



MADE IN
BANGLADESH
WEEK
12-18 November 2022, Dhaka



বিজিএ/কাস/২০২২/ ১৯৯

১২ সেপ্টেম্বর, ২০২২

সম্মানিত সকল সদস্যের জন্য

বিষয়ঃ ইউকেস্‌ ব্র্যান্ড 'Peacocks' এর বিষয়ে যুগ্ম জেলা জজ ১ম আদালত, ঢাকা কর্তৃক প্রদত্ত নির্দেশনা প্রসঙ্গে।

সূত্র : এফইপিডি (রপ্তানি নীতি)২১২/২০২২-৪৭৮০ তারিখঃ ১১/০৯/২০২২ইং

উপরোক্ত বিষয় ও সূত্রের প্রতি আপনাদের সদয় দৃষ্টি আকর্ষণ করছি। বাংলাদেশস্থ ৪টি রপ্তানিকারক প্রতিষ্ঠান কর্তৃক ইউকেস্‌ ৮টি আমদানিকারক প্রতিষ্ঠানের বিরুদ্ধে যুগ্ম জেলা জজ ১ম আদালত, ঢাকা বরাবর দায়েরকৃত মামলা নং-১৮০/২০২২ এর সূত্রে আদালত বিবাদী পক্ষ হিসেবে উল্লিখিত আমদানিকারক কে বা তাদের কোনো এজেন্ট (Purepay Retail Limited, Anglo Global Property Limited) বা অন্য কোন ক্রেতার নামে Peacocks ব্র্যান্ড ব্যবহারের মাধ্যমে এ দেশের গার্মেন্টস শিল্প থেকে পণ্য ক্রয়ের বিষয়ে মাননীয় আদালত অস্থায়ী নিষেধাজ্ঞা জারী করেছে।

মাননীয় আদালত কর্তৃক বর্ণিত নির্দেশনার উপর গৃহীত বাংলাদেশ ব্যাংকের লিগ্যাল রিটেইনার এর মতামত সম্বলিত সূত্রোক্ত পত্রটি প্রয়োজনীয় কার্যার্থে এতদসঙ্গে সংযুক্ত করা হলো।

সংযুক্তিঃ বর্ণনামতে।

ধন্যবাদান্তে,

মোঃ ফয়জুর রহমান
মহাসচিব

৫০১১৯



বাংলাদেশ ব্যাংক
(সেন্ট্রাল ব্যাংক অব বাংলাদেশ)
প্রধান কার্যালয়
মতিঝিল, ঢাকা-১০০০
বাংলাদেশ।



বৈদেশিক মুদ্রা নীতি বিভাগ
(রপ্তানি নীতি শাখা)

সূত্র নং: এফইপিডি(রপ্তানি নীতি)২১২/২০২২-৪৭৮০

তারিখ : সেপ্টেম্বর ১১, ২০২২

প্রেসিডেন্ট

বাংলাদেশ গার্মেন্ট ম্যানুফ্যাকচারার্স এন্ড এক্সপোর্টার্স এসোসিয়েশন (বিজিএমইএ)

বিজিএমইএ কমপ্লেক্স, হাউজ : ৭/৭এ,

সেক্টর : ১৭, ব্লক : এইচ-১

উত্তরা, ঢাকা-১২৩০।

প্রিয় মহোদয়,

ইউকেস্‌ ব্র্যান্ড 'Peacocks' এর বিষয়ে যুগ্ম জেলা জজ ১ম আদালত, ঢাকা কর্তৃক প্রদত্ত নির্দেশনা প্রসঙ্গে।

উপর্যুক্ত বিষয়ে বাংলাদেশস্থ ৪টি রপ্তানিকারক প্রতিষ্ঠান কর্তৃক ইউকেস্‌ ৮টি আমদানিকারক প্রতিষ্ঠানের বিরুদ্ধে যুগ্ম জেলা জজ ১ম আদালত, ঢাকা বরাবর দায়েরকৃত মামলা নং-১৮০/২০২২ এর সূত্রে আদালত বিবাদী পক্ষ হিসেবে উল্লিখিত আমদানিকারক (মামলার আরজির ১-৭ নং ক্রমিক) কে বা তাদের কোনো এজেন্ট বা অন্য কোনো ক্রেতার নামে Peacocks ব্র্যান্ড ব্যবহারের মাধ্যমে এ দেশের গার্মেন্টস শিল্প থেকে পণ্য ক্রয়ের বিষয়ে মাননীয় আদালত কর্তৃক অস্থায়ী নিষেধাজ্ঞা (কপি সংযুক্ত) প্রদান করেছে। আদালত কর্তৃক বর্ণিত নির্দেশনার উপর গৃহীত বাংলাদেশ ব্যাংক এর লিগ্যাল রিটেইনার এর মতামত নিম্নরূপ:

“The subject matter of the dispute is within the purview of the Ready Made Garment (RMG) and Bangladesh Garment Manufacturers and Exporters Association (BGMEA) is the guardian authority for the RMG sector. In such a situation, the Bangladesh Bank may also write a letter to BGMEA referring to the order of injunction of the learned court below and seek help for coordination in implementation of the order of temporary injunction passed by the learned court on 19.5.2022 and asked them to dispose off the suit as early as possible.”

প্রয়োজনীয় কার্যার্থে বিষয়টি আপনাদের সকল সদস্যকে অবহিত করার লক্ষ্যে প্রেরণ করা হলো।

আপনাদের বিশ্বস্ত

Shagufta

(সাণ্ডফুতা ইকবাল)

যুগ্মপরিচালক

ফোন : +৮৮০-২৫৫৬৬৫০০১-২০/২১১৯৬

Email : shagufta.iqbal@bb.org.bd



অপীল/অন্যান্য কার্য কর্তৃপক্ষের তারিখ	এজিটেট দেওয়ার তারিখ	স্বাক্ষর/স্বাক্ষর তারিখের তারিখ	অনুলিপি প্রস্তুতের তারিখ	জারি
২৭/৭/২২	২৭/৭/২২	২৭/৭/২২	২৭/৭/২২	০

স্বাক্ষর/স্বাক্ষর তারিখ: ২৭/৭/২২

কোর্ট ফি ...
সঠিক আছে।
মোঃ আব্দুর রশিদ
প্রধান বুকিংকারক
২৭/৭/২২

০: ২০০/২২

Desigatex knitwear Ltd. and others
VERSUS

The Edinburgh Woollen Mill (EWM) Dhaka Liaison
Office of Peacocks

উল্লেখিত: প্রার্থী-স্বাক্ষরিত আবেদন সঠিক

০৬
১৯/০৫/২২
সত্যায়িত অধিকার নকল
মোঃ আব্দুর রশিদ
প্রধান বুকিংকারক
বক্সিং বিভাগ
জেলা ও দায়রা জজ আদালত, ঢাকা
২৭/৭/২২

১৯/০৫/২২
জন্য স্বাক্ষর, প্রমাণিত, এই সিনিয়র-অফিসার
স্বাক্ষর ও সীলন দ্বারা স্বাক্ষরিত হইবে।
জন্য স্বাক্ষরিত হইবে স্বাক্ষরিত হইবে।
স্বাক্ষর দ্বারা স্বাক্ষরিত হইবে স্বাক্ষরিত হইবে।

১৯/০৫/২২

Handwritten marks and signature at the bottom left.



তারিখ: ২০/১২

সংখ্যা: ০৬
১১/০৫/১২

সিদ্ধান্ত দেওয়া হল যে আবেদনকারীরা
 আবেদনকারীরা একত্রিত হয়ে মোকদ্দম: আবেদনকারী-১ এবং
 মোকদ্দম: ১০৬ এর বিরুদ্ধে আবেদন করেছেন।
 মোকদ্দম: ১০৬ এর বিরুদ্ধে আবেদনকারীরা
 মোকদ্দম: ১০৬ এর বিরুদ্ধে আবেদন করেছেন।
 মোকদ্দম: ১০৬ এর বিরুদ্ধে আবেদন করেছেন।

অন্যদিকে, মোকদ্দম: আবেদনকারী-১
 মোকদ্দম: ১০৬ এর বিরুদ্ধে আবেদন করেছেন।
 মোকদ্দম: ১০৬ এর বিরুদ্ধে আবেদন করেছেন।
 মোকদ্দম: ১০৬ এর বিরুদ্ধে আবেদন করেছেন।
 মোকদ্দম: ১০৬ এর বিরুদ্ধে আবেদন করেছেন।
 মোকদ্দম: ১০৬ এর বিরুদ্ধে আবেদন করেছেন।
 মোকদ্দম: ১০৬ এর বিরুদ্ধে আবেদন করেছেন।
 মোকদ্দম: ১০৬ এর বিরুদ্ধে আবেদন করেছেন।

সত্যায়িত কৃতিকাল নব্বল
 মোঃ আব্দুল হান্নাদ
 প্রধান কৃতিকালকারক
 আদালতপত্র
 ঢাকা ও মাদারাসা সড়ক, মাদারাসা, ঢাকা
 ১৯৫২

The record is taken up for hearing. Today was fixed for hearing of petition on behalf of the plaintiff under order XXXIX, Rule 1/2, with see 151 of the Code of Civil Procedure. The defendant no 1 appeared in the last date. The defendant has not submitted there written statement/objection. Today the defendant without filling any objection has a prayer for adjournment.

Perused the record along with the petition and documents submitted therewith. On perusal the plaintiff and the defendants no. 1 to 7 put one of their own companies (defendant no.3) into administration, then



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appointed administrators of their own choosing and then brought it out of administration through their own CEO Mr. Steve Simpson (defendant no.7) and their own companies (defendants no.4 and 5) which is ex-facie fraudulent.

As per the plaintiff if the defendants are allowed to shake off their liability in this fraudulent manner and continue business in Bangladesh then it will expose the Bangladesh RMG sector to other potential fraud buyer resulting in a loss that cannot be quantified in money as the total sector will collapse and not only factory owners will face financial loss but also employment created by RMG sector will be lost.

দায়িত্ব অধিকার নকল It is the further case of the plaintiff that if the defendants are not
injunction from doing business in Bangladesh in the name of the brand
মোঃ আব্দুল হান্নান "Peacock" then the defendants will continue to defraud and harm
বাংলাদেশ রামনির্গমিক শিল্প সংস্থা Bangladesh RMG sector on the other hand if they are injunction then they
29/9/22 will not be irreparably prejudiced as the defendants are based in UK
having many other sources hence the balance of convenience is also in
favour of granting injunction. Granting injunction will send a worldwide
message that Bangladesh will not be exploited by unethical buyers
anymore.

3
4
On perusal of the record along with the petition and the documents and the findings mentioned above it is found that the plaintiff has a strong Prima facie case in their favour and the plaintiff will suffer an irreparable loss if the petition is not allowed on the instant. Further more the Court thinks the matter as a matter of national interest thus is inclined to allow the petition filed by the plaintiff.



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It is there fore ordered that the petition filed by the plaintiff under order XXXIX, Rule 1/2 and section 151 of the code is hereby allowed partially. Thus the opposite parties no. 1 to 7 are hereby restrained by an order of temporary injunction from doing any business with any RMG factories in Bangladesh using the brand name "peacock", restrained from placing any order in the name of "peacock" by any foreign buyer or their agents/buying houses and further restrained from any export in favour of the opposite parties no. 1 to 7 or any other foreign buyers or their agents for the brand name of "peacock", till submission of written objection by

সত্যায়িত অবিকল নকল the opposite parties no.1 to 7. Next date fixed for W/S, W/O On 04/07/2022.

মোঃ আব্দুর রশিদ
প্রধান তুলনাকারক
অন্মলিপি বিভাগ
জোলা ও দায়রা জজ আদালত, ঢাকা

Dictated & Corrected

Joint District Judge (Incharge)
1st Court, Dhaka.

(Kazi Mushfiq Mahbub Robin)
Joint District Judge (Incharge)
1st Court, Dhaka.

মোঃ আব্দুল হাসান
অন্মলিপি কারক
অন্মলিপি বিভাগ
জোলা ও দায়রা জজ আদালত, ঢাকা।

মোঃ আব্দুল হক
অন্মলিপি কারক
অন্মলিপি বিভাগ
জোলা ও দায়রা জজ আদালত
ঢাকা।

IN THE COURT OF 1st JOINT DISTRICT JUDGE, DHAKA

TITLE SUIT NO. 180 OF 2022

1. Designtex Knitwear Limited, represented by its Managing Director, Beraiderchala, Sreepur, Gazipur, Bangladesh.
2. Designtex Fashions Limited, represented by its Managing Director, Zirabo, Savar, Dhaka-1341, Bangladesh.
3. Knit Bazaar (Pvt) Limited, represented by its Managing Director, 40-41, Vadam, Tongi, Gazipur, Bangladesh.
4. Bottoms Gallery (Pvt) Limited, represented by its Managing Director, House No. 89, Road No. 28, Sector No. 07, Uttara Model Town, Uttara, Dhaka-1230 and Bulbul Tower, Dighirchala, Mymensing Road, Gazipur, Bangladesh.

.....**Plaintiffs-Applicants**

-VERSUS-

1. The Edinburgh Woollen Mill (EWM) Dhaka Liaison Office of Peacocks, represented by its Country Head, House: 32A, Road: 02, Sector: 03, Uttara, Dhaka-1230, Bangladesh.
2. The Edinburgh Woollen Mill Group Limited, represented its managing director, June Carruthers, The Edinburgh Woollen Mill Limited, Waverley Mills, Langholm, Dumfriesshire, DG13 0EB.
3. Peacocks Stores Limited represented by its Managing Director, Windsor Road, Cardiff, CF24, 5NG, UK.
4. Anglo Global Property Limited, 1, Fleet Place, Farringdon, London, United Kingdom, EC4M 7WS.
5. PurePay Retail Limited, 1, Fleet Place, Farringdon, London, United Kingdom, EC4M 7WS.
6. Mr. Philip Day, EWM Waverley Mills, Langholm, Dumfriesshire, Scotland, DG13 0EB.
7. Mr. Stephen Robert Simpson, 1, Fleet Place, Farringdon, London, United Kingdom, EC4M 7WS.
8. Barclays Bank PLC represented by its Managing Director, Trade Middle Office, P.O. Box 340, One Snow Hill Queensway, Birmingham B4 6GN, United Kingdom.
9. Southeast Bank Limited represented by its Managing Director, Dhanmondi Branch, 4/1/4, Sobahanbag, Mirpur Road, Dhanmondi, Dhaka, Bangladesh and its Principal Branch, 1 Dilkusha C/A, Dhaka, Bangladesh.
10. National Bank Limited represented by its Managing Director, Paragati Sarani Branch, Kuril Badda, Dhaka, Bangladesh.

.....**Defendants-Opposite Parties**

11. Bangladesh Bank represented by its Governor, 1, Motijheel Commercial Area, Dhaka.
12. National Board of Revenue (NBR), represented by its Chairman, Rajswa Bhaban, Segunbagicha, Dhaka-1000, Bangladesh.

.....**Proforma Defendants**

AN APPLICATION UNDER SECTION 94 AND 151 READ WITH ORDER 39 RULE 1 AND 2 OF CPC FOR TEMPORARY INJUNCTION.

Suit for declaration valued at BDT 5,97,79,220/- (five crore ninety seven lacs seventy nine thousands two hundred twenty taka

SHEWETH:

1. That, the plaintiff filed this instant Title Suit No. 180 of 2022 for declaration and pleaded *inter alia*:
 - a) That, this is a representative suit preferred under Order 1 Rule 8 of the Code of Civil Procedure, 1908 (CPC). The plaintiff No. 1 Designtex Knitwear Ltd, plaintiff no. 2 Designtex Fashions Ltd., plaintiff no. 3 Knit Bazaar (PVT) Ltd., plaintiff no. 4 Bottoms Gallery (Pvt) Ltd. are private limited companies and reputed textile companies in Bangladesh exporting readymade garments in many countries of the world;
 - b) That, the defendant no. 1 is Liaison office of the defendant no. 2 EWM Group of Companies which owns the defendants no. 3 to 5. The defendant no. 6 is Mr. Philip Day who owns and actually controls all the defendants no. 1 to 5 and the defendant no. 7 is Mr. Stephen Simpson who is partner of Mr. Day and is director of all defendant no. 1 -5 companies. The defendant no. 2 and the defendants no. 3 gave Purchase Orders (POs) to the plaintiff for procuring RMG goods. The defendants no. 4 and 5 are "shell companies" of the defendant no. 1 and 2 EWM Group and these shell companies were used to create an inuendo that the brand "Peacocks" and the defendants no. 2 and 3 are now owned by new management when in reality it is just a fraudulent scam to defraud around 26 Bangladeshi RMG exporters out of around 3.5 Million USD dollar (around 32 crore taka). The defendant no. 8 Barclays Bank PLC is the bank of the defendants no. 1-5 who participated in the fraud committed by the defendants no. 1 to 5 and/or acted negligent and thereby is liable for the total outstanding due owed to the plaintiffs. The defendant no. 9 Southeast Bank and defendant no. 10 National Bank Limited are the bank of plaintiffs. The proforma defendant no. 11 is Bangladesh Bank the regulator of all commercial banks of Bangladesh, the proforma defendant no. 12 is the NBR. No relief has been sought against the *proforma* defendants no. 11 and 12 and they have been only impleaded for an efficacious disposal of this suit;

That, the plaintiff no. 1 received a purchase order (PO) no. DKL/PKK/02-19 dated 15.01.2019 total valuing USD 8,75,067.71/- from UK based buyer defendant no. 3 to make the export RMG goods. Against above stated order the plaintiff no. 1 procured raw materials i.e. Yarn & Accessories from different suppliers by opening several Back to Back L/Cs from plaintiff's lien Bank the Southeast Bank Ltd. Dhanmondi Branch, Dhaka. After receiving all the required raw materials, the plaintiff no. 1 manufactured the garments and exported the same all as per instruction of defendant no. 1 who is the Peacock's Dhaka liaison office. The plaintiff no. 1 shipped all the RMG products in time and received part payment as a trap only to be defrauded later;

- d) That, against the said POs, all RMG goods were manufactured but since payment was not forthcoming, the plaintiff no. 1 refused to ship the ready goods and this is when the defendants no. 1 to 7 started to defraud the plaintiff no. 1 by engaging Barclays Bank i.e. the defendant no. 8 that the said bank is giving maturity which works as a guarantee for payment but in reality no guarantee is established as per international commercial transaction (this being not a transaction under Letter of Credit). Most unfortunately, the Barclays bank took a part in this fraud and issued a letter of maturity delivered by post and not by swift messages which is the mandatory method of communication when a bank is acting as collecting bank under Uniform Rules of Collection (URC) 522. Barclays Bank PLC gave acceptance by post to Southeast Bank Limited i.e. the bank of the plaintiff no. 1 and stated that the bill relating to the claim of plaintiff no. 1 has been accepted to mature on various dates however, unfortunately plaintiff did not receive payment worth USD 1,86,661.87/- till today from defendant no. 3 Peacocks Stores Limited and has been defrauded thusly;
- e) That, under the said situation plaintiff no. 1 started vigorous persuasion with buyer's Dhaka Liaison Office defendant no. 1 for getting Payment shortly and in all cases, they gave plaintiff no. 1 hope for sending payment. However, all their hopes finally went in vain after waiting for considerable time span plaintiff no. 1 also pursued this matter over phone with the Peacock's concerned persons at their UK Office. At this stage, Mr. Karthic of Peacock's Dhaka Liaison Office, communicated with plaintiff no. 1 in mail to send the original shipping documents to the Buyer's Bank i.e. Barclays Bank PLC stating that Barclays Bank PLC, UK shall take the responsibility for the payment to the said export bills. Accordingly, plaintiff no. 1 sent the shipping documents to Barclays Bank PLC, UK. After receiving the documents Barclays Bank PLC, UK, released the said documents to the defendants no. 1 to 7 who took the RMG goods and became possessor and owner of them without paying a single penny. All those payment dates expired long back last being on 11.01.2021 but still plaintiff no. 1 remain unpaid from the defendants no. 1 to 7;
- f) That, similarly the plaintiff no. 2 Designtex Fashions Ltd. received POs from the defendants no. 1 to 7 total valuing USD 3,82,087.25/- from UK based buyer Peacock i.e. defendant no. 3 and to make the export RMG goods. Against the POs the plaintiff no. 2 procured raw materials i.e. Yarn & Accessories from different suppliers by opening several Back to Back L/C's from the Bank Southeast Bank Ltd. Dhanmondi Branch, Dhaka. Thereafter the plaintiff no. 2 received all the required raw materials and the plaintiff no. 2 manufactured the garments and exported the same as per instruction of defendant no. 1 who is Peacock's agent and Dhaka liaison office;
- g) That, against the said POs, all RMG goods were manufactured but since payment was not forthcoming, the plaintiff no. 2 refused to ship the ready goods and this is when the defendants no. 1 to 7 started to defraud the plaintiff no. 1 by engaging Barclays Bank i.e. the defendant no. 8 that the said bank is giving maturity which works as a guarantee for payment but in reality no guarantee is established as per international commercial transaction (this being not a transaction under Letter of Credit). Most unfortunately, the Barclays bank took a part in this fraud and issued a letter of maturity delivered by post and not by swift messages which is the mandatory method of communication when a bank is acting as collecting bank under Uniform Rules of Collection (URC) 522. Barclays Bank PLC gave acceptance by post to Southeast Bank Limited i.e. the bank of the plaintiff no. 2 and stated that the bill relating to the claim of plaintiff no. 2 has been accepted to mature on various dates but unfortunately plaintiff did not receive payment which is worth USD 1,24,292.35/- till today from defendant no. 3 Peacocks Stores Limited;
- h) That, under the said situation plaintiff no. 2 started vigorous persuasion with buyer's Dhaka Liaison Office defendant no. 1 for getting Payment shortly and in all cases, they gave plaintiff no. 2 hope for sending payment. However, all their hopes finally went in vain after waiting for considerable time span plaintiff no. 2 also pursued this matter over phone with the Peacock's concerned persons at their UK Office. At this stage, Mr. Karthic of Peacock's Dhaka Liaison Office, communicated with plaintiff no. 2 in mail to send the original shipping documents to the Buyer's Bank i.e. Barclays Bank PLC stating that Barclays Bank PLC, UK shall take the responsibility for the payment to the said export bills. Accordingly, plaintiff no. 2 sent the shipping documents to Barclays Bank PLC, UK. After receiving the documents Barclays Bank PLC, UK, released the said documents to the defendants no. 1 to 7 who took the RMG goods and became possessor and owner of them without paying a single penny;
- i) That, the plaintiff no. 3 Knit Bazaar (Pvt) Ltd. received POs total valuing USD 5,08,014/- and 89,760/- respectively from UK based buyer Peacocks to the export RMG goods. Against above stated contract the plaintiff no. 3 procured raw materials i.e. Yarn & Accessories from different suppliers by opening several Back to Back L/C's from plaintiff no. 3's lien Bank i.e. National Bank Limited Pragati Sarani Branch, Dhaka. After receiving all the required raw materials, the plaintiff no. 3 manufactured the garments and exported the same as per instruction of defendant no. 1 who is the Peacock's Dhaka liaison office and received part payment;

that, against the said POs, all RMG goods were manufactured but since payment was not forthcoming, the plaintiff no. 3 refused to ship the ready goods and this is when the defendants no. 1 to 7 started to defraud the plaintiff no. 3 by engaging Barclays Bank i.e. the defendant no. 8 that the said bank is giving maturity which works as a guarantee for payment but in reality no guarantee is established as per international commercial transaction (this being not a transaction under Letter of Credit). Most unfortunately, the Barclays bank took a part in this fraud and issued a letter of maturity delivered by post and not by swift messages which is the mandatory method of communication when a bank is acting as collecting bank under Uniform Rules of Collection (URC) 522. Barclays Bank PLC gave acceptance by post to National Bank Limited i.e. the bank of the plaintiff no. 3 and stated that the bill relating to the claim of plaintiff no. 3 has been accepted to mature on various dates but plaintiff no. 3 did not receive payment which is USD 40,522.41/- and 17,771.22/- total valuing USD 58,293.63 till today from defendant no. 3 Peacocks Stores Limited;

- k) That, under the said situation plaintiff no. 3 started vigorous persuasion with buyer's Dhaka Liaison Office defendant no. 1 for getting Payment shortly and in all cases, they gave plaintiff no. 3 hope for sending payment. However, all their hopes finally went in vain after waiting for considerable time span plaintiff no. 3 also pursued this matter over phone with the Peacock's concerned persons at their UK Office. At this stage, Mr. Karthic of Peacock's Dhaka Liaison Office, communicated with plaintiff no. 3 in mail to send the original shipping documents to the Buyer's Bank i.e. Barclays Bank PLC stating that Barclays Bank PLC, UK shall take the responsibility for the payment to the said export bills. Accordingly, plaintiff no. 3 sent the shipping documents to Barclays Bank PLC, UK. After receiving the documents Barclays Bank PLC, UK, released the said documents to the defendants no. 1 to 7 who took the RMG goods and became possessor and owner of them without paying a single penny;
- l) That, the plaintiff no. 4 received 17 POs from Peacock totally valuing USD 3,25,859.37/- from UK based buyer defendant no. 3 to export RMG goods. Against above stated contracts the plaintiff no. 4 procured raw materials i.e. Yarn & Accessories from different suppliers by opening several Back to Back L/Cs from plaintiff's lien Bank National Bank Limited, Pragati Sarani Branch, Dhaka. After receiving all the required raw materials the plaintiff no. 4 manufactured the garments and exported the same as per instruction of defendant no. 1 who is Peacock's agent and Dhaka liaison office;
- m) That, against the said POs, all RMG goods were manufactured but since payment was not forthcoming, the plaintiff no. 4 refused to ship the ready goods and this is when the defendants no. 1 to 7 started to defraud the plaintiff no. 4 by engaging Barclays Bank i.e. the defendant no. 8 that the said bank is giving maturity which works as a guarantee for payment but in reality no guarantee is established as per international commercial transaction (this being not a transaction under Letter of Credit). Most unfortunately, the Barclays bank took a part in this fraud and issued a letter of maturity delivered by post and not by swift messages which is the mandatory method of communication when a bank is acting as collecting bank under Uniform Rules of Collection (URC) 522. Barclays Bank PLC gave acceptance by post to National Bank Limited i.e. the bank of the plaintiff no. 4 and stated that the bill relating to the claim of plaintiff no. 4 has been accepted to mature on various dates but the plaintiff no. 4 did not receive payment which is total valuing USD 3,25,859.37 till today from defendant no. 3 Peacocks Stores Limited;
- n) That, after receiving bank maturity the plaintiff no. 4 repeatedly asked for payment by emailing the local agent Edinburgh Woollen Mill (EWM) Dhaka Liaison Office of Peacocks but the defendants intentionally avoided payment. All those payment dates expired long back however still plaintiff no. 4 remain unpaid from the buyer and their bank;
- o) That, the defendants no. 1 to 5 all are part of the EWM Group of companies which is owned by British Billionaire Mr. Philip Day i.e. the defendant no. 6. Philip Day used to reside in Dubai but now recently he seems to have moved to Switzerland where there is no treaty to extradite. "Company House" records from United Kingdom evidence that EWM Group owned and controlled the defendants no. 3 Peacocks with its brand value and all the orders to the plaintiffs have been placed by the defendant no. 3 using the liaison office of the EWM Group i.e. the defendant no. 1 as such the defendant no. 1 agent is fully liable as per section 230 of the Contract Act, 1872 along with its principals i.e. the defendants no. 2-7;
- p) That, around mid-November 2020, EWM Group declared that Peacock is in "administration" for failure to be able to pay its creditors. It is pertinent to note here that the same group i.e. EWM Group has made an astounding profit of GBP 24.3 million (two hundred sixty seven crore and thirty lacs taka @ 110 taka per GBP) up to 02.03.2019 and the EWM Group had a cash balance of GBP 117.8 million (twelve hundred ninety five crore and eighty lacs taka) except the movable and immovable assets and without any bank loan in 2019 so how it is possible for one subsidiary to go bankrupt is not imaginable at all;
- q) That, it is evident from Companies House records that EWM Group through EWM (2011) Limited owned significant control over the defendants no. 1-5 and Mr. Philip Day and Mr. Steven Simpson are the key persons and shareholders/directors of all these companies. Mr. Philip Day put Peacock into administration so as to avoid paying the creditors and more surprisingly the administrators were also appointed by the directors i.e. Mr. Philip Day and Mr. Simpson;
- r) That, most shockingly, EWM put Peacock in administration for no valid reason and then EWM used 2 of its dormant companies to bring out Peacock from administration and to do this fraudulent venture, first in the beginning of November 2020, EWM Group detached its connections with the defendants no. 4 and 5 i.e. Anglo Global and PurePay and on 16.11.2020, declared Peacock to be in administration and then very cunningly brought Peacock out of administration through the common director Mr. Simpson using the defendant no. 4 and 5 companies creating an innuendo that Peacocks is now owned by completely new companies;

- s) That, not only the plaintiffs but also a total of 26 RMG factories have been defrauded in this way who complained to their association Bangladesh Garments Manufacturers & Exporters Association (BGMEA) and the matter had taken very seriously by BGMEA. Immediate past president and the current president both have communicated with EWM and other concerned authorities over email and letters stating this non-payment situation and the matter also taken up with the Governor of Bangladesh Bank to extend his help in getting payment. Most fraudulently, the replies and standing of EWM and its subsidiaries was that **"Anglo Global is a new company and the historic debt sits with Peacock in administration and EWM"** which is most fraudulent as Anglo Global and PurePay are subsidiaries of EWM Group itself and are owned and controlled by the same shareholder/directors i.e. Mr. Philip Day and Mr. Stephen Simpson;
- t) That, in furtherance of the fraudulent scheme, Mr. Philip Day incorporated a new company on 04.06.2021 named "Banbury Street Holdings Limited" and detached his total control and shareholding from EWM Group so as to disconnect his liabilities owed to the victims of Peacock and also shifted from Dubai to Switzerland so no one can touch him. most interestingly, it is evident from Banbury's Company House filings that Banbury itself is also absolutely owned and controlled by Mr. Philip Day and Mr. Simpson;
- u) That, without settling the debts, EWM Group first used the umbrella of a pre-planned administration process to avoid paying the total dues to the plaintiff and other victims and now they are claiming that they are a completely new company whereas in reality it is part of the same Group and owned by same shareholders and directors. The EWM Group is now asking for discount to take further products by so-called new company and continuing to engage with innocent Bangladeshi RMG factories who have no clue about the trap they are going to put into by these fraudsters. The plaintiff therefore preferred this representative suit as not only their interest but also about 22 existing victims are suffering from the frauds perpetrated by EWM Group and also to protect the total RMG industry of Bangladesh as it is now open to risk if immediately these frauds are not addressed and proper remedy is not sought;
- v) That, it is most humbly submitted that EWM Group not only defrauded the plaintiffs but the overall RMG sector of Bangladesh as EWM Group fraudulently misrepresented to BGMEA (the representative of all RMG factories) that EWM Group has no connection with Peacock anymore and it is owned by new companies named Anglo Global and PurePay whereas evidently, Anglo Global and PurePay are also owned by EWM Group and its shareholder directors Mr. Philip Day and Mr. Steve Simpson therefore in order to protect the interest of victims of peacock as well as to save the RMG sector from the threat of further fraud by EWM Group and Peacock, this instant representative suit has been preferred;
- w) That, it is most humbly submitted that all the defendants no. 1 to 5 are owned and controlled by the common shareholders and directors including Mr. Philip Day and Mr. Stephen Simpson i.e. the defendants no. 6 and 7 therefore the fraudulent attempt to use shell companies in order to detach liabilities owed to the plaintiffs amounts to fraudulent misrepresentation and by this fraudulent misrepresentation, EWM and Peacock have induced the total RMG sector of Bangladesh to allow them to continue business in Bangladesh and defraud new innocent RMG factories;
- x) That, it is most humbly submitted that just before declaring Peacocks bankrupt, EWM Group, Philip Day and Stephen Simpson detached all their connections with Anglo Global and PurePay which really are dormant companies of EWM Group itself and then declared Peacock bankrupt only to bring it out of administration through Anglo Global and PurePay. The *malafide* intention is clear that all the debts will be stuck in administration and Peacock as a brand will be used as a clean buyer of RMG goods through Anglo Global and PurePay to further defraud innocent suppliers of Bangladesh. This is the most heinous "white color crime of fraud" that is unfortunately legalized through the faulty company law regime of UK where the legislature and the judiciary utterly failed to comprehend and perceive the surreptitious reason for common shareholder/directors to open multiple companies and then use those companies as shell companies to scam innocent creditors. The lack of CIB reporting system as prevailing in our country and lack of stringent bankruptcy law in UK have resulted in this catastrophe but the RMG sector of Bangladesh is being victimized and harmed by this kind of fraud and urgent intervention of the Hon'ble Court is duly warranted;
- y) That, it is most humbly submitted that EWM Group first used the umbrella of a pre-planned administration process to avoid paying the total dues to the plaintiff and other victims and now they are claiming that they are a completely new company whereas in reality it is part of the same Group and owned by same shareholders and directors. The EWM Group is now asking for discount to take further products by so-called new company and continuing to engage with business as nothing happened with other innocent RMG owners who have no clue about the trap they are going to put into by these fraudsters;
- z) That, it is most humbly submitted that, under the laws of Bangladesh, for the breach of contract and fraudulent misrepresentation committed by the defendants no. 1 to 7, the defendants no. 2 to 7 are jointly and severally liable for the total payments owed to the plaintiffs and other victims who have same interest. The defendant no. 1 being the agent and representative of the defendants no. 2 to 7, is also equally liable for the total payment as being an agent whose principals are merchant abroad under section 230 of the Contract Act, 1872;

- aa) That, it is most humbly submitted that the defendants no.1 to 7 put one of their own companies (defendant no. 3) into administration, then appointed administrators of their own choosing and then brought it out of administration through their own CEO Mr. Steve Simpson (defendant no. 7) and their own companies (defendants no. 4 and 5) which is *ex-facie* fraudulent. The similar *modus operandi* is being observed during the pandemic situation where another fraudulent buyer (CWC) and his agent (Newtimes) adopted similar approach and defrauded huge amount from RMG suppliers. Already Police Bureau of Investigation (PBI) of Bangladesh found this buyer and its agent to be frauds and submitted report accordingly which was accepted by the Hon'ble CMM Court;
- bb) That, it is most humbly submitted that the defendants no. 1 to 7 started this fraud and fraudulent misrepresentation when they used the defendant no. 8 Barclays Bank to give maturity for payment to induce Bangladeshi RMG factories including the plaintiffs to ship RMG goods and hand over the title documents to Barclays Bank. The Barclays Bank took active part in this fraud and/or acted negligent when it gave all maturities through postal delivery whereas under URC 522, a valid communication of acceptance and maturity only occurs via "swift messages". Indeed, all other communications were done by swift and when bank to bank documents were sent by the plaintiffs that was also verified by swift so it is *ex-facie* clear that Barclays Bank is a party to this fraud and/or acted negligent and is equally liable to pay the total outstanding amount due to the plaintiffs;
- cc) That, it is most humbly submitted that this is a suit for declaration under section 9 read with Order 1 Rule 8 of the Code of Civil Procedure, 1908 and it is not a suit under section 42 of the Specific Relief Act, 1877;
- dd) That, it is most humbly submitted that due to the non-payment by the defendants no. 1 to 8, the Bangladesh Bank is continuously pressuring the plaintiffs for realization of export proceeds and to close the "EXP Forms". The proforma defendant no. 11 Bangladesh Bank has also stopped all kinds of EDF and other facilities to the plaintiffs and the plaintiffs will not be able to sustain this huge loss in the future and might go bankrupt which will affect the livelihood of not only the owners of the plaintiff companies but also of the over 6000 workers who works for the plaintiffs;
2. . That, it is stated that "Peacock" brand is being used as a completely innocent and clean buyer of RMG goods with no accountability or prospect of settling old debts owed to around 26 RMG factories of Bangladesh. It is apprehended with great worry that the new RMG factories who unknowingly are doing business with this fraud brand are facing looming threat of being robbed off just like the plaintiffs and other existing victims;
 3. it is most humbly submitted that the defendants no.1 to 7 put one of their own companies (defendant no. 3) into administration, then appointed administrators of their own choosing and then brought it out of administration through their own CEO Mr. Steve Simpson (defendant no. 7) and their own companies (defendants no. 4 and 5) which is *ex-facie* fraudulent and now they are continuing to do business with many unaware RMG factories claiming to be new company and if this is allowed to continue, neither the plaintiffs and other existing victims will get their payment nor it can be quantified that how many other innocent companies will fall victim to their trap as such an injunction upon doing business in the name of the brand "Peacock" in Bangladesh needs to be issued to prevent the looming and unquantifiable threat and irreparable injury to Bangladesh RMG sector;
 4. That, it is most humbly submitted that if the defendants are allowed to shake off their liability in this fraudulent manner and continue business in Bangladesh then it will expose the Bangladesh RMG sector to other potential fraud buyer resulting in a loss that cannot be quantified in money as the total sector will collapse and not only factory owners will face financial loss but also employment created by RMG sector will be lost;
 5. That, it is most humbly submitted that if the defendants are not enjoined from doing business in Bangladesh in the name of the brand "Peacock" then the defendants will never settle the full amount of the victims including the plaintiffs and misuse the UK bankruptcy procedure to pay as less as 5% of the total amount (as seen in the case of "Newtimes") which is never adequate compensation;
 6. That, it is most humbly submitted that if the defendants are not enjoined from doing business in Bangladesh in the name of the brand "Peacock" then the defendants will continue to defraud and harm Bangladesh RMG sector on the other hand if they are enjoined then they will not be irreparably prejudiced as the defendants are based in UK having many other sources hence the balance of convenience is also in favour of granting injunction. Granting injunction will send a worldwide message that Bangladesh will not be exploited by unethical buyers anymore;
 7. That, it is most humbly submitted that Rule 5A (2) of Order 39 of the Civil Procedure Code 1908 (CPC) allows this Hon'ble court to dispense with the requirement of serving notice to the opposite parties when such serving of notice will defeat the object of the injunction; in the instant scenario, *ad-interim* injunction needs to be passed immediately to preserve the subject matter of the suit and if notice is required to be served then the whole purpose of the injunction would be defeated;
 8. That, it is most humbly submitted that the balance of convenience also lies in favour of the applicant and the applicant shall suffer irreparable losses if the opposite party is not restrained by an order of injunction;

WHEREFORE, it is most humbly prayed that Your Honour may graciously be pleased to:

- (a) pass an order of temporary injunction restraining the opposite parties no. 1 to 7 from doing any business with any RMG factories in Bangladesh using the brand name "Peacock", restrain placing any order in the name of "Peacock" by any foreign buyer or their agents/buying houses and further restrain any export in favour of the opposite parties no. 1 to 7 or any other foreign buyers or their agents for the brand "Peacock";
- (b) pending hearing the application for temporary injunction, pass an order of *ad-interim* injunction restraining the opposite parties no. 1 to 7 from doing any business with any RMG factories in Bangladesh using the brand name "Peacock", restrain placing any order in the name of "Peacock" by any foreign buyer or their agents/buying houses and further restrain any export in favour of the opposite parties no. 1 to 7 or any other foreign buyers or their agents for the brand "Peacock";
- (c) Pass any such other order/orders as Your Lordships may deem fit and proper.

And for this act of kindness, the humble plaintiffs-applicants, as in duty bound, shall ever pray.

AFFIDAVIT

I, Mr. Khorshed Ahmed Nayeem, son of Late Maqbul Ahmad and Mrs. Khurshid Jahan, house no. 45/2, R.K. Mission Road, post office- Wari- 1203, Sutrapur, Dhaka South City Corporation, aged about 56 years, by faith Muslim, by nationality Bangladeshi, NID no. 19662698875742065 do hereby solemnly affirm and say as follows:

1. That I am the authorized person of the applicants no. 1 and 2 in this case and acquainted with the facts and circumstances of the case and competent to swear this affidavit.
2. That the statements of facts made in this petition are true to my knowledge and belief and the rest are submissions before this Hon'ble Court.
Prepared in my office.

AFFIDAVIT

I,do hereby solemnly affirm and say as follows:

3. That I am the authorized person of the applicants no. 3 and 4 in this case and acquainted with the facts and circumstances of the case and competent to swear this affidavit.
4. That the statements of facts made in this petition are true to my knowledge and belief and the rest are submissions before this Hon'ble Court.
Prepared in my office.