

**ORDER SHEET  
IN THE HIGH COURT OF SINDH AT KARACHI**

Suit No.B-55 of 2009

M/s Mybank Limited

Versus

M/s Apollo Textile Mills Limited

Date	Order with signature of Judge
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For hearing of CMA 8307/09

**Date of hearing: 31.01.2017**

Mr. Bahzad Haider for plaintiff.

Mr. Farogh Naseem for defendant.

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**Muhammad Shafi Siddiqui, J.**- Learned counsel for defendant at the very outset submits that statement of account filed by the plaintiff in support of its claim is not reliable under the law as it is not certified in terms of Bankers Books' Evidence Act, 1891. He has taken me to the relevant statement of account available at page 157 and the foot note provides, as claimed, that it is undated and the status/designation of the officer who has signed it is not disclosed hence it suffers from the mandatory requirement.

On the other hand learned counsel for plaintiff submitted that the subject statement of account cannot be scrutinized on the touchstone of Bankers' Books Evidence Act, 1891 as it is a computer generated statement and by virtue of Electronic Transaction Ordinance, 2002 such requirement is done away.

I have heard the learned counsel and perused the material available on record.

There is no doubt that this statement of account filed along with plaint is not subscribed and certified on the touchstone of Section 2(8) of the Act 1891, the requirements under which are as under:-

*“Certified copy means a copy of any entry in the books of a bank together with a certificate written at the foot of such copy that it is a true copy of such entry, that such entry is contained in one of the ordinary books of the bank and was made in the usual and ordinary course of business, and that such book is still in the custody of the bank, such certificate being dated and subscribed by the principal accountant or manager of the bank with his name and official title.”*

The contention of the learned counsel for the plaintiff that in case of electronically generated statement of account, the strict rule of Act 1891 is not applicable, is not confidence inspiring. The presumption of truth cannot be said to be attached to a statement of account, which is not certified as required under Act 1891. Computer generated accounts may not have required attestation under Act 1891 for any other issue but not for considering the claim of the plaintiff as true and correct. Indeed such statement could only be believed to be true in case it is ratified as above and on the assumption/confirmation that it is certified by the relevant officers concerned. Even in a computer generated statement, the statistics/figures are being fed by the accountants. These accountants were previously used to prepare through their own hands/manually hence the presumption of truth in relation to both the statements could only be said to be attached in case they are certified, as required under the law.

The case under banking jurisdiction is governed by special statute i.e. Financial Institutions (Recovery of Finances) Ordinance, 2001 and in terms of Section 9(2) this special statute requires the statement of account to be certified under Act 1891. The provisions of this law would become redundant in case the contention of the plaintiff is considered to be correct. This sole ground is sufficient to grant unconditional leave to the defendants. Accordingly, by order dated 31.01.2017 the listed leave application was granted and these are the reasons for the same.

Dated:

Judge