

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

C.P.(IB) No.274/BB/2019
U/s 9 of IBC, 2016
R/w Rule 6 of I&B (AAA) Rules, 2016

In the matter of:

M/s. MOS Logi Technologies Pvt. Ltd.

Regd. Off: No.10, 5th C Cross,
16th Main Road, MHCS Colony,
BTM Layout,
Bengaluru – 560 076.

- Petitioner/Operational Creditor

Versus

M/s. Black Pepper Technologies Pvt. Ltd.

Regd. Off: Vintage Building,
No.1/2, Left 'A' Wing, 3rd Floor,
Kalyanamantapa Road, Jakkasandra,
Koramangala 1st Block,
Bengaluru – 560 034.

- Respondent/Corporate Debtor

Date of Order: 30th 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 R.C. Venkatesh Rao

For the Respondent : Shri Krishna Prasad

ORDER

Per: Rajeswara Rao Vittanala, Member (J)

1. C.P.(IB)No.274/BB/2019 is filed by M/s.MOS Logi Technologies Private Limited (hereinafter referred to as 'Petitioner/Operational Creditor') under Section 9 of the IBC, 2016 R/w Rule 6 of the Insolvency and



Bankruptcy (Application to Adjudicating Authority) Rules, 2016, by inter alia seeking to initiate Corporate Insolvency Resolution Process (CIRP) against M/s. Black Pepper Technologies Private Limited (hereinafter referred to as 'Respondent/Corporate Debtor') on the ground that it has committed default for a total outstanding amount of Rs.67,77,252/- (Rupees Sixty Seven Lakhs Seventy Seven Thousand Two Hundred and Fifty Two Only) due from 31.10.2016.

2. The case is listed for admission on various dates viz., 01.07.2019, 12.07.2019, 06.08.2019, 14.08.2019, 23.08.2019 and 30.08.2019. The case stands adjourned on those dates due to various reasons, at the request of the parties, for completion of the pleadings; to settle the issue, etc.
3. Heard Mr. R.C. Venkatesh Rao, learned PCS for the Petitioner and Shri Krishna Prasad, learned PCS for the Respondent. We have perused the pleadings of the parties and extant provisions of the Code.
4. Both the learned PCS have filed a Joint Memo of Settlement dated 30.08.2019 (which is taken on record), which reads as under:

"We the Operational Creditor and Operational Debtor have arrived at the following settlement:

<i>Total claim as per Demand Notice (Form-3)</i>	<i>INR 67,77,252</i>
<i>Interest component of INR 12,00,000/- and Legal Fees INR 1,50,000/-</i>	<i>INR 13,50,000</i>
<i>Total amount payable to Operational Creditor</i>	<i>INR 81,27,252</i>



Sl. No.	Type of Instrument	Date of Cheque or DD issued	Name of the Bank & Branch	Demand Draft / Cheque No.	Amount in Rs.
1.	DD (Already issued to Operational Creditor)	22 nd August 2019	HDFC Bank, Agara lake, Bangalore	013074	6,00,000
2.	DD	30 th August 2019	HDFC Bank, Agara lake, Bangalore	013098	6,00,000
3.	Cheque	30 th September 2019	HDFC Bank, Agara lake, Bangalore	001398	11,15,510
4.	Cheque	30 th October 2019	HDFC Bank, Agara lake, Bangalore	001399	11,15,510
5.	Cheque	30 th November 2019	HDFC Bank, Agara lake, Bangalore	001400	11,15,510
6.	Cheque	30 th December 2019	HDFC Bank, Agara lake, Bangalore	001401	11,15,510
7.	Cheque	30 th January 2020	HDFC Bank, Agara lake, Bangalore	001402	11,15,510
8.	Cheque	28 th February 2020	HDFC Bank, Agara lake, Bangalore	001403	8,00,000
9.	Cheque	25 th February 2020	HDFC Bank, Agara lake, Bangalore	001406	5,50,000
Total					81,27,550

We the Operational Debtor confirm the Cheque issued as above will be honored on it's due dates. In case the cheques are not honored, the Operational Creditor will have right to withdraw the settlement and move the CP with Hon'ble NCLT and also he is at liberty to take such other action as deem necessary and the Petition is withdrawn with the liberty to move this issue if any defect."

Therefore, the learned PCS for the Petitioner urged the Tribunal that the Petitioner may be permitted to withdraw the instant Company Petition subject to compliance of the terms and conditions as mentioned in the said Joint Memo of Settlement. For which, the learned PCS for the Respondent submits that they will comply with the terms and




conditions as mentioned in the Joint Memo dated 30.08.2019, and thus the same may be disposed of as withdrawn as prayed for by the Petitioner.

5. Since the issue raised in the Company Petition was resolved between the parties before the case is admitted, we are inclined to permit the Petitioner to withdraw the main Company Petition in the interest of Justice.
6. In the result, C.P.(IB) No.274/BB/2019 is disposed of as withdrawn by directing the Respondent to strictly adhere to the terms and conditions as mentioned in the said Joint Memo of Settlement dated 30.08.2019 without any deviation, failing which, the Petitioner will have right to file a fresh Company Petition in accordance with law. No order as to costs.



(ASHOK KUMAR MISHRA)
MEMBER, TECHNICAL



(RAJESWARA RAO VITTANALA)
MEMBER, JUDICIAL

Puja