



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
Al-Noor Sugar Mills Limited

Show Cause Notice No. & Date: No. CSD/ARN/555/2018-118 dated June 8, 2023
Date of hearing July 26, 2023 and August 9, 2023
Hearing attended by: Mr. Rizwan Manai as Authorized Representative

ORDER

Under Section 218 of the Companies Act, 2017 and Sections 219 and 479 thereof

This order shall dispose of the proceedings initiated through the Show Cause Notice bearing No. CSD/ARN/555/2018-118 dated June 8, 2023 (the SCN) issued under Section 218 of the Companies Act, 2017 (the Act) and Sections 219 and 479 thereof against Al-Noor Sugar Mills Limited (the Company) through its Chief Executive, hereinafter referred to as the Respondent.

2. The brief facts of the case are that the review of annual audited financial statements of the Company for the year ended September 30, 2022 (the Accounts), *inter alia*, transpired that the Company has maintained a provident fund (PF). The Securities and Exchange Commission of Pakistan (the Commission) through letter dated April 19, 2023 required the Company to submit a schedule of contributions paid on account of the PF during the financial year 2022. The Company through its reply dated May 8, 2023 submitted a payment schedule which showed that the contributions of PF were payable as provided hereunder:

S.No	Month	Total amount due to PF (Rs.)	Amount paid to PF	Deduction Date	Payment Date	Amount payable at month end (Rs.)
	Sep 2021					(1,086,341)
1	Oct 2021	4,151,152	1,026,756	5-Nov-21	19-Nov-21	(4,210,737)
2	Nov 2021	4,589,364	2,643,548	5-Dec-21	23-Dec-21	(6,156,553)
3	Dec 2021	4,630,626	4,605,148	5-Jan-22	6-Jan-22	(6,182,031)
4	Jan 2022	4,468,458	4,639,178	5-Feb-22	9-Feb-22	(6,011,311)
5	Feb 2022	4,910,012	5,951,726	5-Mar-22	14-Mar-22	(4,969,597)
6	Mar 2022	4,949,452	4,910,012	5-Apr-22	19-Apr-22	(5,009,037)
7	Apr 2022	4,692,242	4,949,452	5-May-22	26-May-22	(4,571,827)
8	May 2022	4,956,534	4,692,242	5-Jun-22	16-Jun-22	(5,025,119)
9	June 2022	4,720,030	4,965,534	5-Jul-22	15-Jul-22	(4,779,615)
10	July 2022	5,505,605	4,720,030	5-Aug-22	24-Aug-22	(5,565,190)
11	Aug 2022	4,953,744	5,505,625	5-Sep-22	12-Sep-22	(5,013,309)
12	Sep 2022	3,981,168	7,846,084	5-Oct-22	13-Oct-22	(1,148,393)



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Adjudication Department-I
Adjudication Division

3. The aforesaid information shows that the Company was not depositing the entire contribution amounts of the PF within the prescribed time of fifteen days from the date of the deductions thereof, and was carrying forward such amounts as payable to the PF, *prima facie*, in violation of Section 218(1) of the Act. Hence, proceedings were initiated against the Respondent through the SCN.

4. In this regard, the Company through its reply dated July 10, 2023, *inter alia*, submitted that:

- (a) There was no *means rea* for the cited delays in deposit of PF contributions and the instances of delays highlighted were on account of inadvertence;
- (b) Subsequently the matter was referred to the trustees of the staff PF who then ratified the delays through a resolution;
- (c) As a follow up of the requirement of deposit within fifteen days of deduction, it is to confirm that the matter is now regularized and the aforesaid requirement is being followed. The fact of above compliance would be evident as no amount was outstanding as per the quarterly financial statements for the quarter ended June 30, 2023.
- (d) The Company requested to condone the non-compliance highlighted and assured that in future, the Company would abide the requirement without any lapse.

5. In order to provide opportunity of personal representation, hearing in the matter was fixed for July 26, 2023. The Company through email dated July 25, 2023 requested adjournment. Thereafter, the hearing was fixed for August 9, 2023. On the date of hearing, Mr. Rizwan Manai, being the Authorized Representative, appeared before me and reiterated stance as was given through reply dated July 10, 2023. He requested that subsequent to the issuance of SCN, necessary compliance was made, so the matter of the SCN may be condoned.

6. I have reviewed the submissions made in writing and during the hearing as well as issues highlighted in the SCN. In this connection, it is stated that as per the information provided by the Company, the amounts of contributions of PF which were not being timely deposited by the Company were in the range of Rs. 1.086 million to Rs. 6.182 million and the default of making such delayed payments of PF persisted from September 2021 till June 2023. In terms of the requirements of Section 218 of the Act, the Company is bound to collect the contributions of the employees concerned and deposit such contributions as well as its own contributions within fifteen days as stipulated in Section 218 of the Act, and for which there is no exception provided therein. The Respondent has cited that the delay was due to inadvertence and submitted that subsequent to the issuance of the SCN the amounts of contributions of the PF were duly paid and the trustees of the PF also ratified the same delays. I am of the view that the provisions of the Section 218 are clear and unambiguous. The objective of these provisions is to secure the amounts collected as contributions for the benefits of the employees and the said amounts are in the nature of trust moneys in the hand of the Company and the same must be paid or deposited within stipulated time. In view of the aforesaid that the delay in payment of contributions of PF were observed from the months of September 2021 till September 2022 for which necessary compliance was made in June 2023, hence, violation of Section 218(1) of the Act is attracted.



SECURITIES & EXCHANGE COMMISSION OF PAKISTAN

Adjudication Department-I
Adjudication Division

7. Keeping in view that the Respondent have contravened the provisions of Section 218 of the Act and, therefore, is liable to be penalized under Section 219 of the Act. I, therefore, in exercise of powers conferred on me in terms of Section 219 of the Act, hereby, impose a penalty of Rs. 10,000/- (Rupees Ten Thousand only) on the Respondent Company i.e. Al Noor Sugar Mills Limited. The Respondent is also advised to ensure compliance of the given requirements of the Act in future.
8. The aforesaid Respondent is, hereby, directed to deposit the amount of 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 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 provision of the Act providing for imposition of penalties in respect of any default, omission or violation of the Act.

Shahzad Afzal Khan
Head of Department
Adjudication Department-I

Announced:
Dated: August 10, 2023
Islamabad