



# Securities and Exchange Commission of Pakistan

## BEFORE THE APPELLATE BENCH

In the matter of

### Appeal No. 08 of 2021

Meezan Bank Limited

...Appellant

versus

Executive Director (Adjudication Department-I) SECP, Islamabad

...Respondent

### Date of hearing:

March 28, 2024

### For the Appellant:

Mr. Sajjad Ali (Legal Counsel)  
Mr. Rehan Waheed (Meezan Bank Representative)  
Zainab Shafqat

### For the Respondents:

1. Mr. Mohammad Akram, Assistant Director, Adjudication-I, SECP
2. Mr. Raja Farukh Ahmad, Additional Joint Director, Adjudication-I, SECP

## ORDER

1. This Order shall dispose of Appeal No. 08 of 2021 filed by Meezan Bank Limited (the "Appellant") through Ms. Urooj ul Hassan Khan, Head of Investment Banking and Shariah Advisory, under section 33 of the Securities and Exchange Commission of Pakistan Act, 1997 (the "SECP Act"), against order dated November 20, 2020 (the "Impugned Order") passed by the Executive Director (Adjudication-I) (the "Respondent"), for contravention of Regulations of Debt Services Trustee Regulations 2017 (the "DST Regulations") read along with Section 64 of the Securities Act 2015 (the "Securities Act").



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2. Brief facts of the instant appeal are that the Appellant was registered as a debt securities trustee under the DST Regulations. The Appellant obtained the approval of the Securities and Exchange Commission of Pakistan (the "Commission") on December 15, 2017 for commencing business as a debt securities trustee under Regulation 10(2) of the DST Regulations. Subsequently, the Appellant did not timely comply with the requirements of Regulation 10(4) of the DST Regulations and failed to submit a renewal application for the year 2020 before January 31, 2020, as required under Regulation 7(1) of the DST Regulations. In view thereof, the Commission issued a reminder letter dated February 27, 2020, intimating the Appellant about non-submission of the renewal application and also requiring the details of services provided by the Appellant since February 1, 2020 as a debt securities trustee. Subsequently, the Appellant vide letter dated March 3, 2020, submitted its renewal application along with the requisite affidavit and other necessary documents and information.
3. In light of the aforementioned violation a Show-Cause notice dated August 8, 2020 (the "SCN") was served to the Appellant. The Appellant submitted its reply to the SCN on August 26, 2020 and the hearing was scheduled for October 27, 2020, which was attended by the authorised representative of the Appellant. After examining the submissions and considering the facts, the Respondent, in exercise of powers conferred under Section 159(5) of the Securities Act, imposed a penalty of Rs. 785,000/- (Rupees Seven Hundred and Eighty-Five Thousand) on the Appellant for contravention of Regulations 10(3), 10(4) and 10(5) of the DST Regulations read along with Section 64 of the Securities Act.
4. The Appellant has preferred this appeal *inter alia* on the grounds that the penalty against the observations of the Respondent is unjust, unlawful and needs to be withdrawn. The Appellant, while arguing the appeal, contended that in Para 7(vi) of the Impugned order, a false impression has been generated that the Appellant was totally indolent of any compliance and complied only upon a reminder by the Commission. The Appellant argued that they were already in process of filing a renewal application, therefore, the Respondent has misconstrued the fact that filing of a renewal application was a consequence of the reminder issued by the Commission. The Appellant pleaded that in light of this fact alone, *bonafide* efforts of the Appellant should be given due weightage and the Impugned Order be *set aside*. Furthermore, the Appellant argued on the interpretation of the expression 'non-



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compliance' used in the Securities Act and the DST Regulations, stating that 'default/non-compliance' and 'delay' are two distinct instances ensuing different consequences and that there was an unintentional delay on part of the Appellant, while the Respondent has pushed it into the purview of mala-fide default. The Appellant further placed reliance upon *2011 CLD 1181 and 2017 CLD 686*, in support of the fact that delay on part of the Appellant was not wilful as the President of the Appellant was exceptionally occupied with ongoing board meetings involving active issues with the State Bank of Pakistan, hence, renewal application could not be filed within time. The Appellant while concluding the arguments stated that the Impugned Order is silent with regard to the quantification of penalty and such an exorbitant amount for a mere delay in filing of renewal application is unjustified, and therefore, the Impugned order is liable to be *set aside*.

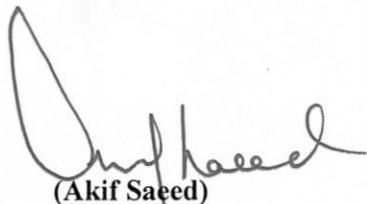
5. The Respondent while controverting the arguments of the Appellant, stated that the Appellant has no case on merits as the non-compliance of timely filing of a renewal application is apparent from the facts of the matter and record. The Respondent argued that delayed or subsequent filing of the requisite documents and fee does not exonerate the Appellant from the consequences of prior non-compliance committed under the DST Regulations and therefore, has rightly been issued the SCN for violation of Regulations 10(2) and 10(4) of the DST Regulations and passed the Impugned Order. Furthermore, the Respondent stated that the Appellant has also provided debt security services to some of its clients after expiry of its license and without having a valid license, therefore, the relevant provisions have been violated. The Respondent further contended that the penalty amount has been rightly imposed on the Appellant, therefore, the Impugned Order may be upheld and the Appeal may be dismissed.
6. The Appellate Bench (the "Bench") has heard the arguments of both the parties and perused the record. The Bench is of the view that the Appellant had an obligation to adhere to the relevant requirements of the DST Regulations which should have been timely followed by the Appellant in true letter and spirit. That during the course of arguments the Appellant has submitted before the Bench that it was in the process of preparation of documents for submission of a renewal application before receiving the reminder letter from the Commission which was subsequently filed. The Bench has also deliberated the argument that default was not willful, however, the Bench is of the view that under the licensing regime a license holder is under strict legal obligation to comply with the relevant applicable requirements,

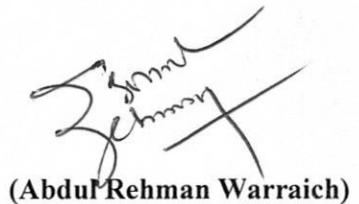


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therefore, question of willfulness and its absence is irrelevant. However, as the Appellant has successfully proved that it was in process to file renewal application when a reminder letter of the Commission was received, therefore, we are inclined to consider this fact. The Bench has also considered the fact there was a one month delay in filing of renewal application, however, an exorbitant amount of penalty has been imposed without any quantification of penalty.

7. In view of the foregoing, we hereby convert the penalty into a stern warning and direct the Appellant to be vigilant and compliant in future with respect to its legal, regulatory and licensing obligations. The instant appeal is **disposed of** with no order as to costs.

  
(Akif Saeed)  
Chairman/Commissioner

  
(Abdul Rehman Warraich)  
Commissioner

Announced on: 02 MAY 2024