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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CO.PET. 494/2013**

NEOTERIC INFOMATIQUE LTD

..... Petitioner

Through: None.

versus

AVTECH DIGITAL EQUIPMENTS PVT LTD

..... Respondent

Through: Mr. Daviender Hora and Mr. Sikarndar Khan, Advocates for the respondent.
Mr. Kanwal Chaudhary, Advocate for the OL.

CORAM:

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

ORDER

% **03.02.2017**

CO. APPL. 2505/2016

The present application filed on behalf of the petitioner company under Order XXIII Rule 3 read with Section 151 of the Code of Civil Procedure, 1908 and Rule 9 of the Companies (Court) Rules, 1959, seeks leave to withdraw the present petition, in view of the settlement arrived at between the petitioner company and the respondent company - Avtech Digital Equipments Pvt. Ltd., on the payment of Rs.20,00,000/-, by the latter to the petitioner company, towards full and final settlement of their claims.

It is noted that the Official Liquidator attached to this Court was appointed as the Provisional Liquidator of the respondent company, by way of order dated 06.05.2016, with further directions to take over all assets, books of accounts etc. of the company.

Further, it is observed that the respondent company in pursuance of the settlement arrived at between the parties, has paid the following amounts to the petitioner company towards full and final settlement of the underlying

dispute and to and the Official Liquidator *qua* the expenses incurred by the Official Liquidator up till 29.07.2016 consequent upon appointment as Provisional Liquidator of the respondent. The amounts so paid are set out in tabular form as hereunder:

To the Official Liquidator: -

S.No.	Demand Draft No.	Dated	Bank	Amount
1.	299032	29.07.2016	Kotak Mahindra Bank	Rs.1,44,481/-
2.	430660	28.07.2016	Oriental Bank of Commerce	Rs.2,50,000/-
3.	400135	04.11.2016	Corporation Bank	Rs.1,87,343/-
4.	922464	02.02.2017	Yes Bank	Rs.1,69,978/-

To the Petitioner: -

S.No.	Demand Draft No.	Dated	Bank	Amount
1.	299031	29.07.2016	Kotak Mahindra Bank	Rs.18,00,000/-
2.	299033	29.07.2016	Kotak Mahindra Bank	Rs.2,00,000/-

However, despite payment of Rs. 20,00,000/-, as noted hereinabove, being made by the respondent company to the petitioner company, towards full and final settlement of the underlying dispute, the matter was not disposed of in light of the uncertainty of the ownership of the property bearing no. 628 and 629 Laxmi Plaza, Laxmi Industrial Estate, New Link Road, Andheri (West). In this behalf, the learned counsel appearing on behalf of the Official Liquidator had made a statement, as recorded in the previous order of this Court dated 04.11.2016; that the said subject property does not belong to the respondent company and in fact, belongs to one Ms.Arati Turakhia. In light of this statement, by way of said order dated 04.11.2016, the Official Liquidator was directed to verify the rightful owner of the said subject property and file an affidavit in this behalf. Further, Ms.Arati Turakhia, claiming the ownership of the subject property was

directed to appear before the Official Liquidator along with all the original documents in support of her claim of ownership.

Pursuant to the directions issued by way of said order dated 04.11.2016, the Official Liquidator consequent upon verification of the true ownership of the said subject property has stated that the true and rightful owner of the subject property is Ms.Arti Turakhia. It has been further stated that the possession of the said subject property was taken over inadvertently in compliance to the said order dated 06.05.2016. Further, the respondent company by way of affidavit dated 27.07.2016, copy of which is handed over in Court today, has stated that the said subject property was taken on lease/rent by the respondent company in 2009 but the respondent company vacated the said property in 2010 and that thereafter, the respondent company had nothing to do with the said property. The said affidavit dated 27.07.2016 is taken on record.

In view of the foregoing, and for the reasons stated in the application the same is allowed.

The Official Liquidator is directed to de-seal the said subject property bearing no. 628 and 629 Laxmi Plaza, Laxmi Industrial Estate, New Link Road, Andheri (West) and handover the possession of the same to Ms. Arti Turakhia, the true and rightful owner of the said subject property, at the latter's expense.

Further, the accompanying winding up petition is dismissed as withdrawn. The said order dated 06.05.2016 admitting the accompanying winding up petition and appointing the Official Liquidator attached to this Court as the Provisional Liquidator of the respondent company is hereby recalled.

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In view of the orders passed today in Co.Appl. 2505/2016, the present petition need not be listed any further.

SIDDHARTH MRIDUL, J

FEBRUARY 03, 2017
Aj/ap