

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

COMPANY PETITION NO.815 OF 2014

Khatu Shyam Alloys Pvt. Ltd.	...	Petitioner
versus		
ABG Cement Ltd.	...	Respondent

Mr. Harinder Toor with Ms. Swati Sawant i/by M/s. S.K.Legal Associates,f or
Respondent.
Mr. I.I.Khan, Co., Secretary of Respondent, present.

CORAM: S.J. KATHAWALLA, J.

DATE: 18th MARCH, 2015

PC.

1. Mentioned. Not on board. Taken on board.
2. On 15th January, 2015 this Court passed the following order :

“Heard the learned Advocates for the parties and by consent, the following order is passed :

(i) The Company agrees and undertakes to pay to the Petitioner an amount of Rs.52,72,931/- in full and final settlement of the claim of the Petitioner.

(ii) The Company shall pay the said amount of Rs.52,72,931/- in 12 equal monthly installments of Rs.4,39,410/- starting from 10th March 2015 and ending on 10th February, 2016. Post dated cheques shall be issued to the Petitioner by the Company within a period of one week from today.

(iii) Upon payment of the entire amount by the Company to the

Petitioner, the parties shall have no claim of whatsoever nature against each other.

(iv) In the event of the Respondent Company committing default in payment of any of the aforestated installments, the Company Petition shall without reference to this Court be revived, stand admitted, made returnable within six weeks from the date of default and advertised in two local newspapers i.e. Free Press Journal (in English) and Navshakti (in Marathi) and in the Maharashtra Government Gazette. The Petitioner shall deposit an amount of Rs.10,000/with the Prothonotary and Senior Master of this Court towards publication charges, within two weeks from the date of default, with intimation to the Company Registrar failing which the Petition shall stand dismissed for non-prosecution. In the event of any default the Official Liquidator shall forthwith stand appointed as provisional liquidator and shall immediately take charge of the records as well as the movable and immovable properties of the Company. Notice under Rule 28 of the Companies (Court) Rules, 1959 shall also stand waived on behalf of the Company.

(v) The Company undertakes not to seek any extension for making payment of the aforestated installments to the Petitioner.

(vi) The Company Petition is accordingly disposed of..”

3. The Company has admittedly defaulted in making payment of the installment due on 10-03-2015 for an amount of Rs.4,39,410/-. The Company

has handed over a cheque of Rs.4,39,410/- to the Advocate for the Petitioner. The Company undertakes to pay the interest and penalty as agreed under the Consent Terms. The Company also undertakes that all the future installments payable to the Petitioner under the Consent Order dated 15-01-2015 shall be paid on the due dates. The Company undertakes that if the Company fails to comply with the undertakings given hereinabove or fails to pay any of the future installments to the Petitioner, the Company shall not make any Application seeking extension of time but shall hand over possession of its records, assets and properties to the Official Liquidator, who shall stand appointed as a provisional Liquidator of the Company as agreed under the Consent Order dated 15-01-2015.

4. In view of this order, the Official Liquidator shall at present not take physical possession of the records, assets and properties of the Company as directed earlier. It is further clarified that no further extension shall be granted in future to the Company qua the payment of any of its future installments and the undertaking given by the Company that it shall pay all the future installments and shall not seek any extension, is accepted.

(S.J.KATHAWALLA, J.)