

Before

Amir M. Khan Afridi, Director/Head of Department

In the matter of

The Searle Company Limited

Dates of Hearing

May 27, 2021, July 27, 2021, August 4, 2021 and
August 9, 2021

Order-Redacted Version

Order dated November 01, 2021 was passed by Director/Head of Department (Adjudication-I) in the matter of The Searle Company Limited. Relevant details are given as hereunder:

Nature	Details
1. Date of Action	Show Cause Notice dated February 24, 2021
2. Name of Company	The Searle Company Limited
3. Name of Individual*	The proceedings were initiated against the Trustees of Employees Provident Fund Trust of The Searle Company Limited.
4. Nature of Offence	Violation of Section 218 of the Companies Act, 2017 read with Section 219 and Section 479 thereof.
5. Action Taken	<p>Key findings are given as hereunder:</p> <p>I, have gone through the facts of the case, submissions made by the Authorized Representative and relevant provision of the Act. In this regard, it is stated that:</p> <p>(a) I am of the view that the scheme of law stipulated in Section 218 of the Act requires that all moneys received from the employees, the Company and / or both, such money shall either be deposited in National Savings Scheme or in a special bank account or to be invested in government securities or securities as may be specified. Hence, in terms of aforesaid provision of the Act the PF is not entitled to advance a loan to the Company.</p> <p>(b) It is also highlighted that the reason of better return of 15% against loan advanced whereas employees earned 12% average rate of return is not cogent as the law does not specifically allow to advance such loans.</p>

	<p>(c) The Authorized Representative have not furnished any supporting evidences that default in terms of Section 218 of the Act was rectified. The Respondents rather stated that: <i>“Our clients seek the permission and approval of the SECP to continue this practice in the future as it benefits the employees of Searle”</i>. In this regard, I am of the view that the instant proceedings are not to allow with the same practice, rather the Respondents were given opportunity to explain their position for the cited default. The said default persisted and was not rectified.</p> <p>(d) More importantly, the Company vide letter dated December 24, 2020, admitted the default by stating that <i>Provident fund of the Company has invested an amount of Rs. 161 million in the Company at the rate of 15%, which is although not in compliance with the requirements of Section 218 of the Act.</i></p> <p>Keeping in view the aforesaid, the Respondents violated the provisions of Section 218 of the Act and are liable to be penalized as per the provisions of Section 219 of the Act. I, therefore, in exercise of power conferred in term of Section 219 of the Act, hereby impose a penalty of Rs. 49,000/- (Rupees Forty-Nine Thousand only) on the Respondents.</p> <p>The Respondents are, hereby, directed to deposit the aforesaid 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. It may also be noted that the said penalty is imposed on the Respondents in personal capacity; therefore, the Respondents are required to pay the said amount from personal resources.</p> <p>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, violation of the Act.</p>
6. Penalty Imposed	A Penalty of aggregating Rs. 49,000/- was imposed on the Respondents.
7. Current Status of Order	No Appeal has been filed by the Company.