



Securities and Exchange Commission of Pakistan

BEFORE APPELLATE BENCH NO. IV

In the matter of

Appeal Nos.59 to 83 of 2016

1. Popular Sports Ltd.	Appeal No. 59 of 2016
2. Popular Farms Ltd.	Appeal No. 60 of 2016
3. Popular Tape Ltd.	Appeal No. 61 of 2016
4. Popular Wires Ltd.	Appeal No. 62 of 2016
5. Popular Developers Ltd.	Appeal No. 63 of 2016
6. Popular Snacks Ltd.	Appeal No. 64 of 2016
7. Popular Sweets (Pvt.) Ltd.	Appeal No. 65 of 2016
8. Popular Tyre Ltd.	Appeal No. 66 of 2016
9. Popular Fans (Pvt.) Ltd.	Appeal No. 67 of 2016
10. Popular Packages (Pvt.) Ltd.	Appeal No. 68 of 2016
11. Popular Restaurants Ltd.	Appeal No. 69 of 2016
12. Popular Switchtech Ltd.	Appeal No. 70 of 2016
13. Popular Solvents Ltd.	Appeal No.71 of 2016
14. Popular Water Tank Ltd.	Appeal No. 72 of 2016
15. Popular Cash and Carry Mart (Pvt.) Ltd.	Appeal No. 73 of 2016
16. Popular Ceramics (Pvt.) Ltd.	Appeal No. 74 of 2016
17. Popular Furniture Ltd.	Appeal No.75 of 2016
18. Popular Clothes Ltd.	Appeal No.76 of 2016
19. Popular Mobile (Pvt.) Ltd.	Appeal No. 77 of 2016
20. Popular Builders Ltd.	Appeal No. 78 of 2016
21. Popular Cement (Pvt.) Ltd.	Appeal No. 79 of 2016
22. Popular Lawn (Pvt.) Ltd.	Appeal No. 80 of 2016
23. Popular Aluminium Ltd.	Appeal No.81 of 2016
24. Popular Icecream (Pvt.) Ltd.	Appeal No. 82 of 2016
25. Popular Flours Ltd.	Appeal No.83 of 2016

Versus

(i) Assistant Registrar of Companies, SECP Lahore

(ii) Popular Group of Industries

...Respondents

Date of Hearing: 13/04/17

Present:

Appellate Bench No. IV

Appeal Nos. 59-83 of 2016

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For the Appellant:

1. Mr. Asad Manzoor Butt, Advocate
2. Mr. M. Wasim, Advocate

For the Respondent No.1:

1. Mr. Mubasher Saeed, CCD
2. Ms. Beenish Waqas, CCD

For the Respondent No.2

1. Mr. Idrees Ashraf, Advocate High Court
2. Mr. Kamran Mughal, Director Coordination, Popular Group of Companies.

ORDER

1. This Order is in the matter of Appeal Nos. 59 to 83 of 2016 filed under section 33 of the Securities and Exchange Commission of Pakistan (Commission) Act, 1997 (SECP Act) against the order (Impugned Order) dated 27/07/16 passed by the Respondent No.1.
2. The brief facts of the case are that on perusal of record, it was observed by the Respondent No.1 that Popular Farms (Pvt.) Ltd., Popular Switchtech Ltd., Popular Restaurants Ltd., Popular Solvents Ltd., Popular Water Tank Ltd., Popular Packages (Pvt.) Ltd., Popular Fans Pvt. Ltd., Popular Tyre Ltd., Popular Sweets (Pvt.) Ltd., Popular Snacks Ltd., Popular Developers (Pvt.) Ltd., Popular Wires Ltd., Popular Tape Ltd., Popular Cash & Carry Ltd., Popular Ceramics (Pvt.) Ltd, Popular Furniture (Pvt.) Ltd., Popular Clothes Ltd., Popular Mobile (Pvt.) Ltd., Popular Builders Ltd., Popular Cement Ltd., Popular Lawn (Pvt.) Ltd., Popular Aluminum Ltd., Popular Flours (Pvt.) Ltd., Popular Sports Ltd., & Popular Icecream Ltd. were inadvertently registered by the Commission as it bear close resemblance with the name of already registered Popular Group of Companies at Karachi (Respondent No.2). Moreover, an application was also



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filed on 20/01/16 by Respondent No.2, requesting the Commission to direct the Appellants to change their name.

3. In light of the facts on record and proviso to section 38(b) of the Companies Ordinance 1984 (Ordinance), an opportunity to make representation under section 38(b) of the Ordinance was provided to the Appellants on 05/05/16 and 13/05/16, respectively. The Appellants' Counsel, Mr. Malik Waseem Khokar, Advocate High Court appeared on the said dates and also furnished written reply on 13/05/16 on behalf of the Appellants. He requested the office to dismiss the application claiming that since 2013, the matter related to resemblance and similarity of trademark 'Popular' is already subjudice before the trademark authority and the Commission has no jurisdiction to entertain and decide the matter which is already subjudice. The written submissions and arguments during hearings were considered by the Competent Authority, however, they were not found cogent.
4. After taking into account all the facts on record, and in exercise of the powers conferred under section 38(b) of the Ordinance, it was communicated by the Respondent No.1 vide Impugned Order that the Competent Authority has advised that the Appellants be directed to change their name having being registered inadvertently despite bearing close resemblance with the Respondent No.2. Therefore, it was directed to change the name of the Appellants within 30 days of receipt of communication and to adopt some other suitable name.
5. The Appellant's Counsel at the Hearing without going into the merits of the Appeal argued on the issue of maintainability of the Appeal and stated that the Appeals were wrongly filed at the Appellate Bench.
6. The Respondents No.1 and 2 had no objection to the plea of the Appellants' Counsel and stated that the matter be resolved in accordance with the law.



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7. We are of the view that the Appellate Bench has jurisdiction to entertain the instant Appeals. However, we place our reliance on the judgment cited by the Appellant's Counsel at the hearing in Appeal No. 34 of 2015 in the matter of *Sialkot International Container Terminal Limited through Company Secretary versus Ms. Sidra Mansur, Joint Registrar, Company Registration*, wherein, it was held that, "...important aspects have not been taken into consideration by the Respondent, although such facts were necessary for the just adjudication of the matter... Therefore, we find it appropriate to remand the case to the Respondent to consider and evaluate the case by calling both the parties along with relevant record and witness to support their claims. All the parties having disputes are also directed through this order to settle their issues before the Respondent to avoid any legal consequences. Therefore, the Impugned Order dated 30/04/15 is set aside and the matter is remanded to the Respondent to decide it afresh within sixty days of the Order."
8. In the instant matter, important aspects may not have been taken into consideration by the Respondent No.1 as both parties i.e. the Appellants and Respondent No.2 did not have a chance to present their case. Therefore, we remand the matter to the Respondent No.1 to decide the matter afresh within sixty days of the Order.

9. Parties to bear their own cost.

(Fida Hussain)
Commissioner (Insurance)

(Zafar Abdullah)
Commissioner (SCD)

Announced on: **18 MAY 2017**