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

COMPANY APPLICATION (L) NO. 87 OF 2018

IN

COMPANY PETITION NO. 756 OF 2014

P.C. Kapoor ...Applicant

<u>IN THE MATTER BETWEEN</u>

Export Import Bank of India ...Petitioner

V/s.

GOL Offshore Limited & Anr ...Respondents

Mr. Mayur Khandeparkar a/w. Mr. Priyank Kapadia a/w. Ms. Khushnuma Khan a/w. Mr. Mahtab Alam I/b. K.K. Associates for Applicant.
Ms. Aneesa Cheema I/b. Verus for Original Petitioner.
Ms. Geetika Rajpal I/b. M/s. P.V. Nichani & Co. for Investor-Geotec Investment & Holding Inc..
Mr. Mahendhar Aithe, Company Prosecutor from Office of Official Liquidator.

CORAM : S.C. GUPTE, J.

DATE : 07 MARCH, 2018.

<u>P.C.</u> :-

1. Heard learned counsel for the Applicant and the Original Petitioning Creditor as also Company Prosecutor on behalf of the

Official Liquidator.

2. This company application seeks permission to access and make copies of information available on the company's servers, a list whereof is annexed to the company application. The company GOL Offshore Limited is presently under liquidation. By an order dated 4 December 2017, the Official Liquidator was appointed as a liquidator with all powers to take charge of affairs, assets and business of the company and to conduct its affairs in the course of winding up. Though an appeal against that order is pending before a division bench of this Court, there is no stay of the order and in the premises, the Official Liquidator continues to be in charge of the affairs, assets and business of the company in liquidation. He has also taken physical charge of the assets and business. These include all data and information pertaining to the company's operations maintained on its digital systems and servers.

3. The Applicant is an ex-director of the company in liquidation and has initiated this company application at the instance of a strategic investor, Geotec Investment and Holding Inc., who has expressed interest in investing funds in the company in liquidation along with 2 other companies for making a due diligence for the purposes of such investment. The Applicant seeks access to the

company's servers for retrieval of data. The liquidator has no objection to the access being given to the Applicant provided charges of the liquidator for enabling such access and deputing his representative for the purpose are paid. The Applicant has no objection in paying such charges.

4. Accordingly, the company application is allowed in terms of prayer clause (a). The Applicant shall make all endeavour to complete the exercise of retrieval of information and making soft copies thereof as expeditiously as possible. The Official Liquidator's charges for this exercise shall be paid on a weekly basis. The weekly charges are determined at Rs. 50,000/- per week. The Applicant shall also furnish soft copies of the data retrieved and copied by the Applicant from the company's servers in pursuance of this order.

5. Needless to add that the access to be availed by the Applicant may be through himself or through his authorized representative, who could be from the Office of Strategic Investors. The cost charges and expenses of the Official Liquidator shall be paid by direct credit through RTGS to his account. Details of such account shall be furnished by the Official Liquidator to the Applicant.

6. In case for understanding the implications of the data retrieved in pursuance of this order, if the Applicant or his

representative needs to take inspection of the property of the company under liquidation including any of its ships, which are in the custody of the Official Liquidator, such access shall be permitted subject to reasonable cost to be recovered for such access. The cost shall be indicated by the Official Liquidator to the Applicant as and when access is requested. The company application is disposed of.

(S.C. GUPTE, J.)