

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

COMPANY PETITION NO.206 OF 2010

B.I.F.R.)....Petitioner

V/s.

M/s.Sagarika Acoustronics Pvt. Ltd.)....Respondent

Ms.Supriya S.Devergudi i/by ANS Law Associates for respondent.

CORAM : K.R.SHRIRAM,J

DATE : 22.3.2018

P.C.:-

1 The petition came to be admitted by an order dated 11.6.2010 read with order dated 4.8.2010 based on an opinion of the Board of Industrial & Financial Reconstruction (BIFR) and order dated 15.4.2010 that it would be just and equitable and in the public interest that the Sagarika Acoustronics Pvt. Ltd (the company) should be wound up under Section 20(1) of the Sick Industrial Companies (Special Provisions) Act 1985. While admitting the petition the court has observed that there is nothing on record to show that the order of BIFR is challenged before the appellate authority.

2 Thereafter when an affidavit was filed by the company through its director one Ajit Bam, affirmed on 2.3.2011, relying on the said affidavit, this court by its order dated 21.12.2012 directed the

office to ascertain the position based on record by respondent from the BIFR. Thereafter from the order-sheet it appears the matter was listed on 23.2.2018 when none appeared for the company. The court directed notice be sent to the company as well as its advocates. Based on the notice issued, the company is represented in court.

3 Ms.Devergudi for the company brings to the attention of the court an affidavit of Ajit Bam, to which is annexed a copy of order dated 27.9.2012 passed by the Appellate Authority for Industrial and Financial Reconstruction. AIFR has set aside the order passed by BIFR by stating that BIFR could not have passed the said order since the reference to BIFR abated when Saraswat Co-operative Bank, one of the secured creditors, had taken action under Section 13(4) after serving notice under Section 13(2) of the SICA.

4 Since the petition was admitted based purely on the opinion and order of BIFR which order itself has been set aside, the petition does not survive.

Petition accordingly dismissed.

5 From the record it does not appear that though there is an order passed on 4.8.2010 to advertise the petition, the petition has

been advertised. Therefore, company need not advertise dismissal of the petition.

(K.R.SHRIRAM,J)