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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY PETITION NO.801 OF 2014

Vilas A. Makharia & Anr.	...Petitioners
V/s.	
M/s.Makharia Trade & Industries Pvt. Ltd.	...Respondent

Mr.Anup Khaitan i/b Anup Khaitan & Co. for the Petitioners.

None for the Respondent.

CORAM : R.D. DHANUKA, J.
DATE : 13TH APRIL, 2017.

P.C. :-

1. Learned counsel for the petitioners tenders affidavit of service dated 17th January, 2017. The affidavit of service is taken on record.
2. By this petition, the petitioners seek winding up of the respondent on the ground that the company has defaulted in filing the returns with the Registrar of Companies, its balance sheet and profit and loss account or annual returns for more than five consecutive financial years. The petition has been filed under section 433(g) of the Companies Act, 1956. The petitioners are the shareholders of the respondent company.
3. By a detailed order passed by this Court on 11th July, 2016,

this Court recorded that by a letter dated 1st March, 2014, the Registrar of Companies had intimated the petitioner no.1 that the company was a defaulting company and was not filing its annual returns and balance sheets. In the said letter, it was however, stated that the Registrar of Companies was in process of taking legal action against the respondent and its directors for the financial years 1990 to 2013. Though the petitioners have been asking for inspection of the register of members, the register of directors etc. no such inspection was offered by the respondent.

4. This Court was satisfied while admitting the petition that the respondent was served. This Court observed that on the date of filing of the petition as well as on the date of passing the said order on 11th July, 2016, the registered office of the respondent continued to be reflected in the records of the Registrar of Companies as the same address on which the company petition was sought to be served. This Court adverted to the order passed by this Court in Company Petition No.270 of 2014 decided on 9th July, 2014 in case of **M/s.Euroamer Garuda Resorts (India) Pvt. Ltd. vs. Endeavour Media Management Pvt. Ltd.** and held that the service of the company petition was complete and was good service.

5. None appeared for the respondent though served by the petitioners and the notice was deemed to have been effected. No

affidavit in reply has been filed.

6. For the reasons recorded by this Court in the order dated 11th July, 2016 holding that the provisions of section 433(g) of the Companies Act, 1956 were attracted and for the reasons recorded aforesaid, I am of the view that the petitioners have made out a case for winding up of the respondent company in view of non-compliance of the provisions of section 433(g) of the Companies Act, 1956.

7. I therefore, pass the following order :-

a). The company petition is made in terms of prayer clauses (a) and (b). No order as to costs.

8. The Official Liquidator to act on the authenticated copy of this order.

(R.D. DHANUKA, J.)