



Securities and Exchange Commission of Pakistan

BEFORE THE APPELLATE BENCH

In the matter of

Appeal No. 8 of 2023

Gauhar Flour & General Mills Private Limited

...Appellant

Versus

Director-Adjudication-II, Adjudication Division, SECP

...Respondent

Date of hearing:

January 18, 2024

For the Appellant:

Mr. Muhammad Imran Malik, FCMA (Authorized Representative)

For the Respondent:

1. Mr. Muhammad Farooq Bhatti, Additional Director, Adjudication-II, SECP
2. Mr. Sanaullah Jatoi, Deputy Director, Adjudication-II, SECP

ORDER

1. This Order shall dispose of Appeal No. 8 of 2023 filed by Gauhar Flour & General Mills (Pvt.) Limited (the "Appellant") under Section 33 of the Securities and Exchange Commission of Pakistan Act, 1997 (the "SECP Act") against the order dated August 15, 2022 (the "Impugned Order") passed by the Respondent in exercise of powers under the Companies (Maintenance and Audit of Cost



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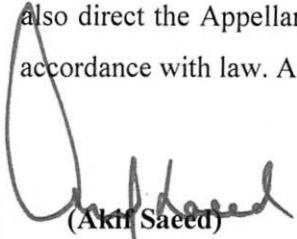
Accounts) Regulations 4(2) and 5(1) Regulations, 2020 (the "Regulations") read with Section 220(1) of the Companies Act 2017 (the "Act").

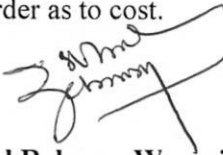
2. Brief facts of the case are that the Appellant has not informed the Securities and Exchange Commission of Pakistan (the Commission) regarding the appointment of a cost auditor for the year ended June 30, 2021 as required under Regulation 4 of the Regulations and also failed to get its cost accounts audited by a cost auditor as required under Regulation 5 of the Regulations. In view thereof, *prima facie* it appears that neither the Appellant has appointed a cost auditor nor it is maintaining cost accounts. Given the violation, a show-cause notice dated March 30, 2022 (the SCN) was issued to the Appellant regarding the aforementioned violations under Regulations. The Appellant not only failed to file a written reply to the SCN but it also failed to appear for a hearing before the Respondent. Therefore, a penalty of Rs. 100,000/- was imposed on the Appellant vide the Impugned Order.
3. The Appellant has challenged the Impugned Order before the Appellate Bench (the Bench) *inter alia* on the ground that the Appellant was not engaged in the production process for the fiscal year ending June 30, 2021, therefore, it was not required to appoint a cost auditor or furnish intimation of appointment to the Commission.
4. The Respondent rebutted the grounds of appeal and contended that the Appellant had not responded to the SCN and the reminder. Furthermore, a hearing opportunity was also provided to the Appellant but it failed to avail it and now it has filed this appeal on frivolous grounds. Therefore, the Appellant's failure to appoint a cost auditor and submit notification of the cost auditor's appointment to the Commission, as required by Regulation 4, and to have its cost accounts audited as mandated by Regulation 5 of the Regulations, is established.



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5. The Bench has heard the arguments of the parties and perused the record. The Bench is of the view that as the Appellant was not in operation during the default period alleged in the SCN and the Impugned Order, therefore, mechanical application of the Regulations, may not serve the purpose. The Bench is inclined to take a lenient view with respect to the penalty imposed on the Appellant, however, leniency does not exonerate the Appellant.
6. In view thereof, we hereby convert the penalty imposed vide Impugned Order into a *warning* and also direct the Appellant to ensure future compliance with the regulatory requirements strictly in accordance with law. Accordingly, the Appeal is disposed of without any order as to cost.


(Akh Saeed)
Chairman/Commissioner


(Abdul Rehman Warraich)
Commissioner

Announced on: 29 APR 2024