



# Securities and Exchange Commission of Pakistan

## BEFORE APPELLATE BENCH NO. III

In the matter of

Appeal No.65 of 2013

DJM Securities (Pvt.) Ltd

...Appellants

Versus

Director (MSCID), (SMD)

Securities and Exchange Commission of Pakistan

...Respondent

### ORDER

Date of hearing

08/01/15

#### Present:

#### Appellant:

Mr. Dawood Jan Muhammad

#### Department representative:

Ms. Najia Ubaid, Deputy Director



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1. This order shall dispose of appeal No. 65 of 2013 filed under section 33 of the Securities and Exchange Commission of Pakistan (the "Commission") Act, 1997 ("SECP Act") against the order (the "Impugned Order") dated 20/11/13 passed by the Respondent.
2. The brief facts of the case are that the Commission in exercise of its powers under section 6(1) 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 ("Inspection Rules") ordered an inspection of the books and records required to be maintained by D.J.M Securities (Pvt.) Ltd (the "Appellant"). The following officers of the Commission were appointed as inspectors ("Inspection Team") for the purpose vide order dated 04/06/13:
  - i) Kashif Ali Deputy Director
  - ii) Adnan Ahmed Deputy Director
  - iii) Kapeel Dev Assistant Director
3. The Inspection Team submitted an interim inspection report on 02/09/13 communicating that the Appellant has not cooperated with the inspectors in providing requisite information, documents and clarifications as required under said provisions of law, which placed a significant limitation over the scope of inspection.
4. Show Cause Notice dated 03/09/13 ("SCN") was served under section 22 of the Ordinance read with rule 8 of the Brokers and Agents Registration Rules, 2001 ("Brokers Rules"). The Appellant submitted its written response vide letter dated 04/09/13 and hearing in the matter was held. Mr. Dawood Jan Muhammad, Chief Executive Officer of the Appellant and Mr. Ghani, Head of Operations of the Appellant ("Appellant's Representatives") attended hearing



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on behalf of the Appellant. The Appellant's Representatives reiterated the stance already submitted in the written reply. Moreover, they committed to provide the following outstanding information/details immediately relating to the year ended 31/12/12 to the Inspection Team:

- (i) Complete General Ledgers other than those which have already been provided.
  - (ii) Complete Clients' Ledgers other than those which have already been provided.
5. The Appellant, however, did not provide the above information to the Commission as agreed during the hearing. The Commission vide letter dated 08/10/13 strictly advised the Appellant to provide complete information by 14/10/13. The Appellant vide letter dated 14/10/13 stated that it had provided all documents and shall assist the Inspection Team in completion of the inspection as was agreed by the Appellant's Representatives. The Appellant had not provided any documents and the Commission vide email dated 29/10/13 again reminded them to provide all outstanding ledger accounts. The Appellant provided the same through email dated 30/10/13.
6. The Respondent, based on the written reply of the Appellant, the arguments made by the Appellant's Representatives during the hearing and subsequent correspondence with the Appellant, held that the Appellant despite numerous opportunities failed to provide information/documents/details required by the Inspection Team in a timely manner, which placed restrictions on the ability of the inspection team to perform the inspection initiated by the Commission. It was held that the violation of the Rules and Regulations is a serious matter which entitles the Commission to suspend the registration of the Appellant. The



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Respondent, however, taking a lenient view, in exercise of the powers under section 22 of the Ordinance, imposed a penalty of Rs.100, 000 on the Appellant.

7. The Appellant has preferred to file the instant appeal against the Impugned Order. The Appellant's representative argued that the Appellant never intentionally delayed or avoided submission of requisite information. The delay was beyond control as one of the directors of the Appellant was not available to arrange requisite data and as soon as the management was able to coordinate with the concerned director, the information was provided as his system could not be accessed without his password and permission. It was further argued that the Impugned Order was passed and penalty was imposed when the process of inspection was still underway and the required data was being provided by the Appellant. Therefore, the penalty may set aside.
8. The department representative argued that even though the Appellant had subsequently provided the requisite information and the inspection was later on completed, the Appellant had delayed the inspection process by failing to respond to the Inspection Team's requests in timely manner. It was argued that non-provision of required information was a serious matter as provided under section 6(3) of the Ordinance read with rule 8 of the Brokers Rules.
9. We have heard the parties. Section 6(3) of the Ordinance is reproduced for ease of reference:

**Section 6(3)** "...every Exchange and every director, officer or member thereof shall furnish such documents, information or explanation relating to the affairs of the Exchange or, as the case may be, relating to the business on the Exchange of such director, officer or member as the Commission may, at any time, by order in writing require."



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Rule 8 of the Brokers Rules is reproduced for ease of reference:

**8. Suspension of registration.-** *Where the Commission is of the opinion that a broker-*

*(x) has not co-operated in any enquiry or inspection conducted by the Commission;*

*the Commission may, if it considers necessary in the public interest so to do, by order in writing:-*

*(a) Suspend the registration of a broker for such period as may be specified in the order; or*

*(b) impose on a broker a fine not exceeding one hundred thousand rupees:*

In the instant case, it has clearly been established that the Appellant in spite of numerous opportunities, had failed to provide the information and documents required by the Inspection Team in a timely manner which had placed restrictions on the ability of Inspection Team to perform the initiated inspection. However, in view of the fact that the Appellant had subsequently provided the requisite information and the inspection was completed, we set aside the penalty imposed on the Appellant on the assurance that no such delay shall be made in the future and the Appellant is being strictly warned to be vigilant in future.

**Tahir Mahmood**  
Commissioner (CLD)

**Fida Hussain Samoo**  
Commissioner (Insurance)

Announced on: 16/1/15