

**NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH
COURT NO.1**

ATTENDANCE CUM ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL,
BENGALURU BENCH, BENGALURU, HELD ON 12.02.2020

PRIORITY CAUSE LIST - 1

PRESENT: 1. Hon'ble Member (J), Shri Rajeswara Rao Vittanala
2. Hon'ble Member (T), Shri Ashutosh Chandra

CP/CA No.	Purpose	Sec	Name of Petitioner	Petitioner Advocate	Name of Respondent	Respondent Advocate
CP(IB) No. 217/BB/2019	For settlement	Sec 7 of I&B code 2016	M/s Trimex Sands Pvt Ltd	A Murali, Advocate	M/s Simplyfi Softech Pvt Ltd	Karan Joseph, advocate

ADVOCATE FOR PETITIONER/s:

A. MURALI & ANDRE PETER & JYOTI : A
7019246197

Jyoti

ADVOCATE FOR RESPONDENT/s:

~~KARAN JOSEPH~~
ANISH JOHN
9845211270

Anish John

ORDER

Heard Ms. Jyothi.A, learned Counsel for the Petitioner and Shri. Anish John, learned Counsel for the Respondent.

C.P (IB) No.217/BB/2019 is disposed as withdrawn.

Shri

MEMBER (T)

Shri

MEMBER (J)

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

C.P. (IB) No.217/BB/2019
U/s 7 of IBC, 2016
R/w Rule 4 of I&B (AAA) Rules, 2016

IN THE MATTER OF:

M/s. Trimex Sands Private Limited

Trimex Towers, No: 1, Subbaraya
Avenue, C.P. Ramaswamy
Road, Alwarpet
Chennai – 600 018

- Petitioner/Operational Creditor

Versus

M/s. Simplyfi Softech India Private Limited,

Unit No.01, First Floor,
Innovator Block Information
Technology Park Ltd, Whitefield
Bangalore – 560 066

- Respondent/Corporate Debtor

Date of Order: 12th February, 2020

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. Jyothi.A

For the Respondent : Mr. Amish John

ORDER

Per: Rajeswara Rao Vittanala, Member (J)

1. C.P. (IB) No.217/BB/2019 is filed by M/s. Trimex Sands Private Limited (hereinafter referred to as 'Petitioner/Operational Creditor') U/s 7 of the IBC, 2016 R/w Rule 4 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. Simplyfi Softech India Private Limited. (hereinafter referred to as 'Respondent/Corporate Debtor') on the ground that it has committed default for total outstanding amount of Rs.50,00,000/- (Rupees Fifty Lakhs Only)

2. The case was listed for admission on various dates viz. 26.06.2019, 11.07.2019, 25.07.2019, 09.08.2019, 19.08.2019, 30.08.2019, 17.09.2019, 14.10.2019, 24.10.2019, 13.11.2019, 22.11.2019, 28.11.2019, 10.12.2019, 13.12.2019, 18.12.2019, 30.12.2019, 28.01.2020, 31.01.2020, 07.02.2020 and 12.02.2020. The case stands adjourned on those dates at the request of parties, on one ground or the other, including to explore the possibility of settlement of the issue, etc.
3. Heard Ms. Jyothi.A, learned Counsel for the Petitioner, and Shri. Anish John, learned Counsel for the Respondent. We have carefully perused the pleadings of both the parties and extant provisions of the Code and the Rules made thereunder.
4. Ms. Jyothi.A, learned Counsel for the Petitioner submits that the Petitioner may be permitted to withdraw the instant Company Petition, on the ground that both the Parties have settled the issue in question between themselves, and have executed Joint Memo dated 12.02.2020 (which is taken on record), which inter alia reads as follows:

"1. In the interest of an amicable settlement and in order to avoid any unpleasant corporate insolvency resolution process, the parties agree as follows:



a) The parties agree that the Respondent shall pay to the Applicant Rs.54,32,740/- (Rupees Fifty Four Lakhs Thirty Two Thousand Seven Hundred and Forty Only) in respect of the Applicant's claims arising out of C.P (IB) No.217/2019.

b) Payment shall be made by the Respondent in the following manner:

- i. Rs.6,79,092/- (Rupees Six Lakhs Seventy Nine Thousand and Ninety Two Only) by Bank cheque No.000154 dated 07.02.2020.
- ii. Rs.6,79,092/- (Rupees Six Lakhs Seventy Nine Thousand and Ninety Two Only) by Bank cheque No.000155 dated 07.03.2020.
- iii. Rs.6,79,092/- (Rupees Six Lakhs Seventy Nine Thousand and Ninety Two Only) by Bank cheque No.000156 dated 07.04.2020.
- iv. Rs.6,79,092/- (Rupees Six Lakhs Seventy Nine Thousand and Ninety Two Only) by Bank cheque No.000157 dated 07.05.2020.
- v. Rs.6,79,092/- (Rupees Six Lakhs Seventy Nine Thousand and Ninety Two Only) by Bank cheque No.000158 dated 07.06.2020.
- vi. Rs.6,79,092/- (Rupees Six Lakhs Seventy Nine Thousand and Ninety Two Only) by Bank cheque No.000159 dated 07.07.2020.



vii. Rs.6,79,092/- (Rupees Six Lakhs Seventy Nine Thousand and Ninety Two Only) by Bank cheque No.000160 dated 07.08.2020.

viii. Rs.6,79,092/- (Rupees Six Lakhs Seventy Nine Thousand and Ninety Two Only) by Bank cheque No.000161 dated 07.09.2020.

2. *This Joint Memo and its complete performance shall constitute a full and final settlement of the Applicant's claims under C.P (IB) No. 217/2019. The Respondent agrees that any default in payment shall be in breach of the terms of this settlement and the present Petition stands settled in terms of this Joint Memo.*

3. *Nothing contained in this Joint Memo shall prejudice any other rights of the parties and this Joint Memo shall apply solely to the Applicant's claims in C.P (IB) No.217/2019. All rights and contentions of the parties shall be left open in respect of any claim/counter claim between them."*

5. Shri Anish John, learned Counsel for the Respondent has no objection for withdrawal of the instant Company Petition, and confirmed that they will comply with the terms and conditions as contained in the above Joint Memo for reporting Settlement, without fail.

6. Since the Instant Company Petition is not admitted and the Parties have settled, we are inclined to dispose of the Company Petition by reserving liberty to the Petitioner to file a fresh Company Petition, in case, the Corporate Debtor failed to comply with the terms and conditions of settlement as stated in joint memo dated 12.02.2020



7. In the result, C.P. (IB) No.217/BB/2019 is disposed of as withdrawn by directing the Respondent to strictly adhere to the terms and conditions payment as contained in the Joint Memo for Reporting Settlement dated 22.10.2019 without fail, failing which, the Petitioner is at liberty to file a fresh Company Petition for initiating CIRP in accordance with law. No order as to costs.



**ASHUTOSH CHANDRA
MEMBER, TECHNICAL**



**RAJESWARA RAO VITTANALA
MEMBER, JUDICIAL**

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