

IN THE HIGH COURT OF SINDH AT KARACHI

Present:

Justice Saman Rafat Imtiaz

J.C.M. No. 32 of 2016

Al-Ameen Trading Corporation (Pvt.) Ltd.

Versus

Maxco (Pvt.) Ltd. & others

Petitioner:	Through Mr. Mohammad Hanif Khetana Advocate.
Respondents:	Through Mr. Taimoor Ahmed Qureshi, Advocate.
Date of Hearing:	13.05.2026
Date of Order:	13.05.2026

J U D G M E N T

Saman Rafat Imtiaz, J.- Through this petition under section 305 of the Companies Ordinance, 1984 petitioner seeks winding up of respondent No.1 on the ground of failure to pay debt.

Learned counsel for the petitioner argued that the petitioner served a legal notice dated 18.05.2016 upon the respondent for the payment of debt amounting to Rs.5,179,902/- with a note of caution that in the event of failure to comply the petitioner would be constrained to file petition for winding up. Learned counsel for petitioner submitted that neither any response was made by the respondents nor payment was made hence the instant petition. He further submitted that the debt has been admitted by the respondent. Lastly he pointed out that the respondent has made part-payment during pendency of the instant petitions when time was granted for amicable settlement.



On the other hand learned counsel for respondent submitted that neither any contract for the alleged purchases nor any invoice for the alleged outstanding amount has been produced by the petitioner and that even otherwise alleged outstanding is time barred. He further submits that the legal notice served by the petitioner is not in compliance with the law as it is merely for seven days as opposed to the requisite 30 day period. He relies upon the case of *First Dawood Investment Bank Ltd. v. Bank of Punjab* reported in 2022 CLD 1415.

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

Perusal of the memo of petition shows that the petitioner has made a bare allegation that an amount of Rs.5,179,902.99 is payable by respondent No.1 company. Perusal of legal notice dated 18.05.2016 shows that allegedly the respondent purchased dyeing chemicals from the petitioner on 01.02.2016 worth Rs.50,243,50 and on 04-01-2016 worth Rs.110,000/- against which certain amounts were paid however balance amount remained outstanding to the tune of Rs.5,179,902.99. However, neither any agreement has been placed on record for purchase of dyeing chemicals nor any invoice, as alleged. There is no evidence worth the name to establish any business transaction between the petitioner and the respondent on account of which a debt would have arisen.

The Supreme Court in the case of *First Dawood Investment Bank* (Supra) has held that the words "unable to pay" used in Section 306(1)(a) of the Companies Ordinance, 1984 refers to a refusal of company to pay without any reasonable cause however if the company raises a bona fide dispute as to its liability then in such cases there can be no neglect to pay. Although learned counsel for the petitioner submitted that the outstanding amount has been admitted by the respondent but was unable to point out any such admission from the



record. The alleged liability, having been denied by the respondent, cannot be taken as ground for winding up as factual controversies can be resolved through regular recovery proceedings¹.

Perusal of the order sheet also reveals that on 13-04-2026 the learned counsel for the petitioner submitted that the petitioner is a creditor and has approached this court so that they may be paid back their dues. It is clear that the petitioner seeks recovery in the guise of a winding up petition². However, the purpose of winding up is to see if the company is solvent. There is no evidence that the respondent is insolvent.

In view of the foregoing, the petition is devoid of any merit and the same is accordingly dismissed.

Dated:



Judge

¹Rizvi and Rizvi Advocates through partner Talib H. Rizvi Senior Advocate vs. Wak Orient Power and Light Ltd through Chief Executive, 2002 CLD 614

² Ibid.

