

29



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. 867/2021

BEFORE THE ADJUDICATING OFFICER

ORDER UNDER SECTION 123-A READ WITH SECTION 479 OF THE COMPANIES ACT, 2017

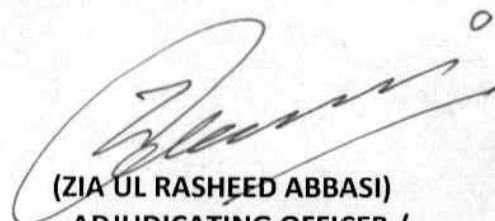
IN THE MATTER OF

M/S. AEROSPACE NEW ENERGY C (PAKISTAN) CO. (PVT.) LIMITED

Present: None present for hearing nor any written response received from the company or its management.

1. This Order shall dispose of the proceedings initiated under Section-123-A of the Companies Act, 2017 ("The Act"), vide Show Cause Notice dated 26-02-2021["the Notice"].
2. The facts of the case are that the Company was required to submit to the registrar concerned a declaration of compliance, on specified Form-45 in pursuance of sub-section-2 of section 123-A of the Companies Act, 2017 (the "Act") r/w Regulation 19A(5) of the Companies (General Provisions and Forms) Regulations, 2018 (the "Regulations").
3. Sub-Section (2) of Section 123-A of the Act provides that *"every company shall in such form and manner as may be specified, maintain a register of its ultimate beneficial owners and shall timely record their accurate and updated particulars, including any change therein, and provide a declaration to this effect to the registrar and where any government is a member of a company such particulars of the relevant government shall entered in the register of ultimate beneficial owners in the specified manner"* whereas Regulation 19A(5) of the Regulations provides that, *"Every company required to maintain a register of ultimate beneficial owners shall, within fifteen days from the receipt of declaration received under sub-regulation (2) or (3), and thereafter along with its annual return, submit to the registrar concerned a declaration of compliance in pursuance of sub-section (2) of section 123A of the Act, on the specified Form-45"*.
4. However, on examination of the record of the company maintained by the Registrar/SECP, it was revealed that the company failed to file Form-45 in accordance with the requirements of the aforesaid law/Regulations which attracts the penal provisions of sub-section-3(b) of section-123-A of the Act which provides that any contravention or default in complying with the requirement of Section-123-A shall be an offense liable the company to a penalty which may extend to ten million rupees.

5. Accordingly, taking cognizance of the matter, in exercise of the powers conferred by the Commission (SECP), vide S.R.O. 1356 (I) /2020 dated December 16th 2020, a Show Cause Notice dated 26-02-2021, was issued to the company and also served at the residential address of its Chief Executive, calling upon them to show cause in my office on 09-03-2021, as to why the penalty laid down supra should not be imposed.
6. However, in response to the above-mentioned show cause notice, neither anyone appeared before me in person for hearing nor any written response/reply was received from the subject company. Nevertheless, in order to provide further opportunity of being heard and to meet the end of justice, hearing notices/reminders dated 12-03-2021 and 02-04-2021 were also served upon the company. Yet, no response in any manner received from or on behalf of the company or its management.
7. The attitude of the management of the subject company towards compliance with law, rules and regulations and the subject show cause notice is very disappointing. Due to failure to attend the hearing and to submit any written reply thereby explaining the reasons for the default/ violation as confronted in above-mentioned show cause notice and subsequent notices/reminders, the undersigned is left with no choice but to take an ex-parte decision on the basis of the record maintained by the company registration office as required under the "Act". Notwithstanding, section 123-A is quite a recent insertion under the law which was promulgated in August, 2020 and the ostensible intention of the legislation is to make the companies and their members compliant for disclosure of the information regarding ultimate beneficial ownership (UBO). Therefore, I am not inclined to impose a severe penalty against the company which may extend upto Rupees Ten Million, more particularly when there is no information available on the record which could establish that the interest of any stake holder or general public at large has been seriously jeopardized. Henceforward, I am convinced to take a lenient view while penalizing the company. Therefore, I hereby impose a token penalty of Rs.50000/= on the company.
8. The management of the company is hereby directed to file the requisite information of ultimate beneficial owners on prescribed form-45 and deposit the penalty amount immediately but not later than 15 days from the date of receipt of this order. Soon after the compliance is made and the amount of penalty is deposited with the registrar concerned, a copy of acknowledgment of the same be furnish to this office.
9. A copy of this order be placed on the record/file of the company for future reference and further appropriate action, if any, be taken by the dealing registrar accordingly.


(ZIA UL RASHEED ABBASI)
ADJUDICATING OFFICER /
ADDITIONAL REGISTRAR

Dated: 26-04-2021