

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

COMPANY PETITION NO.1051 OF 2015

Percept H Pvt. Ltd.

....Petitioner

Vs.

M/s. Kumar Urban Development Pvt. Ltd.Respondent

None for petitioner.

Mr. Rahul Singh i/b. Legal Catalyst for respondent.

CORAM : K.R.SHRIRAM, J.

DATE : 20th NOVEMBER, 2017

PC.:

1 This petition is for winding up of respondent company on the ground that respondent is unable to pay its debts and is commercially insolvent.

2 Petitioner as it appears from the petition had entered into an Agreement dated 30th March, 2011 whereby petitioner was appointed as advertising agency for a period of six months with effect from 1st April, 2011. Petitioner in the course of its services, it is stated, raised 7 invoices, last of which is dated 9th June, 2011. As per the Agreement and as per the invoice, amounts were paid within 30 days of the invoice. Therefore, even the last of the invoice should have been paid by 9th July, 2011. In paragraph 7(i), it is stated that “respondent has by their email dated 22nd September, 2011 confirmed that they are liable to pay an amount of Rs.14,33,900/- as per the books of accounts of respondent” and copy of email is annexed at Exhibit 'D' to the petition.

3 I have considered Exhibit 'D' to the petition and nowhere does it say that respondent has confirmed their liability to pay a sum of Rs.14,33,900/-. Even assuming for the sake of argument, this email could be construed as admission of acknowledgment of liability, it should be noted that petition itself has been lodged on 29th June, 2015. Based on the averments in the petition, ex-facie the alleged debt appears to be barred by limitation. Moreover, in the petition it is also stated that respondent's stand that petitioner would be required to provide his services for registration of respondent company trade name and to provide indemnity by executing indemnity bond in favour of respondent company for any objection, if any raised, with respect to the trade name of respondent company, is incorrect. Therefore, this also raises disputed questions of fact.

4 In the circumstances, I cannot gather myself to exercise my discretion to admit this petition. Petition accordingly stands dismissed. It should be noted that this petition was heard and disposed without the assistance from the Advocate for petitioner.

(K.R. SHRIRAM, J.)