



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. 1347/2021

BEFORE THE ADJUDICATING OFFICER, KARACHI

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

IN THE MATTER M/S. MAXCO (PRIVATE) LIMITED

Present: M. Adnan Siddiqui (Authorized Representative -AR)

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1. This Order shall dispose of the proceedings initiated under Section 132 of the Companies Act, 2017 (The Act), vide Show Cause Notice dated 19-Mar-2021 ["the Notice"].
2. The facts of the case are that after examination of the record/documents of the company, it was observed that the company failed to hold its Annual General Meetings within Statutory time period for the years 2016 to 2020, 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 attracts penal provisions contained in section 132(5)(b) ibid.
4. This constituted violation of law and rendered the company liable to a penalty of level - 1 on the standard scale provided under section 132 (5)(b) read with section 479(2) of the Act. Therefore, taking cognizance of the matter, a Show Cause Notice dated 19-Mar-2021 was served to the company through its Chief Executive as well as the directors of the company, calling upon them to Show Cause in my office on 05-04-2021, as to why the penalty laid down under the above-mentioned section should not be imposed.
5. On the date of hearing, the authorized representative of the Company (A/R) appeared before me in person. While admitting the default, he stated in the light of reply from the Chief Executive Officer dated 05-04-2021 that the company has only two directors and because of the absence of one director, the company was not able to hold its AGM since 2016. The crux of his argument was that there is dispute between him and the other director (who hold only 20% shareholder) and without his presence and cooperation, it was not possible to make any statutory requirement of the law, rules and regulations. In fact, he elucidated, that the board is still not functional due to lack of quorum. Henceforth, the AGMs for the aforesaid periods could not be held. He further

submitted that the complaint / dispute is already available on the record of the registrar and the SECP.

6. The justifications furnished by the A/R in respect of the aforementioned default are not very plausible as it shows negligence on the part of management of the company who is responsible to manage, pursue and make sure that the compliances are being made within the prescribed time and strictly in accordance with the law. Accordingly, not being satisfied, the A/R was granted further time to come up with some valid justifications duly supported by the documentary evidences, which he has failed so far. Now, without indulging into the facts and details of the dispute between the directors and shareholders, I am of the view that the statutory corporate compliances must be fulfilled by the company being an artificial and legal person having perpetual succession and any dispute or disagreement amongst the shareholders or directors ought not to be the cause or justification for non-compliances of the statutory requirements of law. Further, no documentary evidences have been provided by the A/R which could establish any genuine efforts made by the management to avoid the subject violation.
7. Notwithstanding, as the dispute between the directors / shareholders is still pending as per available record, I do not feel comfortable to inflict any personal liability on the director(s)/CEO at this stage and while taking a lenient view, I intend not to impose any penalty on the individuals. Nevertheless, in order to ensure that no such default be repeated and to determent the company from committing any violation in future, particularly non-holding of its AGMs, I am imposing a lumpsum penalty of Rs.100,000/= on the company only.
8. The management/officers of the company are advised to deposit the penalty amount within 15 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 and also directed to make good of the default immediately but not later than 60 days from the date of receipt of this order positively.
9. A copy of this order be placed on the record/file of the company for reference and compliance and further appropriate action to be taken by the dealing / concerned registrar against the company as well as its officers/directors, more particularly if the aforesaid default continues.


(ZIA UL RASHEED ABBASI)
ADJUDICATING OFFICER /
ADDITIONAL REGISTRAR

Dated: 01-09-2021