IN THE HIGH COURT OF SINDH AT KARACHI

JCM No. 08 of 2009

Date: Order with signature of Judge

For orders as to maintainability of CMA No. 283/2026

13.10.2026

Mr. Muhammad Siraj, Advocate for the Petitioner.

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O R D E R

SAMAN RAFAT IMTIAZ, J.- By this order, I intend to dispose of CMA No. 283/2026, filed on behalf of the Petitioner [Pak Iran Investment Company Limited] under Order IX Rule 9 CPC, being an application for the restoration of the JCM No.08 of 2009 dismissed vide order dated 07.04.2026.

2. The brief facts of the case are that the Petitioner filed the winding-up petition under Section 305 of the Companies Ordinance, 1984, alleging that it had financed the Respondent with Rs. 75 million under an Investment Agreement against the issuance of 15,000 Term Finance Certificates (TFCs). The Respondent failed to issue the TFCs within the stipulated period, pay the principal and mark-up or comply with its contractual obligations despite repeated demands. It was further alleged that the Respondent was heavily indebted and had committed several defaults under the agreement. The Petitioner claimed Rs. 84,378,518/- as outstanding on 06.01.2009 and sought winding-up of the Respondent company.

3. The order sheet shows that on 07.04.2026, JCM No.08 of 2009 was fixed for hearing of CMA No. 926/2010 and the main petition. On that date, none was present for the Petitioner, and Mr. Atif Hafeez, Advocate, was present for the Respondent. Therefore, on account of absence of Petitioner, matter was dismissed. Thereafter, on 14.04.2026, the Petitioner filed instant CMA No. 283/2026 for restoration of the JCM No. 08 of 2009.

4. Heard the learned counsel for the Petitioner and perused the entire record with his assistance.

5. Perusal of the order sheet shows that initially the matter was being heard along with JCM 11 & 12 of 2009. JCM 12/2009 was disposed of with consent on 15.02.2017. On 24.09.2019, notice was issued to Petitioner in the instant JCM. On the next date, i.e., 31.10.2019, the learned counsel was confronted with order dated 13.03.2019 and return of notice unserved upon

the Petitioner in the aforesaid petition, and it was recorded that Petitioner requested for time to seek fresh instructions. The Court noted that on the basis of record, no further time ought to be granted. However, in the interest of justice, reluctantly, a last and final chance was given and the matter was adjourned to 21.11.2019, and it was made clear that if no instructions are pleaded, instant JCM would be dismissed for non-prosecution without further orders. Thereafter, the learned counsel submitted on the next date that he has instructions to proceed with the matter. However, again none was present on 07.04.2026, and, therefore, this Court, while observing that matter has been pending for 15 years without any significant progress, dismissed the JCM.

6. Perusal of the application shows that the only reason given in the affidavit is that in a connected matter, settlement had been reached between the parties. However, the aforementioned history shows that even after disposal of the connected matter, the Petitioner's counsel was given a chance to seek instructions whether they want to proceed with the instant matter, whereafter the learned counsel stated that he has instructions to proceed, but failed to proceed and to appear on the date when last chance was given. In view thereof, no cogent reason has been given for the non-appearance and failure to proceed on the date of dismissal of the instant petition, and hence, the restoration application is dismissed.

J U D G E

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