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

COMPANY PETITION NO. 501 OF 2013

M/s Geetee Carriers Pvt. Ltd.	...Petitioner
VS	
IMP Powers Ltd.	...Respondent.

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Mr K.R.Parekh i/b K.R. Parekh & Co. for the Petitioner
Mr Rohaan Cama a/w Aniruddha Lad i/b B.J.Law Offices LLP for the
Respondent.
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CORAM : S.C. GUPTE, J.

SEPTEMBER 14, 2015

P.C. :

The Company Petition is in respect of a claim towards the transport services provided by the Petitioner to the Respondent. It is the Petitioner's case that for the transport services rendered by the Petitioner, the Petitioner from time to time raised 29 invoices which according to the Petitioner are due and payable by the Respondent to the Petitioner. These invoices are produced with the Petition. These are invoices dating from 30 September 2011 to 14 December 2012. In response, the Respondent has raised several defences. The Respondent submits that the detention charges, which are part of 29 invoices referred to by the Petitioner and which aggregate to about Rs.33 lacs, are not payable under the contract between parties. Secondly, it is submitted that out of the total claim of Rs.1.68 crores (after deducting Rs.33 lacs towards detention charges) a sum of Rs.1.28 crores has already been paid by the Respondent to the Petitioner. It is submitted that as against the balance due and payable by the Respondent to the Petitioner, the Respondent has raised a debit note aggregating to over Rs.64 lacs on the Petitioner. This debit note is in respect of claims towards damages caused to the Petitioner's goods and is raised under Section 10 of the Carriers Act, 1865. It is submitted that on account of certain accident, for which the Petitioner was responsible, the Respondent company had

to suffer huge financial loss. This loss is claimed to be in the sum of Rs.46.66 lacs. The claim, which was originally filed with an Insurance Company, was rejected by the Insurance company. Therefore, separate debit notes have been raised by the Respondent on the Petitioner (Exh F and G-1 to G-3 of the reply). The Respondent has also raised debit notes on the Petitioner concerning the late delivery of certain goods, for which a sum of about Rs.3.23 lacs was deducted from the consignment bill amount payable to the Respondent by its customer, U.P. Power Transport Co. Ltd. These debit notes have been raised contemporaneously. Even these debit notes are disputed by the Petitioner, though the receipt of these debit notes contemporaneously is not disputed. The Petitioner claims to have returned these debit notes to the Respondent company disputing the correctness of the debit notes. These are all disputes which appear to have been raised bona-fide. On such disputed claim, a company petition would not lie. The Company Petition is, accordingly, dismissed. There shall be no order as to costs.

2 It is clarified that the observations made concerning the merits of the disputes are only for the purposes of assessing whether or not there are matters of dispute concerning the Petitioner's claim. These observations are tentative and shall not come in the way of any adjudication of the dispute proposed by the Petitioner or the Respondent company.

(S.C.GUPTE J.)

CERTIFICATE

Certified to be true and correct copy of the original signed
Judgment/ Order.