

ssp

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION NO.317 OF 2018 IN
APPEAL NO.115 OF 2017

M/s.Global Coal Ventures P.Ltd. ...Applicant

In the matter between
Bhatia Industries and
Infrastructure Limited ...Appellant
vs.

Asian Natural Resources
(India) Limited
(formerly Bhatia International
Limited) ...Respondent

Ms N. Jeejebhoy I/b M/s.Bose & Mitra & Co. for the
applicant
Mr.Kizer Kharawalla I/b Lex Juris for the appellant
in APP/115/2017
Mr.O.A.Das for the respondent-Bank of India
Mr.D.R.Shetty Court Receiver present.

CORAM : A.S.OKA, &
M.S.SONAK,JJ.
DATE : AUGUST 28, 2018

Digitally
signed by
Shubhashri
Shridhar
Pathak
Date:
2018.09.10
11:06:34
+0530

P.C.:

1 Only substantive prayer in this Notice of
Motion is prayer clause (a) which reads thus:

“(a) That this Hon'ble Court be pleased to
allow the Applicant to claim a refund of
Rs.79,00,055/- (Seventy Nine Lakh and Fifty
Five Rupees) being the proportional deduction
for thte short delivery to the Applicant of
the subject cargo of 17,000 MT discharged

from the Vessel MV. Vishwa Ekta and lying at the Tuticorin Port sold by the order of this Hon'ble Court dated 15th February 2017."

2 By Judgment and Order dated 6th September 2016, the Appeal No. 115 of 2017 (Appeal (L) No.794 of 2015) in which this Notice of Motion was taken out has been dismissed by a detailed Judgment.

3 The order impugned in the appeal is dated 5th October 2015 on Judges Order No.215 of 2014 which is the Order the passed by the learned Single Judge to extend the precept order under section 46 of the Code of Civil Procedure,1908 in the execution application. The execution application is still pending. Therefore, the relief which is prayed for in this Notice of Motion cannot be granted in a disposed of appeal. The Notice of Motion is accordingly disposed of. However, it will be open for the applicant to adopt appropriate remedy for seeking relief which is sought in this Notice of Motion.

(M.S.SONAK,J.)

(A.S.OKA,J.)