



Securities and Exchange Commission of Pakistan

BEFORE APPELLATE BENCH NO. III

In the matter of

Appeal No. 12 of 2013

Hameed Khan & Co. Chartered Accountants Appellant

Versus

Head of Department (Enforcement) Respondent

ORDER

Date of hearing 11/12/13

Present:

Appellant:

Mr. Abdul Hameed Khan, Chartered Accountant

For the Appellant:

Mr. Atta Muhammad Khan, Advocate

Department representatives (through video conference):

Ms. Maheen Fatima, Director (Enforcement)

Mr. Amjad Iqbal Rao, Assistant Director (Enforcement)



Securities and Exchange Commission of Pakistan

SECP

1. This order shall dispose of appeal No. 12 of 2013 filed under section 33 of Securities and Exchange Commission of Pakistan (the "Commission") Act, 1997 (the "SECP Act") against the order dated 24/01/13 (the "Impugned Order") passed by the Respondent.
2. The facts leading to the case are that the Enforcement Department ("the Department") while examining the annual audited accounts (the "Accounts") and Audit Report (the "Report") of Progressive Steel Industries (Pvt.) Limited (the "Company") for the financial year ended 30/06/10, observed that the Report signed by Hameed Khan & Co. Chartered Accountants (the "Auditor") was not in conformity with the provisions of section 255 of the Companies Ordinance, 1984 (the "Ordinance") and rule 17(A) of Companies General Provisions and Forms Rules, 1985 (the "Rules").
3. Show cause notice dated 15/08/11 ("SCN") was issued to the Auditor under the provisions of section 255 read with section 260 and section 476 of the Ordinance and hearing in the matter was held. The Respondent, dissatisfied with the response of the Appellant, passed the Impugned Order and referred the matter to ICAP to consider whether the Report issued by the Appellant on management accounts was in conformity with the requirements of International Standard on Related Services 4400- Engagements (the "ISRS") to perform agreed upon procedures regarding financial information.
4. The Appellant preferred the instant appeal against the Impugned Order. The Appellant's counsel argued that the Accounts are not the audited accounts but are the management accounts prepared for management purposes only and were filed inadvertently by the Company. It was argued that no audit report was issued under section 255 of the Ordinance by the Auditors; therefore, the Impugned Order may be set aside on this ground alone.



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5. The department representatives argued that Form 29 dated 31/10/09 and 31/10/10 filed by the Company reflect the Auditor as the auditor of the Company and the Report annexed with the accounts of both years were not in conformity with the provisions of the Ordinance and rule 17(A) of the Rules. Further, during the show cause proceedings, the attention of the Appellant's counsel was brought towards the requirements of ISRS to perform agreed upon procedures regarding financial information which the Appellant failed to comply and the Appellant's counsel conceded the default in this regard. It was further argued that no penalty had been imposed on the Appellant and referring auditors to ICAP is a routine decision.

6. We have heard the parties. We are of the view that no adverse order has been passed against the Appellant. The Impugned Order can at best be treated as an administrative order and is not appealable under section 33 (1) (a) of the SECP Act. We, further, direct the Registrar-Appellant Bench Registry to treat the appeals filed against the order of referral to another authority/body as an administrative decision and to return such appeals to the Appellants as not maintainable.

In view of the above, we see no reason to interfere with the Impugned Order.

The appeal is dismissed with no order as to cost.

(Mohammed Asif Arif)
Commissioner (Insurance)

(Imtiaz Haider)
Commissioner (SCD)

Announced on: 30/11/14