

Santosh

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

COMPANY PETITION NO. 262 OF 2013

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Manoranjan Saha

...Petitioner

Versus

Green Bowl Foods & Engineering Pvt. Ltd.
(M/s. Green Bowl Foods Pvt. Ltd.)

...Respondent

Ms. Bijal Gogri, a/w Ms. Shivangi Dixit, i/b O. M. Gujar Law
Chamber, for the Petitioner.
None for the Respondent.

CORAM: N. J. JAMADAR, J.

DATED : 14th DECEMBER, 2022

ORDER:-

1. Heard the learned Counsel for the petitioner.
2. This is a petition under Section 439 of the Companies Act, 1956 for the winding up of M/s. Green Bowl and Engineering Pvt. Ltd. (Formerly, Green Bowl Foods Pvt. Ltd.).
3. By an order dated 29th August, 2016, the Court directed that in the event of default in the deposit of Rs.22,36,875/- on or before 10th October, 2016, the petition would stand admitted. The respondent company committed default in making said deposit and thus petition stood admitted.
4. Pursuant to an order dated 9th February, 2021, the petition came to be advertised in two newspapers "Free Press Journal"

(English) and “Navshakti” (Marathi) and the Maharashtra Government Gazette. An affidavit of compliance came to be filed on behalf of the petitioner on 6th March, 2021.

5. When the petition was listed before the Court on 10th August, 2022, as none appeared for the respondent, the petitioner was directed to give notice to the respondent again. An affidavit of service came to be filed on behalf of the petitioner. Yet, none turned up for the respondent.

6. The learned Counsel for the petitioner has invited the attention of the Court to Rule 5 of the Companies (Transfer of Pending Proceedings) Rules, 2016, which *inter alia* provides that all petitions relating to winding up under Clause (e) of Section 433 of the Companies Act, 2013 on the ground of inability to pay its debts pending before the High Court, where the petition has not been served on the respondent, be transferred to the Tribunal.

7. In the case at hand, the respondent appeared and filed an affidavit-in-reply in opposition to the admission of the petition. By an order dated 29th August, 2016, this Court after an elaborate consideration, recorded that there was no defence to the claim. Thus, the respondent – company was directed to

deposit a sum of Rs.22,36,875/- within a period of six weeks thereof. In the event of default, the petition was to be admitted.

8. The situation which thus obtains is that despite adequate opportunity, the respondent company had not discharged the debt either before or after the passing of the order of admission of the petition. Nor the respondent company has shown its willingness or ability to discharge the debt even thereafter. What exacerbates the situation is the fact that respondent company chose not to appear inspite of notice having been served pursuant to the order by this Court.

9. In the aforesaid circumstances, it is legitimate to infer that the respondent company is unable to pay its debts. Hence, the petition is made absolute in terms of prayer Clause (a) which reads as under:

“(A) That the company namely Green Bowl Foods and Engineering Pvt. Ltd. (Earlier known as Green Bowl Food Pvt. Ltd.), having its registered office at its Registered Office at Plot No.1, Shah Industrial Estate, Off. Veera Desai Road, Andheri (West), Mumbai be directed to be wound up by an order and under the directions of this Hon’ble Court and under the provisions of Companies Act, 1956.”

10. The Official Liquidator, High Court, Bombay, is appointed as a Liquidator of the respondent company Green Bowl Foods & Engineering Pvt. Ltd.

11. The Official Liquidator is directed to take possession of the assets of the company and proceed in accordance with law.
12. The petition stands disposed.

[N. J. JAMADAR, J.]