



# SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

## Adjudication Department- I

### Adjudication Division

*Before*

**Shahzad Afzal Khan, Director/ Head of Department**

*In the matter of*

**Leiner Pak Gelatine Limited**

Number and date of show cause notice: No. CSD/ARN/321/2016 /222 dated April 19, 2024  
Date of hearing: June 06, 2024  
Present: Mr. Asad Ali, Director Finance

### ORDER

#### Under Section 218 of Companies Act, 2017 read with Sections 219 and 479 thereof

This order shall dispose of the proceedings initiated by the Securities and Exchange Commission of Pakistan (the "Commission") through Show Cause Notice dated April 19, 2024 ("SCN") issued under Section 218 of the Companies Act, 2017 (the "Act") read with Sections 219 and 479 thereof against Leiner Pak Gelatine Limited (the "Company").

2. Brief facts of the case are that review of Note 5.7 to the annual financial statements for the year ended June 30, 2023 (the "Accounts") of the Company revealed that the Company has maintained a Provident Fund (PF) Trust. The Commission, vide letter dated February 27, 2024, asked the Company to provide monthly payment schedule of PF for the year ended June 30, 2023. The Company in its response dated March 11, 2024 submitted the payment schedule of the PF deducted on monthly basis, details of which are tabulated below:

Sr. #	Month	Date of PF Deduction	Date of Payment to PF	Delay (No. of Days)
1	July 2022	31-07-2022	25-08-2022	10
2	August 2022	31-08-2022	30-09-2022	15
3	September 2022	30-09-2022	15-10-2022	-
4	October 2022	31-10-2022	25-01-2022	10
5	November 2023	30-11-2022	29-12-2022	14
6	December 2023	31-12-2022	21-01-2023	06
7	January 2024	31-01-2023	27-02-2023	12
8	February 2024	28-02-2023	28-03-2023	13
9	March 2024	31-03-2023	28-04-2023	13
10	April 2024	30-04-2023	11-05-2023	-
11	May 2024	31-05-2023	16-06-2023	01
12	June 2024	30-06-2023	12-07-2023	-



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3. The aforesaid information of the payment schedule revealed that, except for the months of September 2022, April 2023 and June 2023, the Company delayed payment of monthly PF contributions to the trustees beyond fifteen (15) days from the date of collection, prima facie, contrary to the requirement prescribed under section 218(3) of the Act.
4. In order to take cognizance of the contravention, SCN was issued to the Company seeking justification for its failure to pay employees' contributions to the trustees within the stipulated time period. The Company vide letter dated April 27, 2024 admitted the aforesaid non-compliance and made its written submissions, relevant extract thereof is provided hereunder:
- It is an inadvertent delay caused due to mistake by relevant staff member, without intention to breach the provisions of section 218 of the Act. Relevant employees have been strictly advised to comply in letter and spirit; and
  - Assured compliance with the requirements and requested lenient view and to condone the mistake without taking any coercive action.
5. In order to provide opportunity of personal representation, hearing in the matter was fixed for June 06, 2024 wherein Mr. Asad Ali, Director Finance appeared on behalf of the Company as its Authorized Representative (AR) and reiterated aforesaid written response and requested a lenient view as the non-compliance has been rectified in succeeding year.
6. Subsequently, the Company Secretary vide letter dated June 11, 2024 shared the copy of warning letter issued to the officer responsible for delay and also submitted the copies of bank statement of the PF Trust evidencing the subsequent payment to the trustee by depositing the PF contributions in the bank account of PF Trust.
7. Relevant provisions of the Act are reproduced as under:

**Section 218(3) of the Act:**

*"218. Employees' provident funds, contributory retirement funds and securities.— (3) Where a trust has been created by a company with respect to any provident fund or a contributory pension funds or any contributory retirement fund referred to in sub-section (2), the company shall be bound to collect the contribution of the employees concerned and pay such contributions as well as its own contributions, if any, to the trustees within fifteen days from the date of collection, and thereupon, the obligations laid on the company by that sub-section shall devolve on the trustees and shall be discharged by them instead of the company."*

*219. Penalty for contravention of section 217 or 218.— Any contravention or default in complying with requirements of sections 217 or 218 shall be an offence liable to a penalty of level 1 on the standard scale and shall also be liable to pay the loss suffered by the depositor of security*



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*or the employee, on account of such contravention."*

8. I have reviewed the facts of the case, considered the written and verbal submission made by the AR in light of the applicable legal provisions and records placed before me and state that the Company is bound to collect the PF contributions of the employees concerned and pay such contribution as well as its own contributions, to the trustees within fifteen days from the date of collection as stipulated in Section 218 of the Act and there is no exception provided in the aforesaid section. At this juncture, it is imperative to address the following:

- **Whether the payment of monthly PF contribution to the Trustee, delayed:**  
Yes, the monthly PF contributions to the Trustees during financial year 2022-23 were delayed by the Company except for the months of September 2022, April 2023 and June 2023.
- **Whether the Legal Framework provide any exception for non-compliance of the prescribed timeframe for payment of PF contributions to the Trustees:**  
No, the requirements prescribed under the applicable legal framework is absolute and does not provide any exception for not complying with the maximum prescribed timeframe for making payment of both employee and its own PF contributions to the trustees.
- **Whether subsequent compliance absolve the Company from its responsibility to comply with the timeframe:**  
No, subsequent compliance does not absolve the Company from its responsibility to ensure compliance with the legal provisions relating to payment of PF contributions in accordance with the prescribed timeframe.

9. I am of the view that the provisions of Section 218 are clear and unambiguous. The objective of these provisions is to collect the amount and to secure the amounts collected as contributions for the benefits of the employees. The amount collected are in the nature of trust moneys in the hand of the company and the same must be paid , to the trustees within fifteen days from the date of collection. It is noted that the Company failed to pay to the trustees within the stipulated time of fifteen days from the date of collection hence default of the legal provisions at relevant point in time is established and the same has been admitted by the Company in its written submissions as well as by the AR during the hearing. Further subsequent compliance does not absolve the Company from its responsibility to pay the deducted PF contributions to the trustee within the stipulated time.

10. After careful consideration of all the facts of the case, I am of the considered view that the Company has contravened the provisions of subsection (3) of Section 218 of the Act at relevant point in time and is liable for penalty under Section 219 of the Act read with Section



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479 thereof. In view of the foregoing I hereby conclude the proceedings initiated through the SCN by imposing a penalty of Rs. 10,000 (Rupees Ten Thousand only) on the Company.

11. The aforesaid penalty must be deposited in the designated bank account maintained with MCB Bank Limited or United Bank Limited in the name of the Securities and Exchange Commission of Pakistan within thirty days from the receipt of this order and furnish receipted bank vouchers to the Commission. In case of non-deposit of the penalties, proceedings for recovery of the fines as arrears of land revenue in terms of Section 485 of the Act will be initiated.

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

A handwritten signature in blue ink, appearing to be 'Shahzad Afzal Khan', is written over a horizontal line.

(Shahzad Afzal Khan)  
Director/ HOD  
Adjudication Department-I

**Announced:**

Dated: June 20, 2024  
Islamabad