



Securities and Exchange Commission of Pakistan

BEFORE APPELLATE BENCH NO. 1

In the matter of

Appeal No. 92 of 2017

S.A. Securities (Pvt.) Ltd

...Appellant

versus

Commissioner (SMD), Securities and
Exchange Commission of Pakistan

...Respondent

Date of Hearing: 20/04/18

Present

For the Appellant:

- i. Mr. Sohail Altaf, CEO
- ii. Mr. Saqib Malik, Compliance Officer

For the Respondent:

- i. Mr. Asif Khan, Deputy Director (SMD)
- ii. Mr. Salman Arshad, Deputy Director (SMD)

ORDER

1. This Order is in the matter of Appeal No.92 of 2017 filed under section 33 of the Securities and Exchange Commission of Pakistan (Commission) Act, 1997 (SECP Act) against the Order (Impugned Order) dated 30/05/17 passed by the Respondent.
2. The brief facts of the case are that M/s. S.A. Securities (Pvt.) Limited (Appellant) did not send details of all of its bank accounts with the Head of Department, Surveillance, Supervision and Enforcement Department (HOD-SSED Department) of the Securities Market Division of the Commission as required through Pakistan Stock Exchange (PSX) notice No. PSX/N-798 dated 08/02/17 despite the reminder letter sent by the Commission on 17/03/17 to the Appellant. The Appellant did not submit hard copies of its annual accounts for the year ended 30/06/16 with

Page 1 of 4



Securities and Exchange Commission of Pakistan

HOD-SSED Department as required through PSX notice No. PSX/N-797 dated 08/02/17, PSX/N-118 dated 22/02/17 despite the reminder letter sent by the Commission on 16/03/17 to the Appellant. The Appellant had also not submitted hard copies of its half-yearly accounts for the year ended 31/12/16 with the HOD-SSED Department as required through PSX notice No. PSX/N-798 dated 08/02/17 despite the reminder letter sent by the Commission on 17/03/17 to the Appellant.

3. The Show Cause Notice (SCN) dated 12/04/17 was issued to the Appellant as the above contraventions attract the penal provisions under section 150(1) and 150(2) of the Securities Act, 2015 (Securities Act). The Appellant was asked to file a written reply to the SCN. Hearing in the matter was scheduled on 03/05/17. The Appellant filed the written reply to the SCN vide letter dated 08/05/17. On the given date, Mr. Sohail Altaf, Chief Executive Officer of the Appellant attended the hearing on behalf of the Appellant at Commission's Head Office and made his submissions.
4. The Respondent dissatisfied with the response of the Appellant, held that the Appellant had not submitted the requisite documents/information to HOD-SSED and had failed to discharge its regulatory obligations. Therefore, in exercise of the powers under section 150 of Securities Act, a penalty of Rs 100,000/- was imposed on the Appellant. The Appellant was directed to send hard copies of its annual accounts for the period ended 30/06/16 and half-yearly accounts for the period ended 31/12/16 to HOD-SSED within 10 days from the date of the Impugned Order and to ensure strict compliance with the regulatory framework in letter and spirit, in future.
5. The Appellant preferred the instant appeal on the grounds that the Appellant had planned to initiate the business after demutualization and integration once the strategic investor took over its management and started implementing its policies. In such a scenario, the Appellant argued that due to ignorance of laws, the Appellant overlooked the submission of bank account details and annual/semi annual accounts to the Commission, whereas, such documents were duly submitted to PSX and it was construed by the Appellant's management that the PSX would share the same with the Commission itself. The Appellant also argued that the Respondent misconstrued this ignorance as misconduct and imposed a heavy fine on the Appellant. The



Securities and Exchange Commission of Pakistan

Appellant further argued that it has always been submitting the requisite documents/information to the frontline regulator i.e. PSX and the Commission, despite the fact that the Appellant was neither actively involved in the brokerage business nor generating any revenue from the brokerage business. As such, the Appellant stated that they had submitted all the requisite documents/information including details of bank accounts, half-yearly accounts and annual audited accounts to the PSX well before the issuance of SCN. The Appellant further argued that the same facts were explained to the Respondent during the hearing and subsequently copies of the evidences for submission to PSX were also presented to the Commission vide letter dated 08/05/17, therefore, after achieving the compliance status, the imposition of harsh penalty on the Appellant was not justified. Furthermore, the Appellant argued that the Respondent vide order dated 26/05/17 had already refused application for renewal of licence of the Appellant, therefore, refusal of renewal of licence for not doing business actively and not having a client and at the same time imposition of fine on the Appellant was 'double jeopardy'. The Appellant stated that the Impugned Order, therefore, had no justification once a major penalty in the form of refusal of Appellant's registration as broker was imposed.

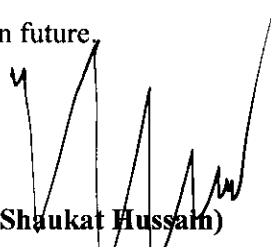
6. The Respondent rebutted the arguments of the Appellant on the grounds that the Impugned Order has established that the Appellant did not comply with regulatory obligations as it failed to submit bank details, annual financial statements and half yearly accounts within the prescribed time. The Respondent further argued that Appellant did not submit the requisite information to HOD-SSED prior to issuance of SCN nor submitted the same until the Impugned Order was passed. Moreover, the Respondent argued that the principle of 'double jeopardy' is not applicable in the instant case as the matter in issue was not the same and separate provisions of the law were invoked. Furthermore, the Respondent stated that the application for renewal of licence of the Appellant vide Impugned Order dated 26/05/16 was refused in terms of section 152 of the Securities Act as the Commission is empowered to cancel the licence if the company ceases to carry on the business for which it is licensed.
7. We have heard the parties i.e. the Appellant and the Respondent. The Appellant has argued that the Appellant due to ignorance of laws overlooked the submission of bank account details and annual/semi annual accounts to the Commission, whereas, such documents were duly




Securities and Exchange Commission of Pakistan

submitted to PSX and it was construed by the Appellant's management that the PSX would share the same with the Commission itself. Moreover, the Appellant argued that this was a case of double jeopardy as application of the Appellant for renewal of licence had already been refused, therefore, penalty should not have been imposed. The Respondent argued that the Impugned Order has established that the Appellant was not in compliance with regulatory obligations as it failed to submit bank details, annual financial statements and half yearly accounts within the prescribed time and, moreover, this was not a case of double jeopardy as separate provisions of the law were invoked and the matter in issue was not the same.

8. We are of the view that ignorance of law is no excuse and the Appellant should have ensured that all compliances were made in letter and spirit and we concur with the Respondent that this was not a case of 'double jeopardy' as the penalty in the instant matter was imposed in terms of section 150 of the Securities Act for failure to submit bank details, annual financial statements and half yearly accounts within the prescribed time while the application for renewal of licence was refused in terms of section 152 of the Securities Act. Taking a lenient view, however, given the fact that the Appellant has now complied fully with the regulatory requirements as well as given their assurance that they will fully comply with the law in future, we set aside the Impugned Order to the extent of penalty and direct the Appellant to be careful in future.


(**Shaukat Hussain**)
Commissioner (CCD-CLD)


(**Tahir Mahmood**)
Commissioner (CSD-CLD)

Announced on: **15 MAY 2018**