



SECURITIES & EXCHANGE COMMISSION OF PAKISTAN

(Adjudication Department-II, Adjudication Division)
4th Floor State Life Building No.2, Wallace Road, Karachi.
Website: www.secp.gov.pk

CASE No. 823/2022

BEFORE THE ADJUDICATING OFFICER

ORDER UNDER REGULATION 6(3) & REGULATION-7 OF THE COMPANIES (MAINTENANCE AND AUDIT OF COST ACCOUNTS) REGULATIONS, 2020 (THE "REGULATIONS") R/W SECTION 512 OF THE COMPANIES ACT, 2017 ("THE ACT").

IN THE MATTER OF M/S. A.D. AKHAWALA & CO. CHARTERED ACCOUNTANTS

Present: Muhammad Sohail Akhawala (Cost Auditor)

Date of hearing: 15-06-2022

1. This Order shall dispose of the proceedings initiated under REGULATION 6(3) & REGULATION-7 OF THE COMPANIES (MAINTENANCE AND AUDIT OF COST ACCOUNTS) REGULATIONS, 2020 (THE "REGULATIONS") R/W SECTION 512 OF THE COMPANIES ACT, 2017 ("THE ACT").
2. The facts of the case are that the cost auditor of the company was required to make out a report within one hundred and eighty days of the close of the financial year to which the cost audit relates, to the board in the form set out in Appendix II along with a statement in the form set out in Appendix III (of the Regulations) and simultaneously shall submit a copy to the Commission and the registrar concerned, in terms of the provision of regulation 6(3) of the of the companies (maintenance and audit of cost accounts) regulations, 2020.
3. However, the record of the company registration office revealed that **M/s. A.D. Akhawala & Co. Chartered Accountants.**, the "Cost Auditor" of **M/s. New Dadu Sugar Mills (Pvt) Limited** (the "Company") failed to submit a copy of the Cost Audit Report of the Company for the year **2022**, in respect of financial statements for the period ended on 30.09.2021, to the Commission and the registrar in violation of Regulation 6(3) of the Regulations
4. This constituted violation of law and rendered the cost auditor liable to the aforesaid default which attracts the penal provisions contained in sub-section (2) of section 512 of the "Act" r/w Regulation-7 of the "Regulations" reproduced as under:

Regulation 7 of the Regulations

"7. Penalty for contravention of these regulations. — Any contravention or violation of any provision of these regulations shall be liable to a penalty as

provided in sub-section (2) of section 512 of the Act, notwithstanding the punishment provided under sub-section (6) of section 220 or other provisions of the Act "

Section 512(2) of the Act

"512. Power to make regulations.— (2) Any regulation made under sub-section (1) may provide that a contravention thereof shall be punishable with a penalty which may extend to five million rupees and, where the contravention is a continuing one, with a further penalty which may extend to one hundred thousand rupees for every day after the first during which such contravention continues."

5. Accordingly, taking cognizance of the matter, a Show-Cause Notice dated 02-06-2022, was served to the cost auditor calling upon him/them to Show Cause in my office on 15-06-2022, as to why the penalty laid down under the above mentioned section should not be imposed.
6. On the date of hearing, the Cost Auditor of the Company appeared before me in person and submitted in the light of his reply dated 15th June, 2022 that the company failed to provide us the requisite information, books, data which were essential for doing cost audit, in spite of several reminders. Under the circumstance, I had no option but to resign from the position of the cost auditor due to the failure in providing necessary material/documents by the company. You would therefore, appreciate that the negligence and failure to make compliance of the Regulation/Law is on the part of the company and the cost auditor may not be held liable or responsible for the subject default. A copy of resignation letter by the cost auditor has also been submitted.
7. The submission and justification made by the cost auditor is quite sustainable as, prima facie, there is no negligence and willfulness on his part as he was unable to do cost audit in the absence of requisite data, books and documents. Infact, it was a failure on the part of the company to get audit of its cost accounts in terms of the regulation. Therefore, I hereby condone the subject default with no order as to cost / penalty on the "cost auditor".
8. A copy of this order be placed on the file/ record of the concerned registrar and the case referring department for taking action against the company for violation of the relevant provisions of the "Regulation" r/w "the Act", if deemed appropriate.

Disposed off accordingly.


(ZIA UL RASHEED ABBASI)
ADJUDICATING OFFICER /
ADDITIONAL REGISTRAR

Dated: 29-07-2022