

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

C.P. (IB)No.143/BB/2019
U/s.9 of IBC, 2016
R/w Rule 6 of I&B (AAA) Rules, 2016

In the matter of

M/s. Senses Creations

Rep. by its Partner

Mr. Kallal Kumar Das

No.446, Ground Floor,

2nd Cross, 9th Main,

HAL 2nd Stage, Indiranagar

Bengaluru – 560 008

- Petitioner/Operational Creditor

Versus

M/s. Propcare Mall Management (I) Pvt. Ltd.,

R/o. at Municipal No.1,

Sampige Road,

Malleshwaram,

Bengaluru – 560 003

Also at:

Mantri House,

No.41, Vittal Mallya Road,

Bengaluru – 560 001

- Respondent/Corporate Debtor

Date of Order: 22nd August, 2019

Coram: 1. Hon'ble Shri Rajeswara Rao Vittanala, Member (Judicial)
2. Hon'ble Dr. Ashok Kumar Mishra, Member (Technical)

Parties/Counsels Present:

For the Petitioner : Shri Nikhil K

For the Respondent : Shri K Dushyantha Kumar

ORDER

Per: Rajeswara Rao Vittanala, Member (Judicial)

1. C.P. (IB) No.143/BB/2019 is filed by M/s. Senses Creations (Petitioner/Operational Creditor), U/s. 9 of IBC, 2016, R/w Rule 6 of I&B(AAA) Rules, 2016, by inter alia, seeking to initiate Corporate Insolvency Resolution Process in respect of M/s. Propcare Mall Management (I) Pvt. Ltd., (Respondent/Corporate Debtor) on the ground that the Corporate Debtor has committed, default for an amount of Rs.19,80,666/- (Rupees Nineteen Lakhs Eighty Thousand Six Hundred and Sixty Six only) which includes principal amount and interest @ 18% p.a.
2. The case was listed for admission on various dates viz. 06.03.2019, 19.03.2019, 04.04.2019, 23.04.2019, 10.05.2019, 10.06.2019, 27.06.2019, 26.07.2019, 09.08.2019 and on 21.08.2019. The case was stands adjourned on these dates at the request of the parties and on the one ground or the other including settlement the issue in question.
3. Heard Shri Nikhil K, learned Counsel for the Petitioner and Shri K Dushyantha Kumar, learned PCS for the Respondent. We have carefully perused the pleadings of both the parties and extant provision of the Code.
4. Shri Nikhil K, learned Counsel for the Petitioner submits that the issue raised in the Company Petition has already been settled between the parties as per the Joint Settlement Memo dated 22.08.2019 and thus request the Adjudicating Authority to permit the Petitioner to withdraw the instant Company Petition subject to



terms and conditions as mentioned in Joint Memo dated 22.08.2019 (which is taken on record) which reads as follows:

"The parties have agreed for settlement of the current dispute on the following terms".

a) The Corporate Debtor shall pay an amount of Rs.15,66,408/- (Rupees Fifteen Lakhs Sixty Six Thousand Four Hundred and Eight only) to the Applicant in full and final settlement.

b) The aforesaid sum of money shall be paid by the Corporate Debtor in seven installments and the same shall be acknowledged by the Applicant. The following are the dates of installments by way of post dated cheques.

<i>Date of Installments</i>	<i>Amount in Rs.</i>
<i>31st August 2018</i>	<i>Rs.2,61,068 (Rupees Two Lakhs Sixty One Thousand Sixty Eight only)</i>
<i>30th September, 2019</i>	<i>Rs.2,61,068 (Rupees Two Lakhs Sixty One Thousand Sixty Eight only)</i>
<i>31st October, 2019</i>	<i>Rs.2,61,068 (Rupees Two Lakhs Sixty One Thousand Sixty Eight only)</i>
<i>30th November, 2019</i>	<i>Rs.2,61,068 (Rupees Two Lakhs Sixty One Thousand Sixty Eight only)</i>
<i>31st December, 2019</i>	<i>Rs.2,61,068 (Rupees Two Lakhs Sixty One Thousand Sixty Eight only)</i>
<i>1st January, 2020</i>	<i>Rs.2,61,068 (Rupees Two Lakhs Sixty One Thousand Sixty Eight only)</i>



5. Shri K Dushyantha Kumar, learned PCS for the Respondent, affirm that they have settled the amount as raised in the instant Company Petition and they are bound with the terms and conditions as mentioned in the Joint Settlement Agreement dated 22.08.2019, and they will honor the post dated cheques as and when present of appears without fail.
6. Since the Company Petition is not yet admitted by the Adjudicating Authority and the parties have settled the issue by way of Joint Settlement Memo, we are inclined to permit the Petitioner to withdraw the instant Company Petition subject to compliance of the terms and reserving liberty to the Petitioner to file fresh Company Petition in accordance with law.
7. In the result, C.P.(IB).No.143/BB/2019 is disposed of as withdrawn by directing the Respondent to strictly adhere to the terms and conditions as mentioned in the Memo dated 22.08.2019 without fail, failing which the Petitioner is at liberty to file fresh Company Petition in accordance with law. No order as to costs.



(ASHOK KUMAR MISHRA)
MEMBER, TECHNICAL



(RAJESWARA RAO VITTANALA)
MEMBER, JUDICIAL