



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

Through Courier

NO. ADJ-II/LHR/3463

April 08, 2024

The Chief Executive/ Director,
M/S. KIBERYA COTTON INDUSTRIES (PVT.)
LIMITED
CHAK NO. 244/P TEHSIL DISTRICT RAHIM YAR
KHAN .

**SUBJECT: ORDER IN RESPECT OF SHOW CAUSE NOTICE SCN NO./AO-LHR/760
DATED JANUARY 30, 2024 IN THE MATTER OF M/S. KIBERYA COTTON
INDUSTRIES (PVT.) LIMITED**

Dear Sir/ Madam,

Please find enclosed herewith copy of the final "Order", in the title matter for proceedings under Section(s) 130 read with section 479 of the Companies Act, 2017, for your record and necessary action.

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

Cc: Incharge Corporate Registry Department, Multan.



Securities and Exchange Commission of Pakistan
Adjudication Department –II, Adjudication Division, 3rd & 4th Floor,
7- Edgerton Road, Lahore. www.secp.gov.pk



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ADJUDICATION DEPARTMENT -II
LAHORE

Through Courier

**BEFORE MOHSIN SYED, ADDITIONAL REGISTRAR /ADJUDICATION OFFICER,
ADJUDICATION DEPARTMENT -II, LAHORE.**

In the matter of
M/S. KIBERYA COTTON INDUSTRIES (PVT.) LIMITED

Number and date of SCN: SCN NO./AO-LHR/760 dated January 30, 2024
Dates of Hearing/s: February 08, 2024; February 16, 2024 and February 29, 2024.
Present: None, appeared for personal hearing.

ORDER
UNDER SECTION 130 READ WITH SECTION 479 OF
THE COMPANIES ACT, 2017

This Order shall dispose of the proceedings against M/S. KIBERYA COTTON INDUSTRIES (PVT.) LIMITED ("the Company") and its directors including the chief executive ("the Respondents"), initiated through Show Cause Notice ("the SCN") dated January 30, 2024 issued under the provisions of Section 130 read with Section 479 of the Companies Act, 2017 ("the Act").

2. Brief facts of the case are, that "the company" has failed to file its mandatory annual return for the year(s) 2021 to 2023, within the stipulated time, pursuant to pursuant to Section 130 of "the Act". Without any prejudice, the company has contravened the aforesaid provisions of "the Act" and rendered the company liable to a penalty of level-1 on the standard scale, as provided under Section 130(6) read with Section 479 of "the Act".

3. Consequently, the aforesaid SCN dated January 30, 2024 was issued to "the respondents" to show cause in writing as to why penal action as contained in section 130(6) read with Section 479 may not be taken against the company for failing to conform to the provisions of Section 130 of "the Act", *ibid*.

4. In the matter of aforesaid SCN, initial opportunity of hearing was provided to the company and its Directors/Chief Executive by fixing hearing on February 08, 2024 through serving the Show Cause Notice on January 30, 2024 at the registered office of the company, however, both the company and its chief executive/ director(s) had failed to appear personally or through an authorized representative on the scheduled date and time of the said hearing. Thereafter, another opportunity of hearing was provided to the company, through its chief executive/director(s) by fixing the hearing for February 16, 2024, vide hearing notice bearing NO. AO-LHR/1152 issued and sent at the registered notified office of the company, however, both the company and its chief executive/director(s) had again failed to appear personally or through an authorized representative on the scheduled date and time. Considering the persistent non-appearance, a final opportunity of hearing was provided to the company through its chief executive and director(s) by fixing hearing for February 29, 2024, however, the company and its chief executive / director(s) had again failed to appear personally or through an authorized representative on the scheduled date and time and



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neither, any reply was received in this regard from the respondents. It is pertinent to state the fact, that all the said hearing notice(s) were sent through courier, at the registered addresses of the company and its chief executive/director(s) that were subsequently delivered and have been served upon the company and its director(s)/chief executive.

5. Before proceeding further, it is necessary to advert to the relevant provisions of the law and Section 130 of the Companies Act, 2017 which unambiguously stipulates that:

130 (1) "every company having a share capital shall, once in each year, prepare and file with the registrar an annual return containing the particulars in a specified form as on the date of the annual general meeting or, where no such meeting is held or if held is not concluded, on the last day of the calendar year":

130(3) "the return referred to in sub-section (1) or sub-section (2) shall be filed with the registrar within thirty days from the date of the annual general meeting held in the year or, when no such meeting is held or if held is not concluded, from the last day of the calendar year to which it relates:

" provided that, in the case of a listed company, the registrar may for special reasons extend the period of filing of such return by a period not exceeding fifteen days".

130(6) 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;*
- (b) in case of any other company, to a penalty of level 1 on the standard scale.*

6. It is evident from the abovementioned scripts of the law that the company is in default of Section 130 of "the Act" as it has failed to file the aforesaid annual return for the year(s) ended 2021 to 2023 within the stipulated time and is liable to a penalty of level-1 on the standard scale, as provided under Section 130(6) 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 and can't be ignored being a public interest /listed company, in the instant case.

7. As regards the matter at hand, I have analyzed the facts of the case, relevant provisions of "the Act", and the record presented before the undersigned during the course of adjudication proceedings. The afore-mentioned provisions of the law are unambiguous and explicit and the fact that timing is essence of mandatory returns and accounts and, the disclosure requirements of these have been kept to a bare minimum. All mandatory 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 financial 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". Directors 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.

8. In terms of the Commission's Notification S.R.O. 1546 (I)/2019 dated December 06, 2019, the powers to adjudicate cases under Section 130 of "the Act" have been delegated to the undersigned as Adjudication Officer, Adjudication Department- II, Lahore.



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9. Before proceeding with the decision, I would also like to highlight here that I am compelled to decide the said pending case ex-parte as neither, the company has replied to "the SCN", nor its chief executive/director(s) have appeared personally or through an authorized representative, despite being provided with the aforementioned numerous hearing opportunities. I am convinced and of the view, that the company has failed to comply with the requirements of Section 130 of "the Act" and further, it has not shown any intention for compliance or even to defend the instant case, during the whole adjudication proceedings, therefore, I, while exercising the powers delegated vide S.R.O. 1546 (I)/2019 dated December 06, 2019, hereby impose a lumpsum penalty of Rs. 25000/- upon the company, to conclude "the SCN" proceedings.

10. This order is being issued without prejudice to any other action, that the Commission may initiate against the company in accordance with law/s on matters **subsequently, investigated or otherwise brought to the knowledge of the Commission**. The chief executive of the Company is advised to deposit the aforementioned penalty in the designated bank account maintained with MCB Bank Limited or UBL Bank Limited in the name of the **Securities and Exchange Commission of Pakistan**, within thirty days from the receipt of this Order, and original receipted bank vouchers must be furnished to the Commission. In case of non-deposit of the fines, proceedings for recovery of the same shall be initiated against the company and the respondent(s) to this show cause notice.

08/4/2024

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

Announced:
April 08, 2024,
Lahore.

The Chief Executive,
M/S. KIBERYA COTTON INDUSTRIES (PVT.)
LIMITED,
CHAK NO. 244/P TEHSIL DISTRICT RAHIM YAR
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