

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMPANY PETITION NO. 722 OF 2014

HNG Float Glass Limited ... Petitioner

Versus

Alscapes Architectural Systems Private Limited ... Respondent

Mr. Sahil Mahajan 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 Alscares Architectural Systems 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, as per the orders received from the Company, the Petitioner sold and supplied various types of glass (the said goods) to the Company from time to time. The said goods were received by the Company without raising any dispute / objection with regard to its price, quality or quantity. According to the Petitioner, as per accounts maintained by the Petitioner, an amount of Rs.3,19,926/- is due and payable by the Company to the Petitioner, which amount is duly confirmed and acknowledged by the Company.

3. According to the Petitioner, despite repeated requests and reminders, the Company failed and neglected to pay the said outstanding amount of Rs.3,19,926/- . The Petitioner therefore, through its Advocate issued Statutory Notices dated 20-07-2013 and 01-01-2014 calling upon the Company to pay an amount of Rs.3,19,926/- with interest thereon as claimed within three weeks from the date of receipt of the same. The statutory notices were served on the Company by hand delivery. However, the Company failed to reply to the same and also failed to make any payment as called upon therein.

4. 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. The packet containing the Petition sought to be served at the registered address of the Company was returned with the remark 'Not known'.

5. By an order dated 9th January, 2015, the above Company Petition was admitted and directed to be advertised. Paragraph 5 of the said order is relevant and reproduced hereunder :

“5. From the aforestated facts, I am prima facie satisfied that an amount of Rs.4,39,684/- with interest thereon as claimed by the Petitioner is due and payable by the Company to the Petitioner. The Company despite having received statutory notices, has not replied to the

same and/or has not made any payment as called upon therein. 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 address of the Company in the records of the Registrar of companies, the Petition is deemed to have been served on the Company, though the same has been returned with the remark "Not known". The Company 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 remained 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"

6. Pursuant to the said order dated 9th 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. A copy of the order dated 9th January, 2015 was sought to be forwarded by the Advocate for the Petitioner to the Company at its registered office address. However, the same was returned with the remark 'left address'. Notice under Rule 28 of the Companies (Court) Rules, 1959, which was also sought to be served on the Company is returned with the remark 'left address', as can be seen

seen from the Service Report dated 30th 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 'left address'. 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.

7. For the reasons set out in the order dated 9th 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) the company namely, Alscapes Architectural Systems Private Limited be wound up by and under the orders and directions of this Hon'ble court and under the provisions of the Companies Act, 1956 ;

(b) this Hon'ble Court be pleased to appoint the Official Liquidator of this Hon'ble Court or some other fit and proper person as it deems fit as the Liquidator of the company namely Alscapes Architectural Systems Private Limited with all powers and authorities under the

Companies Act, 1956”.

8. 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.

9. The above Company Petition is accordingly disposed of.

(S.J. KATHAWALLA, J.)