



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

Adjudication Department- I

Adjudication Division

Before

Shahzad Afzal Khan – Director/Head of Department

In the Matter of

Sitara Peroxide Limited

Number and Date of SCN: CSD/ARN/543/2018-10 dated January 2, 2024
Hearing Dates: February 13, 2024 & February 27, 2024
Present: Mr. Rashid Sadiq – RS Corporate Advisory
(Authorized Representative)

ORDER

UNDER SECTION 132 OF THE COMPANIES ACT, 2017 READ WITH SECTION 479 THEREOF

This Order shall dispose of the proceedings initiated against Sitara Peroxide Limited (**the Company**) and its Board of Directors and the Company Secretary (collectively referred to as the **Respondents**) through Show Cause Notice (**the SCN**) dated January 2, 2024 issued under Section 132 of the Companies Act, 2017 (**the Act**) read with Section 479 thereof.

2. Brief facts of the case are that the Company failed to hold its Annual General Meeting (**the AGM**) for Financial Year (**FY**) ended June 30, 2023 within a period of one hundred and twenty (120) days following the closure of its financial year. The Company vide application dated October 5, 2023 sought extension of thirty (30) days to convene its AGM, which the Commission acceded to through its letter dated October 17, 2023 advising the Company to hold the same by November 27, 2023. However, the AGM was postponed by the Company through its letter dated November 24, 2023 and the same has not been held to date. The said failure on part of the Respondents is violation of sub-section (1) of Section 132 of the Act.

3. While taking cognizance of the said violation, the SCN was issued to the Respondents requiring them to show cause in writing as to why penal action may not be taken against them for the aforesaid non-compliance. The Respondents, however, failed to submit a written response to the SCN. Consequently, hearing in the matter was fixed for February 13, 2024 which was adjourned upon the request of the Respondents and re-fixed and held before the undersigned on February 27, 2024 wherein Mr. Rashid Sadiq, being the Authorized Representative (**the Representative**) appeared on behalf of the Respondents.

The Representative attributed the delay in holding of the AGM to non-completion of the Company's audit for FY 2023. The Representative asserted that subsequent to the Commission's approval to hold the AGM by November 27, 2023, the Board of Directors disseminated the Company's financial results i.e., draft audited financial statements for fiscal year 2023 on November 6, 2023 through the PSX, alongside announcement to hold the AGM on the afore-stated extended date. However, the auditors did not issue the signed audited financials since additional information was required before issuing their audit report; this led to the Company postponing its AGM on November 24, 2023 until further notice.

The Representative reaffirmed that delay in holding of AGM was not the result of any act of omission on part of the management, but rather unintentional and indeliberate, hence beyond the control of the Respondents owing to the circumstances stated above.



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When questioned about the status of compliance with respect to the subject violation, the Representative stated that the Company is making best efforts to obtain the audited financial statements from its auditors soon and the Company will immediately hold its past due AGM thereafter. The Representative was advised to submit a written response to the SCN at the earliest alongside provide documentary evidence of correspondences with the Company's auditors as stated.

In conclusion, the Representative gave a binding assurance of future adherence to the law on behalf of the Respondents, and requested the Commission to condone the proceedings in light of afore-narrated circumstances coupled with the fact that the Commission has not imposed any penalties on companies and their boards in the past for cases with similar defaults, facts and circumstances.

4. The Representative submitted a post-hearing reply dated March 15, 2024 on behalf of the Respondents, *inter alia*, stating that:

- (i) *An application was made for extension in holding of the AGM for the year 2023 which was allowed by the SECP to hold AGM on and before 27 November, 2023;*
- (ii) *The Board of Directors announced financial results for year ended 30 June, 2023 on 6 November, 2023 on the basis of draft audited accounts for the year ended 30 June, 2023 received from the auditors. AGM was also announced to be held on 27 November, 2023;*
- (iii) *Subsequently, the signed audited accounts were not issued from the auditors as they required further information before issuing their audit report. The Company postponed the annual general meeting which was scheduled for 27 November, 2023 vide its notification dated 24 November, 2023 to PSX;*
- (iv) *Delay in holding of the AGM is not caused by any act of the management of the Company. It is beyond the control of the Respondents to hold AGM in the circumstances narrated above. The delay is unintentional and not deliberate. The Company is trying to get audited accounts from auditors as soon as possible and the Company will immediately hold its AGM upon receipt of the same;*
- (v) *SECP in the past has condoned the default and no fine was imposed on companies and its directors, Chief Financial Officer and company secretary in similar facts and circumstances. Reliance is placed on some of the recent cases where no fine was imposed i.e. Apna Microfinance Bank Limited, WorldCall Telecom Limited, K-Electric Limited, Clover Pakistan Limited, Burshane (Pakistan) Limited, Bela Automotive Limited (AGM not held since 2017), Mandoiwalla Plastic Industries Limited, Husein Industries Limited, Saudi Pak Leasing Company Limited and Adam Sugar Mills Limited. There are also large number of orders passed under Section 158 of the repealed Companies Ordinance, 1984 where no fine was imposed. The delay in some of the cases is far more egregious than the case of the Company like the case of Bela Automotive Limited. Therefore, imposition of fine in the case of the Company would be unjust and contrary to the requirements of the SECP Act, Constitution and binding precedents. Reliance is placed on the case law reported as 2017 CLD 686, Appeal No. 29 of 2016, PLD 2010 Peshawar 2, PLD 2009 Lahore 362, 2001 SCMR 1320, PLD 2012 SC 421 and Nishat Mills Limited vs SECP case to support the argument of principles of*



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equality under Article 25 of the Constitution as well as Section 20 (6) (c) of the SECP Act, 1997.

(vi) Fine could only be imposed on substantial finding of guilt as was held by the Supreme Court in the case reported as 2011 PLD 778 in the matter of SECP vs First Capital Securities Corporation Limited. Reliance was also placed on SECP's binding precedents in Appeal No 40 of 2014 dated 24 August, 2015 in the matter of Fauji Cement Company Limited and Next Capital Limited in Appeal No. 26 of 2015 dated 24 July, 2015 for determination whether default was committed knowingly and willfully.

(vii) The proceedings initiated under the SCN suffer from legal infirmity where, the officers/directors of the Company have been impleaded therein. In the first instance, with regards to the argument as to legal infirmity, we rely on the provisions of Section 132 of the Act which provides as under:

"132. Annual general meeting. — (1) Every company, shall hold, an annual general meeting within sixteen months from the date of its incorporation and thereafter once in every calendar year within a period of one hundred and twenty days following the close of its financial year: Provided that, in the case of a listed company, the Commission, and, in any other case, the registrar, may for any special reason extend the time within which any annual general meeting, shall be held by a period not exceeding thirty days.

(2) An annual general meeting shall, in the case of a listed company, be held in the town in which the registered office of the company is situate:

Provided that at least seven days prior to the date of meeting, on the demand of members residing in a city who hold at least ten percent of the total paid up capital or such other percentage as may be specified, a listed company must provide the facility of video- link to such members enabling them to participate in its annual general meeting:

Provided further that the Commission may, for reason to be recorded in writing, on the application of such company, allow the company to hold a particular meeting at any other place.

(3) The notice of an annual general meeting shall be sent to the members and every person who is entitled to receive notice of general meetings at least twenty-one days before the date fixed for the meeting:

Provided that in case of a listed company, such notice shall be sent to the Commission, in addition to its being dispatched in the normal course to members and the notice shall also be published in English and Urdu languages at least in one issue each of a daily newspaper of respective language having nationwide circulation.

(4) Nothing in this section shall apply to a single member company.

(5) Any contravention or default in complying with requirement of this section shall be an offence liable-

(a) in case of a listed company, to a penalty of level 2 on the standard scale; and



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(b) in case of any other company, to a penalty of level 1 on the standard scale.”

(viii) The Act provides for the requirement to hold an annual general meeting to be the responsibility of the Company and not its officers/ directors. Penalties to be attracted to non-compliance become the liability of the Company and not the individual officers/ directors. This stance is supported by a comparison between provisions of Section 158 of the repealed Companies Ordinance, 1984 (the 'Ordinance') which was the predecessor of Section 132 of the Act. Section 158 of the repealed Ordinance provided as under:

“158. Annual general meeting (1) Every company shall hold, in addition to any other meeting, a general meeting, as its annual general meeting, within eighteen months from the date of its incorporation and thereafter once at least in every calendar year within a period of four months following the close of its financial year and not more than fifteen months after the holding of its last preceding annual general meeting:

Provided that, in the case of a listed company, the Commission, and, in any other case, the registrar, may for any special reason extend the time within which any annual general meeting, not being the first such meeting, shall be held by a period not exceeding thirty days.

(2) An annual general meeting shall, in the case of a listed company, be held in the town in which the registered office of the company is situate:

Provided that the Commission, for any special reason, may, on the application of such company, allow the company to hold a particular meeting at any other place.

(3) The notice of an annual general meeting shall be sent to the shareholders at least twenty-one days before the date fixed for the meeting and, in the case of a listed company, such notice, in addition to its being dispatched in the normal course, shall also be published at least in one issue each of a daily newspaper in English language and a daily newspaper in Urdu language having circulation in the Province in which the stock exchange on which the company is listed is situate.

(4) If default is made in complying with any provision of this section, the company and every officer of the company who is knowingly and willfully a party to the default shall be liable, - (a) if the default relates to a listed company, to a fine not less than fifty thousand rupees and not exceeding five hundred thousand rupees and to a further fine not exceeding two thousand rupees for every day after the first during which the default continues; and

(b) if the default relates to any other company, to a fine not exceeding one hundred thousand rupees and to a further fine not exceeding five hundred rupees for every day after the first during which the default continues.” (emphasis provided).

(ix) As is evident from the language of the repealed Section 158 of the Ordinance, the intent of legislature under this provision was expressly to hold individual officers/ directors liable, in addition to the company of which such persons were directors, for violation of these provisions. The provision provided for the liability of any 'officer of the company' where a knowing and willful default could be established on the part of such officer. With the repeal of Section 158,



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there has been an express repeal of this aspect of the provision which provided for personal liability of an officer /director of the company.

- (x) It is well established that where the law requires a thing to be done in a certain manner it must be done exactly in that manner to have the force of law. The right to be dealt with in accordance with law is Constitutionally guaranteed to citizens of Pakistan through Article 4 of the Constitution which provides for 'enjoyment] [of] the protection of law and to be treated in accordance with law' as an 'inalienable right of every citizen'.
- (xi) The Commission, in a number of cases, has ruled on the same point and stated that where the SCN was supposed to be issued to the company, the officers / directors could not be made party to the proceedings and, thus, could not be held liable. The following cases lend credence to the principle for the purposes of adjudication of the matter at hand:
- a. In the matter of K-Electric Ltd vs Executive Director (CSD), Appeal No. 1 of 2019 dated October 26, 2020, the Appellate Bench of the Commission held as follows:
- 'We however do not agree with the Respondent, as show-cause proceedings were initiated under section 132 of the Companies Act which clearly states that penalty will be imposed on the Company for non-holding of AGM and not on the Appellants as directors. Therefore, SCN under section 132 of the Companies Act should have been issued to the Company which was not so in the instant case.'*
(emphasis provided)
- b. In the matter of M/s Agritech Ltd vs E.D. Appeal No. 40 of 2019, another case concerning the failure to convene an AGM, the Appellate Bench cited the decision in K-Electric Ltd referred to above with approval and held as follows:
- '5. The Bench has perused the Impugned Order whereby the directors of the Company have been penalized under Section 132 of the Act for non-holding of the AGM. In our view the Respondent had no power to issue to the SCN to the Appellants under Section 132 of the Act because under the relevant law only the respective company could be held liable for non-holding of the AGM. This Bench has already decided a similar matter in Appeal No.1 of 2019 on October 26, 2020 wherein it was held that under Section 132 of the Act, the Respondent had no power or jurisdiction to initiate proceedings and to impose penalty on directors of the company. In the circumstance we are of the view that analysis of merits and other arguments of the parties may prejudice the rights of parties, therefore, the Bench will not touch upon the merits of the case.'* (emphasis provided)
- (xii) A recent order dated 01 March 2023 of the respectable Appellant Bench in the matter of Appeal No. 60 of 2020 relating to Paramount Spinning Mills Limited of the SECP There are now two conflicting views of the Appellate Benches in the field and our views in this regard, with utmost respect, are as follows:

(a) It is submitted that the Appellate Bench was bound by earlier precedent developed by Appellate Benches of equal strength and if necessity was felt for deviation from developed precedent, the matter of conflict in opinion should have been placed before a larger bench. In this regard, the recent judgement of the Supreme Court in the case of Mst. Samrana Nawaz



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v. MCB Bank Ltd. (PLD 2021 SC 581) provides categorical instruction in the matter in the following terms:

"7, We are, however, bound by the judgment delivered by a Bench of co-equal strength, i.e., a three-member Bench, in the said case and therefore cannot hold otherwise. It is now a well-established principle of practice and procedure of this Court that the earlier judgment of a Bench of this Court is binding not only upon the Benches of smaller numeric strength but also upon the Benches of coequal strength; a Bench of co-equal strength cannot deviate from the view held by an earlier Bench, and if a contrary view has to be taken, then the proper course is to request the Hon'ble Chief Justice for constitution of a larger Bench to reconsider the earlier view. For, the law declared by this Court should be clear, certain and consistent, as it is binding on all other courts of the country, under Article 189 of the Constitution of Pakistan, 1973. The doctrine of binding precedent promotes certainty and consistency in judicial decisions, and ensures an organic and systematic development of the law,

8. It would be important to mention here that our learned brother, Justice Umar Ata Bandial, was a member of the three-member Bench that decided the case of Habib and Company (supra) and was also the member, and author of the order, of the two-member Bench that granted leave in C.P. No.756-L of 2020 (now numbered as C.A. 364-L of 2020) to consider the question under discussion. This shows that his lordship also doubted the correctness of the view expressed in the said case and deemed it proper to re-consider the same. The two-Member Bench that granted the leave, however, did not make a request to the Hon'ble Chief Justice for constitution of a larger Bench to reconsider the question, for a smaller Bench cannot request for the constitution of a larger Bench to revisit the opinion of a larger Bench on any question or principle of law; only a Bench of co-equal strength can make such a request. As a judgment of a larger Bench is binding on the smaller Benches, judicial discipline and propriety demand that a two member Bench should follow decision of a three member Bench, and if a two member Bench concludes that an earlier judgment of a three member Bench is so incorrect that in no circumstances can it be followed, the proper course for it is to set out the reasons why it could not agree with the judgment of the three member Bench and to refer the matter to the Hon'ble Chief Justice for constitution of a three member Bench. If the three-member Bench also comes to the conclusion that the earlier judgment of a three-member Bench is not correct, then the reference of the matter to a five-member larger Bench is justified. A two-member Bench cannot jump over a three-member Bench and directly ask for constitution of a Bench larger than three-member Bench, to review the principle of law declared by that Bench.

9. In these circumstances, we are of the opinion that only a Bench larger than a three-member Bench can reconsider the question as to the interpretation of the second proviso to Rule 90 of Order XXI of CPC, and revisit (if found necessary) the view expressed by a three-member Bench in the case of Habib and Company v. MCB (PLD 2020 SC 227). We, therefore, direct the office to place the matter before the Hon'ble Chief Justice of Pakistan for appropriate order."



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- (b) With regard to the direction contained in the Paramount Order requiring that officers of the SECP to ensure issuance of future show cause notices to all persons including the company, directors and company secretary for alleged violation of Section 132 of the Act, it is submitted that the same is contrary to the scheme of applicable law and acts to usurp the legitimate functions and independent exercise of powers vesting with other departments of the Commission and, therefore, is contrary to the requirements of Article 4, Article 10A and Article 25 of the Constitution of Islamic Republic of Pakistan.
- (xiii) Under Section 479(3) and (4) of the Act, the Commission is empowered to delegate such powers only with respect to any case or class of cases by an order in writing. Accordingly, the delegation of powers under Section 479 of the Act cannot be achieved through a notification under Section 10 of the SEP Act, 1997 which is different in character.
- (xiv) The proposed delegation under which SCN has been issued to Respondents is a deviation from the prescribed process as 'where procedure [has] been provided for doing a thing in a particular manner then same should be done in that manner alone and not in any other way or it should not be done at all; otherwise it would be considered non-compliance of the legislative intent and would be deemed illegal' (emphasis provided) as amply recognized, acknowledged and upheld by the Pakistani Judiciary'.
- (xv) In light of above submissions, SCN may please be dropped without any further action in the interest of fairness and uniformity where in several cases the SECP has condoned similar defaults. The Company assures SECP to ensure strict compliance of applicable provisions of the Act.

5. Relevant provisions of the law are reproduced hereinunder:

Sub-section (1) of Section 132 of the Act:

"Every company, shall hold, an annual general meeting within sixteen months from the date of its incorporation and thereafter once in every calendar year within a period of one hundred and twenty days following the close of its financial year. -

Provided that, in the case of a listed company, the Commission, and, in any other case, the registrar, may for any special reason extend the time within which any annual general meeting, shall be held by a period not exceeding thirty days."

Sub-section (5) of Section 132 of the Act:

"Any contravention or default in complying with requirement of this section shall be an offence liable:

- (a) in case of a listed company, to a penalty of level 2 on the standard scale."

6. At this stage, it is essential to address the following questions:

- (i) Why holding of AGMs by listed companies within the statutory timeframe is of utmost importance and what are the consequences of non-compliance?



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- (ii) How timely holding of AGMs demonstrates a listed company's commitment to robust corporate governance and transparency ensuring effective shareholder participation, engagement and communication?
- (iii) Whether the non-completion of audit absolves the Respondents from timely holding its AGM?
- (iv) Whether the Commission and Registrar have concurrent powers to impose penalties under Section 479 of the Act?
- (v) Which judgement of the Appellate Bench prevails in case there are two varying verdicts over time, who is liable to penal action thereon, and is the Commission consistent in its decision-making for violations of similar nature?
- (vi) Have the Respondents been treated justly during the subject proceedings?
- (vii) Whether different case laws quoted in Para 4 above are instinctively applicable in the instant matter?

7. I have considered the facts of the case in light of the applicable provisions of the Act, the arguments set forth during the hearing as well as the Respondents' written submissions through their Representative. At this juncture, it is imperative to address the following:

- (i) Why holding of AGMs by listed companies within the statutory timeframe is of utmost importance and what are the consequences of non-compliance?

Timely holding of AGMs ensures that shareholders are provided with updated information about the company's performance, financial position, strategy and future outlook. Timely AGMs ensure that shareholders receive up-to-date information that can help them make informed decisions about their investments. In addition, it allows shareholders to exercise their rights, including voting on key agenda items such as consideration and approval of the company's financial statements and election of directors.

The Respondents cannot absolve themselves from their statutory duties pertaining to holding of AGMs within the statutory timeframes. Holding AGMs within the stipulated timeframe ensures compliance with regulatory requirements, indicative of the company's commitment to uphold ethical and responsible business practices. Failure to hold general meetings in a timely manner can be detrimental to the company's reputation and credibility, eroding investor confidence and trust, thus leading to potential negative impacts on its the long-term sustainability and growth.



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- (ii) How timely holding of AGMs demonstrates a listed company's commitment to robust corporate governance and transparency ensuring effective shareholder participation, engagement and communication?

Timely holding of AGMs is a fundamental aspect of good corporate governance as it promotes transparency, accountability and shareholder engagement, allowing shareholders to hold the management accountable for their actions and decisions, fostering trust and confidence in the company's management. General meetings provide transparency and accountability to shareholders and ensure that the company is operating in the best interests of its shareholders. Likewise, holding AGMs in a timely manner facilitate open communication and dialogue, allowing shareholders to raise questions, voice their concerns and provide feedback. Thus, listed companies must adhere to the law by following the procedure prescribed under the Act for holding of general meetings.

- (iii) Whether the non-completion of audit absolves the Respondents from timely holding the AGM?

No. It is pertinent to mention here that the non-completion of an audit doesn't absolve a listed company from holding its AGM promptly since the AGM serves several crucial functions beyond just presenting the audited financial statements. Even if the audit is incomplete or requires further information before issuance of audit report as alleged by the Respondents, shareholders still have the right to convene and discuss important matters concerning the Company's operations, strategy and governance. While the completion of the audit is important for providing accurate financial information to shareholders, it is not the sole purpose of the AGM; thus, companies are still expected to hold their AGMs on time, even if the audit is not yet completed. Nevertheless, they may provide updates on the audit process and any significant findings or issues during the general meeting.

Equally, the Respondents' stance that the AGM was not held within the statutory timeframe owing to non-issuance of signed financial statements by the auditors based merely on the statement that they required further information before issuing their audit report is not found to be cogent. Nonetheless, despite the advice and ensuing reminder to provide documentary evidence of any correspondence(s) with the Company's auditors that would substantiate their claim, the Respondents have failed to do so till date.

- (iv) Whether the Commission and Registrar have concurrent powers to impose penalties under Section 479 of the Act?

Yes. Section 479 has to be read in its entirety and with reference to the Section providing imposition of monetary penalty on the standard scale. The powers to take cognizance of the violations of provisions of Section 132 of the Act have been duly delegated to the undersigned vide S.R.O. 1545(I)/2019 dated December 6, 2019 (the SRO) to take penal action under Section 132(5) of the Act. Moreover, the SRO explicitly authorized and



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empowered the undersigned to invoke the powers of Section 479 of the Act. The Commission has delegated its powers conferred under Section 10 of the SECP Act, 1997 which was notified through the SRO in order to bring it into public domain and knowledge. Therefore, the Respondents' contention that the Commission cannot delegate its powers through a notification is ill-founded and lacking substance.

The Respondents also have misconstrued Section 479(3) of the Act. In view of the applicable provision thereon, the Registrar and the Commission have concurrent powers to impose penalties, hence, the Commission has delegated its powers to take cognizance of the infractions of Section 132 of the Act by imposing penalties provided under Section 132(5) of the Act read with Section 479 thereof. Therefore, the Respondents' assertion that under Section 479(3) of the Act, only the Registrar was competent to impose penalties is categorically denied. In view thereof, delegation of powers under Sections 132 and 479 of the Act does not suffer any irregularity or illegality.

- (v) **Which judgement of the Appellate Bench prevails in case there are two varying decisions over time, who is liable to penal action thereon, and is the Commission consistent in its decision-making for violations of similar nature?**

The referred case laws of *K-Electric Limited* and *Agritech Limited* are not applicable in the instant matter. The case laws mentioned are persuasive in nature and were superseded by another order of a two-member Appellate Bench in the matter of *Paramount Spinning Mills Limited*. Therefore, case laws stated by the Respondents are neither mandatory nor binding on the undersigned. In view of the Appellate Bench's orders, which are later in time, if the law has not specifically provided who will be responsible for violation of Section 132 of the Act, then *inter alia* others, the Company and its board of directors shall be liable to penal action. As per rules of interpretation, if two equal benches have rendered adverse verdicts to elaborate any legal principle or factual controversy, the decision of the Bench later in time prevails.

Pertinently, attention is drawn to judgement of the Hon'ble Supreme Court Azad Kashmir in the matter of *Muhammad Hanif vs. Muhammad Sadiq (Ref: 2019 MLD 846 SC Azad Kashmir)* which, *inter alia*, states that "it has been held that when there are conflicting judgments passed by the Bench of equal strength, judgement later in time had to be followed."

In view thereof, the undersigned is bound to follow precedent of the most recent order of the Appellate Bench concerning violations of Section 132 of the Act. It is pertinent to mention here that subsequent to issuance of the recent Appellate Bench Order under Section 132 of the Act, the undersigned has proceeded in accordance with the judgement therein, hence, the Respondents cannot allege that they have not been treated fairly and in accordance with the law. The undersigned is therefore consistent in following the case law developed by the Appellate Bench in Appeal No. 60 of 2020, thus, one may not allege that the undersigned is inconsistent with respect to actions taken for violations of similar nature.



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(vi) **Whether the Respondents have been treated justly during the subject proceedings?**

Yes. During the SCN proceedings, due process has been followed and no discrimination has taken place as the Respondents were provided adequate and ample hearing opportunities coupled with the right to legal representation, and have been treated in a fair, just and transparent manner pertinent to the applicable laws. Hence, no violation of Articles 4, 10A and 25 of the Constitution of 1973 and Section 20(6) (c) of the SECP Act, 1997 may be attributed to the undersigned in respect of the instant matter.

(vii) **Whether different case laws quoted in Para 4 above are instinctively applicable to the instant matter?**

No. The Respondents have relied upon stating different previous cases of varying circumstances, wherein penalties were not imposed on account of delayed or non-holding of general meetings. In this context, it is important to recognize that every case has its own peculiar facts and circumstances, therefore, decisions of past cases may not be mechanically applied in the instant matter. In addition, mere mentioning of different case laws or citations does not meet the requirements to establish that facts of the case on hand are similar to the precedents. Therefore, vague and sweeping arguments lack substance and are of no use to distort the established violations of the case at hand.

The Respondents have referred a case laws cited as 2011 PLD 778 to build an argument that before proceeding in the instant matter, the Commission was required to establish substantial findings of guilt against the Respondents. However, the mentioned case law and its facts differ from the case at hand. In the stated case law there was the requirement to establish a willful default under Section 22, 223 and 224 of the Companies Ordinance, 1984, however, no such requirement is applicable in this case. Accordingly, facts of Next Capital Limited are also not pertinent to this case, therefore, the same are not applicable. The Respondents have referred Appeal No. 40 of 2014 of Fauji Cement Company Limited, however, the reference is incorrect as the Appeal No. 40 of 2014 pertains to Pak Chromical Limited.

8. The Company failed to hold its AGM for FY ended June 30, 2023 within the statutory timeframe of one hundred and twenty (120) days following the closure of the FY; review of Company records, however, transpire that it has failed to hold the AGM for FY 2023 till the date of this Order.

In view of the preceding facts, I am of the considered view that by not holding its AGM for the year ended June 30, 2023 within the time period as stipulated under sub-section (1) of Section 132 of the Act, the Respondents have contravened the said provisions of the Act, which renders them liable to penal action under sub-section (5) of Section 132 thereof. Therefore, in the exercise of powers conferred under sub-section (5) of Section 132 of the Act, I hereby impose a penalty of Rs. 200,000/- (Rupees Two Hundred Thousand only) on Sitara Peroxide Limited, and warn the remaining Respondents to ensure meticulous compliance of the law in the future in letter and spirit.



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9. The aforementioned penalty must be deposited in the designated bank account maintained with United Bank Limited or MCB Bank Limited in the name of the **Securities and Exchange Commission of Pakistan within thirty (30) days from the receipt of this Order**, and receipted bank vouchers must be furnished to the Commission. In case of non-deposit of the penalty, proceedings under Section 485 of the Act will be initiated for recovery of the same as arrears of land revenue.

10. Nothing in this Order may be deemed to prejudice the operation of any provisions of the Act providing for imposition of penalties on the Respondents in respect of any default, omission or violation thereof.

SHAHZAD AFZAL KHAN
Director/Head of Department
Adjudication Department - I

Announced:
May 15, 2024
Islamabad