

Securities and Exchange Commission of Pakistan

BEFORE APPELLATE BENCH

In the matter of

Appeal No. 39 of 2016

1. Haroon Iqbal
2. Aziz-ul-Haque
3. Ishtiaq Ahmed
4. Manzoor Ahmed
5. M. Naeemuddin Malik
6. Syed Maqbool Ali
7. Waseem Ul Haque Ansari

(All directors of Dewan Automotive Engineering Limited)

Appellants

Versus

The Director (Corporate Supervision Department) SECP

Respondent

Dates of hearing:

21/9/16, 5/10/16, 8/11/16, 29/12/16,
9/2/17, 11/7/18, 25/2/19 and 11/3/19

Present:

For Appellants:

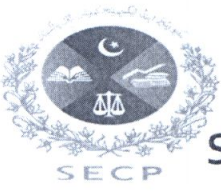
Nemo

For Respondent:

1. Syed Ali Adnan- Additional Director (CSD)
2. Amir Saleem- Joint Director (CSD)

ORDER

1. This order shall dispose of Appeal No. 39 of 2016 filed under section 33 of the Securities and Exchange Commission of Pakistan Act, 1997 against the order



Securities and Exchange Commission of Pakistan

dated 05/05/16 passed by the Director, Corporate Supervision Department, SECP (the Respondent) under section 158 read with section 476 of the Companies Ordinance, 1984. (In the matter of SCN dated 19th January 2016).

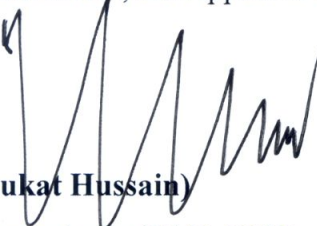
2. This Appeal was registered on July 20, 2016 and the Respondent's comments were received on August 8, 2016. Since its registration, the Appeal had been fixed for hearing on 21/9/16, 5/10/16, 8/11/16, 29/12/16, 9/2/17, 11/7/18 and 25/02/19, however, all were adjourned on the Appellants' requests. The Appellants had been cautioned by the Appellate Bench (the Bench) on three different occasions through hearing notices that it would be the final opportunity of hearing, however, they failed to appear before the Bench. The Appellants had availed successive adjournments on one pretext or the other, spanning over three years. Irrespective of the causal conduct of the Appellants, the Bench had desired to provide a final opportunity of hearing and accordingly the Appeal was re-fixed for hearing on March 11, 2019 however, once again, adjournment was sought by the Appellants.
3. The Bench is of the view that the Appellants' adjournment request, seemed to be deliberated, as they had not let the Bench to proceed with the appeal by continuously seeking adjournments and avoiding to appear before the Bench.
4. The record of the Appeal shows that it was not diligently pursued by the Appellants and eight adjournments were sought, thereby, made it impossible for the Bench to proceed with the matter. In view of the judgment of Lahore High Court (2018 CLC 1981 (*Fayyaz Haider Versus Malik Ishtiaq Hussain- Lahore High Court, Lahore*)), Appellants and Defendant had a right to be heard and represented by a counsel but at the same time it could not be permitted to defeat the cause of justice by indefinite procrastination by either party. Therefore, Appellants and their counsel could not be allowed to regulate the proceedings of



Securities and Exchange Commission of Pakistan

Bench by their own choice and whims. Rights of each of the parties were equally protected under the law and none of the parties were permitted to stifle and prolong the proceedings without any sufficient and just cause. Ample opportunities were provided to the Appellants to ensure their representation and argue the Appeal however, they failed to join the proceedings before the Bench.

5. In view thereof, the Bench is not inclined to grant further adjournment to the Appellants therefore, we order to proceed ex-parte against the Appellants. In the circumstances, the Appeal is dismissed, without any order as to cost.


(Shaukat Hussain)
Commissioner (CLD-CCD)


(Shauzab Ali)
Commissioner (SMD)

Announced on: **26 MAR 2019**