



Securities and Exchange Commission of Pakistan

BEFORE APPELLATE BENCH NO. III

In the matter of

Appeal No. 34 of 2013

Ecopack Limited Appellant

Versus

Director/HOD (MSRD)

Securities and Exchange Commission of Pakistan Respondent

ORDER

Date of hearing 02/12/14

Present:

For the Appellant:

Mr. Javed Panni

Department representatives:

Mr. Amir Saleem, Deputy Director (MSRD)

Mr. Awais Ali, Assistant Director (MSRD)



Securities and Exchange Commission of Pakistan

SECP

1. This order shall dispose of appeal No. 34 of 2013 filed under section 33 of Securities and Exchange Commission of Pakistan (the “Commission”) Act, 1997 against the order dated 06/05/13 (the “Impugned Order”) passed by the Respondent.
2. The facts leading to the case are that the meeting of the Board of Directors (“BoD”) of Ecopack Limited (the “Company”) was held on 27/02/13 at 11:30 am to consider the financial results for the half year ended on 31/12/12. However, the Company communicated its financial results to the Karachi Stock Exchange (“KSE”) at 12:33 pm on 28/02/13, a day after the meeting of the BoD. The KSE, vide letter dated 28/02/13, communicated to the Company that its letter intimating closed period was not received timely and further informed the Company about the requirements specified in Form-7 of the Correspondence Manual for the companies listed on KSE (“Correspondence Manual”) regarding sharing of the financial results with the KSE. The Commission, vide letter dated 05/03/13, also required the Company to communicate reasons for delay in communicating the results; however, no response was received. The Company responded to KSE’s letter vide letter dated 11/03/13 and informed KSE that it tried to send the financial results vide fax dated 27/02/13 at 2:30 pm i.e. immediately after the BoD meeting but the fax did not respond at that time as confirmed by Miss Saima at KSE. KSE informed the Company vide letter dated 12/03/13 that there was no employee with the name Miss Saima at KSE and that the fax machine was working properly.
3. Show Cause Notice dated 26/03/13 (“SCN”) was issued under section 22 of the Securities and Exchange Ordinance, 1969 (the “Ordinance”) for violation of regulation 17 of the Listing Regulations of the KSE. The Respondent, dissatisfied with the response of the Appellant, passed the Impugned Order

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and taking a lenient view imposed a penalty of Rs. 25,000 on the Appellant. The Respondent further directed the Appellant to exercise care and caution while announcing price sensitive information and to ensure full compliance with the law.

4. The Appellant has preferred the instant appeal against the Impugned Order. The Appellant's representative argued that:

- a) as per requirement of Listing Regulations of KSE, the Company tried to send the financial results through fax, however, it failed to do so due to technical fault in the fax machine. The copy of evidence of "Paper Jam" of fax machine was provided to the Appellate Bench. It was further argued that the Company tried to send the intimation by personal delivery to ensure the letter reached KSE the next morning, however, due to road mishap, the letter reached KSE with delay; and
- b) in the SCN it was alleged that information regarding announcement of half yearly accounts for year ended 31/12/12 was price sensitive information. The Appellant's representative argued that the Company is a small company running in losses with minimal trading in its shares, therefore, no price sensitive information existed in the instant case. It was argued that the imposition of penalty by treating half yearly results as price sensitive information is unlawful. Further, the observation of the Respondent regarding volatility which was observed in the share price and volume on the day of the BoD meeting was uncalled for and the actual facts are as follows:



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Date	Opening Rate	High Rate	Lower Rate	Closing Rate	Turnover
27/02/13	7.85	7.69	7.65	7.69	1,500
28/02/13	7.69	7.20	6.69	6.69	20,000

Further, after the date of announcement of results by KSE on 28/02/13, no unusual activity was observed and trading for the entire trading session was just 20,000 shares. It was confirmed that during the closed period, the directors of the Company and the principal shareholders had not indulged in any kind of trading in Company's shares.

5. The department representatives argued that financial results of the Company including quarterly, half yearly and annual account are price sensitive information as it is likely to affect the market price as well as the volume of the listed securities. The said information is required to be communicated to KSE prior to its release to any other person or print / electronic media. The Appellant failed to comply with the provision of Regulations 17 of the Listing Regulations and the penalty was rightly imposed on the Appellant.
6. We have heard the parties. The procedure for filing of financial results has been clearly prescribed by KSE in the Listing Regulations. Under the Listing Regulation of KSE, it is binding for every listed company to advise and keep advised KSE all decisions of its BoD relating to cash dividend, bonus issue, right issue or any other entitlement or corporate action and any other price sensitive information in the manner notified by KSE from time to time. Every company is required to follow the laid down procedure and the argument of the Appellant's representative that the Company is a small company running in losses with minimal trading in its shares does not relieve the Company of



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its responsibility. Further, making profit of the information is not an ingredient to prove whether the information was price sensitive or not.

The Company being listed on the KSE is expected to be conversant with the regulatory requirements. Further, listed companies are required to ensure that any disclosure of price sensitive information should be equitable and not in a manner that compromises the investors' confidence or the fairness and transparency of the market.

The Respondent has already taken a lenient view in the Impugned Order by imposing a penalty of Rs. 25,000 on the Appellant only instead of the maximum penalty.

In view of the above, we do not find any grounds to interfere with the Impugned Order. The appeal is dismissed with no order as to cost.


Zafar Abdullah
Commissioner (SMD)


Tahir Mahmood
Chairman

Announced on: 15/12/14