



# 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/408/2016-1022 dated April 07, 2023

Date of hearings: May 18, 2023, June 7, 2023 and June 22, 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 176 & 207 read with Section 479 of the Companies Act, 2017

This order shall dispose of the proceedings initiated through the Show Cause Notice No. CSD/ARN/408/2016-1022 dated April 07, 2023 (the SCN) issued under Sections 176 and 207 of the Companies Act, 2017 (the Act) read with Section 479 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 Habib
2.	Mr. Kashif Habib
3.	Mr. Nasim Beg
4.	Mr. Shahid Aziz Siddiqui
5.	Syed Najamuddin Jaffri
6.	Syed Muhammad Talha

2. The brief facts of SCN are that the annual audited financial statements of the Company for the year ended June 30, 2017 (the Accounts) revealed that the Company has carried out transactions with related parties listed under Note 30 to Accounts, as stated below:



# SECURITIES & EXCHANGE COMMISSION OF PAKISTAN

Adjudication Department-I  
Adjudication Division

	Note	2017	2016
<b>30.1 Transactions with related parties</b>			(Rupees)
<b>Associated companies:</b>			
<b>Thatta Cement Limited:</b>			
Purchase of raw material		4,564,328	56,443,174
<b>Power Cement Limited:</b>			
Purchase of raw material		498,086,250	167,738,288
<b>Javedan Corporation Limited:</b>			
Sales		74,317,150	26,503,305
<b>Mr. Arif Habib</b>			
Advance for purchases	16	20,000,000	-

3. The Securities and Exchange Commission of Pakistan (the Commission) vide letter dated December 27, 2022 sought copies of minutes of the board meetings and attendance sheets regarding approvals of the aforesaid related parties' transactions.

4. Examination of the Company's response dated February 6, 2023, and minutes of the board of directors' meetings wherein related parties' transactions were approved, reveals that six directors attended the board meeting held on October 3, 2017 wherein 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 said meeting:

Associated Company Name	Common/interested directors present (as per 2017 annual accounts of corresponding company)	Common/Interested Directors who abstained
Thatta Cement Limited	Mr. Shahid Aziz Siddiqui	Nil
Power Cement Limited	Mr. Nasim Beg, Mr. Kashif Habib and Mr. Abdus Samad Habib	Nil
Javedan Corporation Limited	Mr. Abdus Samad Habib and Mr. Kashif Habib	Nil

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.



## SECURITIES & EXCHANGE COMMISSION OF PAKISTAN

Adjudication Department-I  
Adjudication Division

6. The record also reveals that the quorum in the meeting held on October 3, 2017 was inquorate for approval of transactions with Power Cement Limited as only three of the six present directors were allowed to participate and vote as per Section 207(1) of the Act and presence of the remaining three interested directors did not count for the purpose of quorum and their vote was also void.

7. In accordance with sub-section (1) of Section 207 of the Act, presence of director, being interested, cannot be counted for the purpose of forming quorum. The directors of the Company present in the meeting held on October 3, 2017, *prima facie*, approved the related transactions with Power Cement Limited without quorum, in contravention with the provision of section 176 of the Act. Accordingly, proceedings were initiated against the Respondents through serving the SCN.

8. In this regard, the Company through its reply dated May 5, 2023, contended that:

Quote

".....

*As regards to the requirement of Section 207 concerned, we understand that after promulgation of Section 208, the same is only applicable in cases where a director has a personal interest in a matter under consideration, which may compromise the interest of the company. In our case, no such transaction is made where the interest of Company is compromised. All related party transactions were entered into in the best interest of Company and shareholders in the normal course of business.*

*In view of the above, it is humbly submitted that the related party transactions were entered into by the Company in compliance of law and relevant statutes as per our understanding. It is therefore requested that a lenient view may be taken in case the Commission takes a different view on the matter. We assure Commission to remain more vigilant in future and also assure you of our willingness to comply the statutes at all times."*

Unquote

9. In order to provide opportunity of personal representation, hearing in the matter was fixed for May 18, 2023, however, the hearing was not held. Subsequently another hearing opportunity was fixed for June 7, 2023, however, the Respondents through letter dated June 5, 2023 requested for an adjournment. A final hearing opportunity in the matter was then fixed for June 22, 2023. On the date of hearing, Mr. Vaqas Rafi, Company Secretary, Mr. Manzoor Raza, Company Secretary of Associated Company and Mr. Mohsin Madni, Chief Financial



## SECURITIES & EXCHANGE COMMISSION OF PAKISTAN

Adjudication Department-I  
Adjudication Division

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

10. 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 and state as under:

(i) Interested director not to participate or vote in terms of Section 207 of the Act:

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 in Para 4 above have contravened the provisions of Section 207 (1) of the Act. With regard to the provision of sub-section (1) of Section 207 of the Act, presence of director, being interested due to their common directorship and shareholding, cannot be counted for the purpose of forming the quorum. Furthermore, sub-section (2) of Section 207 of the Act explicitly explains that if majority of the directors are interested then the matter shall be laid before the general meeting for approval.

(ii) Insufficient Quorum in terms of Section 176 of the Act:

The record reveals that the quorum in the meeting held on October 3, 2017 was inquate for approval of transactions with Power Cement Limited as only three out of six present directors were allowed to participate and vote as per Section 207 (1) of the Act and remaining three present directors did not count for the purpose of quorum. Therefore, the directors of the company present in the meeting conducted the aforementioned meeting without quorum, in contravention with the provisions of Section 176 of the Act.



## SECURITIES & EXCHANGE COMMISSION OF PAKISTAN

Adjudication Department-I  
Adjudication Division

11. In view of the foregoing, I hereby conclude that with respect to the transactions executed by the Company with Thatta Cement Limited, Power Cement Limited and Javedan Corporation Limited, associate companies/ related parties, by;

- a. not abstaining from participating in the proceedings of the Board meeting held on October 3, 2017 relating to the approval of the transaction by the Company with Thatta Cement Limited; the director of the Company namely; Mr. Shahid Aziz Siddiqui had contravened the provisions of Section 207 of the Act and, therefore, is liable to be penalized.
- b. not abstaining from participating in the proceedings of the Board meeting held on October 3, 2017 relating to the approval of the transaction by the Company with Power Cement Limited; the three (3) directors of the Company namely; (i) Mr. Nasim Beg, (ii) Mr. Kashif Habib and (iii) 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 held on October 3, 2017 relating to the approval of the transaction by the Company with and Javedan Corporation Limited; the two (2) director of the Company namely; (i) Mr. Abdus Samad Habib and (ii) Mr. Kashif Habib had contravened the provisions of Section 207 of the Act and, therefore, are liable to be penalized.
- d. conducting the proceedings of the board meeting, in the absence of quorum for the Board Meeting, dated October 3, 2017, for related party transaction with Power Cement Limited, the Respondents being directors of the Company, had contravened the provisions of Sections 176 of the Act and are liable to be penalized.

12. Taking cognizance of the aforesaid contraventions/ non-compliances, I, in exercise of the powers conferred under Sections 176 and 207 of the Act, hereby impose aggregate penalty of Rs. 60,000/- (Rupees sixty thousand only) on the Respondents in the following manner:



# SECURITIES & EXCHANGE COMMISSION OF PAKISTAN

Adjudication Department-I  
Adjudication Division

Sr. #	Name of the Respondents	Penalty (Rs.) for violation of Sections	
		176	207
1.	Mr. Abdus Samad Habib	5,000	10,000
2.	Mr. Kashif Habib	5,000	10,000
3.	Mr. Nasim Beg	5,000	5,000
4.	Mr. Shahid Aziz Siddiqui	5,000	5,000
5.	Syed Najamuddin Jaffri	5,000	-
6.	Syed Muhammad Talha	5,000	-
Total:		30,000	30,000

13. 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.

14. 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: July 24, 2023  
Islamabad