

statutory notice and sought to refute the contentions raised by the Petitioner. In a nutshell, it was the case of the Respondent that the Petitioner was not employed with the Respondent Company. It is in these circumstances that the present Petition has been filed. After the Petition was accepted, the same was sought to be served by hand delivery, when the Petitioners were informed that the company is shifted from the said address. The affidavit of service dated 6th April, 2015 to that effect has been filed in this Court.

4. The learned counsel for the Petitioner stated that even today in the records of the ROC, the registered office of the Respondent Company is the same as the address on which the Statutory Notice was sought to be served. This being the factual position, in view of a decision of this Court in the case of Deepak Maschineries Pvt Ltd v/s Ispat Industries Ltd1 (S. J. Vazifdar,J.), I am of the view that service of the Statutory Notice issued under Section 434 of the Companies Act, 1956 is complete and good service.

5. As far as service of the Company Petition is concerned, I am satisfied that the same is good service in view of the fact that 1 2005 (2) Bom. C. R. 94. the registered address of the Respondent Company even till today continues to be the same address on which the Company Petition was sought to be served. This proposition has been clearly laid down by this Court in Company Petition No.270 of 2014 decided on 9th July, 2014 (M/s. Euroame Garuda Resorts (India) Pvt Ltd v/s Endeavour Media Management Pvt Ltd). Therefore, as far as the service of the Company Petition is concerned, I am satisfied that the same is duly served.

6. As far as merits of the matter are concerned, the learned counsel appearing on behalf of the Petitioner pointed out that in fact the Respondent Company has admitted its liability to the tune of Rs.2,28,194/- being the principal amount claimed in the present Petition as reflected in a communication addressed by the Respondent Company to the Petitioner showing the outstanding payments for the year 2013-2014 after deduction of TDS. This clearly indicates that at least to the amount of Rs.2,28,194/- the dues of the Petitioner are admitted. In addition to this admitted amount, the Petitioner has also made a claim in the sum of Rs. 79,778/- being an amount deducted by the Respondent Company on account of TDS which has not been deposited by the Respondent with the Income Tax Authorities.

7. Considering all these facts, I find that the claim of the Petitioner is really undisputed. In these circumstances, the following order is passed:-

2 Respondent has not entered appearance at all. There is an affidavit of one Dinesh Solanki affirmed on 30th August, 2016 confirming publication in Free Press Journal (in English) and Navshakti (in Marathi)

and also in Maharashtra Government Gazette. There is also a service report filed by the Company Department of this Court in which it is stated that the packet sent under Rule 28 of the Companies (Court) Rules, 1959 has been returned undelivered with the endorsement "Left.

3 Mr. Ranjan, counsel for petitioner tenders Company Master Data extract from the MCA portal, which is taken on record and marked 'X' for identification, in which the registered address of the company is the same on which the notice under Rule 28 of the Companies (Court) Rules, 1959 was issued. Therefore, I am accepting that the notice under Rule 28 has been served.

4 Respondent not having filed any affidavit in reply, the averments in the petition are uncontroverted. Moreover in the order dated 7th July, 2016 it is also noted that respondent has admitted its liability to the tune of Rs.2,28,194/-. I have also considered the pleadings and the documents annexed to the petition. I am also satisfied that the company is unable to pay its debts, is commercially insolvent and requires to be wound up.

5 Company petition is, therefore, allowed and the following order is passed :

(a) Respondent company - Lushgreen Health Care Pvt. Ltd., is wound up and Official Liquidator is appointed as Liquidator of respondent company with all powers under the Companies

Act, 1956, including the power to take charge of all assets, business, affairs, books of accounts, records, documents, papers, vouchers, bills etc. of respondent and conduct its affairs and business in the course of winding up and to distribute its assets in accordance with law.

6 Official Liquidator shall forthwith act on an authenticated copy of this order without waiting for any notification.

7 Petition accordingly stands disposed.

(K.R. SHRIRAM, J.)