



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

Adjudication Department- I

Adjudication Division

Before

Shahzad Afzal Khan - Director/Head of Department

In the matter of

Dewan Salman Fibre Limited

Show Cause Notice No. & Date: No. CSD/ARN/210/2015-147 dated February 20, 2024

Date of hearing: March 06, 2024

Hearing attended by: Mr. Mehmood-ul-Hassan Asghar (Director Group Corporate Affairs) and Mr. Muhammad Hanif German (Company Secretary)

ORDER

Under Section 510 and 512 of the Companies Act, 2017 read with Regulation 4 of the Companies (Postal Ballot) Regulation, 2018 and Regulation 11B thereof

This Order shall dispose of the proceedings initiated through the Show Cause Notice bearing No. CSD/ARN/210/2015-147 dated February 20, 2024 (the SCN) issued under Section 510 and 512 of the Companies Act, 2017 (the Act) read with Regulation 4 of the Companies (Postal Ballot) Regulation, 2018 (the Regulations) and Regulation 11B thereof against Dewan Salman Fibre Limited (the Company) and its Board of Directors, hereinafter referred to as the Respondents.

2. Notice for the 34th Annual General Meeting (the AGM) of the Company held on October 27, 2023, filed with the Securities and Exchange Commission of Pakistan (the Commission) mentions the following special business:

"To consider and approve short term loans/advances to an associated company in compliance with the provisions of Section 199 of the Companies Act, 2017"

3. The notice of AGM revealed that the Company did not provide the facility of Electronic Voting and Voting by Post and also did not provide the option to all shareholders to attend the general meeting through virtual means.

4. The Company was approached by the Commission vide email dated November 28, 2023 to clarify its position. The Company through its email dated December 8, 2023 provided the following response:

"With reference to your email dated November 28, 2023 regarding your observation on the provisions of the option to shareholders to attend the General Meeting through virtual means. In this regard, we would like to inform you that in the month of October, our IT department was busy with server maintenance due to not offering the said option to our members. However, now we are in the position to provide the option to the shareholders to attend the meeting virtually and will offer the same facility to our shareholders in future"



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5. Analysis of Company's reply revealed that, the Company has not provided any explanation regarding the non-provision of facility of Electronic Voting and Voting by Post in terms of regulation 4(1) and 4(1A) of the Regulations.

6. In view of above, prima facie, the Company has violated regulations 4(1) and 4(1A) of the Regulations read with Circular 4 of 2021 dated February 15, 2021 issued by the Commission.

7. Regulation 4(1) and 4(1A) of the Regulations, requires that right to vote through postal ballot as well as right to vote through electronic voting and voting by post shall be provided to the members. Furthermore, Circular 4 of 2021 also requires listed companies to ensure participation of members in general meeting through electronic means that includes video-link, webinar. The said regulations 4(1) and 4(1A) and Circular 4 of 2021 are reproduced as under:

"4. Responsibility of company. - (1) The right of vote through postal ballot shall be provided to members of every company, subject to the requirements of sections 143 and 144 of the Act.

(1A) The right to vote through electronic voting facility and voting by post shall be provided to members of every listed company for all businesses classified as special business under the Act and in case of election of directors, if the number of persons who offer themselves to be elected is more than the number of directors fixed under sub-section (1) of section 159 of the Act."

Circular No. 4 of 2021 dated February 15, 2021 issued by Commission provides that:

"Provision of facility for attending general meetings of listed companies virtually through video-link, webinar, or other electronic means helps maximization of members' participation in such meetings; SECP in continuation of its above-mentioned circular hereby directs that all listed companies to ensure participation of members in general meeting through electronic means as a regular feature from the date of this circular till further order."

8. The Company, prima facie, failed to comply with the requirements of regulation 4(1) and 4(1A) of the Regulations read with Circular 4 of 2021 punishable under regulation 11(B) of the Regulations and Sections 510 and 512 of the Act, respectively.

9. Section 510 and 512 of the Act, regulation 11(B) of the Regulations, are reproduced as under:

"510. Power to issue directives, circulars, guidelines. - (2) Any person, who obstructs or contravenes or does not comply with any directive, prudential requirements, codes, circulars or notifications, given under this section shall be liable to a penalty of level 3 on the standard scale."

"512. Power to make regulations. -

(2) 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."

"11B. Penalty for contravention of these regulations. - (1) Whoever fails or refuses to comply with, or contravenes any provision of these regulations, or authorizes or permits such failure, refusal or contravention shall be punishable with penalty as provided in sub-section (2) of section 512 of the Act."



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10. In response, to the aforementioned SCN the Company vide its letter dated February 21, 2024 submitted the following response which is provided hereunder;

"In this regard, we have already mentioned the reason in our email dated December 8, 2023, that in the month of October, our IT department was busy with service issue & maintenance and could not providing the network facility at that time' (enclosed herewith circular issued by our IT Department for your information). Unfortunately, due to circumstances, we encountered challenges in providing the option of video link facility and 'electronic means arrangements to our esteemed members during that period for attending the Annual General Meeting. We deeply regret any inconvenience caused by our inability to offer this option during the specified time frame. Without prejudice to the above we would like to state that the Annual General Meeting was held for the Financial Statements of the Company while meeting the quorum requirements wherein businesses on the agenda were appropriately transacted as per law.

However, we will in future provide the option for the shareholders to attend the Annual General Meeting through electronic means like video link, webinar or other electronic means.

Kindly take the lenient view in this regard by considering the exceptional circumstances during the specified period. We assure you that in future we will comply with the relevant law."

11. In order to provide an opportunity of hearing to the Respondents, the matter was fixed for hearing to be held on March 06, 2024. On the date of hearing, Mr. Mehmood-ul-Hassan Asghar (Director Group Corporate Affairs) and Mr. Muhammad Hanif German (Company Secretary), appeared as Authorized Representative on behalf of the Respondents (the Representatives). The Representatives reiterated the stance as provided through reply letter dated February 21, 2024. They submitted that the default was not deliberate and requested for a lenient view.

12. I have reviewed the facts of the case, considered the written and verbal submissions made by the Respondents and the Representative in the light of the applicable legal provisions and available record before me. In this regard, it is observed that:

a. Whether the provision of facility of electronic voting was required to be provided to members of every listed company for all businesses classified as special business:

Yes. In terms of regulation 4 of the Regulations, the right to vote through electronic voting facility and voting by post shall be provided to members of every listed company for all businesses classified as special business. Provision of electronic voting ensures participation of the members especially where special business is being considered in the meeting. Hence, under the Regulations it is obligatory for all listed companies to ensure provision of the electronic voting facility in general meetings where a business is classified as a special business.

b. Whether provision of facility for attending general meeting through electronic means is required to be provided to the members:

Yes. In terms of Circular No. 4, provision of facility of attending general meetings of listed companies virtually through video-link, webinar, or other electronic means helps maximization of members' participation in such meetings. Hence, it was made obligatory that all listed companies to ensure participation of members in general meetings through electronic means as a regular feature. The



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Company, however, through its notice of the AGM, did not provide to all of its shareholders the provision of facility for attending the said meeting through the electronic / virtual means. The Respondents admitted the default, however, stated that it was not deliberate and willful. I am of view that the Circular No. 4 was not specific for Covid-19 pandemic, as the Commission in pursuance thereof issued Circular No. 6 and related clarification, emphasizing the use of video-link as a regular feature in general meetings. The explanation dated December 15, 2021, inter alia, highlighted that: "While making arrangement for the virtual meetings it is responsibility of the company to ensure that facilities for the electronic meetings are seamless and without any interruption whereby shareholders are provided proper opportunity to raise observation/ comments which should be properly responded and minuted."

In view of the given requirements of Circular No. 4, the default is established. Therefore, I am of the view that provision of video-link facility through electronic means to the shareholders to attend AGM is with the objective to maximize the participation of the shareholders. The Respondents in this regard have admitted the default and assured for future compliance.

- c. Whether any assurance for the subsequent compliance, absolves the respondents from the non-compliance made due to non-availability of technical resources:

No. The Respondents' assurance for subsequent compliance of the given requirements of Circular No. 4 does not exonerate them for the violations as stated above, citing reasons of non-availability of technical resources as the cause of non-provision of the facility.

13. Keeping in view of the aforesaid contraventions, the Respondents are liable under Sections 510 (2) and 512 (2) of the Act, respectively. In exercise of the powers conferred under the said provisions, I hereby impose a penalty of **Rs. 100,000/- (Rupees One Hundred Thousand only)** on the Company i.e. **Dewan Salman Fibre Limited**. I also warn the remaining Respondents to be careful and to ensure the compliance of applicable regulatory framework in letter and spirit.

14. The aforesaid fines must be deposited in the designated bank account maintained with MCB Bank Limited or United Bank Limited in the name of the *Securities and Exchange Commission of Pakistan* within thirty days of the date of this order and furnish receipted bank vouchers to the Commission. In case of non-deposit of the said penalty, proceedings under Section 485 of the Act will be initiated for recovery of the same as arrears of land revenue.

15. 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
Director/Head of Department
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Announced: March 21, 2024
Islamabad