

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

COMPANY PETITION NO.620 OF 2016

Direct Wines Limited)....Petitioner
V/s.

Wine Soc. of India Private Limited)....Respondent

Mr.Asadulla Thangal i/by AZB and Partners for petitioner.
Mr.Rushabh Sheth for respondent.

CORAM : K.R.SHRIRAM,J

DATE : 4.5.2018

P.C.:-

1 The petition is filed for winding up of the respondent company-Wine Soc. of India Private Limited on the grounds that the company is unable to pay its debts to petitioner and is commercially insolvent.

2 On 6th October 2017, at the time of admission, the following order came to be passed :-

“1. The petitioner is a company based in United Kingdom and carries on business of supply of wines. Admittedly, as per the copies of invoices annexed to the petition at Exh. “E”, the petitioner raised invoices for supply of wine and also for consultancy services. These invoices were for a period 20th June, 2013 to 30th January, 2015. By balance confirmation dated 25th September, 2015, the respondent requested the petitioner to confirm that a sum of GBP 320467.76 only was due and payable to the petitioner as on 31st March, 2015. The petitioner responded by stating that their records showed a balance of GBP 372808/on 31st March, 2015. As no payment was received even thereafter, the petitioner issued notice

dated 24th March, 2016 to the respondent informing the respondent that as on 30th January, 2015 a sum of GBP 347393.88 due and payable and called upon the respondent to pay said sum, failing which, the petitioner would take legal action including for winding up of the respondent for its default to pay its debt. The respondent never replied to this letter but sent another credit confirmation letter dated 10th June, 2016 informing the petitioner that as per the respondent's records, as on 31st March, 2016, a sum of GBP 295053.54 only was payable to the petitioner. The petitioner responded stating that their records indicated the balance of GBP 347394/payable as on 31st March, 2016. This figure, the petitioner had indicated in the notice dated 24th March, 2016. The respondent neither contested the petitioner's stand for balance of GBP 347394/as payable on 31st March, 2016 nor the respondent pay any money thereafter. There is no reply also filed to the petition, though the petition was received by the respondent vide email dated 2nd December, 2016 and confirmed by the respondent vide email dated 15th December, 2016.

.....”

3 Mr.Sheth for the company states that the company has no funds and his instructions are not to contest the petition but to agree for winding up of the company. Mr.Sheth for the company states that the petition itself indicates that liability is admitted but the company is unable to pay.

4 On record is the affidavit of one Shailesh Chiplunkar affirmed on 8.12.2017 confirming advertising the petition in 'Free Press Journal' and 'Navshakti' on 3.11.2017 and in Maharashtra Government Gazette for the period 9.11.2017 to 15.11 2017 at Serial

No.M-17229. Notice under Rule-28 has been waived.

5 Therefore, the petition is allowed in terms of prayer clauses-(a) & (b) which read as under :-

“(a) That the Respondent Company, Wine soc. Of India Private Limited, be wound up by and under the orders and directions of this Hon'ble Court under provisions of the companies Act, 1956;

(b) That the Official Liquidator attached to this Hon'ble Court be appointed as the Liquidator of the Respondent Company and all its assets, divisions, businesses, subsidiaries including assets of the subsidiaries, affairs, properties, bank accounts, books of accounts, vouchers, files, documents etc., with all powers under the provisions of the Companies Act, 1956”

6 The advocate for petitioner shall file a copy of this order, duly authenticated by the Associate of this court with the office of Official Liquidator. The Official Liquidator shall forthwith act thereupon without waiting for any notification appointing him as liquidator.

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)