



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

Through Courier

NO. ADJ-II/LHR/

666

December 27, 2023

THE CHIEF EXECUTIVE,
M/S. ALL PAKISTAN CEMENT DISTRIBUTORS ASSOCIATION,
137-B, NEAR ZUBAIR AUTOS,
YATEEM KHANA CHOWK,
MULTAN ROAD,
LAHORE.

SUBJECT: ORDER IN RESPECT OF SHOW CAUSE NOTICE SCN NO./AO-LHR/632
DATED NOVEMBER 22, 2023 IN THE MATTER OF M/S. ALL PAKISTAN
CEMENT DISTRIBUTORS ASSOCIATION.

Dear Sir/Madam,

Please find enclosed herewith copy of the final "Order", in the title matter for proceedings under section (s) 233 read with section 479 of the Companies Act, 2017, for your record and necessary action.

o/v

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

Cc: Incharge Corporate Registry Department, Lahore



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



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN
ADJUDICATION DEPARTMENT –II
LAHORE

Through Courier

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

In the Matter of

M/S. ALL PAKISTAN CEMENT DISTRIBUTORS ASSOCIATION

Number and date of SCN: SCN No. /AO-LHR/632 dated November 22, 2023
Dates of Hearing/s: November 29, 2023, December 7, 2023 and December 18, 2023
Present: Mr. Ijaz Ali Jaffery, Authorized person of the company
representing all the respondent(s).

ORDER
UNDER SECTION 233 READ WITH SECTION 479
OF THE COMPANIES ACT, 2017

This Order shall dispose of the proceedings against M/S. All Pakistan Cement Distributors Association (“the Company”) and its directors including the chief executive (“the Respondents”), initiated through Show Cause Notice (“the SCN”) dated November 22, 2023 issued under the provisions of Section 233 read with Section 479 of the Companies Act, 2017 (“the Act”).

2. Brief facts of the case are, that “the company” had failed to file its audited financial statement(s) for the year(s) ended 2022 with the “Registrar” within the stipulated timeline, pursuant to Section(s) 233 of “the Act”. Without any prejudice, the company had 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 233(4) read with Section 479 of “the Act”.

3. Consequently, the aforesaid SCN dated November 22, 2023 was issued to “the respondents” to show cause in writing as to why penal action as enunciated under Section 233 (4) read with Section 479 may not be taken against “the company” for failing to conform to the provisions of Section(s) 233 of “the Act”, *ibid*.

4. In the matter of aforesaid SCN, initial opportunity of hearing was provided to the company by fixing hearing on November 29, 2023 by serving the Show Cause notice on November 22, 2023 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 hearing for December 07, 2023, vide hearing notice issued on November 30, 2023 sent at the registered 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



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24/12/2023



SECURITIES & EXCHANGE COMMISSION OF PAKISTAN

Continuation Sheet - 1

the scheduled date and time of the said hearing. Considering the persistent non-appearance, a final notice for hearing was served for conducting hearing on December 19, 2023, however, this time, Mr. Ijaz Ali Jaffery, authorized person had appeared on December 26, 2023 instead, in person at company registration office, Lahore on the behalf of the company and argued the case. Mr. Jaffery initiated the case with a stance, that it's a law-abiding company, that gives due care for compliance of every prevailing law including the Companies Act, 2017 and he also stated that owing to the prevailing business conditions and negligence of the previous staff, these financial statements were inadvertently overlooked and could not be filed within timelines by the said staff. Mr. Jaffery further informed and confirmed the undersigned about the delayed filing of these financial statements for the year(s) 2022 with the Registrar, company registration office, Lahore, during the pendency of this adjudication proceedings. It is pertinent to state the fact, that the same matter has also been brought to the knowledge of the undersigned during the course of the adjudication proceedings by the Registrar, Lahore, that the subject company had filed the requisite return(s)/financial statements with the "Registrar", CCD, Lahore.

5. Before proceeding further, it is necessary to advert to the relevant provisions of the law and Section 233 of the Companies Act, 2017 which unambiguously stipulates that:

Sub-section (1) of Section 233 "Without prejudice to the provisions of sub-section (5) of section 223, after the audited financial statements have been laid before the company at the annual general meeting and duly adopted, a copy of such financial statements together with reports and documents required to be annexed to the same, duly signed in the manner provided by sections 226, 232 and 251, shall be filed by the company with the registrar within thirty days from the date of such meeting in case of a listed company and within fifteen days in case of any other company."

Sub-section (4) of Section 233 provides: that Any contravention or default in complying with requirements 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*
- (b) in case of any other company, to a penalty of level 1 on the standard scale*

6. It is clear from the abovementioned scripts of the law that the company was in default of Section 233 (1) of "the Act" as it had failed to file the annual audited financial statements for the year(s) ended 2022, with the Registrar and within the timeline provided, therein. The nature, seriousness and impact of the breach shows that the act of the company was deliberate and moreover the persistent default, duration, the extent and frequency of the violation has raised serious concerns over the systemic weaknesses of the management systems and internal controls of the company necessitating the need to take serious cognizance and stern action by the Commission by seeing the nature and gravity of the default in the instant case.

7. In terms of the Commission's Notification S.R.O. 1546 (I)/2019 dated December 06, 2019, the powers to adjudicate cases under Section 233 of "the Act" have been delegated to the undersigned as Adjudication Officer, Adjudication Department-II, Lahore.



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27/12/2023



SECURITIES & EXCHANGE COMMISSION OF PAKISTAN

Continuation Sheet - 2

8. As regards the matter at hand, I have analyzed the facts of the case, relevant provisions of "the Act" and let me state the fact that the afore-mentioned provisions of the law are unambiguous and explicit and the fact that timing is essence of accounts and, the disclosure requirements of these accounts have been kept to a bare minimum. Financial statements and other returns prepared 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 relevant law(s) for preparation and circulation of financial statements. 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.

9. Considering the facts of the case, proceedings and other record presented before the undersigned, I am compelled to infer and decide the case as the company has complied with the mandatory requirements of Section 233 of "the Act", during the pendency of the adjudication proceedings and the same fact has also been verified by the Registrar, Lahore. Before proceeding with the decision, I would also like to highlight that directors of the company are required to exercise the utmost care in making business decisions in order to fulfill their fiduciary duties. Duty of care requires directors to make business decision after considering all available information, requirements of laws/regulations with regard to operations of the Company and then act in a judicious manner while promoting the company's best interest. However, I have gone through the facts of the case as the company has complied with the requirements of Section 233 of "the Act" during the adjudication proceedings, therefore, I, while exercising the powers delegated vide S.R.O. 1546 (I)/2019 dated December 06, 2019, hereby condone penalty, with a "**warning**" to the company for future adherence to the law, in letter and spirit, to conclude "the SCN" proceedings.

Mohsin Syed
27/12/2023.

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

Announced:

December 27, 2023,
Lahore.

The Chief Executive,
M/S. All Pakistan Cement Distributors Association,
137-B, Near Zubair Autos,
Yateem Khana Chowk,
Multan Road,
LAHORE.



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