

E-COMMERCE SCAM

Remedy exists in law to recoup customers' money

But they won't get full amount, says noted lawyer Tanjib-ul Alam

MAHMUDUL HASAN

There are ways for online shoppers to get back their money stuck with some e-commerce platforms under the existing laws. But they will have to abandon the hope of retrieving all of their funds, said a legal expert.

Tanjib-ul Alam, a noted lawyer on company laws, says if a victim files a wind up petition with the High Court, the company may be shut if it can't repay its debts.

"Seeking for winding up is appropriate because you know the company's debts are bigger than assets," he told The Daily Star in an interview.

Alam is regarded as one of the leading corporate law experts in Bangladesh. He has vast experience in dealing with cases related to banking, syndication, telecommunication, project financing, securitisation, and listing of public companies.

His interview came as thousands of customers in Bangladesh are facing deep uncertainty to receive the deliveries of products worth thousands of crores of taka as the concerned e-commerce firms are not in a position to make the deliveries or refund despite getting the payments in advance.

Winding up is the legal process of dissolving a company. There are six grounds to file the application.

If the legal course is sought on the fifth and sixth grounds, the court can appoint a provisional liquidator or administrator to run the company. There could be a panel of provisional liquidators, according to Alam.

If a company is wound up, it ceases to do business as usual. Its sole purpose remains to sell the stock, pay off creditors, and



Tanjib-ul Alam

Tanjib-ul Alam says if a victim files a wind-up petition with the High Court, the company may be shut if it can't repay its debts

distribute any remaining assets among partners or shareholders.

When the winding-up procedure starts, the court gets the responsibility of the company. Then, it has the right to appoint a provisional liquidator and can retain the management of the company.

Alternatively, the court can employ an administrator. The liquidator or administrator can start running the company.

Alam said the first responsibility of the administrator or liquidator would be to pinpoint the company's assets and liability. For that, they can appoint an auditor under the supervision of the court.

The auditor will trace the money, and if someone receives any funds from the company illegally, he can ask them to return it.

"None of the money belongs to the company. This is the money of the buyers. So, the liquidator can ask for the return of the funds," he added.

After recovering the money, the liquidator or administrator

distributes it on a pro-rata basis among the victims. The pro-rata basis means assigning an amount to one person according to their share of the whole.

Suppose, Evaly has a liability of Tk 1,000 crore. After selling its assets and brand value, and recovering funds from various sources, the amount stands at Tk 500 crore. The money will be divided among the victims proportionately on the basis of their investment.

If the liquidator or administrator thinks that it would be better to continue running the company, it can decide to do so, Alam said.

"The brand value of a company can be sold, and the new owner can start anew and will not bear the current liability."

Alam says the victims of financial scams do not follow proper laws to ensure proper justice, and many in Bangladesh have misunderstood it.

"Whenever we raise the issue of recovering the money, it is discussed by denying facts."

"In most cases, the advice for recovering money sounds like

assuring a baby who has just lost his father by saying: your papa is coming tomorrow. Now, take this lollipop."

He said if there was a serious fraud office, it could instantly try to recover the money from various sources.

The head of the Tanjib Alam and Associates, a law firm based in Dhaka, suggested tracing money outlined in the existing law.

"We never talk about tracing the money because if we pursue it, some big fishes might be found to be linked with the fraud."

According to the noted lawyer, there should not be any attempts to recover the money through criminal cases. Criminal cases can continue, but money has to be recovered through the winding up.

He stressed winning back the confidence of online shoppers.

"It's very important for the market to operate with people's trust because 80 per cent of the sustainability of the market economy depends on the trust of people."

If anything bad affects the reliability and integrity of the market, it is taken seriously in the West, and they remain concerned so that there is no systemic impact on the market.

"So, regulatory authorities should be more vigilant in preventing the elements that destroy trust and reliability in the market because the ripple effects of frauds don't remain confined to victims only. It has a widespread effect on the entire system," Alam said.

In Bangladesh, philosophical understanding about the impact of fraudulent incidents is absent.

"So, important things are left out in our policy framework."

Investors cautious as market index teeters on top

STAR BUSINESS REPORT

Stock investors in Bangladesh are being cautious about pouring their money into the market as its prime index is hovering at a record high.

As a result, index movement was slow and market turnover took a dive.

The DSEX, the benchmark index of the Dhaka Stock Exchange (DSE), closed at 7,228 points by the end of last week while it was 7,258 points at the start.

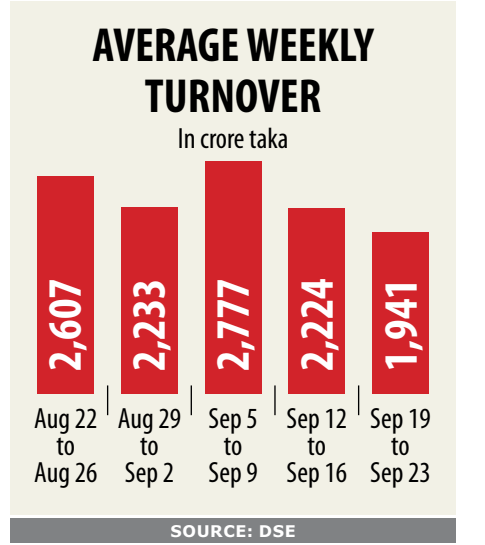
Similarly, the market's daily average turnover slipped 13 per cent to Tk 1,941 crore in the same period.

"Investors are in a 'wait and see' position as they fear a correction could start at any time since the market index skyrocketed in the last one year," a top merchant banker said.

The market index rose by more than 45 per cent, or 2,257 points, in the last one year, DSE data shows.

And although sector-wise corrections did occur during this period, it could happen again.

"So, investors have set aside some funds and are prepared to buy if the market falls," he said, adding that many of them have already sold off a big chunk of their shares



in fear of a market correction.

Last week, 162 companies advanced, 198 declined and 18 held steady at the DSE.

A senior official of an asset management company said firms like his do not trade on a regular basis and instead go for long-term investments.

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Build comprehensive trade partnership with China: experts

STAR BUSINESS REPORT

Dhaka and Beijing should build a comprehensive trade partnership in order to facilitate Bangladesh's economic development, said speakers at a webinar held yesterday.

"The commerce ministry should prioritise agendas to build up a comprehensive trade partnership with China so that both sides can benefit in terms of imports and exports," said Shamsul Alam, state minister for planning.

The event, styled "Chinese Investment: Prospects and Challenges in Bangladesh", was organised by the Bangladesh China Chamber of Commerce and Industry (BCCCI).

"This type of partnership would help Bangladesh become a rich country by 2041

as well as achieve sustainable development goals (SDGs)," Alam said.

Bangladesh needs an additional \$6 to \$9 billion in investments to attain its SDGs by 2030.

"So, foreign direct investment is highly required," he added.

The state minister for planning stressed the need for technology adaptation for increased economic growth, and spending 1 per cent of the country's gross domestic product (GDP) to reassess and ensure quality education.

Alam said he believes Bangladesh will become one of the strongest economies in South Asia in the coming days.

He went on to say that China is a big player in developing Bangladesh's economy in terms of investment.

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GLOBAL BUSINESS

Quicken shift from fossil fuels

UK firms urge govt

AFP, London

Major UK-based companies on Friday urged the government to accelerate the nation's shift away from fossil fuels for electricity generation, amid turmoil over surging gas prices.

The 14 firms -- including energy supplier Octopus, telecoms operator BT and supermarket chain Co-op -- wrote a joint letter to Business Secretary Kwasi Kwarteng calling for a rethink.

"Unabated refers to fossil fuels whose emissions have not gone through any filtering process. In response to the letter, the government insisted it had a successful track record on the matter.

"The UK has been very successful in decarbonising electricity generation - emissions from the sector have halved since 2015, and solar and wind are now cheaper than existing coal and gas power plants in much of the world," read a government statement.



The UK already faces a lawsuit from Friends of the Earth over its financing of a gas project in Mozambique.

"We are writing to urge the government to (commit) to the full decarbonisation of UK electricity generation by 2035," read the letter, which was organised by environmental think-tank Green Alliance.

The new target would require annual investments of up to 14 billion (\$19.2 billion, 16.3 billion euros) per year in renewable energy, they added.

Britain, which hosts the COP26 United Nations climate summit in Glasgow in November, aims to reduce its carbon emissions to net zero by 2050.

"As COP26 approaches, we believe the time is right for the UK to signal an end to the use of unabated fossil fuels in the power sector, claiming another historic first," the letter added.

"There is now a clear pathway to delivering emissions-free electricity.

"Gas generation currently plays a key role in keeping the electricity system secure and stable and we are actively taking steps to bring forward low carbon technologies that are capable of replicating this role.

"However, UK electricity generation group Drax had revealed Thursday that Britain has been forced to run coal-fired power stations in order to secure energy supplies in recent weeks amid the chronic gas crisis. Wholesale natural gas prices in Britain soared to record peaks last week, sparking fears of rocketing domestic energy bills as demand peaks during the cold northern hemisphere winter.

Britain is particularly exposed to Europe's ongoing energy crisis due to its reliance on natural gas to generate electricity.

The price of European gas futures has more than doubled since May.

China's central bank rules all crypto transactions are illegal

AFP, Beijing

China's central bank on Friday said all financial transactions involving cryptocurrencies are illegal, sounding the death knell for the digital trade in China after a crackdown on the volatile currencies.

The global values of cryptocurrencies including Bitcoin have massively fluctuated over the past year partly due to Chinese regulations, which have sought to prevent speculation and money laundering.

"Virtual currency-related business activities are illegal financial activities," the People's Bank of China (PBOC) said in an online statement Friday, adding that offenders would be "investigated for criminal liability in accordance with the law.

"The notice bans all related financial activities involving cryptocurrencies, such as trading crypto, selling tokens, transactions involving virtual currency derivatives and "illegal fundraising".

Bitcoin, which had already been falling before the announcement, sank by as much as 8.9 per cent to \$41,019 in European afternoon trading before recovering slightly later in the day.

The central bank said that in recent years trading of Bitcoin and other virtual currencies had become "widespread, disrupting economic and financial order, giving rise to money laundering, illegal fund-raising, fraud, pyramid schemes and other illegal and criminal activities.

"This was "seriously endangering the safety of people's assets," the PBOC said. While crypto



REUTERS/FILE

Headquarters of the People's Bank of China, the central bank, in Beijing.

creation and trading have been illegal in China since 2019, further crackdowns this year by Beijing warned banks to halt related transactions and closed much of the country's vast network of bitcoin miners.

Friday's statement by the central bank sent the strongest yet signal that China is closed to crypto.

Bitcoin, the world's largest digital currency, and other cryptos cannot be traced by a country's

central bank, making them difficult to regulate.

Analysts say China fears the proliferation of illicit investments and fundraising from cryptocurrency in the world's second-biggest economy, which also has strict rules around the outflow of capital.

The crypto crackdown also opens the gates for China to introduce its own digital currency, already in the pipeline, allowing the central government to monitor transactions.

South Asia eyes tourism revival with eased restrictions

AFP, Kathmandu

Nepal has restarted visas on arrival for vaccinated tourists as South Asian nations attempt to revive tourism businesses devastated after 18 months of the pandemic.

A near travel shutdown has been in place in India, Bangladesh, Nepal, Bhutan and Sri Lanka for more than a year as successive waves of coronavirus took a deadly toll.

Nepal reopened to tourists and scrapped quarantine requirements for vaccinated foreigners on Thursday and its neighbours are expected to quickly follow as they seek to bolster linchpin industries in their economies.

"The resumption of on-arrival visas is aimed at reopening the tourism sector which is one of the mainstays of Nepal's economy,"

Tourism Ministry spokesman Tara Nath Adhikari told AFP.

All visitors must still take a pandemic test on arrival and unvaccinated travellers have to quarantine for 10 days. The decision came just as monsoon clouds cleared for the autumn trekking season, and many are hopeful it will help drive up the arrivals.

"So many have lost jobs and livelihoods. This decision is crucial for all of us and we are hopeful that at least some visitors will return," said Nabin Trital of the Trekking Agencies Association of Nepal.

Neighbouring India is soon to announce that it will give away 500,000 free tourist visas as it also starts to reopen after more than a year, officials told AFP. The country had more than 12.5 million tourists in 2019 but

lost hundreds of millions of dollars after the shutters came down in March last year.

New Delhi is negotiating with international airlines to get scheduled flights resumed from main markets in North America and Europe, the officials said. Bhutan recently let in its first foreign tourist, an American who spent three weeks in quarantine.

The country has imposed draconian restrictions to minimise the impact of the pandemic, recording only three coronavirus deaths in the population of 700,000.

Vaccinated tourists began entering Sri Lanka in July, without having to quarantine if they test negative for Covid-19 on arrival. South Asia is highly dependent on tourism, which accounted for some 47 million jobs in 2019, according to the World Travel and Tourism Council.