

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

C.P.No.256/BB/2019
U/s 9 of IBC, 2016
R/w Rule 6 of the
I&B (AAA) Rules, 2016

In the matter of:

M/s. National Electric & Refrigeration Co
#265,K, Kamaraj Rd,
Bengaluru – 560 042

- Petitioner/Operational Creditor

Versus

M/s. Technotree Engineering Solutions
Private Limited (OPC)
541 Gr. Floor 7th Main 4th
Cross, Hal 2nd Stage
Bangalore – 560 038

- Respondent

Date of Order: 29thNovember,2019

Coram: 1. Hon'ble Shri Rajeswara Rao Vittanala, Member (Judicial)
2. Hon'ble Shri Ashutosh Chandra, Member (Technical)

Parties/Counsels Present:

For the Petitioner :NishaHegde

For the Respondent :None

ORDER

Per: Rajeswara Rao Vittanala, Member (J)

1. C.P.(IB)No.256/BB/2019 is filed by M/s. National Electric & Refrigeration Co,('Petitioner/Operational Creditor') U/s 9 of the IBC 2016, R/wRule 6 of the Insolvency and



Bankruptcy (Application to Adjudicating Authority) Rules, 2016 in respect of M/s Technotree Engineering Solutions Pvt. Ltd. (Respondent/Corporate Debtor) on the ground that the Corporate Debtor committed a default amount of Rs. 7,78,527/- (Rupees Seven Lakhs Seventy Eight Thousand Five Hundred and Twenty Seven) including the interest @ 24% per annum.

2. The Brief facts of the case, as mentioned in the Petition, which are relevant to the issue in question, are as follows:
 - a. The National Electric & Refrigeration Co (hereinafter referred as 'Operational Creditor') is a proprietorship firm running through its proprietor, having its registered office at #265, K, Kamaraj Rd, Bengaluru, Karnataka – 560 042.
 - b. The Technotree Engineering Solutions Private Limited (OPC) (hereinafter referred as 'Corporate Debtor') is a private limited company incorporated under the Companies Act, 2013 on 17th July, 2014 and having its Registered Office at 541 Gr. Floor 7th Main 4th Cross, Hal 2nd Stage Bangalore KA-560038 IN.
 - c. The Operational Creditor is involved in the business of leading stockist and supplier of all kinds of spare parts for Air-conditioning, Refrigeration, central Cooling Plants, Cold storage, Deep Freezers, Chilling Plants and Washing Machines etc, and Operational creditor had supplied the same which were demanded by the Corporate Debtor. It has supplied Air-conditioning spare parts to Corporate Debtor for which the default is made from December 16th, 2015 to December 18th, 2016 in



respect of invoices dated from November 16th, 2015 to November 18th, 2016.

- d. That after giving several reminders, the Corporate Debtor had issued cheques of part payment to clear their said outstanding dues but the same got dishonoured. The Corporate Debtor is also liable to pay an interest on the said outstanding dues @ 24% per annum amounting to Rs. 3,29,440/- (Rupees Three Lakh Twenty Nine Thousand Four Hundred Forty Only) from the due date of invoice till 13th April 2019. The Statutory Demand Notice in Form 3 along with Form 4 dated 13th April 2019, as required under Section 8 of the Insolvency & Bankruptcy Code, 2016, was issued by the Operational Creditor to the Corporate Debtor. The Demand Notice was sent by the Indian Post on 13th April, 2019 via Speed Post, along with the copy of the Track Report available from the website of Indian Post as the Proof of Service. And the Copy of the Statement of Bank Account of Operational Creditor where deposits are made or credits are received normally by the Operational Creditor in respect of the Corporate Debtor, reflects that no amount has been received by the Operational Creditor from the Corporate Debtor after the issue of Demand Notice.
- e. The Operational Creditor has times and again, reminded the Corporate Debtor to pay the said outstanding amount but the same has been unpaid till today, also the Operational Creditor has complied with all the mandatory provisions of Section 9 (3) (a), (b) and (c) of



the Insolvency and Bankruptcy Code, 2016. Hence, this petition.

3. Heard Ms. Nisha Hegde, Learned Counsel for the Petitioner. We have carefully perused the pleadings of the party and the extant provisions of Code and the Rules, made thereunder.
4. Ms. Nisha Hegde, Learned Counsel for the Petitioner, submit that the petitioner could not serve notice on the Respondent, in pursuance to the notice ordered by the Tribunal on 25.07.2019, despite their best efforts. Therefore, she urged the Tribunal to permit the Petitioner to withdraw the instant petition with a liberty to file fresh Company petition in future.
5. Since the Petition is not admitted, and the party wanted to withdraw it and the petition cannot be taken judicial notice unless notice served on the other side, we are inclined to permit the Applicant to withdraw the petition by reserving liberty to file fresh Company petition, in accordance with law.
6. In result, C.P.No.256/BB/2019 is disposed of as withdrawn by granting liberty to Petitioner to fresh Company Petition, duly following law. No order as to cost.

(ASHUTOSH CHANDRA)
MEMBER, TECHNICAL

(RAJESWARA RAO VITTANALA)
MEMBER, JUDICIAL