

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

C.P(IB) No.97/BB/2019
U/s 7 of IBC, 2016
R/w Rule 4 of I&B (AAA) Rules, 2016

In the matter of:

Dr.Adinarayana Makam,
Residing At Brigade Gateway Apartments,
'D' Block, No.1104, 26/1,
Dr.Rajkumar Road,
Bangalore – 560 055.

- Petitioner/Financial Creditor

Versus

M/s.TMI Healthcare Private Limited.
No.2, Tumkur Service Road, OPP. Taj
Vivanta, Goraguntepalya,
Yeshwanthpur Industrial Suburb
Bangalore – 560 022.

- Respondent/Corporate Debtor

Date of Order: 29th 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 Adith Jahgirdar

For the Respondent : Shri S.V.Joga Rao

ORDER

Per: Rajeswara Rao Vittanala, Member (J)

1. C.P.(IB) No.97/BB/2019 is filed by Dr.Adinarayana Madam ('Petitioner/Financial Creditor') U/s 7 of the IBC, 2016, read with Rule 4 of the Insolvency and Bankruptcy (AAA) Rules, 2016, by inter alia seeking to initiate Corporate Insolvency Resolution Process (CIRP) in respect of M/s.TMI Healthcare Pvt. Ltd ('Respondent/Corporate Debtor') on the ground that the Corporate Debtor



committed default for a total outstanding amount of Rs.1,24,17,656/- on 12.07.2017.

2. The case is listed for hearing on various dates viz. 08.03.2019, 26.03.2019, 22.04.2019, 24.04.2019, 29.05.2019, 17.06.2019, 25.06.2019, 08.07.2019, 10.07.2019, 16.07.2019, 26.07.2019, 29.07.2019, 31.07.2019, 05.08.2019, 26.08.2019 & 29.08.2019. 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 Shri Adith Jahgirdar, learned Counsel for Petitioner and Shri S.V Joga Rao, learned Counsel for Respondent. We have carefully perused the pleadings of both the parties and extant provisions of the Code and the Law on the issue.
4. Shri Adith Jahgirdar, learned Counsel for Petitioner submit that the parties have settled the issue finally. The settlement is full and final for the claim made in the instant Company Petition and they shall not make any further claim or litigation in respect of claim, and thus urged the Adjudicating Authority to permit the petitioner to withdraw the instant Company Petition subject to compliance with terms of settlement. He has placed on record a copy of Terms of Settlement dated 29.08.2019 (which is taken on record). And Memo dated 29.08.2019, (which is taken on record), which reads as under:

"The undersigned herewith furnishes Six Cheques drawn on Federal bank, jalahalli Branch, Bangalore in favour of Dr.Adinarayana Makam towards deposit of a sum of Rs.37,25,298/- on behalf of the Corporate Debtor in compliance with the Terms of Settlement. The details of the aforementioned cheques are as follows:

SL No.	Date	Cheque No.	Amount



1.	20 th September 2019	406368	Rs.6,20,883/-
2.	20 th October 2019	406367	Rs.6,20,883/-
3.	20 th November 2019	406366	Rs.6,20,883/-
4.	20 th December 2019	406365	Rs.6,20,883/-
5.	20 th January 2020	406364	Rs.6,20,883/-
6.	20 th February 2020	406363	Rs.6,20,883/-

5. Therefore, Shri S.V.Joga Rao, learned Counsel for Respondent has confirmed that they have executed the above terms of settlement and even a memo dated 29.08.2019, stating that they will honour the cheques as mentioned in the Memo and when they are presented on due dates without fail. Therefore, he has no objection to withdraw the instant Company Petition. Since the issue raised in the Company Petition was resolved between the parties, we are inclined to permit the Petitioner to dispose the main Company Petition in the interest of justice.
6. In the result, C.P. (IB) No.97/BB/2019 is disposed of in terms of Memo dated 29.08.2019, by directing the parties to strictly adhere to the terms of settlement and memo as mentioned in the Memo, without fail, failing which, the Petitioner is at liberty 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

Raushan