



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. 1160/2022

BEFORE THE ADJUDICATING OFFICER

ORDER UNDER SECTION 130 READ WITH SECTION 479 OF THE COMPANIES ACT, 2017


IN THE MATTER OF M/S. BESA (PRIVATE) LIMITED

Case Fixed for Final Hearing: 03-Jan-2023

Present: Rashid Ahmed Baloch (Managing Director)

1. This Order shall dispose of the proceedings initiated under Section-130 of the Companies Act, 2017 ("The Act"), vide Show Cause Notice dated 25-11-2022 ["the Notice"].
2. The facts of the case are that the company was required to file its annual returns within thirty days from the date of the Annual General Meeting (AGM) held in the year or, when no such meeting is held or if held is not concluded, from the last day of the calendar year to which it relates in terms of provisions of section 130(3) of the Act.
3. However, the record of the company registration office revealed that the company failed to file its annual returns for the years 2018 to 2021, in violation of the above said provisions of law.
4. This constituted violation of law and rendered the company liable to penalty of level – 1 on the standard scale, provided under section 130(6)(b) read with section 479(2) of the Act. Accordingly, taking cognizance of the matter, a Show Cause Notice dated 25-Nov-2022 was served to the company, calling upon to Show Cause in my office on 08-Dec-2022 and subsequently adjourned to 19-Dec-2022 and 03-Jan-2023(vide reminder notices dated 09-12-2022 and dated 19-12-2022 respectively), as to why the penalty laid down under the above mentioned section should not be imposed.
5. On the date of hearing, Rashid Ahmed Baloch (Managing Director) of the Company appeared before me in person. He stated in the light of his reply dated 03.01.2023 that after the incorporation no board meeting and no AGM could be held due to non-availability of board members mainly for the reasons of their transfer / posting being ex-Officio Directors / Officers of Govt. of Baluchistan and also due to overall Covid-19 and flood situation in the country.

6. The contentions of the company / Managing Director that the requirements of Section-130 of the Act could not be complied in accordance with law are not truly justifiable., as it shows negligence on the part of management of the company who is responsible to manage, pursue and make sure that all the statutory requirements of law are fulfilled diligently. The aforesaid circumstances, in spite of being conceivable, should have not been a hindrance in making requisite compliance, i-e filling of year ended forms-A (annual Returns). The board of Directors (BoD) could simply instruct it's any officer or even official to file the statutory returns containing the requisite information made upto the period ended on 31st December each year. It is an apparent ignorance and negligence on the part of BoD/CEO/MD which could not be considered as a plausible plea under the eyes of law. Notwithstanding, keeping in view the circumstances narrated hereinabove and assurance given by the managing Director that the management of the company will ensure timely compliances of statutory requirements as soon as possible, I am convinced to take a lenient view and not inclined to impose penalty on the directors/officers in personam this time, particularly considering the fact that all are government officers holding ex-officio position as members of BoD of the company. In this regard, the record maintained by the dealing/concerned registrar, Company Registration Office was sought which shows that the company has also failed to file its annual returns for the previous years 2018 to 2021. Accordingly, this is a consecutive default of four years. Hence, a penalty of Rs. 100,000/- is hereby imposed on the company without prejudiced, the company has admittedly failed to hold its First and subsequent AGMs in violation of the provisions of section-132 of the Act, for which the dealing/concerned Registrar may take cognizance of the default separately.
7. The management of the company is advised to deposit the penalty amount within 30 days in any designated branches of MCB Bank Limited or UBL Bank and furnish original receipted challan to this office within the above said period positively and also directed to file requisite financial statements immediately but not later than 30 days from the date of receipt of this order positively.
8. A copy of this order be placed on the record of company maintained by the concerned/dealing Registrar of the Company Registration Office.


(ZIA UL RASHEED ABBASI)
ADJUDICATING OFFICER /
ADDITIONAL REGISTRAR

Dated: 16-01-2023