

District-Dhaka.

**IN THE SUPREME COURT OF BANGLADESH
HIGH COURT DIVISION
(CIVIL REVISIONAL JURISDICTION)**

Present:

Mr. Justice Md. Toufiq Inam

Civil Revision No. 5032 Of 2024

Alif Casual Wear Ltd.

----- Plaintiff-Petitioner.

-Versus-

Changzhou Hengwangjia Textile Co. Ltd. and others.

-----Defendants-Opposite Parties.

Mr. Sayed Ahmed, Senior Advocate, with

Mr. Md. Tazul Islam, Advocate

----- For the Plaintiff-Petitioner.

Mr. Kazi Akhtar Hossain, Advocate, with

Mr. MohammadRoqunuzzaman, Advocate

----- For the Defendants-Opposite Parties.

Heard On: 14th Day of August 2025.

And

Judgment Delivered On: 18th Day of August 2025.

Md. Toufiq Inam, J.

This Rule is directed against the concurrent orders of the courts below rejecting the Plaintiff-Petitioner's prayer for temporary injunction in Title Suit No. 444 of 2023.

The undisputed factual background is that the Plaintiff-Petitioner, a garment exporter, entered into a Sales Contract dated 13.06.2022 with Defendant No. 3 (Flitterman & Co. Ltd., UK) for the supply of 60,000 men's joggers and 48,000 men's chino pants, valued at USD 696,000. In order to procure fabrics for the said order, the Plaintiff-Petitioner opened a Back-to-Back Letter of Credit (BBLC) through Defendant No. 2 in favour of Defendant No. 1. Clause F47A(J) of the BBLC contains a specific stipulation: *"payment will be made after realization of related export proceeds."*

It is the Plaintiff-Petitioner's case that the fabrics supplied by Defendant No. 1 were of substandard quality, as confirmed by the inspection report dated 05.09.2022 prepared by Best Sourcing Ltd., and that Defendant No. 3, acting through its local agent Defendant No. 4, rejected the fabrics, refused to approve the samples, and did not permit cutting. As a result, the Plaintiff-Petitioner could not manufacture or export the garments, and no export proceeds were realised. Despite repeated requests and legal notices from the petitioner to withhold payment in terms of Clause F47A(J), Defendant No. 2 was proceeding to honour the BBLC.

The learned trial court, upon hearing the petitioner's application under Order XXXIX Rules 1 and 2 read with Section 151 CPC, refused temporary injunction by order dated 02.07.2024, holding that payment under a Letter of Credit cannot be restrained. The appellate court, by judgment dated 16.10.2024 in Miscellaneous Appeal No. 274 of 2024, summarily affirmed that order, relying on the settled principle that no court may direct an issuing bank to withhold payment under an L/C, as reiterated in *57 DLR (2005) (AD) 19, Smart Apparels (Pvt.) Ltd. vs. Hanvit Bank Kuni Bong Branch (Civil)*, where it was held: "It is now the settled principle of law that no court can pass any restraining order on any issuing bank from making payment under letter of credit."

Both courts below observed that a Letter of Credit is an independent contract between banks, separate from the underlying sales contract between the buyer and seller, and that as an instrument of international trade governed by the UCP 600, any order suspending payment thereunder would negatively affect international commerce. The allegation of fraud, they held, could not be determined at an interlocutory stage without evidence. Being aggrieved by the order dated 16.10.2024 passed by the learned District Judge, Dhaka, the Plaintiff-Petitioner obtained the present Rule, which is now taken up for disposal.

Mr. Sayed Ahmed, learned Senior Advocate appearing for the petitioner, submits that the contractual condition in the BBLC has been ignored by both courts below. The stipulated condition that payment under the L/C would only be made upon realization of export proceeds has not been fulfilled; thus, no payment obligation has arisen under the BBLC. He stresses that Clause F47A(J) expressly provides: *“payment will be made after realization of related export proceeds.”*

He contends that the timing and obligation of payment under the L/C are subject to strict compliance with this special condition, which has not been met. The courts below, despite the unambiguous wording of Clause F47A(J), failed to appreciate that payment prior to the realization of export proceeds would not only contravene the BBLC terms but also cause irreparable loss to the petitioner. He submits that there exists a strong *prima facie* case in favour of the petitioner, the balance of convenience lies with the petitioner, and refusal of injunction will cause irreparable injury.

Mr. Ahmed further submits that since Defendant No. 4 refused to approve the fabrics supplied by Defendant No. 1 and did not permit cutting, the Plaintiff-Petitioner was unable to complete garment production or realize export proceeds. The inspection report dated 05.09.2022 prepared by Best Sourcing Ltd. confirms the poor quality of fabrics. Defendant No. 1 acted with fraudulent intent, in collusion with Defendants Nos. 3 and 4, causing severe financial loss to the Plaintiff-Petitioner.

He concludes that payment without fulfilment of Clause F47A(J) would be contrary to the express terms of the BBLC. As a Letter of Credit is an independent contract binding upon the parties with its own specific terms, those terms must be honoured. The Plaintiff-Petitioner, having a strong *prima facie* case and the balance of convenience in its favour, is entitled to protection by way of

injunction, as the refusal to grant such relief would cause greater hardship than granting it.

Per contra, Mr. Kazi Akhtar Hossain, learned Advocate, appearing with Mr. Mohammad Roqunuzzaman, on behalf of the opposite party No. 1, submits that the present Civil Revision is wholly misconceived and not maintainable in law. The impugned orders are based on well-established principles governing Letters of Credit and do not call for interference under Section 115(1) CPC.

He submits that a Letter of Credit constitutes an independent and irrevocable undertaking by the issuing bank to make payment upon presentation of complying documents, and that such payment is entirely independent of any disputes arising under the underlying sales contract. This principle of autonomy has been consistently affirmed by the Hon'ble Appellate Division, including in *57 DLR (2005) (AD) 19, Smart Apparels (Pvt.) Ltd. vs. Hanvit Bank Kuni Bong Branch*, wherein it was held that no court can pass any restraining order preventing an issuing bank from making payment under a Letter of Credit. He further relies on the decision reported in *55 DLR (AD) 56*, wherein paragraph 9 states: “*A letter of credit is a contract created between the issuing bank and the negotiating bank without creating any right in favour of a stranger.*” Reliance is also placed on *1 LNJ (2018) 13*, where this Division held, in paragraph 29, that when an irrevocable LC is opened and confirmed by a bank, the bank has no option but to honour its obligation under the credit and make payment. Therefore, the court below, by refusing to grant a temporary injunction, committed no error of law.

He contends that the reliance placed by the petitioner on Clause F47A(J) of the Back-to-Back Letter of Credit to the effect- “*payment will be made after realization of related export proceeds.*”, is misplaced. Such internal arrangements between the applicant and the

issuing bank do not alter the autonomous nature of the bank's undertaking towards the beneficiary. Once the beneficiary presents documents conforming to the terms of the L/C, the bank is bound to honour payment irrespective of disputes between the applicant and the buyer.

Mr. Hossain argues that allowing such injunctions would undermine the certainty and credibility of Letters of Credit. Any departure from the autonomy principle would have far-reaching negative consequences for commercial banking and trade finance. The Uniform Customs and Practice for Documentary Credits (UCP 600), which governs the BBLC in question, does not recognize non-realization of export proceeds as a valid ground for withholding payment once conforming documents are presented. Finally, he submits that both courts below applied the correct legal principles, found no prima facie case in favour of the petitioner, and correctly concluded that the balance of convenience did not support the injunction sought. The petitioner has failed to demonstrate any error of law or material irregularity in the exercise of jurisdiction warranting revisional interference.

Having considered the submissions of the learned Counsels for the parties and perused the materials on record, it appears that the petitioner's entire case rests on the assertion that Clause F47A(J) of the BBLC, stipulating "*payment will be made after realization of related export proceeds*", creates a valid ground for withholding payment under the Letter of Credit.

However, it is a well-settled principle of law, consistently affirmed by the Appellate Division, that a Letter of Credit constitutes an independent and irrevocable undertaking by the issuing bank to pay the beneficiary upon presentation of complying documents, regardless of any disputes arising from the underlying sales contract. This

principle was emphatically reiterated in *57 DLR (2005) (AD) 19, Smart Apparels (Pvt.) Ltd. vs. Hanvit Bank Kuni Bong Branch*, where it was held that no court has the authority to issue a restraining order preventing an issuing bank from making payment under a letter of credit. Similarly, in *55 DLR (AD) 56*, the Court held that “a letter of credit is a contract created between the issuing bank and the negotiating bank without creating any right in favour of a stranger.” Furthermore, the case reported in *1 LNJ (2018) 13* this Division clarifies that when an irrevocable letter of credit is opened and confirmed by a bank, the bank is obliged to honour its commitment under the credit and make the payment.

This principle admits only very narrow exceptions, such as clear and unambiguous proof of fraud in the documents themselves or forgery in the credit instrument. Allegations of substandard quality of goods or breach of contract terms, as in the present case, are matters to be adjudicated in the underlying suit and do not justify restraining the bank from honouring its independent obligation under the L/C. Furthermore, the allegation of fraud raised by the petitioner, that the fabrics were of poor quality and rejected by the buyer, is a disputed question of fact that requires evidence and cannot be conclusively determined at the interlocutory stage. Even if ultimately proved, such allegations entitle the petitioner to damages or other relief in the underlying suit but cannot serve as a basis to restrain the bank from performing its independent payment obligation under the L/C.

Both the trial court and the appellate court correctly found that the Letter of Credit in question is governed by the Uniform Customs and Practice for Documentary Credits (UCP 600). Article 4(a) of the UCP 600 provides that: “*A credit by its nature is a separate transaction from the sale or other contract on which it may be based. Banks are in no way concerned with or bound by such contract, even if any reference to it is included in the credit.*” This provision embodies the

autonomy principle, making the credit independent of the underlying contract between the buyer and the seller, and preventing the issuing bank from being drawn into disputes arising from that contract.

Article 7(a) reinforces this independence by stipulating that: *“Provided that the stipulated documents are presented to the nominated bank or to the issuing bank and that the terms and conditions of the credit are complied with, the issuing bank must honour... an issuing bank undertakes to honour a complying presentation.”* Article 15 further mandates that: *“When a nominated bank determines that a presentation is complying and honours or negotiates, and/or when an issuing bank determines that a presentation is complying and honours, the bank shall be deemed to have fulfilled its obligation.”*

In this context, the petitioner’s reliance on Clause F47A(J) cannot override the settled principle of autonomy under Article 4, particularly as the alleged condition pertains solely to the petitioner’s contractual arrangements with its foreign buyer and does not in any way affect the bank’s independent obligation to the beneficiary under Articles 7 and 15. Internal arrangements between the applicant and the issuing bank cannot alter or dilute the autonomous nature of the bank’s undertaking. Once the beneficiary presents documents that comply on their face with the terms of the credit, the issuing bank is bound to honour payment, irrespective of any dispute between the applicant and its buyer.

A Letter of Credit is thus an independent contract between banks, distinct from the underlying sales contract. Any order restraining payment except in cases of clear fraud or forgery in the credit itself would contravene Articles 4, 7, and 15, and would undermine the predictability and certainty upon which international commerce depends. The credibility of the Letter of Credit as a secure payment

mechanism in domestic and cross-border trade rests entirely on this principle of autonomy. Judicial interference that allows non-payment based on disputes in the underlying transaction would erode commercial confidence, destabilize established trading relationships, and produce a chilling effect on trade finance both locally and globally. Grant of injunctions would undermine the certainty and credibility of Letters of Credit, which are the lifeblood of international trade. Any departure from the autonomy principle would have far-reaching negative consequences for commercial banking and trade finance. The Uniform Customs and Practice for Documentary Credits (UCP 600), which governs the BBLC in question, does not recognize non-realization of export proceeds as a valid ground for withholding payment once conforming documents are presented.

In view of the foregoing discussion, this Court holds that, under Articles 4, 7, and 15 of the UCP 600, an issuing bank is bound to honour a complying presentation regardless of disputes in the underlying contract, and judicial restraint is warranted only in cases of clear fraud or forgery in the credit itself.

In the circumstances, this Court finds that the petitioner has failed to establish a *prima facie* case for the grant of injunction, that the balance of convenience does not favour disrupting the settled principles of international trade, and that no irreparable injury will be caused that cannot be compensated in monetary terms. The impugned orders are in conformity with law and supported by sound judicial reasoning, warranting no interference under Section 115(1) of the Code of Civil Procedure.

Accordingly, the Rule is discharged.

The impugned judgment and orders are hereby upheld. The interim order of *status-quo* is hereby recalled and vacated.

The trial court is hereby directed to dispose of the suit at the earliest, preferably within one year from the date of receipt of this judgment.

There will be no order as to costs.

Let a copy of this judgment be communicated at once for information and compliance.

(Justice Md. Toufiq Inam)

Ashraf /ABO.