



Securities and Exchange Commission of Pakistan

BEFORE THE APPELLATE BENCH

In the matter of

Appeal No. 91 of 2019

J.S Global Capital Limited

...Appellant

Versus

Commissioner SMD

...Respondent

Date of hearing:

April 25, 2024

Present:

For the Appellant:

Mr. Tanzeel-ur-Rehman (Head of Risk and Compliance)

For the Respondent:

1. Mr. Mahboob Ahmad, Additional Director, Adjudication-I, SECP
2. Mr. Muhammad Akram Farooka Assistant Director, Adjudication-I, SECP

ORDER

1. This Order shall dispose of Appeal No. 91 of 2019 filed by J.S Global Limited (the "Appellant") through Mr. Tanzeel-Ur-Rehman, Head of Compliance (the "Authorized Representative") under



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Section 33 of the Securities and Exchange Commission of Pakistan Act, 1997 (the “SECP Act”) against the Order dated October 03, 2019, (the “Impugned Order”) passed by the Commissioner SMD (the “Respondent”) under Section 40A of the SECP Act read with the Securities and Exchange Commission of Pakistan (Anti Money Laundering and Countering Financing of Terrorism) Regulations, 2018 (the “Regulations”).

2. The brief facts of the case are that the Appellant is a Trading Rights Entitlement Certificate (TREC) holder of the Pakistan Stock Exchange Limited (the PSX) and licensed as a securities broker under the Act. An inspection conducted by the Commission revealed that the Appellant was non-complainant with the regulatory requirements contained in the Securities and Exchange Commission of Pakistan (Anti Money Laundering and Countering Financing of Terrorism) Regulations, 2018 (the Regulations). Keeping in view that the Regulations were new at the time of inspection, the Commission ordered to conduct a follow up review (the Review) to assess the Respondent's compliance with the Regulations. The Review revealed non-compliances of regulations 6 and 9(3) of the Regulations. In view of these violations, the Show Cause Notice dated July 17, 2019 (the SCN) was issued to the Appellant. Hearing in the matter was held on August 2, 2019, which was attended by the Appellant’s representatives and made verbal and written submissions. Being dissatisfied with the response of the Appellant, the Respondent, through powers conferred under section 40A of the SECP Act, imposed a penalty of Rs. 200,000/- (Rupees two hundred thousand).
3. The Appellant has preferred this Appeal, *inter alia*, on the grounds that Appellant was continuously requesting the client for submission of passport copies of authorized signatories since 2017. The Appellant has also stated that even though the said requirement was not applicable in 2017, the Appellant was in the process of compliance, however, the client had refused to provide the passport copies. The Appellant further added that its client is one of the leading global wealth managers with strong investment banking capabilities. The Appellant also submitted that it had taken all other required CDD/EDD documents of the client, including the annual report showing financials of the company, Articles of Association, Organizational Guidelines and Regulations, Conduct and the Financial Crime Control Committee Charter, which monitors and assesses KYC and AML policies of the organization and an updated list of authorized persons. It is also submitted by the Appellant that CNICs of individual clients are being validated through the NADRA Verisys since the year 2013, whereas the requirement of Verisys has been introduced by the Commission in June 2018. The Appellant further added that the



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requirement for validation of CNICs through Verisys of NADRA has been applied subsequent to the promulgation of the Regulations, which were not applicable in 2012 and 2016 when trading accounts of M/s. Kaizen Construction (Pvt.) Limited and M/s. Momin Adamjee Welfare Trust were opened. They stated that, as desired by the Commission, the CNICs of directors and authorized persons were validated through Verisys of NADRA on September 11, 2019. The Appellant also mentioned that the Regulations were notified by the Commission in June 2018 and guidelines on the Regulations were issued by the Commission till November 2018. Considering that the aforesaid Regulations were new and very subjective & complex in nature, therefore required reasonable time to comply with, in true letter and spirit. In view of the above stated, the Appellant prayed for the dismissal of the Impugned Order.

4. The Respondent countered the grounds of the Appeal and proffered arguments, delineating that violation of the Regulations were manifestly discernible during the course of the inspection. Specifically, the Respondent has only highlighted the Appellant's failure to procure the passport copies of one client's authorized representative. Moreover, the Respondent articulated that the instances of non-compliance vis-à-vis regulations 6 and 9 of the Regulations had been established during the SCN proceedings. The Respondent further stated that the NADRA Verisys of the existing clients were also a requirement which was neglected by the Appellant. The Respondent further added that there is contradiction between the arguments of the Appellant that they were validating the CNICs since 2013, as the CNICs of two major clients had not been verified till the year 2019 and such a fact alone shows that proper compliance was not being carried out by the Appellant. Conclusively, the Respondent reemphasized the veracity of the observed violations of the Regulations by the Appellant during the course of the inspection, thereby substantiating the Appellant's susceptibility to pecuniary penalties in accordance with the established legal framework.
5. The Appellate Bench (the "Bench") has heard the arguments of both the parties and perused the record. The Bench is of the opinion that the Appellant had an obligation to adhere to the relevant requirements of the Regulations which should have been followed by the Appellant in true letter and spirit. In this particular case, the Appellant failed to comply with the mandatory requirements. Money laundering is a serious crime and its severity cannot be underestimated. Regulated individuals are expected to be highly vigilant in adhering to AML laws and should not offer excuses to avoid compliance.



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6. In view of the foregoing, the Bench finds no reason to interfere in the Impugned Order, therefore, by maintaining the Impugned order, we hereby **dismiss** this appeal without any order as to costs.


(Abdul Rehman Warraich)
Commissioner


(Mujtaba Ahmad Lodhi)
Commissioner

Announced on: 01 JUL 2024