

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

**CONTEMPT PETITION NO.2 OF 2017
IN
COMPANY PETITION NO.77 OF 2015**

Hemraj Devekarandas Metals & Minerals)
Private Limited)....Petitioner
V/s.

M/s.Shree Oshiya Strips Impex Private)
Limited and Ors.)....Respondents

WITH

**COMPLAINT NO.22 OF 2017
IN
COMPANY PETITION NO.77 OF 2015**

The Official Liquidator of Shree Oshiya)
Strips Impex Pvt. Ltd.(In Liqn.))....Petitioner
V/s.

Vijendra Vijayraj Ranka and Ors.)....Respondents

Mr.Anil Agarwal a/w Ms.Pooja Rathod for petitioners.

Mr.Omar Khaiyam Shaikh for respondents.

Vijendra Vijayrai Ranka-respondent no.2, Milan Kumar Ranka-respondent no.3 and Satish Kumar Ranka-respondent no.4 are present.

Mr.Mahendhar Aithe-Company Prosecutor for OL present.

CORAM : K.R.SHRIRAM,J

DATE : 23.2.2018

P.C.:-

1 Respondent nos.2, 3 & 4 are present in court and
Mr.Shaikh identifies them.

2 On 8.8.2016 consent terms was entered into in Company Petition No.77 of 2015 in which respondent no.1 gave an undertaking to pay Rs.25,00,000/- in 8 installments. Respondent no.1 paid 1st two installments totaling to Rs.3,00,000/-. So far as the remaining six installments, respondent no.1 had issued post dated cheques, two of which were dated 21.8.2016, two were dated 21.9.2016 and last two were dated 21.10.2016. All the six cheques were dishonoured on presentation due to “insufficiency of funds”. Respondent nos.2, 3, & 4 are directors of respondent no.1. In paragraph no.4 of the consent terms, it is recorded that respondent no.2 admits that he has given personal guarantee for payments of dues of petitioner and in consideration of guarantee, respondent no.2 signed and handed over to petitioner 7 cheques to be encashed by petitioner if the cheques received by respondent no.1 has dishonoured. The cheques issued by respondent no.2 also came to be dishonoured on presentation. It is therefore, rather obvious that the intention of respondents was to take this court for a jolly good ride with no intention to honouring the undertakings given to this court.

3 Mr.Shaikh for respondents, in fairness, as an officer of the court, submitted that respondents have given an undertaking to this court and cannot run away from the undertaking. At the same time,

Mr. Shaikh is seeking 9 more months to pay these amounts. He has no explanation, however, as to why respondents committed breach of the undertaking given to this court and why for more than 2 years did not even approach this court with an apology and seeking some time to make the payments. This offer of payment within 9 months is made only because the petition came to be taken up for hearing and the court made it clear to respondent nos. 2, 3 & 4 that court is inclined to hold them guilty of contempt due to willful breach of undertakings given to the court.

4 In view of this observation, even if for a moment, this court decides to show some mercy and decides to grant some time to make the payment, it is rather obvious that the benevolence will be abused. In my view, this is also another ploy to drag the matter. This court has no faith or confidence in respondents honouring any undertaking to this court.

5 In order to maintain sanctity of the orders of the court, it has become imperative that those who are guilty of deliberately disregarding the orders of the court should be appropriately punished. The majesty of the court and the rule of law can never be maintained unless this court ensures meticulous compliance with its orders. If the

respondents are let off to continue with this behavior, it will erode the faith that the public has on the judiciary. To prevent erosion of that faith contemptuous behavior in the face of the court needs a strict treatment.

6 It is settled law that breach of an undertaking given to a court by a person in a civil proceeding on the faith of which the court sanctions a particular course of action is misconduct amounting to contempt. The respondents herein have made false representations to the court to obtain a benefit for themselves and failed to honour their undertakings thereby obstructing the cause of justice and bringing this judicial institution into disrepute.

7 In the circumstances, petition is disposed in terms of prayer clause-(a) which reads as under :-

“(a) That the Respondents be punished for having willfully committed Contempt of the Hon'ble Court, with civil imprisonment for a term not exceeding six months or as this Hon'ble Court may deem fit and proper, and, with fine not exceeding Rs.2000/- or both for having committed Contempt by breach of the Undertaking dated 08.08.2016 and Order dated 08.08.2016 passed in Company Petition No.77 of 2015, by willfully and deliberately bringing the authority and the administration of law into disrespect and disregard by causing the breach of the said Undertaking and Order and violating the Order given by the Hon'ble Court.”

8 All Respondents are held to be guilty of contempt of court for willful disobedience of the consent terms dated 8.8.2016 in which respondent no.1 gave an undertaking to pay Rs.25,00,000/- in 8 installments.

9 I sentence the Respondents to undergo simple imprisonment of three months and to pay fine of Rs.2000/- (Rupees Two Thousand only). In default of payment of fine, the contemnors shall further undergo simple imprisonment for one month. The payment of fine shall be made within one month from today.

10 Mr.Shaikh for respondents seeks stay of this order. Stay of two weeks granted.

COMPLAINT NO.22 OF 2017

1 In view of the order passed in Contempt Petition, the complaint is allowed in terms of prayer clause-(a) which reads as under :-

“(a) The Hon'ble Court may be pleased to issue process against the accused herein and they be dealt with under Section 454(5) and according to law for the offence committed under Section 454 of the Companies Act, 1956.”

Complaint disposed.

(K.R.SHRIRAM,J)