

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

C.P. (IB) No.188/BB/2018  
U/s 9 of IBC, 2016  
R/w Rule 6 of I&B (AAA) Rules, 2016

**In the matter of:**

M/s. C.H. Robinson Worldwide Freight  
India Private Limited  
Regd. Off: SBL House, No.54/28,  
1<sup>st</sup> Floor, Montieth Road, Egmore,  
Chennai – 600 008.

- Petitioner/Operational Creditor

**Versus**

M/s. Supreme Overseas Exports  
India Private Limited  
Regd. Off: 44/1, 16<sup>th</sup> Cross,  
K.R. Road, Jayanagar, 7<sup>th</sup> Block,  
Bangalore – 560 082.

- Respondent/Corporate Debtor

**Date of Order: 05<sup>th</sup> December, 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 : Shri Vignesh Raj

For the Respondent : Shri Prathap K.

**ORDER**

**Per:** Rajeswara Rao Vittanala, Member (J)

1. C.P. (IB) No.188/BB/2018 is filed by M/s. C.H. Robinson Worldwide Freight India Private Limited (hereinafter referred to as 'Petitioner/Operational Creditor') under Section 9 of the IBC, 2016 read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority)

  
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Rules, 2016, by inter alia seeking to initiate Corporate Insolvency Resolution Process against M/s. Supreme Overseas Exports India Private Limited (hereinafter referred to as 'Respondent/Corporate Debtor') on the ground that it has committed default for a total outstanding amount of Rs.89,27,347/- (Rupees Eighty Nine Lakhs Twenty Seven Thousand Three Hundred and Forty Seven Only) along with interest.

2. The case was listed for admission on various dates viz. 26.10.2018, 09.11.2018, 30.11.2018, 17.12.2018, 17.01.2019, 04.02.2019, 18.02.2019, 11.03.2019, 02.04.2019, 24.04.2019, 27.05.2019, 11.06.2019, 25.06.2019, 19.07.2019, 22.07.2019, 07.08.2019, 16.08.2019, 04.09.2019, 30.09.2019, 22.10.2019, 18.11.2019, 29.11.2019 and 05.12.2019. The case stands adjourned on those dates, at the request of parties, on one ground or the other, which includes service of notice, to explore the possibility of settlement of the issue, etc.
3. Heard Shri Vignesh raj, learned Counsel for the Petitioner, Shri Prathap K., learned Counsel for the Respondent. We have carefully perused the pleadings of both the parties and extant provisions of the Code and the Rules made thereunder.
4. Shri Vignesh Raj, learned Counsel for the Petitioner submits that since the issue raised in the instant Company Petition has been settled, the Petitioner wants to withdraw the instant Company Petition unconditionally in terms of the Agreement for Settlement dated 05.12.2019 executed between the parties (which is taken on record), which inter alia, reads as under:

***"1. Settlement Amount***

*1.1 The Corporate Debtor hereby agrees to pay to the Operational Creditor an aggregate sum of Rs.86,00,000/- (Rupees Eighty-Six Lakhs) ("Settlement Amount") which includes amounts payable under freight*

*forwarding, customs invoices and warehousing charges, in freely transferable funds without any deductions and the Operational Creditor has agreed to accept the Settlement Amount from the Corporate Debtor as full and final settlement, subject to the terms mentioned hereunder.*

*1.2 The Corporate Debtor hereby agrees that the Settlement Amount agreed above is on the condition that the Corporate Debtor shall clear all goods stored in the Operational Creditor's warehouse on or before 1 July, 2020.*

*1.3 The Corporate Debtor further agrees that in the event they fail to clear all the goods stored in the Operational Creditor's warehouse by the said date, then the Corporate Debtor shall become due and liable to pay the Operational Creditor an additional sum of USD 650 per month, until such time the Corporate Debtor clears the goods from the Operational Creditor's warehouse.*

## **2. Payment Due Date for payment towards Settlement Amount**

*The Corporate Debtor has agreed to pay the Settlement Amount to the Operational Creditor in monthly instalments by drawing Cheques in favour of C.H. Robinson Worldwide Freight India Pvt. Ltd. The Corporate Debtor undertakes to take all necessary steps to ensure that there are sufficient funds in the account of the Corporate Debtor on each of the payment dates and that the said cheques shall not be dishonoured for any reason.*

## **3. Obligation of the Operational Creditor**

*3.2 The Operational Creditor agrees to release 50% of the goods stored in the warehouse after receiving/realisation of 50% of the Settlement Amount mentioned above. The Operational Creditor further agrees to release the balance goods on receiving/realisation of the balance Settlement Amount.*

## **4. Corporate Debtor Failure to Pay the Settlement Amount/ Perform Obligations**

*4.1 In case, for any reason whatsoever, the Corporate Debtor fails to repay any part of the Settlement Amount, or any additional amount as maybe payable under Clause 1.3 above, to the Operational Creditor or any of the*

*cheques issued by the Corporate Debtor towards repayment of the Settlement Amount is dishonoured on any Payment Due Date, then the Parties mutually agree that the Operational Creditor shall be entitled to revive the Insolvency Petition against Corporate Debtor bearing CP (IB) No. 188/2018 filed before NCLT or file a fresh application under the Insolvency and Bankruptcy Code, 2016 to recover the balance Settlement Amount due as on the date of dishonour, including the amounts that may be payable under Clause 1.3 as detailed above.”*

5. Shri Prathap K., learned Counsel for the Respondent submits that since the Agreement for Settlement is executed between the parties, they have no objection to withdraw the instant Company Petition, and further submits that they will honour all the terms and conditions of payment as mentioned in the Settlement Agreement without fail.
6. Since the Company Petition is not yet admitted, and the parties have settled the issue between themselves, we are inclined to permit the Petitioner to withdraw the instant Company Petition by reserving liberty to the Petitioner, to file fresh Company Petition, in case, the Respondent failed to honour the terms and conditions as mentioned in the said Agreement.
7. In the result, C.P. (IB) No.188/BB/2018 is disposed of as withdrawn by directing the Corporate Debtor to strictly adhere to the terms and conditions of payment as mentioned in the Agreement for Settlement dated 05.12.2019, without fail, failing which, the Petitioner is at liberty to file a fresh Company Petition, in accordance with law. No order as to costs.

**ASHUTOSH CHANDRA  
MEMBER, TECHNICAL**

**RAJESWARA RAO VITTANALA  
MEMBER, JUDICIAL**