

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

COMPANY PETITION NO. 7 OF 2016

M/s. Sureshot Advertising,
Prop. Nilesch Pravin Vora

.. Petitioner

Vs.

M/s. Meltwater Creative Communications
Pvt. Ltd.

.. Respondent

Mr.Hussain Dholkawala i/b Ganesh and Co. for petitioner.

None for respondent.

CORAM : K.R.SHRIRAM, J.

DATE : 13TH APRIL 2018

P.C.

1. The petition is filed for winding up of the company Meltwater Creative Communications Pvt. Ltd. (the company) on the ground that the company is unable to discharge its debts.

2. On 28th June 2017, when the petition was taken up for admission, the following order came to be passed :-

“1 By the present petition under Section 433(e) and 434 of the Companies Act, 1956 the petitioner has prayed for winding up of the respondent company namely M/s. Meltwater Creative Communication Pvt. Ltd.

2 The petitioner is a proprietary concern and is engaged in the business of Advertising Agency and also possess licence for Advertising. At the request and as per the orders placed by the respondent company the petitioner provided its services to the respondent and raised various invoices to that effect for an aggregate sum of Rs.33,24,694/-. As the respondent did not

make payment to the petitioner; substantial correspondence has been entered into between the parties. In compliance of part of its obligation, the respondent company issued three cheques aggregating to sum of Rs.15,00,000/-.The said cheques were dishonoured on presentation. The petitioner therefore, issued a statutory notice dated 23.7.2015 calling upon the respondent to make payment of the outstanding amount. The respondent replied the said notice by its reply dated 12.8.2015.

2 As the respondent failed to comply with the requisitions of the petitioner as per the statutory notice the petitioner filed the present petition on 12.10.2015. The petition is accepted on 19.1.2016 and in pursuance of the directions issued by the Company Registrar the petitioner has served the respondent and an affidavit of service dated 22.3.2016 has been filed to that effect. Despite service none appears for the respondent.

3 I have perused the petition and the documents annexed thereto. It is to be noted here that in reply dated 12.8.2015 to the statutory notice issued by the petitioner, the respondent has tried to raise the untenable defences. It further appears that the reply contains simple denials and no specific defence has been raised in not making the admitted claim of the petitioner. In view thereof, prima facie it appears that the respondent company is unable to pay the debt of the petitioner.”

3. Petitioner has filed an affidavit of one Tejas V. Nakti, affirmed on 13th July 2017 confirming publication in Free Press Journal and Navshakti on 11th July 2017 and also in Maharashtra Government Gazette for the period 20-26th July 2017 at Sr.No.17112. The Company Registrar has filed a report dated 17th July 2017 stating that notice sent under Rule 28 of the Companies (Court) Rules, 1959 has come back with the endorsement 'left'. Shri Dholkawala for petitioner tenders a copy of the company master data maintained by the Ministry of Corporate Affairs, which extract Shri Dholkawala states, was taken today, in which the registered address of the

company still continues to be the same to which the notice under Rule 28 was sent, which is also reflected in the cause title of the petition. The extract is taken on record and marked 'X' for identification.

I would, therefore, accept that a notice under Rule 28 has been served on the company.

4. There is no reply opposing the petition. At the time of admitting the petition itself, the Court had rejected the contention of the company raised in the reply to the statutory notice.

5. I have also perused the petition and the documents annexed thereto and also heard the counsel for petitioner. In my view, the company is indebted to petitioner, is unable to discharge its debt, commercially insolvent and requires to be wound up.

6. In these circumstances, petition is allowed in terms of prayer clauses

(a) and (b) which read as under :-

*“(a) that the Respondent Company namely **M/s. Meltwater Creative Communications Pvt. Ltd.**, having its registered office at Bunglow No.3, Opp. Corporation Bank, S.V.P. Nagar, MHADA, Andheri (West), Mumbai – 400 053 be ordered to be wound up by and under the directions, supervision and control of this Hon'ble High Court under the provisions of the Companies Act, 1956.*

(b) that the Official Liquidator, High Court, Bombay or some other fit and proper person be appointed as Liquidator of the

business, assets, properties, income and books of accounts of the Respondent Company with all powers under the provisions of Companies Act 1956.”

7. Petitioner's advocate to forward an authenticated copy of this order to the official liquidator who shall take immediate steps without waiting for any notification.

8. The company petition accordingly disposed.

(K.R. SHRIRAM, J.)