

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMPANY PETITION NO. 504 OF 2014

M/s. First Winner Industries Limited ... Petitioner

Versus

M/s. Saachi Sales Agency Private Limited ... Respondent

Mr. S.H. Bohra for the Petitioner.
None for the Respondent.

CORAM : S.J. KATHAWALLA, J.
DATED : 26TH FEBRUARY, 2015

P.C.

1. By the above Company Petition, the Petitioner seeks winding up of M/s. Saachi Sales Agency Private Limited (the Company). The above Company Petition is taken up for hearing and final disposal.
2. According to the Petitioner, the Petitioner has between March 2012 to December 2012 inter alia sold and supplied cotton cloth, cotton shirting, fabrics, cotton suiting, woolen suiting, dyed suiting, denim cloth (the said goods) to the Company aggregating to Rs.4,32,99,995/-.The said goods have been accepted by the Company without any demur and/or protest. The Company failed and neglected to make any payment to the Petitioner. In view thereof, the Petitioner through its Advocate issued a Statutory Notice dated 15-02-2014 calling upon the Company to pay an amount of Rs.5,30,42,493/- with interest thereon as claimed within 21

days from the date of receipt of the statutory notice. The statutory notice was duly served on the Company by hand delivery on 17-02-2014. Despite receipt of the statutory notice, the Company has failed to reply to the statutory notice or to make any payment 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 debt. A copy of the Petition was served on the Company by hand delivery.

3. The above Company Petition was admitted by an order of this Court dated 8th January, 2015 and the same was directed to be advertised. However, at the stage of Admission of the above Petition, none appeared for the Respondent. Paragraph 3 of the said order dated 8th January, 2015 is relevant and reproduced hereunder :

“From the aforestated facts, I am prima facie satisfied that an amount of Rs.5,30,42,493/- with interest thereon as claimed by the Petitioner is due and payable by the Company to the Petitioner. The Company has received the statutory notice. However, the Company has not replied to the statutory notice. The Company despite having received a copy of the Petition has not filed its Affidavit-in-Reply and has also not come forward to oppose the Petition. In view thereof, all that is stated in the Petition has remain uncontroverted. 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”

4. Pursuant to the order dated 8th January, 2015, the admission of the above Company Petition has been advertised in two local news papers as well as in the Maharashtra Government Gazette as can be seen from the Affidavits proving publication dated 27th January, 2015 and 20th February, 2015, which are 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 'Not Known', as can be seen from the Service Report dated 31st January, 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 'not known'. 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.

5. For the reasons set out in the order dated 8th 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, viz. M/s. Saachi Sales Agency Private Limited, a company incorporated under the provisions of Companies Act, 1956 and having its registered office at Shop No. 4, Tapovan CHS Ltd. Pathanwadi Road, Malad (East), Mumbai – 400 097 be ordered and directed to be wound up by and under the direction of this Hon'ble Court under the provisions of the Section 433 (e) (f) and 434 of the Companies Act, 1956 read with Section 271 (1) (a) and (2) (a) and 272 (1) (b) of Companies Act, 2013 (as amended) ;

(b) That the Official Liquidator, High Court, Bombay be appointed as Liquidator of the Company situated at the address mentioned hereinabove will all powers under the Companies Act, 1956”.

6. 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.

7. The above Company Petition is accordingly disposed of.

(S.J. KATHAWALLA, J.)