



# Securities and Exchange Commission of Pakistan

## BEFORE THE APPELLATE BENCH

In the matter of

Appeal No. 122 of 2020

J.S Global Capital Limited

...Appellant

Versus

Executive Director/HOD, Adjudication -1

...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



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## ORDER

1. This Order shall dispose of Appeal No. 122 of 2020 filed by J.S Global Limited (the “Appellant”) through Mr. Tanzeel-ur-Rehman, Head of Compliance (the “Authorized Representative”) under Section 33 of the Securities and Exchange Commission of Pakistan Act, 1997 (the “SECP Act”) against the Order dated September 16, 2020 (the “Impugned Order”) passed by the Executive Director/Head of Department Adjudication-I (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 certification holder of the Pakistan Stock Exchange Limited (the “PSX”) and member of Pakistan Mercantile Exchange Limited (the “PMEX”). An on-site inspection of the Appellant was conducted to assess the compliance of the Appellant with the Regulations. During the inspection a number of instances were observed where the Appellant had failed to comply with the applicable provisions of the Regulations including regulation 13(1) and 13(7). In light of these violations, the Show-Cause Notice dated March 18, 2020 (the “SCN”), was issued to the Appellant. The Appellant responded on May 28, 2020, and a hearing was scheduled for July 15, 2020. After examining the submissions and considering the facts, the Respondent, in exercise of powers conferred under Section 40A of the SECP Act, imposed a penalty of Rs. 300,000/- on the Appellant for the aforementioned contraventions of the Regulations.
3. The Appellant has preferred this Appeal, *inter alia*, on the grounds that the Appellant maintains an ongoing monitoring system. The Appellant stated that, in the Impugned Order, the emphasis is on the Regulations, however, the primary law does not categorically specify any requirement of having shareholder’s information of the client in the computerized database of the Appellant. The Appellant further stated that the hard copies of the same were available with the Appellant and the same were provided to the inspection team at the time of inspection. The Appellant further stated that for the requirement of ‘Ultimate Beneficiary Ownership (UBO) of Private Limited Companies and Know your Customer (KYC)’, the Appellant considers Forms A and 29, held with the Securities and Exchange Commission of Pakistan (the Commission), as conclusive evidence. The Appellant submitted that in the Impugned Order the Respondent has omitted to furnish any rationale for the imposition of a substantial penalty upon the Appellant. Furthermore, the Appellant submitted that the Respondent has



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erroneously arrived at the conclusion that the Appellant transgressed Regulation 13 (1) and 13 (7) of the Regulations. In light of the circumstances, the Appellant humbly requested the Bench to adopt a more lenient perspective, duly considering the aforementioned contextual factors.

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 highlighted the review of the account opening form and relevant documents, of a high risk, corporate client, having two directors holding one share each, whereas, the beneficial owner of the client was holding 99.99% shares who was not acting as a director of the corporate client. The Respondent further stated that as per available record, the Appellant Company did not have record of the shareholder of the corporate client in its database. The Respondent further contended that the absence of record of the shareholder (holding, 99.99% shares) of the corporate client in the system, indicated that ongoing monitoring of the shareholder was not being performed. The Respondent further contended that there did not exist any system in the Company to periodically screen shareholders of corporate clients through UNSCR/NACTA lists as details of such shareholders of corporate clients were not being maintained by the Appellant. Conclusively, the Respondent reemphasized the observed violations of the Regulations by the Appellant during the course of the inspection whereby the Appellant's pecuniary penalties, in accordance with the legal framework, were established.
  
5. 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 did not maintain the database but physical records of the same were available with the Appellant. The Bench is of the view that the Respondent overlooked the fact that having physical record shows the bonafide of the Appellant. The Bench also advises the Appellant that the maintenance/management of database is a requirement of law and the Appellant is bound to follow the same. The Bench hopes that in future the Appellant will be highly vigilant in adhering to AML laws. The Bench has also observed that the Appellant has made efforts to rectify the non-compliances and is striving to adhere to the Regulations.



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6. In view of the foregoing, the Bench, considers it justified to reduce the penalty to Rs. 150,000/-. The instant Appeal is disposed of on above terms without any order as to costs.

**(Abdul Rehman Warraich)**

Commissioner

**(Mujtaba Ahmad Lodhi)**

Commissioner

Announced on: 21 MAY 2024