

**IN THE SUPREME COURT OF THE DEMOCRATIC  
SOCIALIST REPUBLIC OF SRI LANKA**

M.D. Sivakumara,  
Carrying on business as a sole  
proprietor, under the name and style  
of 'Omvishkar Exporters' of No. 4,  
Angappa Naicken Street,  
Chennai-600001, India.  
Plaintiff-Appellant

**SC/CHC/APPEAL/102/2018  
HC/CIVIL/660/2009/MR**

Vs.

People's Bank,  
No. 75, Sri Chittampalam A. Gardiner  
Mawatha, Colombo 2.  
Defendant-Respondent

Before: Mahinda Samayawardhena, J.  
K. Priyantha Fernando, J.  
Menaka Wijesundera, J.

Counsel: Chandaka Jayasundere, P.C. with Rehan Almeida for the  
Plaintiff-Appellant.  
Kushan D' Alwis, P.C. with Hiran Jayasuriya for the  
Defendant-Respondent.

Written submissions:

by the Plaintiff-Appellant on 11.2.2025 and 21.11.2025.  
by the Defendant-Respondent on 13.11.2025.

Argued on: 09.10.2025

Decided on: 26.03.2026

**Samayawardhena, J.**

The Plaintiff-Appellant, an Indian businessman, filed this action in the Commercial High Court against the Defendant-Respondent, People's Bank, seeking the recovery of a sum of US\$ 149,637.05 with interest, in respect of two consignments of sugar sold by him to Golden Key Trading Company Ltd, which subsequently became bankrupt. The Plaintiff did not name Golden Key Trading Company Ltd as a defendant to this action, at least for notice. Ironically, a representative of Golden Key Trading Company Ltd was called as a witness for the Plaintiff at the trial, who accepted that Golden Key Trading Company Ltd as the buyer has to pay to the plaintiff as the seller for the two consignments of sugar. The Defendant Bank denied any liability. After trial, the Commercial High Court dismissed the Plaintiff's action. Hence this appeal.

There were two transactions. The first relates to the sale of 130 metric tons of Indian White Refined Crystal Sugar for a sum of US\$ 52,000.00 (Invoice No. OMV/237 marked P2), where the payment method was *Documents against Acceptance, 45 days from the date of the Bill of Lading* marked P3.

The second relates to the sale of 267.5 metric tons of Indian White Refined Crystal Sugar for a sum of US\$ 97,637.50 (Invoice No. OMV/319 marked P4) on the same payment method, but payment being due *20 days from the date of the Bill of Lading* marked P5.

By P2(b), Golden Key Trading Company Ltd informed the Plaintiff that it had received the shipment of sugar in respect of the first invoice and advised People's Bank "*to debit our Account and pay your Bills on the Due Date of Maturity.*" However, no separate letter addressed to the Defendant Bank to that effect was produced.

By P4(b), Golden Key Trading Company Ltd similarly informed the Plaintiff that it had received the shipment of sugar in respect of the second invoice and advised People's Bank "*to debit our Account and pay*

*your Bills on the Due Date of Maturity.*” By P9, Golden Key Trading Company Ltd also informed the Defendant Bank to do so.

It is noteworthy that these two transactions were not carried out on Letters of Credit but on Collection Agreements. There is no dispute that the Uniform Rules for Collections (URC 522) issued by the International Chamber of Commerce are applicable to Collection Agreements. If the transactions had been carried out on Letters of Credit, the Defendant Bank would have given a guarantee to remit the purchase price. However, no such guarantee arises in a Collection Agreement. In such a situation, the seller runs the risk of non-payment by the buyer. Parties sometimes adopt Collection Agreements instead of Letters of Credit because Collection Agreements involve fewer banking formalities and comparatively lower bank charges, although this convenience comes at the cost of the additional security that a Letter of Credit would otherwise provide to the seller.

According to the Plaintiff, the Collection Agreements relevant to the present matter are P6 and P7. According to P6 and P7, the Collecting Bank is Bank of India (New York). The Defendant Bank is the Presenting Bank, which presented the relevant documents to the buyer, Golden Key Trading Company Ltd, and was expected to remit the purchase price to the Collecting Bank.

What do P6 and P7 require of the Presenting Bank? Under the remitting instructions it is basically stated: *Wire transfer funds and advise by authenticated SWIFT message.* This instruction, read together with URC 522, cannot mean that the Defendant Bank is under a legal obligation to somehow recover the purchase price and remit it to the Collecting Bank, failing which the Defendant Bank itself becomes liable to pay the purchase price. That is the position advanced by the Plaintiff, which I am unable to accept. The obligation of the Presenting Bank is limited to what the parties have agreed. The arrangement here was to debit the buyer’s account and pay the Bills on *the due date of maturity.*

The maturity date of the Bill of Lading marked P3 for the first shipment was 13.11.2008, and the maturity date of the Bill of Lading marked P5 for the second shipment was 27.12.2008. As seen from the statement of account marked P10, there can be no dispute that on both maturity dates there were insufficient funds in the account to remit the sums in question.

The argument advanced on behalf of the Plaintiff in respect of the first payment is that the Defendant Bank, with which the buyer maintained its account, could have debited that account by allowing it to be overdrawn and remitted the money. I do not think that the Collection Agreement compelled the Defendant Bank to do so. The granting of an overdraft facility is entirely within the discretion of the Defendant Bank. In any event, there was no request made to the Defendant Bank to consider granting such an overdraft facility and effecting the payment.

In respect of the second payment, the Plaintiff contends that the Defendant Bank could have withheld funds in the buyer's account between the date of the Bill of Lading marked P5 and the due date of maturity. The Defendant Bank cannot act arbitrarily contrary to the specific instructions given. If the Defendant Bank had withheld funds in that manner, the buyer may well have instituted proceedings against the Defendant Bank on a different cause of action.

In these circumstances, I see no reason to interfere with the judgment of the Commercial High Court. The appeal is dismissed with costs.

Judge of the Supreme Court

K. Priyantha Fernando, J.

I agree.

Judge of the Supreme Court

Menaka Wijesundera, J.

I agree.

Judge of the Supreme Court