

**Before the Director (Market Supervision & Registration Department)
Securities Market Division
Securities and Exchange Commission of Pakistan**

**In the matter of Show Cause Notice dated April 24, 2013 issued to
M/s. Aslam Malik & Company, Chartered Accountants under Section 22 of the
Securities and Exchange Ordinance, 1969**

Date of Hearing: May 20, 2013

Present at the Hearing: Mr. Muhammad Shoaib - Authorized Representative of M/s.
Aslam Malik & Company Chartered Accountants

Representing (BR&ICW): Mr. Murtaza Abbas (Deputy Director – MSRDR)

ORDER

This Order shall dispose of the proceedings initiated through a Show Cause Notice No. 4/BRK-62/SE/SMD/01 dated April 24, 2013 (“**the SCN**”) issued to M/s. Aslam Malik & Company (“**the Respondent**”) under Section 22 of the Securities and Exchange Ordinance, 1969 (“**the Ordinance**”).

2. Brief facts of the case are that the Securities and Exchange Commission of Pakistan (“**the Commission**”) in exercise of its powers under sub-section (1) of Section 6 of the Securities and Exchange Ordinance, 1969 (“**the Ordinance**”) read with Rule 3 and Rule 4 of the Stock Exchange Members (Inspection of Books and Record) Rules, 2001 (“**the Inspection Rules**”) ordered an inspection of the books and record of M/s. AZEE Securities (Pvt.) Limited (“**AZSL**”), TREC Holder of the Karachi Stock Exchange Limited (“**the Exchange**”). The inspection team submitted its report to the Commission and on review of the inspection report it was noted that the Net Capital Balance (“**NCB**”) of AZSL as of December 31, 2011 as verified and certified by the Respondent was not in accordance with the Third Schedule of the Securities and Exchange Rules, 1971 (“**the 1971 Rules**”) and was overstated by Rs. 56.50 million. Rule 2(d) of the 1971 Rules read with Clause 2.1 of the Regulations Governing Risk Management of the Exchange (“**the Regulations**”) requires that the NCB should be calculated in accordance with the Third Schedule to the 1971 Rules.

3. Given these facts a SCN dated April 24, 2013 was issued to the Respondent, the contents of which are reproduced below.

“SUBJECT: SHOW CAUSE NOTICE UNDER SECTION 22 OF THE SECURITIES AND EXCHANGE ORDINANCE, 1969 IN THE MATTER OF AZEE SECURITIES (PVT.) LIMITED”

WHEREAS, the Securities and Exchange Commission of Pakistan (“the Commission”) in exercise of its powers under sub-section (1) of Section 6 of the Securities and Exchange Ordinance, 1969 (“the Ordinance”) read with Rule 3 and Rule 4 of the Stock Exchange Members (Inspection of

Books and Record) Rules, 2001 (**“the Inspection Rules”**) ordered an inspection vide order No. SMD/MS&CID-C&IW/10-1(40)/2012 dated April 10, 2012 of the books and record required to be maintained by M/s. AZEE Securities (Pvt.) Limited (**“AZSL”**) a TREC Holder of Karachi Stock Exchange Limited (**“the Exchange”**).

2. **WHEREAS**, on review of the inspection report submitted by the Inspection Team it has come to the notice of the Commission that Net Capital Balance (**“NCB”**) of AZSL as on December 31, 2011 as verified and certified by M/s. Aslam Malik & Company, (**“the Auditor”**) is not in accordance with the Third Schedule of the Securities and Exchange Rules, 1971 (**“the 1971 Rules”**) and has been overstated by Rs. 56.50 million.

3. **WHEREAS**, in terms of Rule 2(d) of the 1971 Rules read with Clause 2.1 of the Regulations Governing Risk Management of the Exchange (**“the Regulations”**) the NCB are required to be calculated in accordance with the Third Schedule to the 1971 Rules.

4. **WHEREAS**, the TREC Holders of the Exchange are required to submit bi-annually a certificate from an auditor as specified in Clause 2.1 (b) of the said Regulations confirming their NCB on the format prescribed by the Exchange. The NCB is also required to be duly audited/verified in terms of Clause 2.1 (c) of the Regulations which provides that:

“the certificate shall specify that the Net Capital Balance calculated have been duly audited/verified by the auditor”

5. **WHEREAS**, prima facie it appears that the certificate of NCB of AZSL as on December 31, 2011 certified by the auditor is not in accordance with the Third Schedule of the 1971 Rules and that the auditor has prima facie certified a statement and given information which it had reasonable cause to believe to be false or incorrect in material particular in violation of Section 18 of the Ordinance.

6. **WHEREAS**, in light of the facts mentioned above, prima facie, it appears that the auditor is in contravention of Section 18 of the Ordinance, which invokes penalty under Section 22 of the Ordinance.

7. **WHEREAS**, section 18 of the Ordinance provides that:

“No person shall, in any document, paper, accounts, information or explanation which he is, by or under this Ordinance, required to furnish , or in any application made under this Ordinance, make any statement or give any information which he knows or has reasonable cause to believe to be false or incorrect in any material particular.”

8. **AND WHEREAS**, Section 22 of the Ordinance provides that:

“ If any person refuses or fails to furnish any document, paper or information which he is required to furnish by or under this Ordinance; or refuses or fails to comply with any order or direction of the Commission made or issued under this Ordinance; or contravenes or otherwise fails to comply with the provisions of this Ordinance or any rules or regulations made thereunder, the Commission may if it is satisfied after giving the person an opportunity of being heard that the refusal, failure or contravention was willful, by order direct that such person shall pay to the Commission by way of penalty such sum not exceeding fifty million rupees as may be specified in the order and in the case of continuing default, a further sum

calculated at the rate of two hundred thousand rupees for every day after the issue of such order during which the refusal, failure or contravention continues.”

9. ***NOW THEREFORE***, you are hereby called upon to show cause in writing by May 3, 2013, as to why action as provided under Section 22 of the Ordinance may not be initiated for violation as indicated above. You are further directed to appear in person or through an authorized representative (with documentary proof of such authorization), on **May 6, 2013** at 11:00 a.m. at the SECP Headquarters – Islamabad. You are advised to bring all relevant record in original, which you may consider necessary for clarification or in your defense. This notice sufficiently discharges the Commission’s obligation to afford an opportunity of hearing in terms of Section 22 of the Ordinance. In case of your failure to appear on the stated date of hearing it will be deemed that you have nothing to say in your defense and the matter will be decided ex-parte on the basis of available record.

10. Please note that this show cause notice is being issued without prejudice to any action, which may be taken or warranted for the above said or any other default under the above referred or any other provisions of law. Kindly acknowledge receipt of this show cause notice through return fax or courier at your earliest.

Hasnat Ahmad
Director”

4. Pursuant to the said SCN, the Respondent requested the Commission to adjourn the hearing and accordingly the hearing was rescheduled for May 20, 2013. The representative of Respondent appeared on the said date for hearing and also submitted written comments which are reproduced below.

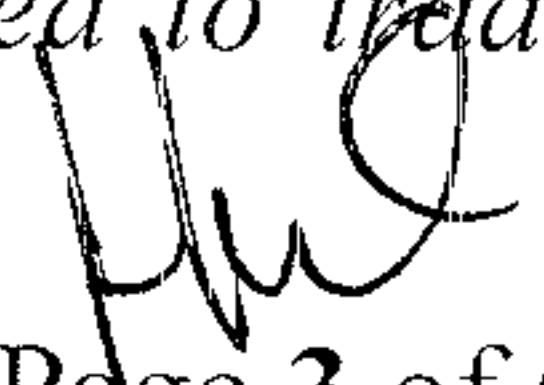
“ The following documents were provided to us by AZSL for verification of Net Capital Balance Certificate for the period ended December 31, 2011.

- i. Written request for issuance of NCB for December 31, 2011;*
- ii. Signed Balance Sheet as of December 31, 2011;*
- iii. Trial Balance as of December 31, 2011;*
- iv. Net Capital Certificate calculation; and*
- v. Supporting documents for NCB calculation.*

In context of above documents and evidences provided to us, the NCB of AZSL for the period ended December 31, 2011 is verified and certified in accordance with the Third Schedule of the Securities and Exchange Rules, 1971 and it is issued in accordance with the documents and supporting provided by AZSL for the issuance of Certificate and all the relevant record in original attached for your compliance.”

The representative of Respondent in his hand written statement on oath submitted the following during the hearing:-

“ calculation of trade debtors: the figures is taken for trade debts is provided by AZSL and ageing of trade receivables is not provided by company and only provided client detail ledger for calculating the trade debtors balances. The main difference is due to receivable from Amir (AZEE Securities (Pvt.) Limited) and according to company this account is related to trade


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receivables but commission evaluate this account as investment of the company. we have provided the Balance Sheet 31-12-2011 and Trial Balance 31-12-2011. In both the statements the company is stated Rs. 14,825,890/- as investment in listed company shares.

Whatever is stated above is true and best of knowledge.”

5. I have examined the facts, evidences and documents on record, in addition to written and verbal submissions made on behalf of the Respondent and the documents submitted subsequent to the hearing. Looking into the facts of the case the following two issues are framed to decide the matter.

- i. To ascertain the responsibility of the Respondent with regards to submission and ensuring accuracy of NCB as provided in the regulatory framework; and
- ii. Clarification on overstatement of Rs. 56.50 million in the NCB of AZSL.

6. The responsibility of Respondent with regards to submission and ensuring accuracy of NCB certificate is stipulated in, regulation 2.2 (c) of the “Regulations Governing Risk Management of Karachi Stock Exchange Limited which stipulates that NCB certificate shall be duly verified/audited by the auditor. For ease of reference the same is reproduced below.

*“2.2 Capital Adequacy Procedures and Exposure Limit based thereon;
(c) The certificate shall specify that the Net Capital Balance calculated have been duly verified/audited by the auditor referred in 2(b) above;”*

This clause clearly mentions that the NCB certificate provided shall be duly verified/audited by the auditor which means that before issuing the NCB certificate the auditor shall ensure that due audit process has been carried out.

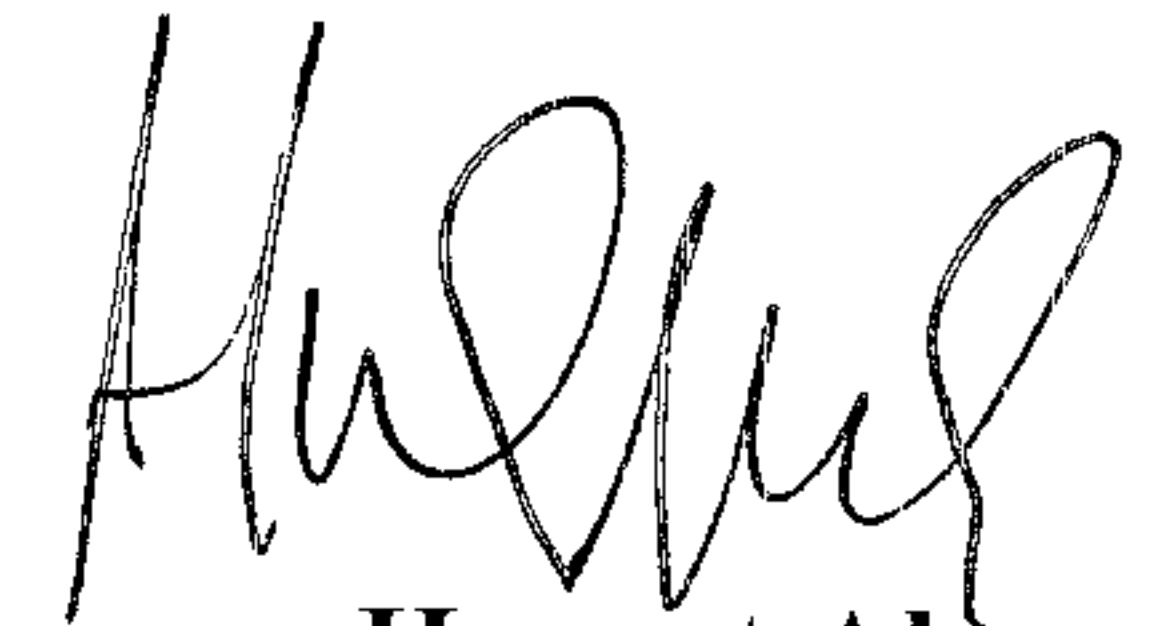
7. With regard to the issue of overstatement of Rs. 56.50 million in NCB is concerned, Respondent’s stance is in clear contradiction with the submission made by the representative of AZSL on the same issue. AZSL was also issued a SCN on this issue and during the hearing the representatives of AZSL acknowledged the overstatement and provided assurance to comply with the requirements of the 1971 Rules. In support of this statement AZSL also provided a copy of its letter dated December 13, 2012 addressed to the Respondent whereby necessary instructions were issued for calculation of NCB as prescribed in the 1971 Rules.

8. It would be pertinent to mention here that for calculation of NCB the Respondent relied on the information provided by AZSL without applying its own judgment. As auditor for NCB it was its responsibility to independently verify the figures provided by AZSL rather than solely relying on the information provided by AZSL.

9. Given these facts and after evaluating the documents on record, along with the written and verbal submissions made on behalf of the Respondent I am of the considered opinion that the Respondent has failed to perform its duties as Auditor for NCB certificate. It is further evident that the Respondent had not applied necessary prudence while certifying the NCB certificate which resulted in misrepresentation and overstatement. However, since this violation has been noted for the first time therefore while taking a lenient view I, hereby, through this Order, impose a penalty of Rs. 10,000 (Rupees Ten Thousand Only) on the Respondent. The Respondent is further directed to ensure full compliance with the Ordinance, rules, regulations and directives of the Commission in future.

10. The matter is disposed of in the above manner and the Respondent is directed to deposit the penalty in the bank account of the Commission being maintained in the designated branches of MCB not later than thirty (30) days from the date of this Order and furnish copy of the deposit challan to the undersigned.

11. This Order is issued without prejudice to any other action that the Commission may initiate against the Respondent in accordance with the law on matters subsequently investigated or otherwise brought to the knowledge of the Commission.



Hasnat Ahmad
Director (MSRD)

Announced on July 19, 2013
Islamabad.

