

Securities and Exchange Commission of Pakistan

BEFORE APPELLATE BENCH NO. IV

In the matter of

Appeal No. 92 of 2016

1. Mr. Aziz L. Jamal – Chief Executive
2. Mr. Rashid L. Jamal – Director
3. Mr. Husein Jamal – Director
4. Mr. Ahsan Jamal – Director
5. Mr. Akhtar Wasim Dar – Director
6. Mrs. Aisha Bai Suleman – Director
7. Miss Hina Abdul Rashid - Director

of M/s. Husein Industries Limited

...Appellants

Versus

Director, Corporate Supervision Department
Securities and Exchange Commission of Pakistan

...Respondent

Date of Hearing: 09/02/17

Present:

For the Appellants:

- 1) Mr. Khurram Jah, Husein Industries
- 2) Mr. Aziz Jamal, Husein Industries

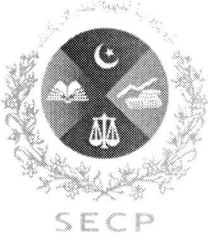
For the Respondent:

- 1) Ms. Amina Aziz, Director (CSD)

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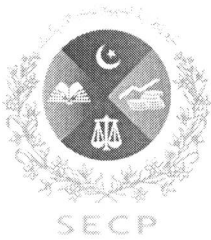


Securities and Exchange Commission of Pakistan

ORDER

1. This Order is passed in the matter of Appeal No. 92 of 2016 filed under section 33 of the Securities and Exchange Commission of Pakistan (Commission) Act, 1997 (SECP Act) against the Order (Impugned Order) dated 05/05/16 passed by the Respondent.
2. The brief facts of the case are that Husein Industries Limited (the Company) was required to hold its Annual General Meeting (AGM) for the year ended 30/06/15 on or before 31/10/15 in terms of section 158(1) of the Companies Ordinance, 1984 (Ordinance). However, a review of the record revealed that the Company failed to convene the AGM as per requirement of the law.
3. The Show Cause Notice dated 01/02/16 (SCN) was issued to the following directors of the Company (Appellants) whereof they were called upon to show cause in writing as to why penal action may not be taken against them under section 158 of the Ordinance for not holding the AGM:
 - (a) Mr. Aziz L. Jamal, Chief Executive
 - (b) Mr. Rashid L. Jamal, Director
 - (c) Mr. Husein Jamal, Director
 - (d) Mrs. Aisha Bai Suleman, Director
 - (e) Mr. Akhtar Waseem Dar, Director
 - (f) Mr. Ahsan Jamal, Director
 - (g) Miss Hina Abdul Rashid, Director

The Appellants replied vide letter dated 11/02/16 and submitted that the Company is passing through a financial crunch and has inadequate staff and, therefore, it could not finalise its annual accounts for the year ended 30/06/15 in a timely manner. Mr. Muhammad Anwar Kaludi (Authorised Representative) appeared on behalf of the Appellants and reiterated the submissions made in the written reply and further



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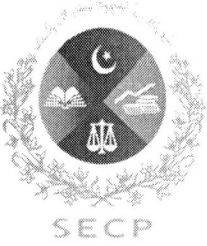
submitted that the AGM for the financial year 2014 will be held within two months and thereafter the Company will plan for the AGM for the financial year 2015.

4. The Respondent, dissatisfied with the response of the Appellants, held that the provisions of the law have been violated and the Appellants are liable in terms of section 158 of the Ordinance, as they failed to hold the AGM of the Company for the year ended 30/06/15 even after lapse of considerable time after the due date. In exercise of the powers under section 158(4) of the Ordinance, a fine of Rs 50,000 was imposed on each of the Appellants with the total amount aggregating to Rs 350,000.
5. The Appellants preferred the instant appeal on the grounds that the penalty imposed is exorbitant as non-compliances were inadvertent and caused due to limitation of resources which the Appellants are trying to rectify within the minimum possible time and with available personal resources of each Appellant. Moreover, the Appellants argued that the Company despite facing financial hardship for the past few years, eventually held the AGM for the year 2015. They further stated that the Company has an enviable track record over six decades and has always complied previously with the rules, regulations, procedures and laws.
6. The Respondent has accepted that AGM for the year 2015 was subsequently held, however, violation of section 158 of the Ordinance warranted penalty on the Appellants and that a lenient view was already taken and lower fines were imposed on the Appellants. Furthermore, the Respondent argued that no time frame was provided by the Appellants during the hearing and section 158 of the Ordinance clearly specifies the timeline for holding of an AGM.
7. We have heard the parties i.e. the Appellants and the Respondent. The Appellants have admitted the default and have subsequently held the AGM for the year 2015. The

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Respondent has stated that a lenient view was already taken and lower fines were imposed on the Appellants for the violation of section 158 of the Ordinance. We are of

the view that the Company has a good track record and has a successful history where they have always strived to be a law abiding company in terms of their standards of compliance with rules, regulations, procedures and laws. The Company is also in the process of re-aligning itself and sorting out its financial difficulties. Moreover, the Appellants have subsequently held the AGM for the year 2015.

8. In view of the foregoing, the penalty imposed on the Appellants though the Impugned Order is converted into a warning and the Appellants are directed to ensure compliance of relevant provisions of the law in future and restoration in trading of its shares at PSX by removal from Defaulters' Counter. The appeal is disposed of accordingly.
9. Parties to bear their own cost.

(Fida Hussain)

Commissioner (Insurance)

(Zafar Abdullah)

Commissioner (SCD)

Announced on: **20 MAR 2017**