

the balance payment. However, the said cheques upon presentment for encashment were dishonoured and returned with the remark 'Exceeds Arrangements'. The Petitioner therefore through its Advocate issued a statutory notice to the Company, calling upon the Company to pay an amount of Rs.23,39,114/- with interest thereon as claimed within a period of 21 days from the date of receipt of the said notice. The Company has failed to respond to the statutory notice.

3. 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. A copy of the Petition was sought to be served on the Company. However, the packet containing a copy of the Petition is returned with the remark 'intimation posted'. In view thereof, an attempt was made to serve a copy of the Petition on the Company by hand delivery. However, the office of Company was not found at the said address.

4. The above Petition was admitted by an order dated 20th February, 2015 and the same was directed to be advertised. Paragraph 4 of the said order is relevant and reproduced hereunder :

“4.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. An attempt was made to serve a copy of the Petition at the registered address of the Company. However, the same has been returned with the remark 'intimation posted'. An attempt to serve a copy of the Petition by hand delivery has also failed, as can be seen from the Affidavits dated 16th January, 2015 and 20th February, 2015. There is no office of the Company at the address shown at the registered office address in the record of Registrar of Companies. Since the Petition was sought to be served at the Registered Address of the Company, which address on that day was shown as the Registered Office of the Company in the record of the Registrar of Companies, the said Petition is deemed to have been served on the Company, though the same has been returned with the remark "intimation posted" and no office of the Company was found at the said address. The Company has not come forward to oppose the 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 :.....”

5. Pursuant to the said order dated 20th February, 2015, the admission of the above Petition was advertised in two local news papers as well as in the Maharashtra Government Gazette. Affidavit proving publication dated 9th March, 2015 is on record. Notice under Rule 28 of the Companies (Court) Rules, 1959, which was sought to be served on the Company is returned with the remark 'Unclaimed. Returned to Sender', as can be seen from the Service Report dated 16th March, 2015 filed by the Section Officer, Company Department. Since the Notice was sought to be served at the registered address of the Company, which address on that day was shown as the Registered Office of the Company in the record of the Registrar of Companies, the said Notice is deemed to have been served on the Company though the same has been returned with the remark 'Unclaimed. Returned to Sender'. Even at this stage, none appear for the

Company. 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.

6. For the reasons set out in the order dated 20th February, 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) M/s. Aril Pharma Limited, the Company abovenamed be wound up by and under the supervision, direction, orders and control of this Hon'ble Court under the provisions of the Companies Act 1 of 1956 ;

(b) The Official Liquidator be appointed as Liquidator of the said M/s. Aril Pharma Limited, with all necessary powers under the provisions of the Companies Act, 1 of 1956 to take charge of the assets of the business of the said Company and / or to conduct its affairs in the course of winding up and disburse the payments and assets to the Petitioners and creditors ”.

7. 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.

8. The above Company Petition is accordingly disposed of.

(S.J. KATHAWALLA, J.)