

**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 **22.03.2021 at 2.00 P.M**
THROUGH VIDEO CONFERENCING

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

IA/MA/IBA/TCP/TCA/CP/CA No : IBA/407/2020
NAME OF PETITIONER : P Saravana Kumar
NAME OF RESPONDENT : Wee Winn Tex Processor India Pvt Ltd
SECTION : Sec 9 Of IBC 2016

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

IBA/407/2020 under Section 9 Rule 6 of the Insolvency and
Bankruptcy (Application to Adjudicating Authority) Rules, 2016

In the matter of **M/s. WEEWINN TEX PROCESSORR (INDIA)
PRIVATE LIMITED**

M/s. P. Saravana Kumar,

Sole Proprietor, Mars Saales Corporation,

45/14, Vivekananthar Salai,

Nasiyanoor Main Road, Vettukattu Valasu,

Erode – 638 011.

... *Petitioner / Operational Creditor*

-Vs-

M/s. Weewinn Tex Processorr (India) Private Limited,

No.1455, K.K. Nagar,

5th Street, Vasavi College Post,

Erode – 638 316.

Also to

i) 40b, Pudur Perumapalayam,
NH-7, Near Cauvery Bridge,
Komarapalayam – 638 183.

ii) No.J 36 A & J 36 B,
Sipco Industrial Estate,
Perundurai – 638 052 ... *Respondent / Corporate Debtor*

CORAM :

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

*For Petitioner /
Operational Creditor*

: Ms. Perna Khatri
of A.K. Mylsami & Associates

 For Respondent

: Mr. K. Maheswaran

ORDER DICTATED IN OPEN COURT ON 22.03.2021

Per: R. VARADHARAJAN, MEMBER (JUDICIAL)

1. This is an Application moved by the Applicant in the capacity of Operational Creditor.
2. Subsequent to the directions issued by this Tribunal vide order dated 01.03.2021 it is represented by Learned Counsel for the Corporate Debtor that the Corporate Debtor is not in a position to honour the claim and in this regard an affidavit has been filed vide S.R.No.1524 dated 19.03.2021. The Affidavit has been verified by the Managing Director of the Corporate Debtor viz., one Mr. S. Aruldaas.
3. Perusal of the said Affidavit shows that the Corporate Debtor is not in a position to honour the claim of the Petitioner and seeks to initiate CIRP against the Corporate Debtor.
4. Taking into consideration the said representation made by Learned Counsel for Petitioner and the statement as made in the Affidavit filed, the Petition stands admitted and thereby CIRP against the Corporate Debtor stands initiated in view of the claim being admitted in a sum of Rs.2,85,572/-.
5. It is seen from the records of this Tribunal that the Petition is filed on 2nd February 2020 before this Tribunal. In the circumstances, threshold limit as fixed by the issue of Notification by the Central Government under Section 4 of IBC, 2016 enhancing threshold limit from Rs.1 lakh to Rs.1 Crore will not

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apply to this Petition. Further the moratorium granted in relation to filing of Section 7, 9 and 10 of IBC, 2016 pursuant to the amendment carried out in the IBC, 2016 by insertion of Section 10 A of IBC, 2016 will also not apply as it is seen that the default has arisen much prior to it.

6. As no name of the IRP has been proposed under Part III of the Petition, Mr. S. Kangayan, IBBI/IPA-002/IP-N00866/2019-2020/12770 Registered E-Mail ID kangayan.s@gmail.com is appointed as the Interim Resolution Professional in relation to the Corporate Debtor 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.

Explanation.-For the purposes of this sub-section, it is hereby clarified that notwithstanding anything contained in any other law for the time being in force, a licence, permit, registration, quota, concession, clearance or a similar grant or right given by the Central Government, State Government, local authority, sectoral regulator or any other authority constituted under any other law for the time being in force, shall not be suspended or terminated on the grounds of insolvency, subject to the condition that there is no default in payment of current dues arising for the use or continuation of the license or a similar grant or right during moratorium period;

7. However, during the pendency of the moratorium period in terms of Section 14(2) (2A) 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.

(2A) Where the interim resolution professional or resolution professional, as the case may be, considers the supply of goods or services critical to protect and preserve the value of the Corporate Debtor and manage the operations of such Corporate Debtor as a going concern, then the supply of such goods or services shall not be terminated, suspended or interrupted during the period of moratorium, except where such Corporate Debtor has not paid dues arising from such supply during the moratorium period or in such circumstances as may be specified.

(3) The provisions of sub-section (1) shall not apply to

(a) such transactions, agreements or other arrangement as may be notified by the Central Government in consultation with any financial sector regulator or any other authority;

(b) a surety in a contract of guarantee to a corporate debtor.

8. 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.

9. 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.

10. 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.

11. 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.

12. Under the above circumstances, this Petition stands **admitted.**

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(ANIL KUMAR B)
MEMBER (TECHNICAL)

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-SD-

(R.VARADHARAJAN)
MEMBER (JUDICIAL)

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