

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMPANY PETITION NO. 472 OF 2014

Panama Petrochem Limited ... Petitioner

Versus

Monotona Tyres Limited ... Respondent

Mr. Ghanshyam Upadhyay i/b. Law Focus for the Petitioner.
Mr. Ashish Kamath a/w. Mr. H. Pradhan i/b. Crawford Bayley and
Company for the Respondent.

CORAM : S.J. KATHAWALLA, J.
DATED : 7TH APRIL, 2015

P.C.

1. Heard the learned Advocates appearing for the parties and the following order is passed by consent :

i. The Respondent admits that an amount of Rs.13,284,587/- is due and payable by it to the Petitioner.

ii. The Respondent agrees and undertakes to pay an amount of Rs.13,284,587/- to the Petitioner in full and final settlement of the Petitioner's claim against the Respondent in the above Petition. The undertaking is accepted.

iii. The said amount of Rs.13,284,587/- shall be paid by the Respondent Company in fifteen monthly equal instalments starting from 15th April, 2015 and thereafter on the 15th day of each succeeding month.

The last instalment shall be paid on or before 15 June, 2016.

iv. The Respondent Company undertakes to provide 'C' forms on or before 15th September, 2015 to the Petitioner. The undertaking is accepted.

v. Upon payment of the entire amount as undertaken by the Respondent in clause (i) above, the parties shall have no claim against each other and Summary Suit (L) No. 1264 of 2014 and Criminal Case No. 83/SW/2014 shall stand withdrawn. The parties shall until the entire amount is paid get the said proceedings adjourned from time to time.

vi. The Company undertakes to this Court that the Company is not a sick Company and that it is not likely to be declared a sick company / industry in the next fifteen months and that it does not intend to file an application before the concerned authority for a declaration that the Company is a sick company or industry under the provisions of the Sick Industrial Companies (Special Provisions) Act, 1985. The undertaking is accepted.

vii. The Company undertakes to this Court that the Company is not a 'relief undertaking' or an undertaking within the purview of the Bombay Relief Undertakings (Special Provisions) Act, 1958 and that it is not likely to be declared as such an undertaking in the next fifteen months and that it does not intend to file any Application or make any request for such declaration. The undertaking is accepted.

viii. The Respondent Company has agreed that in the event of the Respondent Company committing default in payment of any of the agreed instalments or in handing over the C Forms as undertaken, the Company Petition shall without reference to this Court revive, stand admitted, made returnable within six weeks from the date of default and advertised in two local newspapers i.e. Free Press Journal (in English) and Navshakti (in Marathi) and in the Maharashtra Government Gazette. The Petitioner shall deposit an amount of Rs.10,000/- with the Prothonotary and Senior Master of this Court towards publication charges, within two weeks from the date of default, with intimation to the Company Registrar failing which the Petition shall stand dismissed for non prosecution. In the event of such default the Official Liquidator shall forthwith stand appointed as provisional Liquidator and shall immediately take charge of the records as well as the movable and immovable properties/assets of the Company. Notice under Rule 28 of the Companies (Court) Rules, 1959 shall also stand waived on behalf of the Company. The Petitioner shall also be at liberty to proceed with the proceedings set out in Clause (iv) above.

ix. The above Company Petition is accordingly disposed of.

(S.J. KATHAWALLA, J.)