
(2012) 01 KAR CK 0213
In the Karnataka High Court
Case No : Company Petition No. 103 of 2010

M/s Shree Lakshmi Steel Suppliers	Vs	APPELLANT
M/s Bbipl Infrastructure (India) Pvt. Ltd.		RESPONDENT

Date of Decision : 11-01-2012

Acts Referred:

Companies Act, 1956 — Section 433 (e), 433 (f), 434

Citation : (2012) 01 KAR CK 0213

Hon'ble Judges : B.V. Pinto, J

Bench : Single Bench

Advocate : Sumana Naganand, for M/s. Just Law S. Sriranga, for the Appellant;

Final Decision : Allowed

Judgement

B.V. Pinto, J.—This petition is filed u/s 433 (e) and (f) and Section 434 of the Companies Act, 1956 seeking to winding up of the Respondent-Company by name M/s. BBIPL Infrastructure (India) Private Limited, having its registered office at No. 19. 5th Cross, Swimming Pool Extension, Maileshwaram, Bangalore-560 003.

2. It is contended by the petitioner that the petitioner is a proprietary concern engaged in the business, inter alia, of supplying steel used for construction and fabrication. The Respondent is a Company incorporated on 11.4.2003 with the authorised capital of (Rs. 19,20,00,000/- divided into 1,92,00,000/- Equity Shares of (Rs. 10/- each. The object of the Company is to build, construct, promote and develop layouts and houses etc, as per the Memorandum of Association of the Company. It is stated by the petitioner that pursuant to the purchase orders placed by the respondent, the petitioner has supplied goods to the Respondent-Company and that Respondent-Company is due in a sum of (Rs. 86,99,968/- and the statutory notice of demand was issued on 1.3.2010 calling upon the respondent to pay the amount with the interest at 24% p.a. However, despite the said notice, the respondent has not paid the amount to the petitioner and hence left with no other alternative, the petitioner has filed this petition for

winding up of the Respondent-Company.

3. This Court has issued notice to the Respondent and the Respondent had appeared before this Court through Counsel and also has filed Statement of Objections. However, the Counsel for Respondent filed a memo of Retirement and by order dated 15.4.2011, this Court has permitted the Counsel to retire from the case. A Court Notice has been issued to the Respondent which has been served on the Respondent. But the Respondent failed to appear before the Court thereafter or to contest the matter. After hearing the parties, this Court was pleased to admit the case on 25.2.2011 and thereafter a notice was published in "The Times of India" dated 12.10.2011. Despite the publication, the respondent has not chosen to appear before the Court nor to contest the matter.

4. Heard Miss Sumana Naganand, learned Counsel for the Petitioner.

5. Perused the documents at annexures "A" to "R" and also perused the statement of objections filed by the Respondent.

6. The Respondent has virtually admitted the transaction and also the liability. Hence, the petitioner has made out a case that the respondent is unable to pay the debts to the petitioner and therefore despite notice they have not paid the said amount as provided u/s 434 of the Companies Act, 1956. Hence, the petition deserves to be allowed.

7. In the circumstances, I pass the following:

ORDER

1. Petition is hereby allowed.

2. Respondent-Company is ordered to be wound up-Official Liquidator attached to this Court is appointed to take over the assets and liabilities of the Respondent Company.

3. Petitioner is directed to deposit a sum of (Rs. 10,000/-with Official Liquidator to meet the initial expenses of winding up proceedings.

4. Petitioner is directed to serve a copy of this order on the Registrar of Companies within 30 days.

5. Petitioner is further directed to take out advertisement Of this order in English daily "The Times of India", newspaper and Kannada daily "Vijya Karnataka", newspaper within 15 days from the date of receipt of copy of the order.