



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

Adjudication Department-I

Adjudication Division

ORDER	
Name of Company:	Highnoon Laboratories Limited
Number and Date of Show Cause Notice (SCN):	2(467)SMD/Adj-1/2024-349 dated February 11, 2025
Name of Respondent:	Mr. Ashfaq P. Alidina, Chief Financial Officer
Date of Hearing:	March 05, 2025
Case represented by:	Mr. Abdul Hanan, Corporate Consultant; (as the Authorized Representative.)
Provisions of law involved:	Section 103 of the Securities Act, 2015 read with Regulation 3(4) of the Reporting and Disclosure (of Shareholding by Directors, Executive Officers and Substantial Shareholders) Regulations, 2015 and Section 106 of the Act.
Date of the Order:	March 19, 2025

This Order shall dispose of the proceedings initiated through the Show Cause Notice No. 2(467)SMD/Adj-1/2024-349 dated February 11, 2025 (the "SCN") by the Securities and Exchange Commission of Pakistan (the "Commission") issued to Mr. Ashfaq P. Alidina, Chief Financial Officer (CFO) (the "Respondent") of Highnoon Laboratories Limited (the "Company") under Section 103 of the Securities Act, 2015 (the "Act") and Regulation 3(4) of the Reporting and Disclosure (of Shareholding by Directors, Executive Officers and Substantial Shareholders) Regulations, 2015 (the "Regulations") read with Section 106 of the Act.

2. The brief facts of the matter are that the Respondent was appointed as CFO, i.e. the Executive Officer, of the Company on April 01, 2020 and as per the trading data records available with the Commission, the Respondent executed several trades in the shares of the Company post his appointment which, in term of provisions of Section 103(1) of the Act read with Regulation 3(4) of the Regulations, required the Respondent to file/submit a disclosure of change in Beneficial Owner (BO) on Form 6 to the Commission within seven days (7) of such change. However, on perusal of the relevant records, it was revealed that the Respondent failed to comply with the aforesaid requirements of law.

3. In order to probe the matter, the Commission vide letter dated September 05, 2024, sought explanation from the Respondent on the aforesaid non-compliance to which the Respondent, vide letter dated September 19, 2024, responded in the following manner:

"I would like to clarify that I do not hold any shares of Highnoon Laboratories Limited in my individual capacity. The account I possess, is a joint account with my father, which does not meet the criteria for shareholding disclosure under Form 5 and Form 6 filings. I would like to clarify that I do not hold any shares under my own name or any shareholding that triggers a disclosure requirement, I am not obligated to file the aforementioned forms. Kindly consider the explanation as the reason for non-filing of Form 5 and Form 6."

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4. Having being not satisfied with the aforesaid response, the SCN was issued to the Respondent to show the cause in writing as to why a penal action may not be taken against him for non-compliance of the requirements of the Act and Regulations. In response to the SCN, the Respondent vide letter dated February 26, 2025, *inter alia*, made the following written submissions:

"It is respectfully stated that the law specifically requires to submit a return of BO by the executive officer if he is holding, directly or indirectly, any equity security (shares) in the company.

In terms of Section 103 of the Act, the executive officer shall file a statement of BO in the listed equity securities of the company on the prescribed form, which is Form 1 in the instant case. The information required to be provided through Form 1 includes the holding of securities in the name of the executive officer or his wife or dependent by disclosing the number of securities held and the cost. The form does not contain any section which reflects that NIL reporting is to be conveyed.

Further, the relevant provisions, i.e. Section 101 to 106, of the Act do not require filing of any return in case officer of the company is holding NIL shares. The Commission issued a clarification on April 20, 2022 requiring the officers of the company to file a return even if they are holding NIL shares. However, the clarification issued by the Commission travels beyond the requirements of the law. The Commission can only suggest the mechanism of filing the return but cannot extend the scope of the law.

The judiciary has consistently held that administrative authorities cannot extend or modify the requirements of law through circulars or clarifications beyond what is stipulated in the governing statutes. Such actions are deemed ultra vires, meaning beyond the powers conferred by law, and are therefore invalid. The administrative instructions are only enforceable if they are issued to supplement and fill the gaps in law as long as they are not inconsistent with law. In the instant matter the clarification issued by the Commission requiring to submit the return for NIL holding is an addition in the Act of Parliament as none of the provision of the Act require filing of return if the officer is not holding any securities in his name directly or indirectly.

It is well settled principal that if the departmental circular provides an interpretation which runs contrary to the provisions of law, such interpretation is unauthorized and void. The superior courts in number of judgments reinforced the doctrine that administrative instruments, such as circulars or clarifications, must operate within the confines of the law and cannot be used to alter or expand legal requirements.

Therefore, filing or non-filing of Nil reporting should be part of the main statute or the Regulations made thereunder. The Commission, has rightfully while drafting the Companies Regulations, 2024 in Regulation 63 thereof has clearly specified that no such return is required to be filed by the companies in case of "Nil" information.

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Keeping in view of the above, the clarification dated April 20, 2022 issued by the Commission is without a legal support in the Act and the Regulations made thereunder, is unlawful and cannot be enforced.

In this context, it is clarified that neither me nor my wife or minor son or daughter is holding a single share/security in the Company since my appointment as CFO on April 1, 2020. However, my father was holding 8000 shares of the Company to which I was a Joint Account Holder. However, those shares were my father's property which were disposed of during the year from 2020 to 2024. The afore referred provisions of the Act and the Regulations do not require the reporting of shareholding if shares are held by any other family member other than wife and minor children.

It is therefore humbly submitted that the SCN is based on unlawful instructions issued by the Commission, therefore the matter may be closed without adverse action."

5. In order to provide an opportunity for personal representation and to meet the ends of justice, a hearing in the matter was fixed for March 05, 2025; which was attended by Mr. Abdul Hanan, Corporate Consultant, as the Authorized Representative of the Respondent (**the "Authorized Representative"**). During the course of the hearing, the Authorized Representative reiterated the written submission made earlier vide letter dated February 26, 2025 and stated that the default occurred due to a different understanding and interpretation of the legal requirements, specifically relating to the claimed fact that no filing of Form 6 is required in the case of 'NIL' holding. Furthermore, it was submitted that the Respondent holds a joint account with his father which is operated by his father; while the Respondent is merely a joint account holder for the sake of support and backup. Moreover, the Respondent firmly believes that his shareholding in the subject matter is 'NIL'. The Authorized Representative requested that this non-filing be condoned and that a lenient view be taken in the matter. The Authorized Representative, in response to elaboration of the responsibilities of the relevant shareholders pursuant to Section 103 of the Act and status of a joint account, assured that the Respondent would exercise greater caution in the future.

6. I have reviewed the facts of the case and also considered the written and verbal submissions made by the Respondent through the Authorized Representative. At this juncture, it is important to discuss the following legal and factual elements:

- (i) Firstly, as per the available record, the Respondent himself is the primary holder of the joint account in the instant matter and enjoys complete authority and capability to execute any transaction. Therefore, under settled principles of law, the Respondent bears full legal responsibility for all transactions executed through such account, irrespective of whether the securities were traded on behalf of another individual i.e., in the subject case claimed to be the father of the Respondent. The ability to exercise complete control over the account leaves no room to further establish that the Respondent is not responsible for the relevant regulatory filing and disclosures. Since the Respondent exercised control over the account, it was his mandatory duty to disclose the change in BO by filing Form 6, as explicitly required under Section 103 of the Act read with Regulation 3(4) of the Regulations. The Respondent's assertion that the

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shares belonged to his father can be at best treated as a mutual informal understanding between the two, but does not absolve him of the statutory obligation.

(ii) With the clarity that the Respondent is the primary holder of the joint account in the instant matter, in terms of provisions of Section 103 of the Act read with Regulation 3(4) of the Regulations, the Respondent was required to file the statement of change in BO on the prescribed Form i.e. Form 6 with the Commission, within seven (07) days of such change. These provisions serve the essential purpose of ensuring transparency, preventing market manipulation, and upholding investor confidence by enabling regulatory oversight of shareholding changes within listed entities. However, the Respondent failed to submit the required form after the change in the BO.

(iii) The Respondent has contended that the clarification issued by the Commission on April 20, 2022 requiring the filing of the statement of BO in the case of NIL holdings, lacks legal backing. However, it is a well-established principle that regulatory clarifications and circulars issued by the Commission serve to operationalize statutory provisions. Such clarifications provide regulatory guidance for compliance obligations. While clarifications cannot override statutory provisions, they hold significant legal weight in regulatory compliance. Courts have consistently held that unless a clarification contradicts the express wording of the law, it is binding on regulated entities.

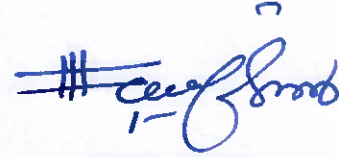
In the instant case, the Commission's clarification does not expand the scope of the law, but rather provides a procedural mechanism to ensure complete and accurate reporting. Moreover, compliance with such clarifications is essential for maintaining the integrity of regulatory disclosures.

(iv) It is also pertinent to note that different interpretation or understanding of the provisions of law does not exempt the Respondent from statutory duty to fulfil the requirements of law. Under the principle of *ignorantia juris non excusat*, it is fully presumed that individuals, particularly those in key positions such as executive officers, are aware of their statutory obligations and are vigilant about the same. The requirement to file Forms 6 within the prescribed timeline is a statutory duty, however, the Respondent, by not filing Form 6 to report the change in BO, has contravened the requirements of the provisions of the Act and Regulations.

7. In view of the foregoing, the contravention of Section 103 of the Act read with Regulation 3(4) of the Regulations has been established beyond doubt which attracts a penal action in terms of Section 106(2)(a) of the Act. I have also given due attention to the grounds presented by the Authorized Representative, however, none of the ground justifies the non-adherence with the provisions of law. I, therefore, in terms of powers conferred under Section 106(2)(a) of the Act read with S.R.O.1545(I)/2019 dated December 06, 2019, hereby, impose a penalty of **Rs.25,000/- (Rupees Twenty Five Thousand only)** on the Respondent on account of established default. Further, the Respondent is advised to immediately undertake compliance of necessary disclosure requirement with the Commission in the instant matter as per the due requirement of the law and to ensure meticulous compliance with the applicable legal and regulatory framework in the future.

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8. The Respondent is hereby directed to deposit the aforesaid fine in the designated bank account maintained in the name of Securities and Exchange Commission of Pakistan with MCB Bank Limited or United Bank Limited within thirty (30) days from the date of this Order and furnish receipted voucher issued in the name of the Commission for information and record.



(Sohail Qadri)
Director / Head of Department
Adjudication Department-I

Announced:
March 19, 2025
Islamabad

