



Securities and Exchange Commission of Pakistan

BEFORE THE APPELLATE BENCH

In the matter of

Appeal No. 30 of 2018

Sleep Research Foundation

...Appellant

versus

Tahir Mahmood,

Commissioner (CCD)

Securities and Exchange Commission of Pakistan

...Respondent

Date of Hearing: 17/09/2020

Present:

For the Appellant:

- i. Mr. Saeed Akhtar, Authorised Representative, Sleep Research Foundation
- ii. Mr. Asad Siddiqui, Authorised Representative, Sleep Research Foundation

For the Respondent:

- i. Mr. Jawed Hussain, Head of Department (Adjudication-II)
- ii. Mr. Nasir Askar, Director (Adjudication-II)

ORDER

1. This Order is in the matter of Appeal No.30 of 2018 filed under section 33 of the Securities and Exchange Commission of Pakistan Commission Act, 1997 (the SECP Act) against the order dated 22/05/18 (the Impugned Order) passed by Commissioner (CCD) (the Respondent).
2. The brief facts of the case are that Sleep Research Foundation (the Appellant) was granted a licence in pursuance of section 42 of the Companies Ordinance, 1984 (the Ordinance) now Companies Act, 2017 (the Companies Act) on 14/06/12 and subsequently, the Appellant was

registered on 07/07/12. The licence was granted for a period of five years, renewable for a further term of five years. The Appellant was required to apply for renewal of the licence three months before its expiration, as notified vide Circular No.2 of 2015 dated 01/07/15 and modified by Circulars No.4 and No.5 of 2015 both dated 30/01/15 issued by the Commission, however, the Appellant had failed to do so.

3. The Show-Cause Notice dated 08/08/17 (the SCN) was issued calling upon the Appellant and its Chief Executive under section 42 of the Companies Act read with Rule 6 of the Companies (General Provisions and Forms) Rules, 1985 (the Rules) to explain in writing and to appear in person or through an authorized representative for hearing on 17/08/17 to clarify the position. In response to the above SCN, the authorized representative of the Appellant (the Authorized Representative) appeared on the date of the hearing and intimated that the Appellant was practically dormant and had not performed any activity on the ground. The Authorized Representative further requested the Commission to take a lenient view by issuing a warning to the Appellant instead of revocation of the licence.
4. The Respondent dissatisfied with the response of the Appellant held that even after lapse of a month after the hearing before the Respondent, neither any application for renewal of licence had been filed nor any plan for renewal of the licence had been intimated to the Commission which was in contravention of Rule 6(4) of the Rules. Furthermore, it was held by the Respondent that it was apparent that the Appellant and its Chief Executive had violated the mandatory requirements of the law and had failed to renew their licence within the due time period. Therefore, in exercise of the powers conferred under section 42(5) of the Companies Act, the licence of the Appellant was revoked by the Respondent and the Appellant was further directed by the Respondent to proceed in terms of section 43 of the Companies Act failing which necessary proceedings under section 44 of the Companies Act would be initiated.
5. The Appellant's representatives stated that they have preferred the appeal on the grounds that the Appellant had been dormant previously but now intended to resume activities and were in the process of hiring a consultant to meet all the regulatory requirements, therefore, a lenient view may be taken and the Impugned Order set aside.



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6. The Respondent's representatives rebutted the arguments of the Appellant on the grounds that at the hearing before the Respondent, the Authorized Representative had requested the Respondent to take a lenient view by issuing warning to the Appellant instead of revocation of their licence. However, despite lapse of more than one month after the said hearing, the Appellant had neither applied for renewal of licence nor submitted any plan for renewal of licence.
7. We have heard the parties i.e. the Appellant and the Respondent. We are of the view that the Appellant's representatives have given absolutely no grounds for why the Appellant had not timely applied for renewal of their licence nor have they given any satisfactory explanation on how they will meet the requirements of a not-for-profit company. The argument of the Appellant's representatives that they will hire a consultant to apply for renewal of licence and meet the regulatory requirements is without any basis as they should have done so earlier when the licence was still valid. Furthermore, the Appellant's representatives showed no understanding of corporate governance and how important it is for a company, especially a not-for-profit company, to fully comply with the regulatory requirements at all times.
8. In view of the foregoing, we see no reason to interfere with the Impugned Order. The Impugned Order is upheld with no order as to costs.

Sadia Khan

Commissioner (SCD-S&ED)

Farrukh Sabzwari

Commissioner (SCD-PRDD)

Announced on: **02 DEC 2020**