In the National Company Law Tribunal
Mumbai Bench.

TCP No.745/I&BC/NCLT/MB/MAH/2017

Under Section 9 of Insolvency & Bankruptcy Code 2016

In the matter of

M/s. Pioneer Publicity Corporation Pvt. Ltd. : Petitioner

V/s

M/s. Meltwater Creative Communication Private Limited : Respondent

Order delivered on: 11.12.2017

Coram:

Hon'ble Shri M.K. Shrawat, Member (Judicial)
Hon'ble Shri Bhaskara Pantula Mohan (Judicial)

Present:
For the Petitioner(s): : 1. Mrs. Vishaki Bhatia, Advocate,
i/b Ajay Law Associates.

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

ORDER

1. This Petition is transferred from the Hon'ble High Court where it was numbered as CPL/518 of 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.2,85,160/- Plus Interest thereon up to 28.06.2016 amounting to Rs.1,58,966.69, total Rs.4,44,126.69.**

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.2,85,160/- Plus Interest thereon up to 28.06.2016 amounting to Rs.1,58,966.69, total Rs.4,44,126.69.**

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 media 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 Hotel Industries, etc., having its registered office at Bunglow No.3, 1st Floor, SVP Nagar,

Mhada, Behind Mhada Telephone Exchange, Opp. Corporation Bank, Andheri (West), Mumbai-400053.

5. As per the orders and requirements of Respondent, the Petitioners displayed the products of Respondent from time to time at an agreed terms and conditions. The Petitioner stated that the terms and conditions of displaying the products were mutually discussed and agreed between the parties and the said terms and conditions including interest at the rate of 21% per annum were duly quoted in the Invoices furnished to Respondent for all the advertisement of products made to them.

6. The Petitioner stated that the Respondent accepted those services provided by Petitioner without any demur or remarks with regard to quantity or quality of the services. He further stated that in respect of these services, the Petitioner raised on the Respondent the following 7 invoices aggregating to ₹3,42,000/- :-

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No.	*Bill No.*	*Bill Date*	*Bill amount*	*O/S Amount*
01.	*703/Kiosk*	*23-08-2013*	*1,14,000/-*	*1,11,720/-*
02.	*704/Kiosk*	*23-08-2013*	*38,000/-*	*37,240/-*
03.	*770/Kiosk*	*12-09-2013*	*38,000/-*	*37,240/-*
04.	*1137/Kiosk*	*22-11-2013*	*38,000/-*	*37,240/-*
05.	*1138/Kiosk*	*22-11-2013*	*38,000/-*	*37,240/-*
06.	*1215/Kiosk*	*12-12-2013*	*38,000/-*	*37,240/-*
07.	*1457/Kiosk*	*17-01-2014*	*38,000/-*	*37,240/-*
	Total		***3,42,000/-***	***2,85,160/-***

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However, after deducting TDS by the Respondent, the outstanding amount was reduced to ₹2,85,160/-.

7. The Petitioner stated that as per the agreed terms of payment, the Respondent had agreed to make the payment of each invoice amount within 15 days of its receipt, failing which to pay interest @ 21% per annum.

8. The Respondent had issued two cheques bearing Nos.798879 dated 30.09.2015 for ₹1 lakh and No.798880 dated 30/10/2015 for ₹73,440/- respectively drawn on ICICI Bank to the Petitioner, however, both cheques were dishonoured and one cheque was returned with the remarks "funds insufficient" vide cheque return memo dated 03.10.2015.

9. The Petitioner stated that the Respondent is indebted to him a principal sum of ₹2,85,160/- plus interest thereon at the rate of 18% per annum amounting to ₹.1,58,966.69, calculated from the due date of Invoices till the date of this Petition, totalling to ₹4,44,126.69.

FINDINGS

10. Merits of the Petition under consideration filed by the "Operational Creditor" has duly been considered, according to which, the Debtor Company Viz. M/s. Meltwater Creative Communication Private Limited is an "Operational Debtor" having a liability of Debt amount of ₹2,85,160/- Plus Interest of ₹.1,58,966.69, totalling to ₹4,44,126.69 as indicated in Part-IV of Form No.5. The Petitioner has also stated in Form No.5 that they had served a Statutory winding up notice dated 25.11.2015 on the Corporate Debtor on demanding the dues. Copy of the Company Petition was sent on 4th July 2016 on the address of the Respondent, however, the same was returned by the Postal authorities with remark "unclaimed". Similarly, Form No.5 was served on the Respondent Debtor on 20.04.2017 on the address of the Corporate Debtor, but was returned with postal remark "left" on 21.04.2017.

11. Demand Notice was under section 8 was served upon the Corporate Debtor on 29.07.2017; however, "**Refused**" but returned with the remark "**left**". The Respondent Debtor had the opportunity of 10 days to raise objections, if any; however, failed to avail the prescribed time.

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

13. 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.

13.1 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.

14. Accordingly, this **TCP 745/I & BP/NCLT/MAH/2017 stood** Admitted.

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

Sd/-

BHASKARA PANTULA MOHAN
Member (Judicial)

Sd/-

M.K. SHRAWAT
Member (Judicial)

Date : 11.12.2017.
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