



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/408/2016-1023 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 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/408/2016-1023 dated April 07, 2023 (the SCN) issued under Section 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

2. The brief facts of SCN are that the annual audited financial statements of the Company for the year ended June 30, 2021 (the Accounts) revealed that the Company has carried out transactions with related parties listed under Note 34 to Accounts, as stated below:



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34.1 Transactions with related parties

Name of related party	Relationship and %age shareholding	Transaction during the year and year end balances	Note	2021 (Rupees)	2020
Power Cement Limited	Associate	Purchase of raw material Amount due at the year end		73,659,700 42,643,980	29,361,240 40,266,761
Javedan Corporation Limited	Associate	Sales Amount due at the year end		16,933,171 463,476	29,936,765 588,526
Mr. Arif Habib	Associate person lineal Ascendant of CEO holds 20.69% (2020: 11.4%)	Loan received during the year Loan paid during the year Loan payable to related party	19	81,000,000 48,000,000 33,000,000	78,000,000
Mr. Abdus Samad	Associate person CEO holds 11.52% (2020: 11.52%)	Loan received during the year Loan paid during the year Loan payable to related party	19	4,879,022 4,879,022 87,000,000	75,000,000 87,000,000

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 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 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 1 2021:

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



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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 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

7. 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.

8. 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 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.



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9. 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.

10. In view of the foregoing, I hereby conclude that with respect to the transaction executed by the Company with Power Cement Limited and Javedan Corporation Limited, 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; and
- b. not abstaining from participating in the proceedings of the Board meeting relating to the approval of the transaction by the Company with and Javedan Corporation Limited; 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.

11. 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. 15,000/- (Rupees fifteen thousand only) on the Respondents in the following manner:



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Sr. #	Name of the Respondents	Penalty (Rs.) for violation of Section 207 of the Act
1.	Mr. Abdus Samad Habib	10,000
2.	Mr. Kashif Habib	5,000
	Total:	15,000

12. 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.

13. 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