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

COMPANY PETITION NO.785 OF 2014

M/s.JBF Industries Ltd. ...Petitioner
V/s.
M/s.AMR Investments Pvt. Ltd. ...Respondent

Mr.Satyakumar Shettigar for the Petitioner.

None for the Respondent.

CORAM : R.D. DHANUKA, J.
DATE : 13TH APRIL, 2017.

P.C. :-

1. Learned counsel appearing for the petitioner states that the respondent is served even after admission of the company petition and has filed affidavit dated 21s March, 2016. The said affidavit is already on record. None appeared for the respondent when the matter was called out.

2. By this petition, the petitioner seeks winding up of the respondent on the ground that the respondent is unable to pay its debts.

3. The petitioner had granted term loan of Rs.15,00,00,000/- to the respondent in the month of May, 2011 by way of Inter Corporate Deposits for the purpose of meeting their working capital

requirement and other corporate purposes. Insofar as this petition is concerned, the petitioner has filed this petition in view of the default committed by the respondent in making repayment of the loan in respect of Rs.5,00,00,000/- in respect of the third tranche under the loan agreement dated 22nd July, 2013. The respondent had issued 13 post dated cheques in favour of the petitioner towards the repayment of principal amount of Rs.5,00,00,000/- and interest. Out of 13 post dated cheques, 12 cheques were dishonoured. The petitioner has already commenced the proceedings under section 138 of the Negotiable Instruments Act, 1888 against the respondent, which are pending.

4. The petitioner thereafter issued a statutory notice on 8th May, 2014 upon the respondent. The said notice was served upon the respondent on 15th May, 2014. There was neither any payment nor any response to the said statutory notice.

5. By a detailed order dated 4th January, 2016 passed by this Court, the aforesaid company petition came to be admitted. This Court has held that the company is unable to pay its debts and deserves to be wound up. The petition is already advertised in compliance with the order dated 4th January, 2016 passed by this Court. No affidavit in reply has been filed by the respondent. None appeared for the respondent when the matter was called out.

6. With the assistance of the learned counsel for the petitioner, I have perused the annexures to the company petition and have also perused the order passed by this Court on 4th January, 2016. The said order dated 4th January, 2016 is not impugned by the respondent and the said order has attained finality.

7. For the reasons recorded in order dated 4th January, 2016 and what is recorded in this order, I am of the view that the respondent is unable to pay its debts and is commercially insolvent.

8. I therefore, pass the following order :-

a). The company petition is made absolute in terms of prayer clauses (a) and (b). No order as to costs.

9. The Official Liquidator to act on the authenticated copy of this order.

(R.D. DHANUKA, J.)