



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

Adjudication Department-I Adjudication Division

Before

Shahzad Afzal Khan –Director/ Head of Adjudication Department-I

In the Matter of

S.G Allied Businesses and its Chief Executive/ Directors

Number and Date of SCN: CSD/ARN/258/2016
dated May 24, 2024

Hearing(s) Dates: August 26, 2024

ORDER

Under Circular No. 4 of 2021 read with Section 510(2) of the Companies Act, 2017

This Order shall dispose of the proceedings initiated by the Securities and Exchange Commission of Pakistan (the “Commission”) through Show Cause Notice No. CSD/ARN/258/2016/332 dated May 24, 2024 (the SCN) under Circular No 4 of 2021 (the Circular) dated February 15, 2021 (the Circular) read with Section 510(2) of the Companies Act, 2017 (the Act) against the board of directors and Chief Executive Officer (CEO), hereinafter collectively referred to as the **Respondents**, of S.G Allied Businesses Limited (the Company).

2. Brief facts of the case are that review of annual audited financial statements for the Financial Year (FY) ended June 30, 2023 of the Company was carried out and it was transpired that it held its Annual General Meetings for FY 2022 and FY 2023 (the AGMs) on December 12, 2022 and October 27, 2023 respectively. Further scrutiny of the AGM notices dated November 21, 2022 and October 06, 2023 for FY 2022 and FY 2023 revealed that the Company failed to provide video-con facility to its shareholders.

3. The Commission vide letter dated March 13, 2024 sought clarification from the Company with respect to the afore-said violation, in response to which the Company submitted the following through its letter dated April 02, 2024:

“the Company has limited number of shareholders and being on defaulter counter of PSX shareholders do not take interest in attending annual general meetings. Due to non-interest of shareholders in the past, arrangement through electronic means has not been made”

4. In view of the above, the Company and its Board of Directors contravened the provisions of the Circular which states that:

“SECP further directs that all listed companies to ensure participation of members in general meeting through electronic means as a regular feature from the date of this Circular.



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Furthermore, the Board shall ensure that facilities so provided are seamless and without any interruption"

5. The said non-compliance attracts applicability of the penal provisions contained in Section 510(2) of the Companies Act, 2017 (**the Act**).

6. The Respondents via Consultant letter dated August 26, 2024 provided written response to the SCN, the relevant extract of which is provided as under:

1. *"...The company has limited number of shareholders and being on the defaulter counter of PSX, shareholders do not take interest in attending Annual General Meeting (AGM). Due to non-interest of the shareholders in the past, arrangement through electronic means were not required. Every year the Company makes call to certain old members so as to meet minimum number required for the meeting. Even no request from any shareholder was received to provide electronic mean to participate in the meeting virtually through video-link or webinar. Had there been any such request, the Company would have been pleased to make such an arrangement. We apologize for the non-compliance and assure the Commission that the requirement will be complied in future.*
2. *Circular no. 4 of 2021 was specifically issued to address the participation of shareholders in AGM due to prevalence of Corona Virus in the said year. In paragraph 3, it has been clarified that permission to hold general meetings through video-link, webinar, zooming etc. is an additional to require physical meeting.*
3. *In the proviso of the sub-section (2) of Section 132, it is laid down that at least seven (07) days prior to the date of meeting, on the demand of members residing in a city who hold at least 10% of the total paid-up capital, a listed company is to provide facility of video-link to such members enabling them to participate in the AGM. No such request was received by the Company.*
4. *We are of the considered view that under the said provision of the law, a request has to come from the shareholders, who hold atleast 10% of the total share capital, to provide facility of video-link. Circular No. 4 of 2021 is a subservient to section 132 and no additional condition can be prescribed by the Commission through a Circular which is not backed by legal provision.*
5. *In view of the above facts, the provision is not mandatory under Companies Act, 2017 when no request form the shareholders, as laid down in the law, is received. We are thus of the considered view that Circular No. 4 of 2021 is not applicable in the case of the Company..."*

7. To provide an opportunity for personal representation, hearing in the matter was scheduled for August 26, 2024 during which Mr. Amir Khan Afridi (Consultant) appeared as the authorized representative (**the Representative**) on behalf of the Respondents. During the hearing, the Representative submitted that the contravention of the law was inadvertent whereas, the Company has limited number of shareholders and being on defaulter counter of PSX, the shareholders do not take interest in Annual General Meeting, hence, the requirement was overlooked inadvertently. The Respondent further submitted that under Section 132 of the Companies Act, 2017 a request has to come from the shareholders, who hold at least 10% of the total share capital, to provide facility of video-link.



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Circular No. 4 of 2021 is a subservient to section 132 and no additional condition can be prescribed by the Commission through a Circular which is not backed by legal provision.

8. As regards the matter at hand, I have analyzed the facts of the case on the basis of the relevant provisions of the Act, and the available record. In this regard, it is observed that:

(i) **Whether provision of facility for attending general meetings through electronic means is required to be provided to the members?**

Yes, in accordance with Circular No. 4, the provision of facility for attending general meetings of listed companies virtually through video-link, webinar, or other electronic means has been made obligatory for all listed companies to ensure the participation of members in general meetings through electronic means as a regular feature. The purpose of this requirement is to utilize technology to maximize attendance in general meetings.

(ii) **Whether the Respondents provided the required facility for members to attend general meeting through electronic means?**

No. The Respondents through the notice of AGM, failed to provide all of their members the facility for attending the said meeting through electronic means. The Representatives admitted the default, stating that it was neither intentional nor willful and also added that all other mandatory requirements were complied with in the notice of AGM as envisaged in section 132(2) of the Act.

It is pertinent to mention here that the Respondents were required to comply with the requirement of Circular No. 4 in addition to the requirements of section 132(2) of the Act. In this regard, the Respondents could have effectively communicated the provision of this facility either as a note in the AGM notice, on their website, or through any other means to ensure the participation of all their members in general meeting. Therefore, in view of the given requirement of Circular No. 4, the default has been established, as the Respondents have admitted this default and assured to comply with the requirements in the future.

(iii) **Whether any assurance for subsequent compliance absolves the Respondents from non-compliance?**

No, the assurance given by the Respondents for subsequent compliance with the requirement of Circular No. 4 does not exonerate them from the above-stated non-compliance, even if the non-compliance occurred unintentionally.

9. Keeping in view of the aforesaid, contravention with the requirement of Circular No. 4 at relevant point in time is established, for which the penal provision contained in section 510(2) is attracted. In exercise of the powers conferred upon me, I hereby impose a penalty of Rs. **100,000/- (Rupees One Hundred Thousand only)** on the Company i.e. S.G Allied Businesses Limited and warn the remaining Respondents and advise them to ensure compliance with the applicable regulatory framework in true letter and spirit.

10. The aforesaid penalty must be deposited in the designated bank account maintained with MCB Bank Limited or United Bank Limited in the name of the Securities Exchange and Commission of Pakistan within thirty (30) days of the date of this Order and furnish receipted bank challan, to the



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Commission. In case of failure to deposit the said penalty, the proceedings under section 485 of the Act will be initiated for recovery of the same as arrears of land revenue

11. Nothing in this Order may be deemed to prejudice the operation of any provision of the Act providing for imposition of penalties in respect of any default, omission, violation of the Act.

Shahzad Afzal Khan
Director/ Head of Department
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Announced:
September 30, 2024
Islamabad