

JSN

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMPANY PETITION NO.721 OF 2015**

Pragnesh A Thakker, Prop. of Hindustan Chemicals & Pharmaceuticals	...Petitioner
<i>Versus</i>	
Vexta Laboratories Pvt. Ltd.	...Respondent

Mr. Deepak Sharma, *for the Petitioner.*
Mr. Omar Khaiyam Shaikh, *for the Respondent.*

CORAM: G.S. PATEL, J.
DATED: 18th March 2016

P.C.

1. The Respondent has delivered a Manager's Cheque No. 063499 dated 15th March 2016 drawn on HDFC Bank in favour of the Petitioner's proprietary concern. The Petitioner has admittedly received this in part satisfaction of his claim. This payment is unconditional and is the amount admittedly payable by the Respondent to the Petitioner.

2. For the remainder of the Petitioner's claim, the following order is passed by consent. Learned advocate for the Petitioners state that he has instructions to agree to the following.

- (a) The Petitioner will file a Suit for the balance of his claim i.e. 7,23,945/- in a court of competent civil jurisdiction;
 - (b) The Respondent for its part agrees and undertakes not to raise the plea of limitation in any such civil suit for recovery that may be filed by the Petitioner;
 - (c) In any event by way of abundant it is clarified for the purposes of Section 14 of the Limitation Act that the Petitioner has been *bona fide* and in good faith pursuing his remedy in this Court, which is unable to entertain the claim only on account of disputed questions of fact, and which places this Petition beyond the summary jurisdiction of this Court under Sections 433 and 434 of the Companies Act.
3. The Company Petition is accordingly allowed to be withdrawn with liberty as noted above. No order as to costs.

(G. S. PATEL, J.)