



# Securities and Exchange Commission of Pakistan

## BEFORE THE APPELLATE BENCH

In the matter of

Appeal No. 28 of 2020

Summit Capital (Pvt.) Limited

...Appellant

Versus

Executive Director/HOD, Adjudication -1

...Respondent

Date of hearings:

May 13, 2024

Present:

For the Appellant:

1. Mr. Muzammil Hussain
2. Mr. Muhammad Kamran Iqbal
3. Mr. Shafqat Ali

For the Respondent:

1. Mr. Mahboob Ahmad, Additional Director, Adjudication-I, SECP
2. Mr. Muhammad Faisal, Assistant Director, Adjudication-I, SECP

*Handwritten signatures: A stylized signature on the left and the initials 'MI' on the right.*



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## ORDER

1. This Order shall dispose of Appeal No. 28 of 2020 filed by Summit Capital (Private) Limited (the “Appellant”) through Mr. Rahat Saeed Khan, Chief Executive Officer (the “Authorized Representative”) under Section 33 of the Securities and Exchange Commission of Pakistan Act, 1997 (the “SECP Act”) against the Order dated March 6, 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 Certificate holder of the Pakistan Stock Exchange Limited (the “PSX”). The Securities and Exchange Commission of Pakistan (the “Commission”) conducted an inspection of the Appellant with the scope to review and check compliance with the applicable AML/CFT Regulatory framework. During the inspection a number of instances were observed where the Appellant had failed to comply with the applicable provisions of the Regulations including Regulations 3(1)(a), 4(a), 6(3), 6(4), 6(5), 6(5a) 6(8), 9(4), 11(2) and 13(7). In light of these violations, the Show-Cause Notice dated December 20, 2019 (the “SCN”) was issued to the Appellant, the reply of which was not received within due time. The Respondent in exercise of powers delegated, imposed a penalty of Rs. 450,000/- on the Appellant through the Impugned Order.
3. The Appellant asserted several grounds of appeal contending that the penalization for the absence of the NADRA Verisys facility was unwarranted as the Respondent acknowledged that at the time of account opening the Appellant had a mechanism in place to conduct screening of customers details from the UNSC and / NACTA websites. The Appellant stated that the Respondent acknowledged that systematic screening of its customers (new and existing) including additional details of customers was being performed which indicated that the non-compliance with Regulations 4(a) and 13(7) of AML/CFT Regulations had been

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rectified. The Appellant further stated that regarding the 'in writing' justification for 'low-risk' categorization, such justification was provided where required as per the Regulations. Furthermore, the Counsel for the Appellant clarified that non-verification of identity documents was due to SECP's lack of arrangement with NADRA at the time, though alternative means were employed. In addition to that, the allegation of lacking alert systems for CNIC expiry was rebutted by the Counsel for the Appellant, with evidence of CDC-generated alerts and an automated back-office system. The Counsel for the Appellant also disputed allegations regarding inadequate business details for a fruit/vegetable merchant customer, affirming that all necessary data was indeed provided to the inspection team.

4. The Respondent countered the aforementioned grounds presented by the Counsel for the Appellant and proffered arguments. The Respondent denied the effectiveness of the manual screening adopted by the Appellant, and asserted that it failed to sufficiently mitigate risks associated with proscribed or designated persons, although subsequent rectification efforts made by the Appellant were acknowledged. Additionally, the Respondent disputed the Appellant's claim regarding written justifications for categorizing low-risk profiles, stating that such justifications were not recorded at the time as required by the Regulations. Moreover, the Respondent refuted the Appellant's assertion of identity document verification through alternative means, highlighting the absence of validation via the NADRA Verisys system and any evidence provided of an alternative verification system. The Respondent also challenged the Appellant's assertion of alert systems for CNIC expiry, contending that no corroborating evidence has been presented. Furthermore, the Respondent denied the Appellant's claims of document verification for specific customers and disputed the adequacy of their income declaration.
5. After careful consideration of the Appellant's arguments and the Respondent's rebuttals, the Bench is of the view that the concerns raised by the Respondent regarding regulatory non-compliance are valid, however, the Appellant has made efforts to address the compliance issues. Therefore, the Bench has decided to reduce the penalty from Rs. 450,000 to Rs.



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250,000. This reduction acknowledges the Appellant's remedial actions and cooperation during the proceedings while ensuring that penalties reflect the seriousness of the regulatory breaches observed. The Bench emphasized the importance of strict adherence to AML/CFT Regulations and expects continued compliance and vigilance from the Appellant in the future.

(Abdul Rehman Warraich)

Commissioner

(Mujtaba Ahmad Lodhi)

Commissioner

Announced on: 12 JUL 2024