

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

COMPANY PETITION NO.986 OF 2014

Sushil Manilal SavlaPetitioner

Vs.

Tricom India LimitedRespondent

**WITH
COMPANY PETITION NO.438 OF 2015
WITH
COMPANY PETITION NO.1101 OF 2015
WITH
COMPANY PETITION NO.1264 OF 2015
WITH
COMPANY PETITION NO.576 OF 2016**

Mr. Santoshkumar Dube i/b. H H Nagi and Associates for petitioner in CP/438/2015 and CP/1101/2015.

Mr. Rahul Theckedath i/b. M/s. M. P. Savla and Co. for petitioner in CP/986/2014.

Mr. Niraj Shah i/b. Mr. Siddharth Murarka for petitioner in CP/1264/2015.

Mr. Aditya Sikka i/b. Cyril Amarchand Mangaldas for petitioner in CP/576/2016.

Ms. Jennifer Micheal i/b. Mr. Som Sankar Sinha for respondent.

CORAM : K.R.SHRIRAM, J.

DATE : 16th FEBRUARY, 2018

P.C.:

COMPANY PETITION NO.986 OF 2014

1 By this petition, petitioner is seeking winding up of respondent company – Tricom India Limited (the Company) under the Companies Act, 1956.

2 Petitioner and the company had entered into consent terms dated 27th March, 2015 which was taken on record on the same date. The

order dated 27th March, 2015 reads as under :

The learned Advocates appearing for the Petitioner and the Respondent have tendered Consent Terms dated 27th March, 2015. They submit that the Consent Terms be taken on record and the above Petition be disposed of in terms of the Consent Terms. The Consent Terms are taken on record and marked "X" for identification. The Consent Terms are signed by the Petitioner and the Managing Director of the Respondent. The Consent Terms are also signed by the Advocates for the parties. The undertakings recorded in the Consent Terms are accepted. The above Petition is disposed of in terms of Consent Terms marked 'X'.

3 Thereafter, respondent defaulted. Mr. Theckedath, counsel for petitioner states that the last five installments due on 30th April, 2016, 31st May, 2016, 30th June, 2016, 31st July, 2016 and 31st August, 2016 were not paid. Therefore, on 10th March, 2017 this Court granted time to petitioner to advertise the petition. The petition has been advertised and there is an affidavit of one Prathmesh Bhoite affirmed on 30th March, 2017 confirming advertising the petition in Free Press Journal and Navbharat Times on 21st March, 2017 and 22nd March, 2017, respectively. There is another affidavit of the same Prathmesh Bhoite affirmed on 5th February, 2018 confirming notice of advertisement of petition in the Maharashtra Government Gazette for the period 25-31 January, 2018 at serial no.M-17304. Notice under Rule 28 of the Companies (Court) Rules, 1959 has been waived.

4 There is no affidavit in reply to the petition. On the contrary, the company had entered into consent terms acknowledging its debt to

petitioner and the same has been breached. Mr. Theckedath states that in last one and half years also the company has not even attempted to pay any amount. Therefore, it is rather obvious that the company is indebted to petitioner, is unable to discharge its debts, is commercially insolvent and requires to be wound up.

5 In the circumstances, company petition is allowed in terms of prayer clauses – (a) and (b) which read as under :

(a) Respondent company, viz., Tricom India Limited having its registered office at Tricom House, Gandhi Estate, A.K. Road, Safed Pool, Andheri (East), Mumbai – 400 072 be wound up by this Hon'ble Court under the provisions of the Companies Act, 1956 and/or Companies Act, 2013;

(b) That Official Liquidator or some fit and proper person be appointed as Liquidator of the said company with all necessary powers under the provisions of the Companies Act, 1956.

6 Petitioner's advocate to forward a copy of this order duly authenticated by the Associate of this Court to Official Liquidator. Official Liquidator to take further steps upon receiving copy of the order without waiting for notification.

7 Company petition accordingly stands disposed.

COMPANY PETITION NO.438 OF 2015
WITH
COMPANY PETITION NO.1101 OF 2015
WITH
COMPANY PETITION NO.1264 OF 2015

WITH
COMPANY PETITION NO.576 OF 2016

1 Since the company - Tricom India Limited has been ordered to be wound up by an order dated 16th February, 2018 in company petition no.986 of 2014, all the above petitions stand disposed with liberty to petitioners to lodge their respective proof of debt with Official Liquidator, who shall consider the same in accordance with law.

2 If the order dated 16th February, 2018 in company petition no.986 of 2014 winding up respondent company – Tricom India Limited is recalled or set aside in appeal, liberty is given to petitioners in these petitions to revive their petition and move once again for necessary orders including winding up of respondent company.

(K.R. SHRIRAM, J.)