

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMPANY PETITION NO.654 OF 2014

Anand Mehta, sole proprietor of

M/s. Steelman Engineering & Forgings ... Petitioner

Versus

M/s. Visionmax Industries Private Limited ... Respondent

Mr. G.B. Kedia for the Petitioner.

None for the Respondent.

CORAM : S.J. KATHAWALLA, J.
DATED : 2TH FEBRUARY, 2015

P.C.

1. By the above Company Petition, the Petitioner seeks winding up of M/s. Visionmax Industries Private Limited (the Company). The above Company Petition is taken up for hearing and final disposal.

2. Pursuant to the orders placed by the Company on the Petitioner, the Petitioner sold supplied and delivered to the Company steel material such as carbon steel, non alloy steel bars and rounds aggregating to Rs.4,39,684/- under invoice No.0519/13-14/SEF dated 29-12-2013. The said material was received by the Company without raising any dispute with regard to its price, quality or quantity. In fact, the said material was consumed by the Company and the company has also availed CENVAT benefit from the Central Excise Department.

3. According to the Petitioner, in discharge of their liability against the receipt of the said material, the Company issued a cheque for Rs.4,39,684/- to the Petitioner, particulars of which are set out in paragraph No.11 of the Petition. However, the said cheque was dishonoured on presentment and returned with the remark "Funds Insufficient". In view thereof, the Petitioner through its Advocate issued a Statutory Notice dated 08-06-2014 calling upon the Company to pay an amount of Rs.4,39,684/- with interest thereon as claimed within 15 days from the date of receipt of the statutory notice. Despite receipt of the statutory notice, the Company has not replied to the same and has not made 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 'Left'. It is therefore submitted that the Company is unable to pay its debts, is commercially insolvent and deserves to be wound up.

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

“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 a statutory notice, 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 “Left”. 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 order dated 9th 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 and the Affidavit proving publication dated 21st January, 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 'left', 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 'Left'. 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) that the Company M/s. Visionmax Industries Private Limited, be wound up by and under the Order, directions and supervision of this Hon'ble Court under the provisions of the Companies Act, 1956.

(b) that the Official Liquidator, High Court, Bombay be appointed as a Liquidator of the Company, its entire assets, properties, affairs and records of the Company,

*lying at the Registered Office of the Company at Gat No.
1338/1129, Kuruli, Taluka Khed, Pune 410501,
Maharashtra, India".*

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.)