



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. 3270/2023

BEFORE THE ADJUDICATING OFFICER

ORDER UNDER SECTION 132 READ WITH SECTION 479 OF THE COMPANIES ACT, 2017

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

Date of Final Hearing: 25-MAY-2023

Present: **Mr. ZAIN A. JATOI (ADVOCATE)**

1. This Order shall dispose of the proceedings initiated under Section 132 of the Companies Act, 2017 (The Act), vide Show Cause Notice dated 26-04-2023 ["the Notice"].
2. The facts of the case are that the financial year of the M/S. Marine Dynamics (Pvt.) Ltd. ("the Company") closed on 30th June, 2020, 30th June, 2021 and 30th June, 2022 and it was required to hold its AGM within 120 days from the close of its financial year i.e. on or before 28th October of each year. However, the company failed to hold its Annual General Meetings within statutory time period for the years 2020 to 2022, as required to be held in terms of Section 132 of the Companies Act, 2017 (the "Act").
3. Accordingly, the company, prima facie, violated the provisions of section 132(1) of the Act, which provides that 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.
4. Consequently, the aforesaid violation attracted the penal provisions of sub-section-5(b) of section-132 of the Act which provides that any violation of Section-132 shall be an offense liable to a penalty of Level-1 of the standard scale, i-e up-to Rs.25,000/- and upto Rs.500/- per day during which default continues, as provided u/s 479(2) of the Act. Accordingly, taking cognizance of the matter, a Show Cause Notice dated 26-04-2023 was served to the company calling upon them to Show Cause in my office on 05-05-2023 and subsequently adjourned to 16-05-2023 (vide reminder notice dated 05-05-2023), as to why the penalty laid down under the above mentioned section should not be imposed.

5. On the date of hearing, Mr. Zain A. Jatoi (Advocate) appeared before me in person on behalf of the Company. While admitting the default, he submitted in the light of company's written reply dated 23-05-2023 *"that by way of necessary background, it is submitted that the stake/shareholding in our client company is divided between three different entities viz. (i) LogiSense Holdings (Pvt.) Limited; (ii) Security Packers (Pvt.) Limited; and (ji) Mr. Hussain Islam (LHL on one hand and on the other SPPL and HI respectively; and collectively SPPL. Group and whilst SPPL Group's shareholding is entered into SECP's record as that of majority (and conversely LHL's shareholding as being minority), a document executed between the parties, namely, Joint Declaration dated: 10.12.2020 (JD; copy enclosed), states otherwise exhibiting the SPPL Group as being a minority shareholding in our client company.*

That through the JD, conceived and executed by SPPL Group for consideration, a strategy was devised to facilitate their exit from our client company. The fact of the "real" shareholding of the SPPL Group being no more than 30% stake in our client company is obvious from their acceptance of 7.5 acres out of our client company's only asset comprising of 25 acres, which they presently occupy beneficially along with an additional 2.5 acres, which they were supposed to pay for upon the price enforced upon our client but which still remains unpaid. Prior and subsequent to execution of the JD, the SPPL Group have refused to extend any cooperation in statutory compliance with an aim to usurp further landholding of our client's company so as to abuse the process of law resorting to harassment tactics.

Reverting to the allegations in the SCN under-reply, the learned Adjudicating Authority's kind attention is drawn to the fact prior to the specified period there was 100% compliance by our client company in terms of holding of Annual General Meeting(s), among others. The only reason why our client company has since fallen behind in statutory compliance is solely attributable to non-cooperation by the SPPL Group, against whom legal proceedings - for rectification of Shareholders' Register, among others, are under contemplation and preparation to be instituted before a competent forum of law, including but not limited to the honourable High Court, under the Companies Act, 2017. Accordingly, he requested to take a lenient view".

6. The contention of the counsel of the company for the non-compliance of law may be a justifiable excuse to some extent but it also shows clear negligence on the part of management of the company who is responsible to manage, pursue and make sure that the compliances are being made timely and strictly in accordance with the law. Further, no evidence of making genuine efforts on the part of the management to avoid the aforesaid default has been produced. However, keeping in view the aforesaid facts of the case and assurance given by the Authorized Representative that no such default would be repeated in future and the company shall ensure proper and timely compliance of statutory requirements of law, I am convinced to take a lenient view. Yet, this is a consecutive default of three years i.e. 2020 to 2022, a penalty of Rs. 75,000/- is hereby imposed on the company.

7. The management of the company is advised to deposit the penalty amount within 30 days from the date of receipt of this order 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.
8. A copy of this order be placed on the record of company, maintained by the dealing Registrar of the Company Registration Office.



**(ZIA UL RASHÉED ABBASI)
ADJUDICATING OFFICER /
ADDITIONAL REGISTRAR**

Dated: 19-June-2023

*M. Mustafa Younis
Advocate
Karachi*