

Appellant Vs. Respondent

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Court : Kolkata

Decided On : Feb-07-2014

Judge : Nadira Patherya

Appellant : Appellant

Respondent : Respondent

Judgement :

ORDER

SHEET CP No.431 of 2013 IN THE HIGH COURT AT CALCUTTA Original Jurisdiction IN THE MATTER OF : MODERN ANIMAL FEEDS PVT.LTD.AND INDIAN TRADING BUREAU PVT.LTD.BEFORE: The Hon'ble JUSTICE PATHERYA Date : 7th February, 2014.

Ms.Manju Bheteria, Ms.S.Shah for petitioning creditor.

The Court : This application has been filed under Sections 433 and 434 of the Companies Act, 1956 on account of price of goods sold and delivered.

The case of the petitioning creditor is that supplies have been effected on the company and part payment of the sums have been paid.

A cheque of Rs.2 lakhs given was dishonoured for non-payment.

No dispute has also been raised in respect of the bills raised and the goods supplied.

Statutory notice was also given to which no reply has been given.

Therefore, the winding up petition be admitted for the sum of Rs.20,25,820/-.

None appears on behalf of the company in spite of service.

Having considered the facts of the case undoubtedly there was a notice issued under Section 434 of the Companies Act, 1956.

This was on account of price of goods sold and delivered.

As no reply has been given to the statutory notice, it raises a statutory presumption of inability of the company to pay the debt which presumption remains un rebutted.

No affidavit-in-opposition has also been filed.

This, therefore, entitles the petitioning creditor to admission of the winding up petition and this winding up petition for the sum of Rs.20,25,820/- is admitted.

Let the said sum be paid by the company to the petitioning creditor in two equal instalments.

The fiRs.of such instalments be paid by 26th February, 2014 and the 26th day of the succeeding month.

The amount admitted shall carry interest at the rate of 8% per annum on and from the date of issuance of the statutory notice till realisation.

In default of payment of any one instalment, the petitioning creditor will be entitled to advertise once in Dainik Statesman, Bengali edition and once in The Statesman, English edition.

Matter is made returnable six weeks hence.

All parties to act on a photostat signed copy of this order on the usual undertakings.

(PATHERYA, J.) pa

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