

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOCHI BENCH, KERALA**

IBA/21/KOB/2020

(Under Section 9 of Insolvency and Bankruptcy Code 2016)

Order delivered on 3rd December, 2020

Coram:

Hon'ble Shri Ashok Kumar Borah, Member (Judicial)

In the matter of

Antony Joseph, Proprietor
En Tech ADP, 30/1993/2.
Rice Research Road, Ponurunni,
Vytilla PO, Cochin-682019

..... Applicant/Operational Creditor

Vs.

M/s ICICLES HVAC Experts Private Limited
Door No.VII/178(21&23) 1st floor,
Kalathil Complex, Palace Road,
Aluva, Ernakulam, Kerala-683101.

.....Respondent/Corporate Debtor

Parties/Counsel present (through video conferencing)

For the Operational Creditor : Shri Vishnu Hari K, Advocate

For the Corporate Debtor : Mr. Sojan James, Advocate (Not appeared)

ORDER

This Insolvency IBA No.21/KOB/2020 has been filed under Section 9 of the Insolvency and Bankruptcy Code, 2016 by the applicant Antony Joseph, Proprietor of En Tech ADP, Cochin-682019 against the Corporate Debtor M/s ICICLES HVAC Experts Private Limited, Ernakulam claiming an amount of Rs. 6,68,134/- (Rupees Six Lakhs Sixty-Eight Thousand and One hundred and Thirty-four only). The Corporate Debtor has placed Purchase Order on the Operational Creditor for supply of aluminium

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powder coated grills, round/square slots, disc valve, perforated grill and allied products, for which the operational creditor raised 10 invoices after supply of the items. Since the payment has not been made, the operational creditor sent notices to the Corporate Debtor. However, despite receiving several reminders, the Corporate Debtor wantonly and purposefully failed to make payment to the operational creditor. Form 3 notice was sent to the Corporate Debtor on 5th September, 2019 which was received by the Corporate Debtor on 6th September, 2019. However, no response from the Corporate Debtor received. The default in payment occurred on 13th of May, 2018 when the first invoice was raised towards the supply of materials by the Operational Creditor to the Corporate Debtor. Hence, he has filed the above application.

2. On notice the Corporate Debtor entered appearance and filed a counter affidavit opposing the application. After hearing both the parties, this Tribunal on 23rd November, 2020 admitted the application and moratorium has been declared. Shri Dileep KP, Insolvency Resolution Professional has been appointed as the Interim Resolution Professional.

3. On 1.12.2020, MA No.188/KOB/2020 has been filed by the applicant for withdrawal of the application in view of the settlement arrived at between the parties. In the MA it is stated that on 30.11.2020 a settlement has been arrived for a total sum of Rs. 9,86,136/- (Rupees nine lakhs eighty six thousand one hundred and thirty six only) as full and final settlement of the entire claim between the Corporate Debtor and the applicant on the following terms:

M/s ICICLES HVAC Experts Private Limited have paid the entire sum of Rs. 9,86,134/- on 30.11.2020

The amount of settlement of Rs. 9,86,134/- arrived between the parties is in full settlement.

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The committee of Creditors is not constituted.

The expenses of the Interim Resolution professional has been paid.

4. In view of the fact that MA No.188/KOB/2020 has been filed by the applicant for withdrawal of the IBA/21/KOB/2020 and that the same has been allowed by this Tribunal, **IBA/21/KOB/2020 stands disposed** of as withdrawn.

Dated the 3rd day of December, 2020

Sd/-
(Ashok Kumar Borah)
Member (Judicial)