JUDGMENT SHEET.

IN THE ISLAMABAD HIGH COURT, ISLAMABAD.

WRIT PETITION NO. 627/2017

AMTEX LIMITED
VS
SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN ETC.

Petitioner by	**:**	**Mr. Anique Salman Malik, Advocate.**
Respondents by	**:**	**Hafiz Sultan Mazhar Sher, Advocate for SECP.**
		Mr. Muhammad Waseem Ahmed Rana, SPP for SECP.
Date of hearing	**:**	**17.10.2025**

MUHAMMAD AZAM KHAN, J.

1. Through the instant Writ Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, **("Constitution"),** Amtex Limited **("Petitioner")** has prayed that the instant petition may kindly be accepted, and the Impugned Actions (including Order No. 1 dated 15-04-2016, Order No. 2 dated 12-05-2016, the Notice dated 27-07-2016, Order No. 3 dated 07-11-2016 and Information Letters dated 17-11-2016 and 09-01-2017) may kindly be set aside as, inter alia, being illegal, without jurisdiction, contrary to law, unlawful, unwarranted and unjust. It is further prayed that the amendments brought in Section 33(1) of the SECP Act may also be declared as unconstitutional and ultra vires.

2. The brief facts of the case, as per the contents of the instant writ petition, are that, in the year 2009, the Petitioner intended to raise its capital by issuance of 61 million ordinary shares through Initial Public Offering (IPO). In terms of section 57 (1) of the Companies Ordinance, 1984, the Petitioner approached the Respondent No. 1 for its approval to the issue, circulation, and publication of the prospectus in respect of the IPO (the "Prospectus"). The Prospectus, together with the information contained therein, duly certified by Chartered Accountants and Bankers, was thoroughly scrutinized by the Respondent No. 1, whereafter the same was allowed to be published vide letter dated March 16, 2010. After the approval of the Respondent No. 1 and other concerned, the Prospectus was published on March 17, 2010, resulting in the successful completion of the IPO.

In this regard, it is submitted that the Financial Information contained in the Prospectus was for the period ended on December 31, 2009. On 15-04-2016, the Respondent No.3 proceeded to pass an order under Section 261 of the Ordinance, whereby the Petitioner was called upon to submit information and documents in relation to the Prospectus (the "Order No. 1"). Thereafter, on 12-05-2016, another order was passed by the Respondent No. 3 wherein similar information was sought from the Petitioner (the "Order No. 2"). On 15-06-2016, the Petitioner replied to the Orders and duly furnished the information and documents sought by the Respondent No. 1 (the "Reply to the Orders"). On 22-06-2016, the Respondent No. 3 sent another letter to the Petitioner wherein the Respondent No. 3 found that the information and documents submitted by the Petitioner contained certain discrepancies. On 27-07-2016, the Respondent No.2 sent a show cause notice dated 27-07-2016, bearing No. EMD/233/479/2002-54 under Section 263 of the Ordinance (the "SCN") to the Petitioner vide which he was communicated that in light of circumstances reported by the Registrar, the appointment of an Inspector is required in order to investigate into the affairs of the Petitioner under Section 263 of the Ordinance. The Petitioner submitted detailed replies dated 13-10-2016 and 21-10-2016 to the Notice, whereby all the allegations levelled in the Notice were refuted on the basis of cogent legal and factual grounds. The Petitioner also submitted certain preliminary submissions for the purposes of clarifying that the appointment of an Investigator by the Respondent No. 2 is harsh and is capable of having an adverse impact on the Petitioner, and there is no lawful justification for the appointment of an Inspector to investigate the affairs of the Petitioner. In addition, the Petitioner also duly provided the clarifications required by the Respondent No. 3 vide its letter dated 22-06-2016. Vide Order dated 07-11-2016, (the "Order No. 3"), Mr. Amin Ali, ACA of Horwath Hussain Chaudhary & Co., Chartered Accountants, was appointed as Inspector for carrying out an investigation into the affairs of the Petitioner. Through Order No. 3, the scope of investigation was further enhanced by the Respondent No. 2. In pursuance of Order No. 3, the Inspector appointed by the Respondent No. 2, vide its letters dated 17.11.2016 and 09.01.2017 (the "Information Letters"), required various information/documents

from the Petitioner. The Petitioner, being aggrieved by the Order No. 3, approached the Respondent No. 1 by filing an appeal, however, the Respondent No. I refused to accept the appeal on the pretext that no such appeal lies in view of the amended section 33 of the SECP Act, 1997. Through the instant petition, the Petitioner seeks this Court's indulgence to come to its aid and challenges the Impugned Actions being illegal, ex facie discriminatory, without jurisdiction, opposed to all dictates of natural justice, an arbitrary and unreasonable use of discretionary powers, and being inconsistent with the fundamental rights of the Petitioner is liable to be declared unjust, unlawful and illegal. The Petitioner further challenges the amendments made in Section 33 of the SECP Act, 1997, being ultra vires of the Constitution.

3. The Petitioner's counsel argued that the amendment to Section 33 of the SECP Act, 1997, introduced via a money bill, unlawfully removed the right of appeal against interim orders, including those under Section 263 of the Companies Ordinance. This amendment is unconstitutional as it falls outside the scope of a money bill under Article 73 and lacked bicameral parliamentary approval per Article 70. Furthermore, orders under Section 263 are not interim in nature, as they conclusively appoint inspectors, thus depriving the Petitioner of its right to appeal. The orders issued by Respondent No. 3 also violate Section 261 of the Ordinance, which requires prior review of specific documents before forming an opinion. No such review occurred, making the orders procedurally defective. The Prospectus in question had been approved and executed in 2010, and its use as the basis for new proceedings is unjustified. Moreover, the investigation appears to be driven by Respondent No. 1 without independent judgment by Respondent No. 3, amounting to a colorable and arbitrary exercise of power. The Petitioner was never given access to the report forming the basis of the actions, violating the principles of natural justice and Articles 4 and 10-A of the Constitution. The appointment of an inspector requires prima facie evidence of fraud or illegality, which is absent here. The actions lack specificity, are based on assumptions, and appear to be a fishing expedition. Such intrusive proceedings, especially into a closed and lawfully concluded transaction,

damage the Petitioner's reputation and infringe its fundamental rights. The Impugned Actions are therefore illegal, without jurisdiction, mala fide, and taken for extraneous reasons. They violate due process, are contrary to constitutional and legal principles, and must be struck down.

4. Learned counsel for Respondents No. 1 to 3 argued that the petition is premature and misconceived, as the appointment of an inspector under Order dated 07.11.2016 is administrative, not adjudicatory. The SECP acted within its authority under Section 263 of the Companies Ordinance following the Petitioner's repeated failure to provide information despite multiple opportunities and reminders. The investigation order was issued after affording the Petitioner a hearing and does not determine any rights or liabilities; thus, it does not violate any fundamental rights. The Petitioner's claim of lack of opportunity is contradicted by its own delayed responses. The SECP is empowered to investigate a company's affairs, including those at the time of its prospectus, and such authority is not time-barred. The scope of the investigation was clearly outlined and remains consistent with earlier notices. The Petitioner, instead of cooperating, filed this petition to avoid due process. The right of appeal under Section 33 of the SECP Act is not absolute and does not apply to administrative actions like inspector appointments. Citing *Attock Refinery Ltd. v. SECP* (PLD 2010 SC 946), it was emphasized that the mere appointment of an investigator does not conclude the case. Further, the SECP's regulatory role includes ensuring transparency and investor protection, and it acted lawfully based on the registrar's report under Section 261(6). Therefore, the petition lacks merit, raises no valid constitutional or legal violations, and should be dismissed with costs.

5. I have heard learned counsel for the parties and perused the record with their able assistance.

6. The grievance of the Petitioner revolves around the initiation of proceedings under Section 261 read with Sections 263 & 265 of the Companies Ordinance, 1984, whereby the Securities and Exchange Commission of Pakistan

(SECP) formed an opinion that the affairs of the Petitioner required investigation by an Inspector. Perusal of the record reveals that the Petitioner has challenged the following documents:

i. Order dated 15.04.2016 passed by the Deputy Registrar under Section 261(1) of the Companies Ordinance, 1984, wherein the Petitioner was directed to submit information with regard to the Company's prospectus within fourteen days of the date of the notice;
ii. Order dated 12.05.2016 passed by the Joint Registrar of Companies under Section 261(3) of the Companies Ordinance, 1984, against failure of the Petitioner to provide the requisite information. The Petitioner was further directed to submit the same within three days of the notice.
iii. SCN dated 27.07.2016 under Section 263 of the Companies Ordinance, 1984, after the Joint Registrar of Companies had sent a report to the Commission under Section 261(6) of the Ordinance, 1984, upon Petitioner's failure to provide an explanation to the Registrar despite issuance of a reminder dated 18.07.2016;
iv. Investigation Order dated 07.11.2016 passed by Executive Director in proceedings initiated against the Petitioner under Section 265 of the Ordinance, 1984, whereby an Inspector was appointed to conduct investigation into the Company's overdue liabilities as of October 31, 2009, and subsequent status till March 17, 2010, with comment on whether the Company's prospectus contained untrue statements qua overdue loans; and
v. Information Letters dated 17.11.2016 & 09.01.2017 sent by the Inspector qua the submission of documents for the purpose of investigation.

The Petitioner has assailed the aforementioned orders, primarily contending that the Respondents lacked jurisdiction, that the formation of opinion was without

lawful basis, and that the SECP had acted beyond the scope of its earlier orders under Section 261(3) of the Ordinance.

7. The issue before this Court is with reference to the scope and nature of the power of investigation under Sections 261, 263, and 265 of the Ordinance. Said provisions are reproduced below for ready reference:

> *"**261. Power of registrar to call for information or explanation.-** (1) **Where, on perusal of any document which is submitted to him under this Ordinance**, or any notice, advertisement or other communication, or otherwise, **the registrar is of opinion that any information, explanation or document is necessary with respect to any matter**, he may, by a written order, call upon the company and any of its present or past directors, officers or auditors to furnish such information or explanation in writing, or such document, within such time not being less than fourteen days as he may specify in the order:*
>
> *Provided that a director, officer or auditor who ceased to hold office more than six years before the date of the order of the registrar shall not be compelled to furnish information or explanation or document under this sub-section.*
>
> *(2) On the receipt of an order under sub-section (1) it shall be the duty of the company and all persons who are or have been directors, officers or auditors of the company to furnish such information, explanation or documents to the best of their power.*
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> *(3) If no information or explanation is furnished within the time specified or if the information or explanation furnished is, **in the opinion of the registrar**, **inadequate, the registrar may if he deems fit, by written order, call on the company and any such person as is referred to in sub-section (1) or (2) to produce before him for his inspection such books and papers as he considers necessary within such time as he may specify in the order**; and it shall be the duty of the company and of such persons to produce such books and papers.*
>
> *(4) If any such company or any such person as is referred to in sub-section (1), (2) or (3) refuses or makes default in furnishing any such information or in producing any such books or papers the company shall be liable in respect of each offence to a fine which may extend to twenty thousand rupees and to a further fine which may extend to five hundred rupees for every day after the first during which the default continues, and every officer of the company who knowingly and wilfully authorises*

or permits, or is a party to, the default shall be punishable with imprisonment of either description for a term which may extend to one year, and shall also be liable to fine and the authority trying the offence may, on the application of the registrar and upon notice to the company, make an order directing the company to produce such books or papers as in its opinion may reasonably be required by the registrar for his investigation.

(5) On receipt of such information or explanation or production of any books and papers, the registrar may annex the same or any copy thereof or extract therefrom to the original document submitted to him; and any document so annexed shall be subject to the provisions as to inspection and the taking of extracts and furnishing of copies to which the original document is subject.

*(6) If the information or explanation or book or papers required by the registrar under sub-section (1) is not furnished within the specified time, or if after perusal of such information or explanation or books or papers the **registrar is of opinion** that the document in question or the information or explanation or book or paper discloses an unsatisfactory state of affairs, or that it does not disclose a full and fair statement of the matter to which it purports to relate, the registrar shall without prejudice to any other provisions, and whether or not action under sub-section (3) or sub-section (4) has been taken, **report in writing the circumstances of the case to the Commission**.*

***263. Investigation of affairs of company on application by members or report by registrar**. The Commission may appoint one or more competent persons as inspectors to investigate the affairs of any company and to report thereon in such manner as the Commission may direct -*

(a) in the case of a company having a share capital, on the application of members holding not less than one-tenth of the total voting power therein;

(b) in the case of a company not having a share capital, on the application of not less than one-tenth in number of the persons entered on the company's register of members;

*(c) in the case of any company, on receipt of a report under subsection (5) of section 231 or **on a report by the registrar under subsection (6) of section 261**.*

***265. Investigation of company's affairs in other cases.** Without prejudice to its power under section 263, the Commission-*

(a) shall appoint one or more competent persons as inspectors to investigate the affairs of a company and to report thereon in such manner as the Commission may direct, if-

(i) the company, by a resolution in general meeting, or
(ii) the Court, by order, declares that the affairs of the company ought to be investigated by an inspector appointed by the Commission; and

(b) may appoint one or more competent persons as inspectors to investigate the affairs of a company and to report thereon in such manner as the Commission may direct ***if in the opinion of the Commission*** *there are circumstances suggesting-*

(i) that the business of the company is being or has been conducted with intent to defraud its creditors, members or any other persons or for a fraudulent or unlawful purpose, or in a manner oppressive of any of its members or that the company was formed for any fraudulent or unlawful purpose; or
(ii) that persons concerned in the formation of the company or the management of its affairs have in connection therewith been guilty of fraud, misfeasance, breach of trust or other misconduct towards the company or towards any of its members or have been carrying on unauthorized business; or
(iii) that the affairs of the company have been so conducted or managed as to deprive the members thereof of a reasonable return; or
(iv) that the members of the company have not been given all the information with respect to its affairs which they might reasonably expect; or
(v) that any shares of the company have been allotted for inadequate consideration; or
(vi) that the affairs of the company are not being managed in accordance with sound business principles or prudent commercial practices; or
(vii) that the financial position of the company is such as to endanger its solvency;

Provided that, before making an order under clause (b), the Commission shall give the company an opportunity to show cause against the action proposed to be taken."

The record reveals that through the Orders dated 15.04.2016 and 12.05.2016, the Joint Registrar of Companies required the Petitioner to furnish (i) bank-wise details of the Company's liabilities as on the date of issuance of the prospectus, (ii) details of bank-wise overdue loans, and (iii) list of all pending court cases against the company at the date of issuance of the prospectus and their status as

of that date. Through the response dated 15.06.2016, the Petitioner submitted information showing outstanding liabilities as of December 31, 2009, and current portions as of October 31, 2009. The Respondent No. 3 vide Order dated 22.06.2016 observed that both sets of figures related to different periods, while the requisite information was for October 21, 2009. Furthermore, although the Petitioner claimed there were no overdue loans, the figures disclosed in the prospectus showed a significant discrepancy of Rs. 544.514 million as the current portion of long-term liabilities, whereas the data provided to SECP reflected Rs. 266.638 million, implying that Rs. 277.87 million represented overdue loans contrary to the statement made in Clause 7.2 of the prospectus. In light of these findings, the Respondent No. 3 proceeded to forward a report under Section 261(6) of the Companies Ordinance, 1984, to the Commission. Thereafter, the Respondent No. 2 sent SCN dated 27.07.2017 under Section 263 & 265 of the Companies Ordinance, 1984.

8. The Petitioner's contention that the Respondents exceeded their jurisdiction by demanding documents, such as the ECIB Report, is misconceived. Section 261(1) & (3) empower the Registrar to require the production of any document or information necessary to satisfy itself regarding the accuracy or completeness of disclosures made by a Company. It allows the Registrar to examine "any document" relating to the company's affairs, which would include its liabilities, litigation, and representations made to the public through a prospectus. The Registrar's request, therefore, was well within its statutory competence, particularly since it related directly to the veracity of the prospectus, a document inviting investment from the public, warranting the highest degree of transparency.

9. It is well-settled now that at the stage of forming an opinion under Section 261 of the Companies Ordinance, 1984, the Registrar is not required to possess conclusive or irrefutable evidence in order to send a report to the Commission. Similarly, for appointing inspector(s) under Section 265 to carry out an investigation into the affairs of the company, the Commission needs to simply form an opinion. The statutory scheme contemplates a preliminary and

subjective satisfaction based on the existence of material that raises a legitimate concern about the correctness or propriety of a company's affairs. The expression *"is of the opinion"* in Sections 261 and 265 has consistently been interpreted by apex courts to mean that the opinion must be founded on some tangible basis, but need not meet the evidentiary standard required for adjudication. The purpose at this stage is merely to enable the Commission to decide whether an in-depth investigation is warranted. Reliance herein is placed on a judgment titled as "*Mst. Haleema and others Versus Executive Director, C&C Department Securities and Exchange Commission of Pakistan and others*" **(2025 CLD 324**), the Honorable Lahore High Court observed the following: -

> *"7. The Commission has only to satisfy itself, prima facie, on the basis of the material placed before it, that case for investigation through an Inspector is called for. The matter, in fact, vests in the discretion of the Commission, to be decided after following the summary procedure. In proceedings under Section 265 of the Ordinance, full-fledged inquiry in the form of a trial is not required to be held nor any formal evidence is to be recorded before passing the order under Section 265 of the Ordinance. The Authority has to only satisfy itself prima-facie, of course, on the basis of the material placed before it that a case for investigation through an Inspector is called for and it is for the Inspector to ascertain and determine the truth or otherwise of the allegation during the investigation to be conducted by him whereafter he has to submit report to the concerned Authority."*

10. Similarly, the Honorable Supreme Court of Pakistan in "*Brothers Steel Ltd. and others v. Mian Mirajuddin and 15 others*" **(PLD 1995 Supreme Court 320)**, held that a full-fledged inquiry in the form of a trial is not required before passing the order or for the appointment of Inspectors. The Commission has to only satisfy itself, prima facie, on the basis of material placed before it, that a case for investigation through Inspectors can be called for, and it is for the Inspectors to ascertain and determine the truth. The relevant part of the judgment is reproduced hereunder:-

> *"We are of the considered view that in proceedings under Section 265 of the Ordinance, full-fledged inquiry in the form of a trial, is not*

required to be held nor any formal evidence is to be recorded. Needless to observe that before passing the order under Section 265 of the Ordinance, the Court has to only satisfy itself, prima-facie, of course, on the basis of the material placed before it, that a case for investigation through an Inspector is called for and it is for the Inspector to ascertain and determine the truth or otherwise of the investigations during the investigation to be conducted by him whereafter, he will submit the report to the concerned Authority".

11. Hence, the role of the Commission is rather inquisitorial than adjudicatory, as it does not entail recording findings of guilt or liability. If, upon reviewing the documents and responses submitted by the Company, the Registrar or the Commission observes inconsistencies or unexplained discrepancies, such as conflicting financial disclosures or potential suppression of material facts in the prospectus, that alone would be sufficient to form an opinion calling for further probe. Reliance in this regard is further placed on a case titled *Messrs Future Vision Advertising (Private) Limited Versus Federation of Pakistan and others* **(2024 CLD 890)**, wherein the Honorable Lahore High Court observed that the Commission has independent powers to appoint Inspectors after issuing the show cause notice, if in its opinion there are circumstances suggesting various situations mentioned in Sub-clauses (i) to (vii) of Section Para 257(1)(b) of the Companies Act, 2017 (previously Section 265 in the Companies Ordinance, 1984). The Court upheld the opinion formed by the Commission and the SCN issued under the proviso (ii) of Section 257 of the Companies Act, 2017.

12. The record clearly demonstrates that the Petitioner Company was afforded ample opportunity to explain its position before any action was taken. Initially, vide orders dated 15.04.2016 and 12.05.2016, the Company was directed to furnish specific information regarding its bank-wise liabilities, overdue loans, and pending litigation. Upon its failure to provide satisfactory data, further time was granted on its own request, and a detailed response dated 15.06.2016 was duly considered by the Registrar. Thereafter, when discrepancies were observed, an SCN dated 27.07.2016 was issued under Section 265, affording the Company fourteen days to respond, along with the option of a personal hearing. The

Petitioner subsequently filed replies dated October 13 and October 21, 2016, which were duly examined by the Commission. The order dated 07.11.2016 itself records that a personal hearing was also provided, demonstrating full compliance with the principles of natural justice. Thus, the Petitioner was neither denied an opportunity of defense nor subjected to unilateral proceedings; rather, the SECP proceeded cautiously and transparently before directing an investigation.

13. Furthermore, in the Judgement titled *"Saif Power Limited Versus Federation of Pakistan through Secretary Ministry of Law, Civil Secretariat Islamabad and others"* **(2023 S C M R 714)**, the Honorable Supreme Court of Pakistan, whilst distinguishing between the powers under Section 231 (Inspection) and Section 263 and 265 (Investigation) of the Companies Ordinance, 1984, observed as under: -

> *6. On the other hand, sections 263 and 265 of the Ordinance deals with the exercise of power of investigation by the SECP.* ***The powers under sections 263 and 265 are wider and also come with more procedural requirements****.* ***The SECP is empowered to initiate an investigation on an application by the members or on the basis of a report of the Registrar or it can initiate an investigation if there are circumstances suggesting that the business of the company is being conducted with intent to defraud the creditors, members or any other person, or if the business is being conducted for a fraudulent or unlawful purpose, or if the members concerned with the formation of the company are guilty of fraud, misfeasance, breach of trust or other misconduct****.* ***The spirit of sections 263 and 265 of the Ordinance is to ensure that the business is managed in accordance with sound business principles or prudential commercial practice and that the financial position of the company is not threatened****.* ***When carrying out an investigation, before passing an order, SECP is obligated to give an opportunity to the company to show cause against the investigation proposed to be taken****. As per section 268 of the Ordinance, all officers, employees and agents of the company and all persons dealing with the company are to assist in connection with the investigation. The scope of who is to assist in investigations is wider than that of inspections. The inspector's report under section 269 of the Ordinance can form the basis of prosecution under section 270 of the Ordinance and an action under sections 271 and 272 of the Ordinance.* ***The scope of the investigation is based on the allegations***

> ***pertaining to the affairs of the company and requires a probe into the allegations to ascertain their veracity.***
> *7. Thus, we find that the provisions relating to inspection and investigation are distinct. An inspection is an administrative power exercised by the SECP to ensure compliance of regulatory requirements. This power is limited to the inspection of books of account of a company after recording of reasons for the inspection in this regard.* ***Whereas, an investigation against a company is a serious matter, as it is capable of entailing consequences both financial and penal which will impact the goodwill of the company. Consequently, an investigation cannot be ordered except on statutory grounds which include allegations of fraud, illegalities into the affairs of the company, or misuse and misappropriation of funds of the company. It is then the duty of the SECP to consider and weigh multiple factors, such as the nature of the complaint and its source, ensure due process and follow the statutory process in good faith, without any bias, prejudice or ulterior motives****. The Ordinance does not prescribe the same process for an inspection simply because its scope is limited as are its consequences."*
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> (Emphasis added)

14. In the present case, the discrepancies highlighted by the Respondents clearly fall within the scope of illegality in the affairs of the company as envisaged under Section 265 of the Companies Ordinance, 1984, as interpreted by the August Supreme Court in ***Saif Power Limited*** (Supra). The mismatch between the liabilities disclosed in the Company's prospectus and the data later furnished to the SECP, particularly the unexplained difference of Rs. 277.87 million and the false declaration that no overdue loans existed, constitutes material misstatements. Such discrepancies, by their very nature, strike at the core of transparency and business conduct and, therefore, justifiably prompted the Commission to form an opinion that the affairs of the Company were being conducted in a manner contrary to sound business principles. Hence, the initiation of investigation proceedings under Sections 263 and 265 was neither arbitrary nor excessive, but a lawful exercise of regulatory oversight to verify potential illegality and protect shareholders and creditors.

15. The Petitioner's counsel argued that the amendment to Section 33 of the SECP Act, 1997, introduced via a money bill, unlawfully removed the right of appeal against interim orders, including those under Section 263 of the

Companies Ordinance. Further contended that orders under Section 263 are not interim in nature, as they conclusively appoint inspectors, thus depriving the Petitioner of its right to appeal. Such intrusive proceedings damage the Petitioner's reputation and infringe its fundamental rights. It has been settled by the Honorable Supreme Court of Pakistan in *"*Attock Refinery Ltd. v. Executive Director Enforcement & Monitoring Division, SECP*"* **(PLD 2010 SC 946)** that once an order for investigation is passed under Section 265 of the Companies Ordinance, 1984, such order remains part of the ongoing proceedings before the Commission and does not dispose of the entire case. Once the investigator is appointed, it is still very much part of the case pending with the SECP for investigating the affairs of the petitioner company. The August Supreme Court further rejected the argument that the appointment of an inspector tarnishes the company's reputation, holding that this cannot be a ground to defeat the statutory scheme of investigation designed to ensure transparency in corporate affairs, and observed that the company itself should have no reluctance in joining the investigation, if it can explain and answer the questions raised by the SECP. Further stated that the appointment of investigators likely to affect the reputation of the company can hardly be a ground for rendering redundant the provisions of section 265 of the Companies Ordinance.

16. Applying this reasoning, the Petitioner Company in the present case, having been confronted with material discrepancies in its disclosures, cannot evade lawful investigation merely by alleging reputational harm or procedural impropriety. The Impugned Actions, made after providing the Petitioner ample opportunity to respond, fall squarely within its regulatory authority, and an investigation is a necessary and continuing step to ascertain whether the Company's affairs are being conducted in violation of sound commercial and statutory principles. Therefore, the argument of the Petitioner that the Respondent No. 1 had already verified the prospectus in 2010 and was, therefore, barred from reopening the matter after six years is equally untenable. The *ibid* provisions of the Companies Ordinance, 1984 confer a continuing supervisory power upon the SECP to form an opinion at any stage, if there is

reason to believe that the company's affairs are being conducted in a manner prejudicial to the categories mentioned under Section 265. The formation of such an opinion is administrative and preparatory in nature, thus, it does not amount to a finding of guilt or subjecting the company to civil consequences. The formation of opinion under Section 265 requires only the existence of credible material suggesting the need for further inquiry, hence, it does not demand conclusive proof of wrongdoing. The discrepancies noted in the Petitioner's disclosures provided such a material basis, justifying SECP's action.

17. In light of the foregoing, I find that the Respondents have acted within their lawful authority under Sections 261, 263, and 265 of the Companies Ordinance, 1984. The opinion formed was supported by relevant material and did not suffer from arbitrariness or mala fide intent. The Petitioner, instead of fully complying with the directions, provided inconsistent information, thereby inviting a legitimate inquiry. The appointment of an Inspector is neither punitive nor final, but merely facilitates the collection of evidence by an independent functionary. Consequently, the petition being devoid of merit is hereby ***dismissed***, with no order as to costs.

(MUHAMMAD AZAM KHAN)
JUDGE

Sajid/--

Approved For Reporting
Blue slip added.