

***NCLT, KOCHI BENCH*****Daily Orders – Draft**

Date: 9<sup>th</sup> August 2021

In the Bench of: **Shri Ashok Kumar Borah, Member (Judicial) &  
Shri Rajesh Sharma, Member (Technical)**

**1 CA(CA)/81/KOB/2021 IN CP/46/KOB/2020**

Learned counsel for the applicant Shri P.P.Zibi Jose as well as Shri Ramesh, Asst ROC, representing ROC appeared through VC.

This is an IA filed under Rule 32 and 153 read with Rule 11 of NCLT Rules, 2016 praying to enlarge the time mentioned in the Order of this Tribunal dated 27.04.2021.

The representative of ROC stated that they have not received the hard copy of the application.

The applicant is directed to submit the hard copy of the application to the ROC within two days and ROC may submit his reply to the application at least two days before the next date of hearing.

**List on 16.08.2021 for hearing.**

**2 IA(IBC)/121/KOB/2021 IN IBA/22&23/KOB/2020**

Learned IRP Shri Renahan Vamakesan appeared through VC. This is an application filed by the IRP seeking direction to the Operational Creditors to make the CIRP costs of Rs.1,87,768/-.

The IRP submitted that having admitted the CIRP on 23.03.2021 and instructed the OC to remit an amount of Rs.2.00 lakhs immediately to IRP as part of CIRP expenses, the OC has neither remitted the above amount nor filed any claims before the IRP.

Registry reported that IRP has filed a report in this matter and the same is listed on 10.08.2021.

**Hence list this matter on 10.08.2021 along with the aforesaid report of the IRP.**

### 3 IA(IBC)/120/KOB/2021 IN IBA/240/(IB)/2019/CHENNAI BENCH

Learned liquidator Shri Mahalingam Suresh Kumar appeared through VC along with his learned counsel Shri A.G.Sathyanarayana.

The liquidator submitted that although the liquidation order was passed on 16.12.2019, the actual process of liquidation commenced only after appointment of the Liquidator on 07.02.2020 after IBBI confirmation resulting in loss of 54 days.

In the meantime, nationwide Covid-19 lock down was announced which resulted in the stalling the liquidation process and also during the lock down an application was filed by District Magistrate to take the CD's Healthcare Centre for Covid-19 purpose and the same was allowed for 60 days by this Tribunal vide order dated 15.05.2020. And again, this Tribunal has allowed an application which was filed by the District Magistrate, Kottayam to take over the CD's Healthcare Centre for Covid-19 medical related purposes vide order dated 15.11.2020.

Hence, this application is filed by the liquidator under Section 60(5) of IBC, 2016 read with Regulation 44 and 47A of IBBI (Liquidation Process) Regulations, 2016 read with Rule 11 & 14 of the NCLT Rules, 2016 praying to exclude 347 days (16.12.2019 to 07.02.2020 and 25.03.2020 to 12.01.2021) from the one year liquidation timeline.

Heard and perused the records. In view of the facts stated above, we are of the opinion that the request of the Liquidator may be allowed.

**Hence, IA(IBC)/120/KOB/2021 in IBA/240/(IB)/2019/Chennai Bench stands allowed and 347 days excluded from the one year period prescribed in the Code.**

### 4 MA/190/KOB/2020 IN MA/45/KOB/2019 IN IBA/240/(IB)/2019/CHENNAI BENCH

Learned counsel for the Applicant Shri Vishnu Buvanachandran as well as learned Liquidator Shri Mahalingam Suresh Kumar along with his learned counsel Shri AG Satyanarayana appeared through VC.

Vide order dated 02.08.2021, the applicant was directed to produce the acknowledgement of IT returns showing the income and the tax paid thereto. But nothing has been produced by the applicant.

Heard both sides.

**Reserved for orders.** Both the parties may submit their brief written submissions (within 4-5 pages) **on or before 12.8.2021.**

**The date of pronouncement of orders will be intimated later.**

**5 MA/191/KOB/2020 IN MA/45/KOB/2019 IN IBA/240/(IB)/2019/CHENNAI BENCH**

Learned counsel for the Applicant Shri Vishnu Buvanachandran as well as learned Liquidator Shri Mahalingam Suresh Kumar along with his learned counsel Shri AG Satyanarayana appeared through VC.

Vide order dated 02.08.2021, the applicant was directed to produce the acknowledgement of IT returns showing the income and the tax paid thereto. But nothing has been produced by the applicant.

Heard both sides.

**Reserved for orders.** Both the parties may submit their brief written submissions (within 4-5 pages) **on or before 12.8.2021.**

**The date of pronouncement of orders will be intimated later.**

**6 MA/192/KOB/2020 IN MA/45/KOB/2019 IN IBA/240/(IB)/2019/CHENNAI BENCH**

Learned counsel for the Applicant Shri Vishnu Buvanachandran as well as learned Liquidator Shri Mahalingam Suresh Kumar along with his learned counsel Shri AG Satyanarayana appeared through VC.

Vide order dated 02.08.2021, the applicant was directed to produce the acknowledgement of IT returns showing the income and the tax paid thereto. But nothing has been produced by the applicant.

Heard both sides.

**Reserved for orders.** Both the parties may submit their brief written submissions (within 4-5 pages) **on or before 12.8.2021.**

**The date of pronouncement of orders will be intimated later.**

**7 MA/193/KOB/2020 IN MA/45/KOB/2019 IN IBA/240/(IB)/2019/CHENNAI BENCH**

Learned counsel for the Applicant Shri Vishnu Buvanachandran as well as learned Liquidator Shri Mahalingam Suresh Kumar along with his learned counsel Shri AG Satyanarayana appeared through VC.

Vide order dated 02.08.2021, the applicant was directed to produce the acknowledgement of IT returns showing the income and the tax paid thereto. But nothing has been produced by the applicant.

Heard both sides.

**Reserved for orders.** Both the parties may submit their brief written submissions (within 4-5 pages) **on or before 12.8.2021.**

**The date of pronouncement of orders will be intimated later.**

**8 MA/194/KOB/2020 IN MA/45/KOB/2019 IN IBA/240/(IB)/2019/CHENNAI BENCH**

Learned counsel for the Applicant Shri Vishnu Buvanachandran as well as learned Liquidator Shri Mahalingam Suresh Kumar along with his learned counsel Shri AG Satyanarayana appeared through VC.

Vide order dated 02.08.2021, the applicant was directed to produce the acknowledgement of IT returns showing the income and the tax paid thereto. But nothing has been produced by the applicant.

Heard both sides.

**Reserved for orders.** Both the parties may submit their brief written submissions (within 4-5 pages) **on or before 12.8.2021.**

**The date of pronouncement of orders will be intimated later.**

**9 MA/195/KOB/2020 IN MA/45/KOB/2019 IN IBA/240/(IB)/2019/CHENNAI BENCH**

Learned counsel for the Applicant Shri Vishnu Buvanachandran as well as learned Liquidator Shri Mahalingam Suresh Kumar along with his learned counsel Shri AG Satyanarayana appeared through VC.

Vide order dated 02.08.2021, the applicant was directed to produce the acknowledgement of IT returns showing the income and the tax paid thereto. But nothing has been produced by the applicant.

Heard both sides.

**Reserved for orders.** Both the parties may submit their brief written submissions (within 4-5 pages) **on or before 12.8.2021.**

**The date of pronouncement of orders will be intimated later.**

**10 MA/196/KOB/2020 IN MA/45/KOB/2019 IN IBA/240/(IB)/2019/CHENNAI BENCH**

Learned counsel for the Applicant Shri Vishnu Buvanachandran as well as learned Liquidator Shri Mahalingam Suresh Kumar along with his learned counsel Shri AG Satyanarayana appeared through VC.

Vide order dated 02.08.2021, the applicant was directed to produce the acknowledgement of IT returns showing the income and the tax paid thereto. But nothing has been produced by the applicant.

Heard both sides.

**Reserved for orders.** Both the parties may submit their brief written submissions (within 4-5 pages) **on or before 12.8.2021.**

**The date of pronouncement of orders will be intimated later.**

11 **IA(IBC)/88/KOB/2021 IN IBA/46/KOB/2019**

Learned counsel for the Applicant/CD Shri Santhosh Mathew as well as learned senior counsel for the Respondent/FC Shri Joseph Kodianthara appeared through VC. Heard for some time. List for further hearing as **Part Heard (High on Board – as item No.1)** on **3.9.2021**.

12 **IBA/46/KOB/2019**

Learned senior counsel for the Applicant Shri Joseph Kodianathara as well as learned counsel for the Respondent Shri Santhosh Mathew appeared through VC. Heard for some time. List for further hearing as **Part Heard (High on Board – as item No.2)** on **3.9.2021**.

13 **MA/75/KOB/2020 IN TIBA/31/KOB/2019 & TIBA/10/KOB/2019**

Learned RP Shri P.D. Vincent appeared through VC along with his learned counsel Shri Nikhil George Pinto. Learned counsel for R6 Smt. Manjula Devi also appeared through VC. None appeared for other respondents.

Both the parties submitted that the Stay Order of the Hon'ble NCLAT against the order passed by this Tribunal in IA/3/KOB/2020 and IA/4/KOB/2020 dated 12.03.2020 still continues and the matter has been transferred to NCLAT, Chennai from NCLAT, New Delhi and that the next posting date is still to be received. Pleadings are complete in NCLAT and that the matter is ripe for hearing.

In view of the fact that the stay order of NCLAT still continues, let the matter be **adjourned sine die**.

Both the parties will be at liberty to approach this Tribunal as and when the order passed by the Hon'ble NCLAT in the aforesaid matters.

14 **MA/168/KOB/2020 IN TIBA/31/KOB/2019 & TIBA/10/KOB/2019**

Learned RP Shri P.D. Vincent appeared through VC along with his learned counsel Shri Nikhil George Pinto. Learned counsel for R6 Smt. Manjula Devi also appeared through VC. None appeared for other respondents.

Both the parties submitted that the Stay Order of the Hon'ble NCLAT against the order passed by this Tribunal in IA/3/KOB/2020 and IA/4/KOB/2020 dated 12.03.2020 still continues and the matter has been transferred to NCLAT, Chennai from NCLAT, New Delhi and that the next posting date is still to be received. Pleadings are complete in NCLAT and that the matter is ripe for hearing.

In view of the fact that the stay order of NCLAT still continues, let the matter be **adjourned sine die**.

Both the parties will be at liberty to approach this Tribunal as and when the order passed by the Hon'ble NCLAT in the aforesaid matters.

**15 MA/174/KOB/2020 IN TIBA/31/KOB/2019**

Learned RP Shri P.D. Vincent appeared through VC along with his learned counsel Shri Nikhil George Pinto. Learned counsel for R6 Smt. Manjula Devi also appeared through VC. None appeared for other respondents.

Both the parties submitted that the Stay Order of the Hon'ble NCLAT against the order passed by this Tribunal in IA/3/KOB/2020 and IA/4/KOB/2020 dated 12.03.2020 still continues and the matter has been transferred to NCLAT, Chennai from NCLAT, New Delhi and that the next posting date is still to be received. Pleadings are complete in NCLAT and that the matter is ripe for hearing.

In view of the fact that the stay order of NCLAT still continues, let the matter be **adjourned sine die**.

Both the parties will be at liberty to approach this Tribunal as and when the order passed by the Hon'ble NCLAT in the aforesaid matters.

**16 MA/202/KOB/2020 IN TIBA/31/KOB/2019 & TIBA/10/KOB/2019**

Learned RP Shri P.D. Vincent appeared through VC along with his learned counsel Shri Nikhil George Pinto. Learned counsel for R6 Smt. Manjula Devi also appeared through VC. None appeared for other respondents.

Both the parties submitted that the Stay Order of the Hon'ble NCLAT against the order passed by this Tribunal in IA/3/KOB/2020 and IA/4/KOB/2020 dated 12.03.2020 still continues and the matter has been transferred to NCLAT, Chennai from NCLAT, New Delhi and that the next posting date is still to be received. Pleadings are complete in NCLAT and that the matter is ripe for hearing.

In view of the fact that the stay order of NCLAT still continues, let the matter be **adjourned sine die**.

Both the parties will be at liberty to approach this Tribunal as and when the order passed by the Hon'ble NCLAT in the aforesaid matters.

**17 IA(IBC)/119/KOB/2021 IN CP(IBC)/10/KOB/2021**

Learned counsel for the applicant Shjri S.V.Ramakrishna appeared through VC. Advocate Shri Kevin Mathew appeared through VC for the CD.

Registry reported that though CD was directed to file the vakkalath and counter within two weeks vide order dated 12.07.2021, neither vakalath nor counter filed till date.

**CD is granted the last and final opportunity to file the counter within 3 days, failing which, law will take its own course.**

**List on 13.08.2021 for hearing.**

18 CP(IB)/10/KOB/2021

Learned counsel for the applicant Shjri S.V.Ramakrishna appeared through VC. Advocate Shri Kevin Mathew appeared through VC for the CD.

Registry reported that though CD was directed to file the vakkalath and counter within two weeks vide order dated 12.07.2021, neither vakalath nor counter filed till date.

**CD is granted the last and final opportunity to file the counter within 3 days, failing which, law will take its own course.**

**List on 13.08.2021 for hearing.**

19 TCP/21/KOB/2019

Learned counsel for the petitioners Shri A.C.Venugopal appeared through VC. Learned counsel for the Administrator (R1) Shri Manuel Viviera, learned standing counsel for SFIO Shri Gireesh Kumar, Asst ROC Shri Ramesh and learned counsel for R3-R6 Smt. C.G.Preetha appeared through V C.

Vide order dated 11.03.2020 in TCP/21/KOB/2019 this Tribunal directed the Serious Fraud Investigation Office (SFIO), Chennai to investigate into the affairs of the Bhagyodayam Company (R1) and to submit a report in this regard within two months before this Tribunal.

Shri Gireesh Kumar submitted that Ministry has decided to file an appeal before NCLAT, Chennai challenging the order dated 11.03.2020 passed by this Hon'ble Tribunal. Shri Ramesh submitted that appeal has already been filed before NCLAT Chennai but the same has not yet been numbered. In view of the above, Shri Gireesh Kumar and Shri Ramesh prayed to adjourn the matter.

The Report filed by the Auditors M/s. Babu A. Kallivayalil is on record.

Meanwhile the Auditors M/s.Babu A.Kallivayalil has submitted another report, the extract of which is as follows:

*In the light of above-mentioned facts, submissions made by us to the Hon'ble Bench through the paper book filed with the Registry vide IA filing number 3214117000052019 dated April 20,2021 and April 26, 2021 it is respectfully prayed that the Hon'ble Tribunal may be pleased to order:*

- *To accept the resignation as auditors of the Company for the years 2014-15 to 2019-20 considering the extraordinary situation and the extreme difficulties faced by us due to non-cooperation of the Company among other factors submitted for the kind consideration of the Tribunal*
- *To direct the Company to compensate us for the professional services rendered till date at least to the extent of fifty percent of the cost of Rs.44.47 lakhs as per the details given or such other amount the Hon'ble Tribunal may deem fit.*
- *To issue such orders or directions as the Hon'ble Tribunal may deem fit and proper in the circumstance of this case.*

Shri Venugopal submitted that he shall file counter against the report of the Auditors. He may do so within two weeks. Shri Manuel Vivera submitted that he has already filed counter against the report of the Auditors.

**List on 29.09.2021 for hearing.**

Even though there was a direction to appear the Auditor through video conferencing, he has not appeared today. Since his resignation has not been accepted, **he is directed to appear through VC during the next posting date. ROC may also appear through VC during the next posting date.**

Registry is directed to issue copy of this order to the parties through email.

**20 CA/44/KOB/2019**

Learned counsel for the applicant Shri A.C.Venugopal appeared through VC. Learned counsel for the Administrator (R1) Shri Manuel Vivera, learned counsel for R2 & R3 Shri Ashok B. Shenoy and learned counsel for R4, R6-R9, R11, R13-R18 C.G.Preetha also appeared through VC.

**List on 29.09.2021 for hearing.**

**21 IA/26/KOB/2019 IN CP/74/KOB/2019**

Learned counsel for the Applicant Shri M.A.Shaji as well as learned counsel for R2 Smt. Telma Raju appeared through VC. None appeared for other respondents.

Shri Shaji sought an adjournment till the disposal of the appeal filed in this matter before NCLAT. Allowed.

**List on 30.09.2021.**

**22 IA/47/KOB/2020 IN CP/74/KOB/2019**

None appeared for the applicant. Learned counsel for R2 Shri M.A.Shaji as well as learned counsel for R1 Smt. Telma Raju appeared through VC. None appeared for other respondents.

Shri Shaji sought an adjournment till the disposal of the appeal filed in this matter before NCLAT. Allowed.

**List on 30.09.2021.**



**23 CP/74/KOB/2019**

Learned counsel for the Petitioner Shri M.A.Shaji as well as learned counsel for R1 Smt. Telma Raju appeared through VC. None appeared for other respondents.

Shri Shaji sought an adjournment till the disposal of the appeal filed in this matter before NCLAT. Allowed.

**List on 30.09.2021.**

**24 CP/55/KOB/2020**

Learned counsel for the Petitioner Shri Vinu Thomas as well as learned counsel for R1 to R4 Shri John Vadassery appeared through VC.

Shri Vinu Thomas submitted that counter has been filed only today and hence sought an adjournment to file the rejoinder. He is directed to file the **rejoinder, if any, on or before 17.8.2021.**

**List on 08.09.2021 for hearing.** Both the parties may submit their brief written submissions (within 4-5 pages) at least two days before the above date.

**25 CA(C/ACT)/70/KOB/2021 IN CP/08/KOB/2021**

Learned counsel for the applicant Shri Poulouse Abraham as well as learned counsel for R1 Shri P.P.Zibi Jose and learned counsel for R3 Shri Yogindunath S appeared through VC.

This is a CA filed by Respondents 1 to 8 in the CP under Rule 11 of the NCLT Rules, 2016 praying to file their reply and to accept it and take on record the reply filed by them in CP/08/KOB/2020.

Heard both sides and perused the records. Though the respondents have not filed the reply within the time granted, in the interests of justice, the prayer of the Applicants/ Respondents 1 to 8 is allowed. Reply filed by Respondents 1 to 8 in the CP be taken on record.

**26 C.A (CA)/76/KOB/2021 IN CP/08/KOB/2021**

Learned PCS for applicant/R10 Shri Yogindunath and learned PCS for respondents Shri P.P.Zibi Jose, learned counsel for R1-R8 Shri Pranoy Harilal also appeared through VC.

This is a CA filed by R10 praying to permit him to file counter in the CP/08/KOB/2021 under Rule 32 read with Rule 11 of NCLT Rules, 2016.

Heard both sides and perused the records. Though R10 has not filed the counter within the time granted, in the interests of justice, the prayer of the Applicant/R10 is allowed. R10 is directed to file the **counter on or before 17.8.2021** serving advance copy to the petitioner.

Registry is directed to communicate this order to both parties through email.

**27 CP/08/KOB/2021**

Learned PCS for the Petitioner Sri P.P.Zibi Jose as well as learned counsel for R1-R8 Shri Poullose Abraham and learned counsel for R10 Shri Yogindunath S appeared through VC.

Counter has already been filed by R1-R8. R10 is allowed to file the counter on or before 17.8.2021. Therefore, the Petitioner is directed to file the **rejoinder, if any, on or before 10.09.2021**.

**List on 15.09.2021 for hearing.**

**28 CP/11/KOB/2021**

Learned counsel for the Petitioners Shri Niranjana Sudhir as well as learned counsel for R1 Shri Tobias Powell appeared through VC.

Records show that the petitioners had sought adjournments to file rejoinder on 27.04.2021 and 31.05.2021. Vide order dated 31.05.2021 the petitioners were directed to file the rejoinder within 2 weeks. Again, vide order dated 23.07.2021 **the petitioners were given the last and final opportunity to file the rejoinder, if any, on or before 30.7.2021. But rejoinder has not been filed till date. Therefore, the right of the petitioners to file the rejoinder is forfeited.**

**List on 16.09.2021 for final hearing. There shall be no further adjournment in this case.**

**Both the parties may file their brief written submissions (within 4-5 pages) at least 2 days before the above date.**