

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

C.P.(IB)No.16/BB/2019
U/s. 9 of the IBC, 2016
R/w Rule 6 of I&B (AAA) Rules, 2016

In the matter of:

M/s. Nuvoco Vistas Corporation Limited

(Formerly LAFARGE INDIA LIMITED

And prior to that Lafarge

India Private Limited

Equinox Business Park Tower – 3

East Wing, 4th Floor,

Off Bandra Kurla Complex,

Lbs Marg, Kurla (West),

Mumbai – 400 070.

- Petitioner/Operational Creditor

Versus

M/s. Mantri Developers Private Limited

No.41, Mantri House,

Vittala Mallya Road,

Bengaluru – 560 001.

- Respondent/Corporate Debtor

Date of Order: 31st July, 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 Ajay G Prasad

For the Respondent : Shri K Dushyantha Kumar



ORDER

Per: Dr. Ashok Kumar Mishra, Member (Technical)

1. C.P.(IB)No.16/BB/2019 is filed by M/s. Nuvoco Vistas Corporation Limited (Petitioner/Operational Creditor) Under Section 9 of the IBC 2016, R/w Rule 6 of the I&B (AAA) Rules, 2016, in respect of M/s. Mantri Developers Private Limited (Respondent/Corporate Debtor), on the ground that it has committed, default an amount of Rs.2,86,63,099/- (Rupees Two Crores Eighty Six Lakhs Sixty Three Thousand Ninety Nine only) which includes Principal amount Rs.2,29,40,593/- (Rupees Two Crores Twenty Nine Lakhs Forty Thousand Five Hundred and Ninety Three only) and interest of Rs.57,22,506/- (Rupees Fifty Seven Lakhs Twenty Two Thousand Five Hundred and Six only).
2. The case was listed for admission on various dates viz., 07.01.2019, 24.01.2019, 28.02.2019, 10.04.2019, 08.05.2019, 11.06.2019, 20.06.2019, 24.07.2019 and on 31.07.2019. And the case is pending on the file of this Tribunal due to various grounds at the request of the parties.
3. Heard Shri Ajay G Prasad, 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 provisions the Code.
4. Shri Ajay G Prasad, learned Counsel for the Petitioner submits that issue has been settled between the parties and entered for settlement. Consequently, the Respondent/Corporate Debtor has issued post-dated cheque as detailed below and has requested

the Applicant to present the cheque for encashment on the said date.

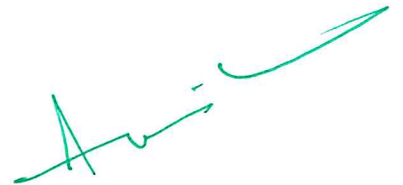
5. Therefore, the learned Counsel for the Petitioner urged the Tribunal to permit the Petitioner to withdraw the instant Company Petition with liberty to file a fresh Company Petition, in the event the remaining cheques issued by the Respondent are not honored. He has also filed a Memo dated 31.07.2019 (which is taken on record), which reads as under:

“The Applicant herein had filed the present application against the Corporate Debtor for its claim to the tune of INR 2,29,40,593/- (Rupees Two Crores Twenty Nine Lakhs Forty Thousand Five Hundred and Ninety Three only) along with interest @ 24% per annum, calculated on each outstanding invoice.

In this regard the Corporate Debtor has issued post-dated cheque as detailed below and has requested the Applicant to present the cheque for encashment on the said date:

Cheque No.	Date of Cheque	Amount
533614	26.09.2019	45,00,000
560642	26.10.2019	45,00,000
533615	26.11.2019	45,00,000
533616	26.12.2019	45,16,177

In view of the above it is respectfully submitted that this Hon’ble Tribunal may be pleased grant leave to the Applicant to withdraw the matter with the liberty to approach this Hon’ble Tribunal in the event the payment to the Applicant fails”.



6. Since the case is not yet admitted by the Adjudicating Authority, we are inclined to permit the Petitioner to withdraw the instant Company Petition subject to the above memo dated 31.07.2019 by reserving a liberty to the Petitioner to file afresh Company Petition, in case the Respondent fails to adhere to the said memo.
7. Hence, C.P.(IB)No.16/BB/2019 is hereby disposed of as withdrawn in terms of the Memo dated 31.07.2019 by directing the Respondent to strictly adhere to the terms and conditions 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

Shruthi