



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

Adjudication Department- I

Adjudication Division

Before Shahzad Afzal Khan - Director/ Head of Department

In the Matter of

Ansari Sugar Mills Limited

Number and Date of SCN: CSD/ARN/80/2015-165 dated February 26, 2024
May 16, 2024; May 24, 2024; May 29, 2024; June 07,
Date of Hearing: 2024; June 10, 2024
Present: Mr. Nisar Ahmad - Rao & Co., Chartered Accountants
(Authorized Representative)

ORDER

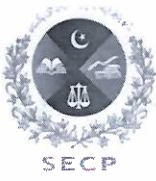
UNDER SECTION 132 OF THE COMPANIES ACT, 2017 READ WITH SECTION 479 THEREOF

This Order shall dispose of the proceedings initiated by the Securities and Exchange Commission of Pakistan (the Commission) against Ansari Sugar Mills Limited (the Company), its Board of Directors and its Company Secretary (herein collectively referred as Respondents) through Show Cause Notice CSD/ARN/80/2015-165 dated February 26, 2024 (the SCN) issued under section 132 of the Companies Act, 2017 (the Act) read with section 479 thereof.

2. Brief facts of the case are that the Respondents failed to hold the Annual General Meeting of the Company for the year ended September 30, 2023 (the AGM) within a period of one hundred and twenty (120) days following the closure of its Financial Year (FY) in contravention to the requirement prescribed under sub-section (1) of section 132 of the Act.

3. As per the available record, the Company failed to hold its AGM within the afore-stated time period. The Company's failure to hold the said AGM within the stipulated time period attracts applicability of the penal provisions of sub-section (5) of Section 132 of the Act read with Section 479 thereof. Therefore, taking cognizance of the alleged non-compliance proceedings were initiated against the Respondents through serving the SCN requiring them to show cause in writing, as to why action, as provided, should not be initiated against them.

4. In response to the SCN, Mr. Nisar Ahmad of Rao & Company, Chartered Accountants on behalf of the Respondents as their Authorized Representative (the Representative), vide letter dated June 09, 2024 stated that:



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- Default in holding AGM for year ended September 30, 2023 is consequential as AGM for the year ended September 30, 2022 is also pending and order under section 132 of the Act was also passed by the Commission on March 17, 2023 against which the appeal filed by the Company is pending;
- Audit of accounts for the year ended September 30, 2021 was completed and AGM held on April 30, 2024. The Audit of account for the year ended September 30, 2022 has also been completed and accounts were approved by the board on June 06, 2024. AGM notice will be published on June 10, 2024. The audit of account for the year ended September 30, 2023 is in process; and
- Requested to condone the consequential unwilful delay.

5. In order to provide opportunity of personal representation, hearing in the matter was fixed for May 16, 2024, May 24, 2024 and May 29, 2024 which were adjourned on request by the Representative. Later hearing was rescheduled for June 07, 2024 which, on the request by the Representative, was shifted to June 10, 2024 wherein the Representative appeared and while reiterating the reply to SCN dated June 09, 2024, submitted that Accounts of FY 2023 approved on June 07, 2024 and notice for AGM published today i.e. June 10, 2024, in newspapers and informed that AGM for FY2023 is expected to be held by August 2024.

6. Relevant provisions of the law are reproduced as under:

Sub-section (1) of Section 132 of the Act:

"Every company, shall hold, an annual general meeting within sixteen months from the date of its incorporation and thereafter once in every calendar year within a period of one hundred and twenty days following the close of its financial year. -

Provided that, in the case of a listed company, the Commission, and, in any other case, the registrar, may for any special reason extend the time within which any annual general meeting, shall be held by a period not exceeding thirty days."

Sub-section (5) of Section 132 of the Act:

"Any contravention or default in complying with requirement of this section shall be an offence liable: -

(a) in case of a listed company, to a penalty of level 2 on the standard scale."



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7. I have considered the facts of the case in light of the relevant provisions of the Act, and arguments set forth during the hearing as well as the written response by the Respondents and state that holding of the AGM is a vital statutory requirement as it provides opportunity to the members to participate in the discussion and vote on agenda items of the general meeting and its non-holding deprives the members of their fundamental and statutory right, to know about the affairs of the company and participate in decision making. AGMs provide transparency and accountability to shareholders and ensure that the company is operating in the best interests of its shareholders, thus all companies must adhere to the law by following the procedure prescribed under the Act for holding of AGMs. At this juncture, it is imperative to address the following:

(i) **Applicability of Section 132 of the Act:**

In terms of section 132(1) of the Act, every company is required to hold its AGM once in every calendar year within a period of one hundred and twenty days following the close of its financial year. Accordingly it was obligatory on part of the Company to hold its AGM by January 28, 2024;

(ii) **Whether holding of AGM within the stipulated time of significance:**

Holding of the AGM is a vital statutory requirement as it provides opportunity to the members to participate in the discussion and vote on agenda items of the general meeting which includes consideration and approval of the company's financial statements. In order to ensure transparency and protect shareholder's rights, the Company is required to meticulously adhere to the law by following the procedure prescribed under the Act for holding of AGMs. The Respondents cannot absolve themselves from their statutory duties pertaining to holding of AGMs, in a timely manner as specified under the law.

(iii) **Whether the AGM was held within the stipulated timeframe:**

No, the AGM required to be held by January 28, 2024 has so far not been held and the same has been admitted by the Respondents in their written response and by the Representative during the hearing.

(iv) **Whether stating that non-holding of AGM is consequential as AGM for earlier year is not held, is a valid reason for default:**

No, citing the pending AGM for the year ended September 30, 2022 as a reason for defaulting on the AGM is not a valid ground in terms of the applicable legal framework. Each AGM is a separate legal requirement. The fact that one AGM for 2022 is pending does not excuse the Company from holding the AGM and does not provide a legal basis for failing to hold subsequent AGMs. Both AGMs need to be held within the prescribed time limits specified by law. Furthermore, in the recent judgement of



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the Appellate Bench of the Commission, in the case of Gulistan Spinning Mills Limited vs Director/ HoD Adjudication-I (Appeal No. 71 of 2022), the order passed by the Director/ HoD Adjudication-I was maintained stating that *"a public listed company has a higher responsibility to disseminate a true and accurate state of affairs to all the stakeholders by holding the AGM within the stipulated time so that appropriate and timely decisions are made. Therefore, the Company, the BoD and Company Secretary should have conducted the AGM as per the applicable legal framework."*

8. In view of the preceding facts, I am of the considered view that by failing to hold AGM for FY 2023 within the prescribed timeframe of one hundred and twenty days, the Respondents have contravened the requirements of sub-section (1) of section 132 of the Act which renders them liable to penal action under sub-section (5) of section 132 thereof. I, therefore, in exercise of powers conferred under sub-section (5) of section 132 of the Act, hereby impose a penalty of **Rs. 150,000/- (Rupees One Hundred and Fifty Thousand only)** on the Company and warn the remaining Respondents to ensure meticulous compliance of all applicable laws in true letter and spirit, henceforth.

9. The Company is, 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.

10. Nothing in this Order may be deemed to prejudice the operation of any provisions of the Act providing for imposition of penalties on the Respondent in respect of any default, omission or violation thereof.

Shahzad Afzal Khan
Director/ HOD
Adjudication Department-I

Announced:
June 25, 2024
Islamabad.