

Securities and Exchange Commission of Pakistan

BEFORE APPELLATE BENCH NO. IV

In the matter of

Appeal No.20 of 2016

1. Mr. Aziz L. Jamal	...Chief Executive
2. Mr. Rashid L. Jamal	...Director
3. Mr. Husein Jamal	...Director
4. Mr. Ahsan Jamal	...Director
5. Mr. Akhtar Wasim Dar	...Director
6. Mrs. Aisha Bai Suleman	...Director
7. Miss Hina Abdul Rashid	...Director
of M/s Husein Industries Ltd	...Appellants

versus

Commissioner, Securities Market Division Securities and Exchange Commission of Pakistan	...Respondent
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Date of Hearing: 09/02/17

Present:

For the Appellants:

- 1) Mr. Khurram Jah, Husein Industries
- 2) Mr. Aziz Jamal, Husein Industries

For the Respondent:

- 1) Ms. Ayesha Riaz, Additional Director (CSD)
- 2) Mr. Haroon Abdullah, Additional Joint Director (CSD)

ORDER

1. This Order is passed in the matter of Appeal No. 20 of 2016 filed under section 33 of the Securities and Exchange Commission of Pakistan Act, 1997 against the Order dated 05/04/16 (the Impugned Order) passed by the Respondent.

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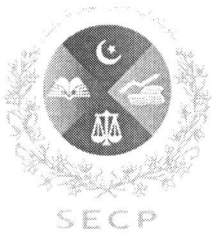
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2. Brief facts of the case are that Husein Industries Limited (Company) as per the last available accounts for the year ended 30/06/13 with the Commission have issued, subscribed and paid-up capital of Rs.106 million divided into 10.6 million ordinary shares of Rs.10/- each. The registered office of the Company is situated at Karachi. The Company has been on the defaulter counter of Pakistan Stock Exchange (PSX) since 09/12/13 due to failure to hold its Annual General Meeting (AGM) for two consecutive years; consequently, the trading of the Company's shares has been suspended since 09/12/13. The Commission, with a view to restore the Company on the normal counter of the PSX, on 01/09/15 issued a direction to the Appellants under section 100 of the Securities Act, 2015 (Act) to take immediate steps to undo the defaults of the Listing Regulations within 14 days of the date of the Direction. However, they failed to comply with the Direction and submitted their reply vide letter dated 16/09/15.
3. The Show Cause Notice dated 16/10/15 (SCN) was served on the Appellants, who had failed to comply with the Commission's Direction, calling upon them to show-cause, in writing, within 14 days of the date of Notice as to why penal action may not be taken against them, as provided under section 159, for the aforesaid contravention and why they not be directed to comply with the same. They were also advised to indicate their intention, if any, to appear in person to clarify the points raised in the Notice. In order to provide an opportunity to the Appellants for appearing in person to explain the reason for not complying with the said provisions of the Act, the first hearing was fixed for 17/12/15 and the second hearing was fixed for 20/01/16 on which Mr. Anwar Kaludi, Company Secretary (authorized representative) appeared on behalf of the Appellants and reiterated the written submissions made earlier. It was noted by the Respondent that the Appellants failed to comply with the Commission's direction and the submissions made by them were also not satisfactory.
4. The Respondent dissatisfied with the response of the Appellants held that the Appellants have failed to manage the affairs of the Company and its shareholders who have not been given any return of their investment since long and have instead been deprived of an exit opportunity through resumption in trading in the shares of the



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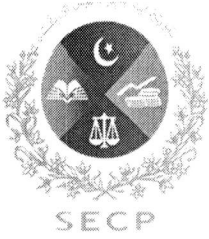
Company. After careful consideration of the facts and circumstances of the case, a penalty of Rs 500,000 was imposed by the Respondent on each of the Appellants aggregating to Rs 3,500,000 for their failure to comply with the direction of the Commission.

5. The Appellants preferred the instant appeal on the grounds that the penalty imposed, aggregating to Rs 3,500,000, is exorbitant as the Company has been facing financial hardship for the past few years. The Appellants argued that the Company is working towards fully complying with the Listing Regulations and has held previous years' AGM and is in the process of holding the AGM for the year 2016 to restore the Company to the normal counter of PSX. The imposition of penalty, therefore, would impair the available resources dedicated for removal of the non-compliances. They further stated that the Company has an enviable track record over six decades and has always complied previously with the rules, regulations, procedures and laws.
6. The Respondent rebutted the arguments of the Appellants on the grounds that a penalty of Rs 500,000 was imposed on each of the Appellants for their failure to comply with the direction of the Commission and the Company to date is on the defaulter counter of PSX. Furthermore, the Respondent argued that the said Direction was issued on 01/09/15 and the Impugned Order was issued on 05/04/16 which was eight months later, however, non-compliances of the Listing Regulations have still not been fully complied with.
7. We have heard the parties i.e. the Appellants and the Respondent. The Appellants have admitted the default and stated that they are in the process of complying fully with the Listing Regulations and have held previous years' AGMs. The Respondent has stated that the Company is still on the defaulter counter of PSX and has not yet fully complied with the Listing Regulations. We are of the view that the Company has a good track record and has a successful history where they have always strived to be a law abiding company in terms of their standards of compliance with rules, regulations, procedures and laws. The Company is also in the process of re-aligning itself and sorting out its

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financial difficulties. Furthermore, it will be beneficial for the shareholders who can expect a return on their investments as soon as the Company fully complies with the Listing Regulations and is restored to the normal counter of PSX and trading resumes in Company shares. The Appellants have also satisfactorily shown that they are in the process of fully complying with the Listing Regulations and restoring the Company to the normal counter of PSX.

8. In view of the foregoing, penalty imposed on the Appellants through the Impugned Order is converted into a warning and the Appellants are directed to ensure compliance of relevant provisions of the law and Listing Regulations in future and restoration in trading of its shares at PSX by removal from Defaulters' Counter. The appeal is disposed of accordingly.
9. Parties to bear their own cost.

(Fida Hussain)

Commissioner (Insurance)

(Zafar Abdullah)

Commissioner (SCD)

Announced on:

20 MAR 2017