

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL  
BENGALURU BENCH**

C.P.(IB)No.329/BB/2019  
U/s 9 of the IBC, 2016  
R/w Rule 6 of the I&B(AAA) Rules, 2016

**In the matter of:**

**M/s.Mapei Construction Products  
India Private Limited**

A01 & B01, First Floor,  
Solus Jain Heights,  
J.C. Road Cross,  
Bangalore – 560 002.

- Petitioner/Operational Creditor

**Versus**

**M/s.Amigo Conmix India Pvt. Ltd.**

#983, 1<sup>st</sup> Floor 2<sup>nd</sup> Cross,  
Kalyan Nagar, HRBR Layout,  
Bengaluru – 560 043.

- Respondent/Corporate Debtor

**Date of Order: 26<sup>th</sup> November, 2019**

**Coram:** 1. Hon'ble Shri Rajeswara Rao Vittanala, Member (Judicial)  
2. Hon'ble Shri Ashutosh Chandra, Member (Technical)

**Parties/Counsels Present:**

For the Petitioner : Ms. Megha Savanur

For the Respondent : Shri Gouri Shanker Mishra (PCS)

**ORDER**

**Per:** Ashutosh Chandra, Member (T)

1. C.P.(IB)No.329/BB/2019 is filed by M/s.Mapei Construction Products India Private Limited (hereinafter referred to as 'Petitioner/Operational Creditor') U/s 9 of the IBC, 2016, R/w Rule 6 of the I&B(AAA) Rules, 2016, by inter alia seeking to initiate the Corporate Insolvency Resolution Process (CIRP) in respect of M/s.Amigo Conmix India Private Limited (hereinafter referred to as 'Corporate



Debtor/Respondent') on the ground that the Corporate Debtor has committed a default of Rs.20,59,305/- (Rupees Twenty Lakhs Fifty Nine Thousand Three Hundred and Five Only) including principle and interest.

2. The case is listed for admission on various dates viz. 20.09.2019, 27.09.2019, 15.10.2019, 07.11.2019 & 26.11.2019, and it was adjourned on these dates at the request of parties, on one ground, or the other.
3. Heard Ms. Megha Savanur, learned Counsel for the Petitioner and Shri Gouri Shanker Mishra, learned PCS for the Respondent. We have carefully perused the pleadings of the party and provisions of the Code.
4. The Learned Counsel for the Petitioner prayed the Adjudicating Authority to permit the Petitioner to withdraw the petition with a liberty to file fresh Company Petition, in case the Respondent fails to honour cheques issue as per the settlement.
5. Both the Counsels have filed a Joint Memo of Settlement dated 26.11.2019 (which is taken on record), which reads as under:

*(1) "It is agreed by both the parties that the total principal due from the Corporate Debtor to the Applicant is Rs.13,62,125/- (Rupees Fourteen Lakhs Thirty-Six Thousand and Eighty- Four Only)*

*(2) The Corporate Debtor has offered and the Applicant has accepted to settle the principal outstanding for an amount of Rs.13,62,125/- (Rupees Fourteen Lakhs Thirty-Six Thousand and Eighty-Four Only) towards full and final settlement of the entire debt.*

*(3) The amount of Rs.13,62,125/-(Rupees Fourteen Lakhs Thirty-Six Thousand and Eighty-Four Only) is being paid within a period of 3 months by Corporate Debtor to the*

*Applicant as per the below mentioned schedule and the cheques (one dated presently and three post-dated cheques) drawn on Oriental Bank of Commerce, HRBR Layout, Bangalore, has been duly provided to Applicant by the Corporate Debtor.*

Sl. No.	Date	Cheque number	Amount (Rs.)
1.	22.11.2019	016160	3,40,000/-
2.	22.12.2019	016161	3,40,000/-
3.	22.01.2020	016162	3,40,000/-
4.	22.02.2020	016163	3,42,125/-
Total			<b>13,62,125/-</b>

*(4) Applicant has already received the above cheques towards full and final settlement of the dues Corporate Debtor. Accordingly, based on the above full and final settlement, the present petition may be disposed of with the liberty to the Applicant to approach this Tribunal in the event of any default by the Corporate Debtor."*

6. Since the parties have settled the issues between themselves, and the case is not yet admitted by the Adjudicating Authority, we are inclined to permit the Petitioner to withdraw the instant petition with liberty to file fresh Company Petition, in case the Respondent fails to honour the cheque issued as per the settlement.
7. In the result, C.P.(IB)No.329/BB/2019 is disposed of as withdrawn in terms of Joint Memo of Settlement dated 26.11.2019, by directing the Respondent to strictly adhere to the terms and conditions as mentioned in the Joint Memo of Settlement, without any deviation,



failing which the Petitioner is at liberty to file a fresh Company Petition in accordance with law. No order as to costs.



**(ASHUTOSH CHANDRA)**  
**MEMBER, TECHNICAL**



**(RAJESWARA RAO VITTANALA)**  
**MEMBER, JUDICIAL**

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