



Securities and Exchange Commission of Pakistan

BEFORE THE APPELLATE BENCH

In the matter of

Appeal No. 107 of 2017

M/s. East West Insurance Company Limited

...Appellant

versus

Commissioner (Insurance), SECP

...Respondent

Date of hearing:

March 06, 2024

For the Appellant:

Mr. Imran Ali Dodani, Director Legal
Mr. Johrey Laal, Director Audit & Compliance

For the Respondents:

1. Mr. Shafiq Ur Rehman, Additional Joint Director, Adjudication-I, SECP
2. Mr. Raja Farukh Ahmad, Additional Joint Director, Adjudication-I, SECP

ORDER

1. This Order shall dispose of Appeal No. 107 of 2017 filed by Mr. Naved Yunus, Managing Director & Chief Executive Officer of M/s. East West Insurance Company limited (the "Appellant") under section 33 of the Securities and Exchange Commission of Pakistan Act, 1997 (the "SECP Act"), against order dated October 11, 2017, under Clauses 3, 4 and 5 of S.R.O Notification 20(1)/2012 (the "Directive") read with Section 156 of the Insurance Ordinance, 2000 (the "Ordinance of 2000") and Section 204-A(1) read with section 498 of the Companies Ordinance, 1984 (the "Ordinance of 1984").



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2. Brief facts of the instant appeal are that the Appellant is an Insurance Company registered under the Ordinance of 2000. An inspection of the Appellant company was conducted under Section 59A of the Ordinance of 2000, vide order dated December 8, 2016 and it was revealed that the Appellant was non-compliant with various requirements of the Directive and Circular 14 of 2013 related to 'Know-Your-Customer' and 'Anti-Money Laundering (KYC/AML)'. It was further revealed that the Chief Financial Officer (CFO) of the Company was also serving as the Appellant company's secretary which was in clear violation of Section 204-A(1) of the Ordinance of 1984.
3. In light of the aforementioned violations a Show-Cause notice dated August 4, 2017 (the "SCN") was issued to the Appellant. The Appellant responded to the SCN dated August 25, 2017 and the hearing was scheduled for September 25, 2017, which was attended by the authorised representatives of the Appellant. After examining the submissions and considering the facts, the Respondent, in exercise of powers conferred under Section 156 of the Ordinance of 2000, imposed a penalty of Rs. 300,000/- (Rupees Three Hundred Thousand) on the Appellant for default of Clauses 3, 4 and 5 of the Directive. However, the respondent took a lenient view for contravention of Section 204-A(1) of the Ordinance of 1984 and therefore no penalty was imposed under Section 498 of the Ordinance of 1984.
4. The Appellant has preferred this appeal inter alia on the grounds that the penalty against the observations of the Respondent are unjust, unlawful and needs to be withdrawn. The Appellant stated that 50% of premium revenue for the year 2016 was earned through local facultative acceptance where the appellant company had been depending on the ceding companies responsible for KYC/due diligence of their clients, whereas, 35% of the earned premium amount was received from banks who had been maintaining detailed information of their clients and only 15% of the premium was received through co-insurance business share, in which case the leader was bound to follow the notification. The Appellant further stated that they were making continuous efforts and adequate measures were being taken to improve compliance of the directive. Moreover, the Appellant further requested for a lenient view on the matter.
5. The Respondent while controverting the arguments of the Appellant, stated that the Appellant has no case on merits as the non-compliances were blatantly apparent at the time of the inspection and,


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moreover, during the SCN proceedings, the Appellant did not present any proof or documentary evidence in support of the contentions of the Appellant. The Respondent further reiterated that compliance of S.R.O. Notification 20(1)/2012 dated January 11, 2012 is mandatory for all insures. The Respondent also argued that a lenient approach has already been taken as no penalty has been imposed under Section 498 of the Ordinance of 1984 for the contravention of Section 204-A(1) of the Ordinance of 1984, hence, the earlier decision should be upheld.

6. 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 directives 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 policies/directives that have been in effect since 2012. Regulated individuals are expected to be highly vigilant in adhering to AML laws and should not offer excuses to avoid compliance. It is to be noted that the respondent has earlier taken a lenient view with regard to contravention of Section 204-A(1) of the Ordinance of 1984.
7. In view of the foregoing, we find no reason to interfere with the merits of the Impugned order, therefore, by maintaining the Impugned Order, we hereby dismiss the Appeal without any order as to costs.


(Akif Saeed)
Chairman/Commissioner


(Mujtaba Ahmad Lodhi)
Commissioner

Announced on:

17 APR 2024