



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

Adjudication Department-I

Adjudication Division

Before

Shahzad Afzal Khan - Director/Head of Department

Adjudication Department-I

In the matter of

Karam Ceramics Limited

Show Cause Notice No. & Date: No. CSD/ARN/324/2016/205 dated July 07, 2023
Date of hearing: September 08, 2023
Hearing attended by: Syed Mazhar Ali Nasir, Chief Executive

ORDER

Under Section 512(2) of the Companies Act, 2017 read with the Companies (Code of Corporate Governance) Regulations, 2019

This order shall dispose of the proceedings initiated through Show Cause Notice No. CSD/ARN/324/2016/205 dated July 07, 2023 (the SCN) issued under Section 512(2) of the Companies Act, 2017 (the Act) and Section 479 thereof and read with the Listed Companies (Code of Corporate Governance) Regulations, 2019 (the Regulations) against board of directors of Karam Ceramics Limited (the Company), hereinafter collectively referred to as the Respondents.

2. The brief facts as per SCN are:

- (a) review of annual audited financial statements for the year ended June 30, 2022 and half year end December 31, 2022 of the Company transpired that Syed Azhar Ali Nasir was not an independent director; however, he was acting as chairman of the board audit committee. Moreover, Syed Azfar Ali Nasir was not an independent director; however, he was acting as chairman of the human resource and remuneration committee. The Company at Sr. No. 18 of its Statement of Compliance (SOC) with Regulations did not mention non-compliances of regulation 27 and 28 of the Regulations, which is in contravention to regulation 36(1) of the Regulations. The review also transpired that the auditor of the Company, Crowe Hussain Chaudhury & Co., Chartered Accountants, in their review report for the year ended June 30, 2022 highlighted non-compliance with the Regulations in respect of internal audit, audit plan, reporting framework and procedures.
- (b) the Securities and Exchange Commission of Pakistan (the Commission) sought necessary clarifications from the Company vide letter dated March 08, 2023. In reply, the Company through letter dated March 25, 2023 and April 04, 2023, *inter alia*, submitted that:
 - (i) *The Board has compiled with the mandatory requirements of establishing an audit committee, inadequately, its composition requirements as laid down in Regulation*



SECURITIES & EXCHANGE COMMISSION OF PAKISTAN

Adjudication Department-I
Adjudication Division

27(1)(i) and (ii) of the listed companies (Code of Corporate Governance) Regulations, 2019 [the "Regulations"] **could not be met**. Same is the position with regard to the Human Resource and Remuneration Committee.

- (ii) Referring to the review statement of compliance with the Regulations, the contradiction between the instance of non-compliance of sub-regulation (7) and (8) of regulation 31 of the Regulations highlighted by the auditor vis-à-vis the disclosure made in Clause-18 of SOC is **inadvertent and in fact we missed** providing compliance stated as per clause-19 of Annexure A of CCG Regulations.

- In view of the above, *prima facie*, following contraventions were noted:
 - a. board audit committee not comprised of at least three non-executive directors as its members including at least one independent director in contravention to the requirements of regulation 27(1)(i) of the Regulations;
 - b. the chairman of board audit committee was not an independent director in contravention to the requirements of regulation 27(1) (ii) of the Regulations;
 - c. the chairman of human resource committee was not an independent director in contravention to the requirements of regulation 28(2) of the Regulations;
 - d. The SOC of the Company annexed with the annual audited financial statements for the year ended June 30, 2022 did not provide status of compliance of the non-mandatory requirements of the Regulations in contravention to regulation 36(1) of the Regulations.

Taking cognizance of the matter, the proceedings were initiated against the Respondents through the SCN.

3. The Company vide letter dated July 18, 2023, *inter alia*, made following submissions:

- The main reasons for above non-compliances/contraventions are that the new management had taken over the Company on 27th July 2022 and the Head Office was shifted to new premises and while the Board of Directors of the Company complied with the mandatory requirement of establishing an Audit Committee and the Human Resource and Remuneration Committee but inadvertently the members of those committees did not meet the criteria laid down in the Regulations.
- The two Committees were reconstituted and re-formed with immediate effect comprising of independent and non-executive directors only.
- As regards non-compliance with regulation 36(1) of the Regulations the omission was inadvertent and regretted.
- The afore referred non-compliances were inadvertent not willful and neither anything was sought to be concealed nor any advantage or benefit was sought. As soon as the non-compliances were pointed out these were rectified.

4. In order to provide opportunity of personal representation, hearing in the matter was fixed for September 08, 2023. On the date of hearing Syed Mazhar Ali Nasir, Chief Executive appeared before me as authorized representative of the Respondents and reiterated the written response submitted through letter dated July 18, 2023 and, *inter alia*, stated that:



SECURITIES & EXCHANGE COMMISSION OF PAKISTAN

Adjudication Department-I
Adjudication Division

- (i) after change of the management, independent directors were appointed to comply with the requirements of the Regulations;
- (ii) internal audit issues were not reported in SOC as there were labour union issues at that time and now the issues have been resolved.
- (iii) compliance will be ensured in future and requested to take lenient view by not imposing any penalty.

5. Relevant legal provisions in this regard are reproduced as hereunder:

Regulation 27 of the Regulations:

"(1) It is mandatory that the audit committee shall be constituted by the Board keeping in view the following requirements, -

- (i) *the Board shall establish an audit committee of at least three members comprising of non-executive directors and at least one independent director;*
- (ii) *chairman of the committee shall be an independent director, who shall not be the chairman of the Board."*

Regulation 28(2) of the Regulations:

"(2) The chairman of the committee shall be an independent director and the chief executive officer may be included as a member of the committee."

Regulations 36(1) of the Regulations:

"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."

Regulation 37 of Regulations:

"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."

Section 512(2) of the Act:

"Any regulation made under sub-section (1) may provide that a contravention thereof shall be punishable with a penalty which may extend to five million rupees and, where the contravention is a continuing one, with a further penalty which may extend to one hundred thousand rupees for every day after the first during which such contravention continues."

6. I have reviewed the submissions made in writing and during the hearing as well as issues highlighted in the SCN. In this regard, I am of the view that:

- **Composition of the board audit committee:**

In terms of regulation 27(1)(i) of the Regulations, it is required that the board audit committee to have at least three members comprising of non-executive directors and at least one independent director. As per the financial statements for the year ended June 30, 2022 and the half yearly financial statements for the period ended December 31, 2022, the Company 's board audit committee was comprised of including one executive director and one non-executive and independent director each. Hence, the aforesaid board audit committee was



SECURITIES & EXCHANGE COMMISSION OF PAKISTAN

Adjudication Department-I
Adjudication Division

not in compliance with the requirements of regulation 27(1)(i) of the Regulations. The said board audit committee did not comprise of only non-executive directors and independent directors. However, as per submission of the Company, board in its meeting held on March 28, 2023 reconstituted board audit committee comprising of two non-executive directors and one independent director.

- **Composition of the Human Resource and Remuneration Committee:**

In terms of regulation 27(1)(ii) of the Regulations, it requires that the chairman of the Human Resource and Remuneration Committee shall be an independent director, who shall not be the chairman of the board. As per the financial statements for the year ended June 30, 2022 and the half yearly financial statements for the period ended December 31, 2022, the chairman of the Human Resource and Remuneration Committee was Syed Azfar Ali Nasir who was not an independent director. The Company, therefore, violated the mandatory requirements of regulation 27(1)(ii) of the Regulations for not having independent director as chairman of the Human Resource and Remuneration Committee.

In this regard, through its letter dated July 18, 2023 the Company informed that the Board in its meeting held on March 28, 2023 reconstituted the Human Resource and Remuneration Committee and independent director was appointed as chairman of the said committee.

- **Composition of Human Resource Committee:**

In terms of regulation 28(2) of the Regulations, chairman of the Human Resource Committee is required to be an independent director. As per the financial statements for the year ended June 30, 2022 and the half yearly financial statements for the period ended December 31, 2022, the chairman of the Human Resource Committee was Syed Azfar Ali Nasir who was not an independent director. The Company, therefore, violated the requirements of regulation 28(ii) of the Regulations for not having independent director as chairman of the Human Resource Committee.

The Company through its correspondence dated July 18, 2023 did not inform about any compliance of the given requirements of the regulation 28(2) of the Regulations. I am of the view that the requirements of regulation 28(2) of the Regulations are not mandatory, however, the Company, in terms of regulation 36(1) of the Regulations, did not report the said non-compliance in its SOC.

- **Internal Audit Function:**

The auditors of the Company in their review report on the Regulations as annexed with the annual audited financial statements of the Company for the year ended June 30, 2022 has highlighted observation of non-compliance of regulation 27(4)(vii) of the Regulations. The said observation highlighted that internal audit function was not compliant in terms of regulation 27(4)(vii) of the Regulations for its scope, audit plan, reporting framework and procedures and adequate resources.

In this regard, the Company through its correspondence dated July 18, 2023, has stated that compliance status of the aforesaid regulation was inadvertently missed to be published/circulated in the annual report. I am of the view that regulation 36(1) of the Regulations require that the company shall publish and circulate a statement, 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. The Company, however, did not



SECURITIES & EXCHANGE COMMISSION OF PAKISTAN

Adjudication Department-I
Adjudication Division

report status of non-compliance of regulation 28(2) of the Regulations in the SOC annexed with annual audited financial statements for the year ended June 30, 2022. The stance of the Company, therefore, is not cogent.

- The Company has accepted defaults and cited that referred non-compliances were inadvertent.

7. In view of the aforesaid, it is concluded that the defaults of regulations 27(1)(i), and regulation 27(1)(ii) are attracted as of December 31, 2022 for which the Respondents are liable for the said defaults. I, therefore, in terms of the powers conferred under Section 512(2) of the Act read with regulation 37 of the Regulations, hereby, impose an aggregate penalty of **Rs. 200,000 (Two hundred thousand only)** on the following **Executive Directors** as disclosed in financial statements for the period ended on December 31, 2022:

Sr. No.	Name of the Respondent	Amount of Penalty (Rs.)
1	Syed Mazhar Ali Nasir - Executive Director	100,000/-
2	Alireza M. Alladin - Executive Director	100,000/-
Total		200,000/-

Moreover, the other Respondents are also warned and advised to be careful and to ensure compliance of the regulatory framework in future.

8. The Respondents are, hereby, directed to deposit the aforesaid amount of penalty in the designated bank account maintained in the name of the Securities and Exchange Commission of Pakistan with the MCB Bank Limited / 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 Regulations/ Act providing for imposition of penalties on the Respondent in respect of any default, omission or violation thereof.

Shahzad Afzal Khan
Head of Department
Adjudication Department-I

Announced:

Dated: October 3, 2023,

Islamabad