

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

C. P. (IB) No.141/BB/2019
U/s 9 of the IBC, 2016
R/w Rule 6 of the I&B(AAA) Rules, 2016

In the matter of:

M/s.InfoCepts Techonologies Private Limited

Plot No, 11/1, IT Park,
Parsodi, Nagpur,
Maharashtra- 440 022.

- Petitioner/ Operational Creditor

Versus

M/s. Teskra Software Private Limited,

No.20, Lake View Manor,
Narayan Reddy Colony,
Annaswamy Mudaliar Road, Ulsoor,
Bangalore – 560 042.

- Respondent/Corporate Debtor

Date of Order: 02-08-2019

- 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 : Ms. Jyothi

For the Respondent : Shri Prakash S.V.

ORDER

Per: Rajeswara Rao Vittanala, Member (J)

1. C.P.(IB)No.141/BB/2019 is filed by M/s.InfoCepts Technologies Private Limited, ('Petitioner/Operational Creditor') U/s 9 of the IBC, 2016, R/w Rule 6 of the I&B(AAA) Rules, 2016, by inter alia seeking to initiate the



Corporate Insolvency Resolution Process (CIRP) in respect of M/s.Tescra Software Private Limited, ('Corporate Debtor/Respondent'), on the ground that the Corporate Debtor has committed a default of Rs.50,05,236/-(Rupees Fifty Lakhs Five Thousand Two Hundred Thirty Six Only) which includes principal and interest amount.

2. The case is listed for admission on various dates viz. 16.04.2019, 26.04.2019, 28.05.2019, 20.06.2019, 05.07.2019, 09.07.2019, 16.07.2019, 26.07.2019 & 02.08.2019, and it was adjourned on these dates at the request of parties, on one ground, or the other.
3. Heard Ms. Jyothi, learned Counsel for the Petitioner and Shri Prakash S.V., Learned Counsel for the Respondent. We have carefully perused the pleadings of both the parties and provisions of the Code.
4. The Learned Counsel for the petitioner prayed the Tribunal to permit the petitioner to withdraw the petition with a liberty to file fresh Company Petition, in case the Respondent fails to honour cheque issue as per the settlement.
5. Both the learned Counsels have filed a Memorandum of Compromise dated 02.08.2019 (which is taken on record), which reads as under:
 - 1) *The Operational Creditor filed the present applicant before this Hon'ble Tribunal since the Corporate Debtor failed to pay outstanding amount of Rs.50,05,236/- including delay interest*



calculated up to 12.09.2018 to the Operational Creditor for services rendered by the Operational Creditor to the Corporate Debtor. The Corporate Debtor failed to make payment of the dues to the Operational Creditor despite several reminders and follow up by the Operational Creditor for payment of the dues. The Corporate Debtor has also provided a certificate dated June 27, 2018 for total outstanding payable to Operational Creditor admitting the net payable amount of Rs.37,39,312/-. However, since the Corporate Debtor failed to make payment of the dues, the Operational Creditor was constrained to file the present application under Section 9 of the IBC, 2016.

- 2) Pursuant to the discussions and negotiations between the Parties, the Corporate Debtor has agreed to pay a sum of Rs.15,00,000/- (Rupees Fifteen Lakhs Only) on or before August 31, 2019 to the Operational Creditor which the Operational Creditor has accepted, on the condition that the aforesaid amount is received by the Operational Creditor on or before August 31, 2019.
- 3) Accordingly, the Corporate Debtor has delivered demand draft bearing 036103 dated 26th July 2019 for a sum of Rs.7,50,000/- (Rupees Seven Lakhs Fifty Thousand Only) drawn on HDFC Bank, Vijayanagar Branch in favour of the Operational Creditor. The Corporate Debtor has

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also handed over a post-dated cheque for a sum of Rs.7,50,000/-(Rupees Seven Lakhs Fifty Thousand Only) bearing cheque No.002229 dated 31st August 2019 drawn on HDFC Bank, Vijayanagar Branch in favour of the Operational Creditor. The Operational Creditor acknowledges receipt of the aforesaid demand draft and post-dated cheque.


4) In the event of post-dated cheque bearing cheque No.002229 for a sum of Rs.7,50,000/-(Rupees Seven Lakhs Fifty Thousand Only) drawn in favour of the Operational Creditor or demand draft bearing 036103 dated 26th July, 2019 for a sum of Rs.7,50,000/-(Rupees Seven Lakhs Fifty Thousand Only) drawn on HDFC Bank, Vijayanagar Branch in favour of the Operational Creditor is dishonoured due to any reason, the Operational Creditor shall be entitled to claim the entire principal amount of Rs.38,94,562/-(Rupees Thirty Eight Lakhs Ninety Four Thousand Five Hundred and Sixty Two Only) along with interest from the Corporate Debtor. Accordingly, the Operational Creditor shall have the liberty to file a fresh application before the Hon'ble Tribunal in respect of the above amount, in the event the post-dated cheque is dishonoured.


6. Since the parties have settled the issues between themselves, and the case is not yet admitted by the



Tribunal, we are inclined to permit the petitioner to withdraw the instant petition with liberty to file fresh Company Petition, in case the Respondent fails to honour the cheque issued as per the settlement.

7. In the result, C.P.(IB)No.141/BB/2019 is disposed of as withdrawn in terms of Memorandum of Compromise dated 02.08.2019, by directing the Respondent to strictly adhere to the terms and conditions as mentioned in the Memorandum of Compromise, without any deviation, 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

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