



Securities and Exchange Commission of Pakistan

BEFORE THE APPELLATE BENCH

In the matter of

Appeal No. 81 of 2020

Mian Shahzad Aslam, (CEO) Nazir Cotton Mills Limited

...Appellant

Versus

HOD-Adjudication-I, Adjudication Division, SECP

...Respondent

Date of hearing:

January 18, 2024

For the Appellant:

Mr. Maqbool Husain Bhutta, Authorized Representative

For the Respondent:

1. Mr. Mahboob Ahmad, Additional Director, Adjudication-I, SECP
2. Mr. Muhammad Anwar Hashmi, Additional Joint Director, Adjudication-I, SECP
3. Mr. Raja Farukh Ahmad, Additional Joint Director, Adjudication-I, SECP

ORDER

1. This Order shall dispose of Appeal No. 81 of 2020 filed by Mr. Mian Shahzad Aslam, Chief Executive Nazir Cotton Mills Limited (the "Appellant") under Section 33 of the Securities and Exchange Commission of Pakistan Act, 1997 (the "SECP Act") against the order dated June 25, 2020 (the "Impugned Order") passed by the Respondent in exercise of powers under the Listed Companies (Code of Corporate Governance) Regulations, 2017 (the "Regulations") read with Sections 512, 192 and 193 of the Companies Act, 2017 (the "Act").



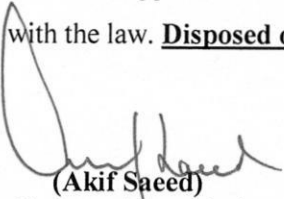
Securities and Exchange Commission of Pakistan

2. Brief facts of the case are that upon reviewing the Company's annual audited financial statements for the year ending June 30, 2018 it transpired that the Company's auditor in its review report highlighted non-compliance of regulation 6 of the Regulations which requires that the independent directors of each listed company shall not be less than two members or one third of the total members of the board, whichever is higher. Moreover, the auditor's review report also highlighted that the Company is non-compliant with regulation 32 of the Regulations which requires the Appellant to have an internal audit function. Furthermore, the review report revealed that the Chairman's review report was not attached with the financial statements, and for that the Company is also non-compliant in terms of section 192 of the Act. The Securities and Exchange Commission of Pakistan (the "Commission"), vide letter dated November 07, 2018, sought clarification and an update from the Appellant which was responded vide letter February 15, 2019. Consequently, show-cause notice dated March 06, 2020 (the "SCN") was issued to the Appellant, however, the Appellant did not furnish a reply to the SCN within the given time, whereafter, a hearing was fixed on June 2, 2020. Being dissatisfied with the submissions of the Appellant, the Respondent, vide the Impugned Order, imposed a penalty of Rs. 150,000/-.
3. The authorized representative of the Appellant submitted that the Company is dormant and has no business since 2009. He contended that the non-compliances, which form the basis of the Impugned Order, have been complied with and there is no legal justification for maintaining the imposed penalty. The authorized representative of the Appellant argued that compliance of regulation 6 of the Regulations was beyond the control of the Appellant as no individual was willing to become an independent director of the Company due to its involvement in multiple litigation, whereas the Chairman's review report was inadvertently not attached with the accounts. He reiterated that the Company is not functioning as a result of which there is no business activity and, hence, no income, and has thus prayed for setting aside of the Impugned Order.
4. The Respondent contested the Appellant's stance and contended that violations highlighted vide Impugned Order were subsequently rectified and there was no justification provided for the said delay and, in-fact, the Appellant has been delaying the compliance on frivolous grounds. The Respondent further argued that the independent directors appointed by the Company are not from the data bank as required under the law and thus the same cannot be regarded as statutory compliance.

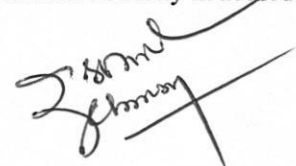


Securities and Exchange Commission of Pakistan

5. The Bench has heard the arguments of the parties and perused the record. It has been observed that the Respondent vide Impugned Order also warned the Appellant to ensure compliance in future which, though with a delay, has been done by the Company. Moreover, admittedly the Company is not operational since long and is a dormant entity. The Bench is of the view that the Company being not in operation does not absolve it from statutory compliances under the law and on that account, it is the responsibility of the management of the Company to realize and decide accordingly that being a listed company it has to comply with the law as long as it appears on the register of companies. However, keeping in view the aforementioned circumstances and considering subsequent compliance as a mitigating factor, we hereby convert the penalty imposed vide Impugned Order into a *warning* and also direct the Appellant to ensure compliance of the regulatory requirements in future strictly in accordance with the law. **Disposed of.**


(Akif Saeed)

Chairman/Commissioner



(Abdul Rehman Warraich)
Commissioner

Announced on:

29 FEB 2024