

NCLT, KOCHI BENCH

Daily Orders – Draft

In the Bench of: Shri Ashok Kumar Borah, Member (Judicial)

Date: 3rd Dec 2020

1 MA/142/KOB/2020 IN TIBA/03/KOB/2019

Learned counsel for the Applicants Shri Sandeep Gopalakrishnan as well as learned counsel for the RP Shri Vinod PV appeared through VC. Orders pronounced. **MA/142/KOB/2020 IN TIBA/03/KOB/2019 is disposed of vide separate order.**

2 MA/152/KOB/2020 IN TIBA/03/KOB/2019

Learned counsel for the Applicants Shri Sandeep Gopalakrishnan as well as learned counsel for the RP Shri Vinod PV appeared through VC. Orders pronounced. **MA/152/KOB/2020 IN TIBA/03/KOB/2019 is disposed of vide separate order.**

3 MA/153/KOB/2020 IN TIBA/03/KOB/2019

Learned counsel for the Applicants Shri Sandeep Gopalakrishnan as well as learned counsel for the RP Shri Vinod PV appeared through VC. Orders pronounced. **MA/153/KOB/2020 IN TIBA/03/KOB/2019 is disposed of vide separate order.**

4 MA/154/KOB/2020 IN TIBA/03/KOB/2019

Learned counsel for the Applicants Shri Sandeep Gopalakrishnan as well as learned counsel for the RP Shri Vinod PV appeared through VC. Orders pronounced. **MA/154/KOB/2020 IN TIBA/03/KOB/2019 is disposed of vide separate order.**

5 MA/155/KOB/2020 IN TIBA/03/KOB/2019

Learned counsel for the Applicants Shri Sandeep Gopalakrishnan as well as learned counsel for the RP Shri Vinod PV appeared through VC. Orders pronounced. **MA/155/KOB/2020 IN TIBA/03/KOB/2019 is disposed of vide separate order.**

6 MA/156/KOB/2020 IN TIBA/03/KOB/2019

Learned counsel for the Applicants Shri Sandeep Gopalakrishnan as well as learned counsel for the RP Shri Vinod PV appeared through VC. Orders pronounced. **MA/156/KOB/2020 IN TIBA/03/KOB/2019 is disposed of vide separate order.**

7 MA/157/KOB/2020 IN TIBA/03/KOB/2019

Learned counsel for the Applicants Shri Sandeep Gopalakrishnan as well as learned counsel for the RP Shri Vinod PV appeared through VC. Orders pronounced. **MA/157/KOB/2020 IN TIBA/03/KOB/2019 is disposed of vide separate order.**

8 MA/165/KOB/2020 IN TIBA/03/KOB/2019

Learned counsel for the Applicants Shri Sandeep Gopalakrishnan as well as learned counsel for the RP Shri Vinod PV appeared through VC. Orders pronounced. **MA/165/KOB/2020 IN TIBA/03/KOB/2019 is disposed of vide separate order.**

9 MA/173/KOB/2020 IN TIBA/03/KOB/2019

Learned counsel for the Applicants Shri Sandeep Gopalakrishnan as well as learned counsel for the RP Shri Vinod PV appeared through VC. Orders pronounced. **MA/173/KOB/2020 IN TIBA/03/KOB/2019 is disposed of vide separate order.**

10 MA/183/KOB/2020 IN TIBA/03/KOB/2019

Learned counsel for the Applicants Shri Sandeep Gopalakrishnan appeared through VC. Learned counsel for RP Shri Vinod PV also appeared through VC. Learned counsel for the Applicants submitted that the applicants were contract workers of the CD. He alleged that the land value comprising of around 700 acres where the Company is situated had not been included in the Memorandum of Information. He also sought an Interim Order as prayed in the MA. Learned counsel for the RP submitted that he will file the counter within a week. The Bench directed the learned counsel for RP to comment on the allegation of non-inclusion of the land value in his counter as mentioned by the applicant. **List on 4.01.2021.**

11 MA/185/KOB/2020 IN TIBA/03/KOB/2019

Learned counsel for the Applicants Shri Sandeep Gopalakrishnan appeared through VC. Learned counsel for RP Shri Vinod PV also appeared through VC. Learned counsel for the Applicants submitted that the applicants were contract workers of the Company. He alleged that the land value comprising of around 700 acres where the

Company is situated had not been included in the Memorandum of Information. He also sought an interim relief as prayed in the MA. Learned counsel for the RP submitted that he will file the counter within a week. The Bench directed the learned counsel for RP to comment on the allegation of non-inclusion of the land value in his counter as mentioned by the applicant. **List on 4.01.2021.**

12 CA/99/KOB/2020

Learned PCS for the Appellant Shri Abhishek Chhajed appeared through VC. The Bench observed that the copy of IT return has not been filed along with the Appeal. Learned counsel for the Appellant submitted that the Company has not filed the IT return for the last 3 years. He further submitted that he will file copies of the IT returns within a week. He may do so. Report of the ROC is on record. **Reserved for orders. List for pronouncement of orders on 18.12.2020.**

13 CP(CAA)/07/KOB/2020 in connection with CA(CAA)/06/KOB/2020

Learned counsel for the Petitioner Shri Ameerul Millath appeared through VC. Report of ROC dated 4.11.2020 and report of the Official Liquidator dated 18.11.2020 are on record.

ROC in his report submitted that the Regional Director, being the competent authority by virtue of the powers delegated to him by the Central Government had examined the Scheme with reference to the material papers made available to him and accordingly decided not to make any objection to the Scheme of Amalgamation except for a direction to the Transferee Company to comply with the provisions of Section 232(3)(i) of the Companies Act, 2013 for merger of Authorized Share Capital of the Transferor Company with Transferee Company also to file the amended MoA and AoA with jurisdictional Registrar of Companies.

The Official Liquidator in his report stated that upon perusal of the report submitted by the Chartered Accountant and subject to the observations and comments made by the Chartered Accountant in his scrutiny report, the OL is of the opinion that the affairs of the transferor company involved in the Scheme of Amalgamation have not been conducted in a manner prejudicial to the interests of its members or to public interest.

Therefore, it appears that the ROC as well as OL do not have any objection in the Scheme of Amalgamation filed by the Petitioners.

The Petitioner Companies are directed to make paper publication in English daily Indian Express and Malayalam Daily Mathrubhoomi as provided under Rule 16 of the Companies (Compromise, Arrangements and Amalgamation) Rules 2016 and submit copy of newspaper publication with an affidavit before this Tribunal within two weeks. **List on 4.1.2021 for final hearing.**

14 MA/186/KOB/2020 IN MA/113/KOB/2020 IN TIBA/9/KOB/2019

Learned counsel for the RP/Applicant Shri Vijay V Paul appeared through VC. Shri Dharnik Shah, Senior Vice President of the Resolution Applicant Company M/s. Invent Assets Securitisation and Reconstruction Pvt Ltd also appeared through VC. This MA is filed by the RP seeking order from this Tribunal to liquidate the Corporate Debtor and to direct the Resolution Applicant (R1) to pay Rs.1,00,000/- as remuneration to the Chairman, Monitoring Committee, as per the agreed terms, in view of the fact that the Resolution Applicant is not willing to implement the approved resolution plan. Shri Dharnik Shah submitted that the implementation of the Resolution Plan is not possible in view of the RBI regulations and SARFAESI Act 2002. So, he requested to refund the EMD of Rs.25,00,000/-. His submission is recorded. He may file an IA for refund of EMD stating clearly the facts and circumstances of his withdrawal from the Resolution Plan, with advance copy served to the RP. The RP may file his counter to the proposed IA of the RA before the next date fixed.

Learned counsel for the RP submitted that since the prayers (i) and (ii) in the MA are of statutory requirements with regard to CIR Process, the same may be taken up separately.

After hearing both parties and also perusing the records, I think it is better to list this MA along with the proposed IA of the RA.

Registry is directed to list this **MA/186/KOB/2020 IN MA/113/KOB/2020 IN TIBA/9/KOB/2019 along with the IA proposed by the Resolution Applicant (if filed) on 5.1.2021.**

15 MA/188/KOB/2020 IN IBA/21/KOB/2020

Learned counsel for the Applicant/CD Shri Vishnu Hari K appeared through VC. None has appeared for the OC. Withdrawal memo filed in Form FA duly signed by the OC through the IRP has been considered. **MA/188/KOB/2020 in IBA/21/KOB/2020 stands disposed of accordingly. IBA/21/KOB/2020 is also disposed of as Withdrawn vide separate order.**

16 IA/202/KOB/2020 IN IBA/21/KOB/2019

Learned RP Shri Jasin Jose appeared through VC. This application is filed under section 30(6) of CIRP Regulation by the Resolution Professional for approval of Resolution Plan under Section 31 of IBC, 2016. Heard and perused the records. Orders reserved. **List for pronouncement of orders on 8.1.2021.**

17 MA/145/KOB/2020 IN MA/05/KOB/2020 IN TIBA/01/KOB/2019

Learned Liquidator Shri Shawn Jeff Christopher as well as learned counsel for the suspended Director Shri Simod Sivan K appeared through VC. Heard and perused the records including the Counter filed by the Suspended Director Shri Reji Sivankutty on behalf of the Corporate Debtor. **MA/145/KOB/2020 IN MA/05/KOB/2020 IN TIBA/01/KOB/2019 is disposed of vide separate sheets.**

18 TCP/58/KOB/19 (TCP/235/17)

Learned counsel for the Petitioners Smt. S.Manjula Devi submitted an email seeking adjournment stating that Respondents have preferred an appeal and the Appellants as well as the Respondents in the appeal are parties to this Company Petition. There are two appeals pending before NCLAT, ie. CA(AT) 82 of 2020 and CA(AT) 98 of 2020. Learned counsel for Respondents Shri K. Manoj Menon submitted an email stating his willingness to appear through VC. **Adjourned to 25.01.2021.**

19 IA/92/KOB/2020 IN CP/127/KOB/2019

Learned counsel for the applicants Shri Easwar, learned counsel for R4 Shri Gokul RI and learned counsel for R5 Shri Zibi Jose appeared through VC. Learned counsel for R5 submitted that he has not yet received the copy of the impleading petition. On the other hand, learned counsel for the Applicants submitted that he will serve copy of the petition and the counter therein along with the Impleading Petition to the learned counsel for R5 within a week. **List on 6.1.2021 for hearing.**

20 CP/33/KOB/2020

Learned PCS for the petitioner Shri Arun K. Kamalolbhavan submitted an email seeking an adjournment to enable him to submit the Amendment Petition. No response from the Respondents. **Adjourned to 25.1.2021.**

21 TCAA/4&5/KOB/19

Learned counsel for the Applicants Shri Pranoy Harilal appeared through VC. He submitted that the Authorised signatory, who resides at Calicut, has put his signature in the reply affidavit and he filed the same before the Registry today. But it has not been placed before the Bench. Anyway, next date fixed for hearing. **List on 12.1.2021.**

22 CP(CAA)/01/(KOB)/2020

Learned counsel for the Petitioner Smt Telma Raju appeared through VC. She submitted that she has got information that the Report of RD has already reached at

the office of ROC and ROC may file the Report shortly. The submission of Smt Telma is recorded. **List on 14.12.2020 for hearing.**

23 CP(CAA)/02/(KOB)/2020

Learned counsel for the Petitioner Smt Telma Raju appeared through VC. She submitted that she has got information that the Report of RD has already reached at the office of ROC and ROC may file the Report shortly. The submission of Smt Telma is recorded. List on **14.12.2020 for hearing.**