



Securities and Exchange Commission of Pakistan

BEFORE APPELLATE BENCH NO. I

In the matter of

Appeal No. 71 of 2009

D.S Industries Limited

...Appellant

Versus

Executive Director (SMD)
Securities and Exchange Commission of Pakistan

...Respondent

ORDER

Date of hearing

16/01/15

Present:

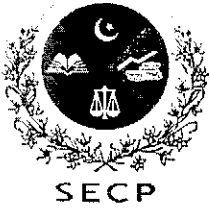
Appellant:

Nemo

Department representatives:

Mr. Muhammad Farooq, Joint Director (SMD)


1. This order is in appeal filed by the Appellant against order dated 17/11/09 passed by the Respondent. The appeal was fixed for hearing on 06/11/13; however, the Appellate Bench received letter from the Appellant's counsel stating that the Appellant had not yet issued Power of Attorney to represent the Appellant. The appeal



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was re-fixed on 04/02/14 and the Appellant was sent a hearing notice, however, the Appellant requested an adjournment stating that it is in process of engaging another legal counsel. The Appellant was provided a third opportunity on 01/01/15 and was adjourned again on the request of the Appellant stating that it has not engaged a legal counsel yet and requires additional time. Final opportunity was provided to the Appellant to appear and defend the case on 16/01/15. The appeal was called for hearing at 12:15 pm; the department representative was present, however, the Appellant's counsel sought adjournment. The appeal is, therefore, dismissed for non-prosecution.

2. Further, we amend the Impugned Order in light of the case of *The Securities and Exchange Commission of Pakistan through Commissioner versus First Capital Securities Corporation Limited and another* in Civil Appeal No. 946/2005 cited at *PLD 2011 Supreme Court 778*, where it was held that in the event the gains are not tendered to the Company within a period of six months or the fact of the gain was not brought in the notice of the Company and the Commission, the gains at all times shall remain the property of the Company. In the instant case, in view of the above judgment, the gain shall not be tenderable to the Commission. We amend the Impugned Order and direct the Appellant to transfer the balance amount of tenderable gain of Rs. 3,136,980 to the Company.


Tahir Mahmood
Commissioner (CLD)


Fida Hussain Samoo
Commissioner (Insurance)

Announced on: 16/1/15