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SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

Adjudication Department- I

Adjudication Division

Before

Shahzad Afzal Khan, Director / Head of Department (Adjudication-I)

In the matter of

Mr. Amir Noman (Acquirer of M/s. Bela Automotives Limited)

Number and date of Show Cause Notice	2(448)SMD/Adj-1/2024-124 dated March 06, 2024
Date(s) of Hearing:	July 02, 2024
Hearing(s) attended by:	Mr. Raza Noman (Authorized Representative)

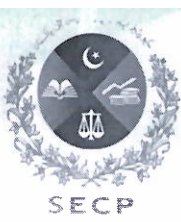
ORDER

Under Regulation 6(1), 6(2)(a) and 6(3) of the Listed Companies (Substantial Acquisition of Voting Shares and Takeovers) Regulations, 2017 read with Section 126(3)(c) of the Securities Act, 2015

This Order shall dispose of the proceedings initiated through the Show Cause Notice No. 2(448)SMD/Adj-1/2024-124 dated March 06, 2024 (the "SCN") against Mr. Amir Noman (hereinafter referred to as the "Acquirer" or the "Respondent") for his alleged failure to make Public Announcement of Intention (PAI) through the manager to the offer in the newspapers before entering into negotiations for a share purchase agreement and submit the notice of PAI to M/s. Bela Automotives Limited (hereinafter referred to as the "Target Company"), the securities exchange, and the Securities and Exchange Commission of Pakistan (the "Commission"), in contravention of the requirements of Regulation 6(1), 6(2)(a) and 6(3) of the Listed Companies (Substantial Acquisition of Voting Shares and Takeovers) Regulations, 2017 (the "Regulations") read with Section 126(3)(c) of the Securities Act, 2015 (the "Act").

2. Brief facts of the case are summarized as below:

- a. The Target Company made an announcement dated December 26, 2023 through Pakistan Unified Corporate Action Reporting System (PUCARS) of M/s Pakistan Stock Exchange Limited (PSX) on December 28, 2023, in terms of Regulation 5 of the Regulations, regarding receipt of a firm intention from the Acquirer to acquire 50% voting shares and control of the Target Company.
- b. Perusal of the aforesaid disclosure revealed that this firm intention was notified to the Board of Directors of the Target Company on December 20, 2023, and that the Acquirer has started negotiations to induct people for acquiring control of the Target Company. Moreover, the said disclosure revealed that the director(s)/chief executive and majority shareholder(s) of the Target Company have individually or in consent with each other are entering into negotiations for sale of their shareholding beyond the limits prescribed under Section 111 of the Act.
- c. In terms of Section 114 of the Act read with Regulation 6 of the Regulations, any person intending to acquire control or voting shares of a target company (attracting the provisions



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of Section 111 of the Act) is required to make a PAI through the manager to the offer, duly appointed under Regulation 6(1) of the Regulations.

- d. In terms of Regulation 6(2)(a) of the Regulations, before an acquirer enters into negotiations for a share purchase agreement, the acquirer is required to make PAI in the newspapers. Further, in terms of Regulation 6(3) of the Regulations, the notice of PAI is required to be submitted to the target company, the securities exchange and the Commission.
- e. Perusal of the record of the Commission transpired that the Acquirer failed to make the PAI *inter alia* in the manner as prescribed under Regulation 6(1), 6(2)(a) and 6(3) of the Regulations, as summarized hereinabove. The relevant department of the Commission vide letter dated January 17, 2024 requested clarification from the Acquirer regarding its afore-referred non-compliance vis-à-vis the above specified requirements of Regulation 6 of the Regulations. In response, the Acquirer vide letter dated February 16, 2024 submitted that:
- “I had shown my interest for the acquisition of the majority stock of Bela Automotive Ltd. I was informed by the Company that my interest has been disclosed and uploaded on PUCAR and copies of my letter have been sent to PSX and SECP. I am in process of appointing an approved business manager. As soon as my agreements with the business manager are finalized, I will inform the Commission and fulfill all the formalities required under the relevant regulations of the Act.”*
- f. Regulation 6 of the Regulations explicitly requires the Acquirer to make and notify the PAI through his manager to the offer, duly in the manner prescribed thereunder, even before the Acquirer entered into negotiations for the potential acquisition.

3. Considering that the public announcement of intention was *prima facie* not made by the Acquirer in the prescribed manner, a Show Cause Notice dated March 06, 2024 was served upon the Respondent for alleged contravention of Regulation 6(1), 6(2)(a) and 6(3) of the Regulations read with the penal provisions of Section 126(3)(c) of the Act.

4. The Respondent submitted his response to the SCN vide letter dated March 16, 2024, the relevant extracts of which are reproduced below:

“My intention was to acquire a sick non-functional unit and revive it by injecting capital and technical expertise whereby bringing value to the shareholders of the company. In that I was taking advice from a financial company...I was later informed by them that they presently are not licensed to take the assignment as a Business Manager. I am presently in the process of appointing another Business Manager, and as soon it is finalized I will inform the authority.

...I had shown my interest for the acquisition of the majority shares of Bela Automotive Limited. I



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was informed by the company that my interest has been disclosed and uploaded on PUCARS and copies of my letter have been sent to the SECP. I am in the process of appointing an approved Business Manager and I'm positive of a positive early outcome. As soon as my agreement with the Business Manager is finalized, I will inform the Commission and fulfill all the formalities required under the relevant regulations of the Act. I shall make a Public Announcement as soon as my agreement with Business Manager is finalized and negotiation with the target company, through the Business Manager are either in process or concluded I shall do the needful as required under the law...I have not gone into any negotiations with the target company. I will only go into negotiations once all legal requirements are fulfilled and in accordance with the law...

Keeping in view our good intentions for revival of a sick unit and bringing value to the shareholders' investment, it is requested that the observations mentioned may be condoned as we shall abide by all the relevant regulations comply in future..."

5. In order to meet the ends of justice and provide an opportunity of being heard to the Respondent, a hearing was scheduled vide hearing notice dated April 22, 2024 for April 30, 2024; however, the Respondent requested for an adjournment of the said hearing. Accordingly, another hearing was fixed for May 20, 2024, which was thereafter adjourned as well. Subsequently, another hearing was scheduled for May 27, 2024; however, the same was also adjourned on the request of the Respondent. A final hearing opportunity was accorded to the Respondent vide hearing notice dated June 25, 2024 for July 02, 2024, which was attended by Mr. Raza Noman being the Authorized Representative of the Respondent. During the course of hearing, the Representative was inquired regarding the contraventions of the law as alleged in the SCN. The Representative reiterated the written submissions. The Representative further informed that the Respondent has duly appointed his manager to the offer and made the requisite compliance regarding PAI. Accordingly, the Representative was advised to submit documentary evidence with regards to appointment of manager to the offer and publication of PAI.

6. Subsequent to the hearing, the Respondent vide letter dated July 10, 2024 furnished a letter from his manager to the offer dated June 10, 2024 addressed to the PSX, the Target Company and the Commission, demonstrating that the Respondent has duly appointed the manager to the offer and submitted the PAI under the Act and the Regulations. The Respondent has further submitted that:

"I am the Sole Proprietor...conducting business in the automotive industry. In the course of my business, I require various parts, bolts, nuts etc., which are mainly imported. Due to import restrictions on account of the economic situation in the Country, I was facing considerable difficulties in running my business. While exploring local substitutes, I came to learn of Bela Automotives Limited (the "Target Company"), which had the capacity to produce the parts required in my business but had been out of operation for some years due to financial and other issues. I was presented with the opportunity to acquire 50% voting shares of the Target Company and take-over the management with the aim of reviving the business.



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By way of a letter dated December 20, 2023, I notified the Board of Directors of the Target Company of my firm intention to acquire 50% voting shares. Thereafter, before entering into negotiations for the acquisition of such shares, I engaged...[firm] to act as manager to the offer and started working towards a public announcement of the intention ("PAI"). Subsequently, it transpired that...[the said firm] did not hold the requisite license to act as the manager to the offer and therefore the publication of the PAI was stopped and the intended negotiations for the acquisition of the shares were not taken forward. I fully intend to carry out this transaction and revive the Target Company, which is a sick unit.

I have therefore now engaged...Securities Ltd. to act as the manager to the offer...[MTO] has already submitted notice of the PAI to PSX and the Commission by way of its letter dated June 10, 2024 and the PAI has also been published in two leading newspapers. I have thereafter also commenced negotiations for the acquisition of 50% voting shares of the Target Company and intend to execute a Share Purchase Agreements as soon as the terms are finalized. In view of the above, you will appreciate that there is no deliberate non-compliance in the present case. Furthermore, given my positive intention of revising a sick unit, the Commission may kindly take a lenient view of any lapses and not take any penal action against me..."

7. I have gone through the relevant provisions of Regulation 6(1), 6(2)(a) and 6(3) of the Regulations read with Section 114 of the Act and submissions made by the Respondent in his written response as well as during the course of hearing through his Authorized Representative. I have also perused Section 126(3)(c) of the Act, which stipulates penal provisions for contravention of the afore-referred provision of law. I have noted the following pertinent aspects vis-à-vis the submissions made by the Respondent:

- a. The provisions of Regulation 6(1), 6(2)(a) and 6(3) of the Regulations read with Section 114 of the Act mandate a potential acquirer intending to acquire control or voting shares of a target company to publish the PAI through a duly appointed manager to the offer. In terms of Regulation 6(2)(a) of the Regulations particularly, the publication of PAI is mandated even before entering into negotiations for a share purchase agreement. The cruciality of making timely disclosures and publication of intentions or offers, as the case may be, in relation to the takeover transactions is deeply embedded within the takeover laws and cannot thus be overemphasized.
- b. Be that as it may, the Respondent through his written submissions and during the course of hearing held on July 02, 2024 has demonstrated active efforts and willingness to engage a manager to the offer in a timely manner i.e. well before the initiation of negotiations for shares acquisition. However, owing to the fact that the business manager intended to be appointed by the Respondent did not hold the requisite license of Consultant to the Issue, the timely publication of PAI and the intended negotiations for shares acquisition was halted. Nevertheless, the documentary evidence submitted by the Respondent subsequent to the hearing clearly shows that the requisite PAI has been made on June 10, 2024 through a manager to the offer duly licensed as a Consultant to the Issue by the Commission.



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- c. Given the above turn of events, the Respondent has maintained that there is no deliberate non-compliance on his part, and considering his positive intent to revive a sick unit, the Respondent has requested for condonation of any regulatory lapses. The Respondent has also shown his commitment to ensure due compliance of all applicable laws in the future.

It is evident from the above that the questioned lapse on part of the Respondent in making the PAI in the manner prescribed under Regulation 6(1), 6(2)(a) and 6(3) of the Regulations read with Section 114 of the Act was not willful and was, in fact, an inadvertent non-compliance that the Respondent has duly rectified subsequently.

8. In view of the above-stated facts, circumstances and submissions made by the Respondent, particularly the unintentional regulatory lapse as well as commitment for future compliance on part of the Respondent, I, in exercise of the powers conferred upon me under Section 126(3)(c) of the Act, am inclined to conclude the instant proceedings with a warning to the Respondent to ensure meticulous & timely compliance with all applicable laws including the Regulations & the Act in true letter and spirit in the future.

9. This Order is being issued without prejudice to any other action that the Commission may initiate against the Respondent and / or its management (including CEO of the Respondent) in accordance with the law on matters subsequently investigated or otherwise brought to the knowledge of the Commission.

(Shahzad Afzal Khan)
Director / Head of Department
(Adjudication Department-I)

Announced:
July 12, 2024
Islamabad

