

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMPANY PETITION NO. 311 OF 2011

State Trading Corporation of India Ltd.

.. Petitioner

Vs

M/s. Ushma Jewellery & Packaging Exports Pvt. Ltd.

.. Respondent

Ms. S.I. Shah, instructed by M/s. S.I. Shah & Company, for the Petitioner.

Ms. Devika Nigade, instructed by M/s. Divya Shah Associates, for the Respondent.

CORAM: S.J. KATHAWALLA, J.

DATE: 30th March, 2015

P.C.:

1. By the above Petition, the Petitioner – State Trading Corporation of India Ltd. seeks winding up of the Respondent Company – Ushma Jewellery & Packaging Exports Pvt. Ltd. (“the Company”). The Petition is taken up for hearing and final disposal.

2. The Petition was dismissed by an order dated 22nd January, 2014. The Petitioner preferred an Appeal impugning the order of dismissal dated 22nd January, 2014, being Appeal (L) No.191 of 2014. The Appeal was disposed of by a detailed order dated 5th September, 2014, by which the order dated 22nd January, 2014 was set aside and the Company Petition was admitted. The Appeal

Court has come to a categorical finding that *“The respondent has, for all practical purposes, virtually admitted the debt. Even assuming that it has not admitted its debt, it is established beyond any doubt that the respondent is, as on date, indebted to the appellant in the sum of about Rs. 500 crores”*.

3. The Company thereafter filed a Petition seeking review of the order passed by the Appeal Court dated 5th September 2014. The Review Petition was dismissed.

4. The Company thereafter filed a Special Leave Petition before the Hon'ble Supreme Court of India which was dismissed by an order dated 15th December, 2014.

5. The Petition was thereafter advertised and an affidavit of publication dated 20th February, 2015 is on record.

6. The Learned Advocate appearing for the Company waives service of the notice under Rule 28 of the Companies (Court) Rules, 1959. She states that she has no submissions to make in addition to the submissions already made at the time of admission of the Petition. I have considered the submissions advanced by the Respondent at the stage of admission. I have also perused the orders dated 22nd January 2014 and 5th September 2014. For detailed reasons set out in the order passed by the Appeal Court dated 5th September, 2014, I am of the view that the Respondent is unable to pay the dues of the Petitioner, and the Company

deserves to be wound up. The Petition is allowed in terms of prayer clauses (a) and (b) which are reproduced hereunder:

“(a) That the Respondent Company, i.e. M/s. Ushma Jewellery & Packaging Export Pvt. Ltd., be ordered to be wound up by an order of this Hon'ble Court;

(b) that the Official Liquidator, High Court, Bombay, be appointed as Liquidator of the Respondent Company with all powers under the Companies Act, 1956 including the power to take possession of all the assets, books of account, stock in trade, cash on hand, moveable properties including future and fixtures as well as all immoveable properties. ”

The Official Liquidator is directed to forthwith act on an ordinary copy of this Order duly authenticated by the Associate of this Court without waiting for any further notification.

(S.J. KATHAWALLA, J.)