



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

Adjudication Department- I

Adjudication Division

ORDER	
Name of Company:	Gammon Pakistan Limited
Number and date of Show Cause Notice:	CSD/ARN/209/2015-335 dated May 24, 2024
Respondents:	(i) Gammon Pakistan Limited (Respondent 1); (ii) Mr. Muhammad Salahuddin, Chief Executive (Respondent 2); (iii) Syed Wajid Hussain Burki, Director (Respondent 3); (iv) Mr. Fazal-ur-Rehman Khan Burki, Director (Respondent 4); (v) Mr. Abdul Karim Khan, Director (Respondent 5); (vi) Mr. Muhammad Kuli Khan Khattak, Director (Respondent 6); (vii) Mr. Khalid Kuli Khan Khattak, Director (Respondent 7); (viii) Mr. Hussain Kuli Khan Khattak, Director (Respondent 8); (ix) Mr. Sikandar Kuli Khan Khattak, Director (Respondent 9)
Date(s) of Hearing(s):	(i) August 20, 2024; (ii) October 04, 2024; (iii) November 27, 2024; and (iv) December 20, 2024
Case Represented by:	Mr. Ghulam Murtaza Khurshid, Chief Financial Officer
Provision of Law Involved:	Regulation 34(2) of the Listed Companies (Code of Corporate Governance) Regulations, 2017 read with Regulation 41 thereof and Section 512 of the Companies Act, 2017

This Order shall dispose of the proceedings initiated by the Securities and Exchange Commission of Pakistan (the “**Commission**”) through Show Cause Notice No. CSD/ARN/209/2015-335 dated May 24, 2024 (the “**SCN**”) against M/s. Gammon Pakistan Limited (the “**Company**”), its Chief Executive Officer (CEO) and Board of Directors (the “**BoDs**”) (herein collectively referred as the “**Respondents**”) issued under sub-regulation (2) of the regulation 34 of the Listed Companies (Code Of Corporate Governance) Regulations, 2017 (the “**Regulations**”) read with regulation 41 thereof and read with Section 512 of the Companies Act, 2017 (the “**Act**”).

2. The brief facts of the case are that the Company is a public interest company. The review of the records available with the Commission revealed that the engagement partner namely Mr. Abdul Qadeer (the “**Auditor**”) of the audit firm namely M/s. BDO Ebrahim & Co. Chartered Accountants (the “**Audit Firm**”) signed the Company's reports on financial statements for six (06) consecutive periods, i.e. till the half-year ended December 31, 2017 and financial year ended June 30, 2018 which exceeded the maximum allowable tenure of five (05) years prescribed for the rotation of the engagement partner of a listed company.

3. In order to probe the matter, the Commission sought clarification in respect of the afore-stated violation vide letter dated April 5, 2024. In response, the Company through its letter dated April 17, 2024 admitted the violation and, *inter alia*, stated that “*the company received the half yearly review report and annual audit report for FY 2018, from the Company's appointed external auditors, M/S BDO & Co. Chartered Accountants as signed by Mr. Abdul Qadeer, the engagement partner of the Audit firm. Being a routine audit procedure every year, this error occurred due to not paying attention to the permissible tenure limit. There was no intention of any such overlooking by the Company and erroneously the same audit reports were published.*”

4. The aforesaid contravention indicated that the Auditor exceeded the maximum allowable tenure of five (05) years prescribed for the rotation of the engagement partner of a listed company which, *prima facie*, constituted a contravention of the provisions of sub-regulation (2) of regulation 34

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of the Regulations and attracted penal action under regulation 41 of the Regulations read with Section 512 of the Act. The same are reproduced as under for clear guidance:

"Sub-regulation (2) of regulation 34 of the Regulations

Rotation of auditors.- (2) All listed companies other than those in the financial sector shall, at the minimum, rotate the engagement partner after every five years.

Regulation 41 of the Regulations

Whoever fails or refused to comply with, or contravenes any requirements of the Regulations, knowingly or willfully authorizes or permits such failure, refusal or contravention, in addition to any other liability under the Act, be punishable with penalty and in case of continuing failure, to a further penalty as provided under sub-section (2) of section 512 of the Act.

Sub-Section (2) of the Section 512 of the Act

(2) Any regulation made under sub-section (1) may provide that a contravention thereof shall be punishable with a penalty which may extend to five million rupees and, where the contravention is a continuing one, with a further penalty which may extend to one hundred thousand rupees for every day after the first during which such contravention continues."

5. Taking cognizance of the aforementioned non-compliance, the Commission issued a SCN upon the Respondents, requiring them to show the cause as to why a penal action as provided under **sub-section (2) of Section 512 of the Act** may not be taken against them for the aforementioned contraventions of the law. In response, the Chief Financial Officer of the Company vide letter dated June 05, 2024, *inter alia*, stated that:

- (i) Appointment of Auditor is covered under Section 246 of the Act whereas the SCN under reference has been issued / served upon the Company and its eight (08) directors under sub-regulation 2 of regulation 34 of the Regulations (the Repealed Regulations) which were repealed through the Commission's Notification No. SRO. 1163(I)/2019 dated 25th September, 2019. Section 34(2) of the Repealed Regulations, 2017 is not the relevant Regulation under which the subject SCN has been served upon the Company and its directors.
- (ii) The rotation of engagement partner after every five years should be the responsibility of the concerned Audit Firm and not of the Company because any such requirement may not be imposed upon the directors or members of a company as they are required to appoint auditors every year in the annual general meeting of the company.

6. In order to provide opportunity of personal representation, hearings in the matter was fixed for August 20, 2024, October 04, 2024 and November 27, 2024, however, the Respondents failed to appear. Subsequently, hearing in the matter was re-fixed for December 20, 2024 when Mr. Ghulam Murtaza Khurshid (Chief Financial Officer of the Company) appeared as the Authorized Representative (**the "AR"**) on behalf of the Respondents and while admitting the default reiterated the written response submitted vide letter dated June 05, 2024. It is pertinent to note that the AR declared himself to be representing all nine (09) Respondents in the subject matter but submitted the former Authorization Instrument only on behalf of the Company.

7. I have gone through the facts of the case, considered the written and verbal submissions made by the AR, relevant provisions of the Regulations and the Act and the record placed before me. At this juncture, it is imperative to address the following factual and legal elements:

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(i) At the outset, the AR did not deny the violation of sub-regulation 2 of regulation 34 of the Regulations as the Auditor continued in this role and signed the Company's financial statements for six (6) consecutive periods, including the half-year ended December 31, 2017, and the financial year ended June 30, 2018.

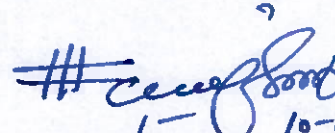
(ii) With regard to the appointment of Auditor, sub-regulation (2) of the regulation 34 of the Regulations explicitly stipulates that all listed companies, other than those in the financial sector, shall, at the minimum, rotate the engagement partner after every five years. Accordingly, the responsibility to ensure such rotation rests with the Company and its BoDs in order to achieve compliance.

(iii) The Respondents' argument that the SCN was not issued under the relevant regulations due to the repeal of the Regulations is unfounded. It is observed that the violation occurred during the years 2017 and 2018, when the Regulations were in full force.

(iv) It is observed that Syed Wajid Hussain Burki and Mr. Hussain Kuli Khan Khattak, serving as directors of the Company, retired on October 26, 2017, as reflected in Form 29 dated November 3, 2017. The AGM for appointment of Auditor for FY 2018 was held on October 27, 2017. Therefore, both individuals are not being relevant for the proceedings at hand as such.

(v) Moreover, during the arguments presented in the hearing, the AR admitted the subject violation. The Representative further explained that M/s. BDO Ebrahim & Co. continues to serve as the Company's auditors with Mr. Iffat Hussain subsequently replacing Mr. Abdul Qadeer as the engagement partner since December 31, 2018 which has been duly corroborated by the Company's financial statements for half year ended December 31, 2018, financial statements for the years ended June 30, 2019, June 30, 2020.

8. In light of the foregoing, the contraventions of the requirements outlined in the regulation 34(2) of the Regulations read with regulation 41 thereof have been duly established. However, considering the fact that the Respondents have rectified the non-compliance for the half year ended December 31, 2018, the assurance provided by the AR on behalf of the Respondents for exercising greater vigilance for adhering to legal requirements in the future and recognizing the Company's compliance history, I in exercise of the powers conferred under Section 512(2) of the Act read with S.R.O. 1545(I)/2019 dated December 6, 2019 conclude these proceedings with a strict WARNING to the Respondents. The Respondents are also advised to ensure meticulous compliance with all applicable laws henceforth.


1-10-02-2025
Sohail Qadri
Director/ HOD
Adjudication Department-I

Announced:
February 10, 2025
Islamabad.

