

IN THE HIGH COURT OF TANZANIA

(COMMERCIAL DIVISION)

AT DAR ES SALAAM

MISC. COMMERCIAL CAUSE NO. 134 OF 2018

IN THE MATTER OF THE COMPANIES ACT 2002

AND

**IN THE MATTER OF THE PETITION FOR WINDING UP OF PASHA
FOODS AND BEVERAGE LIMITED COMPANY**

BY

PASHA FOODS AND BEVERAGE LIMITEDPETITIONER

RULING

B.K. PHILLIP, J

This ruling is in respect of a petition for winding up lodged by the petitioner under the provisions of section 279 (1)(a) of the companies Act 2002, rule 95(1) and 100 of the companies (insolvency) rules 2005. The petitioner is represented by the learned advocate Nzaro Kachenje.

A brief background to this petition is that the petitioner was incorporated on 18th day of October 2016 under the provisions of Cap 212 and issued a certificate of Incorporation No. 130362. It was dealing with restaurant business. Like any other company operating in Tanzania, the petitioner obtained a TIN number (No. 131-860-277) and VAT certificate (No. 40-027278-12) for the purpose of paying taxes. Also, it obtained business licence and was registered with the Tanzania Investment Centre, and

issued a Certificate of incentives. However, by the year 2018, the petitioner decide to close its business due to the drastically fall of its business, following a special board resolution special to that effect. The petitioner states in the petition that it has no debts and prays for the following orders:-

- (a) That the petitioner be wound up by the court order for the provisions of the companies Act, No. 12 of 2002.
- (b) Advocate Nzaro Nuhu Kachenje be appointed as the liquidator for the company.
- (c) Such other orders as the court thinks fit.

This petition has been disposed of by way of written submissions. Mr. Nzaro Kachenje filed the written submission for the petitioner. In his submission Mr. Kachenje pointed out that the petitioner has complied with all the legal requirements for the grant of the prayers sought in this petition including filing of a certificate of compliance as per rule 102(1) of the company (insolvency) rules GN No. 43 of 2005. Mr. Kachenje. Moreover, he pointed out that this petition is not contested. Mr. Kachenje further submitted that, since the petitioner has complied with the legal requirements for granting the prayers sought in this petition, in the absence of a notice of appearance to oppose the petition this court has no other option than to grant the orders sought in this petition. To cement his arguments he cited the case of **Swissport Tanzania PLC vrs Fastjet Airlines Limited, Miscellaneous Civil Cause No. 10 of 2018, High Court (Commercial Division- Arusha)** (unreported) and the **petition**


for winding up of CHINA CHANG GROUP LIMITED, winding up cause No. 113 of 2017, (unreported).

Pursuant to the provisions of rule 99(2) of the companies (insolvency) rules GN No. 43 of 2005 the petitioner, by the order of this court, advertised the petition in the daily news paper dated 16th November 2018. No one filed notice of appearance to oppose the winding up petition as provided in rule 104 of the companies Insolvency rules 2005. Having taken into consideration all the legal requirements for winding up of a company, I am in agreement with Mr. Kachenje that this is a fit case to grant the prayers for winding up of the petitioner, thus, I hereby order as follows:-

- i. The petitioner Pasha Food and Beverage Limited with certificate of incorporation No. 130362 is hereby wound up under the provisions of section 279(1)(a) of the companies Act of 2002.
- ii. In terms of section 294 of the companies Act, 2002, Mr. Kachenje Advocates, is hereby appointed as the official liquidator of the petitioner for a period of two months within which he shall subject to the control of the court, exercise all the powers enumerated under section 299, 300, 301, 302, 303 and 304 of the company Act, 2002.
- iii. No order as to costs.

Dated at Dar es Salaam this 13th day of May 2020.




B.K. PHILLIP
JUDGE