was further noted that the sugar cane was sold to two sugar companies, where each was supplied with 1,956.49 and 22,942.80 tons of sugar respectively. Each of the two companies paid an average amount of Kshs.4,576 and Kshs.5,500 per ton of sugar respectively. It is not clear, and Management has not explained, the basis for selling the sugar cane to the two companies and at the prices indicated. No evidence was provided to show how the companies were identified or how the prices were determined.

In the circumstances, the sugar produced and sold during the year under review could not be confirmed.

2.2 Unconfirmed Production of Sugar Produced and Sold

Review of records provided for audit on cane production indicated that the Company had 9,500 acres of land available for sugar cane cultivation. It is further indicated that out of the total acreage, 3,200 hectares were designated for sugar cane production. However, during the year under review, Management indicated that only 991.37 hectares were under crop production, while the rest of the designated land of 2,208.63 hectares remained fallow. It is not clear, and Management has not explained, the reasons for failure to have the whole of the designated land put under crop production. It therefore implies that the Company produced 25 tons of sugar per hectare, which is 37% of the expected yield, using the projections provided by the Directorate of Sugar at the Agriculture and Food Authority (AFA).

Further, other biological assets records provided for audit review indicates that the acreage under sugar cane cultivation during the previous year amounted to 991.37 hectares, while records indicate that opening acreage under sugar cane production was 1,401.39, while 410.02 hectares were described as fallow. It is therefore not clear, whether the number of hectares provided in determining the sugar cane sold was based on the number of hectares harvested or on the actual area under sugar cane growing. It is also not clear, and Management has not explained, the actual fallow or active area subjected to sugar cane production.

In the circumstances, the completeness, accuracy and validity of the disclosed sugar cane production and sale could not be confirmed.

2.3 Inaccurate disclosure of Revenue from Sale of Cane

The statement of comprehensive income and as disclosed in Note 4 to the financial statements reflects revenue from sale of sugarcane amount of Kshs.115,753,283. However, review of annual sales revealed that the Company made cane sale of Kshs.104,992,588 to Muhoroni Sugar Company. However, the amount of Kshs.104,992,588 was at variance with the computed sale of Kshs.105,146,852 resulting to unexplained variance of Kshs.154,264. No prior year adjustment to correct the understatement had been affected as prescribed by Regulation 23(1) of the Public Finance Management (National Government) Regulations, 2015 which requires that the Accounting Officers shall be accountable to the National Assembly for measures taken to prepare the financial reports that reflect a true and fair financial position of the entity.

In the circumstances, the accuracy and completeness of the sales amounting to Kshs.115,753,284 could not be confirmed.

3. Unsupported Fair Value Gain on Growing Produce

The statement of comprehensive income and as disclosed Note 12 to the financial statements reflects fair value gain on growing produce of Kshs.8,958,345. The gain comprised of gain in fair value attributed to price change and gain in fair value attributed to physical change of Kshs.4,595,400 and Kshs.4,362,945 respectively. However, Management did not provide any documentation in support of the fair value gained on growing produce as prescribed by IAS 41.26 which states that a gain or loss arising on initial recognition of a biological asset at fair value less costs to sell and from a change in fair value less costs to sell of a biological asset shall be included in profit or loss for the period in which it arises.

In the circumstances, the accuracy and completeness of the sales amounting to Kshs.8,958,345 could not be confirmed.

4. Cash and Bank Balances

The statement of financial position and as disclosed in Note 21 to the financial statements reflects cash and bank balance of Kshs.2,163,917. However, the adjusted cash book reflects a balance of Kshs.2,092,670 resulting to unreconciled variance of Kshs.71,247. Further, Management has not properly disclosed cash and bank balances as per the PSASB template which requires provisions of short appropriate explanations on cash at bank and cash in hand. Further, authenticated certificates of bank balance in support of the bank balance were not provided for audit review.

In the circumstances, the accuracy and fair statement of the bank balance of Kshs.2,163,917 could be confirmed.

5. Unsupported Growing Produce Valuation

The statement of financial position and as disclosed in Note 12 to the financial statements reflects a balance of Kshs.201,221,068 in respect of growing produce. The valuation report provided by the Management indicated that the area for sugar production went down by 410.02 hectares from the previous year, while gain attributed to physical change amounted to Kshs.4,362,945 during the year under review. In the previous year, it had been indicated that only 891.64 hectares were under cultivation with a loss in fair value attributed to physical changes of Kshs.37,692,660. However, the difference in acreage under cultivation in the two years and gain or loss due to physical changes could not be reconciled.

In the circumstances, the disclosed valuation of growing produce could not be confirmed.

6. Borrowings

The statement of financial position reflects a balance of Kshs.4,015,276,304 which as disclosed in Note 18 to the financial statements includes secured loans from Kenya Sugar Board and unsecured loans from Ministry of Finance (GoK) of Kshs.1,859,546,941 and Kshs.2,075,494,669 respectively. The loans which have accrued a huge interest of Kshs.2,285,695,348 were long overdue some dating as far back as 1995 and no repayments were being made. This is contrary to Regulation 42(1)(a) of the Public Finance Management (National Government) Regulations 2015 which states that debt service payments shall be a first charge and the Accounting Officer shall ensure this is done to the extent possible that the Government does not default on debt obligations. No loan agreement or application details were provided to confirm how the loans were advanced and terms of agreement.

In addition, the borrowings include an unsecured loan from Grantham Security of Kshs.80,234,694. However, the loan agreement and the purpose and terms of the credit were not provided for audit review. In the absence of such documents and related details, it was not possible to confirm whether the loan was used for the intended purpose and if the terms of the loan are adhered to.

In the circumstances, the completeness, accuracy, and servicing of the borrowings amounting to Kshs.4,015,276,304 could not be confirmed.

7. Bank Overdraft

The statement of financial position and as disclosed in Note 19 to the financial statements reflects bank overdraft balance of Kshs.60,154,806. The overdraft relates to an amount outstanding in the account of Trust Bank Limited (In Liquidation) and has been outstanding for over 20 years. However, other supporting documents, showing how the facility was acquired, the nature of the operation and the authority to open the facility were not provided for audit review. In addition, any additional interest that the Liquidator may impose on the outstanding amount has not been accrued in these financial statements.

In the circumstances, the accuracy and fair statement of the bank overdraft of Kshs.60,154,806 could be confirmed.

8. Long Outstanding and Unsupported Payables

The statement of financial position and as disclosed in Note 20 to the financial statements reflects trade and other payables balance of Kshs.17,998,068,209. Review of schedules provided revealed that the payables had been long outstanding with some dating twenty (20) years back. Failure to clear the bills was contrary to Regulation 42(1)(a) of the Public Finance Management (National Government) Regulations, 2015 which states that debt service payments shall be a first charge in the Consolidated Fund and the Accounting Officer shall ensure this is done to the extent possible that the Government does not default on debt obligations.

Further, Management had not supported the balances with ageing analysis schedules, detailed listing and invoices indicating the specific entities to which the amounts were owed.

In the circumstances, the Company is exposed to litigations and increased costs of penalties and interest arising from non-payment of trade and other payables.

9. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects a revenue budget of Kshs.211,726,846 and actual amounts realized of Kshs.124,382,524 resulting to an under-collection of Kshs.87,344,321 or 41% of the budget. Management attributed the shortfall due to mainly transport logistics to nucleus fields occasioned by lack of funds to improve roads. Similarly, the Company had budgeted to spend Kshs.77,142,000 on general overheads but utilized an amount of Kshs.121,065,668 resulting to an over expenditure of Kshs.43,923,668 or 57% of the budget. The over expenditure mainly occurred due to incorporation of assets valuation of 2019 and subsequent depreciation. The under-funding and under-expenditure may have impacted negatively on delivery of services to the intended recipients.

10. Material Uncertainty in Relation to Going Concern

The statement of comprehensive income reflects a loss of Kshs.149,199,811 (2021/2022-loss Kshs.149,199,811) thus increasing the accumulated loss from Kshs.22,882,836,719 to Kshs.22,995,118,759 as at year end. Further, the current liabilities of the Company of Kshs.18,058,223,015 exceeded the current assets of Kshs.425,499,094 by Kshs.17,632,723,921. Further, the shareholder's funds had a deficit of Kshs.18,660,199,825 rendering the Company technically insolvent. The financial statements have however been prepared on a going concern basis. This basis may not be appropriate given that the Company was placed under receivership by lenders on 15 March, 2001. This fact has been disclosed in Note 3 to the financial statements.

In the circumstances, the going concern of the Company is doubtful.

11. Late Submission of Financial Statements

The financial statements for the year ended 30 June, 2023 was submitted to the Auditor General on 15 January, 2024. This was contrary to Section 47(1) of the Public Audit Act, 2015 which requires that financial statements should be submitted to the Auditor-General within three months after the end of the financial year to which the accounts relate.

In the circumstances, Management was in breach of the law.

12. Engagement of Private Auditors

Review of the financial statements of the Company revealed that it was incorporated in 1989 and wholly acquired Miwani Sugar Mills Limited, a privately owned company. There was no evidence of audit of the financial statements by the Auditor General between 1989 and 2001 when the Company was placed under receivership. The receiver managers appointed a private auditor in the year 2009 to audit the financial statements from the financial years 2000/2001 to 2019/2020. However, no evidence has been provided to show that the appointment of the private auditors was done with the knowledge, consent and approval of the Auditor-General as required by Section 23 of the Public Audit Act, 2015.

In the circumstances, Management was in breach of the law.

13. Unsupported Receivership Process

The Company was placed under joint receivership in March, 2001 by the then Kenya Sugar Board (a Directorate under Agriculture and Food Authority) and National Bank of Kenya (NBK) pursuant to debenture instruments registered under them with the main objective of preserving the assets awaiting the approved privatization process. Records maintained by the Company reveal that four (4) joint receiver managers have been appointed since 2001. However, documents which initiated the receivership process by the holder of the floating charge (Kenya Sugar Board) and the terms of reference were not provided for audit review contrary to Section 534 of the Insolvency Act, 2015.

Further, no evidence was provided to confirm that the appointed receiver managers were insolvency practitioners as required by Section 526 of the Insolvency Act, 2015 which states that a person may be appointed as administrator of a company only if the person is an authorized insolvency practitioner.

In the circumstances, Management was in breach of the law.

14. Trade and Other Receivables

The statement of financial position and as disclosed in Note 15 to the financial statements, reflects trade and other receivables net balance of Kshs.7,716,205. However, the following unsatisfactory matters were noted:

(i) The requisite supporting documentary evidence for the trade and other receivables balances were not provided for audit review. Further, ageing analysis was not provided to indicate how long the balance had been outstanding.

(ii) Management did not provide correspondences with the customers indicating efforts made to recover the outstanding amounts from the debtors. This was contrary to Section 15(1) of State Corporations Act, 2012 on accountability which states that a Board shall be responsible for the proper management of the affairs of a state corporation and shall be accountable for the moneys, the financial business and the management of a state corporation.

(iii) The financial statements reflects Kshs.90,835,444 as provision for doubtful debts. However, the provision was not backed by any rate or policy.

In the circumstances, the accuracy, completeness and recoverability of trade and other receivables net balance of Kshs.7,716,205 could not be confirmed.

15. Revaluation of Assets

The statement of financial position reflects property, plant and equipment balance of Kshs.2,987,800,400 and as disclosed in Note 11 to the financial statements. Management confirmed that the Company's assets were last revalued in October, 2019 by a professional firm of valuers. However, the assets valuation report was not adopted and approved by the Management and those in charge of governance in the year immediately after valuation but were however adopted in the year ended 30 June, 2021. The effects of the depreciation charges for the year ended 30 June, 2020 were therefore not considered in these financial statements.

In the circumstances, the value of property, plant and equipment balance reflected in the financial statements could not be confirmed.

16. Fixed Assets Register

The statement of financial position reflects property, plant and equipment balance of Kshs.2,987,800,400. However, the fixed assets register provided for audit was incomplete as it did not include historical costs, depreciation and relevant net book values as at year end. Further, physical verification of the assets revealed that they were not tagged. This was contrary to Regulation 139(1) of the Public Finance Management (National Government) Regulations, 2015 which requires an Accounting Officer of a National Government entity to take full responsibility and ensure that proper control systems exist for assets and that preventative mechanisms are in place to eliminate theft, security threats, losses, wastage, and misuse and that movement and conditions of assets can be tracked.

In the circumstances, the value of property, plant and equipment balance reflected in the financial statements could not be confirmed.

17. Management of Inventories

The statement of financial position and as disclosed in Note 13 to the financial statements reflects inventories balance of Kshs.357,405 and which is net of an impairment of Kshs.47,438,029. The impairment, as explained by the Management, was in respect of obsolete stock in the stores. However, no annual asset disposal plan was provided for audit review. In addition, the impairment has been the same amount over the last three years. Further, there is no evidence of policies or guidelines having been developed and implemented on valuation and costing of inventories.

In the circumstances, the basis of valuing the inventories totalling Kshs.357,405 could not be confirmed.

18. Dispute in Land Ownership

The land belonging to the sugar Company measuring approximately 9,500 acres valued at Kshs.2,500,000,000 is entangled in legal dispute where a company claims ownership and as disclosed in Note 23 to the financial statements on contingent liabilities. The High

Court in Kisumu ruled in favour of the claimant and it is not certain that the Company will get it back.

In the circumstances, the ownership of the land remains doubtful.

19. Avoidable Interest on Delayed or Late Payments

Review of contingent liabilities of the Company revealed that legal suits had led to significant outstanding payables, interest and penalties. Note 23 to the financial statements indicated that the Company owed four (4) companies Kshs.671,258,348 out of which Management had accrued Kshs.16,670,029 in the Company's books.

In the circumstances, the Company risks incurring additional interest charges which are avoidable.

20. Ownership of Assets and Shareholding

Articles and Memorandum of Association provided for audit review indicated that Miwani Sugar Company (1989) Limited (In Receivership) is a Limited Liability Company incorporated in 1989 with the Permanent Secretary, Ministry of Agriculture and Permanent Secretary, National Treasury holding one (1) share each. The Company was incorporated by the Government of Kenya to acquire the whole or part of the undertaking and assets of Miwani Sugar Mills Limited (private company incorporated). However, the process of transferring the assets has been hindered by the following;

(i) Miwani Sugar Mills Limited was under receivership by M/s Somen Sokeri (Finnish Sugar Corporation) and Chase Manhattan Bank and their assets had been put up for sale. The Government took over the immovable property and other movable assets on the understanding that the assets were to be transferred to Miwani Sugar Company (1989) Limited (In Receivership). The immovable property purchased by the Government were parcels of Land Reference Number 7545/3, I.R. NO. 21038 measuring about 9394 acres and Reference Number 7545/2 measuring about 0.500 acres. However, on 24 December, 2007 through a Court Order issued in Kisumu HCCC 225 of 1993 (Nagendra Saxena vs Miwani Sugar Mills Limited), it was noted that Land Reference Number 7545/3 I.R. NO.21038 had been fraudulently sold/transferred to Crossley Holdings Limited. Several legal proceedings have been ongoing in regard to the Land Reference Number 7545/3 I.R. NO.21038 and are yet to be resolved as appeals are yet to be heard as at time of audit in January, 2024. As at the time of audit in January 2024, M/s Crossley Holdings Limited through its advocate issued a notice and demand to the receiver manager to hand over the parcel within fourteen (14) days thereof or institute contempt proceedings. The existence of an effective mechanism to safeguard the asset is in doubt.

(ii) Further, in 1991, the Government entered into agreements with M/s Vannessa Associates Incorporated who was allotted 1,071,000 shares out of the 2,100,000 held by the Government. M/s Vannessa Associates acquired loans from Kenya Sugar Board and formerly Delphis Bank Limited and Oriental Commercial Bank

Limited and now M-Oriental Bank and they executed debenture instruments in favour of the Financiers. However, Miwani Sugar Company (1989) Limited (In Receivership) defaulted in repayment of the loan. The debenture holders, Kenya Sugar Board and Delphis Bank Limited placed the Company under joint receivership. Although the Management indicated that Kenya Sugar Board agreed to take over the outstanding debt due and owing to Oriental Commercial Bank Limited (formerly Delphis Bank Limited) and Surjit Singh/ Malkit Singh, the Government is yet to acquire back the 1,071,000 shares of Miwani Sugar Company (1989) Limited (In Receivership) held by M/s Vannessa Associates.

In the circumstances, the ownership of the Company could not be confirmed.

21. Lack of Internal Audit Reviews

During the year under review, it was noted that there was no internal audit review of the Company's activities. This is contrary to Section 73(3)(b) of the Public Finance Management Act, 2012 which require that the Internal Auditor shall conduct internal auditing which includes risk-based, value-for-money and systems audits aimed at strengthening internal controls mechanisms that could have an impact on achievement of the strategic objectives of the entity.

In the absence of constant reviews by the internal audit unit, the effectiveness of internal controls and risk management of the Company for the year ended 30 June, 2023 could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

I do not express a conclusion on the lawfulness and effectiveness in the use of public resources as required by Article 229(6) of the Constitution. Because of the significance of the matters described in the Basis for Disclaimer of Opinion section of my report, I have not been able to obtain sufficient appropriate audit evidence to provide a basis for my audit conclusion.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

I do not express a conclusion on the effectiveness of internal controls, risk management and governance as required by Section 7(1)(a) of the Public Audit Act, 2015. Because of the significance of the matters described in the Basis for Disclaimer of Opinion section of my report, I have not been able to obtain sufficient appropriate audit evidence to provide a basis for my audit conclusion.

Responsibilities of Management and those Charged with Governance

Management is responsible for the preparation and fair presentation of these financial statements in accordance with International Financial Reporting Standards and for maintaining effective internal controls as Management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error and for its assessment of the effectiveness of internal controls, risk management and governance.

In preparing the financial statements, Management is responsible for assessing the Company's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless Management is aware of the intention to liquidate the Company or to cease operations.

Management is also responsible for the submission of the financial statements to the Auditor-General in accordance with the provisions of Section 47 of the Public Audit Act, 2015.

In addition to the responsibility for the preparation and presentation of the financial statements described above, Management is also responsible for ensuring that the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities which govern them, and that public resources are applied in an effective way.

The Receiver Manager is responsible for overseeing the Company's financial reporting process, reviewing the effectiveness of how Management monitors compliance with relevant legislative and regulatory requirements, ensuring that effective processes and systems are in place to address key roles and responsibilities in relation to governance and risk management, and ensuring the adequacy and effectiveness of the control environment.

Auditor-General's Responsibilities for the Audit

My responsibility is to conduct an audit of the financial statements in accordance with International Standards of Supreme Audit Institutions (ISSAIs) and to issue an auditor's report that includes my opinion in accordance with the provisions of Section 48 of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229(7) of the Constitution. However, because of the matters described in the Basis for Disclaimer of Opinion section of my report, I was not able to obtain sufficient appropriate audit evidence to provide a basis for an audit opinion on these financial statements.

In addition, my responsibility is to express a conclusion about whether, in all material respects, the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities that govern them, and that public resources are applied in an effective way, in accordance with the provisions of Article 229(6) of the Constitution and submit the audit report in compliance with Article 229(7) of the Constitution. I also consider internal controls, risk management and governance processes and systems in order to give an assurance on the effectiveness of internal controls, risk management and governance in accordance with the provisions of Section 7(1)(a) of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229(7) of the Constitution. However, because of the matters described in the Basis for Disclaimer of Opinion section of my report, I was not able to obtain sufficient appropriate audit evidence to provide a basis for an audit conclusion on lawfulness and effectiveness in use of public resources, and on effectiveness of internal controls, risk management and governance.

I am independent of Miwani Sugar Company (1989) Limited (In Receivership) Management in accordance with ISSAI 130 on Code of Ethics. I have fulfilled other ethical responsibilities in accordance with the ISSAI and in accordance with other ethical requirements applicable to performing audits of financial statements in Kenya.

FCPA Nancy Gathungu, CBS
AUDITOR-GENERAL

Nairobi

02 August, 2024

MIWANI SUGAR COMPANY (1989) LIMITED (IN RECEIVERSHIP)
STATEMENT OF COMPREHENSIVE INCOME
FOR THE YEAR ENDED 30 JUNE 2023

	Notes	2023 KShs	2022 KShs
REVENUE	4	115,753,283	122,493,079
FAIR VALUE (LOSS)/GAIN ON GROWING PRODUCE	12	8,958,345	(28,228,157)
OPERATING INCOME		124,711,628	94,264,922
COST OF SALES	5	(44,558,621)	(46,529,890)
GROSS PROFIT		80,153,007	47,735,032
OTHER INCOME	6	8,629,241	11,310,950
		88,782,248	59,045,982
ADMINISTRATION AND ESTABLISHMENT EXPENSES	7	(121,065,668)	(128,247,173)
OPERATING PROFIT/(LOSS) BEFORE FINANCE COSTS		(32,283,421)	(69,201,191)
FINANCE COSTS	8	(79,998,620)	(79,998,620)
LOSS BEFORE TAXATION	9	(112,282,041)	(149,199,811)
TAXATION	10	-	-
NET LOSS FOR THE YEAR		(112,282,041)	(149,199,811)

MIWANI SUGAR COMPANY (1989) LIMITED (IN RECEIVERSHIP)
STATEMENT OF FINANCIAL POSITION
AS AT 30 JUNE 2023

ASSETS	Notes	2023 KShs	2022 KShs
NON-CURRENT ASSETS			
Property, plant and equipment	11	2,987,800,400	3,044,213,999
CURRENT ASSETS			
Growing produce	12	201,221,068	192,262,723
Inventories	13	357,405	712,073
Due from related party	14	214,040,499	199,052,628
Trade and other receivables	15	7,716,205	7,765,953
Cash and bank balances	21	2,163,917	666,847
		425,499,094	400,460,224
TOTAL ASSETS		**3,413,299,494**	**3,444,674,223**
SHAREHOLDERS FUNDS AND LIABILITIES			
CAPITAL & RESERVES			
Share capital	16	42,000,000	42,000,000
Capital reserves	17	4,292,918,934	4,292,918,934
Accumulated losses		(22,995,118,759)	(22,882,836,719)
		(18,660,199,825)	(18,547,917,785)
NON-CURRENT LIABILITIES			
Borrowings	18	4,015,276,304	3,935,277,692
CURRENT LIABILITIES			
Bank overdraft	19	60,154,806	60,154,806
Trade and other payables	20	17,998,068,209	17,997,159,510
		18,058,223,015	18,057,314,316
TOTAL SHAREHOLDERS FUNDS AND LIABILITIES		**3,413,299,494**	**3,444,674,223**

The financial statements were approved by the Joint Receivers/Managers on 3rd APRIL 2023
and signed by:-

....2024
Joint Receiver/Manager

MIWANI SUGAR COMPANY (1989) LIMITED (IN RECEIVERSHIP)
STATEMENT OF CHANGES IN EQUITY
FOR THE YEAR ENDED 30 JUNE 2023

	Share capital KShs	Revaluation reserves KShs	Accumulated loss KShs	Total KShs
At 1 July 2021	42,000,000	4,292,918,934	(22,733,636,908)	(18,398,717,974)
Loss for the year	-	-	(149,199,811)	(149,199,811)
At 30 June 2022	42,000,000	4,292,918,934	(22,882,836,719)	(18,547,917,785)
At 1 July 2022	42,000,000	4,292,918,934	(22,882,836,719)	(18,547,917,785)
Loss for the year	-	-	(112,282,041)	(112,282,041)
At 30 June 2023	42,000,000	4,292,918,934	(22,995,118,759)	(18,660,199,825)

MIWANI SUGAR COMPANY (1989) LIMITED (IN RECEIVERSHIP)
CASH FLOW STATEMENT
FOR THE YEAR ENDED 30 JUNE 2023

	Notes	2023 KShs	2022 KShs
CASH FLOW FROM OPERATING ACTIVITIES			
Net cash used in operations	21 (a)	(71,623,415)	(71,589,713)
CASH FLOW FROM INVESTING ACTIVITIES			
Disposal/(Purchase) of property, plant and equipment		-	-
Crop (expenditure)/sale		(6,878,127)	(9,220,138)
Net cash (used in)/generated from investing activities		(6,878,127)	(9,220,138)
CASH FLOW FROM FINANCING ACTIVITIES			
Borrowings		79,998,612	79,998,619
Net cash generated from investing activities		79,998,612	79,998,619
NET CHANGE IN CASH AND CASH EQUIVALENT		1,497,070	(811,232)
OPENING CASH AND CASH EQUIVALENT		(59,487,958)	(58,676,726)
CLOSING CASH AND CASH EQUIVALENT	21 (b)	(57,990,888)	(59,487,958)

MIWANI SUGAR COMPANY (1989) LIMITED (IN RECEIVERSHIP)
NOTES TO THE FINANCIAL STATEMENTS (Continued)
FOR THE YEAR ENDED 30 JUNE 2023
STATEMENT OF COMPARISON OF BUDGET AND ACTUAL AMOUNTS

DESCRIPTIONS	BUDGET	ACTUAL ON COMPARABLE BAS	PERFORMANCE DIFFEREN(	% OF UTILIZATION
REVENUE				
Sale of milling cane	203,638,400.00	115,753,283.37	(87,885,116.63)	56.84
Other Income	8,088,446.00	8,629,240.71	540,794.71	106.69
Total Revenue	**211,726,846.00**	**124,382,524.08**	(87,344,321.92)	
DIRECT COSTS				
Cane handling cost	43,535,002.00	44,558,621.37	(1,023,619.37)	102.35
Total Direct Costs	**43,535,002.00**	**44,558,621.37**	(1,023,619.37)	
Gross Margin			-	
GENERAL OVERHEADS			-	
Administration expenses	77,142,000.00	121,065,668.23	(43,923,668.23)	156.94
Total General Overheads	**77,142,000.00**	**121,065,668.23**	**(43,923,668.23)**	
Surplus / Deficit before interest	**91,049,844.00**	**(41,241,765.52)**	**(42,397,034.32)**	
Finance cost	79,998,620.00	79,998,620.00	-	100.00
Surplus / Deficit after interest	**11,051,224.00**	**(121,240,385.52)**	132,291,609.52	

Explanation of major variance

Sale of milling cane -this was as result of low cane supply of 24,899.29MT against a budget 45,455MT due to transport longistics to nucleus fields occasioned with lack of funds in improve inroads.
Lack of funds also also hindered land opening for cane development which adverse effects on cane availability volumes.

Administration expenses over exceeded the budgeted figure as a result of incoporation of assets valuation of 31st october 2019 by tysons that's increased the depreciation expense to ksh 56,413,600 from 8,249,440.

1 SIGNIFICANT ACCOUNTING POLICIES

a) Basis of accounting
The financial statements are prepared on the historical cost basis of accounting.

b) Revenue recognition
Sales comprise the amount invoiced for goods and services sold during the period, net of trade discounts and taxes.

c) Property, plant and equipment
Plant and equipment is stated at historical cost less depreciation.

Depreciation is calculated on a straight line balance basis, at annual rates estimated to write off carrying values of the assets over their expected useful lives. Where the carrying amount of an asset is greater than its estimated recoverable amount, it is written down to its recoverable amount.

The annual rates in use are:

Buildings	5%
Plant and machinery	10%
Motor vehicles and tractors	20%
Office and other equipment	20%
Furniture & Fittings	12.50%

d) Intangible assets

Acquired computer software licenses are capitalised on the basis of the cost incurred to acquire and bring into use the specific software. The costs are amortised over their estimated useful lives(three to five years).Costs associated with developing or maintaining computer software programmes are recognised as an expense incurred. Costs that are directly associated with the production of identifiable and unique software products controlled by the company and that will probably generate economic benefits exceeding costs beyond one year, are recognised as intangible assets. Direct costs include the software development employee costs and an appropriate portion of relevant overheads. Acquired computer software development costs recognised as assets are amortised over their useful lives (not exceeding three years).

e) Biological assets
Biological assets are valued at costs which comprises of land development and cane maintenance expenditure. Maintenance expenditure is written off in the year of first harvest, and development expenditure is amortised over three harvests at the following rates:

First harvest	40%
Subsequent harvests	30% each

f) Inventories
Inventories are stated at the lower of cost and net realisable value. Cost is determined on a weighted average basis and includes all applicable labour and production overheads.

g) Foreign currencies
Foreign currency transactions are converted into Kenya Shillings at the exchange rates ruling at the transaction date. Assets and liabilities at the balance sheet date which are denominated in foreign currencies, are translated into Kenya shillings at rates ruling at that date. The resulting differences from conversion and translation are recognized in the income statement in the year in which they arise.

1 SIGNIFICANT ACCOUNTING POLICIES (Continued)

h) Receivables
Trade receivables are carried at anticipated realisable value. Bad debts are written off in the year in which they are incurred. An estimate is made for doubtful receivables based on a review of all outstanding amounts at the year end.

i) Cash and cash equivalents
For the purposes of the cash flow statement, cash and cash equivalents comprise cash in hand, deposits held at call with banks, and investments in money market institutions, net of bank overdrafts.

j) Employee entitlement

Employee entitlements to gratuity and long service awards are recognized when they accrue to employees. A provision is made for the liability for such entitlements as a result of services rendered by employees up to the statement of financial position date. The monetary liability for the employee's accrued annual leave entitlement at the statement of financial position date is recognized as an expense accrual.

k) Bad and doubtful debts
Specific provision is made for all known doubtful debts. Bad debts are written off when all reasonable steps to recover them have been taken without success.

l) Taxation
Current taxation is provided for on the basis of the results for the year as shown in the financial statements, adjusted in accordance with the tax legislation. Deferred taxation is provided using the liability method, for all temporary differences arising between the tax bases of assets and liabilities and their carrying values for financial reporting purposes. Deferred tax assets are recognized for all deductible temporary differences, carry forward of unused tax losses and unused tax credits to the extent that it is probable that future taxable profits will be available against which the deductible temporary differences, unused tax losses and the unused tax credits can be utilized.

m) Comparatives
Where necessary, comparative figures have been adjusted to conform with changes in presentation in the current year.

2 CRITICAL JUDGEMENTS IN APPLYING THE ENTITY'S ACCOUNTING POLICIES

Estimates and judgments are continually evaluated and are based on historical experience and other factors, including experience of future events that are believed to be reasonable under the circumstances.

Critical estimates are made by the joint receivers/managers in determining depreciation rates for property, plant and equipment. The rates used are set out in Note 1(c) & (d) above.

3 GOING CONCERN

As at 30 June 2022, the company's net current liabilities exceeded the current assets by KShs 21,742,406,441(2022: KShs 21,659,538,913) and the shareholders' funds had a deficit of KShs 21,088,261,527 (2022: KShs 20,997,144,561) rendering the Company technically insolvent. The financial statements have however been prepared on a going concern basis. This basis may not be appropriate given that the company was placed under receivership by lenders on 15 March 2001 and it was still under receivership at the date of this report. Should the Company be unable to continue trading, adjustments would be required to reinstate its assets to their realizable values, to reclassify non-current assets to current assets and provide for further losses and liabilities that may arise.

		2023	2022
4	REVENUE	KShs	KShs
	Sale of sugarcane	115,753,283	122,493,079
5	COST OF SALES		
	Cane harvesting and transport costs	37,680,495	37,309,753
	Cane maintenance expenditure	6,878,126	9,220,137
		44,558,621	46,529,890
6	OTHER INCOME		
	Hire of equipment	5,400,000	5,400,000
	Loading services	34,894	447,440
	Reduction in Leave provision	1,458,288	-
	Debt write off	-	-
	Interest on bank deposits	17,578	-
	Obsolete stocks overprovision	-	-
	Miscellaneous income	1,718,481	5,463,510
		8,629,241	11,310,950
7	ADMINISTRATION AND ESTABLISHMENT EXPENSES		
	Salaries and wages	46,148,028	47,876,033
	Leave pay provision	-	1,037,041
	Retirement dues provision	-	-
	Motor vehicle running expenses	5,599,825	5,951,080
	Electricity	1,629,386	1,817,226
	Repairs and maintenance	349,764	219,756
	Depreciation	56,413,600	56,413,600
	Insurance	570,741	500,391
	Stationery	129,796	166,476
	Staff uniforms and welfare	-	-
	General office expenses	2,185,903	1,663,838
	Telephone and postage	400	816
	Business travel and accommodation	1,165,148	1,426,130
	Legal and other professional fees	696,000	5,800,000
	Receivership expenses	5,849,144	5,346,034
	Audit costs	300,000	-
	Bank charges	27,933	28,752
		121,065,668	128,247,173
8	FINANCE COSTS		
	Interest on loans and overdraft	79,998,620	79,998,620
9	LOSS BEFORE TAX		
	Loss before tax is stated after charging/ (crediting):		
	Interest expense	79,998,620	93,592,220
	Depreciation	56,413,600	8,249,440
	Auditors' remuneration	300,000	928,985

10 TAXATION

Income tax

The Company has made trading losses over the years and therefore no income tax liability is likely to arise.

Deferred tax

No deferred tax has arisen due to accumulated tax losses (Note 24)

11 PROPERTY, PLANT AND EQUIPMENT

	Freehold land KShs	Buildings KShs	Plant & machinery KShs	Motor vehicles & tractors KShs	Furniture, fittings & other equipment KShs	Computer equipment KShs	Total KShs
Year ended 30 June 2022							
Cost /Valuation							
At 1 July 2022	2,500,000,000	190,000,000	465,822,000	34,234,444	360,000	441,397	3,190,416,444
At 30 June 2023	2,500,000,000	190,000,000	465,822,000	34,234,444	360,000	441,397	3,190,416,444
Comprising:							
Cost	43,955,628	79,122,946	482,899,927	34,234,444	360,000	441,397	641,014,342
Revaluation	652,644,372	79,777,654	537,520,073	-	-	-	1,269,942,099
	696,600,000	158,900,600	1,020,420,000	34,234,444	360,000	441,397	1,910,956,441
Depreciation							
At 30 June 2022	-	19,000,000	93,164,400	33,948,045	90,000	436,373	146,202,445
Charge for the y	-	9,500,000	46,582,200	286,399	45,000	15,076	56,413,599
At 30 June 2023	-	28,500,000	139,746,600	34,234,444	135,000	451,449	202,616,044
Net Book Value							
At 30 June 2022	2,500,000,000	161,500,000	326,075,400	-	225,000	(10,052)	2,987,800,400
Year ended 30 June 2022							
Cost /Valuation							
1At 1 July 2021	2,500,000,000	190,000,000	465,822,000	34,234,444	360,000	441,397	3,190,416,444
Disposals	-	-	-	-		-	-
At 30 June 2022	2,500,000,000	190,000,000	465,822,000	34,234,444	360,000	441,397	3,190,416,444
Comprising:							
Cost	43,955,628	79,122,946	482,899,927	34,234,444	8,242,541	441,397	648,896,883
Revaluation	652,644,372	79,777,654	537,520,073	-	-	-	1,269,942,099
	696,600,000	158,900,600	1,020,420,000	34,234,444	8,242,541	441,397	1,918,838,982
Depreciation							
At 30 June 2021	-	9,500,000	46,582,200	33,661,645	45,000	421,297	89,788,845
Charge for the y	-	9,500,000	46,582,200	286,400	45,000	15,076	56,413,600
At 30 June 2022	-	19,000,000	93,164,400	33,948,045	90,000	436,373	146,202,445
Net Book Value							
At 30 June 2022	2,500,000,000	171,000,000	372,657,600	286,399	270,000	5,024	3,044,213,999

The buildings and plant and machinery, which were revalued on 31 October 2019 at KShs 190,000,000 by Tysons limited are not in use following the closure of the sugar factory in March 2001.

The land, buildings and plant and machinery were revalued by Tyson Values Ltd on 31st october 2019 for purposes of advising on their current market value for sale purposes.

The assets act as security for various loan facilities advanced to the company over the years amounting to KShs 1,814,628,177 (2021: KShs 1,769,709,413).

Included in motor vehicles and tractors is a tractor with a cost of KShs 7,329,596 and net book value of KShs NIL which was bought by the Company but registered in the name of Kenya Sugar Board.

The buildings and plant and machinery, which were revalued on 31 October 2019 at KShs 190,000,000 are not in use following the closure of the sugar factory in March 2001.

12 GROWING PRODUCE	2023 KShs	2022 KShs
Standing cane crop		
At beginning of the year	192,262,723	220,490,880
Additions at cost	6,878,126	9,220,137
Decrease due to harvest	(6,878,126)	(9,220,137)
	192,262,723	220,490,880
Gain in fair value attributed to price change	4,595,400	9,464,503
(Loss)/Gain in fair value attributed to physical changes	4,362,945	(37,692,660)
Fair value (loss)/gain during the year	8,958,345	(28,228,157)
Carrying amount at the end of the year	201,221,068	192,262,723
Net gain/(loss) on biological assets		
Standing cane crop	8,958,345	(28,228,157)

Significant assumptions made in determining the fair values of standing cane crop are:

Cane of 6 months and below is assumed to be immature and has no determinable market value. Immature cane is stated at cost. Mature cane has been stated at fair value less point of sale costs.

Nucleus Estate growing cane is not insured against fire. No provision has been made in the financial statements for possible losses in the event of any burnt cane which cannot be salvaged.

13 INVENTORIES	2023 KShs	2022 KShs
Consumable stores, spares and loose tools	47,795,434	48,150,103
Less provision for obsolete stocks	(47,438,029)	(47,438,029)
	357,405	712,073

14 TRANSACTIONS WITH RELATED PARTIES

Due from related parties		
Muhoroni Sugar Company Limited (In Receivership)	214,040,499	199,052,628

The companies are related by way of ownership and common management.

15 TRADE AND OTHER RECEIVABLES

Trade receivables	7,439,204	7,495,898
Prepayments and sundry receivables	277,001	270,055
Total current receivables	7,716,205	7,765,953
Pre-receivership receivables	90,835,444	90,835,444
	98,551,649	98,601,397
Less provision for bad and doubtful debts	(90,835,444)	(90,835,444)
	7,716,205	7,765,953

16 SHARE CAPITAL	2023 KShs	2022 KShs
Issued and fully paid:		
2,100,000 ordinary shares of KShs 20 each	(42,000,000)	42,000,000
Authorised:		
10,000,000 ordinary shares of KShs 20 each	200,000,000	200,000,000

17 CAPITAL RESERVES

Revaluation reserves	(4,292,918,934)	(4,292,918,934)

The reserve arose on revaluation of property, plant and equipment in 2021 as per valuation. of 31st october 2019.

18 BORROWINGS

	Principal amount KShs	Interest accrued KShs	Total 2023 KShs	Total 2022 KShs
Secured loans:				
Kenya Sugar Board	1,194,658,062	664,888,879	1,859,546,941	1,814,628,177
Unsecured loans:				
Ministry of Finance	454,688,200	1,620,806,469	2,075,494,669	2,040,414,821
Grantham Security	80,234,694	-	80,234,694	80,234,694
	534,922,894	1,620,806,469	2,155,729,363	2,120,649,515
Total borrowings	1,729,580,956	2,285,695,348	4,015,276,304	3,962,464,885
Less: Current portion	1,649,346,262	2,285,695,348	3,935,041,610	3,855,042,998
Long term portion	80,234,694	-	80,234,694	80,234,694

Notes

a) The loan from Kenya Sugar Board (KSB) relates to various advances to the company in respect of cane development, factory rehabilitation, roads and infrastructure, and payments to farmers, employees and creditors. The advances were made at various dates starting from 1995 and no payments of due amounts have been made to date. The loan is secured by floating debentures over the current and future assets of the company and is subject to interest rates ranging from 0% to 6%.

The lender's records include a loan amount of KShs 5,000,000 and accrued interest of KShs 1,251,370, total KShs 6,251,370, which the company has not recognised due to unavailability of supporting documents.

b)

The amount due to the Ministry of Finance comprises several loans which are subject to interest rates ranging from 7.5% to 11%, and are unsecured. The loans are overdue and no repayments have been made to date.

19 BANK OVERDRAFT

	2023 KShs	2022 KShs
Trust Bank Ltd (In Liquidation)	60,112,525	60,112,525
Kenya Commercial Bank Ltd	42,281	42,281
Standard Chartered Bank	-	-
	60,154,806	60,154,806

The overdrafts are unsecured and are not properly supported.

20 TRADE AND OTHER PAYABLES

Trade payables	402,106,151	402,106,151
Other creditors and accruals	255,100,619	254,441,919
Agency taxes and penalties payable	17,340,861,439	17,340,611,440
	17,998,068,209	17,997,159,510

21 CASH GENERATED FROM OPERATIONS

(a) Reconciliation of loss before taxation to cash generated from/(used in) operations

Net loss before taxation	(112,282,041)	(149,199,811)
Adjustments for:		
Depreciation	56,413,600	8,249,440
Amortisation of deferred expenditure	6,878,126	12,019,497
Fair value loss on growing produce	(8,958,345)	(11,672,420)
Interest expense	79,998,620	93,592,220
Operating loss before working capital changes	22,049,961	(47,011,074)
Changes in working capital:		
Inventories	354,668	(17,770)
Trade and other receivables	49,748	(586,121)
Trade and other payables	908,699	5,767,265
Due from related parties	(14,987,871)	(15,654,266)
Cash generated from operations	8,375,205	(57,501,966)
Interest paid	(79,998,620)	(93,592,220)
Net cash used by operating activities	(71,623,415)	(151,094,186)

(b) Analysis of cash and cash equivalents

Cash and bank balances	2,163,917	666,847
Bank overdraft	(60,154,806)	(60,154,806)
	(57,990,889)	(59,487,959)

22 EMPLOYEES

The average number of employees for the company during the year was 102 (2022: 102).

23 CONTINGENT LIABILITIES

The following claims have been made by creditors and cases are in court for determination:

a) Civil Case No. 225 of 1993.
Nagendra Saxena Vs. Miwani Sugar Mills Ltd and Miwani Sugar Company (1989) Ltd (interested party) Crossely Holdings Ltd appealed against Court Order issued on 6th February 2013, reinstating Miwani Sugar Mills Ltd in the Land Title Deed in respect of LR No. 7545/3 (IR 21038). The High Court on 18th June 2014 in Kisumu allowed the appeal to be heard. The matter was heard in October 2021 and the court ruled in favour of Crossely Holdings Ltd. It is not certain if the company will get the land back.

b) Kisumu HCCC No. 116 of 2007
Nyanza Enterprises Ltd Vs Miwani Sugar Co (1989) (In Receivership) and Kenya Sugar Board. The plaintiff has sued the company for KShs 28,918,786 being an alleged advance payment to the company for supply of sugar which was not delivered. The case was dismaed by the court and the amount accrued by the company of KShs 29,256,854 was written back during the year.

c) Civil case No 1679 of 1998
East Africa Foundry Works (K) Ltd Vs Miwani Sugar Co. (1989) Ltd. The creditor has claimed an amount of KShs 483,486,089 for supplies made to the company and late payment interest. The amount accrued in the books of the company is KShs 11,396,248, which is less than the claim by KShs 472,089,841.

d) Civil case No 1680 of 1998
Alloy Steel Castings Ltd Vs Miwani Sugar Company (1989) Ltd. The creditor has claimed an amount of KShs 187,304,615 for supplies made to the company and late payment interest. The amount accrued in the books of the company is KShs 5,206,137, which is less than the claim by KShs 182,098,478.

e) Civil suit No. 4091 of 2000
Consolidated Freight company Ltd Vs Miwani Sugar Company (1989) Ltd. The creditor has claimed an amount of KShs 67,644. The amount is accrued as trade creditors but no provision has been made for any interest that might arise for late payment.

f) Kisumu CMCC No. 424 of 2005

Rajni K Somaia Vs Miwani Sugar Company (1989) Ltd. The claim is for KShs 400,000 being value of motor vehicle he sold to the company plus interest at commercial market rates of 32% , and a declaration that the sale be determined and the motor vehicle be returned to the plaintiff in a workable condition plus cost and interest. The company lawyers have argued an application to have the suit dismissed for want of prosecution.

g) Director of Public Prosecutions on-going cases
The following cases relate to criminal case filed by Ethics & Anti-Corruption Commission for fraudulent sale of Miwani Sugar Co. (1989) Ltd land LR 7545/3 (IR 21038):

(i) Civil Appeal No. 1 of 2013
Director of Public Prosecutions, Crossely Holdings, Ethics & Anti-Corruption Commission and Miwani Sugar Company (1989) Ltd (In Receivership)

(ii) Civil Appeal No. 2 of 2013
Ethics & Anti-Corruption Commission Vs Crossely Holdings Ltd, Miwani Sugar Co. (1989) Ltd (In Receivership) and Director of Public Prosecutions.

(iii) Civil Appeal No. 50 of 2014
Crossely Holdings Ltd Vs Director of Public Prosecutions & 2 others (Miwani Sugar Co. (1989) included.

No potential loss to the company is anticipated.

24 FINANCIAL RISK MANAGEMENT

The company's principal financial instruments comprise cash and cash equivalents, receivables and payables. These instruments arise directly from its operations. The company does not enter into derivative transactions.

The company's activities expose it to a variety of financial risks, including credit risk, liquidity risks, market risks and operational risks. The company's overall risk management programme focuses on the unpredictability of financial markets and seeks to minimize potential adverse effects on its financial performance. The Receivers/Managers have overall responsibility for the establishment and oversight of the company's risk management framework.

MARKET RISK

Market risk is the risk that the fair value or future cash flows of financial instruments will fluctuate due to changes in market variables such as interest rates, foreign exchange rates and equity prices. The objective of market risk management is to manage and control market risk exposure within acceptable levels, while optimizing on the return on the risk.

(i) Interest rate risk

Interest rate risk is the risk that the future profitability and/or cash flows of financial instruments will fluctuate because of changes in the market interest rates. The company's policy is to manage its interest costs by relying primarily on overdraft facilities with its bankers. All other borrowings for specific projects or investments are negotiated on the basis of a fixed rate of interest. The company is therefore not significantly exposed to interest rate risk. The interest movement in the financial asset is negligible and any sensitivity analysis on these instruments would not be representative of the inherent risks associated with the instruments.

(ii) Foreign currency exchange risk

Foreign exchange risk arises from future investment transactions and recognized assets and liabilities. The company's policy is to record transactions in foreign currencies at the rate in effect at the date of the transaction. Monetary assets and liabilities denominated in foreign currencies are retranslated at the rate of exchange in effect at the reporting date. All gains or losses on changes in currency exchange rates are accounted for in the statement of profit or loss. The company operates wholly in Kenya and its assets and liabilities are reported in local currency. The company had no significant foreign currency exposure as at 30 June 2023.

25 FINANCIAL RISK MANAGEMENT (Continued…..)

CREDIT RISK

Credit risk is the risk of financial loss to the company if a customer or counterparty to a financial instrument fails to meet its contractual obligation.

Credit risk arises from trade and other receivables, cash and cash equivalents held with banks and amounts due from related parties. The company allows credit facilities to customers with a high credit rating and also places funds with recognised financial institutions with strong credit ratings. In addition most of the sales are made to a related company, Muhoroni Sugar Company Limited (In Receivership) and therefore the company does not consider the credit risk exposure to be significant.

LIQUIDITY RISK

Liquidity risk is the risk that the company will encounter difficulty in meeting obligations from its Management have arranged for diversified funding sources, both short term and long term, to meet the company's obligations as and when they fall due.

OPERATIONAL RISK

Operational risk is the risk of direct or indirect loss arising from a wide variety of causes associated with the company's processes, personnel, technology and infrastructure and from external factors other than credit, market and liquidity risks such as those arising from legal and regulatory requirements and generally accepted standards of corporate behaviour. Operational risks arise from all of the company's operations.

The company's objective is to manage operational risk so as to balance the avoidance of financial losses and damage to the company's reputation with overall cost effectiveness and to avoid control procedures that restrict initiative and creativity.

26 CAPITAL RISK MANAGEMENT

The primary objective of the company's capital management is to ensure that the company complies with capital requirements and maintains healthy capital ratios in order to support its business and to maximise shareholders' value.

The capital structure of the company consists of debt, which includes borrowings, cash and cash equivalents and equity which comprises issued capital and retained earnings. The company has continued receiving funding from the debenture holder, Kenya Sugar Board, for its capital requirements.

27 INCORPORATION

The Company is incorporated in Kenya under the Companies Act.

28 CURRENCY

These accounts are presented in Kenya shillings (KShs).