



Securities and Exchange Commission of Pakistan

BEFORE APPELLATE BENCH

In the matter of

Appeal No. 13 of 2016

1. Dewan Zubair Ahmed Farooqui,
 2. Dewan Abu Obaida Farooqui
 3. Dewan Abu Saeed Farooqui
 4. Dewan M. Rizwan Farooqui
 5. Dewan M. Imran (Emran) Farooqui
 6. Dewan M. Rehan Farooqui
 7. Dewan M. Uzair Farooqui,
- (All Directors of Ishtiaq Textile Mills Limited)

Appellants

Versus

The Commissioner (Securities Market Division) SECP

Respondent

Dates of hearing:

14/7/16, 5/10/16, 20/10/16, 28/12/16,
9/2/17, 11/7/18, 20/2/19 and 12/3/19

Present:

For Appellants:

Nemo

For Respondent:

Mehwish Naveed, Management Executive (SMD)

ORDER

1. This order shall dispose of Appeal No. 13 of 2016 filed under Section 33 of the Securities and Exchange Commission of Pakistan Act, 1997 against the order dated 5/4/16 (the Impugned Order)



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passed by the Commissioner, SMD (the Respondent) under Section 160 read with section 100 of the Securities Act, 2015 (the Act).

2. This Appeal was registered on May 18, 2016 and Respondents comments were received on June 30, 2016. Since its registration, the Appeal had been fixed for hearing on 14/7/16, 5/10/16, 20/10/16, 28/12/16, 9/2/17, 11/7/18 and 20/2/19 however, all hearings were adjourned on the Appellants' request. The Appellants had availed successive adjournments on one pretext or the other, spanning over three years. Irrespective of the casual conduct of the Appellants, the Appellate Bench (the Bench) had desired to provide another opportunity of hearing and accordingly the Appeal was re-fixed for hearing on March 12, 2019. However, once again, adjournment was sought by the Appellants.
3. The Bench is of the view that the Appellants' adjournment request, seems to be deliberate, as they have not allowed the Bench to proceed with the appeal, by continuously seeking adjournments and avoiding to appear before the Bench. The Appellants have delayed the Appeal, just to defeat the legal process and avoid penal consequences. It is also important to note here that in the instant Appeal, a special cost of Rs. 5000/-was imposed vide an order dated October 20, 2016 on the Appellants, which was paid by them. However, the Appellants subsequently availed five adjournments and failed to attend the proceedings before the Bench.
4. The Record of the instant Appeal shows that it was not diligently pursued by the Appellants and three adjournments were sought, thereby, making it impossible for the Bench to proceed with the matter. In view of the judgment of Lahore High Court (*2018 CLC 1981 (Fayyaz Haider Versus Malik Ishtiaq Hussain- Lahore High Court, Lahore)*), the Appellants and Defendant had a right to be heard and represented by a counsel but at the same time it could not be permitted to defeat the cause of justice by indefinite procrastination by either party. Therefore, Appellants and their counsel cannot be allowed to regulate the proceedings of the Bench by their own choice and whims. Rights of each of



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the parties are equally protected under the law and none of the parties are permitted to stifle and prolong the proceedings without any sufficient and just cause. Ample opportunities were provided to the Appellants to ensure their representation and argue the Appeal, however, they have failed to attend the proceedings before the Bench.

5. In view thereof, the Bench is not inclined to grant further adjournment to the Appellants and, therefore, we order to proceed ex-parte against the Appellants. In the circumstances, the Appeal is dismissed, without any order as to cost.

(Shaukat Hussain)

Commissioner (CLD-CCD)

(Aamir Ali Khan)

Commissioner (SCD-PRDD)

Announced on: **26 MAR 2019**