

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

C.P.(IB) No.134/2017  
U/s 9 of the I&BC, 2016  
R/w Rule 6 of the I&B (AAA) Rules, 2016

**In the matter of:**

Shri K.R. Prabhu  
No.40, 3<sup>rd</sup> Street,  
Bank Avenue, Babusapalya,  
Bangalore – 560 043.

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Operational Creditor

**Versus**

M/s. Scorpio Engineering Private Limited  
'Scorpio House', 132 Wheeler Road, Cox Town,  
Bangalore – 560 005.

&

M/s. Scorpio Engineering BMH Private Limited  
'Scorpio House', 132 Wheeler Road, Cox Town,  
Bangalore – 560 005.

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Corporate Debtors

**CORAM:** 1) Hon'ble Shri Rajeswara Rao Vittanala, Member (Judicial)  
2) Hon'ble Dr. Ashok Kumar Mishra, Member (Technical)

**Date of Order: September 19, 2018**

**Parties/Counsels Present:**

For the Petitioner : Shri Vikram Phadke

For the Respondent : Ms. Maneesha Kongovi

**ORDER**

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

1. C.P.(IB) No.134/2017 is filed by Shri K.R. Prabhu, u/s 9 of the Insolvency and Bankruptcy Code, 2016 read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, by

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seeking to initiate Corporate Insolvency Resolution Process in the case of M/s. Scorpio Engineering Private Limited and M/s. Scorpio Engineering BMH Private Limited, Bangalore.

2. Brief facts of the case are as follows:

- a. M/s. Scorpio Engineering Private Limited ("Corporate Debtor") was incorporated on 07.10.1986, under the Companies Act, 1956, by Mr. B. Velan and Smt. Meera Velan, who are the only shareholders and Directors of the Company. M/s. Scorpio Engineering BMH Private Limited was also incorporated by the very same persons on 11.12.2012.
- b. Shri K.R. Prabhu, the Operational Creditor joined M/s. Scorpio Engineering Private Limited as Engineer on 28.08.1992 and later promoted to the post of Vice President (Projects). He has tendered resignation on 30.09.2016. Accordingly, he was relieved from the services as an employee on 27.10.2016.
- c. M/s. Scorpio Engineering Private Limited issued the due statement to the Operational Creditor. As the amount due was not paid, the Operational Creditor got issued a Demand Notice dated 27.07.2016. Despite receiving the demand notice, the Corporate Debtor has not paid the outstanding due. Therefore, the Corporate Debtor committed default for a total amount of Rs.34,88,251/-. Hence, the present petition is filed.

3. Heard Shri Vikram Phadke, Learned Counsel for Petitioner, and Ms. Maneesha Kongovi, Learned Counsel for Respondent. Both the Counsels have filed a Joint Memo dated 12.09.2018 (which is taken on record) by, inter alia, stating the following:





- a. "The Corporate Debtor undertakes and shall pay to the Operational Creditor a sum of Rs.23,00,000/- (Rupees Twenty Three Lakhs only) (*hereinafter "the said sum"*) in full and final settlement of all his claims against the Corporate Debtor. The said sum constitutes the following:
- i. Rs.10,00,000/- (Rupees Ten Lakhs only) payable towards gratuity;
  - ii. Rs.8,00,000/- (Rupees Eight Lakhs only) payable towards salary dues; and
  - iii. Rs.5,00,000/- (Rupees Five Lakhs only) payable towards longevity and loyalty appreciation at the discretion of the Management of Corporate Debtor.
- b. The Corporate Debtor undertakes to pay the said sum to the Operational Creditor in installments as per the Schedule below:
- i. Rs.10,00,000/- (Rupees Ten Lakhs only) on 12.09.2018. The Operational Creditor confirms receipt of the said Rs.10,00,000/- by cheque drawn on Indian Overseas Bank, Frazer Town Branch dated 12.09.2018 bearing No.003655;
  - ii. Rs.5,00,000/- (Rupees Five Lakhs only) on 01.04.2019;
  - iii. Rs.5,00,000/- (Rupees Five Lakhs only) on 01.07.2019; and
  - iv. Rs.3,00,000/- (Rupees Three Lakhs only) on 31.08.2019.
- c. The Corporate Debtor undertakes to issue TDS certificate wherever applicable to the Operational Creditor with regard to the said sum."



Both the Learned Counsels, therefore submitted that the Tribunal may dispose of the Company petition, in terms of above Joint Memo.

4. Hence, C.P.(IB) No.134/2017 is disposed of as withdrawn by directing the parties strictly adhere to the terms and conditions contained in the Joint Memo dated 12.09.2018, by reserving liberty to the aggrieved party, to approach this Tribunal by filing miscellaneous application, in accordance with the law.

  
**(Dr. ASHOK KUMAR MISHRA)**  
**MEMBER (TECHNICAL)**

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

Krishna & Raushan