

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Company Petition No.14 of 2014
(Bibby Financial Services (India) Pvt. Ltd. v. Maheshwari Solvent
Extractions Limited)

Office Notes, Memoranda of Coram,
appearances, Court's orders or directions Court's or Judge's orders
and Registrar's order

Ms Anjali Sharma, Advocate for Petitioner.
Shri Nitin Lalwani, Advocate for Respondent.

Coram : R.K. Deshpande, J.
Date : 22nd January, 2016

This company petition for winding up of the respondent-Company – Maheshwari Solvent Extractions Limited is filed under Section 433(e) and (f) read with Sections 434(1)(a) and 439 of the Companies Act, 1956. The post-dated cheques dated 10-6-2011 and 16-6-2011 for Rs.1.9 crores said to have been issued by the respondent-Company in the name of the petitioner-Company - Bibby Financial Services (India) Pvt. Ltd. in the month of March 2011 have been dishonoured. The petitioner-Company is said to have discharged the debts of the respondent-Company towards one Maven Industries for supply of goods.

After hearing the learned counsels appearing for the parties and after going through the pleadings and documents,

including the document at Annexure P-9, placed on record, I find that there is a serious dispute of supply, non-supply, defective supply of the goods, etc., by Maven Industries to the respondent-Company. The respondent-Company has denied the liability to pay the amount for the goods sold by Maven Industries. In the facts and circumstances of this case, unless there is an adjudication over the controversy between Maven Industries and the respondent-Company in respect of supply of goods, the question of liability of the respondent-Company to pay the debts, as are alleged in this company petition, does not at all arise. I do not find that the defence raised is either spurious, speculative, illusory or misconceived. In the facts and circumstances of this case, merely because the cheques are dishonoured, that by itself would not mean that there is inability to pay the debts.

The company petition is dismissed.

Judge.

Lanjewar