

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

COMPANY PETITION NO.525 OF 2015

Rajkumar Mohansing Bajaj)
(Prop. of M/s.Pride Investments))....Petitioner

V/s.

Milestone Interactive Pvt. Ltd.)....Respondent

Ms.Kavita Sunderdas Lalwani for the petitioners.
None for respondent.

**CORAM : K.R.SHRIRAM,J
DATE : 1.2.2018**

P.C.:-

1 Further to the order dated 15.12.2017, the company department of this court sent a fresh notice under Rule 28 of the Companies (Court) Rules, 1959 to the current registered address of the company given in the MCA records. The company department has placed on record a service report dated 24.1.2018 in which it is stated that the notice was returned undelivered with the endorsement 'unclaimed'. It is settled law that when notice is sent to registered address and the same is unclaimed, it is good service. In taking this view, I am supported by a decision of the single Judge of this court (S.J.Kathawalla,J), in ¹*M/s.Euroamer Garuda Resorts (India) Pvt. Ltd. Vs. Endeavour Media Management Pvt. Ltd.*

¹ Company Petition No.270 of 2014, decided on 9.7.2014

2 Ms.Lalwani for petitioner tenders an extract taken today of the company master data from the MCA Website in which the registered address given is the same address to which the notice under Rule 28 was dispatched by the company department. Extract is taken on record and marked 'X' for identification.

3 There is no reply to the petition and therefore, none of the averments are controverted. There is no reply also to the statutory notice. It is well settled law that where no response to a statutory notice has been made, the court may pass a winding up order on the basis that amount claimed has not been denied by the company and there is a presumption of inability to pay by the company. Where no response has been made to the statutory notice, the respondent-company runs a risk of winding up petition being allowed. By virtue of section 434 of the Companies Act 1956 a presumption of the indebtedness can be legitimately drawn by the court where no reply to the statutory notice is forthcoming.

4 I have perused the petition, the documents annexed thereto and also heard Ms.Lalwani for petitioner. I am satisfied that the company is indebted to petitioner, is unable to discharge its debts, commercially insolvent and requires to be wound up. Therefore,

petition allowed in terms of prayer clauses-(a) and (b) which read as under :-

“(a) That the Respondent company viz. Milestone Interactive Private Limited be ordered to be wound up by and under the orders and directions of this Hon'ble Court under the provisions of the Companies Act, 1956 ;

(b) That this Hon'ble Court be pleased to appoint the Official Liquidator of this Hon'ble Court as Liquidator of the Respondent company viz. Milestone Interactive Private Limited with all powers under the Companies Act, 1956 including the power to take charge of the Assets, Books of Accounts, affairs, records, documents, papers, Vouchers, Bills etc. of the said company.”

5 The Advocate for petitioner shall furnish a copy of this order, duly authenticated to the office of Official Liquidator. The Official Liquidator shall forthwith act thereupon without waiting for any notification appointing him as liquidator.

Petition disposed.

(K.R.SHRIRAM,J)