

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

**COMPANY APPLICATION (L) NO.753 OF 2016
IN
COMPANY PETITION NO.578 OF 2014**

Navin Keswani ... Applicant

In the matter between :

Jotun India Private Limited ... Petitioner

Versus

The Official Liquidator

M/s Aluplex India Ltd (in Liqn.) ... Respondent

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Mr. C.N. Mehta i/b MMK Law Associates for the Applicant.

Mr. Anand Shitap i/b Jamshed Ansari for the Respondent/Original
Petitioner.

Mr. Mahendhar Aithe, Company Prosecutor for Official Liquidator.

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CORAM : S.C.GUPTE, J.

DATE : 8 DECEMBER 2016.

P.C. :

. This application seeks recall of a winding up order passed by this Court on 5 March 2015. It is submitted by the Applicant (original Respondent) that prior to the passing of this winding up order, the Applicant had approached the Respondent (original Petitioner) for settlement of the latter's claim and given two demand drafts of Rs.2,00,000/- and Rs.5,16,288/-, dated 24 February 2015 and 26 February 2015, respectively, towards such settlement. It is submitted that the entire claim of the Respondent (original Petitioner) having since been settled, the Respondent (original Petitioner) has also signed an acknowledgment of

receipt of the full amount of its claim. Learned Counsel, who appears for the Respondent, admits these facts.

2 A companion company petition, namely, Company Petition No.721 of 2014 filed for winding up of the Applicant by one M/s FUSO Glass (India) Pvt. Ltd., was allowed by this Court ex parte and the Applicant was ordered to be wound up. Pursuant to an application taken out by the Applicant for recall of that ex-parte winding up order (C.A. No.406 of 2015 in C.P. No.721 of 2014), this Court by its order dated 17 March 2015 directed the Official Liquidator to issue an advertisement in local Newspapers inviting claims from creditors and workmen of the Respondent-company. The Official Liquidator, accordingly, issued the advertisement. The Official Liquidator confirmed that apart from the claim of the Petitioner itself, i.e. M/s FUSO Glass India Pvt. Ltd., there was no other claim received from any creditor or workman. The claim of M/s FUSO Glass India Pvt. Ltd was settled by the Applicant herein in accordance with consent terms dated 9 December 2015. In view of the settlement of that claim, Company Application No.406 of 2015 was allowed and the winding up order dated 5 December 2015 was recalled and set aside. The only other creditor of the Respondent herein, being the present Respondent (original Petitioner in C.P. No.578 of 2014), and its claim having been settled as mentioned above, there is no outstanding claim against the Applicant as of date.

3 In the premises, the Company Application is allowed in terms of prayer clauses (a), (b) and (d).

(S.C.GUPTE, J.)