



# Securities and Exchange Commission of Pakistan

## **BEFORE APPELLATE BENCH**

In the matter of

### **Appeal No. 77 of 2017**

1. Haroon Iqbal
  2. Ishtiaq Ahmed
  3. Manzoor Ahmed
  4. M. Naeemuddin Malik
  5. Syed Maqbool Ali
  6. Waseem Ul Haque Ansari
  7. Aziz-ul-Haque
- ( All directors of Dewan Automotive Engineering Limited)

Appellants

Versus

The Director (Corporate Supervision Department) SECP.

Respondent

**Dates of hearing:**

11/7/18, 25/2/19 and 11/3/19

**Present:**

**For Appellants:**

Nemo

**For Respondent:**

1. Syed Ali Adnan- Additional Director (CSD)
2. Amir Saleem- Joint Director (CSD)

### **ORDER**

1. This order shall dispose of Appeal No. 77 of 2017 filed under section 33 of the Securities and Exchange Commission of Pakistan Act, 1997 against the order dated 2/6/17 passed by the Respondent under Section 245(3) read with Section 476 of the Companies Ordinance, 1984.



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2. This Appeal was registered on August 4, 2017 and since its registration, it had been fixed for hearing on 11/7/18 and 25/2/19 however, both hearings were adjourned on Appellant's request. The Appellants had availed successive adjournments on one pretext or the other, spanning over two years. Irrespective of the causal conduct of the Appellants, the Bench had desired to provide another opportunity of hearing and accordingly the Appeal was re-fixed for hearing on March 11, 2019. However, once again, adjournment was sought by the Appellants.
3. The Bench is of the view that the Appellants' adjournment request, seemed to be deliberated, as they had not let the Bench to proceed with the appeal by continuously seeking adjournments and avoiding to appear before the Bench. Appellants are also party in eight appeals pending adjudication before the Bench. Appellants are habitual to prolong the litigation, just to defeat the legal process and avoid penal consequences thereof. The following facts of the aforestated eight appeals are sufficient to prove the casual conduct of the Appellants;
  - i. In Appeal Nos. 38, 39, 40 and 41 of 2016, eight adjournments were sought and never joined the proceedings before the Bench.
  - ii. In Appeal Nos. 12 and 13 of 2016, after three consecutive adjournment a special cost of Rs. 5000/- was imposed vide an order dated October 20, 2016 on Appellants, which was paid by them. However, thereafter, Appellants consecutively availed five adjournments and failed to join proceedings before the Bench.
  - iii. In Appeal Nos. 25 and 78 of 2017, Appellants availed three consecutive adjournments and failed to join the proceedings before the Bench.
4. The Record of the instant Appeal had shown that it was not diligently pursued by the Appellants and three adjournments were sought thereby, made it impossible for the Bench to proceed with the matter. It is also important to note that in all appeals, Appellants and others are represented by the same counsel. In view of the judgment of Lahore High Court (2018 CLC 1981 (Fayyaz Haider Versus Malik Ishtiaq Hussain- Lahore High Court, Lahore) Appellants and Defendant had a right to be heard and represented by a counsel but at the same time it could not be permitted to defeat the cause of justice by indefinite procrastination by either party. Therefore, Appellants and their counsel could not be allowed to regulate the proceedings of Bench by their own choice and whims. Rights of each of the parties were equally protected under the law and none of the parties were permitted to stifle and prolong the proceedings without any sufficient and just cause.



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Ample opportunities were provided to the Appellants to ensure their representation and argue the Appeal however, they failed to join the proceedings before the Bench.

5. In view thereof, the Bench is not inclined to grant further adjournment to the Appellants therefore, we order to proceed ex-parte against the Appellants. In the circumstances, the Appeal is dismissed, without any order as to cost.

  
(Shaukat Hussain)  
Commissioner (CLD-CCD)

  
(Shauzab Ali)  
Commissioner (SMD)

Announced on: **26 MAR 2019**