

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION  
COMPANY PETITION NO. 202 OF 2014

Rachna Air Components Private Limited ... Petitioner

## Versus

Tekno Steels & Forgings Private Limited ... Respondent

Mr. Mandar Soman for the Petitioner.  
None for the Respondent.

CORAM : S.J. KATHAWALLA, J.  
DATED : 28<sup>TH</sup> FEBRUARY, 2015

P.C.

1. By the above Company Petition, the Petitioner seeks winding up of Tekno Steels & Forgings Private Limited (the Company) on the ground that the Company is unable to pay its debt to the Petitioner. The Company Petition is taken up for hearing and final disposal.

2. According to the Petitioner, the Petitioner had supplied various types of spares of Air Compressor to the Company as per requirement and had raised various bills for the said supplies on the Company and an amount of Rs. 3,30,636/- was payable by the Company to the Petitioner as on 31<sup>st</sup> October, 2013. Despite several reminders, the Company failed and neglected to pay the said outstanding amount of Rs. 3,30,636/- to the Petitioner.

3. The Petitioner therefore through its Advocate issued a statutory

notice dated 25<sup>th</sup> November, 2013 to the Company calling upon the Company to pay the outstanding amount of Rs. 3,30,636/- to the Petitioner within a period of three weeks from the date of receipt of the said statutory notice. The Company despite having received the statutory notice has failed and neglected to reply to the same and has also failed to make any payment to the Petitioner as called upon therein.

4. The Petitioner therefore filed the present Petition seeking winding up of the Company on the ground that the Company is unable to pay its debts. When the Petition was adjourned for Admission on 15<sup>th</sup> November, 2014, none appeared for the Company. The Petition was therefore adjourned to 21<sup>st</sup> November, 2014 for Admission and the Petitioner was directed to serve a Notice to the Company by hand delivery inter alia informing the Company that the above Petition is placed for Admission on 21<sup>st</sup> November, 2014. The Company despite receipt of the Notice on 20<sup>th</sup> November, 2014 failed to appear before the Court on 21<sup>st</sup> November, 2014. In view thereof, the Petition was placed for Admission on 22<sup>nd</sup> November, 2014, first on board and the Petitioner was directed to once again serve a copy of the order dated 21<sup>st</sup> November, 2014 by hand delivery at the registered address of the Company on or before 22<sup>nd</sup> November, 2014. The Company despite having received Notice from the Petitioner alongwith a copy of the order dated 21<sup>st</sup> November, 2014 failed

to appear before this Court.

5. By an order dated 27<sup>th</sup> November, 2014, the above Company Petition was admitted and directed to be advertised. Paragraph 5 of the said order dated 27<sup>th</sup> November, 2014 is relevant and reproduced hereunder :

*“5. From the aforesated facts, it prima facie appears that the amount of Rs. 3,30,636/- is due and payable by the Company to the Petitioner. The Company has not replied to the statutory notice and has also not made any payment to the Petitioner as called upon therein. The Company has failed to file its Affidavit in Reply or to remain present before this Court despite having received repeated intimations from the Petitioner. In view thereof, the statements / submissions made by the Petitioner in the Company Petition have remained uncontroverted and there is no reason why the statements / submissions made by the Petitioner in the Company Petition should not be accepted. I am therefore prima facie satisfied that the Company is unable to pay its debts and the Company Petition deserves to be admitted and advertised. Hence, the following order .....*”

6. Pursuant to the said order dated 27<sup>th</sup> November, 2014, the admission of the above Petition was advertised in two local news papers as well as in the Maharashtra Government Gazette. An Affidavit proving

publication dated 9<sup>th</sup> February, 2015 is on record. Notice under Rule 28 of the Companies (Court) Rules, 1959 has been served on the Company, as can be seen from the service report dated 17<sup>th</sup> December, 2014 filed by the Section Officer, Company Department. Even at this stage, no Affidavit opposing the Petition has been filed by the Company. All the contentions of the Petitioner in the Petition have therefore remained uncontroverted and there is no reason why the allegations / submissions made by the Petitioner in the Company Petition should not be accepted.

7. For the reasons set out in the order dated 27<sup>th</sup> November, 2014 and herein, I am satisfied that the Company is unable to pay its debts and deserves to be wound up. The above Company Petition is, therefore, allowed in terms of prayer clauses (a) and (b), which are reproduced hereunder :

*“(a) That the Respondent Company be ordered and directed to be wound up by and under the directions and supervision of this Hon'ble Court.*

*(b) That the Official Liquidator, High Court, Mumbai be appointed as the Liquidator of the Company M/s.*

*TEKNO STEEL & FORGING PRIVATE LIMITED, with all powers under Section 457 and such other provisions of the Companies Act, 1956, of the property and assets of*

*the Company, and the Liquidator be directed to deal with and dispose of the said property in accordance with the directions given by the Hon'ble Court;*

8. The Official Liquidator to forthwith act on an ordinary copy of this order, duly authenticated by the learned Associate of this Court without waiting for any further notification from this Court or from any other authority.
9. The above Company Petition is accordingly disposed of.

**(S.J. KATHAWALLA, J.)**