



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

Adjudication Department- I

Adjudication Division

ORDER	
Name of Company:	M/s. Sitara Peroxide Limited
Show Cause Notice No. & Date:	CSD/ARN/543/2018-391 dated April 30, 2025
Name(s) of Respondent(s):	1. Mr. Yasir Ahmed Awan, Chairman; 2. Mr. Imran Ghafoor, CEO/Director; 3. Mr. Haroon Ahmed Zuberi, Director; 4. Mr. Junaid Makda, Director; 5. Mrs. Sharmeen Imran, Director; 6. Mr. Saqib Anjum, Director; 7. Mr. Saim Bin Saeed, Director; and 8. Mr. Shahid Irshad, Chief Financial Officer.
Date(s) of Hearing(s):	i. May 20, 2025; and ii. May 27, 2025.
Case Represented by:	i. Mr. Yasir Ahmed Awan; ii. Mr. Junaid Makda; iii. Mr. Saqib Anjum; and (Representing themselves) iv. Mr. Rashid Sadiq, Managing Partner, RS Corporate Advisory (as the Authorized Representative for Respondents No. 2, 3, 5, & 7).
Provisions of law involved:	Section 237 of the Companies Act, 2017 read with Section 479 thereof and Circular No.11 of 2023 dated August 11, 2023
Date of Order:	June 12, 2025

This Order shall dispose of the proceedings initiated by the Securities and Exchange Commission of Pakistan (the "Commission") through the Show Cause Notice No. CSD/ARN/543/2018-391 dated April 30, 2025 ("SCN") against the Board of Directors ("BOD"), Chief Executive Officer ("CEO") and Chief Financial Officer ("CFO") of M/s. Sitara Peroxide Limited (the "Company"), hereinafter collectively referred to as the "Respondents", under Section 237 of the Companies Act, 2017 (the "Act") read with Section 479 thereof and Circular No.11 dated August 11, 2023 (the "Circular").

2. The provisions of sub-section (1) of Section 237 of the Act requires all public listed companies to prepare its Quarterly Financial Statements ("QFS") within (30) thirty days of the close of their first and third quarters of their year of accounts and within (60) sixty days of the close of their second quarter of their year of accounts. Sub-section (2) of Section 237 of the Act requires the listed companies to post on their website QFS for information of members and also electronically transmit the same to the Commission, securities exchange and with the registrar within the period specified under sub-section (1).

3. The brief facts of the case are that the Company, being a public listed company, was required to file/electronically transmit its QFS for the second quarter ended December 31, 2024 with the Registrar/Commission, within sixty (60) days of the close of the said quarter i.e. latest by March 01, 2025. However, as per the relevant record of the Commission, it has, *prima facie*, failed to file/transmit the aforesaid QFS with the Registrar/Commission.

4. Furthermore, as per the requirements of the Circular, all listed companies are *inter alia* required to file their QFS through eService/eZfile of the Commission, and such filing is considered as compliance of Section 237(2) of the Act with respect to filing/transmission of QFS to the Commission/Registrar. The relevant provisions of law are reproduced hereunder:

"237. Quarterly financial statements of listed companies. — 1) Every listed company shall prepare quarterly financial statements within a period of :-
a) thirty days from the close of first and third quarters of its year of accounts; and
b) sixty days from the close of its second quarter of its year of accounts.

(2) *The quarterly financial statements shall be posted on the company's website for the information of its members and also be transmitted electronically to the Commission, securities exchange and with the registrar within the period specified under sub-section (1).*

(3).....

4) *If a company fails to comply with any of the requirements of this section, every director, including chief executive and chief financial officer of the company who has by his act or omission been the cause of such default shall be liable to a penalty of level 2 on the standard scale."*

5. Taking cognizance of the alleged violation of law, SCN was served upon the Respondents to show the cause in writing as to why a penal action may not be taken against them for non-compliance of the requirements of Section 237 of the Act read with the Circular.

6. Although no response to SCN was received, however, in order to provide an opportunity for personal representation to the Respondents, a hearing in the matter was fixed for May 20, 2025, wherein Mr. Yasir Awan, Mr. Junaid Makda and Mr. Saqib Anjum appeared in their personal capacities as **Respondent No. 1, 4 and 6**. An adjournment request dated May 20, 2025 was received from Mr. Rashid Sadiq (Corporate Consultant), as **Authorized Representative of Respondent No. 2, 3, 5 and 7 (the "Authorized Representative")**. During the hearing proceedings, the **Respondent No. 1, 4 and 6** *inter alia* made the following submissions:

- i. *Both the BoD and shareholders have been continuously deprived of critical information that should be communicated by the Company.*
- ii. *The Company Secretary, who also serves as Secretary in another company, is deliberately neglecting his responsibilities in the Company and should be held responsible for failing to undertake his due regulatory responsibilities in the instant matter.*
- iii. *Despite several calls, messages, and visits to the Karachi Office of the Company to meet the Company Secretary, he refused to comply with the directions of Mr. Yasir Ahmed Awan who is the Chairman of the BoD.*
- iv. *One of the Independent Director, being the close relative of the CEO, is obstructing the proper functioning of the BoD by not playing his due role.*
- v. *The Company's business is shut down with no ongoing operations, and the status of the factory is unknown.*
- vi. *The CEO and CFO, both based in Faisalabad withhold all necessary information and are unwilling to share it with the members of the BoD.*

7. Subsequently, **Respondent no. 1, 4 and 6** shared copies of emails of Mr. Yasir Ahmed Awan to substantiate their claim of making concerted and sincere efforts to ensure the Company's compliance to Section 237 of the Act. The details of Mr. Yasir Ahmed Awan's emails and brief contents thereof are as under:

- i. April 18, 2024, wrote to the BoD seeking consent for convening a Board meeting to ensure compliance with Section 237 the Act;
- ii. June 20, 2024, addressed to the Company Secretary, Mr. Mazar Ali Khan, requested issuance of notice for the BoD meeting, along with the proposed agenda for discussion on non-compliance of Section 237 the Act;
- iii. July 4, 2024, submitted a complaint to the Chairman, SECP, detailing negligence on the part of the Company Secretary in issuing notice for the BoD meeting and further mentioned that the Answering Respondents are the only directors giving consent for the meeting.

- iv. October 30, 2024, lodged a complaint to the Chairman, SECP, pointing out noncompliance of Section 237 the act, due to failure to present the QFS for the quarters ended September 2023, December 2023, March 2024, and September 2024 before the BoD.
- v. March 24, 2025, wrote to the Company Secretary, Mr. Mazhar Ali Khan, regarding the pendency of compliance under Section 237 of the Act, also highlighting the Commission's previous Order through which the Commission warned to ensure meticulous compliance of law in future in letter and spirit.

8. Another hearing in the matter was fixed for May 27, 2025 which was again attended by Mr. Yasir Awan, Mr. Junaid Makda and Mr. Saqib Anjum in their respective personal capacities as **Respondents No. 1, 4 and 6** reiterating their previous submissions. Furthermore, the Authorized Representative appeared on behalf of **Respondent No. 2, 3, 5 and 7**, *inter alia*, submitted as under:

- i. *Due to the shortage of funds and the required staff, AGM for FY 2024 was delayed and consequently the QFS could not be prepared and filed/transmitted in a timely manner.*
- ii. *The plant of the Company has been shut down since June 2023 and all the workers of the Company have been released/laid off.*

9. The Authorized Representative subsequently also submitted written response vide letter dated May 29, 2025 which *inter alia* stated as follows:

We act for and on behalf of four (4) Directors (hereinafter the 'Respondents') of Sitara Peroxide Limited (hereinafter the 'Company') and write with reference to the Show Cause Notice dated 30 April, 2025 bearing references No. CSD/ARN/543/2018/391 (hereinafter the 'SCN') issued to the Respondents under Section 237 read with Section 479 of the Companies Act, 2017 (hereinafter the 'Act') and hearing held in the matter. Letter of authority has already been provided.

As you are well aware and specifically informed at the time of hearing of the case that the Company has not held its annual general meeting for the year 2024 as audited accounts are not available. While efforts are being made to get audited accounts for the year 2024 from external auditors as soon as possible and hold its annual general meeting for the year 2024, it is submitted with respect that if the annual audited accounts of a listed company are not available, the subsequent interim accounts of the said listed company cannot be released to Pakistan Stock Exchange Limited (hereinafter 'PSX') and others unless annual audited accounts are released.

The interim financial statements for the period ended 31 December, 2024, which is the subject of the SCN, cannot be released unless annual audited financial statements for the year ended June 30, 2024 are prepared as has been held in the judgment of the Commission in the matter of World Call Telecom Limited dated 11 March, 2022 which will be discussed in more details hereinafter.

As the Company is a listed company, it is paramount that the results released on the Pakistan Stock Exchange Limited (hereinafter 'PSX') for the benefit of the public shareholders reflect an accurate picture of the financial health of the Company. Rule 5.6.7 (b)' of the PSX Rulebook provides that "In case a Listed Company or Issuer of a Listed Security fails to communicate accurate and complete financial results or any price sensitive information in a timely manner the CEO as well as the CFO of such listed Company or Issuer will be liable to pay a penalty of a minimum PKR 100,000/- (Rupees one hundred thousand only) and a maximum penalty of up to PKR 1,000,000/- (Rupees one million only) to be determined by the Exchange. Provided that in case of continuing contravention with respect to communication of complete and/ or accurate financial results or noncompliance with the directions issued by the Exchange, an additional amount of penalty

amounting to PKR 10,000/- for every day after the first day during which such contravention or default continues, may be imposed by the Exchange."

The quarterly accounts are connected with the preceding annual audited accounts i.e., accounts for the year ending 30 June, 2024. This is because before issue of auditors report several possible contingencies, provisioning, changes and amendments may be made to the accounts as a result of which closing balances are created which in turn form the basis for the opening balances of the next year. Therefore, it is not possible for a listed company to release its quarterly accounts without first finalizing the preceding fiscal year's audited annual accounts. This position is recognized by Securities and Exchange Commission of Pakistan (hereinafter the 'SECP') itself in Appeal No. 79 of 20192 (Directors of Agritech Limited) through Order dated 30th December 2020 whereby the Appellate Bench of the SECP held that:

"The Bench is of the view that the Annual Accounts were approved on May 31, 2019, therefore, preparation and filing of Quarterly Accounts on or before April 31, 2018 was not possible. The Bench is of the view that delay in approval of the Annual Accounts in the AGM has inevitably caused delay in filing of the Quarterly Accounts."

The above judgement of the SECP categorically provided the view that quarterly accounts preparation and filing before the approval of annual audited accounts is not possible.

It is further noted that the applicable law remains silent in circumstances where the delay in the issuance of annual audited financial statements exceeds thirty days, and no specific legal provision exists to address situations in which interim financial statements cannot be submitted to the SECP. While the SECP has not issued any guidance on the treatment or release of interim or quarterly financial statements pending the issuance of annual audited accounts, relevant precedents of the SECP clearly establish that a listed company is not permitted to release such interim or quarterly accounts in these circumstances. In light of the foregoing, we respectfully reiterate our request for the SECP to issue appropriate guidance on this matter to facilitate compliance by regulated entities, in accordance with its mandate under the Securities and Exchange Commission of Pakistan Act, 1997.

Reliance is placed on the principle enshrined in Article 25 of the Constitution as well as Section 20(6)(c) of the SECP Act that provides for the requirement of uniformity and consistency in performance of the Commission's functions and the exercise of its powers. The superior judiciary of Pakistan has highlighted the importance of the equality principle in several cases. A few cases are cited as follows.

PLD 2012 Supreme Court 421 the Supreme Court of Pakistan held in Paragraph 1 thereof that, "The raison d'etre or object of all laws is to regulate the affairs of a society in uniformity and through such uniformity to establish a just order. However, when in order to achieve and dispense justice in individual cases exceptions are contrived or laws are disregarded that promotes confusion and breeds anarchy which, at the end of the road, disturbs social harmony and contributes towards injustice."

In the case cited as 2001 SCIMIR 1320 the Supreme Court of Pakistan held in Paragraph 4 thereof that, "It is well settled by now that the "Principal object behind all legal formalities is to safeguard the paramount interest of justice - Legal precepts were devised with a view to impart certainty, consistency and uniformity to the administration of justice and to secure same against arbitrariness, errors of individual judgment and mala fides."

In the case cited as PLD 2009 Lahore 362 the Lahore High Court held in Paragraph 3 thereof that, "The quintessence of the civilization's evolution and growth in the legal field is a progression from dispensation of justice according to the principle of "justice, equity and good conscience" to "justice according to the law". The rationale or raison d'etre for

this momentum, quite easy to discern and comprehend, is that justice ought not to be administered according to the whims, caprice or subjective standards of an individual Judge but it should be dispensed according to some codified or stipulated standards so as to render the outcome consistent and reasonably predictable. Predictability of judicial response to an action or inaction of a person is important because, by and large, people living in a community adapt or mould their conduct keeping in view the law of the land and a probable judicial reaction to their actions or inactions. The essence, therefore, is that, proverbially speaking, justice should not vary with the size of the Chancellor's foot but a person inviting a legal intervention into his conduct should be able to appreciate in advance as to how he is likely to be treated by a Judge dealing with application of the relevant law to that person's conduct. Uniformity and standardization of judicial response to similar legal situations cannot, thus,

In an unreported case of Nishat Mills Limited, the Lahore High Court in Commercial Appeal No. 1 of 2015, an appeal under Section 34 of the SECP Act, held in Paragraph 4 thereof that, "This Court has gone through the orders passed by SECP in a number of cases in which delay in filing the Form 31 was condoned. The perusal of these orders clearly show that SECP condoned the delay on the assurance and undertaking given by the defaulters for timely filings of the returns in future. The delay in some of these cases was much more blatant than the appellant's but SECP still condoned the same. This rule was, however, not followed in the case of the appellant which was saddled with the fine of Rs. 20,000/. The case of the appellant is at par with the cases of those companies where delay was condoned and fine was not imposed and as such the appellant was entitled to the similar treatment."

Appellate Bench of the SECP itself has acknowledged the importance of the equality principle in the case cited as 2017 CLD 686 it was held in Paragraph 15 thereof that, "The bench has also observed that the Respondents have taken different actions for the same default in the past. This act tantamount to discrimination. Law required equal and fair treatment. Further section 24A of the General Clauses Act requires that fair trial be provided. The Commission should have a uniform approach in exercising powers and functions,"

In the said matter, the SECP Appellate Bench proceeded to setting aside the penalty imposed. In Appeal No. 29 of 2016 (Paramount Spinning Mills Limited, Mr. Salman Chawala), it was held in paragraph 10 thereof that, "In the above circumstances it is mandatory for the Bench to follow Principle of consistency in order to maintain balance and the doctrine of equality before law as enshrined in Article 4 and 25 of the Constitution of Islamic Republic of Pakistan, 1973. Therefore, we hereby allow this appeal and set aside the Impugned Order to the extent of the appellant..."

The aforementioned judgments of the Honourable Court, as well as the determinations of the SECP, unequivocally establish that the relevant departments have issued orders that are discriminatory in nature. Such actions were held to be contrary to the principles of fair treatment, consistency in the exercise of regulatory powers and functions, and the doctrine of equality before the law, as enshrined in Articles 4 and 25 of the Constitution of the Islamic Republic of Pakistan.

There are a large number of cases, some of which are presented as follows, in which SECP condoned the delay in filing of quarterly accounts under Section 237 of the Act. The reasons provided for the delay in some of these cases appear to be much less strenuous than the circumstances faced by the Company. The facts of each case are similar to the facts of the case in hand. If there is any distinction in facts, the order must be distinguished one by one for fair treatment and to uphold the doctrine of equality before the law, as enshrined in Articles 4 and 25 of the Constitution of the Islamic Republic of Pakistan as held in above judgements:

In order dated 11th March 2022 in the case of WorldCall Telecom Limited in the case of delay for filing of half yearly accounts under Section 237 of the Act the non-compliance was attributable to the backlog of financial statements as a result of delay in convening of the Company's AGM and it was held that:

The pertinent provisions of the statute have been violated, and the Respondents are liable to penal action in terms of Section 237 of the Act as a result of failing to electronically transmit the Company's interim financial statements for the period ended June 30, 2021 with the Commission within the statutory timeframes.

However, the non-compliance is attributable to the backlog of financial statements as a result of delay in convening of the Company's AGM for the year ended December 31, 2020 which was held on July 30, 2021 and the half yearly accounts for the period ended June 30, 2021 were subject to limited scope review by the statutory auditors, hence not concluded within the statutory timeframe. Therefore, I hereby conclude the proceedings with a cautionary advice to the Respondents to ensure meticulous compliance of the law in the future."

In the above case, the order notes that the interim accounts are yet to be filed with the Commission and the same has not been disseminated through the PSX.

In SECP Orders all dated 21st April 2022 for delay in filing of various quarterly and half yearly accounts by K-Electric Limited under Section 237 of the Act, no penalty was imposed for longer delays in preparation and filing of quarterly accounts.

In SECP Order dated 12th November 2020 no penalty was imposed on Pakistan Engineering Company Limited for the delay in filing quarterly accounts under Section 237 of the Act. The said Order stated that, "... however, given correspondence of NAB as well as the Ministry, the matter was beyond the control of the Respondents to convene its board meeting and thereby approve the requisite quarterly financial statements ..."

In SECP Order dated 5th July 2022 no penalty was imposed on Burshane LP'G (Pakistan) Limited for the substantial delay in filing of quarterly statements under Section 237 of the Act).

In SECP Order dated 22nd February 2018 a lenient view was taken and no penalty was imposed on Azmat Textile Mills Limited for the failure to timely file quarterly statements under Section 245 of the now repealed Companies Ordinance, 1984 (para materia provision to Section 237 of the Act) considering the peculiar circumstances of the company. The peculiar circumstances were that the said company was dormant since the year 1993, was on the PSX defaulter counter and the business activities of the company were halted.

In SECP Order dated 3rd May 2018 no penalty was imposed on Mandviwalla Mauser Plastic Industries Limited for the failure to timely file quarterly statements under Section 245 of the now repealed Companies Ordinance, 1984 (para materia provision to Section 237 of the Act) as the company has made a firm commitment to timely comply with the mandatory statutory requirements in the future.

In SECP Order dated 23rd August, 2017 no penalty was imposed on Husein Industries Limited for the failure to timely file quarterly statements under Section 245 of the now repealed Companies Ordinance, 1984 (para materia provision to Section 237 of the Act) as the company made a firm commitment to timely comply with the mandatory statutory requirements in the future.

There are a large number of orders of the SECP, the above are some of the said precedents. Copies of all orders can be provided if so required in aid of argument of uniformity and equality as mandated by Section 20(6)(c) of the SECP Act, 1997 as well as Article 25 of the Constitution of Pakistan. SECP's Appellate Bench has also rules against discriminatory treatment of regulatees.

That there must be a substantial finding of guilt before application of stringent penal provisions, has been categorically instructed by the Supreme Court of Pakistan in its judgment in the matter of Securities and Exchange Commission of Pakistan First Capital Securities Corporation Limited (2011 CLD 907, PLD 2011 SC 778) in the following terms:

It should also be clarified that since the penal provision is stringent in nature it should be applied in an appropriate manner. In applying such a provision SECP should always bear in mind the importance of determining not merely a technical contravention but a substantial finding of guilt in relation to the person on whom the fine or penalty is being levied. It is not sufficient either in the case of this law, or any other law, merely on the basis of a technical contravention to arbitrarily impose a fine of either the full amount or 50% or 75% or any other arbitrarily chosen figure; a condign punishment is the requirement of law and equity."

In view of the established case law concerning the requirement to determine guilt prior to the imposition of any penalty, it is respectfully submitted that the Respondents cannot be held liable in the present circumstances, as the audited financial statements of the Company are yet to be finalized for the year ended 30 June, 2024, as outlined hereinabove. The existing backlog will first be addressed and cleared before the preparation, issuance, and filing of interim financial statements can be undertaken.

None of the Respondents by his act or omission has been the cause of the delay alleged in the SCN which is purely due to non-finalization of the annual audited accounts. With regards to the requirement for establishing willful non-compliance, the Appellate Bench of the SECP has ruled in Appeal No. 44 of 2014 in the matter of re: Fauji Company Limited vs. Director (MSRD) dated 24 August 2015 that:

"Moreover, penalty can only be imposed under Section 224 (4) of the Ordinance if the failure to comply was willful which has not been established on the facts of the instance case."

Similarly, in re: Next Capital Limited vs. Director (MSRD) Appeal No. 26 of 2015 dated 24 July 2015, it was held by the Appellate Bench that:

"The word "willful" can be used interchangeably with the word "intentional". Reliance is placed on the Lahore High Court Judgement of Pakistan Indus Promoters Limited v. Monopoly Control Authority (1990) CLC 1008, wherein, it was held that, the word willful means, "... an act done intentionally, knowingly or purposefully as distinct from the one done carelessly, thoughtlessly or inadvertently..."

That the delegation of power to the Head of Wing (Adjudication-1) is unlawful where the delegation has been made under Section 10 of the SECP Act and not in accordance with the requirements of Section 479 (4) of the Act. The powers under Section 479(3) and (4) of the Act cannot be delegated in its entirety to any officer by the Commission under Section 10 of the SECP Act and the Commission is empowered to delegate such powers only with respect to any case or class of cases by an order in writing under Section 479(4) of the Act which not being done, the exercise of jurisdiction is not lawful as no order in writing was passed with respect to any case or class of cases as mandated under Section 479(4) of the Act. The delegation of powers under Section 479 of the Act cannot be achieved through a notification under the SECP Act which is different in

character and additionally it cannot be allowed to make the role of the registrar redundant for purposes of the Act which expressly requires adjudication by the registrar.

Without prejudice to the submission that delegation of powers of the Commission. is contrary to the express provisions of Section 10 of the SECP Act, such delegation of powers / functions of the Commission without imposition of any conditions and rationality is also contrary to established principles of delegation of powers.

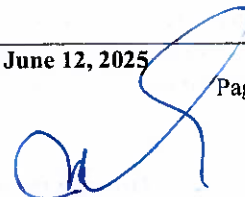
Where such delegation lacks structure, the same is unlawful, as observed through the ruling of the honorable Supreme Court of Pakistan that instructs that the 'more important the power, responsibility or function being considered for delegation, the higher must be the "threshold" for the Authority in deciding not to impose any conditions and vice-versa' and that in case of delegation of more important power, responsibility or function, the threshold, and in effect, the discretion to not impose conditions starts to dissipate (M/s Fun Infotainment (Put) Limited/NEO T.V., Lahore vs. Pakistan Electronic Media Regulatory Authority & others, PLD 2024 SC 23016 and Pakistan Electronic Media Regulatory Authority, vs. Pakistan Broadcasters Association and others, 2023 SCMR 1043.

In view of the foregoing submissions, it is respectfully requested that the SCN issued to the Respondents be withdrawn without further proceedings. The Company undertakes to ensure full compliance with the requirements of Section 237 of the Companies Act, 2017, upon availability of the audited financial statements for the year 2024, which the Respondents are diligently working to finalize at the earliest possible time.

10. I have gone through the relevant provisions of Section 237 of the Act and the requirements of the Circular, and considered the facts of the case, available record of the Company, as well as written and verbal submissions of the **Respondent No. 1, 4 and 6** and the **Authorized Representative**. I have also perused Section 237(4) of the Act, which stipulates penal provisions for contravention of the afore-referred provisions of law. It is noted that Section 237(2) of the Act clearly mandates transmission of QFS within sixty (60) days of the close of the second quarter of year of accounts. The timing of QFS submission is of critical importance. QFS are a crucial source of information for the stakeholders, especially shareholders of a listed company. It provides timely insights into a company's financial performance and such information is essential for assessing the company's overall financial health.

11. The provisions of Section 237 of the Act unambiguously and explicitly obligate the Company to file/transmit its QFS in a timely manner. In this respect, reliance is placed on an order dated March 01, 2023 passed by the Appellate Bench of the Commission ("**AB**") (in Appeal No. 73 of 2022- Gulistan Textile Mills Limited, vs. SECP), whereby it was held, "a public listed company has higher responsibility to disseminate true and accurate state of affairs to all the stakeholders in a timely manner so that they may take appropriate decisions". Similarly, in 2024 CLD 672 [Appeal No. 77 of 2021 decided on August 25, 2023], the AB held that "...interim financial statements prepared accurately and in timely manner, provide a reliable source of information regarding a company's financial position and performance to its users, besides illustrating regarding the results of the management's stewardship of resources entrusted to it..." The significance of transmitting QFS of a listed company in a timely manner is also reverberated in 2024 CLD 635 – Appeal No. 78 of 2021 decided on August 25, 2023 and 2024 CLD 415 – Appeal No. 97 of 2020 decided on August 25, 2023.

12. It is pertinent to note that ensuring timely compliance with legal and regulatory requirements is the fundamental responsibility of the BOD. Under the fiduciary duty to obey law, "Directors have a duty to comply with the law". In 2019 CLD 355 Islamabad [Inam Ullah Khan vs Aksa Solutions Development Services (Pvt.) Ltd] wherein it was highlighted that, "It is settled law that Director of a company are saddle with the duty of loyalty, trust and utmost good faith. They are under a duty to act with diligence and care.



Such a duty is termed as 'fiduciary'. The Directors, therefore, owe a fiduciary duty towards the shareholders and company".

13. Furthermore, during the SCN proceedings, no discrimination has been made and the Respondents were provided adequate opportunity of hearing and has been treated in a fair, transparent manner and strictly in accordance with the applicable laws. Hence, no violation of Articles 4 and 25 of the Constitution of 1973 and Section 20(6) (c) of the SECP Act, 1997 may be attributed in reference to the instant proceedings and reliance on case, Paramount Spinning Mills Limited is not cogent. Moreover, it is pertinent to note that the instant proceedings are under Section 237 of the Act and not under the PSX Rule book, further, the Authorized Representative's contention of providing guidance by the Commission on this matter is not part of the instant proceedings.

14. The Authorized Representative's reliance on cited precedent cases is neither applicable nor relevant to the facts of this case. In this regard it is important to understand that every case has its own peculiar facts and circumstances therefore, decisions of past cases may not be mechanically applied to this case. It is also important to note here that mere mentioning of different case laws or citations does not meet the requirements to establish, that facts of the case in hand are similar to the precedents. Therefore, vague and sweeping arguments are of no use to distort the establish violations of this case. In instant matter the Respondents have failed to comply with the requirements of Section 237 of the Act, whereas, in cited case law of Nishat Mills Limited 2017 CLD 686 Appeal No. 29 of 2016, World call Telecom Limited, K-Electric Limited, Citi Pharma Limited, Burshane LPG (Pakistan) Limited, AGP Limited, Mandviwalla Mauser Plastic Industries Limited, Husein Industries Limited and Azmat Textile Mills Limited, the facts of cases were different. In view thereof, *ratio decidendi* of the cases relied upon by the Respondents has no bearing on the merits and facts of this case.

15. In the context of the Authorized Representative's argument for equal treatment on the basis of binding precedents for just and fair dispensation of justice, it is stated that every case has distinct facts and circumstances, therefore, decision in one case may not be treated as binding precedent for other cases. Furthermore, in the judgement of the Islamabad High Court in the case of *PKP Exploration Limited vs Federal Board of Revenue* (PTD 2021, 1644), it was held that decisions of quasi-judicial forums in one case are not binding for other similar cases before such tribunal. For reference relevant abstract of the judgement is reproduced below:

"13..... Given that it is an adjudicatory forum of a quasi-judicial nature established by statute, it is vested with no inherent power.The consequences of the decision of the Tribunal are limited to the case it decides and do not travel beyond the four corners of the subject-matter before it in appeal. In other words, neither the Constitution nor any statute envisages a law-declaring function for the Tribunal. Its decision do not become binding precedents. The reasoning of the Tribunal in one case could be treated by tax authorities as a persuasive precedent in a subsequent case where the subject-matter is the same or similar. But the persuasive quality or cogent reasoning of a decision of the Tribunal does not transform it into a legally binding precedent for officials exercising executive or adjudicatory authority under tax, statutes, just as the most compelling and potent decisions of District Courts do not make such decisions binding precedents. "

It is evident from the aforesaid that the precedents may be considered as reference but are not binding for the competent forum.

16. The argument put forth by the Authorized Representative that for not preparing, filing/transmitting the QFS for the period ended December 31, 2024, was mainly because of financial distress and lack of key personnel is not cogent. As the requirement to prepare and submit QFS within the prescribed timelines is mandatory under the law and remains applicable. The QFS was not filed/transmitted; thereby contravening the requirements under Section 237 of the Act read with the Circular. However, none of the explanations

justify the non-compliance with the statutory requirement and instead highlight inadequate governance and contingency planning by the Company. Pakistan Case Laws - Pakistan Telecommunication Company Limited vs. Wateen Telecom Limited (CLD 2019 Lahore 1213): The Lahore High Court held that "the failure to maintain a backup system for critical infrastructure was not a force majeure event, but rather a result of the company's own negligence". Ensuring timely compliance with legal and regulatory requirements is the fundamental responsibility of the BOD, regardless of internal challenges. The Authorized Representative's admission of such problems actually reflects a lack of proper succession planning and internal controls, which a well-governed company must have to prevent such lapses. The obligation to file/transmit the QFS within the prescribed timeline is absolute, and any failure to do so constitutes a contravention of Section 237 of the Act.

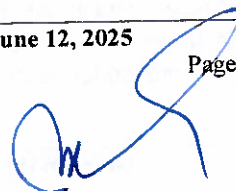
17. Section 479 has to be read in totality and in reference to the section providing imposition of penalty on the standard scale. The powers to take cognizance of the violations of the requirements of Section 237 of the Act has been duly delegated to the undersigned vide SRO No. 1545(I)/2019 dated December 6, 2019 (the SRO) to impose a penalty under Section 237(4) of the Act. The SRO also specifically authorized and empowered the undersigned to invoke the powers of Section 479 of the Act. The Commission has delegated its powers through Section 10 of the SECP Act, 1997 and to bring such delegation into public domain and knowledge, the delegation was notified through the SRO. Therefore, the Authorized Representative's objection that the Commission cannot delegate its powers through a notification is without any substance. The Authorized Representative has also misconceived Section 479(3) of the Act. In view of the applicable provision i.e. Section 479(3) of the Act, the Registrar and the Commission have concurrent powers to impose penalties, therefore, the Commission has delegated its powers to take cognizance of the violation of Section 237 of the Act by imposing penalty provided under Section 237(4) of the Act read with Section 479 of the Act. Therefore, Respondents' assertion that under Section 479(3) of the Act, only the Registrar was competent to impose penalties has no merit. In view thereof, delegation of powers under Sections 237 and 479 of the Act does not suffer any irregularity or illegality;

18. The Authorized Representative has also referred case laws cited as 2011 PLD 778, appeal No 26 of 2015 and appeal No 44 of 2014 in the matter of Fauji Company Limited, to build an argument that before proceeding in the instant matter, the Commission was required to establish substantial findings of guilt, will full default against the Respondents. However, the mentioned case laws and its facts are different from the case at hand. In the stated case laws there was the requirement to establish a willful default under Section 222, 223 and 224 of the Companies Ordinance, 1984, however, no such requirement is applicable in this case, as the instant proceedings are under section 237 of the Act.

19. It is also pertinent to highlight that compliance with Section 237 of the Act is a cornerstone of financial transparency for listed companies, ensuring that shareholders and other stakeholders are kept informed of the Company's financial position at regular intervals. In the present case, the Respondents' failure to ensure timely dissemination of such critical financial information adversely affects investor confidence and constitutes a serious lapse in corporate governance. The role of the directors, particularly those who remained inactive despite repeated communications and complaints from their fellow board members, is highly questionable. The persistent disregard of statutory duties by these Respondents cannot be condoned and warrants appropriate regulatory action in line with the principles of accountability and good governance.

20. Further, in view of no representation/ appearance made by **Respondent No. 8**, therefore, I am left with no other option but to pass an *ex-parte* order against **Respondent No. 8**.

21. In view of the foregoing facts, the contravention of Section 237 read with the Circular has been established which attracts penal action in terms of Section 237(4) of the Act. Therefore, I, hereby, in terms of powers conferred upon me under sub-section (4) of Section 237 of the Act read with Section 479 thereof

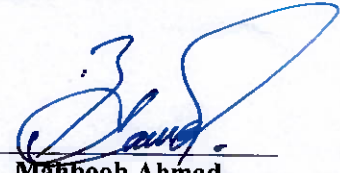


and S.R.O. 1545(1)/2019 dated December 6, 2019, I hereby impose an aggregate penalty of **Rs. 150,000/- (Rupees One Hundred and Fifty Thousand Only)** on Respondent no. 2, 3, 5, 7 and 8 on account of established default in the following manner:

S No.	Names of Respondents	Amount of Penalty (Rs.)
1.	Mr. Imran Ghafoor, Respondent No. 2	30,000
2.	Mr. Haroon Ahmed Zuberi, Respondent No. 3	30,000
3.	Ms. Sharmeen Imran, Respondent No. 5	30,000
4.	Mr. Saim Bin Saeed, Respondent No. 7	30,000
5.	Mr. Shahid Irshad, Respondent No. 8	30,000
	Total Amount	150,000/-

22. Conversely, Respondent No. 1, 4 and 6 have demonstrated sincere and continuous efforts by raising the issue of non-compliance through written communications, requests for Board meetings, and complaints to the relevant authorities. Their conduct reflects a conscious attempt to discharge their legal and fiduciary responsibilities in good faith. In light of their documented actions and proactive approach, I am inclined to conclude the proceedings against them without any adverse action.

23. Respondent No. 2, 3, 5, 7 and 8 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 or United Bank Limited within thirty (30) days from the date of this Order and to furnish a receipted bank challan to the Commission forthwith. In case of failure to deposit the penalty, the proceedings under Section 485 of the Act will be initiated for recovery of the fines as arrears of land revenue pursuant to provision of Section 42B of the Securities and Exchange Commission of Pakistan Act, 1997.



Mahboob Ahmad
Additional Director/Head of Wing
Adjudication Department – I

Announced:
June 12, 2025
Islamabad.

