

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMPANY PETITION NO. 467 OF 2014

Laqshya Media Private Limited ... Petitioner

Versus

World Series Hockey Private Limited ... Respondent

Ms. Shoma Maitra i/b. Wadia Ghandy & Company for the Petitioner.
None for the Respondent.

CORAM : S.J. KATHAWALLA, J.
DATE : 10TH FEBRUARY, 2015

PC.:

1. By the above Company Petition, the Petitioner seeks winding up of World Series Hockey Private Limited (the Company) on the ground that the Company is unable to pay its debt to the Petitioner. The Company Petition is taken up for hearing and final disposal.

2. According to the Petitioner, the Company approached the Petitioner's division – Outdoor Media Integrated (“OMI”) for handling the Company's publicity campaign in various cities of India. Pursuant to the discussions, the Petitioner provided a media estimate (proforma invoice) estimating that the cost for carrying out the campaign in 9 cities viz. Pune, Bhopal, Mohali, Chandigarh, Amritsar, Ludhiana, Jalandhar and Bangalore would be approximately Rs. 38,59,258/- for the period between 20th January, 2012, and 5th March, 2012. The said media estimate was

approved by the Company. According to the Petitioner, as per further request by the Company, the Petitioner also provided the Company with the media estimate (proforma invoice) estimating that the costs for carrying out the campaign in certain further locations at Chandigarh would be Rs. 4,00,234/- for the period between 20th February, 2012 and 5th March, 2012. The said media estimate was also duly approved by the Company.

3. According to the Petitioner, they successfully carried out the campaign and raised four invoices on the Company, particulars of which are set out in paragraph 7 (c) of the Petition. According to the Petitioner, the Company paid an amount of Rs. 10,00,000/- to the Petitioner being part payment of the aforesaid invoices. However, the Company did not make any payment thereafter under the said invoices. The Petitioner, through its Advocate issued a notice dated 31st January, 2013, calling upon the Company to pay an aggregate amount of Rs. 38,69,837/-. In reply to the said notice, the Company by its letter dated 21st February, 2013, contended that the Company is unable to trace a copy of the agreement between the parties and called upon the Petitioner's Advocate to provide the Company with a copy of the same. In rejoinder, the Petitioner through its Advocate addressed a letter dated 25th February, 2013, to the Company inter alia recording that the Petitioner had not referred to any agreement

as alleged in the letter under reply. The Petitioner further pointed out that the Petitioner's services were engaged by the Company by confirming the Petitioner's aforesaid media estimates. As such, the question of there being any other agreement did not arise.

4. Thereafter the Petitioner through its Advocate's issued a statutory notice dated 20th May, 2013, calling upon the Company to pay an amount of Rs. 40,92,829/- being the outstanding amount as on 14th May, 2013, along with further interest as claimed on the principal amount till payment and/or realization within a period of 21 days from the date of receipt of the notice. The Company failed and neglected to reply to the statutory notice or to make any payments as called upon therein. The Petitioner therefore filed the present Petition seeking winding up of the Company on the ground that the Company is unable to pay its debts.

5. Though the Company received a copy of the Petition, the Company while acknowledging the receipt of the same had affixed rubber stamp of Nimbus Communication Limited. This Court had therefore directed the registry as well as the Advocate for the Petitioner to serve notices on the Company informing them that the above Petition was listed for Admission on 15th January, 2015 when they may remain present, if they so desire. The Company had received the notices. However, the Company failed and neglected to appear before this Court by itself or

through its Advocates.

6. The above Company Petition was admitted and directed to be advertised by an order of this Court dated 15th January, 2015. Paragraph 6 of the said order dated 15th January, 2015 is relevant and reproduced hereunder :

“6. From the aforesaid facts it is established that an amount of Rs. 40,92,829/- is due and payable by the Company to the Petitioner. The Company in response to the notice issued by the Advocate for the Petitioner dated 31st January, 2013, took a stand that they are unable to trace a copy of the agreement on the basis of which the Petitioner has raised the alleged invoices and called upon the Petitioner to forward a copy of the agreement executed between the parties. The Advocate for the Petitioner has by his further letter dated 25th February, 2013, inter alia recorded that there is no agreement executed by and between the parties and the services of the Petitioner were engaged by the Company by confirming the Petitioner's media estimates. The Advocate for the Petitioner therefore informed the Company that the question of forwarding a copy of an agreement to the Petitioner did not arise. The Company has thereafter not communicated its further response to the Petitioner or their Advocates. In fact, the Company has failed and neglected to reply to the statutory notice dated 20th May, 2013, issued by the

Advocate for the Petitioner to the Company in which the Petitioner has categorically stated that an amount of Rs. 10,00,000/- has been paid by the Company to the Petitioner being part payment of the four invoices raised by the Petitioner on the Company. The Company despite having received a copy of the Company Petition has failed to file its affidavit in reply and has also failed to come forward to oppose the Petition. In view thereof all that is stated in the Petition has remained uncontroverted. I am therefore prima facie satisfied that the Company is unable to pay its debts and that the above Company Petition deserves to be admitted and advertised. Hence the following Order

7. Pursuant to the said order dated 15th January, 2015, the admission of the above Petition was advertised in two local news papers as well as in the Maharashtra Government Gazette. An Affidavit proving publication dated 6th February, 2015 is on record. Notice under Rule 28 of the Companies (Court) Rules, 1959, has been served on the Company by hand delivery, as can be seen from the service report dated 5th February, 2015 filed by the Section Officer, Company Department. Even at this stage, no Affidavit opposing the Petition has been filed by the Company. All the contentions of the Petitioner in the Petition have therefore remained uncontroverted and there is no reason why the allegations / submissions made by the Petitioner in the Company Petition should not be

accepted..

8. For the reasons set out in the order dated 15th January, 2015 and herein, I am satisfied that the Company is unable to pay its debts and deserves to be wound up. The above Company Petition is, therefore, allowed in terms of prayer clauses (a) and (b), which are reproduced hereunder :

“(a) that the Respondent Company namely, World Series Hockey Private Limited having its registered office at Nimbus Centre, Oberoi Complex, Andheri West, Mumbai – 400053 be ordered to be wound up by and under the directions, supervision and control of this Hon'ble Court under the provisions of the Companies Act, 1956 ;

(b) that the Official Liquidator, High Court, Bombay or some other fit and proper person be appointed as the Liquidator of all the business, assets, investments, properties, income and books of accounts of the Respondent Company with all the powers under the provisions of the Companies Act, 1956 ”.

9. The Official Liquidator to forthwith act on an ordinary copy of this order, duly authenticated by the learned Associate of this Court without waiting for any further notification from this Court or from any

other authority.

10. The above Company Petition is accordingly disposed of.

(S.J.KATHAWALLA, J.)