



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

Adjudication Department-I

Adjudication Division

Before

Shahzad Afzal Khan - Director/ Head of Department

In the Matter of

Ittefaq Iron Industries Limited

Number and Date of SCN: CSD/ARN/587/2019-76 dated January 31, 2024

Dates of Hearing: February 27, 2024

Present: Mr. Muhammad Shahzad Bazmi, Advocate

ORDER

UNDER REGULATION 32 AND 36 OF THE LISTED COMPANIES (CODE OF CORPORATE GOVERNANCE) REGULATION, 2019 READ WITH REGULATION 37 THEREOF

This Order shall dispose of the proceedings initiated by the Securities and Exchange Commission of Pakistan (the **Commission**) against Ittefaq Iron Industries Limited (the **Company**) and its Board of Directors (collectively referred to as the **Respondents**) through Show Cause Notice CSD/ARN/587/2019-76 dated January 31, 2024 (the **SCN**) issued under regulations 32 and 36 of the Listed Companies (Code of Corporate Governance) Regulation 2019 (the **Regulations**) read with Regulation 37 thereof.

2. Brief facts of the case are that:

- (i) review of the available information revealed that M/s Sarwars Chartered Accountants (the **Audit Firm**) was removed from the register of audit firms by the Audit Oversight Board (the **AOB**). The name of the Audit Firm was removed upon recommendation of Quality Assurance Board (QAB) of the Institute of Chartered Accountants (ICAP) after the removal from the list of firms having satisfactory Quality Control Review Program (QCR) with immediate effect vide AOB circular No. 1 of 2022 dated January 19, 2022. Further the Audit Firm was also not included in the ICAP list of firms having satisfactory QCR rating issued on November 13, 2023.
- (ii) The Company, a Public Interest Company (PIC), during the year ended June 30, 2022 appointed the Audit Firm as their external auditors which is not registered with the AOB and Mr. Rashid Sarwar (the **Auditor**) being the engagement partner performed the audit of the Company. The aforesaid Audit Firm was not qualified to be an auditor of a PIC under section 36W of the Securities and Exchange Commission of Pakistan Act, 1997 (the **SECP Act**) read with regulation 4 of AOB



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(Operations) Regulations, 2018 and other applicable legal requirements for appointment of auditors.

- (iii) It is mandatory that the company shall appoint a firm of auditors, as external auditor, which has been given satisfactory rating under QCR of ICAP and is registered with AOB in terms of section 361 of the SECP Act. It is noted that the Audit Firm is neither registered with AOB nor on the list of QCR-rated firms of ICAP.
- (iv) On perusal of record, it has been noted that the Audit Firm:
- had issued auditors' report for the year ended June 30, 2022 as well as the review report on the Statement of Compliance contained in Listed Companies (Code of Corporate Governance) Regulations, 2019 for the year ended June 30, 2022 (the SOC);
 - was also appointed as the external auditors for the year ended June 30, 2023 and had issued a review report on the half yearly accounts of the Company for the period ended December 31, 2022.
- (v) The Commission vide letter dated December 05, 2023 raised the matter with the Company. The Company vide letter dated December 19, 2023 responded that as upon framing this question, the Audit Firm replied that ICAP has removed its name unlawfully without giving notice and opportunity of hearing. The Audit Firm however has challenged the matter in Honorable Court of Civil Judge, Lahore and the Court has granted stay which is still in field. The Company also informed that the members, during annual general meeting held on October 26, 2023 did not consider its name due to long litigation hence the Audit Firm is now not its external auditor.
- (vi) The Company was required to appoint an external auditor who fulfilled three conditions i.e. (i) satisfactory QCR rating, (ii) registration with AOB and (iii) compliant with the International Federation of Accountants (the IFAC) Guidelines on Code of Ethics (the Code of Ethics). The Code of Ethics as adopted by ICAP defines the term Engagement Partner as under:
- "The partner or other person in the firm who is responsible for the engagement and its performance, and for the report that is issued on behalf of the firm, and who, where required, has the appropriate authority from a professional, legal or regulatory body."*
- (vii) The Company, in paragraph 17 of the SOC disclosed that the statutory auditor of the Company is registered with AOB, having satisfactory rating under QCR of



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ICAP, and compliant with the Code of Ethics as adopted by ICAP. However the said disclosure was contrary to the position due to the reasons that (i) the name of the Audit Firm was not registered with AOB, therefore, the engagement partner of the audit firm was not compliant with the Code of Ethics; (ii) the Audit Firm has not been given satisfactory QCR rating by ICAP. Moreover, the company has not explained aforesaid non-compliances in paragraph 18 of the SOC.

(vii) The company appointed the Audit Firm as external auditor for FY 2023, *prima facie* knowing the fact that the Audit Firm was neither given satisfactory rating by QCR of ICAP nor was registered with AOB and was not even compliant with the Code of Ethics.

(viii) It appears from the aforesaid that the Company has, *prima facie*, contravened the following provisions of the Regulations:

- Regulation 32(1) by appointing an audit firm as its external auditor for the year ended June 30, 2023 that is not registered with AOB.
- Regulation 32(2) by appointing an audit firm as external auditors, which is non-compliant with the IFAC's Guidelines on Code of Ethics, as adopted by the ICAP.
- Regulation 36(1) by not explaining, in para 19 of SOC, the non-compliance observed in para 17 of SOC with respect to the auditor not being registered with AOB.

3. In order to take cognizance of the aforesaid contraventions, SCN was issued to the Respondents requiring to show cause as to why penalty may not be imposed on them for the aforesaid non-compliances. The Respondents vide letter dated February 19, 2024 *inter alia* submitted that:

- i. The Audit Firm, at the time of appointment, consented to act as statutory auditor. The Audit Committee of the Company (the AC), on evaluation, found that the name of the Audit Firm is missing from the list of QCR and AOB, therefore, sought clarification from the Audit Firm in this regards. The Audit Firm informed that ICAP has unlawfully removed its name however the same has been challenged by it at the Civil Court Lahore who granted stay order which is still in field.
- ii. The AC after taking legal opinion and verification of court proceedings trusted the submitted documents and recommended for appointment of the Audit Firm. However the Audit Firm was not recommended in current year by the AC and board hence the members did not consider the name of the Audit Firm for appointment as external auditor of the Company in AGM held on October 26, 2023.
- iii. We apologize for the mistake on part of the AC.



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4. In order to provide opportunity of personal representation, hearing in the matter was fixed for February 27, 2024, wherein Mr. Muhammad Shahzad Bazmi, Advocate, appeared on behalf of the Respondents as their Authorized Representative (the **Representative**) and submitted that:

- The Reply to SCN vide letter dated February 19, 2024 is reiterated;
- Audit Firm was appointed after due diligence by and recommendations of the AC, considering that the stay order by the Court is still intact and the legal opinion taken in this regards; and
- Mistake of the AC is admitted and lenient view requested.

5. Relevant provisions of the Regulations are reproduced hereinunder:

***32. Terms of appointment of external auditor.-** (1) It is mandatory that no company shall appoint an external auditors, a firm of auditors, which has not been given a satisfactory rating under the Quality Control Review program of the Institute of Chartered Accountants of Pakistan and registered with Audit Oversight Board of Pakistan under section 36I of the Securities and Exchange Commission of Pakistan Act, 1997 (XLII of 1997).*

(2) It is mandatory that no company shall appoint as external auditors, a firm of auditors which or a partner of which is non-compliant with the International Federation of Accountants' Guidelines on Code of Ethics, as adopted by the Institute of Chartered Accountants of Pakistan."

***36. Compliance Statement and Auditor Review.-** (1) It is mandatory that the company shall publish and circulate a statement, as given under Annexure A to these Regulations, along with their annual reports to set out the status of their compliance with the requirements of these Regulations and the said statement shall be specific and supported by necessary explanations.*

***37. Penalty.-** Whoever fails or refused to comply with, or contravenes regulation 3, 6, 7, 8, 27, 32, 33 and 36 of these Regulations, shall be punishable with penalty as provided under sub-section (2) of section 512 of the Act."*

6. I have considered the facts of the case in light of the relevant provisions of applicable legal framework, and the information available on record and state that, companies are required to comply with regulatory requirements, and one such requirement is appointing auditors who are registered with the AOB. The AOB registration typically involves meeting certain standards related to audit quality, independence, and professional competence. Engaging a registered audit firm provides assurance that the audit process will be conducted according to established standards, enhancing the reliability and credibility of the financial statements.



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Overall, adhering to the appointment of an audit firm having satisfactory QCR rating and registration from AOB is essential for ensuring regulatory compliance, maintaining audit quality, enhancing stakeholder confidence and upholding the essence of best practices.

In addition to the above and considering the contents of SCN and reply by the Respondent, following issues were framed before me which are addressed below in light of the applicable provisions of law to conclude the proceedings on hand:

- a. **Whether the Audit Firm was registered with AOB:**
No, the name of the Audit Firm was not registered with AOB at the time of its appointment as external auditor of the Company for the year ended June 30, 2022 and June 30, 2023.
- b. **Whether the name of Audit Firm included in the register of Audit Firms maintained by AOB:**
No, the name Audit Firm is not included in the register of Audit Firms maintained by AOB as the same was removed therefrom vide Circular No. 01 of 2022 dated January 19, 2022.
- c. **Whether the Audit Firm eligible to perform audit of PIC:**
No, the Audit Firm was not registered with AOB thus was also not eligible to conduct audit of PIC in terms of section 36W of the SECP Act.
- d. **Whether the Auditor compliant with code of Ethics of ICAP:**
No, the Audit Firm was not registered with AOB, which means that the Auditor did not have the proper authority to conduct the audit of a PIC, in terms of Code of Ethics of ICAP. Accordingly, the Auditor was not qualified to perform as the engagement partner for the audit of the Company and performing the audit of a PIC as an ineligible engagement partner leads to breach of the Code of Ethics of ICAP.
- e. **Whether the AOB a defendant in the Civil Suit filed by the Auditor and Whether any order issued to AOB by the Court:**
No, the said suit is against the QAB and QAD of ICAP. AOB is neither a defendant in the referred Civil Suit nor was issued any order by the Court. Further the name of the Audit Firm is still neither registered with AOB nor its name is appearing in the satisfactory QCR firms list by ICAP. Moreover the Civil Court in its order dated January 31, 2022 has specifically stated that this order shall not affect any legal/ judicial proceedings before any forum of competent jurisdiction.



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f. **Effects of the Order of the Civil Court Lahore on compliance with applicable legal and regulatory framework by the Respondent:**

No, the Order of the Civil Court Lahore has no effect on the Respondents and they were required to appoint as external auditor, a firm of auditors who: (i) has satisfactory QCR of ICAP; (ii) is registered with AOB and (iii) compliant with the Code of Ethics of IFAC as adopted by ICAP and to state reasons for any non-compliance with the Regulations in the SOC.

g. **Whether the legal and regulatory framework provide any exception for compliance by the Respondent:**

No, the provisions of regulation 32 and 36 of the Regulations are explicit and requires the Respondent to appoint as external auditor, a firm of auditors who: (i) has satisfactory QCR of ICAP; (ii) is registered with AOB and (iii) compliant with the Code of Ethics of IFAC as adopted by ICAP and to state reasons for any non-compliance with the Regulations in the SOC.

7. In view of the preceding facts, I am of the considered view that by failing to appoint the external auditors who does not fulfil the above-stated eligibility criteria and not by disclosing the said non-compliance in the SOC, the Respondents have contravened the regulations 32 & 36 of the Regulations, punishable under regulation 37 thereof, read with Section 512 (2) of the Act. I, therefore, in exercise of the powers conferred under sub-section (2) of Section 512 of the Act, hereby impose a penalty of **Rs. 250,000 (Rupees Two Hundred and Fifty Thousand Only)** on the Company, and **Warn** the remaining Respondents to be careful in future and ensure meticulous compliance of applicable legal provision.

8. The Company is, hereby, directed to deposit the aforesaid amount of penalty in the designated bank account maintained in the name of the Commission with MCB Bank Limited or United Bank Limited within thirty (30) days from the date of this Order and to furnish a receipted bank challan to the Commission forthwith. In case of failure to deposit the penalty, the proceedings under Section 485 of the Act will be initiated for recovery of the fines as arrears of land revenue.

9. Nothing in this Order may be deemed to prejudice the operation of any provisions of the Act providing for imposition of penalties on the Respondent in respect of any default, omission or violation thereof.

Shahzad Afzal Khan
Director/ HOD
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Announced:
May 14, 2024
Islamabad.