HCCW 313/2024

[2025] HKCFI 918

**IN THE HIGH COURT OF THE**

**HONG KONG SPECIAL ADMINISTRATIVE REGION**

**COURT OF FIRST INSTANCE**

COMPANIES (WINDING-UP) PROCEEDINGS NO 313 OF 2024

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IN THE MATTER of THE COMPANIES (WINDING UP AND MISCELLANEOUS PROVISIONS) ORDINANCE (CAP. 32)

and

IN THE MATTER of HCT TECHNOLOGIES (HONG KONG) CO., LIMITED

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Before: Hon Linda Chan J in Court

Date of Hearing: 24 February 2025  
Date of Judgment: 24 February 2025

Date of Reasons for Judgment: 4 March 2025

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R E A S O N S F O R J U D G M E N T

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1. By a petition presented on 31 May 2024 (as amended on 19 December 2024) (“**Petition**”), the petitioner Shenzhen Honeycomb System Co., Ltd (“**Petitioner**”), seeks a winding up order against HCT Technologies (Hong Kong) Co., Limited (“**Company**”) on insolvency ground. At the hearing, this Court dismissed the Petition for want of prosecution and ordered the costs of the Petition to be paid by the Petitioner to the Official Receiver and the Company, to be assessed by way of gross sum assessment. These are the reasons for my judgment.
2. The Company is a Hong Kong company. The Petitioner and the Company entered into an agreement dated 1 January 2013 for sale and supply of products which contained *inter alia* an agreement to refer any dispute arising therefrom to arbitration in Shenzhen Arbitration Commission. On 20 June 2017, the Petitioner obtained an award against the Company for US$2,295,496.75 together with interest (RMB288,719.84) and costs (RMB376,515) (“**Award**”).
3. The Company did not pay any amount to the Petitioner. On 2 December 2020, the Petitioner in HCCT 20/2019 obtained an order to enforce the Award as a judgment of the court. This was followed by the garnishee proceedings commenced by the Petitioner pursuant to which it obtained payment of US$107,836.30 (or HK841,123.12). After deducting the amount received from the garnishee, the net amount owed by the Company as at 4 May 2021 was US$2,187,660.45 and RMB 665,234.84 (“**Debt**”).
4. On 28 May 2021, a statutory demand was served on the Company requiring it to pay a slightly different amount of US$2,189,492.35 and RMB 376,515. The Company did not comply with the statutory demand.
5. It was only until 31 May 2024, more than 3 years after the Company had been served with the statutory demand, that the Petition was presented against the Company. The Petition was scheduled to be heard before a Master on 14 August 2024.
6. On 9 August 2024, the Company issued a summons to seek (1) a declaration that “Jin Zhe had no valid authorities [*sic*] from the Petitioner to issue the winding up Petition” and carry on the proceedings, and (2) a stay of the Petition pending the result on appointment of liquidation team in廣東省深圳市龍華區人民法院 (2024)粵港澳0309清申7號, being the liquidation proceedings commenced in Shenzhen (“**Stay Summons**”). The application is supported by an affirmation filed on behalf of the Company on the same day.
7. One of the grounds raised by the Company is that on 30 April 2024, the Shenzhen Intermediate People’s Court affirmed the judgment of the Shenzhen People’s Court granting an order to dissolve (解散) the Petitioner owing to the dispute amongst the shareholders. This was followed by an application made on 5 July 2024 to the Shenzhen Court for compulsory liquidation of the Petitioner.
8. The Petitioner did not file any affirmation in response to the Stay Summons. At the hearing before Master Jack Wong, the Petition was adjourned to 23 October 2024 before a Master.
9. In the meantime, the Company applied for leave to amend the Stay Summons to correct a typographic error. which was disposed of by consent. By Order made on 7 October 2024, Ng J gave directions on the filing of affirmations and substantive hearing of the Stay Summons. The Petitioner was required to file its affirmation in respect of the Stay Summons within 28 days thereof (i.e. by 4 November 2024). No affirmation in opposition to the Stay Summons was filed by the Petitioners.
10. Thereafter, the only steps taken by the Petitioner in the proceedings were to apply for leave to amend the Petition to refer to a fresh statutory demand served on the Company on 25 November 2024 requiring the Company to pay the Debt. By order dated 13 November 2024, leave was given to the Petitioner to file an amended petition within 14 days. The Petitioner did not file any amended petition within time and applied for extension of time, which was granted by the Master on 11 December 2024. It was only until 19 December 2024 that the Petition (as amended) was filed.
11. At the hearing of the Petition on 19 February 2025, Master Maurice Lam adjourned the Petition to this Court.
12. This is a clear case where the court should exercise its discretion to dismiss the Petition for want of prosecution, having regard to the following facts and matters:
    1. The Petitioner has not taken the necessary steps to pursue the Petition with due dispatch. Instead, the Petitioner repeatedly ignored the time limits imposed by the court.
    2. Although the Petitioner stated that it would oppose the Stay Summons and obtained leave to file affirmation in opposition, no affirmation has been filed. Nor has the Petitioner sought any extension of time to file such affirmation.
    3. No skeleton argument was lodged by the Petitioner, which constituted a breach of PD 3.1 §14.2-14.3.
    4. When asked by this Court as to why the Petitioner did not file any affirmation in response to the Stay Summons, Ms Rachel Ronald, counsel for the Petitioner, refers to a time summons belatedly filed in the afternoon of Friday (21 February 2025) to seek extension of time, which did not find its way to the court file.
    5. I do not see why the court should grant the extension sought when the Petitioner did not file any affirmation to explain its delay and inaction in complying with the Order made by Ng J on 7 October 2024.

(Linda Chan)

Judge of the Court of First Instance

High Court

Ms Rachel Ronald, instructed by LIMS, Solicitors, for the Petitioner

Mr Austin Yiu, instructed by YAN LAWYERS, for the Company

Ms Rebecca Louie, of Official Receiver’s Office, for the Official Receiver