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

COMPANY PETITION NO. 854 OF 2015

M/s. A. A. Electrical Works .. Petitioner
Vs.
M/s. Reliance Infratel Ltd. .. Respondent

Mr. Tejas Deshpande for the Petitioner.
Mr. Sankalp Anantwar i/b Indialaw for the Respondent.

CORAM : A. S. GADKARI, J.
DATE : 15th JUNE, 2017.

P. C. :

1. This is a petition for winding up of the respondent-company, namely, M/s. Reliance Infratel Ltd. on the ground that the respondent is unable to pay the debt of the petitioner.

It is the case of the petitioner that the petitioner has provided hardware and electrical equipments to the respondent-company and raised invoices for the same. The petitioner claims that a sum of RS.2,64,071/- is due and payable by the respondent to the petitioner along with further interest on the principal amount @ 24% from the date of its first default till the payment or its realization.

2. The respondent-company has filed an affidavit-in-reply and has stated that a sum of Rs.2,50,046/- as claimed by the petitioner in the particulars of claim (page 71 of the petition) has been paid to the petitioner after deducting TDS of RS.3482/-. Thus, the respondent-company in

response to the petition has paid a sum of Rs.2,46,564/- to the petitioner. Prima facie, it appears that there is no clause for interest on delay in execution of work order by the respondent-company in favour of the petitioner. It appears to me that the claim of interest at the rate of 24% p.a. is exaggerated version and is not supported by any documentary evidence and therefore the same cannot be accepted. The issue in respect of claim of interest is a disputed question of fact and gives rise to a triable issue. If the petitioner intends to recover the alleged interest @ 24% p.a. on the principal amount, the petitioner is at liberty to adopt appropriate proceedings before the Court of Competent Jurisdiction, if so advised.

3. As has been stated hereinabove, the respondent has already satisfied the claim of the petitioner and has filed an affidavit dated 06.04.2017 to that effect, the claim of the petitioner against the respondent as of today does not survive.

4. The petition being dehors of merits is accordingly rejected.

[A. S. GADKARI, J.]