



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
Apna Microfinance Bank Limited

Show Cause Notice No. & Date: No. CSD/ARN/182/2015-273 dated October 25, 2023

Date of hearing: November 22, 2023

Hearing attended by: Mr. Muhammad Saleem Shaikh Director

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/182/2015-273 dated October 25, 2023 (the SCN) issued under Section 218 of the Companies Act, 2017 (the Act) and Sections 219 and 479 thereof against Apna Microfinance Bank 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 June 30, 2020 (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 30, 2021 required the Company to submit a schedule of contributions paid on account of the PF during the financial year 2020. The Company through its reply dated September 15, 2021 submitted a payment schedule which transpired that the Company was not timely transferring contributions of PF, as follows:

Month	Employee PF Contribution Deduction Date	Date of deposit of contribution in bank Account	Difference (Days)	Delay in Days (where deposited after 15th day)
March-2020	27-Mar-2020	15-Apr-2020	19	4
May-2020	21-May-2020	19-Jun-2020	29	14
Nov-2020	30-Nov-2020	30-Dec-2020	30	15

3. In term of Section 218 of the Act, PF contributions are required to be paid within fifteen (15) days from the date of collection. However, review of the information provided by the Company transpires that contributions are not being paid/ deposited within the required time period of fifteen (15) days, *prima facie*, contrary to the requirements of Section 218 of the Act making, the Company liable under Section 219 of the Act. Hence, proceedings were initiated against the Respondent through the SCN and the Respondent was called upon to show cause in writing, within fourteen (14) days of the date of the SCN, as to why penalty may not be imposed in term of the requirements of the Act for the aforesaid violations. The Company through letter dated November 4, 2023 sought



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extension to furnish a reply. The Commission through its letter dated November 10, 2023 allowed to submit a reply latest by November 20, 2023.

4. In this regard, the Company vide letter dated November 14, 2023 submitted that the delay in deposit of provident fund contribution in bank account was unintentional. Further, requested to kindly accept apology and condone the penalty.

5. In order to provide opportunity of personal representation, hearing in the matter was fixed for November 22, 2023. On the date of hearing, Mr. Muhammad Saleem Shaikh, director, appeared before me and reiterated stance as was given through reply dated November 14, 2023. He stated that the Company was compliant apart from the delays mentioned in the SCN. He also requested to take a lenient view and stated that it was a clerical mistake. He assured that the Company would ensure compliance in future.

6. I have reviewed the facts of the case, considered the written and verbal submissions made by the Respondent in light of the applicable legal provisions and records placed before me. In this connection, it is stated that:

- (i) At the outset, I am of the view that the requirements of Section 218 of the Act mandatorily require that the company is bound to collect the contribution of the employees concerned and deposit such contributions as well as its own contributions within fifteen days from the date of collection. The reason cited by the Respondent, that the delay was due to clerical mistake and unintentional, is not tenable.
- (ii) Moreover, I have noticed that in the instant matter, the monthly delays in payment of the contributions amounts of PF ranges from 4 to 15 days, as stated in para 2 above, which is in violation of the given provisions of Section 218 of the Act. Besides, I have also considered the assurance provided by the Respondent for future compliance.

7. Keeping in view the aforesaid I, therefore, in exercise of powers conferred on me in terms of Section 219 of the Act, hereby, impose a penalty of **Rs. 20,000/- (Rupees Twenty Thousand only) on the Respondent i.e. Apna Micro Finance Bank Limited.**

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: November 23, 2023, Islamabad