

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

C.P.(IB)No.177/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.Magnifico Minerals Private Limited

75, Khirki Village,
Malviya Nagar,
New Delhi.

- Petitioner/Operational Creditor

Versus

M/s.Ratna Cements (Yadwad) Limited

Yadwad, Taluk-Gokak,
Belagum.

- Respondent/Corporate Debtor

Date of Order: 27th September, 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 Shankar

For the Respondent : None

ORDER

Per: Rajeswara Rao Vittanala, Member (J)

1. C.P.(IB)No.177/BB/2019 is filed by M/s.Magnifico Minerals Private Limited (hereinafter referred to as '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.Ratna Cements (Yadwad) Limited (hereinafter referred to as 'Corporate Debtor/Respondent') on the ground that the Corporate Debtor has committed a default of



Rs.30,35,884.22/- (Rupees Thirty Lakhs Thirty Five Thousand Eight Hundred Eighty Four and Twenty Two Paise Only) as on 14.06.2018.

2. The case is listed for admission on various dates viz. 28.05.2019, 17.06.2019, 02.07.2019, 22.07.2019, 05.08.2019, 19.08.2019, 30.08.2019, 16.09.2019, 24.09.2019 & 27.09.2019, and it was adjourned on these dates at the request of parties, on one ground, or the other.
3. Heard Shri Shankar, learned Counsel for the Petitioner. We have carefully perused the pleadings of the party and provisions of the Code.
4. The Learned Counsel for the Petitioner prayed the Adjudicating Authority to permit the Petitioner to withdraw the petition with a liberty to file fresh Company Petition, in case the Respondent fails to honour cheques issue as per the settlement.
5. The learned Counsel for the Petitioner has filed a Memo for Withdrawal dated 27.09.2019 (which is taken on record), which reads as under:

"The Respondent/Corporate Debtor has agreed to pay the total outstanding of Rs.30,35,883/- to the Operational Creditor/Petitioner and out of which a sum of Rs.4,45,620/- is paid vide Demand Draft and for the balance amount of Rs.25,90,263/- has issued a Debit Note which is accepted by the Operational Creditor/Petitioner.

In view of the said understanding it is humbly prayed before this Hon'ble Tribunal to dispose of the present petition as withdrawn reserving liberty to the Operational Creditor/Petitioner to move this Hon'ble Tribunal in the event the Corporate Debtor fails to adhere to the terms of the said settlement in the ends of justice.

6. Since the parties have settled the issues between themselves, and the case is not yet admitted by the Adjudicating Authority, 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.177/BB/2019 is disposed of as withdrawn in terms of Memo For Withdrawal dated 27.09.2019, by directing the Respondent to strictly adhere to the terms and conditions as mentioned in the Memo For Withdrawal, 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

Puja