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

**COMPANY APPLICATION NO.730 OF 2015**
**IN**
**COMPANY PETITION NO.504 OF 2012**

Konkan Barge Builders Pvt. Ltd. … Applicant

In the matter between :

Jotun India Pvt. Ltd. ... Petitioner
Versus
The Official Liquidator … Respondent

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Mr. Rohan Cama a/w Ms. Heenal Desai and Mr. Shanay Shah i/b M/s Dhru & Co., for the Applicant.
Mr. Onkar Chandurkar i/b Ushajee Peri for Ex-directors.
Mr. Rakesh Reddy for Official Liquidator.
Mr. Vinod Sharma, Official Liquidator And Ms. Yogini Chauhan, Deputy Official Liquidator, present.

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**CORAM : S.C.GUPTE, J.**

**DATE : 24 NOVEMBER 2016.**

**P.C. :**

. Heard learned Counsel for the Applicant and the Official Liquidator.

2 This application seeks setting aside of the orders dated 23 June 2015 and 29 October 2015 passed by the Official Liquidator, rejecting the Applicant's claim/supplementary claim. The application also seeks directions to the Official Liquidator to accept the Applicant's claim in totality. After the matter was argued at some length, it transpired that after adjudication of the Applicant's claim by the Official Liquidator, various new

facts have come to light. For example, Shri Vishin K. Kewalramani, who signed the ledger account, is now claimed to have been a Director on the date of his singing the ledger account. There is a statement made by the Ex-Directors to that effect in their statement of affairs, which has come in after the adjudication. So also, there are affidavits filed, namely, affidavit dated 4 February 2016 and 21 April 2016, which accept signature of Shri Kewalramani as signature of authorised person, namely, the Director. The statement of affairs and the affidavit filed by the Applicant also accept the alleged contract between the Applicant and the Company (in Liqn.) and also the correctness of the liquidation dues claimed by the Applicant. So also, the stamp of Limited Company, which is adversely commented upon by the Official Liquidator in his adjudication order, has now been explained by the Applicant. It is claimed that as on the date of the ledger account statement, the Company was infact a limited company. So also, write back of the amount of Rs.42.70 lacs is sought to be explained by the Applicant by submitting that the amount was an inter-corporate deposit kept with another Company, namely, Jaisu Dredging & Shipping Pvt. Ltd. As on the date of this inter-corporate deposit, the Company (in Liqn.) was not even incorporated.

3 All these facts will have to be gone into by the Official Liquidator and to that extent it is necessary that the Applicant's claim be re-adjudicated by the Official Liquidator. Accordingly, the present Company Application is disposed of by setting aside the orders passed by the Official Liquidator dated 23 June 2015 and 29 October 2015 and the Official Liquidator is directed to make a fresh adjudication of the Applicant’s claim after taking into account such further materials as may be produced by the Applicant.

The Official Liquidator shall also consider if any part of the Applicant's claim amounts to liquidation expenses or claim towards beneficial winding up of the Company (in Liqn.). The Applicant's claim pertains to the period upto 31 May 2015. Any further claim that the Applicant may have after 31 May 2015 in respect of hire of their shipyard for the benefit of the Company (in Liqn.) may also be placed by the Applicant before the Official Liquidator. It may be considered on its own merits.

4 All rights and contentions of the parties on merits are kept open, to be considered by the Official Liquidator in the re-adjudication proceedings.

**(S.C.GUPTE, J.)**