

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

C.P(IB) No.263/BB/2019  
U/s 9 of the I&BC, 2016  
R/w Rule 6 of the I&B(AAA) Rules, 2016

**In the matter of:**

**M/s.RDC Concrete (India) Pvt. Ltd**  
37B, Doodanekkundi Industrial Area,  
1<sup>st</sup> Phase, Whitefiled Road,  
Bengaluru – 560 048 - Petitioner/Operational Creditor

**Versus**

**M/s.Sukritha Buildmann Private Limited,**  
Old No.27 (new N.32) Sathyanarayana  
Temple Street Gupta Layout  
Ulsoor, Karnataka  
Bangalore 560 008 - Respondent/Corporate Debtor

**Date of Order: 25<sup>th</sup> October, 2019**

**Coram:** Hon'ble Shri Rajeswara Rao Vittanala, Member (Judicial)

**Parties/Counsels Present:**

For the Petitioner : Shri Ricab Chand  
For the Respondent : Shri Abjijit Atur  
Shri Ashwin B

**ORDER**

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

1. C.P(IB)No.263/BB/2019 is filed by M/s.RDC Concrete (India) Pvt. Ltd, (Petitioner/Operational Creditor) U/s 9 of the I&BC, 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.Sukritha Buildmann Private Limited, (Corporate Debtor), on the ground that the Corporate Debtor has committed a default of Rs.21,00,500/-(Rupees Twenty One Lakhs Fifty thousand Five Hundred Only) along with interest @ 12%.
2. The case is listed for admission on various dates viz. 29.07.2019, 14.08.2019, 20.08.2019, 13.09.2019, 30.09.2019, 18.10.2019 &

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25.10.2019 and it was adjourned on these dates at the request of parties on one ground and the other.

3. Heard Shri Ricab Chand, learned Counsel for Petitioner and Shri Abhijit Atur, learned Counsel for Respondent. I have carefully perused the pleadings of both the parties and extant provisions of Code and the law on the issue.
4. Shri Ricab Chand, learned Counsel for Petitioner submits that issue raised in the instant Company Petition was amicably settled between the parties. Therefore, learned counsel for Petitioner urged the Tribunal to permit the Petitioner to withdraw the instant Company Petition with a liberty to file fresh Company Petition, in case the Respondent failed to honour cheque issue as per the Joint Memo. Both the parties have filed a Joint Memo dated 25.10.2019 (which is taken on record), which reads as under:

*"1. the Petitioner has approached this Tribunal seeking a declaration that the Respondent is insolvent and to pass appropriate orders in furtherance thereof.*

*2. At the instance of well-wishers of both the parties, the matter is amicable settled out of court as per the following terms and conditions:*

*2.1 The Respondent has offered a sum of Rs.7,08,458/- towards the outstanding dues of the Petitioner and has agreed to pay the same in 6 instalments in the manner set out in paragraph 2.2 below. The Respondent has handed over the postdate cheques towards 2<sup>nd</sup> to 6<sup>th</sup> tranche, which is duly acknowledged by the Petitioner.*

*2.2 The 1<sup>st</sup> tranche of Rs.50,000/- will be payable by way of Demand Draft on or before 25<sup>th</sup> October, 2019.*

*2.3 the 2<sup>nd</sup> tranche of Rs.1,50,500/- payable on 30<sup>th</sup> November, 2019 will be paid by way of Cheque No.004323 dated 30 November, 2019*

*2.4 The 3<sup>rd</sup> Tranche of Rs.2,50,000/- payable on 31<sup>st</sup> December, 2019 will be payable by way of Cheque No.004328 dated 31<sup>st</sup> December, 2019*

*2.5 The 4<sup>th</sup> Tranche of Rs. 5,00,000/- payable on 31<sup>st</sup> January, 2020 will be payable by way of Cheque No.004325 dated 31<sup>st</sup> January, 2020.*

*2.6 The 5<sup>th</sup> tranche of Rs.5,00,000/- payable on 20<sup>th</sup> February, 2020 will be payable by way of cheque No.004326 dated 20<sup>th</sup> February, 2020.*

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2.7. The 6<sup>th</sup> and the Final Tranche of Rs.6,50,000/- will be payable on 28<sup>th</sup> February, 2020 by way of Cheque No.004327 dated 28<sup>th</sup> February, 2020.

In the event of Respondent committing default in honouring any of the above mentioned instalments, the Petitioner shall in writing give a further extension of 3 days to make the said payment. In the event the Respondent commits default in payment the entire balance amount will become outstanding and payable immediately and the Petitioner will be entitled to revive the present petition or to file a fresh proceedings. The Petitioner will also be entitled for the entire outstanding amount plus interest @ 1.50% per month or any part-period thereof on the entire outstanding with effect from the default date till the date of actual payment

Wherefore, it is prayed that the Hon'ble Tribunal may be pleased take on record this joint memo and permit the Petitioner to withdraw the above application with liberty to apply in case of default as stated in paragraph 3."

5. Shri Abhijit Atur, learned counsel for Respondent has also affirmed that the above Joint Memo dated 25.10.2019 was executed by the parties and the cheque mentioned therein would be honoured and submitted for clearance without fail. Therefore, he has no objection to withdraw the instant Company Petition.
6. Since the parties have amicably settled the issues between themselves, and the case is yet not admitted by the Tribunal, I am inclined to permit the petitioner to withdraw the instant petition with liberty to file fresh Company Petition, in case the Respondent failed to honour cheque issue as per the settlement.
7. Hence, C.P(IB) No.263/BB/2019 is disposed of as withdrawn by granting liberty to the Petitioner to file a fresh Company Petition in accordance with law, in case, the respondent failed to honour cheques issued as per the above settlement. No order as to costs.

**(RAJESWARA RAO VITTANALA)**  
**MEMBER, JUDICIAL**