



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN  
Adjudication Department –II  
Lahore.

\*\*\*\*\*

*Through Courier*

NO. ADJ-II/LHR/281/

22323

April 01, 2021

M/S. IMPERIUM HOSPITALITY (PRIVATE) LIMITED,  
10-Q, GULBERG-II,  
LAHORE.

SUBJECT: ORDER IN RESPECT OF SHOW CAUSE NOTICE AO-LHR/SCN/1471  
DATED FEBRUARY 22, 2021 IN THE MATTER OF M/S. IMPERIUM  
HOSPITALITY (PRIVATE) LIMITED

Dear Sir/Madam,

Please find enclosed herewith copy of the final "Order", in the title matter for proceedings under section (s) 123-A read with section 479 of the Companies Act, 2017, for your record and necessary action.

 o/c

Mohsin Syed  
Joint Registrar/Adjudication Officer,  
Adjudication Department-II, Lahore.

Cc: Incharge Company Registration Office, Lahore



Securities and Exchange Commission of Pakistan

Adjudication Department –II, Adjudication Division, 3<sup>rd</sup> & 4<sup>th</sup> Floor,  
7- Edgerton Road, Lahore. www.secp.gov.pk



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN  
ADJUDICATION DEPARTMENT –II

LAHORE

Through Registered A.D.

\*\*\*\*\*

BEFORE THE JOINT REGISTRAR /ADJUDICATION OFFICER,  
ADJUDICATION DEPARTMENT –II, LAHORE.

*In the Matter of*

**M/S. IMPERIUM HOSPITALITY (PRIVATE) LIMITED**

Number and date of SCN: AO-LHR/SCN/1471 dated February 22, 2021  
Dates of Hearing/s: March 12, 2021 and March 17, 2021  
Present: None, appeared for personal hearing.

**ORDER**

**UNDER SECTION 123-A READ WITH SECTION 479 OF**  
**THE COMPANIES ACT, 2017**

This Order shall dispose of the proceedings against M/S. Imperium Hospitality (Private) Limited (*"the Company"*) and its directors including the chief executive (*"the Respondents"*), initiated through Show Cause Notice (*"the SCN"*) dated February 22, 2021 issued under the provisions of Section (s) 123-A read with Section 479 of the Companies Act, 2017 (*"the Act"*).

2. Brief facts of the case that led to this show cause notice, are that the company had failed to conform to the provisions of Section 123-A (Act No. XXVII of 2020 in Act XIX of 2017 amendment made through Companies Amendment Act, 2020) of the Companies Act, 2017, by not filing the declaration of compliance as per Form 45, with the Registrar, pursuant to sub-section (2) of Section 123-A of the Companies Act, 2017 (*"the Act"*) read with Regulation 19A (5) of the Companies (General Provisions and Forms) Regulations, 2018 (the *"Regulations"*) and rendered the company liable to a penalty, as contained in sub-section 3 of section 123-A read with section 479 of *"the Act"*.

3. Consequently, the aforesaid SCN dated February 22, 2021 was issued to *"the Respondents"* to show cause in writing as to why penal action as contained in sub-section 3 of section 123-A read with section 479 of *"the Act"* may not be taken against *"the company"* for failing to conform to the provisions of section 123-A of *"the Act"*, *ibid.*

4. In the matter of aforesaid SCN, initial opportunity of hearing was provided to the company by fixing hearing on March 12, 2021 through serving the Show Cause notice on February 22, 2021 at the registered office of the company. However, the company or its chief executive /director(s) had failed to appear on the scheduled date/time and considering the aforesaid non-appearance, another hearing opportunity was granted to the company through its chief executive /director(s) for



1/14/2021



# SECURITIES & EXCHANGE COMMISSION OF PAKISTAN

Continuation Sheet - 1 -

appearing on March 17, 2021 by serving hearing notice # AO-LHR/Adjourn-1817, however, this time the company vide its letter # ref# nil dated March 15, 2021 had acknowledged the said show cause notice with a submission of the fact by its representative, that it's a law-abiding company and the company /its management was not aware of timelines for filing of the aforesaid declaration of compliance as per Form-45, owing to the recent changes made in the Companies Act, 2017 and besides due to Covid 19 pandemic, the company could not file the aforesaid mandatory return(s) i-e declaration of compliance as per form-45 with the Registrar, within the stipulated time. The undersigned had raised concerns over the said response of the company and provided all the necessary information over the timelines for filing of mandatory returns to be filed by the company, under various provision(s) of "the Act" and further explained "the respondent /company", that director(s) /chief executive of the company are obligated to devise a system where all the reporting/filing requirements defined under "the Act", are timely met. The company could not describe any other persuasive reasons for the said default, despite being provided with the aforesaid opportunities and only reiterated that owing to the aforesaid reasons, the said returns of the company were overlooked and could not be filed with registrar, within the stipulated time and further requested to condone penalty as the company had complied by filing the said due return(s) with the Registrar, Company Registration Office, Lahore and produced the acknowledgement of filing at the aforesaid date/time of hearing, being conclusive evidence of filing of the aforesaid return(s) and the same fact of filing of return(s), was subsequently confirmed by the concerned registrar, company registration office, Lahore.

5. Considering the replies and arguments during the proceedings of the case, the undersigned had explained that mere this plea of the company cannot be considered as cogent and does not absolve the company /it's chief executive or director(s) from their mandatory filing and reporting duties, defined under "the Act". However, since the company through its letter had shown the company's resolve for timely filing of returns, besides a firm commitment on behalf of all "the respondents" for future adherence to the law, in letter and spirit and further provided the proof of filing the requisite declaration of compliance as per form-45 with the registrar, company registration office Lahore for the year with a request to condone penalty, and the said request was taken in to consideration by the undersigned as the registrar had confirmed the same fact, being cogent in terms of the relevant provisions of "the Act".

6. The arguments of the company /its representative have been considered and at the very outset, it must be stated that the company has already complied with the provisions of Section 123-A by filing the requisite declaration of compliance as per Form-45 with the Registrar, Company Registration Office, Lahore and let us first have deliberation on the entreaty taken by the company regarding interpretation of Section 123-A of the Companies Act, 2017 ("the Act") and before proceeding any further, it is necessary to advert to the relevant provisions of the law that unambiguously stipulates:



1/4/2021



# SECURITIES & EXCHANGE COMMISSION OF PAKISTAN

Continuation Sheet - 2 -

And Whereas, Sub-section(s) 1 and 2 of Section 123-A (Act No. XXVII of 2020 in Act XIX of 2017 amendment made through Companies Amendment Act, 2020) of the Companies Act, 2017 unambiguously stipulates that:

Section 123- A (1) : Record of Ultimate Beneficial Owner: A company shall maintain information of its ultimate beneficial owners in such form and manner, within such period, and obtain such declaration from its members as may be specified.

(2) Every company shall, in such form and manner as may be specified, maintain a register of its ultimate beneficial owners and shall timely record their accurate and updated particulars, including any change therein, and provide a declaration to this effect to the registrar and where any government is a member of a company such particulars of the relevant government shall be entered in the register of ultimate beneficial owners in the specified manner and

WHEREAS, Regulation 19A (5) of the "Regulations" provides that, "Every company required to maintain a register of ultimate beneficial owners shall, within fifteen days from the receipt of declaration received under sub-regulation (2) or (3), and thereafter along with its annual return, submit to the registrar concerned a declaration of compliance in pursuance of sub-section (2) of section 123A of the Act, as per Form 45".

7. Without any prejudice, the company/and its director(s)/officer(s) have contravened the aforesaid provisions of Section 123-A of the Companies Act, 2017 (Act No. XXVII of 2020 in Act XIX of 2017 amendment made through Companies Amendment Act, 2020) and rendered the company liable to a penalty, as contained in sub-section 3 of Section 123-A of "the Act", which clearly entails as under:

123-A (3) Any contravention or default in complying with requirement of this section shall be liable in case of:

- (a) a director or officer of the company or any other person, to a penalty of which may extend to one million rupees; and
- (b) the company, to a penalty which may extend to ten million rupees;

8. It is evident from the abovementioned scripts of the law that the company is in default of Section 123-A of "the Act" as it has failed to file the aforesaid declaration of compliance /return(s), within the stipulated time *i-e* within fifteen days from the receipt of declaration received under sub-regulations (2) or (3) and thereafter along with its annual return, as the case may be and rendered the company liable to a penalty as contained in sub-section 3 of Section 123-A of "the Act. The nature, seriousness and impact of the breach shows that the act of the company was deliberate and moreover the default, duration and the extent of the violation has raised serious concerns over the systemic weaknesses of the management systems and internal controls of the company. However, considering the aforesaid facts of the case, relevant provisions of *the Act*, and the arguments set forth by the company's representative over the course of hearing, it is pertinent to state the fact that the afore-mentioned provisions of the law are unambiguous and explicit and the fact that timing is essence of these returns and the disclosure requirements of these have been kept to a bare minimum. Declaration of



1/1/2021




# SECURITIES & EXCHANGE COMMISSION OF PAKISTAN

Continuation Sheet - 3 -

compliance as per Form-45 and returns prepared with financial statements together accurately and in a timely manner provide to its users a reliable source of information regarding a company's position and performance, besides illustrating the results of the management's stewardship of resources entrusted on to it. In order to ensure transparency, all companies must meticulously adhere to the law for preparation and filing of these returns under various provisions of "the Act". Chief Executive, directors and officer(s) of the company are obligated to ensure that such mechanisms are in place, and appropriate actions be taken, whereby financial and operational reporting of the company is timely achieved, whilst ensuring due compliance of the law.

9. In terms of the Commission's Notification S.R.O. 1356 (I) / 2020 dated December 16, 2020, the powers to adjudicate cases under Section 123-A of "the Act" have been delegated to the undersigned as Adjudication Officer, Adjudication Department- II, Lahore.

10. As regards the case at hand, I have analyzed the facts of the case, relevant provisions of "the Act", record presented before the undersigned and I am of the view that since the company has complied with the requirements of Section 123-A of "the Act", by filing the requisite declaration of compliance as per Form-45 with the Registrar, therefore, I, while exercising the powers delegated vide S.R.O. 1356 (I)/2020 dated December 16, 2020, hereby condone penalty, with a "**warning**" to the company and its chief executive /director(s) for future adherence to the law, in letter and spirit, to conclude "the SCN" and further, the case is remanded to Corporatization and Compliance Department, Lahore for further review and necessary action, if any, at their end.

  
1/4/2021

Mohsin Syed  
Joint Registrar/ Adjudication Officer,  
Adjudication Department-II, Lahore.

**Announced:**  
April 1, 2021,  
Lahore.

The Chief Executive,  
M/S. Imperium Hospitality (Private) Limited,  
10-Q, Gulberg-II,  
**LAHORE.**

