

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

**COMPANY PETITION NO.102 OF 2016**

Sourabh Golchha )....Petitioner  
V/s.

M/s.TVC Network Ltd. )....Respondent

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Mr.Nilesh Gala I/by Law Square for petitioner.  
None for respondent.

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**CORAM : K.R.SHRIRAM,J  
DATE : 3.8.2018**

**P.C.:-**

1. The petition is filed for winding up of the company TVC Network Ltd.(the said company) on the ground that the company is unable to pay its debt, commercially insolvent and hence requires to be wound up.

2 At the time of admission on 28.6.2017 the following order came to be passed :-

*“1. This is a petition for winding up of the respondent company namely M/s.TVC Networks Ltd. on the ground that the respondent company is unable to pay the debt of the petitioner.*

*2. The petitioner is engaged in the business of clearing and forwarding agency. The petitioner and the respondent company entered into an agreement dated 10.10.2013 and in pursuance thereof the petitioner has deposited an amount of Rs.16.00 lacs with the respondent towards the security deposit. The petitioner terminated the agreement on 27.3.2014 and demanded the said security deposit*

*back from the respondent. Despite there being substantial correspondence between the parties the respondent failed and neglected to refund the security deposit and therefore as per the submission of the learned counsel for the petitioner, the petitioner is entitled to charge interest on the principal amount at the rate of 18% per annum from 1.3.2014 till its realization. The petitioner thereafter, issued a statutory notice dated 4.9.2015 to the respondent. The respondent received the said notice however failed to comply it.*

*3. The petitioner therefore, filed the present petition on 21.11.2015 for winding up of the respondent company. The petition is accepted on 9.2.2016 and in pursuance of the directions issued by the Company Registrar the respondent company has been duly served and affidavit of service dated 17.2.2016 has been filed to that effect. Despite service none appears for the respondent.*

*It is submitted by the learned counsel for the petitioner that after filing of the present petition his client has received the reply dated 22.10.2015 to the petitioner's statutory notice. A copy of the said reply is tendered across the bar.*

*4. I have perused the petition and the copy of the reply dated 22.10.2015 given by the respondent company to the statutory notice. It prima facie appears that in the reply the respondent company has simply denied its liability and has not raised any specific defence in opposition to the claim of the petitioner. It further prima facie appears that the respondent company is unable to pay the debt of the petitioner and is commercially insolvent.*

*5. Hence the following order.....”*

3            Respondent has not entered appearance though served. Therefore, none of the averments in the petition are controverted. Respondent had not replied to the statutory notice before filing of the petition but later through an Advocate Pankaj Andani sent a reply dated 22.10.2015. The reply has been considered by the learned

single Judge while admitting the petition and the court has come to a conclusion that reply contained simple denials and no specific defence in opposition to the claim of petition.

4           On record is the affidavit of one Ilrina Pereria affirmed on 18.7.2017 confirming advertising the petition in 'Free Press Journal' and 'Navshakti' on 14.7.2017. On record is also an affidavit of one Manish Gala affirmed on 2.5.2018 confirming publication of the petition in Maharashtra Government Gazette for the period 26<sup>th</sup> April to 2<sup>nd</sup> May 2018 at serial no.M-1828. The company department had placed a service report dated 29.7.2017 on record stating that the notice sent under Rule 28 of the Company Court Rules 1959 came back 'undelivered' with the endorsement 'unclaimed-returned to sender'"

5           With the leave of the court petitioner caused notice issued to the company on 28.6.2018 by hand delivery stating that the matter will be taken up for final hearing on 5.7.2018 or soon thereafter on any date as per the court's convenience. This was also served by e-mail at the e-mail address provided at the MCA web-site. Counsel relied on an affidavit of Manish Gala affirmed on 2.7.2018. It has to be noted that the address to which notice was served by hand delivery

is the same address to which notice under Rule 28 was sent by the registry.

6. In the circumstances, I will proceed on the basis that the notice under Rule 28 has been served.

7 I have also perused the petition and the documents annexed to the petition and also heard counsel. I am satisfied that the company is indebted to petitioner, unable to discharge its debts, commercially insolvent and requires to be wound up.

8 In the circumstances, petition is allowed in terms of prayer clauses-(A) and (B) which read as under :-

*“(A) That the Respondent Company M/s.TVC NETWORK LTD., be ordered to be wound up by and under the directions of this Hon'ble Court under the provisions of the Companies Act, 1956 ;*

*(B) That the Official Liquidator, High Court, Mumbai be appointed as the Official Liquidator of the Respondent Company M/s.TVC NETWORK LTD., with all powers under the Companies Act, 1956”.*

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

liquidator.

10           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.

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

12           Petition disposed accordingly

Jahagirdar  
Kiran  
Ganesh

Digitally  
signed by  
Jahagirdar  
Kiran Ganesh  
Date:  
2018.08.07  
15:11:40  
+0530

**(K.R.SHRIRAM,J)**