



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

Adjudication Department-I

Adjudication Division

ORDER	
Name of Company:	M/s. Chenab Limited
Show Cause Notice No. & Date:	CSD/ARN/516/2017-720 dated December 18, 2024
Respondents:	(i) Mr. Muhammad Naeem, Chief Executive/Director; (ii) Mr. Muhammad Salman Javed, Director; (iii) Mian. Muhammad Latif, Director; (iv) Mr. Maqsud ul Hassan, Director; (v) Ms. Sobia Chughtai, Director; (vi) Mian Muhammad Javed Iqbal, Director; (vii) Mr. Muhammad Hashim, Director; (viii) Mr. Tariq Ayub Khan, Director; (ix) Mr. Muhammad Faisal Latif, Director; (x) Mr. Muhammad Arshad, Company Secretary; and (xi) M/s. Chenab Limited
Date(s) of Hearing(s):	(i) January 9, 2025; (ii) January 24, 2025; and (iii) February 10, 2025
Case represented by:	Mr. Rashid Sadiq (As Authorized Representative)
Provision of law involved:	Section 132 of the Companies Act, 2017 read with Section 479 of the Companies Act, 2017
Date of Order	May 13, 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/516/2017-720 dated December 18, 2024 (the “SCN”) against M/s. Chenab Limited (the “Company”), its Board of Directors (BoD) including the Chief Executive Officer (CEO) and the Company Secretary, hereinafter collectively referred to as the “Respondents”, 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 Company, in terms of provisions of sub-section (1) of Section 132 of the Act, was required to hold the Annual General Meeting (AGM) within a period of one hundred and twenty (120) days following the close of its financial year ended on June 30, 2024, i.e. by October 28, 2024. However, perusal of the relevant records of the Commission revealed that the Respondents failed to hold the AGM within the prescribed timelines. The relevant provisions of law relating to the instant matter are reproduced hereunder:

“132. Annual general meeting. — (1) 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...”

*(5) 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...”*

3. Taking cognizance of the non-compliance, 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 aforesaid provisions. In response to SCN, an authorizing instrument in favor of Mr. Rashid Sadiq, CEO/Managing Partner, RS Corporate Advisory (Authorized Representative) was received via email dated January 7, 2025. However, no written response to the SCN was submitted.

4. In order to provide an opportunity of being heard to the Respondents, hearing in the matter was first fixed for January 09, 2025. However, the hearing was adjourned upon request of the Authorized Representative of the Respondents vide email dated January 7, 2025 and was rescheduled for January 24, 2025. Thereafter, the Authorized Representative of the Respondents, through another email dated January 23, 2025 sought

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further adjournment of the hearing. In order to meet the ends of justice and to provide a fair opportunity of being heard to the Respondents, hearing in the matter was then re-fixed for February 10, 2025 which was attended by the Authorized Representative, wherein he submitted inter alia, the following:

- (i) The Honorable Lahore High Court (**the Court**) vide its order dated July 13, 2017, Ordered the winding up of the Company, accordingly official liquidator was appointed who took over the place of the BOD and the CEO.
- (ii) Thereafter, the Court vide its order dated October 29, 2021 recalled the earlier winding up order (i.e. Order dated July 13, 2017) and ordered the liquidator to transfer the record of the Company to its management.
- (iii) Delay in holding the AGM was beyond the control of the Respondents who made all out efforts to first hold the five (5) overdue AGMs meetings which were due during the period the Company was under the control of the liquidator and thereafter, all remaining overdue annual general meetings were held including AGM for the financial year 2024.
- (iv) The liquidator did not convene a single AGM during the five years of controlling the Company, resulting in delays in holding AGMs for the preceding years. However, the Company has now addressed this backlog by successfully conducting all pending AGMs and assured that such delays will not occur in the future.
- (v) The Authorized Representative submitted that the Company vide Notice dated December 3, 2024 notified the date and time of the AGM for the year ended June 30, 2024, and accordingly the said AGM was held on December 27, 2024.
- (vi) The Authorized Representative was advised to submit a detailed written response, including the timelines and information regarding the AGMs held by the Directors of the Company relating to those five (5) years during which the Company was under the control of the liquidator.

5. Subsequent to the Hearing the Authorized Representative vide letter dated March 24, 2025, inter alia, submitted as under:

- (i) *AGM held by Directors relating to five (5) years the Company was under the control of liquidator is as follows:-*
 - (a) *AGM for the year 2017 held on January 28, 2022;*
 - (b) *AGM for the year 2018 held on January 28, 2022;*
 - (c) *AGM for the year 2019 held on January 26, 2022;*
 - (d) *AGM for the year 2020 held on July 17, 2023; and*
 - (e) *AGM for the year 2021 held on October 09, 2023.*
- (ii) *Winding up order was recalled on 29 October, 2021, handing over took substantial time. The Company arranged five (5) years audit and held above five (5) AGMs within a period of two years which was the responsibility of the liquidator, which needs appreciation.*
- (iii) *AGM relating to period after winding up order was recalled: -*
 - (a) *AGM for the year 2022 held on January 15, 2024 (the Company was partially under liquidators' control);*
 - (b) *AGM for the year 2023 held on April 15, 2024; and*
 - (c) *AGM for the year 2024 was held on December 27, 2024.*
- (iv) *It is worth noting that following the audit of the five years during which the Company was under the control of the liquidator, the Company successfully held three AGMs in one year i.e. 2024, after completing the audit for those years.*

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- (v) *As soon as the Company was handed over to the management, the Commission started issuing show cause notices without realizing that it was not possible to hold the current AGMs unless previous AGMs are held.*
- (vi) *The delay is caused by backlog of annual general meetings not held by the liquidators which needs to be considered while adjudicating the matter at hand in light of the fact that the Commission has imposed no fine in many cases due to backlog of overdue AGMs and there is compelling reasons that no fine should be imposed as delays are attributable to the backlog of period the Company was in control of the liquidator.*
- (vii) *The Commission is aware that a petition was filed by Saudi Pak Industrial and Agricultural Investment Company Limited in the Court for winding up of the Company and the Court by order dated 13 July, 2017, allowed the above petition and the Company was ordered to be wound up. The official liquidator was appointed who took over the place of the board and chief executive of the Company in terms of Section 387 of the Act.*
- (viii) *During the pendency of the above petition, a scheme of arrangement was agreed upon by contributors of the Company with the secured creditors for the revival of the Company and the said scheme was sanctioned by the Court through its order dated September 14, 2021.*
- (ix) *Subsequently the contributories filed an application before the Court under Section 313 of the Act seeking recall of the winding up order. The Court vide its order dated October 29, 2021 allowed the said application and recalled the order dated July 13, 2017 for winding up the Company. The liquidators were directed by the Court to hand over the assets of the Company to the management.*
- (x) *As per the requirement of Section 368 of the Act, it was duty of the liquidator to hold AGM and present the audited accounts of the Company consisting of statement of financial position and the receipt and payment accounts, auditor's report and the liquidator report on the acts, dealing and the conduct of the Company's winding up till the assets and record of the Company are handed over to the management.*
- (xi) *The current management took possession of the Company in November 2021 from the liquidators. Since then, the Respondents have taken the following measures/actions inter alia with respect to holding of overdue AGMs and presentation of audited accounts therein:*
- (a) *Audit of the financial statements for five (5) years (2017-2021), which was the responsibility of liquidator;*
- (b) *Holding of AGMs (2017-2021) which was the responsibility of liquidator;*
- (xiii) *After clearing backlog of the Accounts/AGMs relating to the period when the Company was under the control of the liquidator, the management has held subsequent three AGMs (2022-2024) during one year;*
- (xiv) *It is noteworthy that the Commission has written to the liquidators vide letter dated September 16, 2021 inquiring status of pending accounts for the year ended June 30, 2017, 2018, 2019 and 2020. However, the accounts remained pending till recalling of the winding up order by the Court on October 29, 2021.*
- (xv) *Unless the accounts for the years when the Company was in possession of the liquidators are prepared and respective annual general meetings held, subsequent accounts since handing over the possession by liquidators cannot be prepared and finalized.*
- (xvi) *The Company has been facing unprecedented challenges with regard to pending accounts which were the responsibility of the liquidators as well as organizing the documents and information retrieved from the custody of the liquidators. However, with its utmost efforts, the management has been able to regularize the accounts and held all AGMs. The delay in holding of AGM for the year ended June 30, 2024 cannot be attributed to the Respondents as the same was caused by backlog of pending accounts and overdue annual general meetings which the liquidators could not held.*

(xvii) *The delay in holding the AGM was, therefore, due to extraordinary circumstances as narrated above and not because of any wilful, intentional or negligent attitude on the part of the Respondents. Therefore, the delay cannot be attributed to the Respondents.*

The Authorized Representative also referred case laws of superior judiciary highlighting the importance of the equality principal in several cases, Commission's Order condoning the delays in holding the AGMs and jurisdictional elements in the instant matter.

6. I have gone through the relevant provisions of Section 132(1) of the Act, and considered the facts of the case, available records of the Company as well as the written and verbal submissions of the Respondents and the Authorized Representative. I have also perused Section 132(5) of the Act, which stipulates penal provisions for contravention of the afore-referred provisions of law. It is observed that 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 (120) days following the close of its financial year. Accordingly, and in light of the fact that the Company neither applied for any extension as per available provisions of the law nor any direction was passed by the Commission, the Company was obligated to hold its AGM for the financial year 2023-24 by October 28, 2024 without fail, which it has evidently failed to. The holding of AGMs in a timely manner is a crucial legal requirement that ensures transparency, accountability, and shareholder engagement. It allows shareholders to participate in discussions, approve financial statements, and hold management accountable. Adhering to legal provisions under the Act is essential for protecting shareholders' rights, fostering trust, and promoting good corporate governance. A listed company with general public subscribing to its shares from the market has, in spirit, a higher responsibility to meet its statutory duties, especially where stakeholders at large are bearing the potential impact.

7. In a judgment passed by the Appellate Bench of the Commission in the matter of *Gulistan Spinning Mills Limited vs. Director/HoD Adjudication-I* (Appeal No. 71 of 2022), it was held 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. It is further observed that the Respondents cannot absolve themselves from the statutory duties pertaining to holding of AGMs, preparation and filing of annual and quarterly financial statements in a timely manner as specified under the law on account of earlier appointment of liquidator as for all practical purposes the Respondents took back the possession of the Company in November 2021 and thereafter enjoyed exclusive control of the Company and its management. Therefore, the Respondents' contention that the delay in the preparation and filing of accounts by the official liquidator and the pendency of statutory meetings during the period of appointment of the liquidator (*alleged default of the liquidator to comply with the requirements of Section 368 of the Act*) solely have caused the delay or non-holding of the AGM in the instant matter is neither does not carry sufficient strength, especially after the lapse of almost three and a half years since the Respondents have taken back the affairs of the Company.

9. In the context of the arguments by the Authorized Representative for equal treatment on the basis of binding precedents for just and fair dispensation of justice, it is carefully observed that while fully agreeing to the fair, impartial and just treatment in every case regardless of its nature and/or implications, it must be understood that each case has distinct facts and circumstances and therefore the decision in one case may not be treated as binding precedent for other cases by simple replication of the outcome. Furthermore, in the recent judgement of the Honorable Islamabad High Court in the case of *M/s. 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 abstracts of the judgement are reproduced below:

"A precedent, therefore, is a judicial decision which contains in itself a principle. The underlying principle which thus forms its authoritative element is often termed as ratio decidendi. The concrete decision is binding between the parties to it, but it is abstract ratio decidendi which alone has the force of law as regards to the world at large."

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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 cannot be presented as a binding element for the competent forum and accordingly each case can be and must be decided on its merits and facts.

10. In the same vein, the Authorized Representative has also relied upon different case laws, wherein penalties were not imposed on account of delayed or non-holding of annual general meetings. In this regard it is important to observe that every case has its own peculiar facts and circumstances, therefore, adjudication decisions of past cases cannot be mechanically applied or adopted in each matter without delving into the peculiarities and realities of each case in an independent and objective manner. It is also important to observe that the provisions of Section 132 are clear and unambiguous and non-compliance in respect of the same has been established and delay in holding the AGM has been duly admitted by the Respondents and their Authorized Representative. Therefore, taking up the jurisdictional arguments in the subject case may not be relevant and required per se.

11. With respect to the Authorized Representative’s arguments on jurisdictional applicability of the penal clause in the instant matter, provisions of Section 479 of the Act must be read and understood in totality of the context with a reference to the relevant sections of law which specifically prescribe imposition of penalty on the standard scale for any respective violation(s). It is further observed for clarity that the power to take cognizance of the violation of the requirements of Section 132 of the Act has been duly delegated to the undersigned vide SRO No. 1545(1)/2019 dated December 6, 2019 (the SRO); thereby effectively enabling the imposition of penalty under Section 132(5) of the Act. Furthermore, to compliment and supplement this clarity, the aforementioned SRO also has specifically authorized and empowered the undersigned to invoke provisions of Section 479 of the Act. Therefore, question of jurisdictional applicability is redundant and without any possible impact. Moreover, it is pertinent to observe that the Commission has duly delegated its powers under Section 10 of the Securities and Exchange Commission of Pakistan Act, 1997 (the “SECP Act”) to its officers, where the SECP Act is the overarching statute for regulating all Administered Legislation by the Commission. For ease of reference, the said Section 10 of the SECP Act is reproduced as under:

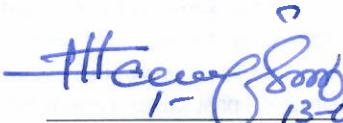
“10. Delegation of the Commission's functions or powers.- (1) The Commission may, subject to such conditions and limitations as it may deem fit to impose, delegate any of its functions or powers under this Act or any administered legislation to one or more Commissioners or any officer of the Commission.
(2) A delegation under this section shall not prevent the concurrent performance or exercise by the Commission of the functions or powers so delegated.”

12. Moreover, another contention presented by the Authorized Representative in respect of initiating the adjudication proceedings against the members of the BOD and the Company Secretary along with the Company itself, where the text of the law mentions the Company as the responsible person, it is important to observe that as an established principle and spirit of the regulatory framework, it is the BOD which is vested with the responsibility of managing the affairs of the Company who cannot, in any manner whatsoever, absolve itself from undertaking the actions on behalf of the Company, *the corpus*. The officers of the Company in the instant matter, as vividly envisaged by Section 2 (45), Section 2(14),(15), & (21) read with provision of Section 183 of the Act, are to exercise powers of the Company, its overall management and the operations, which includes the timely convening of meetings such as the AGM. The cruciality of the role and responsibility of the board of directors in ensuring accurate and timely provision of information to the concerned stakeholders cannot be overemphasized. In 2013 CLD 706, the fundamental duty of directors was held as “...The directors in addition to the day to day running of the company and the management of its business, also have 'fiduciary

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duties' i.e. duties held in trust and some wider duties imposed by statute...hence the directors are gauged against a higher standard of accountability which requires them to be vigilant and perform their duties with due care. In the instant case, the directors have failed to perform their duties with due care and prudence. As the directors are supposed to be well aware of their legal obligations...”

13. In view of the preceding facts and the details in the instant matter, I am of the considered view that by failing to hold AGM within the prescribed timeframe, the contravention with the requirements of sub-section (1) of Section 132 of the Act has been established beyond doubt which attracts a penal action in terms of sub-section (5) of Section 132 of the Act. I have also given due attention to the grounds presented by the Respondents and their Authorized Representative to the said non-compliance, especially where the Respondents have been able to depict their positive efforts towards rectifying the delays/non-compliances for the period under the liquidator and post November, 2021 by holding the pending AGMs and completing the audit requirements. Due consideration has also been given to the fact that in the instant matter, the AGM for the year ended June 30, 2024 has already been held on December 27, 2024 where the notice for the said AGM was published prior to issuance of SCN. I, therefore, in exercise of the powers conferred upon me under sub-section (5) of Section 132 of the Act vide S.R.O. 1545(I)/2019 dated December 06, 2019, hereby, am inclined to take a lenient view and conclude the proceedings with a strict **WARNING** to the Respondents on account of established non-compliance and advise them to ensure meticulous compliance of the applicable legal and regulatory framework in future.


1-13-05-2025
Sohail Qadri
Director/ HOD
Adjudication Department-I

Announced:

Dated: May 13, 2025

Islamabad