
(2003) 11 RAJ CK 0034
In the Rajasthan High Court
Case No : Company Petition No. 14 of 2002

Anil Cold Tyres Retreaders

APPELLANT

Vs

Rungta Projects Ltd.

RESPONDENT

Date of Decision : 28-11-2003

Acts Referred:

Companies Act, 1956 — Section 10, 10(2), 433, 434

Citation : (2004) 56 SCL 42

Hon'ble Judges : S.K. Keshote, J

Bench : Single Bench

Advocate : Rajendra Soni, for the Appellant; Manoj Sharma, for the Respondent

Final Decision : Dismissed

Judgement

S.K. Keshote, J.—Heard learned counsel for the parties.

2. The petitioners filed this Company Petition under Sections 433 and 434 of the Companies Act, 1956 ("the Act 1956") for winding up of the respondents' company.

3. The respondents, in reply to the company petition, raised a preliminary B objection re-maintainability of the winding-up petition. In para No. 1 of the reply to the writ petition it is stated that "the Company Petition is not maintainable in this Court inasmuch as this Court has no jurisdiction to entertain and try this company petition because the registered office of the respondents' company is situated at Kolkata.

4. It is further stated that according to the Act, 1956 the petition of winding-up is maintainable in the Court having jurisdiction in relation to place where the registered office of the company is situated.

5. Rejoinder to the reply has been filed by the petitioners. The contents of para No. 1 of the reply to the company petition has been replied by the petitioners in the following terms :

" 1. That the contents of para No. 1 of preliminary objection are not correct in the manner stated. It is submitted that the entire work of tyre retreading has been executed at Shahpura Distt. Jaipur in the petitioner's industry and therefore the entire cause of action arose in Jaipur jurisdiction and not only this, it is clearly evident from Annexure-A/1 that the project office is situated at Jaipur also therefore as the entire cause of action has arose in the present matter in Jaipur district and therefore, this Hon"ble Court has jurisdiction to entertain the present company petition."

From this reply to the preliminary objection No. 1 raised by the respondent company in the reply to the company petition I am satisfied that it is not in dispute that the registered office of the respondent company is E at Kolkata. That apart from document Annexure-1 filed by the petitioner along with company petition it is admitted position that the registered office of the respondent company is at Kolkata. Annexure-19 is the notice sent by the petitioner company to the respondents company through the Advocate.

6. Section 10 of the Act, 1956 provides the jurisdiction of the Courts. Jurisdiction under the Act, 1956 of the Court shall be as per the provision of Section 10 thereof, the High Court having jurisdiction in relation to place at which the registered office of the company concerned is situated, except to the extent to which jurisdiction has been conferred on any District Court or the District Courts subordinate to that High Court in pursuance of Sub-section (2). It is not the case of the petitioners Company that the matter falls under Sub-section (2) of Section 10 of the Act, 1956. Sub-section (2) of Section 10 of the Act, 1956 provides, except to the extent to which any jurisdiction is expressly conferred on the District Court either by the Court or by the Central Government by Notification in the Official Gazette of residuary jurisdiction under the Act, aforesaid is vested only in the High Courts.

7. It is not in dispute that the registered office of the respondent Company is at Kolkata. In this view of the matter, this Court has no jurisdiction to deal with this petition.

8. In the result, this company petition fails and the same is dismissed.