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

COMPANY PETITION NO.343 OF 2014

Resons Investments Private Limited ….Petitioner

Vs.

Vishaldeep Spinning Mills Limited ….Respondent

Mr. Bhupendra Parekh for petitioner.
None for respondent.

CORAM : K.R.SHRIRAM, J.
DATE : 8th OCTOBER 2018

P.C.:

1 This petition is for winding up of respondent company - Vishaldeep Spinning Mills Limited (the company) under the provisions of the Companies Act, 1956 on the ground that the company is unable to discharge its debts and is commercially insolvent.

2 On 4th December 2014 at the time of admission of the petition, parties entered into consent terms dated 4th December 2014. As per the consent terms, the company has admitted that a sum of Rs.1,80,000/- was payable to petitioner and that amount will be paid on or before 31st January 2015 and in the event of default, the petition was to stand admitted and advertised in Free Press Journal (in English), Janmabhoomi (in Gujarati) and Government Gazette returnable on the expiry of six weeks from the date of publication. Notice under Rule 28 of the Companies (Court) Rules 1959 is deemed to have been waived. If the amount was paid, the petition was to stand dismissed.

3 An application was made on behalf of petitioner to list the matter on 5th October 2018 as there was a default by the company. Therefore, the petition was listed for directions on 5th October 2018 when Mr. H.V. Mehta appeared for the company. Mr. Mehta concurred with the statement made by Mr. Parekh that the company had committed default of the undertakings given in the consent terms. The petition, therefore, was listed today for final hearing and the company is not represented. As the company has admitted its liability in the sum of Rs.1,80,000/-, which also is the claim in the petition, naturally no reply has been filed. Reply could not be filed since it is an admitted amount.

4 On record is an affidavit of one Vishal U. Sheth affirmed on 30th August 2016 confirming advertising the petition in two newspapers and in the Maharashtra Government Gazette. Notice under Rule 28 is deemed to have been waived.

5 Heard Mr. Parekh and also considered the petition and the documents annexed thereto. I am also satisfied that the company is indebted to petitioner, unable to discharge its debt, commercially insolvent and requires to be wound up.

6 In the circumstances, company petition is allowed in terms of prayer clause (a) which reads as under :

> *(a) M/s. Vishaldeep Spinning Mills Limited be wound up under the superintendence of the Hon'ble Court and the*

Official Liquidator attached to the Hon'ble High Court of Judicature at Bombay be appointed as Liquidator thereof with usual powers under the provisions of the Companies Act with direction to take forthwith in its custody the assets and effects of the said Company.

7 Official Liquidator, within two weeks, to take steps upon receiving an authenticated copy of this order from the advocate for petitioner without waiting for any notification. The counsel for petitioner is also directed to forward a copy of this order to National Company Law Tribunal for information.

8 Upon receipt of the authenticated copy from petitioner's advocate, Official Liquidator shall forthwith cause notice to all concerned Directors calling upon them to file their respective statement of affairs strictly in consonance with the provision of law. All Directors of respondent company, now in liquidation, are hereby directed to file their respective statement of affairs as required under Section 454 of the Companies Act 1956, failing which Official Liquidator shall proceed further and lodge criminal complaint against the erring Directors, without seeking prior sanction of this Court for initiation of criminal prosecution.

9 Company petition accordingly stands disposed.

(K.R. SHRIRAM, J.)