



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

Adjudication Department- I

Adjudication Division

ORDER	
Name of Auditor:	Mr. Imran Shaikh, Partner, Crowe Hussain Chaudhry & Co., Chartered Accountants
Show Cause Notice No. & Date:	CSD/ARN/324/2016-418 dated September 10, 2024
Respondent:	Mr. Imran Shaikh
Date(s) of Hearing(s):	i. September 26, 2024 ii. January 24, 2025 iii. February 12, 2025
Case represented by:	Mr. Imran Shaikh Partner, Crowe Hussain Chaudhry & Co., Chartered Accountants
Provision of law involved:	Regulations 27 and 36 read with Regulation 37 of the of the Listed Companies (Code of Corporate Governance) Regulation, 2019 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/324/2016-418 dated September 10, 2024 (the "SCN") issued to Mr. Imran Shaikh, Partner, Crowe Hussain Chaudhry & Co., Chartered Accountants (the "Respondent") under Regulations 36 read with Regulation 37 of the Listed Companies (Code of Corporate Governance) Regulation, 2019 (the "Regulations") read with Section 512(2) of the Companies Act, 2017 (the "Act").

2. The provisions of sub-section 1 of Section 166 of the Act requires that an independent director to be appointed under any law, rules, regulations or code, shall be selected from a data bank containing names, addresses and qualifications of persons who are eligible and willing to act as independent directors, maintained by any institute, body or association, as may be notified by the Commission. Accordingly, the Commission vide S.R.O. 73(I)/2018 dated January 25, 2018 has notified Pakistan Institute of Corporate Governance (the "PICG") as the institute for maintenance of the data bank.

3. The brief facts of the case are that the examination of the Annual Accounts for the year ended June 30, 2023 (the "Accounts 2023") of Karam Ceramics Limited (the "Company") reveals that Crowe Hussain Chaudhry & Co. Chartered Accountants (the "Statutory Auditor") was appointed as the Statutory Auditor of the Company for the year ended June 30, 2023. It was further revealed that the Company held its election of directors on November 26, 2022 in which the independent directors were elected. The review revealed that Mr. Shuja Alvi was appointed as an independent director on the Board of Directors of the Company; whereas he was not eligible to act as an independent director under the provisions of Section 166 of the Act on account of not being selected from the PICG's databank. Moreover, Mr. Alvi was also appointed as the Chairman of the Audit Committee during the year 2023 in clear contravention of the Regulation 27 of the Regulations which specifically requires that the Chairman of the Audit Committee shall be an independent director.

4. It was also found that the Statutory Auditor failed to identify these non-compliances and issued an unqualified review report on the Company's Statement of Compliance with the Regulations. This, *prima facie*, violated sub-regulation (3) of Regulation 36 of the Regulations, as the Company's Statement of

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Compliance did not explain the non-compliances regarding Mr. Shuja Ahmed Alvi's ineligibility as an independent director and his appointment as Chairman of the Audit Committee, contrary to Regulation 36(1) of the Regulations.

5. In this context and to probe the matter a clarification was sought from the Statutory Auditor vide email dated May 15, 2024, response to which was received vide email dated May 17, 2024 which, *inter alia*, stated that:

Our review report covers Company's compliance with Listed Companies (Code of Corporate Governance) Regulations, 2019 (the Regulations). In our opinion, the Regulations do not mandate the listed companies to appointment independent director from PICG database, therefore, there is no non-compliance of the Regulations.

However, such related requirement is stipulated in section 166(1) of the Companies Act, Companies Act, 2017 is applicable on the preparation of the financial statements. Our scope for audit report on financial statements is to report material misstatement related to applicable framework that is IFRS and Companies Act, 2017. In our opinion, appointment of independent director not in accordance with section 166(1) does not result in material misstatement in the financial statements, therefore, our audit report is not qualified in this respect.

6. Having being not satisfied with the aforesaid response, a SCN was issued to the Respondent to show the cause in writing as to why a penal action may not be taken for non-compliance of the mandatory requirements of the Regulations. In order to provide opportunity of personal representation, hearing in the matter was fixed for September 26, 2024. However, the Respondent failed to appear.

7. Subsequently, the Respondent vide letter dated October 07, 2024 submitted the following written response to the SCN, which is reproduced hereunder:

As per our understanding of the Regulation 6(3) of the Listed Companies (Code of Corporate Governance) Regulations 2019 (the Regulations), the Regulation requires that;

"It is mandatory that the independent director shall submit his consent to act as director, along with declaration to the company that he qualifies the criteria of independence notified under the Act...."

We also understand that the meaning and criteria of independence has been explained in Section 166(2) of the Companies Act, 2017. The Section explains the characteristics of the person being considered independent and Regulation 6(3) of the Regulations also refers to that criteria

Therefore, we were of the opinion that the Regulations do not direct the companies to select independent directors from the list of PICG, as notified by the Commission, and this requirement pertains to compliance with the Companies Act, 2017.

However, upon receiving the SCN, we reconsidered our opinion in light with the references provided in the SCN, we agree that compliance of Section 166(1) also falls under the criteria of independence as mentioned in the Regulation 6(1) of the Regulations.

We have taken immediate steps to ensure compliance at all our clients. It is also pertinent to mention that we have also modified our review report on compliance with Code of Corporate Governance of Karam Ceramics Limited for the year ended 30th June 2024 to highlight the same non-compliance.

Order in the matter of Mr. Imran Shaikh (Statutory Auditor; M/s. Karam Ceramics Limited) dated February 25, 2025

We are fully committed to ensure that our reporting responsibilities are met in accordance with all the applicable laws and regulations.

As the rectification measures have been taken, we humbly request the Commission to condone without any penal action."

8. Subsequently, in order to meet the ends of justice, another hearing was fixed for January 24, 2025; but again no one appeared. Accordingly, a final opportunity of hearing was fixed for February 12, 2025; where Mr. Imran Shaikh appeared and admitted the oversight. He further submitted that after due consideration, the Statutory Auditor has now fully implemented the correct understanding of Regulation 36 of the Regulations for all the clients. On the basis of positive and reassuring behavior, the Respondent requested for a leniency in the matter.

9. I have reviewed the facts of the case and also considered the verbal and written submissions made by the Respondent. Regulation 36 of the Regulations clearly requires the auditor to highlight any non-compliances with the Regulations. However, in the instant matter the Respondent being the Engagement Partner fell short of highlighting the non-compliances with the Regulations. Therefore, I have concluded that the violation of Regulation 36(3) has been established beyond doubt which attracts penal action in terms of Regulation 37 of the Regulations read with Section 512(2) of the Act. However, considering the Respondent's admission of oversight, subsequent rectification measures taken in this regard and commitment to ensuring future compliance, I, in light of powers vested under Regulation 37 of the Regulations and Section 512 of the Act read with S.R.O. 1545(I)/2019 dated December 06, 2019, conclude the instant proceeding by Strict WARNING the Respondent to exercise careful assessment and due diligence in ensuring compliance with regulatory requirements in the future, in true letter and spirit.


25-02-2025

(Sohail Qadri)

Director/ Head of Department
Adjudication Department-I

Announced:

Dated: February 25, 2025

Islamabad

