

Gujarat High Court

Silcotex vs Pee on 17 February, 2010

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Gujarat High Court Case Information System

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COMP/3/2010      3/ 3      ORDER

IN  
THE HIGH COURT OF GUJARAT AT AHMEDABAD

COMPANY  
PETITION No. 3 of 2010

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SILCOTEX  
SILICONES PRIVATE LIMITED - Petitioner(s)

Versus

PEE  
TEE SILK MILLS PRIVATE LIMITED - Respondent(s)

=====

Appearance :  
MS  
VAIBHAVI K PARIKH for  
Petitioner(s) : 1,  
NOTICE SERVED BY DS for Respondent(s) :  
1,  
=====

CORAM

:

HONOURABLE

MR.JUSTICE D.A.MEHTA

Date  
: 17/02/2010

ORAL  
ORDER

This petition has been presented under Sections 433 and 434 of the Companies Act, 1956 (the Act) seeking order of winding of the respondent company, Pee Tee Silk Mills Private Limited in backdrop of following averments.

2. It is the say of the petitioner company that the petitioner had been carrying on business since number of years with respondent and a running account is being maintained in the Books of Accounts of the petitioner. Respondent has failed to make payment of the outstanding dues to the tune of Rs.2,21,609/- comprised of Rs.1,46,418/- as the principal amount and Rs.75,191/- as interest for the goods supplied by the petitioner to the respondent company. Accordingly statutory notice dated 15/10/2009 was sent by the learned Advocate of the petitioner under registered post acknowledgment due to the respondent company which came to be served on 19/10/2009 as per certificate issued by Postal Department on 19/11/2009. It is further averred that despite receipt of statutory notice respondent company has not only not replied to the statutory notice but failed to discharge its outstanding liability.

3. After hearing the learned Advocate for the petitioner Notice was issued on 11/01/2010 making it returnable on 09/02/2010. On 09/02/2010 the Court recorded that as the service had been effected only on 27/01/2010 one more opportunity was granted to the respondent. Despite such an opportunity there is no appearance on behalf of respondent.

4. In the circumstances it is apparent that the statutory presumption envisaged by provisions of Section 433 and 434 of the Act read together has arisen and the same remains unrebutted. Despite service of notice issued by this Court respondent has failed to appear. Hence in light of the statutory presumption which remains unrebutted it is apparent that respondent company has failed to either discharge its liability or make satisfactory arrangement for discharging such liability as required by provisions of the Act. Hence Admit.

5. Publication of notice is deferred leaving it open to the petitioner to effect service of this order of admission.

6. Matter to come up on 09/03/2010.

(D.A.Mehta, J.) sompura Top