

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

COMPANY PETITION NO.326 OF 2014

Arihant Enterprises, Through its
Prop. Manish C. Gadiya ... Petitioner
versus
M/s. A.A.Nayak Constructions Pvt. Ltd. ... Respondent

**WITH
COMPANY PETITION NO.324 OF 2014**

Hitesh Otarmal Jain, Prop. of
Ashoka Wires and Cables ... Petitioner
versus
M/s. A.A.Nayak Constructions Pvt. Ltd. ... Respondent

Mr. V.K.Gupta, for Petitioner.
Ms. Reena Salunke i/by Mr. Omkar Kulkarni, for Respondent.

CORAM: S.J. KATHAWALLA, J.

DATE: 5th MARCH, 2015

PC.

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

(i) The learned Advocate for the Company undertakes to pay an amount of Rs.5,00,000/- to the Petitioners in full and final settlement of the claim of the Petitioners in the above Company Petitions. The Company has also handed over three post-dated cheques i.e. cheques dated 09-03-2015, 15-03-2015 and 09-04-2015 for a sum of Rs.2,25,000/-, Rs.50,000/- and

Rs.2,25,000/- respectively, aggregating to Rs.5,00,000/- to the Advocate for the Petitioners.

(ii) The undertaking given by the Petitioner in Company Petition No.326 of 2014 in writing that they have made payment of VAT in respect of the Sales to the Respondent Company, to the Sales Tax Department as per Annexure J-1 provided to the Respondent and that they shall pay any further amount or difference of VAT Payable on sales to the Respondent and also keep indemnified the Respondent in respect of sales made to the Respondent Company, is accepted.

ii. In the event of any of the cheques issued by the Respondent Company being dishonoured, the Company Petition shall without reference to this Court be revived, 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 any 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 of the Company. Notice under Rule 28 of the Companies (Court) Rules, 1959 shall also stand waived on behalf of the Company.

iii. The Registrar, City Civil Court, Mumbai, is directed to forthwith transfer/ send proceedings of Summary Suit Nos.43 of 2014 and 44 of 2014 to this Court. The Summary Suit Nos.43 of 2014 and 44 of 2014 accordingly stand withdrawn. Refund of Court Fees, if any, as per rules.

iv. The above Company Petitions and Summary Suit Nos.43 of 2014 and 44 of 2014 are accordingly disposed of.

(S.J.KATHAWALLA, J.)