

**IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH**

**CP No. 159 of 2013 (O&M)**

Date of decision : 24.8.2015

M/s Jaimurty Minerals & Chemicals Private Limited .. Petitioner  
vs

M/s Lakhani India Limited .. Respondent

**Coram: Hon'ble Mr. Justice Rajesh Bindal**

Present: Mr. Neeraj Khanna, Advocate for  
Mr. Deepak Suri, Advocate, for the petitioner.

None for the respondent.  
Mr. Divya Sarup, Advocate with Mr. Manjit Singh,  
Assistant Official Liquidator.

**Rajesh Bindal, J.**

1. The present petition has been filed by the petitioner-Company under Section 433 (e), 434 and 439 of the Companies Act, 1956 for winding up of the respondent-Company on the premise that it has failed to pay the admitted liability/debt amounting to ₹ 57,49,942/-.

2. Brief facts of the case are that the petitioner-Company is engaged in manufacturing and supply of various grades of coated and uncoated calcium Carbonate and other items. It has two manufacturing Units at Paonta Sahib, Himachal Pradesh. The respondent-Company is engaged in manufacturing of Shoes and Chappals. It has various manufacturing units and for that purpose respondent-Company had been placing orders to the petitioner-company for supply of calcium carbonates. The petitioner company supplied calcium carbonate of various grades through various purchase orders (Annexure P-2 Colly). Copies of invoices with delivery challan/receipt have been annexed as Annexure P-3 (Colly). The respondent- Company had even issued statutory Form "C" for some of the invoices (Annexure P-4 (Colly). However, it has failed to pay the balance amount of ₹ 57,49,942/- towards the supply of the aforesaid material. It has also been mentioned that for some of the material supplied, "C" Forms have not been issued and in this regard a sum of ₹ 53,517/- is

due and payable by the respondent-Company. Vide letter dated 4.12.2012 (Annexure P-7), the respondent company admitted that a sum of ₹ 66,15,512/- was/is due as on 30.9.2012, however, in the petition only a sum of ₹ 57,49,942/- has been stated to be balance outstanding from the respondent-Company payable to the petitioner.

3. Various letters/reminders were sent to the respondent-Company to clear the outstanding dues but it has failed to pay the debt. Statutory notice dated 26.8.2013 (Annexure P- 10) was also sent whereby respondent-Company was called upon to pay the admitted debt, which has not been even responded. It was prayed that the respondent-Company be wound up.

4. The respondent filed reply stating therein that the quality of the material supplied by the petitioner- Company was poor and the same could not be used for manufacture of products. The other objection which has been raised by the respondent according to the averments involves a complicated question of fact and law and cannot be adjudicated in summary proceedings, therefore it has been prayed that the petition deserves to be dismissed. Receipt of statutory notice as enshrined under Section 434 of the Act has been denied.

5. After hearing learned counsel for the parties, finding that the respondent company has failed to pay the admitted liability /debt, this Court vide order dated 21.4.2015, admitted the petition and appointed Provisional Liquidator of the respondent Company, with a direction that he shall take charge of the records and affairs of both the movable and immovable assets of the respondent-Company forthwith and take further action in accordance with law. The factum of admission was directed to be published in the newspapers namely 'The Indian Express (English) and 'Jansatta' (Hindi) and in the Official Gazette of Government of Haryana. The petition was adjourned for today.

6. Vide order dated 25.5.2015, Official Liquidator was appointed as Provisional Liquidator of the respondent company.

7. Affidavit of publication has been filed.

8. Learned counsel for the petitioner company submitted that since the respondent company is not in a position to discharge the admitted liability of the petitioner company, the order of winding up of the respondent company deserves to be passed.

9. Today no one has appeared for the respondent company.
10. Heard learned counsel for the petitioner company and counsel for the official liquidator.
11. As the respondent company was not in a position to discharge its admitted liability, vide order dated 21.4.2015, the petition was admitted. The official liquidator was appointed as Provisional Liquidator vide order dated 25.5.2015. He has been asked to take over the movable and immovable assets of the company. No purpose would be served in keeping the matter pending and therefore, in view liability being admitted the company is ordered to be wound up.
12. Let the factum of winding up of the respondent company be published in the newspapers namely 'The Indian Express (English) and 'Jansatta' (Hindi) and in the Official Gazette of Government of Haryana.
13. The petition stands disposed of.

24.8.2015  
vs

(Rajesh Bindal)  
Judge