



Securities and Exchange Commission of Pakistan

BEFORE APPELLATE BENCH NO. I

In the matter of

Appeal No. 51 of 2017

A.H.K.D Securities (Pvt.) Limited

Appellant

Versus

The Commissioner (SMD), SECP, Islamabad.

Respondent

Date of hearing: 20/04/18 and 07/06/18

Present:

For Appellant:

- i. Mr. M. Azhar-ul Hassan (Advocate)
- ii. Mr. Izhar-ul Hassan (ITP)

For Respondent:

- i. Mr. Kamal Ali- Additional Director (SMD)
- ii. Mr. Asif Khan- Deputy Director (SMD)

ORDER

1. This Order is in the matter of Appeal No. 51 of 2017 filed by A.H.K.D Securities (Pvt.) Limited (the Appellant) against the Order dated 30/05/17 (the Impugned Order) passed by the Commissioner-SMD (the Respondent) under Section 150 of the Securities Act, 2015 (the Act).
2. Brief facts of the case are that the Appellant, in contravention of Securities and Exchange Commission of Pakistan (the Commission) Circular No.4 dated 16/04/13 had not filed the



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quarterly financial return through the online Financial Reporting System (the FRS) for the quarter ended 30/06/16, 30/09/16 and 31/12/16. The Appellant also failed to submit details of bank accounts, a hard copy of half yearly accounts and a hard copy of annual accounts for the year ended as required by PSX notice no. PSX/N-798 dated 08/02/17, PSX notice no. PSX/N-797 dated 08/02/17 and PSX notice no. PSX/N-1118 dated 22/02/17.

3. The Respondent took notice and issued a Show Cause Notice dated 10/04/17 (the SCN) to the Appellant for the contravention of Section 150(1) and 150(2) of the Act. The Appellant had not filed a reply to the SCN. Hearings were fixed on 19/04/17 and 27/04/17, however, no one appeared on behalf of the Appellant. In view of the aforementioned violations, the Respondent imposed a penalty of Rs.1,000,000/- on the Appellant.
4. The Appellant has challenged the Impugned Order, *inter alia* on the ground, that the SCN was not served in the appropriate manner. Whereas, the Respondent has denied and rebutted the grounds of Appeal.
5. The Appellant's representatives stated that the Appellant's office has been closed for the last three years, therefore, no service was possible on said address. The Appellant's representatives argued that non-service of SCN and hearing notices is the violation of "right of fair trial". The Appellant's representation further stated that for a valid service the Respondent was required to serve the hearing notices and SCN on the Appellant's chief executive officer's (CEO) address. The Respondent's representatives argued that the SCN and hearing notices were duly served on the registered office of the Appellant and in case of change of address the Appellant was required to inform the Commission. The Respondent's representative further stated that no new address was communicated to the Commission, therefore, Appellant should bear the consequences of its negligence.
6. The Appellate Bench (the Bench) has heard the parties and perused the record. It is evident from the record that the Appellant never informed the Commission about closure of its office situated at; **A.H.K.D Securities (Pvt.) Limited, 414, 4th Floor, Karachi Stock Exchange Building, I.I. Chundrigar Road, Karachi.** The Bench has noted that the Commission vide a



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covering letter dated 02/06/17 forwarded an attested copy of the Impugned Order to the Appellant on the aforementioned address and the same covering letter is annexed with this Appeal at page number six. The Bench has also observed that title page of this Appeal also contains the same address. The above two facts shows that Appellant plea with regard to closure of its office is not tenable. Furthermore, as per relevant law, the Respondent was required to serve notices on the registered office of the Appellant and in this regard, the Respondent had followed the law.

7. Notwithstanding, the facts contained herein above, the Appellant neither submitted the reply to the SCN nor hearing was attended therefore, to secure the ends of justice, we are inclined to provide an opportunity of hearing to the Appellant, to plead its case on merit before the Respondent.
8. Therefore, without going into the merits of the case we hereby set aside the Impugned Order and direct the Respondent to provide an opportunity of hearing to the Appellant. We further direct the Respondent to serve the SCN on Appellant and its CEO address. Through this Order we also direct the Appellant to provide an up-to-date CEO's address for service of SCN and hearing notice.
9. The Appeal is disposed of accordingly, without any order as to cost.

(**Shauzab Ali**)

Commissioner (SCD-S&ED/IE& IR)

(**Shaukat Hussain**)

Commissioner (CCD-CLD)

Announced on: **03 JUL 2018**