

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

COMPANY PETITION NO.769 OF 2015

S.S.Steel Company

....Petitioner

V/s.

Essar Offshore Subsea Ltd.

....Respondent

Mr.Kezer Kharawala i/by Lex Juris for the petitioner.

CORAM : K.R.SHRIRAM,J

DATE : 1.3.2016

P.C.:-

1 This petition is filed alleging that the company is unable to discharge its debts despite receiving statutory notice and hence required to be wound up.

2 As alleged in the petition, the company placed the purchase order from time to time upon the petitioner to supply Rounder Bar, Plate, Grating etc., the steel materials as mentioned in three tax invoices which are annexed at Exhibit-B, Exhibit-C & Exhibit-D to the petition. Accordingly the petitioner sold and supplied the same for total amount of Rs.21,77,063/- under invoices bearing no.0158, 0162 and 0163. The respondent has also admitted its liability by signing confirmation of accounts for the period 1.4.2013 to 31.3.2014, copy whereof is at Exh.H to the petition. After confirmation of balance on 21.10.2014, Rs.10,00,000/- has been paid leaving a

balance of Rs.11,77,063/- towards principal. Therefore, the respondent-company has admitted its liability to the petitioner in the sum of Rs.11,77,063/-. As the payment was not made, the petitioner issued statutory notice dated 15.5.2015 to the company. Despite receiving the same, the company has not only failed and neglected to make any payment, the company has not even replied to the statutory notice.

3 In the circumstances, it is quite obvious that the company is unable to discharge its debts and required to be wound up.

4 I have perused the petition and exhibits thereto. I have also considered submissions advanced on behalf of the petitioner. I am prima facie, satisfied that an amount of Rs.11,77,063/- is outstanding and the same is due and payable to the petitioner by the company. The company has neither responded to the statutory notice nor the petition. The petitioner has also filed affidavit of service of one Ravi Chalke affirmed on 30.7.2015 proving service of the petition upon the company. The allegations made in the petition therefore, remains un-controverted. I am therefore, satisfied that the company is unable to pay its debts and deserves to be wound up. Hence the following order :-

ORDER

- (a) The petition is admitted ;
- (b) The petitioner is directed to advertise the petition after 4 weeks in two local newspapers viz., (i) Free Press Journal (in English) and (ii) Navshakti (in Marathi) as also in (iii) Maharashtra Government Gazette. Any delay in publication of the advertisement in the Maharashtra Government Gazette, and any resultant inadequacy of notice shall not invalidate such advertisement or notice and shall not constitute non-compliance with this direction or with the Companies (Court) Rules, 1959 ;
- (c) The petitioner shall deposit an amount of Rs.10,000/- with the Prothonotary and Senior Master of this court towards publication charges, within a period of two weeks from the date of this order, with intimation to the Company Registrar, failing which the petition shall stand dismissed for non-prosecution without further reference to the Court. After the advertisements are issued, the balance, if any, shall be refunded to the petitioner.

5 A copy of this order shall forthwith be served on the company by hand delivery and by Registered Post AD by the

Advocate for the petitioner.

6 If within 4 weeks period granted above, the company pays the petitioner the amount of Rs.11,77,063/- together with interest thereon at the rate of 14% p.a. and cost of Rs.25,000/-, or deposits the same with the Prothonotary & Senior Master, High Court, Bombay, the petition will stand dismissed. Otherwise, the petitioner may, after four weeks period, go ahead and advertise as directed above and the returnable date will be 10 weeks from the date of this order.

(K.R.SHRIRAM,J)