



Securities and Exchange Commission of Pakistan

BEFORE APPELLATE BENCH

In the matter of

Appeal No. 4 of 2019

Ansari Sugar Mills Limited

Appellant

Versus

The Securities and Exchange Commission of Pakistan

Respondent

Date of hearing:

August 20, 2020

Present:

For Appellant:

Mr. Nasir Ahmed, Rao & Company, Chartered Accountants

For Respondent:

1. Ms. Sumaira Siddiqui, Additional Director (CLD-CSD)
2. Mr. Haroon Abdullah Abbas- Deputy Director (CLD-CSD)

ORDER

1. This Order shall dispose of Appeal No. 4 of 2019 filed by the M/s. Ansari Sugar Mills Limited (the Appellant) under Section 33 of the Securities and Exchange Commission of Pakistan Act, 1997 against the letter dated January 7, 2019 (the Impugned Letter) issued by the Additional Joint Director, CSD, whereby Company's application dated December 21, 2018 (the Application) for thirty days extension to hold the Annual General Meeting for year ended September 30, 2018 (AGM) was rejected.
2. The Appellant filed this Appeal *inter alia* on the grounds that being a part of Omni Group of Companies, the Appellant was under scrutiny of the "Joint Investigation Team" (JIT) and its management was occupied in providing information to JIT during October to December 2018. The Appellant stated that due to the above stated reasons the Auditors were unable to conduct the audit of the accounts and there was apprehension that the Appellant will not be able to conduct the AGM within the stipulated time, therefore, extension of thirty days was sought to hold the AGM, however,



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without assigning any reason, the Application was rejected. The Appellant stated that rejection of the Application is a grave violation of Section 24A of the General Clauses Act, 1897, which specifically provides that, discretion must be used "*reasonably*", "*fairly*", "*justly*" or for the "*advancement of the purposes*"

3. The Respondent has rebutted the Appellant's arguments vide written comments dated February 15, 2019 and stated that the Appellant was required to comply with the statutory requirements regarding preparation and audit of accounts and holding of AGM, however, it failed to do so. The Respondent submitted that the Appellant's justification for non-holding of AGM was found unsatisfactory, therefore, keeping in view the interest of the general public, financial institutions and joint stock companies (31%) the Application was rejected. The Appellant stated that holding of AGM is a very important statutory event and provides an opportunity to the shareholders, including those in minority, to participate in discussion and voting on agenda items of the AGM, therefore, delay in holding the AGM cannot be tolerated. The Respondent stated in Section 132 of the Companies Act, 2017, the word "may" empower the competent person to accept or reject the request for one-month extension to hold the AGM.
4. The Appellate Bench (the Bench) has heard the parties and perused the record. The Appellant's representative and the Respondent's representatives reiterated their grounds of appeal and rebuttal thereof. The Appellant's representative added that matter pertaining to the AGM is sub-judice before court and restraining order had been passed to conduct the AGM.
5. The Bench has observed that the Appellant was required to hold AGM for the year ended September 30, 2018 within a period of one hundred and twenty days following the close of its financial year i.e. on or before January 28, 2019, however, the Appellant had failed to observe the required timeline. The Bench has noticed that the Appellant sought an extension of thirty days to hold the AGM, however, the Application was rejected. In view of the Appellant's representative claim that matter of the AGM is sub-judice before court, the Bench has sought confirmation from the legal department of the Securities and Exchange Commission of Pakistan. The documents provided by the Appellant's representative and legal department of the Commission has been examined by the Bench and found that Khawaja Anver Majid who is CEO/director of the Appellant had filed a suit against the Appellant to refrain it from holding the AGM.
6. The Bench is of the view that neither the Appellant nor its CEO has challenged the Impugned Letter before any court, therefore, we can proceed with the matter. Furthermore, we are of the view that



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neither there is any bar on the Appellate Bench to proceed with matter nor it has been restrained to announce the decision of this Appeal. In view of facts mentioned in para above, it is evident that the Appellant intends to conduct the AGM, however, it has been restrained due to a court order, passed in the matter of a suit filed by Khawaja Anver Majid.

7. In our view, being a listed company, the Appellant, was required to discharge its statutory requirement to hold the AGM within the stipulated time, however, it failed to do so. The Bench is of the view that the Appellant has failed to present any plausible reason to justify delay in holding the AGM because the JIT investigation is a separate issue, which does not preclude the Appellant to prepare and audit the accounts and convene the AGM. The Bench has no doubt that granting or refusal of extension of one-month to hold the AGM was the Respondent's discretion and keeping in view the facts of the case, said discretion has not been used in the Appellant's favour.
8. It appears that the Appellant is willing to hold the AGM, however, it has been restrained due to the case filed by Khawaja Anver Majid, therefore, the Bench is of the view that decision in this Appeal will not be prejudiced to the rights of the Appellant. In view thereof, we hereby dismiss this Appeal without any order as to cost.

(Sadia Khan)

Commissioner (SCD-S&ED, INS-SD, AML)

(Farrukh Hamid Sabzwari)

Commissioner (SCD-PRDD)

Announced on: **30 DEC 2020**