



Securities and Exchange Commission of Pakistan

BEFORE APPELLATE BENCH NO. IV

In the matter of

Appeal No. 06 of 2017

National Transmission and Despatch Company Limited

Appellant

Versus

Corporatization and Compliance department

Respondent

Date of hearing:

27/04/17

Present:

For Appellant:

- i. Mr. Nazir Ahmed Shaheen
- ii. Ch. Muhammad Atif, Advocate
- iii. Mr. Ijaz Ahmad, NTDC

For Respondent:

Mr. Abdul Rehman Khan Tareen, Deputy Director (C&CD),
SECP.

ORDER

1. This Order shall dispose of Appeal No. 06 of 2017 filed under Section 33 of the Securities and Exchange Commission of Pakistan Act, 1997 against the Order dated 19/12/16 (Impugned Order) passed by the Commissioner (C&CD) under Rule 25 of the Public Sector Companies (Corporate Governance) Rules 2013 (the Rules) read with Section 506(2) of the Companies Ordinance, 1984 (the Ordinance).
2. Brief facts of the case are that Appellant being a public sector company was required to publish, circulate and file with the Securities and Exchange Commission of Pakistan, a

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Statement of Compliance (SOC) and Review Report (the Report) of the auditor for the years ended 30/06/15, under Rule 24 (1)(2) of the Rules. However, it failed to do so, therefore, a Show Cause Notice dated 24/03/16 (the SCN) was issued to the Appellant and its directors/officers. The Appellant replied to the SCN and stated that non-submission of SOC was caused due to separation of the operations of the Central Power Purchasing Agency (CPPA) from the Appellant which created legal complications and resultantly, the AGM was delayed. The Appellant vide a separate letter dated 24/10/16 requested for grant of extension till end of November 2016 for submission of SOC, which was acceded to. Hearing in the matter was held on 29/11/16, which was attended by the Company Secretary and requested for further time to submit the SOC, however, this request was not entertained by the Respondent and a fine of Rs. 50,000/- was imposed on the Appellant for violation of the mandatory requirement of the Rules.

3. The Appellant has preferred this Appeal before the Appellate Bench (the Bench) *inter alia* on the grounds that the segregation of CPPA from the Appellant took place on 03/06/15, just before the financial close on 30/06/15. Therefore, the AGM was delayed due to this segregation which restricted the Commercial Auditor, M/s. KPMG to finalize the SOC. The default of non-filing of SOC was not willful as the auditors did not authenticate the SOC due to non-finalization of the annual accounts. It was also contended that the Appellant is a law abiding corporate citizen and it has duly filed the SOC for the year 2013-14.
4. The Respondent has rebutted the grounds of Appeal and stated that the Appellant has violated the mandatory requirement of the Rules, hence, it is liable to imposition of penalty under Rule 25 of the Rules. It was further contended that in procedural laws, the terms "willful" is not interpreted in a strict and stringent sense. Mere carelessness or negligence in fulfilling the requirements of law would suffice to be liable for the provided penalty.
5. The Bench has heard the parties (Appellant and Respondent) and perused the record of the Appeal. The Appellant's representative reiterated the submissions made through the Appeal

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and requested for a lenient view, whereas, the Respondent has requested to dismiss the Appeal and to maintain the Impugned Order.

6. The facts of the case are explicit and clear. A mandatory requirement of the Rules has been violated, however, we concur with the argument of the Appellant that non-compliance was caused due to segregation of the CPPA and the Appellant. Therefore, we hereby convert the penalty of fine imposed into a warning and direct the Appellant to file the SOC and review report of the auditor for the year ended 30/06/15 within sixty days of this Order. We further direct the Appellant to ensure strict compliance of the relevant provisions of law in future.
7. In view of above, the Appeal is disposed of, parties to bear their own cost.

(Fida Hussain Samoo)
Commissioner (Insurance)

(Zafar Abdullah)
Commissioner (SCD)

Announced on: **18 MAY 2017**