



Securities and Exchange Commission of Pakistan

BEFORE THE APPELLATE BENCH

In the matter of

Appeal No. 28 of 2023

M/s. Morafco Industries Limited

...Appellant

Versus

Director /HOD, Adjudication -I

...Respondent

Date of hearing:

November 02, 2023

For the Appellant:

Mr. Asif Aftab – Company Secretary

For the Respondent:

1. Mr. Mahboob Ahmad, Additional Director, Adjudication-I, SECP
2. Mr. Muhammad Anwar Hashmi, Additional Joint Director, Adjudication-I, SECP

ORDER

1. This Order shall dispose of Appeal No. 28 of 2023 filed by M/s. Morafco Industries Limited (the “Appellant”) under Section 33 of the Securities and Exchange Commission of Pakistan Act, 1997 (the “SECP Act”) against the order dated October 06, 2021 (the “Impugned Order”) passed by the Director/HOD, Adjudication-I (the “Respondent”) under Section 132 read with Section 479 of the Companies Act, 2017 (the “Act”).



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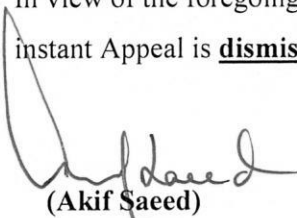
2. The brief facts of the case are that under sub-section (1) of section 132 of the Act, the Appellant was required to convene its Annual General Meeting (the "AGM") for the financial year ended June 30, 2020 within one hundred and twenty days (120) of the closing of its financial year, however, the Appellant did not hold the aforementioned AGM within the stipulated time. Show-cause notice dated April 12, 2021 (the "SCN") was issued to the Appellant whereby an opportunity of hearing on May 28, 2021 was provided to the Appellant. The Appellant did not appear on the said date of hearing and despite several reminders, the Appellant failed to submit a written response to the SCN. Several hearings were scheduled in the said matter however no representation came forward on behalf of the Appellant. Thereafter a final hearing was scheduled on July 16, 2021 and notices were accordingly issued to the Appellant, however, no one appeared on behalf of the Appellant. Consequently, the Respondent, in the exercise of powers conferred under sub-section (5) of section 132 of the Act, imposed a penalty of Rs. 50,000/- on the Appellant vide *ex parte* Impugned Order.
3. The Appellant has preferred this Appeal, *inter alia*, on the grounds that the Respondent, in the Impugned Order, has failed to provide any reasoning for the imposition of a substantial penalty against the Appellant. The Appellant asserts that the Respondent has not exercised due diligence in rendering the Impugned Order and has failed to consider that the Appellant is defunct entity fully owned and controlled by the Government of Pakistan. Moreover, the authorized representative of the Appellant Company has emphasized that the operations of the Company were closed in May 1997 for privatization by the Ministry of Privatization and Investment and since then there has been no activity or operation. The authorized representative of the Appellant contended that delay in holding the AGM was inevitable due to the fact that there has been no activity in the Company and financial statements are not being prepared. He contended that the penalty imposed on the Appellant is unjustified and has prayed to take a lenient view.
4. The Respondent countered the submissions of the Appellant and argued that the Company failed to convene the AGM for the year ended June 30, 2020 within the stipulated time and the same is evident from the record. The Respondent further submitted that the statutory requirements need to be fulfilled irrespective whether the Appellant was functional or not. The Respondent argued that these violations justify the imposition of pecuniary penalties on the Appellant in accordance with the established legal framework.

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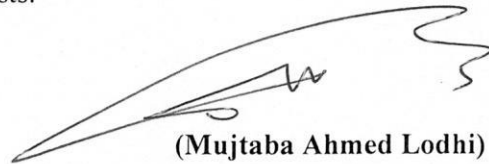


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5. The Bench has heard the arguments of both the parties and perused the record. The Bench is of the view that the Appellant's explanation for their non-compliance with the Act, while noting the current status of the Company, do not adequately justify their violations. The Bench further asserts that the penalty was rightfully imposed, given the apparent violations of the Act, specifically the failure to hold the Annual General Meeting and for non-compliance with the relevant provisions of law. It is essential for all entities to adhere to regulatory requirements to maintain the integrity and trustworthiness of their operations and to protect the shareholders. The Bench further emphasizes that regulatory compliance remains a fundamental obligation. The Appellant should take this decision as an opportunity to review and strengthen their processes to ensure future adherence to the Act.
6. In view of the foregoing, the Bench finds no reason to interfere in the Impugned Order. Therefore, the instant Appeal is **dismissed** without any order as to costs.



(Akif Saeed)
Chairman/Commissioner



(Mujtaba Ahmed Lodhi)
Commissioner

Announced on:

05 DEC 2023