



# SECURITIES & EXCHANGE COMMISSION OF PAKISTAN

(COMPANY REGISTRATION OFFICE)

4<sup>th</sup> Floor State Life Building No.2, Wallace Road, Karachi.

Website: [www.secp.gov.pk](http://www.secp.gov.pk)

**CASE No. 1146/2022**

**BEFORE THE ADJUDICATING OFFICER**

**ORDER UNDER SECTION 21 READ WITH SECTION 479 OF THE COMPANIES ACT, 2017**

**IN THE MATTER OF**

**M/S. GRACE PHARMACEUTICAL PAKISTAN LTD**

Date of Final Hearing: 10-01-2023

Present: **MR. ASIM ALI KHAN (Authorized Representative)**

1. This Order shall dispose of the proceedings initiated under Section 21 of the Companies Act, 2017 ("The Act"), vide Show Cause Notice dated 11-NOV-2022 ("the Notice").
2. The facts of the case are that the letters dated October 06, 2022 and October 10, 2022 from Offsite-1 Supervision Division, SECP Islamabad were issued to the Company at its registered office address through courier service. However, the service provider reported that it was undelivered due to incorrect address. Therefore, the same were delivered through a dispatch rider of SECP on October 24, 2022. The dispatch rider reported that the letter could not be dispatched at the registered office address as it did not exist there. Apparently, the company is not maintaining its registered office.
3. The facts depicts that the company, prima facie, either failed to have its registered office address or failed to give notice of change of registered office address to the registrar, as the case may be, in violation of the Sub-Section (1) or Subsection (2) of Section 21 of the Companies Act, 2017 (the "Act"), which provides that a company shall have a registered office to which all communications and notices shall be addressed and the company shall give notice to the Registrar for change of registered office addresses in the manner provided therein, respectively.
4. The aforesaid violation attracts the penal provisions of sub-section-3 of section-21 of the Act which provides that if a company fails to comply with the requirements of sub-sections (1) or (2), the company and its every officer who is responsible of such non-compliance 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 11-11.2022 was served to the company, its Chief Executive as well as the directors, calling upon them to Show Cause in my office on 22-11-2022 subsequently adjourned to 28-01-2022 and 10-01-2023 (vide reminder notices dated 27-12-2022 and dated 05-01-2023 respectively), as to why the penalty laid down under the above mentioned section should not be imposed.

5. On the date of hearing i.e. 11.11.2022, Mr. Asim Ali Khan'(authorized representative) of the Company appeared before me in person. He stated that the company has already filed application under Company Easy Exit Regulation, 2014 (CEER) r/w section 426 of the Companies Act, 2017 on 20.03.2019 and since then, the company is no more in operation. He also sought extension of time for submission of evidence and further clarification which was granted. On 10.01.2023, the authorized representative attended hearing again and submitted acknowledgement of filing of CEER application and requested to Condone the default.
6. Accordingly, comment from the referring department were sought, vide E-mail dated 10 Jan, 11 Jan and 13 Jan, 2023 and subsequent reminders till 17 April, 2023. Eventually, a response from the case referring department (Companies Registration Office, Karachi) was received, vide e-mail dated 19 April, 2023, stating there in that the application for CEER filed on 25-03-2019 and notice u/s. 426 has been send for publication in the gazette and company has not yet been dissolved; therefore, till the publication of final notice, the company is required to maintain its registered office address in compliance of law. As such the company request to drop proceeding under section 21 may not be acceded to."
7. The comments and stances from both the parties (i.e. the company and the referring department, SECP) along with the factual position available on record have been examined and I am of the considerate view that the nature and parameters of winding up proceedings and striking off the name of company for the purpose of its dissolution are divergent. When the proceeding of winding up of a company are commenced, the liquidator is required to distributor and dispose off all the assets and liabilities of the company in accordance with the relevant and exhaustive provisions of the Company Act, 2017 and quite rationally, the legislator has provided a separate and an specific provision, vide section 387 of the Act, with regards to "mutatis mutandis" application of all provisions of law till the final dissolution of the company which is under process of winding up. On the other hand, in case of dissolution of a company by way of striking off the name of the company from the register by the registrar under section 425 or section 426, as the case may be, there is no specific provision available under the companies Act in respect of applicability of any other provision of law, particularly routine compliances of statutory requirements and more specifically Section-21 *ibid*. This seems quite logical that in case of dissolution by was of striking the name off the company, there are, *prima facie*, no known assets or liabilities and the company is not in operation, until proven otherwise. Conventionally speaking, once the process of striking off the name of a company is initiated, it is likely to be considered as "dead" and subsequent procedural requirements are tantamount to its "burial proceedings" till it stands dissolved after the publication of notice in the official Gazette in term of section 425(5) or section 426(3) as the case may be.
8. Now in the intent case, the company has already filed an application u/s 426 of the Act, r/w Company Easy Exit Regulations, 2014 in the year 2019 which is still pending, however, nothing contrary to it is available on the record. The dealing / concerned registrar neither rejected the said application specifically or identified any assets or liabilities of the company nor disclosed the fact regarding application under CEER r/w section 426 at the time of referring the case for adjudication. Hence, considering he above facts and legal position, I find no rationale and legitimate backing for penalizing the company and or its officers under section-21 of the Act. besides, there is no evidence has been produced, that the said default had jeopardized the interest of any stakeholder. Accordingly, the subject default is hereby condoned and the proceedings are hereby dropped with no order as to penalty thereof.

9. A copy of this order be placed on the record of company maintained by the concerned/dealing Registrar of the Company Registration Office.
10. This order is being passed without prejudice to any other proceedings initiated or action taken by SECP, particularly proceeding Under Section 184 of the Company Act, 2017.



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

Dated: 12-05-2023