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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMPANY APPLICATION NO. 904 OF 2015
AND
COMPANY APPLICATION NO. 297 OF 2014
IN
COMPANY PETITION NO. 105 OF 2001
WITH
OFFICIAL LIQUIDATOR'S REPORT NO. 53 OF 2011
WITH
OFFICIAL LIQUIDATOR'S REPORT NO. 116 OF 2014**

Uday Baliram Patil	...Applicant
<i>In the matter between</i>	
Assets Reconstruction Company India Ltd.	...Petitioner
<i>Versus</i>	
The Official Liquidator of M/s. Uiworth Apparel Ltd. (In Liqn.)	...Respondent

Mr. Chirag Mody, a/w Karthik Somasundram, Ms. Oendri Neogi,
for the Petitioner ARCIL.
Ms. Shilpa Kapil, for the Official Liquidator.
Ms. Yogini Chauhan, Deputy Official Liquidator, present.

CORAM: G.S. PATEL, J
DATED: 13th April 2016

PC:-

1. This is an application for speaking to the minutes of order dated 17th March 2016. There is an error in the appearance. The words “*Respondent No. 1*” in the appearance are to be deleted.

2. Secondly, in the third line of paragraph 1, the word “*not*” is to be deleted. The sentence will now read,

“This order does not dispose of the two Company Applications though it does dispose of the Liquidator’s Report.”

3. There is now some controversy whether Mr. Gupta or Mr. Somasundaram who appeared for ARCIL on 17th March 2016. My recollection, possibly faulty, is that it was Mr. Gupta. So as not to cause embarrassment to the Advocate, the reference to Mr. Gupta is to be corrected to read “the learned Advocate” throughout.

4. The next application made is that the undertaking recorded in paragraphs 10 and 11 should be corrected. Mr. Mody who appears for ARCIL today states that there was no representative of ARCIL present in Court on that day. He submits that it was a mistake on the part of the Advocate then appearing to make any such statement or offer any such undertaking and this should not be seen as a concession or an undertaking binding ARCIL.

5. This is truly an awkward situation. The order was uploaded the very next day, 18th March 2016, and it is not till several weeks thereafter such an application comes to be made. Essentially ARCIL’s application is to be relieved of its undertaking. It is true that the order of 17th March 2016 does not note the presence of any

representative of ARCIL in Court that day, and I cannot say for certain, speaking for myself, whether or not any such representative was indeed present. However that such a statement was made and was made more than once is beyond doubt; nobody disputes this, and this is also Ms. Kapil's recollection. Had it not been made, it would never have been so noted in the order. Indeed even Mr. Mody, in fairness, says the statement was made, but only that it was unintended and should not be treated as a binding undertaking or concession. Mr. Mody also candidly states that his instructions are to contest that order and the directions in it against ARCIL. It is for this reason that he suggests that the order may be retained as an order in invitum but not as an undertaking or a concession.

6. I cannot obviously, therefore, grant this application, at least not in the form in which it is made today. It is not for correction of a typographical or clerical error. It is an application, though styled as speaking to the minutes, for withdrawal of an undertaking given and a statement made to Court and so noted. This cannot possibly be done by 'speaking to the minutes'. The application that ARCIL needs to make is a substantive application and that will have to be made, if permissible in law, to the court to which such matters are now assigned.

(G. S. PATEL, J.)