



# Securities and Exchange Commission of Pakistan

## BEFORE THE APPELLATE BENCH

In the matter of

Appeal No. 44 of 2021

Next Capital Limited

...Appellant

Versus

Executive Director, Adjudication Department -I, SECP

...Respondent

Date of hearing:

January 09, 2025

### Present:

For the Appellant:

1. Mr. Muhammad Najam Ali, CEO
2. Mr. Rizwan Yousaf, Company Secretary

For the Respondent:

1. Mr. Sohail Qadri, Director/HOD, Adjudication-I Department, Adjudication Division, SECP
2. Mr. Muhammad Akram Farooka, Assistant Director, Adjudication-I Department, Adjudication Division, SECP

## ORDER

1. This order shall dispose of Appeal No. 44 of 2021 filed by Next Capital Limited (the "Appellant") under section 33 of the Securities and Exchange Commission of Pakistan Act, 1997 against the order dated December 24, 2020 (the "Impugned Order") passed by the Executive Director, Adjudication Department-I (the "Respondent") under section 40A of the Securities and Exchange Commission of Pakistan Act, 1997 (the "Act").

*Z. M.*



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2. The brief facts of the case are that the Appellant is a Trading Right Entitlement Certificate (“TREC”) holder of the Pakistan Stock Exchange (“PSX”) and licensed as a securities broker under the Securities Act, 2015. The inspection of the Appellant was conducted by the Joint Inspection Team *vide* inspection notice No. T058 dated January 2020 (the “Inspection”), covering a review period of three (03) months i.e. from October 01, 2019 to December 31, 2019, to check compliance of the Securities and Exchange Commission of Pakistan (Anti Money Laundering and Countering Financing of Terrorism) Regulations, 2018 (the “AML Regulations”). The Inspection revealed non-compliance of Regulations 6(3)(a), 6(3)(c), 6(4), 6(8), 4(a) and 13(7) of the AML Regulations. For the said contraventions, a show-cause notice (the “SCN”) dated May 20, 2020 was issued to the Appellant. After examining the submissions and considering the facts, the Respondent, in exercise of powers conferred under section 40A of the Act, imposed a penalty of Rs. 650,000/- on the Appellant for the aforementioned contraventions of the AML Regulations.
  
3. The Appellant has challenged the Impugned Order, *inter alia*, on the grounds that the Appellant had not committed any deliberate violation of the AML Regulations. The Appellant argued that it had complied with Regulation 6(3)(a) of the AML Regulations and obtained the required information relating to beneficial ownership of two (02) clients and provided the same in response to the SCN. The Appellant further argued that in compliance of Regulation 6(3)(c) of the AML Regulations, it had furnished the identification of sources of funds/income of six (06) highlighted clients, subsequent to the Inspection. The Appellant stated that the mandate of the Inspection was for a restricted timeframe i.e. 03 months, however, the objections raised by the Respondent against the Appellant in the SCN and the Impugned Order was with respect to accounts opened and being operated beyond the specified duration. The Appellant emphasized that it had not disregarded or violated any provision of the AML Regulations deliberately and ensured subsequent compliance, thus, the Impugned Order is liable to be set aside. During the hearing, the Appellant further submitted that at the time of the Inspection it was in the process of implementing systems to ensure compliance with the AML Regulations and is committed to fulfill its obligations in accordance with the law. The Appellant, therefore, requested the Appellate Bench (the “Bench”) to take a lenient view.

28 ML.



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4. The Respondent has rebutted the grounds of the Appeal and presented arguments stating that violations of the AML Regulations were observed during the Inspection. The Respondent stated that the Appellant did not provide the required information at the time of the Inspection with regard to two (02) and six (06) highlighted instances of violation of Regulation 6(3)(a) and 6(3)(c) of the AML Regulations, respectively but it was only in response to the SCN that the Appellant obtained the required information related to beneficial ownership and source of income/funds and furnished the same, therefore, contravention of the said provisions at the time of the Inspection cannot be denied.
5. The Respondent further argued that with respect to the violation of Regulation 6(4) of the AML Regulations, the Appellant failed to furnish evidence in the context of validation of CNICs in twenty (20) identified instances, through NADRA Verisys, at the time of Inspection. Furthermore, in case of three (03) highlighted corporate clients, CNIC copies of board members/authorized persons, financial statements, trust deed, Form A & Form 29 were also not available. Subsequently, in response to the SCN, the Appellant furnished the requisite information which depicts that the Appellant was in contravention of the said Regulation when the Inspection was conducted.
6. The Respondent stated that with regard to the violation of Regulation 6(8) of the AML Regulations, where the Appellant had not performed risk ratings of five (05) clients, the Appellant failed to provide any proper justification in its defense. Further, the Appellant also failed to furnish any evidence to contend the violations of Regulations 4(a) and 13(7) of the AML Regulations in respect of requirement of ongoing monitoring/screening mechanism for its clients. The Respondent argued that with regard to the Appellant's contention regarding the time period, the violations were noted during the review period of three (03) months as mentioned in the SCN. The Respondent reiterated that the Impugned Order is fair and was passed after due consideration of the facts and established non-compliance of the AML Regulations by the Appellant.

*Zg' ML.*



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7. The Bench has heard the arguments of both the parties and perused the record. The Bench is of the opinion that the Appellant has the responsibility to strictly adhere to the relevant requirements outlined in the AML Regulations which were notified on June 13, 2018. The Appellant had ample time to implement systems required to ensure compliance of the said Regulations as the Inspection was started in 2020. The Bench is of the view that subsequent rectification actions do not absolve the Appellant from the committed violations. The Bench has noted that the Appellant provided the requisite information in the highlighted instances in compliance of Regulations 6(3)(a), 6(3)(c) and 6(4) subsequent to the Inspection, but failed to provide proper evidence and justification for contravention of Regulations 6(8), 4(a) and 13(7) of the AML Regulations.
8. In view of the foregoing, the Bench is not inclined to exonerate the Appellant from the violations mentioned in the SCN, however, in view of the subsequent compliance and future commitment, we hereby reduce the penalty imposed on the Appellant vide the Impugned Order from Rs. 650,000/= to Rs. 325,000/-.
9. The instant Appeal is **disposed of** on above terms, without any order as to cost.

  
(Abdul Rehman Warraich)  
Commissioner

  
(Mujtaba Ahmad Lodhi)  
Commissioner

Announced on: **07 FEB 2025**