



# 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*

**Safe Mix Concrete Limited**

Show Cause Notice No. & Date: No. CSD/ARN/408/2016-176 dated June 23, 2023

Date of hearing: July 31, 2023

Hearing attended by: Mr. Vaqas Rafi, CFO & Company Secretary,  
Mr. Manzoor Raza, Company Secretary of  
Associated Company; and  
Mr. Mohsin Madni, CFO of Associated  
Company

### ORDER

#### Under Section 207 (1) read with Section 207 (4) of the Companies Act, 2017

This order shall dispose of the proceedings initiated through the Show Cause Notice No. CSD/ARN/408/2016-176 dated June 23, 2023 (the SCN) issued under Section 207 (1) of the Companies Act, 2017 (the Act) read with Section 207 (4) thereof to the following directors of Safe Mix Concrete Limited (the Company), hereinafter collectively referred to as the Respondents, namely:

Sr. #	Name of Directors
1.	Mr. Abdus Samad
2.	Mr. Muhammad Kashif Habib

2. The brief facts of SCN are that the annual audited financial statements of the Company for the year ended June 30, 2022 (the Accounts) revealed that the Company has carried out transactions with related parties listed under Note 38 to Accounts, as stated below:



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### 38. TRANSACTION AND BALANCES WITH RELATED PARTIES

The related parties comprise associated undertakings, directors of the Company and key management personnel. The Company in the normal course of business carries out transactions with various related parties at arm's length basis, unless otherwise disclosed. Amounts due from and due to related parties are shown under respective notes to the accounts. Other significant transactions and balances with related parties are as follows:

Name of related party	Basis of relationship with party	Particulars	2022	2021
			----- Rupees -----	
Power Cement Limited	Company under common control	Purchases made during the year	155,509,312	73,659,700
		Amount receivable as at year end	6,891,946	-
		Amount payable as at year end	-	42,643,980
Javedan Corporation Limited	Company under common control	Sales made during the year	28,031,086	16,933,171
		Advance as at year end	132,625,015	-
		Amount payable as at year end	-	463,476
Globe Residency REIT	Company under common control	Sales made during the year	245,830,274	-
		Amount receivable as at year end	72,525,883	-
Arif Habib Corporation Limited	Company under common control	Loan received during the year	173,600,000	-
		Loan paid during the year	155,481,726	-
		Interest accrued during the year	3,979,399	-
		Interest paid during the year	1,818,274	-
		Loan payable as at year end	18,118,274	-

3. The Securities and Exchange Commission of Pakistan (the **Commission**) vide letter dated March 31, 2023 sought copies of minutes of the board meetings and attendance sheets regarding approvals of aforesaid related parties' transactions.

4. Examination of the Company's response dated April 11, 2023, and minutes of the board of directors' meetings wherein related parties' transactions were approved, reveals that following mentioned common directors with shareholding in the associated companies as illustrated in the table below, did not abstain from voting on the related parties' transactions in the meeting held on October 6, 2022:

Associated Company Name	Common/interested directors present (as per 2021 annual accounts of corresponding company)	Common/ Interested Directors who abstained
Power Cement Limited	Mr. Muhammad Kashif Habib Mr. Abdus Samad	Nil
Javedan Corporation Limited	Mr. Muhammad Kashif Habib Mr. Abdus Samad	Nil
Globe Residency REIT	Mr. Abdus Samad	Nil
Arif Habib Corporation Limited	Mr. Muhammad Kashif Habib Mr. Abdus Samad	Nil



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5. The aforesaid directors, by not abstaining from the respective agenda item in question, despite being interested due to their common directorship and shareholding, *prima facie*, have contravened the provisions of sub-section (1) of Section 207 of the Act. Accordingly, proceedings were initiated against the Respondents through serving the SCN.

6. In this regard, the Company through its reply dated July 14, 2023 submitted that:

- Related party transactions were governed by Section 208 of the Act, which prescribes the policies and procedures for compliance with these transactions. Under Section 208, a company may engage in any contract or arrangement with a related party, subject to the policy approved by the board and the conditions specified therein.
- The first proviso to section 208 mandates that where a majority of directors are interested in any of the transactions mentioned above, the matter shall be placed before the general meeting for approval as a Special Resolution.
- The second proviso of Section 208 states that this subsection does not apply to any transactions entered into by the company in its ordinary course of business on an arm's length basis.
- Based on the above mentioned earlier analysis, we were of the view that Section 207 of the Companies Act, 2017 is not applicable in this case since the majority of directors were not interested directors with respect to the related party transactions.
- The transactions have been reviewed and recommended by the audit committee, an independent committee, before being placed before the board for approval, in accordance with Regulation 15 of the Code of Corporate Governance of Pakistan.
- The matter pertains to the drafting of minutes based on a different interpretation of law, it is hereby requested that a lenient view may be taken by the Commission.

7. In order to provide opportunity of personal representation, hearing in the matter was fixed for July 31, 2023, wherein, Mr. Vaqas Rafi, Company Secretary, Mr. Manzoor Raza, Company Secretary of Associated Company and Mr. Mohsin Madni, Chief Financial Officer of Associated Company appeared as representatives (the Representatives) on behalf of the Respondents before the undersigned and submitted that:

- All the related party transactions were executed at arms' length and were duly approved.



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- The related party transactions were unanimously approved by the board.
- The directors although having common directorship were not personally interested.

8. I have gone through the facts of the case, and considered the written submissions made by the Company through its letter by the Respondents, their Representatives and the arguments made during the hearing, in light of the aforesaid legal provisions and the record placed before me. The question raised in the instant matter is whether the interested directors can take part in the proceedings of the board meetings. The provisions of Section 207 of the Act explicitly explain that the interested directors are required to abstain from the proceedings of the meeting. Therefore, by not abstaining from the agenda item in question despite being interested due to their common directorship and shareholding in both the entities, the Respondents have contravened the provisions of Section 207 (1) of the Act.

9. In view of the foregoing; I hereby conclude that with respect to the transaction executed by the Company with Power Cement Limited, Javedan Corporation Limited, Globe Residency REIT and Arif Habib Corporation Limited being associate companies / related parties, by;

- a. not abstaining from participating in the proceedings of the Board meeting relating to the approval of the transaction by the Company with Power Cement Limited; the two (2) directors of the Company namely; (i) Mr. Kashif Habib and (ii) Mr. Abdus Samad Habib had contravened the provisions of Section 207 of the Act and, therefore, are liable to be penalized;
- b. not abstaining from participating in the proceedings of the Board meeting relating to the approval of the transaction by the Company with Javedan Corporation Limited; the two (2) directors of the Company namely; (i) Mr. Kashif Habib and (ii) Mr. Abdus Samad Habib had contravened the provisions of Section 207 of the Act and, therefore, are liable to be penalized;
- c. not abstaining from participating in the proceedings of the Board meeting relating to the approval of the transaction by the Company with Globe Residency REIT; the director of the Company namely; Mr. Abdus Samad Habib had contravened the provisions of Section 207 of the Act and, therefore, is liable to be penalized; and



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- d. not abstaining from participating in the proceedings of the Board meeting relating to the approval of the transaction by the Company with Arif Habib Corporation Limited; the two (2) directors of the Company namely; (i) Mr. Kashif Habib and (ii) Mr. Abdus Samad Habib had contravened the provisions of Section 207 of the Act and, therefore, are liable to be penalized.

10. Taking cognizance of the aforesaid contraventions/ non-compliances, I, in exercise of the powers conferred under 207 of the Act, hereby impose aggregate penalty of **Rs. 35,000/- (Rupees thirty-five thousand only)** on the Respondents in the following manner:

Sr. #	Name of the Respondents	Penalty (Rs.) for violation of Section 207 of the Act
1.	Mr. Abdus Samad Habib	20,000
2.	Mr. Muhammad Kashif Habib	15,000
	Total:	35,000

11. The Respondents are hereby, directed to deposit the aforesaid penalty in the designated bank account maintained in the name of the Commission with MCB Bank Limited within thirty (30) days from the date of this Order and 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 penalty.

12. Nothing in this Order may be deemed to prejudice the operation of any provision of the Ordinance or the Act providing for imposition of penalties in respect of any default, omission or violation of the Ordinance or the Act.

**Shahzad Afzal Khan**  
Head of Department  
Adjudication Department-I

**Announced:**  
Dated: August 1, 2023  
**Islamabad**

