



Securities and Exchange Commission of Pakistan

BEFORE APPELLATE BENCH

In the matter of

Preliminary Hearing of Nauman Mehmood

No.21(8)Misc/ABR/16

Nauman Mehmood

(Managing Partner of RSM Avais, Hyder, Liaquat Nauman)

Appellant

Versus

1. Executive Director, Corporate Supervision Department.
2. Additional Director, CSD.

Respondents

21/02/19

Date of hearing:

Present:

For Appellant:

- i. Nauman Mahmood.
- ii. Taimoor Zafar-Advocate.

For Respondents:

- i. Sidney Custodio Pereira, Additional Registrar-CCD.
- ii. Abdul Qayyum, Joint Registrar-CCD.

ORDER

1. This order shall dispose of an appeal, filed against a letter dated 21/10/16 (Impugned Letter), Order dated 30/10/15 (Impugned Order) and a complaint dated 4/11/15 (Impugned Complaint). Earlier, Appellate Bench Registry refused the registration of this appeal under Section 33 of the Securities and Exchange Commission of Pakistan Act, 1997 (the Act) vide its letter dated December 27, 2016 however, it has been fixed for preliminary hearing upon Appellant's counsel request (dated February 3, 2017) to decide the maintainability of appeal.
2. Brief facts of the case are that vide an order dated July 2, 2015 Appellant, Mr. Jamal Abdul Nasir and Mr. Jamil Akhtar of M/s RSM Avais Hyder Liaquat Nauman, Chartered Accountants (the Inspectors) were appointed under Section 265 of the Companies Ordinance, 1984 to investigate the affairs of Global Health Services Limited. Thereafter, the Executive Director Corporate Supervision



Securities and Exchange Commission of Pakistan

Department (the Respondent No.1) revoked the appointment of Inspectors vide the Impugned Order. Furthermore, the Impugned Complaint was filed with the Institute of Chartered Accountants of Pakistan (ICAP) against the Inspectors. The Additional Director (the Respondent No.2) informed the Appellant about his pending inquiry and investigation issues with ICAP, National Accountability Bureau and Federal Investigation Agency vide the Impugned Letter.

3. The Appellant has argued before the Appellate Bench (the Bench) that the Impugned Order and Impugned Letter and Impugned Complaint are illegal. The Bench has perused the record. As per Section 265 of the Ordinance, Securities and Exchange Commission of Pakistan is empowered to appoint inspectors and accordingly this power was duly delegated to the Respondent No.1 vide S.R.O 154(I)/2015 dated February 19, 2015 and S.R.O 1003(I)/2015 dated October 15, 2015.
4. The Bench has no doubt to hold that appointment of a person or a firm as inspector is a "Permission" therefore, it could be revoked by the authority that granted it. The Bench has observed that the Impugned Letter is not an order rather it contains information about the inquiries and investigations about the Inspectors therefore, the Appellant is not entitled to get any relief under Section 33 of the Act. Furthermore, the Impugned Complaint is a request to probe the conduct of the Inspectors therefore, it is also not appealable under Section 33 of the Act. The Impugned Order had not imposed any penal liability against the Appellant rather it contained a decision to revoke the appointment of Inspectors and direction to refund of initial investigation fee. Revocation of appointment of Inspectors is a revocation of permission, therefore, it is not appealable and the investigation fee had already been refunded by the Appellant. In view thereof, the Appellant had failed to make out a case fit for interference of the Bench and registration of appeal under section 33 of the Act, therefore, keeping in view the prohibition contained under Section 33(1) (a) of the Act we hereby dismiss the appeal in limine, without order as to cost.

(Shauzab Ali)

Commissioner (SMD)

(Aamir Ali Khan)

Commissioner (SCD-PRDD)

Announced on:

15 MAR 2019