

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMPANY PETITION NO. 445 OF 2014

M/s. Karsam Tele Trading Private Limited ... Petitioner

Versus

M/s. Pal Trading Company Private Limited ... Respondent

Mr. S. Upadhyay i/b. R.R. Varma 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 M/s. Pal Trading Company 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, pursuant to the instructions given by the Company, the Petitioner delivered cotton shirts / textile material to the Company (the said goods) from time to time which were accepted by the Company without any demur / protest. The relevant invoices cum delivery challans are annexed and marked as Exhibits-B to B-2 to the above Petition.
3. According to the Petitioner, since the Company failed and neglected to pay an amount of Rs. 14,36,777/- to the Petitioner, the

Petitioner addressed letters to the Company calling upon the Company to pay the said outstanding dues to the Petitioner.

4. According to the Petitioner, the Company failed and neglected to make any payment. The Petitioner therefore through its Advocate issued a statutory notice dated 7th December, 2013 calling upon the Company to pay an amount of Rs. 14,36,777/- with interest @ 18% p.a. to the Petitioner within a period of 21 days from the date of receipt of the said notice. The said notice was received by the Company on 9th December, 2013 by hand delivery. However, the Company failed and neglected to respond to the same or to make any payment as called upon therein.

5. The Petitioner therefore filed the present Petition on the ground that the Company is unable to pay its debts and deserves to be wound up. The above Company Petition was served on the Company by hand delivery on 28th July, 2014. However, the Company failed to file its Affidavit in reply and also failed to come forward to oppose the Petition.

6. The above Company Petition was admitted and directed to be advertised by an order of this Court dated 16th January, 2015. Paragraph 6 of the said order dated 16th January, 2015 is relevant and reproduced hereunder :

“From the aforestated facts, I am prima facie satisfied that the amount as claimed by the Petitioner is due and

payable by the Company to the Petitioner. The Company has failed to respond to the statutory notice or to make any payment as called upon therein. The Company has also not filed its Affidavit in reply despite being served with a copy of the Petition as far back as on 28th July, 2014. The Company has not come forward to oppose the above Petition. In view thereof, the statements / submissions made by the Petitioner in the Company Petition have remained uncontroverted and there is no reason why the statements / submissions made by the Petitioner in the Company Petition should not be accepted. I am therefore prima facie satisfied that the Company is unable to pay its debts and the Company Petition deserves to be admitted and advertised. Hence, the following order

6. Pursuant to the said order dated 16th January, 2015, the admission of the above Petition is advertised in two local news papers as well as in the Maharashtra Government Gazette. An Affidavit proving publication dated 7th February, 2015 is on record. Notice under Rule 28 of the Companies (Court) Rules, 1959, has been served on the Company, 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..

7. For the reasons set out in the order dated 16th 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 Company of M/s. Pal Trading Company Pvt. Ltd., be wound up by an order and direction of this Hon'ble Court under the Companies Act, 1956”.

8. The Official Liquidator, High Court, Bombay is appointed as the Liquidator of the Company with all powers under 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.)