

**In the National Company Law Tribunal
Mumbai Bench, Mumbai**

Company Petition No. TCP 747 I&BC/NCLT/MB/MAH/2017

Under Section 9 of the Insolvency & Bankruptcy Code, 2016

In the matter of :

PIONEER PUBLICITY CORPORATION PRIVATE LIMITED : Petitioner/
Operational Creditor

Versus

TIME KEEPERS THE WATCH BOUTIQUE PRIVATE LIMITED : Respondent/
Operational Debtor.

Order Delivered on : 11.12.2017

CORAM :

SHRI M.K. SHRAWAT, MEMBER (JUDICIAL) &
SHRI BHASKARA PANTULA MOHAN, MEMBER (JUDICIAL)

Represented by:

For the Petitioner : Ms. Vishaki Bhatia, Advocate

For the Respondent : Mr. Kiran Kamal, Advocate.

Per M.K. SHRAWAT, Member (Judicial).

ORDER

1. This Petition is transferred from the Hon'ble High Court where it was numbered as CPL/514/2016. The said Petition was filed under the old provisions of the Companies Act, 1956 under section 433(e) and section 434 of the Companies Act, 1956 for claiming an outstanding **Operational Debt of Rs.1,81,798/- Plus Interest thereon @ 21% per annum up to 28.06.2016 of Rs.1,08,675.36, total Rs.2,90,473.36.**

2. Thereafter the said Petition was transferred to NCLT, Mumbai. Thereupon, complying the provisions of the I&B Code, the Petitioner has filed a fresh Application on requisite Form No.5 before NCLT on **18-04-2017** for the said "Operational Debt" of **Rs.1,81,798/- Plus Interest thereon @ 21% per annum up to 28.06.2016 Rs.1,08,675/-, total Rs.2,90,473/-.**

3. The facts of the case reveals that the Petitioner M/s. Pioneer Publicity Corporation Pvt. Ltd. Andheri (East), Mumbai-400 099 is in the business of providing outdoor publicity mediums in India. The Petitioner owns, manages and maintains several hoardings, Kiosks and other medium of publicity all over India.

4. The main objects of the Respondent Company inter alia are to carry on business of Watch Showroom etc.

5. The Petitioner Creditor states that the Respondent approached them for advertising their client's matters (M/s. Tag Hauer) and displayed the advertisement of the Corporate Debtor (viz. M/s. Time Keepers The Watch Boutique Private Limited, Goregaon (East), Mumbai-400 063), as per their order, on their Lit Kiosk of B.E.S.T. Street lightning Pole at various places in Mumbai. The terms and conditions including the payment terms for displaying the said advertisement were discussed and finalised between the parties. The Petitioner further stated that the Respondent Debtor accepted these services without any demur or remark regarding the quality of the services rendered. The Corporate Debtor agreed to pay the Invoice amount within 15 days, failing which to pay interest @ 21% p.a.

6. The Petitioner raised following Invoices amounting to Rs.1,81,798/- against the Corporate Debtor:-

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No.	Bill No.	Bill Date	Bill amount	O/S Amount
01.	649/Kiosk	13/08/2013	1,60,000/-	1,60,000/-
02.	650/Kiosk	13/08/2013	21,798/-	37,240/-
			1,81,798/-	1,81,798/-

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7. The Petitioner further stated that the Corporate Debtor has confirmed their liability, however, neither made the payment nor raised any "dispute" against the claim of the Corporate Creditor.

8. The Petitioner followed up the matter with the Corporate Debtor and sent several emails for the outstanding amount, however, the Corporate Debtor did not make the payment.

FINDINGS :-

9. Merits of the Petition under consideration filed by the "Operational Creditor" has duly been considered, according to which, the Debtor Company Viz. M/s. Time Keepers The Watch Boutique Private Limited is admittedly an "Operational Debtor" having liability of Debt amount of Rs.1,81,798/- Plus Interest up to 28.06.2016 of Rs.1,08,675.36, totalling to **Rs.2,90,473.36** as indicated in Part-IV of Form No.5. The Petitioner has also stated in Form No.5 that they had served a Legal Notice on the Corporate Debtor on 13.06.2014 demanding the dues. The Form No.5 was served on the Respondent Debtor on **19.04.2017**, the acknowledgement of which was received by the Petitioner on **25-04-2017**.

10. Demand Notice was under section 8 was served upon the Corporate Debtor on 29.07.2017 and refused by the Corporate Debtor on 02.08.2017, as seen from the tracking record of the consignment placed as evidence. The Respondent Debtor had the

opportunity of 10 days to raise objections, if any; however, failed to avail the prescribed time.

11. Considering the totality of the facts and circumstances this Petition now under consideration deserves to be "Admitted".

12. The Petitioner has proposed the name of the Interim Resolution Professional C.A. Mr. Manish Umeshchandra Trivedi, Registration No. IBBI/IPA-001/IP-P00555/2017-18/10985, Registered Office : A-401, Raj Amber, Radhaswami Marg, Next to Reliance Energy, Station Road, Bhayandar West, Dist. Thane - 401101, email: mtrivediandasso@gmail.com. The so appointed Insolvency Professional has furnished the requisite Certificate on Form No.2 dated 09.11.2017 that no Disciplinary Proceeding is pending against him. Upon Admission of the Application and Declaration of "Moratorium" the Insolvency Process such as Public Announcement etc. shall be made immediately as prescribed under section 13 read with section 15 of The Code. He shall perform the duties as an Interim Resolution professional as defined under section 18 of The Code and inform the progress of the Resolution Plan and the compliance of the directions of this Order within 30 days to this Bench. A liberty is granted to intimate even at an early date, if need be. The IRP shall submit the Resolution Plan for approval as prescribed under section 31 of The Code.

12.1 The appointed IRP shall perform the duties as defined under section 18 of the Code. He shall also submit the resolution plan for approval as prescribed under section 31 of the Code. Having considered the totality of the circumstances and the Petition for initiation of Insolvency Resolution Process under the I&BP Code, 2016 and having considered the default of the Corporate Debtor in making the payment as discussed *supra*, it is hereby pronounced that the "Moratorium" as prescribed under Section 14 of the Code 2016 shall come into operation. As a result, institution of any suit or parallel Proceedings before any Court of Law are prohibited. The assets of the Debtor must not be liquidated until the Insolvency Process is completed. However, the supply of essential goods or services to the Corporate Debtor shall not be suspended or interrupted during "Moratorium Period". This direction shall have effect from the date of this Order till the completion of Insolvency Resolution process.

13. Accordingly, this **TCP 747/I & BP/NCLT/MAH/2017** stood Admitted.

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14. The Corporate Insolvency Resolution Process is commenced from the date of this order.

Sd/-

BHASKARA PANTULA MOHAN
Member (Judicial)

Date : 11.12.2017.

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Sd/-

M.K. SHRAWAT
Member (Judicial)