

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMPANY PETITION NO. 875 OF 2014

Anjali Travel and Tours ... Petitioner

Versus

Sporting Ace Private Limited ... Respondent

Mr.Charles De Souza for the Petitioner.
None for the Respondent.

CORAM : S.J. KATHAWALLA, J.
DATED : 16TH APRIL, 2015

P.C.

1. By the above Company Petition, the Petitioner seeks winding up of Sporting Ace 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, the Petitioner is engaged in the business of travel ticketing and tours. On 4th February, 2012, one Kingshuk Gupta and Sagar Pol Chowdhury approached the Petitioner with a request to book air tickets for the Karnataka Lions, a hockey team owned by the Company. The Petitioner was informed that the said tickets were necessary to enable the Karnataka Lions to participate in the then ongoing World Hockey Series which was being held in various cities in India. As requested by the Company, between February 2012 and June, 2012, the Petitioner

inter alia booked air tickets for team members and officials of the Karnataka Lions and consequently an amount of Rs. 50,29,004/- was due and payable by the Company to the Petitioner. The said amount was detailed in invoices which were raised periodically by the Petitioner from time to time and the particulars of which are set out in clause (b) of paragraph 6 of the Petition. The said invoices are also annexed and marked as Exhibit-E Colly. to the Petition.

3. According to the Petitioner, in partial discharge of its liability, the Company issued cheques of Rs. 6,00,000/- dated 19th March, 2012 and for Rs. 18,00,000/- dated 8th April, 2012, both drawn on Kotak Mahindra Bank (Turner Road Branch), to the Petitioner. However, when the cheques were presented for clearance, the same were dishonoured and returned unpaid with the remark “insufficient funds”. Thereafter despite repeated requests, the Company failed and neglected to make any payment to the Petitioner. The Petitioner therefore through its Advocate issued a statutory notice dated 8th July, 2014, calling upon the Company to pay an amount of Rs. 50,29,004/- together with interest as claimed within a period of 21 days from the date of receipt of the statutory notice. The packet containing the notice was returned unserved to the office of the Advocate for the Petitioner with the remark “left” endorsed thereon. The Petitioner therefore filed the present petition seeking winding up of the Company on

the ground that the Company is unable to pay its debts.

4. The above Petition was admitted by an order dated 7th January, 2015 and the same was directed to be advertised. Paragraph 4 of the said order is relevant and reproduced hereunder :

“4. From the aforestated facts it prima facie appears that an amount of Rs. 50,29,004/- is due and payable by the Company to the Petitioner. The statutory notice as well as the Petition sought to be served at the registered office of the Company are returned with the remark “left”. Since the Statutory Notice as well as the Petition were 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 record of the Registrar of Companies, the said Statutory Notice as well as the Petition are deemed to have been served on the Company, though the same have been returned with the remark “left”. The Company has not replied to the statutory notice and has also not filed its affidavit in reply to the above petition. The Company has 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 that the above Company Petition deserves to be admitted and advertised. Hence the following Order:.....”

5. Pursuant to the said order dated 7th January, 2015, the admission of the above Petition was advertised in two local news papers as well as in the Maharashtra Government Gazette. Affidavits proving publication dated 5th February, 2015 and 23rd March, 2015 are 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 3rd February, 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 and there is no reason why the allegations / submissions made by the

Petitioner in the Company Petition should not be accepted.

6. For the reasons set out in the order dated 7th 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) this Hon'ble Court be pleased to hold that the Company is liable to be wound up by and under the supervision, direction and orders of this Hon'ble Court in accordance with the provisions of the Act ;

(b) this Hon'ble Court be pleased to appoint an Official Liquidator of the Company with all powers under the provisions of the Act, to take charge of the affairs, assets and business of the Company and / or to conduct its affairs in the course of winding up”.

7. 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.

8. The above Company Petition is accordingly disposed of.

(S.J. KATHAWALLA, J.)