

**IN THE HIGH COURT OF FIJI  
AT SUVA  
COMPANIES JURISDICTION**

**Winding Up Action No.** HBE 52 of 2024

**IN THE MATTER** of **CLOSET POINT (FIJI) PTE LTD** a limited liability company having its registered office at Manohan Building, Centrepont, Nasinu.

- **AND** -

**IN THE MATTER** of the Companies Act 2015.

**Representation**

**Applicant:** Mr. V. Rokodreu (Redwood Law) – For the Creditor

**Respondent:**– Mr. D. Kumar (Dharmendra Kumar Lawyers) For the Debtor

**Date of Hearing:** 26<sup>th</sup> August 2025.

**Statutory Demand Judgment**

**A. Introduction**

- [1] An application for winding up of Closet Point (Fiji) PTE Ltd was filed on 12<sup>th</sup> December 2024. An affidavit verifying the application for winding up of Alfaaz Malam was filed with the application. An affidavit of service was filed that the application and affidavit was served on 21<sup>st</sup> January 2025. A statutory demand was served on the debtor on 24<sup>th</sup> October 2024.
- [2] I directed that the application be called on 7<sup>th</sup> February 2025. The Deputy Registrar Legal dealing with Rule 19 compliance listed it for 29<sup>th</sup> January 2025. An affidavit verifying advertisement and memorandum of compliance was filed on behalf of the Applicant on 28<sup>th</sup> January 2025.
- [3] An affidavit in opposition of Dhan Raj was filed on behalf of the Debtor Company on 28<sup>th</sup> February 2025. An affidavit in Reply of Zanoia Rozina Begum for the Applicant was filed on 7<sup>th</sup> March 2025.

**B. The Law**

- [4] The relevant law on statutory demand is set out in **Section 515** of the Companies Act 2015. It is titled “***Definition of inability to pay debts***”, it provides that:

*“(a). Unless the contrary can be proven to the satisfaction of the Court, a Company must be deemed to be unable to pay its debts— (a) if a creditor, by assignment or otherwise, to whom the Company is indebted in a sum exceeding \$10,000 or such other Prescribed Amount then due, has served on the Company, by leaving it at the Registered Office of the Company, a demand*

*requiring the Company to pay the sum so due ("Statutory Demand") and the Company has, not paid the sum or secured or compounded for it to the reasonable satisfaction of the creditor within 3 weeks of the date of the notice; or ..."*

- [5] The other relevant sections of the Companies Act are 516 and 517. The respectively provide as follows:

*"516.— (1) A Company may apply to the Court for an order setting aside a Statutory Demand served on the Company. (2) An application may only be made within 21 days after the demand is so served. (3) An application is made in accordance with this section only if, within those 21 days— (a) an affidavit supporting the application is filed with the Court; and (b) a copy of the application, and a copy of the supporting affidavit, are served on the person who served the demand on the Company. Determination of application where there is a dispute or offsetting claim."*

*"517.—(1) This section applies where, on an application to set aside a Statutory Demand, the Court is satisfied of either or both of the following— (a) that there is a genuine dispute between the Company and the respondent about the existence or amount of a debt to which the demand relates; (b) that the Company has an offsetting claim.*

*(2) The Court must calculate the substantiated amount of the demand.  
(3) If the substantiated amount is less than the statutory minimum amount for a Statutory Demand, the Court must, by order, set aside the demand.*

*(4) If the substantiated amount is at least as great as the statutory minimum amount for a Statutory Demand, the Court may make an order—*

*(a) varying the demand as specified in the order; and*

*(b) declaring the demand to have had effect, as so varied, as from when the demand was served on the Company.*

*(5) The Court may also order that a demand be set aside if it is satisfied that—*

*(a) because of a defect in the demand, substantial injustice will be caused unless the demand is set aside; or*

*(b) there is some other reason why the demand should be set aside."*

### **C. Determination**

- [6] I note that no application was made to set aside the statutory demand within the relevant 21-day period, and relying on presumed insolvency, the Applicant (creditor) commenced the winding up application. The statutory demand is on foot. The Respondent (Debtor/company) does not have an offsetting claim against the Applicant. Neither is there a genuine dispute between them to set aside the demand.

- [7] As the statutory demand is in order and was neither set aside nor complied with, the Respondent (Debtor/Company) is presumed to be insolvent pursuant to Section 515 (b) of the Companies Act 2015. I have taken into account a contingent or prospective liability in determining whether or not the company is solvent. It is open to the Respondent (Debtor/company) to prove solvency without obtaining leave under Section 529 of the Companies Act 2015, because solvency is not a ground on which it

could have relied in an application to set aside the statutory demand. Full compliance certificate under Rule 19 (2) (a) was issued by the Deputy Registrar on 29<sup>th</sup> January 2025.

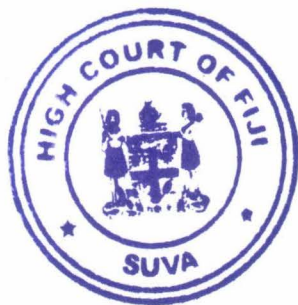
- [8] The Respondent (debtor/company) is presumed insolvent due to non-compliance with the statutory demand and failing to rebut the presumption of insolvency by proving to the requisite civil standard that it was able to pay all its debts as and when they became due and payable.
- [9] For the reasons given I order that Closet Point (Fiji) PTE Ltd be wound up under the provisions of the Companies Act 2015. The Official Receiver is to act as the provisional liquidator for Closet Point (Fiji) PTE Ltd. Costs in favour of the Applicant in the sum of \$2000.00 to be paid by the Respondent (Debtor/Company) within 21 days. The costs have been summarily assessed.

**D. Orders**

- (a) Closet Point (Fiji) PTE Ltd be wound up under the provisions of the Companies Act 2015.
- (b) The Official Receiver is to act as the provisional liquidator for Closet Point (Fiji) PTE Ltd.
- (c) Costs in favour of the Applicant in the sum of \$2000.00 to be paid by the Respondent (Debtor/Company) within 21 days. The costs have been summarily assessed.



.....  
Hon. Mr. Justice Chaitanya S.C. A Lakshman  
**Puisne Judge**



26<sup>th</sup> September 2025