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

COMPANY PETITION NO. 1031 OF 2015

M/s. Urvi Trading Corporation … **Petitioner**

V/s.

Maa Chintpurni Iron and Steel (I) Pvt. Ltd. … **Respondent**

Ms. J. N. Pandhi a/w Ms. Kanchi Joshi I/b M/s. Mahesh Jani and Co. for the Petitioner.
Mr. Prakash Mishra for the Respondent.

CORAM : K.R. SHRIRAM, J.
DATE : 20th AUGUST, 2018

P.C.:

1. Mr. Mishra appearing for the Company states that financial condition of the Company is very bad and brings to the attention of the Court the Affidavit-in-Reply of one Durgaram Choudhary affirmed on 12.07.2018. Mr. Mishra states, while disputing the claim of the Petitioner, the condition of the Company is so bad that the company may be ordered to be wound up. Mr. Mishra states that the company is indebted to Punjab National Bank in excess of Rs.37 crores and all the assets of the company have been attached by Punjab National Bank in proceedings commenced under provisions of SARFAESI Act. Counsel for the Company states that there are demands even of the Sales Tax Authority that the Company is unable to pay.

2 According to Mr. Mishra, Petitioner did not supply the goods at all and hence, no amount was payable. I must state that the stand of Mr. Mishra, Counsel for the Company, that no amount is payable to the Petitioner cannot be accepted. The stand which is taken in the letter dated 04.08.2014 by the Company/Managing Director in response to the notice received from the Petitioner, is that the Company did not even issue any cheques to the Petitioner. In the affidavit-in-reply, however, the company admits having issued the cheques, but according to the Company, it stopped payment because the goods were not supplied. Thus, it indicates the bogus stand of the amount that no amounts are payable to the Petitioner.

3 Ms. Pandhi for Petitioner relies on affidavit of one Sunder Singh Dangar affirmed on 20.03.2018 confirming the advertisement of the petition in Free Press Journal and Nav-Shakti on 14.03.2018 and Maharashtra Government Gazette for the period 8th to 14th March, 2018 at Sr. No. M-17355. Company Department has also placed a Service Report dated 03.05.2018 confirming service of Notice under Rule 28.

4 In view of the above findings that the stand of the Company that no amount is payable is moonshine and in view of the statement made by Mr. Mishra as recorded in paragraph above, the petition is allowed in terms of prayer

clauses (a) and (b), which read as under:

> *"a) That the said Company be wound up by and under the Orders supervision and direction of this Hon'ble Court under the provisions of the Companies Act, 1956.*
>
> *b) That the Official Liquidator be appointed as the Liquidator of the said Company with all powers under the provisions of Companies Act, 1956 to take charge of the assets of the said Company and/or conduct its affairs in the course of winding up and to distribute its assets in accordance with law."*

5 Petitioner's advocate, within two weeks, to forward an authenticated copy of this order to the Official Liquidator who shall take immediate steps without waiting for any notification. The counsel for petitioner also to forward a copy of this order to the National Company Law Tribunal, Mumbai for information.

6 Upon receipt of the authenticated copy from petitioner's advocate, the 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 statements of affairs as required under Section 454 of the Companies Act, 1956, failing which, the 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.

7 Registry to return the amount of Rs.10,000/- deposited by petitioner subject to deductions, if any.

8 Petition disposed accordingly.

(K.R. SHRIRAM, J.)