

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

COMPANY APPLICATION NO.595 OF 2018

IN

COMPANY PETITION NO.189 OF 2016

Partho Bijoy Dutta)....Applicant

And

Surya Exim Ltd.)....Petitioner

V/s.

Parth Foils Pvt. Ltd.)....Respondent

WITH

COMPANY APPLICATION NO.201 OF 2019

IN

COMPANY APPLICATION NO.595 OF 2018

IN

COMPANY PETITION NO.189 OF 2016

Mr.B.S.Nayak for applicant in CA 595/2018.

Mr.Vishal Pattabiraman I/by RVJ Associates for applicant in CA 201/2019.

[Mr.Ashwini Sharma-authorized signatory of original petitioner present].

Mr.Dhiren Akbari for original petitioner.

[Mr.Suhas Sawant-Dy.Official Liquidator present].

[Mr.Parth Bijoy Dutta-Ex-director of respondent company present].

CORAM : K.R.SHRIRAM,J

DATE : 17.7.2019

P.C.:-

1. Mr.Akbari for original petitioner states that the ex-director of the company in liquidation has agreed to settle the petitioner's claim at Rs.20,00,000/- in full and final settlement. Sum of Rs.10,00,000/- is to be paid immediately and the balance of Rs.10,00,000/- in five installments within one month after the order of winding up is recalled and possession of Silvasa factory is handed over to the company by the Liquidator.

2. Petitioner, applicant and ex-director of respondent have entered into consent terms dated 17.7.2019. Applicant and the authorized signatory of petitioner are present in Court and are identified. Consent terms is signed by applicant, authorized signatory of petitioner and their respective Advocates. The same is taken on record and marked 'X' for identification.

3. For ease of reference, consent terms is scanned and reproduced herein below :-

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X¹/₂
18/2/17

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMPANY APPLICATION NO. 595 OF 2018
IN
COMPANY PETITION NO. 189 OF 2016

In the matter of Section 433 (c) And 434 of the
Companies Act, 1956

M/s Parth Foils Private Limited,)
 a Company Incorporated under the Companies)
 Act, 1956 having its registered office at 426,)
 4th Floor, Diamond Industrial Estate,)
 Ketki Pada, Near Western Express Highway,)
 Dahisar(E), Mumbai - 400 068.)
CIN U36900MH2008PTC186434) **... Applicant (Original**
Respondent Company)

V/s,

M/s. Surya Exim Limited,)
 a Company Incorporated under the Companies)
 Act, 1956 having its registered office at 3040,)
 Jash Textile Market, Ring Road, Surat- 395003) **...Respondent**
(Original Petitioner)

CONSENT TERMS

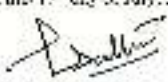
- I. The parties herein have agreed for amicable settlement of their dispute and have agreed that upon the Applicant, making payment of Rs. 20,00,000/- (Rupees Twenty Lakhs Only) to the Petitioner as and by way of full and final settlement of their entire claim as against the Respondent Company in the manner set out hereunder:

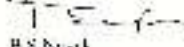
A. The amount of Rs. 10,00,000/- (Rupees Ten Laes only) deposited by the Ex Director of the Respondent Mr. PARTHO BUOY DUTTA with the Official Liquidator of this Hon'ble High Court, Bombay be withdrawn by the Petitioner.

[Handwritten signatures]

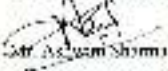
10. The balance amount of Rs. 10000000- (Rupees Ten Lacs only) shall be paid by the Respondent in fifteen equal monthly installments starting from the next month from the date of handing over the possession of the subject Property by the Official Liquidator to the Ex-Directors of the company.
11. Upon receipt of the entire amount of Rs.20,00,000- (Rupees Twenty Lakhs only), the entire claim of the Petitioner against the Respondent Company, whatever in nature shall be treated as satisfied in law and all the proceedings initiated by the petitioner either civil or Criminal against the Respondent Company and / or its directors and / or officers shall be withdrawn by the Petitioner and no further proceeding of any nature shall be initiated in future.
12. The Petitioner hereby certifies that it has no other claim against the Respondent Company than the claim in the present Petition.

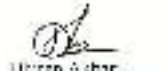
On this 17th day of July, 2019


Sri Beth Vijay Datta
(Applicant and Ex-Director of Respondent)


H S Nayak
Advocate for Applicant

For M. K. A. CHDML MCHG


Mr. Anand Sharma
Authorized Signatory


Anand Sharma
Advocate for Petitioner

4. Order in terms of consent terms. All undertakings accepted.

5. Official Liquidator to hand over amount of Rs.10,00,000/- deposited by applicant together with accumulated interest to petitioner and this amount shall be paid over within one week from today.

Company Application disposed.

6. Mr.Pattabiraman for applicant in Company Application No.201 of 2019 states that one Swan Industries Pvt. Ltd., has taken out an application in the application which is disposed now and prays that said Application No.201 of 2019 be treated as an independent application. Registry to do the needful.

7. Mr.Nayak for applicant in Company Application No.595 of 2018 states that affidavit-in-reply is ready and a copy thereof has been handed over to Mr.Pattabiraman in the Court today. The same be treated as affidavit in reply in the to be converted Application No.201 of 2019. Should applicant wish to file any rejoinder, they may do so and serve a copy within two weeks from today.

Mr.Pattabiraman states that this affidavit was to be served more than two weeks ago and because of the delay in serving a copy, matter is required to be adjourned and presses for costs. Respondent no.3 to pay sum of Rs.10,000/- as costs to applicant by way of cheque drawn in favour of Advocate on record and this amount shall be paid within two weeks from today.

8. Company Application No.201 of 2019 be listed for hearing on 7.8.2019.

(K.R.SHRIRAM,J)