

4. A hearing in the matter was fixed for December 24, 2019. CE of the Company vide his letter dated December 30, 2019, sought extension in time. Therefore, another hearing in the matter was fixed for January 6, 2020. Mr. Asghar Imam Khalid FCA, being Authorized Representative of the three respondent directors of the Company appeared before me. During the hearing, the Authorized Representative submitted that the Company was dormant since 3 decades and had no funds to operate. Further, winding up proceeding of the Company was *subjudice* with honorable Sindh High Court, so the relevant provisions of the Act may not be applicable on the Company. The Authorized Representative further requested for speedy trial of winding up proceedings, and requested that the Commission needs to write to superior authority so that the matter of winding up of the Company be concluded.

5. In terms of notification S.R.O. 1545 (I)/2019 dated December 6, 2019, the power to adjudicate cases under section 236 and 232 of the Act has been delegated to Executive Director/HOD (Adjudication Department-I).

6. It is pertinent to state here the relevant provisions of section 232 and section 236 of the Act:

Section 232. Approval and authentication of financial statements.- (1) The financial statements, including consolidated financial statements, if any, must be approved by the board of the company and signed on behalf of the board by the chief executive and at least one director of the company, and in case of a listed company also by the chief financial officer.

(3) Any contravention or default in complying with requirements of this section shall be an offence liable to a penalty of level 1 on the standard scale.

Section 236. penalty for improper issue, circulation or publication of financial statements.-

If any copy of financial statements is issued, circulated or published without there being annexed or attached thereto, as the case may be, a copy each of (i) any component of financial statements, reports, or statements referred therein, (ii) the auditor's report, (iii) review reports on the statement of compliance, (iv) the director's report and (v) the statements of compliance, the company, and every officer of the company who is in default shall be liable to a penalty of level 1 on the standard scale."

7. I have gone through the facts of the case, record of the Company, relevant provisions of the Act and written submissions made by the Company and arguments made by the Authorized Representative. At the outset I would like to highlight the provisions of Section 387 of the Act which states that:

A company being wound up shall continue to be a company for all purposes till its final dissolution in accordance with the provisions of this Act and, unless otherwise specified, all provisions and requirements of this Act relating to companies shall continue to apply mutatis mutandis in the case of companies being wound up:

In the instant case, the Company's winding up petition filed in the Honorable High Court is pending adjudication so the Company has not been dissolved yet. Nonetheless, I have observed that the Company failed to submit auditor's report, review report on the statement of compliance, director's report and the statement of compliance, in contravention with the provisions of section 236 of the Act and its financial statements for the year ended September 30, 2018, were not signed, by CFO, in contravention with the requirement of section 232 of the Act. The Authorized Representative has not contested the violations and admitted the default.

8. At this juncture, it is relevant to highlight that the statements and reports provide independent view of auditors about true and fairness of financial statements and status of compliance with the



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requirements of corporate governance. The Company, failed to annex aforementioned statements and reports with its Accounts 2018, so improper financial statements were issued or circulated. The directors owe a fiduciary duty to the Company and its shareholders and must treat all the shareholders and stakeholders, whether they may be sponsors, creditors, employees or other companies or others in an equitable and just manner. They must discharge their statutory obligations diligently, in good faith with fairness and honesty. However, in the instant case, the Respondents have failed to exercise due diligence and prudent approach to ensure that the mandatory provisions of section 236 and section 232 were not being violated.

9. In view of above, I am of the considered view that the Respondents issued/circulated improper Accounts 2018, which were not signed by CFO, therefore violated the provisions of section 236 and section 232 of the Act. I therefore in exercise of power delegated under section 232 and 236 of the Act, hereby, impose an aggregate penalty of Rs. 49,500/- (Rupee forty nine thousand five hundred only) on each of the following:

S. No.	Name	Penalty (Rs.)	
		Section 232	Section 236
1.	Mr. Hafeez Azmat Sheikh, CE	9,500	8,000
2.	Mr. Khalid Azmat Sheikh, director	8,000	8,000
3.	Mr. Hamid Azmat Sheikh, director	8,000	8,000
	Total	25,500	24,000

10. All the directors/respondents are, hereby, directed to deposit the aforesaid amount of penalty in the designated bank account maintained in the name of the Commission with MCB Bank Limited within thirty (30) days from the date of this Order and furnish a receipted bank challan to the Commission forthwith. In case of failure to deposit the penalty, the proceedings under the Land Revenue Act, 1967 will be initiated for recovery of the fines as arrears of land revenue. It may also be noted that the said penalties are imposed on the Directors/Respondents in their personal capacity; therefore, they are required to pay the said amount from personal resources.

11. Before parting this Order, I, hereby, advise the Respondents to ensure meticulous compliance with applicable provisions of the Act.

12. Nothing in this Order may be deemed to prejudice the operation of any provision of the Act providing for imposition of penalties on the CE, directors of the Company in respect of any default, omission, violation of the Act.

Ali Azeem Ikram
Executive Director-HOD
Adjudication Department-I

Announced:
January 10, 2020
Islamabad



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