

**NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH (COURT-I)
CHENNAI**

ATTENDANCE CUM ORDER SHEET OF THE HEARING OF CHENNAI BENCH,
NATIONAL COMPANY LAW TRIBUNAL, HELD ON **11.02.2021 at 2.00 PM**
THROUGH VIDEO CONFERENCING

**PRESENT: SHRI R. VARADHARAJAN, MEMBER (JUDICIAL)
SHRI ANIL KUMAR B, MEMBER (TECHNICAL)**

APPLICATION NUMBER :
PETITION NUMBER : IBA/562/2019
NAME OF THE APPLICANT : Skyrams Outdoor Advertisings India Pvt Ltd
NAME OF THE RESPONDENT : Weei Boo India Enterprises Pvt Ltd
UNDER SECTION : 9 of IBC, 2016

**IN THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH – I, CHENNAI**

IBA/562/2019 under Section
9 Rule 6 of the Insolvency and
Bankruptcy (Application to
Adjudicating Authority) Rules,
2016

In the matter of **M/s. WEEI BOO INDIA ENTERPRISES
PRIVATE LIMITED**

**M/s. SKYRAMS OUTDOOR ADVERTISINGS INDIA PRIVATE
LIMITED,**

having its Office at
No.15 & 17, Lalith Towers,
1st Floor, GST Road, Alandur,
CHENNAI – 600 016.

Represented by its Director /
Authorized Signatory,

Mr. Damodaran Siddharthan. ... *Petitioner / Operational Creditor*

-Vs-

M/s. WEEI BOO INDIA ENTERPRISES PRIVATE LIMITED,

having its registered office at,
13, Pothigai Nagar, Solipalayam Road,
15, Velampalayam, Tirupur,

Coimbatore – 641 652. ... *Respondent / Corporate Debtor*

CORAM :

**R. VARADHARAJAN, MEMBER (JUDICIAL)
ANIL KUMAR B, MEMBER (TECHNICAL)**

For Petitioner / Operational Creditor : Mr. Arul Raj M, Advocate

ORDER

Per: R. VARADHARAJAN, MEMBER (JUDICIAL)



Order Dictated In The Open Court ON 11.02.2021

1. Learned Counsel for the Petitioner Mr. Arul Raj M, appears through video conferencing platform. None appears for the Corporate Debtor. In relation to the directions issued by this Tribunal dated 23.12.2020, Learned Counsel for Petitioner represents that filing has been done vide SR No.306 dated 18.01.2021 which is also available on record. Since consistently the Corporate Debtor has been not putting appearance before this Tribunal, this Tribunal was constrained to proceed with the matter in the absence of the Corporate Debtor and Learned Counsel for the Petitioner was heard.

2. Learned Counsel for the Petitioner submitted that the Corporate Debtor is engaged in the business of textile and that the Applicant / Petitioner / Operational Creditor is engaged in the business of erecting advertisement hoardings. Learned Counsel for Petitioner also points out Part II of the Application from which it is seen that the Corporate Debtor was incorporated on 20.11.2015 and the authorized and paid up capital of the Corporate Debtor is reflected as Rs.10,00,000/-. The Registered office address of the Corporate Debtor is stated to be situated at No.13, Pothigai Nagar, Solipalayam Road, 15 Velampalayam, Tirupur, Coimbatore 641 652. It is also pointed by the Petitioner that the address reflected

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in the Master Data in relation to the Registered Office address correlates with that given in the Petition / Application under Part II.

3. From the master data which it is seen is placed at page No.22 of the typed set as Annexure II (1) perusal of which also discloses that the following persons have been figuring as the Directors of the Corporate Debtor viz., Velusamy Maniraj and Manikandan Shanthi.

4. The claim of the Operational Creditor is reflected in Part IV of the Application wherein the total sum claimed is to the extent of Rs.10,75,293/- which includes principal amount in a sum of Rs.9,88,513/- and interest in a sum of Rs.86,780/-. The claim arises out of invoices which have been raised by the Operational Creditor upon the Corporate Debtor and the details of the invoices are as follows:-

Sl.No.	Date of Invoice	Invoice Number
1.	30.06.2018	SKYCB/251/18-19
2.	31.07.2018	SKYCB/299/18-19
3.	31.08.2018	SKYCB/383/18-19
4.	29.09.2018	SKYCB/446/18-19

5. The invoices are annexed as Annexure II (4). The purchase orders placed by the Corporate Debtor upon the Operational



Creditor has also been annexed as Annexure II (3) of the typed set filed along with the Petition.

6. In relation to each of the invoices a Schedule of Interest Computation has also been given at Page No.42 of the typed set of the Application vide Annexure II (6) and at Page No.43 the summary of the Statement of Account has been given from which it is evident that a sum of Rs.10,30,778/- has been reflected therein.

7. It is pointed out by Learned Counsel for the Petitioner / Operational Creditor that demand notice has been annexed at Page No.11 with the typed set filed along with the Application in Form 3 for a sum of Rs.10,39,552/- which has been claimed from the Corporate Debtor.

8. It is evident from the Affidavit filed vide diary No.306 dated 18.01.2021, the said demand notice seems to have been duly served upon the registered office address of the Corporate Debtor as reflected in the master data which is available at Page No.22 of the typed set.

9. In view of the non-payment of the amount claimed, it is seen that the Petitioner has filed this Application before this Tribunal as an Operational Creditor seeking for the initiation of the Corporate Insolvency Resolution Process (CIRP) of the Corporate Debtor



under the provisions of Insolvency & Bankruptcy Code, 2016 (IBC, 2016).

10. It is further seen from the record of the proceedings that the Operational Creditor has not been successful in serving the Application upon the Corporate Debtor's registered office address even though there seems to be no change in the registered office address of the Corporate Debtor as reflected in the master data being brought to the notice of this Tribunal by the concerned Registrar of Companies as evident from the report filed by the RoC. Even though in the report it is mentioned that the address reflected in the master data is the residential address of the Director of the Corporate Debtor and that his family is residing. However, the family members present there pleaded that they were not aware of the whereabouts of the Directors viz., Velusamy Maniraj and Manikandan Shanthi.

11. Upon insistence of the Petitioner, it is seen from the record of the proceedings that substituted service was also ordered in relation to the Corporate Debtor and the same seems to have been effected in 'Times of India' and 'Dina Thanthi' dated 1.11.2019. Despite efforts made by the Petitioner to serve the Corporate Debtor at the Registered Office address of which there seems to be no change intimated to the RoC. It is required to be hence presumed that the Corporate Debtor is functioning from the said



address as held by the Hon'ble NCLAT vide Company Appeal (AT) (Insolvency) No.608 of 2020 dated 5th February 2021 in the matter of Ashok Agarwal –Vs- Amitex Polymers Private Limited.

12. Hence, it is deemed that the service is complete in serving to the Corporate Debtor at the said address. In addition efforts have also been made as pointed out by the Learned Counsel for the Petitioner to effect service through substituted service and this Tribunal is required to presume that despite the Corporate Debtor in the know of the Petition pending before this Tribunal has chosen to avoid for reasons best known to it.

13. The claim of the Petitioner is reflected in the invoices. This seems to be not paid by the Corporate Debtor in the absence of any evidence placed to the contrary. Perusal of the Petition shows that in Part III of the Petition, the Petitioner has not chosen to propose any name of the Interim Resolution Professional (IRP) in case if the Corporate Insolvency Resolution Process (CIRP) is initiated by this Tribunal.

14. Taking into consideration the facts the claim of the Operational Creditor stand established as against the Corporate Debtor, hence we are constrained to **admit this Petition** and thereby initiate the Corporate Insolvency Resolution Process (CIRP) in relation to the Corporate Debtor with the following consequences. Since the Petition has been filed prior to

24.03.2020, this Tribunal has the pecuniary jurisdiction to entertain this Petition being in excess of Rs.1,00,000/-.

15. Since the Operational Creditor has not named the Insolvency Resolution Professional, this Tribunal based on the list furnished by Insolvency and Bankruptcy Board of India appoints **Mr. S.S. Ravichandran, IBBI/IPA-001/IP-P01044/2017-2018/11717 ssribc@gmail.com** as the "Interim Resolution Professional" subject to the condition that no disciplinary proceedings are pending against such an Interim Resolution Professional named and disclosures as required under IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 are made within a period of one week from the date of this order. As a consequence of the Application being admitted in terms of Section 9 (5) of the Code, the moratorium as envisaged under the provisions of Section 14(1) and as extracted hereunder shall follow in relation to the Corporate Debtor:

- a. The institution of suits or continuation of pending suits or proceedings against the respondent including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;
- b. Transferring, encumbering, alienating or disposing of by the respondent any of its assets or any legal right or beneficial interest therein;



c. Any action to foreclose, recover or enforce any security interest created by the respondent in respect of its property including any action under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;

d. The recovery of any property by an owner or lessor where such property is occupied by or in the possession of the respondent.

16. However, during the pendency of the moratorium period in terms of Section 14(2) and 14(3) as extracted hereunder:

(2) The supply of essential goods or services to the Corporate Debtor as may be specified shall not be terminated or suspended or interrupted during moratorium period.

(3) The provisions of sub-section (1) shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.

17. The duration of the period of moratorium shall be as provided in Section 14(4) of the Code and for ready reference reproduced as follows:

(4) The order of moratorium shall have effect from the date of such order till the completion of the Corporate Insolvency Resolution Process:



Provided that where at any time during the Corporate Insolvency Resolution Process period, if the

Adjudicating Authority approves the Resolution Plan under sub-Section (1) of Section 31 or passes an order for liquidation of Corporate Debtor under Section 33, the moratorium shall cease to have effect from the date of such approval or Liquidation Order, as the case may be.

18. The Operational Creditor is directed to pay a sum of Rs.2,00,000/- (Rupees Two Lakhs Only) to the Interim Resolution Professional upon the Interim Resolution Professional filing the necessary declaration form as required under the provisions of the Code to meet out the expenses to perform the functions assigned to her in accordance to Regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

19. The IRP shall comply with the provisions of Sections 13 (2), 15, 17 & 18 of the I&B Code. The directors of the Corporate Debtor, its promoters or any person associated with the Management of the Corporate Debtor are/is directed to extend all assistance and cooperation to the IRP as stipulated under Section 19, so that he could discharge his functions under Section 20 of the I&B Code, 2016.



20. The Operational Creditor and the Registry are directed to send the copy of this Order to IRP, so that he could take charge of the Corporate Debtor's assets etc., and make compliance with this Order as per the provisions of I&B Code, 2016.

-SD-
(ANIL KUMAR B)
MEMBER (TECHNICAL)

-SD-
(R.VARADHARAJAN)
MEMBER (JUDICIAL)