



Securities and Exchange Commission of Pakistan

BEFORE THE APPELLATE BENCH

In the matter of

Appeal No. 71 of 2019

AKD Investment Management Limited

...Appellant

Versus

Commissioner (SCD)

...Respondent

Date of hearing:

March 21, 2024

Present:

For the Appellant:

1. Mr. Muhammad Yaqoob, AKD Investment Management Limited

For the Respondent:

1. Ms. Asima Wajid, Additional Joint Director, Adjudication Division, SECP
2. Mr. Raja Farukh Ahmad, Additional Joint Director, Adjudication Division, SECP

ORDER

1. This Order shall dispose of Appeal No. 71 of 2019 filed by AKD Investment Management Limited (the "Appellant") under section 33 of the Securities and Exchange Commission of Pakistan Act, 1997 against the order dated August 05, 2019 (the "Impugned Order") passed by the Commissioner (SCD) to dispose of the proceedings against the Appellant initiated through the Show-Cause Notice (the "SCN") dated May 07, 2019 under Section 282J(1) read with Section 282M(1) of the

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Securities and Exchange Commission of Pakistan

Companies Ordinance 1984 and Section 40A of the Securities and Exchange Commission of Pakistan Act, 1997 (XLII of 1997).

2. The brief facts of the case are that inspection of the Appellant was conducted in pursuance of the inspection order dated December 13, 2018 to review and assess the level of compliance with respect to the Securities and Exchange Commission of Pakistan (Anti Money Laundering and Countering Financing of Terrorism) Regulations, 2018 (the "Regulations"). The inspection highlighted several deficiencies with regard to maintenance of customers' record/documentation, which is a violation of Regulation 6(2), (3), (4) & (5) of the Regulations. Furthermore, the Appellant had not performed enhanced due diligence ("EDD") of various investors, thereby also violated Regulation 9(4) read with Regulation 9(3) of the Regulations and also had no mechanism for ongoing monitoring of its clients thus resulting in non-compliance of Regulation 13(3) of the Regulations. Therefore, SCN dated May 07, 2019 was issued to the Appellant and after considering the submissions of the Appellant rendered in the hearing, the Respondent, vide Impugned Order imposed a penalty of Rs. 200,000/- on the Appellant on account of contravention of the aforementioned provisions of the Regulations, which was subsequently deposited by the Appellant.
3. The Appellant prayed for recovery/refund of the deposited penalty amount in addition to the suspension of the Impugned Order, *inter alia*, on the grounds that the Appellant was complying with the Regulations at the time of passing of the Impugned Order as all deficiencies in the documents were eliminated. The Appellant argued that the Respondent failed to consider the submissions given in the Appellant's letter dated May 16, 2019 and if it had done so, the outcome would have been different.
4. The Respondent rebutted the grounds of the Appeal and presented their arguments. It was contended by the Respondent that the inspection team had observed non-compliances with the AML/CFT regulatory framework at the time of the Inspection and any measures taken by the Appellant for rectification of the deficiencies was only after the Inspection had been concluded. The Respondent further added that in the letter dated May 16, 2019, the Appellant while conceding to the non-compliances, clearly appreciated the efforts and guidance provided by the SECP inspection team in identifying the observations/non-compliances. The Respondent also stated that the said letter mentioned that efforts were being made by the Appellant to review and update the

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Securities and Exchange Commission of Pakistan

standard operating procedures, which were put in place subsequent to the inspection. The Respondent submitted that the facts given in the written reply was given due consideration while imposing the penalty.

5. The Bench has heard the arguments of both the parties and perused the record. The Bench is of the opinion, that subsequent rectification actions to comply with the Regulations does not absolve the Appellant from committed violations. The AML & CFT Regulations were effective immediately after their issuance and warranted the Appellant to ensure compliance in its true letter and spirit.
6. In view of the foregoing, the Bench finds no reason to interfere in the Impugned Order. Therefore, the instant Appeal is **dismissed** without any order as to costs.

(Abdul Rehman Warraich)
Commissioner

(Mujtaba Ahmad Lodhi)
Commissioner

Announced on:

17 APR 2024