

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**ORDINARY ORIGINAL CIVIL JURISDICTION**  
**COMPANY PETITION NO. 830 OF 2014**

M/s. Megasoftware Limited ... Petitioner

Versus

M/s. Loop Mobile (India) Limited ... Respondent

Ms. Sujata Malekar for the Petitioner.

Mr. Chirag Balsara i/b. Mr. M.Shah for the Respondent.

**CORAM : S.J. KATHAWALLA, J.**  
**DATE : 13<sup>TH</sup> FEBRUARY, 2015**

**PC.:**

1. By the above Company Petition, the Petitioner seeks winding up of M/s. Loop Mobile (India) 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, the Petitioner is an Intellectual Property (IP) driven product development organization in the domain of wireless technology. Vide a purchase order No. 1007037 dated 2nd September, 2013, the Company placed an order upon the Petitioner for implementation, integration and migration of the XIUS Mobile Service Platform (MSP) and other software services which included procurement of the necessary hardware equipment for a contract value of Rs.25,00,00,00/(Rupees Twenty five crores only). A copy of the purchase

order dated 2<sup>nd</sup> September, 2013, is annexed and marked Exhibit-B to the Petition.

3. According to the Petitioner, pursuant to the said purchase order, the Petitioner immediately started the procurement process and placed orders for materials from various Companies and started executing the work specified in the purchase order. The Company had paid to the Petitioner an amount of Rs. 6,00,00,000/- in the month of November, 2013 and an amount of Rs. 4,00,00,000/- in the month of February, 2014. According to the Petitioner, the work assigned by the Company was completed by the Petitioner in the month of June, 2014 and accordingly the Company had deputed its network, IT and RA teams to conduct all necessary tests. These teams certified the system readiness for migration on 17<sup>th</sup> June, 2014. The Petitioner therefore called upon the Company to pay the balance amount of Rs.15,00,00,000/- to the Petitioner. However, the Company failed and neglected to pay the said balance amount of Rs. 15,00,00,000/- to the Petitioner. The Petitioner therefore through its Advocates issued a statutory notice dated 28<sup>th</sup> August, 2014, calling upon the Company to pay the balance amount of Rs. 15,00,00,000/- within a period of three weeks from the date of receipt of the said statutory notice. The said statutory notice was received by the Company. However, the Company failed and neglected to respond to the same or to make any

payments as called upon therein. The Company therefore filed the present Petition and served a copy of the same on the Company on 11<sup>th</sup> December 2014.

4. The above Company Petition was admitted and directed to be advertised by an order of this Court dated 7<sup>th</sup> January, 2015. Paragraph 4 of the said order dated 7<sup>th</sup> January, 2015 is relevant and reproduced hereunder :

*“4. From the aforestated facts I am satisfied that an amount of Rs.15,00,00,000/- is due and payable by the Company to the Petitioner. The Company has failed to respond to the written requests of the Petitioner to pay the said amount. The Company has also failed to reply to the statutory notice or to make any payments as called upon therein. Though a copy of the above Company Petition is served on the Company, the Company has not filed its affidavit in reply and has also not come forward to oppose the Petition. I am therefore prima facie satisfied that the Company is unable to pay its debts and that the above Company Petition deserves to be admitted and advertised. Hence the following Order.....”*

5. Pursuant to the said order dated 7<sup>th</sup> January, 2015, the admission of the above Petition was advertised in two local news papers as well as in the Maharashtra Government Gazette, as can be seen from the Affidavits

proving publication dated 16<sup>th</sup> January, 2015 and 9<sup>th</sup> February, 2015. Notice under Rule 28 of the Companies (Court) Rules, 1959 has been served on the Company, as can be seen from the service report dated 29<sup>th</sup> January, 2015 filed by the Section Officer, Company Department.

6. The Company has filed its Affidavit-in-Reply dated 7<sup>th</sup> January, 2015, wherein the Company has stated that the contents of the present Petition are a matter of contractual disputes between the Petitioner and the Respondent. However, the Company has not disputed its liability to make payments to the Petitioner. Instead, the Company has stated that there is no willful breach of the terms of the contract by the Company and it will not in a position to contest the claims of the Petitioner in view of the distressed financial position of the Company. The Company has further stated in its Affidavit-in-Reply that its cellular mobile telecom licence has expired on 29<sup>th</sup> November, 2014, which has permanently stalled the operations of the Company. There is no revenue generated as the Company is completely defunct and inoperative. The workers and employees of the Company have left the Company. The assets of the Company have been mortgaged to the banks. The charge created on the assets of the Company in favour of the banks is to the tune of Rs.350 Crores. Numerous proceedings have been filed by the various unsecured creditors for refund of their dues. This Court has in an arbitration

proceeding filed by one ZTE Corporation bearing Petition No. 762 of 2014 passed an order against the Company to furnish a bank guarantee in the sum of USD 21,868,232 in favour of said ZTE as well as by way of an injunction restrained the Company from selling, transferring, sub-licensing, dealing with or disposing of or parting with possession of, assigning or creating any kind of third party interest in any manner whatsoever in any of its assets without the prior leave / permission of this Court. The learned Advocate for the Company has submitted to the orders of this Court.

7. For the reasons set out in the order dated 7<sup>th</sup> January, 2015 and herein, I am satisfied that the Company is commercially insolvent 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 Respondent Company Loop Mobile India Limited be ordered to be wound up, by and under the direction of this Honourable Court, under the provisions of Sections 433 (e) and 434 (1) (a) of the Companies Act, 1956 ;*

*(b) That the Official Liquidator, High Court, Bombay or any other fit and proper person as this Hon'ble Court*

*may deem fit be appointed as the Liquidator of the Respondent Company i.e. Loop Mobile India Limited in respect of all its assets and with all powers under Section 457 of 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. )**