

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

COMPANY PETITION NO.822 OF 2015

Nisha Bhavesh Javeri	)....Petitioner
V/s.	
M/s.AB Universal Pvt. Ltd.	)....Respondent

Mr.P.M.Shah a/w Ms.Mittal Savla, Mr.Dishang Shah and Mr.Miraj Bharapuria for petitioner.

Mr.Abbas Mandviwala i/by Raval Shah and Co. for respondent.

CORAM : K.R.SHRIRAM,J

DATE : 23.2.2018

P.C.:-

1 The primary defence taken by the company is that the statutory notice which Mr.Shah for petitioner states is at Exh.F to the petition, has not been sent to the registered address of the company. The company has filed an affidavit of one Ashutosh Arora affirmed on 30.1.2018 to which, annexed at Exh.A, is an extract of form 20B for the year 2012 and at Exh.A1 is a similar form for the period 2013 in which registered address is shown as B/7, Sahara Roy Apartment, Opp. Cargo Complex, Sahara, Andheri (East), Mumbai-400 009.

2 Mr.Shah despite repeatedly being asked, is unable to contorvert these forms and unable to show any documents which confirm that the address to which statutory notice was sent was the

registered address.

3 This court in ¹*Kold-Hold Industries P. Ltd. Vs. Arabian Exports Ltd.* relying upon the judgment of a Division Bench in the case of ²*N.L.Mehta Cinema Enterprises (P) Ltd Vs. Pravinchandra P.Mehta* case has held that the requirement under Section 434 of serving demand notice on the registered office of the company is mandatory requirement and has to be strictly complied with. The court has also held that in view of the mandatory requirement, there is no question of there being any substantial compliance of the provisions because settled rules of law that a mandatory requirement of statute requires a strict compliance and there is no question of any substantial compliance. The court has also concluded that non serving of the statutory notice at the registered address of the company is fatal to the petition.

4 Mr.Shah relies upon the judgment of Madras High Court in ³*Rajearajeswari Packaging Vs. Dev Fasteners Ltd.* and another judgment of the Madras High Court in ⁴*Sri Anjaneya Cotton Mills*

1 2003 SCC OnLine Bom 1130 : (2004) 119 Comp Cas 1

2 [1991] 70 Comp Cas 31 (Bom)

3 2002 108 Comp Cas 715 Mad

4 Company Petition No.132 of 2008 decided on 25.10.2010 by Madras High Court

Ltd. Vs. M/s.Sheela Rani Textiles Ltd. and submits that Madras High Court has taken a different view.

5 However, I am bound by the judgments of this court where not only a single Judge but Division Bench has taken a view as noted above.

6 In the circumstances, Petition dismissed. Respondent to give notice in 'Free Press Journal' in English and in 'Navshakti' in Marathi, both Mumbai edition, about the dismissal of the petition within a period of 2 weeks from today and submit compliance with the Company Registrar.

(K.R.SHRIRAM,J)