

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

COMPANY PETITION NO.527 OF 2013

HDFC Bank Ltd.

.. Petitioner

Vs.

Asian Electronics Ltd.

.. Respondent

Dr.Birendra Saraf a/w. Mr.Sahil Saiyed, Ms.Aishni Popat i/b Wadia Ghandy & Co. for petitioner.

Mr.Anupam Dighe a/w. Mr.Kiran Padalkar i/b India Law Alliance for respondent.

CORAM : K.R.SHRIRAM, J.

DATE : 13TH JANUARY, 2016

P.C.

1 The petition was admitted on 22.04.2014. The petitioner has filed this petition on the basis that the company is indebted to the petitioner in an amount of Rs.33,39,68,077.17 under various credit facilities with further interest at the contractual rate. The counsel for the company did not dispute the claim of the petitioner.

2 The counsel only submitted that certain other creditors had filed a winding up petition which came to be allowed on 13.11.2014. The company filed an Appeal assailing the order of 13.11.2014 that was passed in Company Petition No.492 of 2011. The Division Bench of this Court by an order dated 11.02.2015, initially granted ad-interim stay on the operation of

order dated 13.11.2014. On 31.03.2015, the Division Bench granted an interim stay on the operation of order dated 13.11.2014 as the counsel for the appellant informed the Court that 70% of the secured creditors who are supporting the claim to move the Company Court for restructuring of the debts under the Companies Act, 1956. Thereafter, the Division Bench, by an order dated 31.03.2015, granted interim protection in view of the statement made by the Company that the claim for revival of the company will be moved before the learned Company Judge within one month.

3 The claim was filed, viz., Company Summons for Direction (Lodg.) No.376 of 2015. The company, however, did not remove the office objections and on 28.08.2015, the Company Registrar gave chance to remove office objections within a period of two weeks failing which the Company Summons for Directions to stand dismissed under Section 986 of the High Court (OS) Rules without further reference to the Court. The matter was listed on 11.09.2015 before the Company Registrar and was stood over to 25.09.2015 as the company had not removed office objections. The Company Summons for Directions, therefore, came to be dismissed on 21.11.2015.

4 There is no claim for restructuring pending before this Court. The company has admitted its liabilities. The company, therefore, is unable to pay its debts. The company is commercially insolvent. The company, therefore, deserves to be wound up.

5 The Company Petition is, therefore, allowed in terms of prayer clause (a), which reads as under :

“(a) that the Company, Asian Electronics Ltd., having its registered office at 107, Sumer Kendra, 1st Floor, P.B. Marg, Behind Mahindra Towers, Worli, Mumbai-400 018 be wound up by and under the orders and directions of this Hon'ble Court under the provisions of the Companies Act, 1956, and the Official Liquidator attached to this Hon'ble Court be appointed Liquidator of the Company and all its assets, business, affairs, property, bank accounts, books of accounts, vouchers, files, documents etc., with all powers under the provisions of the Companies Act, 1956.”

6 Even at this stage, purely as and by way of last indulgence, the official liquidator to take charge of the assets, business, affairs, property, bank accounts, books of accounts and records of the company after eight weeks.

7 The company petition accordingly disposed.

(K.R. SHRIRAM, J.)