



Securities and Exchange Commission of Pakistan

BEFORE THE APPELLATE BENCH

In the matter of

Appeal No. 35 of 2020

M/s. Axis Global Limited

...Appellant

Versus

Executive Director/HOD Adjudication I

...Respondent

Date of hearing:

May 18, 2023

Present:

For the Appellant:

1. Mr. Hammad Kehar, Director
2. Mr. Salman Ahmed

For the Respondent:

1. Mr. Hammad Javed, Additional Director, Adjudication-I, SECP
2. Mr. Muhammad Faisal, Assistant Director, Adjudication-I, SECP

ORDER

1. This Order shall dispose of Appeal No. 35 of 2020 filed by M/s. Axis Global Limited (the "Appellant") through its director Mr. Hamad Kehar under Section 33 of the Securities and



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Exchange Commission of Pakistan Act, 1997 (the "SECP Act") against the order dated March 30, 2020 (the "Impugned Order") passed by the Executive Director, Head of 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 (TREC) holder of the Pakistan Stock Exchange (PSX) and is licensed as a securities broker. An onsite inspection was conducted to assess the Appellant's compliance with the regulatory requirements outlined in the Regulations. The inspection revealed non-compliances of regulations, (a), 13(7), 6(3)(c), 6(4), and 6(8) of the Regulations.
3. In light of the aforementioned violations, the Show-Cause Notice dated December 13, 2019 (the "SCN"), was issued to the Appellant. The Appellant responded to the SCN on January 10, 2020, and a hearing was scheduled for March 13, 2020, which was attended by the authorized representatives of the Appellant. After examining the submissions and considering the facts, the Respondent, in exercise of powers conferred under Section 40A of the SECP Act, imposed a penalty of Rs. 650,000/- on the Appellant on account of the aforementioned contraventions of the Regulations.
4. The Appellant has preferred this appeal *inter alia* on the grounds that the Appellant diligently maintains the data of authorized persons, beneficial owners, board of directors, trustees, and office bearers of its customers, and consistently conducts screening processes in accordance with its obligations, therefore, the alleged violations have no basis. Furthermore, the Appellant stated that the implementation of the NADRA Verisys system was not feasible as NADRA had not provided the required facility to stock brokers. Additionally, the Appellant disputed the Respondent's claim that it had failed to comply with the provisions of the Regulations and stated that it is the Appellant's utmost priority to always ensure full compliance with the Regulations. The Appellant further stated that they had an ongoing monitoring system in place to ensure the continuous monitoring of their clients. The Appellant has prayed that by considering these circumstances a lenient view may be taken and the penalty be waived.



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5. The Respondent rebutted the grounds of Appeals and put forth the arguments that during the inspection, violations of the Regulations have been observed. The Respondent argued that the Appellant has failed to demonstrate as to how, in the absence of a database containing information about authorized persons, beneficial owners, board of directors, trustees, and office bearers of its customers, effective screening can be conducted to identify proscribed individuals. The Respondent emphasized that this situation does not mitigate the risk of failing to identify any potential indirect associations with proscribed persons. Furthermore, the Respondent emphasized that the Appellant made no efforts to obtain the NADRA Verysis system, and the excuse that the system is unavailable and reliance is on the original CNIC, is not a valid excuse for not assuming the responsibility by the Appellant. The Respondent concluded that the Appellant has indeed violated the Regulations at the time of inspection.

6. The Appellate Bench (the "Bench") has heard the arguments of both the parties and perused the record. The Bench is of the opinion that the Appellant had a responsibility to strictly adhere to the relevant requirements outlined in the Regulations, ensuring full compliance in both letter and spirit especially in the context that AML policies have been in existence since 2012 under the PSX Guidelines. The Appellant's argument, claiming the unavailability of the NADRA Verisys system, lacks supporting evidence regarding any efforts made to obtain the NADRA Verisys system. The Respondent while passing the Impugned Order did take into account the factors contended by the Appellant and imposed the penalty accordingly. However, it cannot be overlooked that the outcome of the case depends on the specific circumstances and the severity of the violations committed and in this instance, the Appellant failed to meet the mandatory requirements set forth in the Regulations. Regulated individuals are expected to demonstrate a high level of vigilance in adhering to AML laws and should not seek excuses to evade compliance.

7. The record indicates a significant reduction in occurrences of non-compliance with the Regulations during the present inspection when contrasted with the instances identified in the prior inspection. The persistence of non-compliance with the Regulations during the subsequent review is a cause for concern. Nevertheless, the decline in instances of non-compliance observed in the second evaluation suggests that the Appellant has undertaken measures to enhance their due diligence practices.



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8. Based on the abovementioned circumstances of the case the Bench considers it justified to reduce the penalty. Therefore, we hereby modify the Impugned Order to the extent that the penalty imposed on the Appellant vide Impugned Order is reduced to Rs. 300,000/- and the instant Appeal is **disposed of** on above terms with no order as to costs.

(Abdul Rehman Warraich)

Commissioner

Announced on:

31 AUG 2023

Chairman/Commissioner