



Securities and Exchange Commission of Pakistan

BEFORE THE APPELLATE BENCH

In the matter of

Appeal No. 53 of 2024

1. Mian Anwar Aziz, Company Secretary/Chief Financial Officer
2. Mr. Salman Mufti, Chief Executive/Managing Director
(Pakistan Engineering Company Limited)

...Appellants

versus

Additional Director/HOW, Adjudication Department-I, SECP

...Respondent

Date of hearing:

January 8, 2025

Present:

For the Appellants:

1. Mr. Muhammad Junaid A. Chauhan, Advocate High Court
2. Mian Anwar Aziz, Company Secretary. CFO

For the Respondent:

1. Mr. Sohail Qadri, HOD/Director, Adjudication-I, SECP
2. Mr. Rizwan-ul-Haq, Additional Joint Director, Adjudication-I, SECP

ORDER

1. This Order shall dispose of Appeal No. 53 of 2024 filed by Mian Anwar Aziz, Chief Financial Officer and Mr. Salman Mufti, Managing Director (the Appellants) of Pakistan Engineering Company Limited (the Company) against the Order dated May 14, 2024 (Impugned Order) passed by the Additional



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Director/Head of Listed Companies Wing, Adjudication-I (the Respondent) under section 237 of the Companies Act, 2017 (the Act).

2. The brief facts of the case are that the Company was required to prepare and electronically transmit its quarterly financial statements for the period ended September 30, 2023 on or before October 31, 2023 (QFS) with the Securities and Exchange Commission of Pakistan (the Commission), however, it failed to comply with the requirements contained under Section 237 of the Act read with the Circular No. 11 of 2023 dated August 11, 2023 (the Circular). In view of the above violation, a Show-Cause Notice dated January 5, 2024 (the SCN) was issued to the Board of Directors (the BoD) and Chief Financial Officer of the Company. The Appellant and the BoD submitted replies to the SCN and further submissions vide letters dated January 10, 2024, February 19, 2024, March 12, 2024, April 2, 2024 and April 22, 2024 whereas, the hearing was held on February 1, 2024, February 26, 2024 and March 11, 2024. The Respondent concluded the SCN proceedings and imposed an aggregate penalty of Rs. 500,000/- on the Appellants (Rs. 250,000/- on each Appellant) for the default established under Section 237 of the Act, whereas a warning was issued to the BoD.
3. The Appellants challenged the Impugned Order *inter alia* on the grounds that it was submitted vide letter dated January 10, 2024 to the Commission that the delay in preparation of financial accounts of the Company for the years 2019-2020 to 2022-2023 caused a delay in preparation of the QFS. The Appellants stated that the violation of Section 237 of the Act occurred due to the hostile attitude of the former Managing Director (MD), Mr. Mairaj Anees Ariff with the Company's employees and the BoD. The Appellant further contended that the BoD and other officers were not allowed to enter the premises of the Company and they had no access to the financial records of the Company. The Appellants submitted that the former MD has destroyed the record of the Company for the period in question. The Appellant stated that the BoD was restricted to perform its functions and all the powers of the Board were usurped by Mr. Mairaj Anees Ariff. The Appellant submitted that the Respondent had decided the matter hastily and had passed the Impugned Order without proper appreciation of the facts and law. The Appellant stated that the former MD, Mr. Mairaj Anees Ariff was transferred on September 13, 2022 and the incumbent MD, Mr. Mohammad Hassan Iqbal was appointed on September 16, 2022, and since then, the Appellant and the BoD are working to undo the default within six months. The Appellant stated



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that the previous years' annual general meetings are overdue, therefore, QFS was neither prepared nor transmitted.

4. The Respondent rebutted the grounds of the Appeal and stated that the members' fundamental rights had been undermined due to the Appellant's failure to transmit the QFS of the Company. The Respondent further stated that the Appellant had failed to substantiate the reason for non-compliance with Section 237 of the Act. The Respondent stated that the former MD was transferred on September 13, 2022, and since then the Appellant and the Board had complete control and considerable time to ensure that the QFS is prepared and transmitted to the Commission as required under Section 237(2) of the Act, however, they failed to perform the required statutory and regulatory compliances.
5. The Bench has heard the parties and perused the record. The Bench has noted that the Appellant had not transmitted the QFS within the time stipulated under Section 237 of the Act and as per the Circular. The Bench has further noted that the Appellant had ample time to prepare and transmit the QFS to the Commission because the SCN was issued on January 5, 2024 whereas the Impugned Order was passed on May 14, 2024. The Appellant and the BoD had sufficient time to comply with the requirements of Section 237 of the Act and the Circular, however, they failed to do so. The Bench is of the view that a public listed company has a higher responsibility to disseminate a true and accurate state of affairs to all the stakeholders by transmitting the QFS to all stakeholders within the stipulated time so that appropriate and timely decisions are made. In our view, the transmission of QFS on time is not only a requirement of law but also ensures transparency and provides the necessary information about the Company's state of affairs to all stakeholders, however, the Appellant's failure to transmit the QFS has defeated the purpose of AGMs.
6. The Bench has noted that the Appellant's incumbent MD took charge on September 16, 2022, thereafter, the Appellant had ample time to prepare accounts, appoint the auditor and have the accounts audited, however, no such effort was made. The Bench has further noted that the Appellant, vide notice dated January 21, 2025 addressed to the Pakistan Stock Exchange, disseminated five years' overdue financial statements (financial results for the years ended June 30, 2019 to June 30, 2023). In view of the above notice, it is established that the Appellant being the Chief Financial Officer of the Company had failed



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to prepare and transmit the QFS as required under Section 237 of the Act and as per the requirements of the Circular, therefore, the Appellant cannot avoid the consequences of the non-compliance.

7. The Bench has previously adjudicated upon a similar matter in its earlier orders, reported as 2024 CLD 635 and 2024 CLD 672 and held that:

“It is imperative to mention here that interim financial statements prepared accurately and in a timely manner provide a reliable source of information regarding a company’s financial position and performance to its users, besides illustrating the results of the management’s stewardship of resources entrusted to it. The Appellants have fiduciary duties towards the Company and its shareholders concerning their performance as to how diligently and ethically they are discharging their fiduciary duties and responsibilities”.

8. In view of the foregoing, we find no reason to interfere with the merits of the Impugned Order, therefore, we hereby dismiss this Appeal without any order as to cost.


(Zeeshan Rehman Khattak)
Commissioner


(Akif Saeed)
Chairman/ Commissioner

Announced on:

06 MAR 2025