

**IN THE HIGH COURT OF TANZANIA
(COMMERCIAL DIVISION)**

AT DAR ES SALAAM

MISC. COMMERCIAL CAUSE NO. 56 OF 2021

IN THE MATTER OF THE COMPANIES ACT [CAP 212 R.E.2002]

AND

**IN THE MATTER OF THE PETITION FOR WINDING UP OF
SHANGTAN POWER**

GENERATION COMPANY LIMITED PETITIONER

Date of Last Order: 21/04/2022

Date of Ruling: 21/04/2022

RULING

MAGOIGA, J.

The petitioner, SHANGHAI ELECTRIC POWER COMPANY by way of petition made under the provisions of sections 271 (1) (d) and 281 of the Companies Act,[Cap 212 R.E. 2002] supported by an affidavit verifying the winding up petition sworn by Gaspar Nyika is praying for this court be pleased to give the following orders, namely:

- i. That SHANGTAN POWER GENERATION COMPANY LIMITED be wound up by the court under the provisions of the Companies Act as stated hereinabove;



- ii. That the court grant an interim order to safeguard the Company and the petitioner pending granting of a winding up order including but not limited to the appointment of Mr. Pascal Mwanyika as an official receiver to act as liquidator and take into custody and control the company's affairs, books, records and assets; and
- iii. That the court grant such other orders as it deem fit.

Upon this petition filed in this court, this court ordered and directed that this petition be advertized in Government Gazette and in one issue of Daily News (local newspaper widely circulating in the country). The petitioner in compliance of the court's order and directives, on 8th April, 2022 advertized in Government Gazette No. 18 at page 51 and in Daily Newspaper dated 1st April, 2022 at page 17 paving way for hearing of the petition.

The petition was served to Tanesco and to the company who filed affidavits not contesting the petition.

Up to the time when the petition was called for hearing on 21.04.2022, no objection was filed against the winding up orders sought.

Mr. Pascal Mwanyika, learned advocate for the petitioner, arguing the petition recited the provisions under which this petition was preferred and



adopted the contents of the affidavit of Mr. Gaspar Nyika. Mr. Mwanyika brief to the point made a brief submission by adopting the contents of the background and told the court the company was issued with Certificate of Registration No.107862 on 29th April 2014 and its relationship with Tanesco. The objects of the company were equally stated. According to Mr. Mwanyika, the main reason why this petition was preferred was that, the petitioner failed to meet its liabilities as stated in paragraph 8 which stood at USD.2,598,599.94 plus interest to date despite the demand notice and the statutory demand.

Mr. Mwanyika further told the court that the petitioner has complied with the requirement of the law under Rule 99(1) (a) of the Companies Insolvency Rules G.N. 43 of 2005 by advertising in Government Gazette No.14 of 08/04/2022 at page 51 and also in Daily news papers dated 01/04/2022.

Lastly Mr. Mwanyika implored this court be pleased to grant the orders as prayed in the petition and went further propose the appointment Mr. Pascal Mwanyika, learned advocate as official liquidator to wind up the company.

From the above submissions and affidavit in support of the petition read together with the supported exhibits, without much ado, I am satisfied that



the petitioner has made a case for issuance of winding up orders as prayed in the petition for the following reasons: one, no objection was taken after the said petition was filed and subsequently advertised both in the Government Gazette and Daily News paper as demonstrated in this petition; two, the annexures to the petition proves that the company is unable to pay off its debts and cannot do business.

From the foregoing, I am, therefore, inclined to grant the winding up orders to the petitioner as prayed in the petition in the following orders:-

1. The petitioner, SHANGTAN POWER GENERATION COMPANY LIMITED with certificate of incorporation No.107862 is hereby wound up under the provisions of section 279(1) (d) and (e) and 281 of the Companies Act, 2002;
2. In terms of section 294 of the Companies Act, 2002, **Mr. PASCAL MWANYIKA** is doth hereby appointed to act as official liquidator of the company for a period of six months within which he shall, subject to the control of the court exercise all the powers enumerated under sections 299, 300,301,302,303,304, and 306 of the Companies Act, 2002.



3. The official liquidator upon realizing all the properties of the company or in his opinion if there is no need of protracting liquidation, and has distributed a final dividend, if any, and adjusted the rights of the contributories and made a final return, if any, to the contributories, shall cause and file in court a report on his accounts for his release according to the provisions of section 307 of the Companies Act, 2002.
4. The winding up order be served to the Registrar of Companies for his necessary actions.
5. No order as to costs is made because there was no objection filed.

It is so ordered and directed.

Dated at Dar es Salaam this 21ST day of April, 2022.



S. M. MAGOIGA

JUDGE

21/04/2022