



Securities and Exchange Commission of Pakistan

BEFORE THE APPELLATE BENCH

In the matter of

Appeal No. 11 of 2023

AKD Investment Management Limited

...Appellant

Versus

Director (Adjudication Department I)

...Respondent

Date of hearing:

March 21, 2024

Present:

For the Appellant:

1. Mr. Muhammad Yaqoob, AKD Investment Management Limited

For the Respondent:

1. Ms. Asima Wajid, Additional Joint Director, Adjudication Division, SECP
2. Mr. Raja Farukh Ahmad, Additional Joint Director, Adjudication Division, SECP

ORDER

1. This order shall dispose of Appeal No. 11 of 2023 filed by M/s. AKD Investment Management Limited (the "Appellant") under section 33 of the Securities and Exchange Commission of Pakistan Act, 1997 against the order dated June 30, 2022 (the "Impugned Order") passed by the Director/HOD Adjudication-I (the "Respondent") under section 6(A)(2)(H) of the Anti-Money Laundering Act, 2010 read with Rules 4(1) and 6(1) of the AML/CFT Sanctions Rules, 2020 and Regulation 31 of the Securities and Exchange Commission of Pakistan (Anti-Money Laundering and Countering Financing of Terrorism) Regulations, 2020 (the "AML Regulations").



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2. The brief facts of the case are that an inspection of the Appellant was conducted in pursuance of the inspection order dated November 02, 2021 with the scope to review and assess the level of compliance with respect to AML Regulations and the regulatory framework thereof. The inspection revealed non-compliance of Regulations 25(1)(a), 8(3), 21(1) and 21(2)(c) of the AML Regulations. The deficiencies and lapses cast serious doubts on the authenticity of the company's internal controls, policies and procedures implemented under the AML/CFT Laws. Therefore, for these contraventions a show-cause notice dated June 06, 2022 was issued to the Appellant and the Respondent. After considering the submissions of the Appellant rendered in the hearing, a penalty of Rs. 990,000/= was imposed on the Appellant *vide* the Impugned Order.

3. The Appellant prayed for the suspension of the Impugned Order, *inter alia*, on the grounds that the at the time of inspection, certain minor procedural lapses were pointed to by the Respondent which were rectified within a short span of time and response was submitted by the Appellant, however, the Impugned Order did not take into consideration the written response. The Appellant submitted that it is held by the Superior Courts, that procedural lapses which did not prejudice any person, individual, could be rectified and mere technicalities should not be held against a person. The Appellant further emphasized that the intention of the legislature when passing the aforementioned laws, rules and regulations was to curb money laundering and counter financing terrorism and the order should be passed at most, to rectify the remaining procedural lapse. The Appellant further argued that the procedural lapses were not grievous and did not warrant imposition of a penalty of such an exorbitant amount.

4. The Respondent rebutted the grounds of the Appeal and presented arguments in support of their stance. It was contended by the Respondent that the Impugned Order quite fairly analyzes the submissions of the Appellant and evidence available on the record and subsequent compliance, if any, does not exonerate the Appellant from the consequences of prior non-compliances. The Respondent argued that the deficiencies and lapses identified at the time of inspection, cannot be considered as minor procedural lapses. The Respondent reiterated that the penalty was imposed after consideration of the facts of the case and on the basis of established non-compliances of the AML Regulations at the time of the inspection.

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5. The Bench has heard the arguments of both the parties and perused the record. The Bench is of the opinion that the Appellant has the responsibility to strictly adhere to the relevant requirements outlined in the AML Regulations and subsequent rectification actions do not absolve the Appellant from the committed violations. However, during the course of arguments it was observed that most of the shortcomings pertain to closed-ended funds data which were converted into open-ended funds and the data received from CDC was not as per the recent requirements. Subsequently, the Appellant took various rectification actions and measures to enhance their due diligence practices including screening of all clients against the complete list of Proscribed Persons, updation of database, proper categorization of accounts and improving KYC/CDD processes and are committed to ensure compliance with the applicable regulatory framework.
6. In view of the foregoing, the Bench considers it justified to reduce the penalty. Therefore, we hereby modify the Impugned Order to the extent that the penalty imposed on the Appellant vide Impugned Order is reduced to Rs.400,000/= and the instant Appeal is **disposed of** on above terms with no order as to costs.

(Abdul Rehman Warraich)
Commissioner

(Mujtaba Ahmad Lodhi)
Commissioner

Announced on: 17 APR 2024th