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**(2007) 01 RAJ CK 0009**  
**In the Rajasthan High Court**  
**Case No : Company Petition No. 03 of 1997**

Poonam Synthetics and Fibers Ltd.

APPELLANT

Vs

Pooja Granites and Marbles Ltd.

RESPONDENT

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**Date of Decision :** 22-01-2007

**Acts Referred:**

Companies Act, 1956 — Section 433(e)

**Citation :** (2007) 1 WLN 466

**Hon'ble Judges :** Bhagwati Prasad, J

**Bench :** Single Bench

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## Judgement

Bhagwati Prasad, J.—Heard

2. The petitioner Company M/s Poonam Sythetics & Fibers Limited has filed the present petition before this Court u/s 433(c) of the Indian Companies Act 1956 for winding up of M/s Pooja Granites and Marbles Limited having its registered office at E-41/42 Ambaji Industrial Area, Abu Road, District Sirohi, Rajasthan (Earlier it was having registered office at SB-39A Rambag Circle, Bapu Nagar, Jaipur 302015).

3. Initially a show cause notice was issued by this Court on 26.09.1997 and even after service of notice no one appeared and then petition was admitted and advertisement of the petition was also done and publication was made in the news paper but none appeared to oppose the petition on behalf of the non petitioner No. 1.

4. The learned Counsel for the petitioner contended that the non petitioner No. 1 obtained loan of Rs. 25,00,000/- and also executed the Promissory Note dated 4.9.1995 and also given the receipt for this. Out of this only Rs. 8,55,675 could be realized by sale of shares given by Non Petitioner No. 1 and now Rs. 16,44,325/- are still due since 1996. The petitioner failed to get the balance amount from the respondent No. 1 and then it issued the Statutory Notice calling upon to the respondent No. 1 to pay the aforesaid dues with interest @ 27% P.A.

from the date it become due till the payment.

5. It was contended that the respondent No. 1 (Pooja Granites and Marbles Ltd.) is thus indebted to the petitioner company for a sum of Rs. 16,44,325/- and interest thereon @ 27% since 1996 as per the record submitted with this petition and respondent No. 1, failed to discharge its aforesaid debt despite demand and service of the statutory notice. Hence, it has rendered itself liable to be wound up by this Court.

6. The notice was duly served on the respondents and no response was received from the respondent No. 1 nor any payment was made, hence this petition for winding up of the respondent No. 1 Company. Even after service no one appeared and not opposed and pleadings of the petitioner is not rebutted or denied hence it proved, it is clear from the record that debt in question has not been disputed by the respondent No. 1 on any count despite periodical statement and reminder as well as legal notice. There is no contemporaneous evidence in this regard on record. There is absolutely no denial of the receipt of the loan facility and material sent to it.

7. In view of the above, I am of the opinion that the respondent No. 1 Company is unable to pay its debts within the meaning of Section 433 (e) of the Companies Act, 1956 and therefore, it is just and equitable to wind up the Company (M/s Pooja Granites & Marbles Ltd.) accordingly the respondent Company namely M/s Pooja Granites & Marbles Ltd. E-41/42 Ambaji Industrial Area, Abu Road, District Sirohi, Rajasthan is ordered to be wound up and it is directed that the order of winding up shall be advertised by the petitioner company as per Rule 113 of the Companies (Court) Rules, 1959 in Rajasthan Patrika ( Hindi Edition) and Hindustan Times (English Edition) having its circulation in the State of Rajasthan.

8. The Registrar of this Court is directed to issue notice to the Official Liquidator and to pass formal winding up order in the prescribed form in compliance with the Companies (Court) Rules, 1959 as a consequence of this order of winding up of the respondent No. 1 Company. The Official Liquidator attached to this Court shall take charge of all the properties and assets and the books and papers of the respondent Company in terms of Rule 114 of the Companies (Court) Rules, 1959.

9. However, it is also noted that an order for liquidation against the same company M/s Pooja Granites & Marbles Ltd. has been passed in S.B. Company Petition No. 11/1998 on 01.02.2006. Since the order of winding up has been passed in the aforesaid matter, further proceedings pursuant to above order would be carried out in Company Petition No. 11/1998 and this petition is ordered to be attached and connected with Company Pet. No. 11/1998.

10. With the aforesaid directions, the petition for winding up stands disposed of.