

## ***NCLT, KOCHI BENCH***

### **Daily Orders – Draft**

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

Date: 10<sup>TH</sup> March 2021

#### **1 CP/122/KOB/2019**

Learned counsel for the Petitioner Shri Renjith Rappan appeared through VC. Learned counsel for R1 Shri Sharad Kodianthara and learned PCS for R2 Shri PP Zibi Jose also appeared through VC. **Order pronounced. CP/122/KOB/2019 stands disposed of.**

#### **2 CA/33/KOB/2021 IN CP/08/KOB/2020**

Learned counsel for the Applicant Shri Yogindunath S has submitted an email stating that that R3 has automatically ceased to be director on 30.09.2019 as she was additional director whose term is up to the date of AGM or due date of AGM which has not been conducted. The Applicant has also alleged that an amount of Rs 42 lakhs has been misappropriated towards chitties taken in the name of R2. This Tribunal has already ordered independent audit of the Company's Accounts. Accordingly, the learned counsel for the applicant sought an adjournment till the audit report is filed.

No response from the respondents Adjourned to **09.04.2021.**

#### **3 CA/32/KOB/2021 IN CP/42/KOB/2020**

Learned counsel for the Applicant Shri A.N.Rajan Babu as well as learned counsel for R1 & R2 Shri Sunil Shankar appeared through VC. This is an application filed by the Applicants/Respondents 1 to 5 to accept the documents, ie Review Petition No.113/2021 with Judgement dated 05.01.2021 in WP(C) No.19266/2020 filed before the Hon'ble High Court of Kerala, as additional documents in evidence in CP/42/KOB/2020.

The learned counsel for R1 & R2 has stated that he has no objection in accepting the aforesaid additional documents. Hence, the additional documents filed by the applicants/R1 to R5 are accepted and taken on record. **Registry is directed to place the aforesaid documents in CP/42/KOB/2020.**

**CA/32/KOB/2021 IN CP/42/KOB/2020 is disposed of accordingly.**

#### 4 REPORT NO. 28/KOB/2020 IN TIBA/34/KOB/2019

Learned RP Shri Sathiq Buhari appeared through VC. Learned counsel for the Operational Creditors Shri Kalyan Jhabakh also appeared through V C.

It appears that the Hon'ble High Court of Kerala vide order dated 20.02.2020 in WP(C ) No.5009/2020(A) has granted interim stay for two weeks against the Order of this Tribunal dated 13.02.2020. Shri Kalyan Jhabakh submitted that the stay order was extended until further orders vide order dated 03.08.2020. In view of the Stay Order of the Hon'ble High Court of Kerala until further orders, which has a bearing in the issue in this matter, adjourned to **20.05.2021**.

#### 5 MA/15/KOB/2020 IN TIBA/34/KOB/2019

Learned counsel for the Applicant/Operational Creditor Shri Kalyan Jabakh as well as learned RP Shri Sathiq Buhari appeared through VC.

This MA is filed by the Operational Creditor (claiming to be the sole member of Committee of Creditors) under section 27 and section 70 of the IBC 2016 read with Rule 11 of NCLT Rules, 2016 with a prayer to change the Resolution Professional and refer the case to IBBI for proposing the name of a new RP in place of the Respondent/RP herein.

It appears that the Hon'ble High Court of Kerala vide order dated 20.02.2020 in WP(C ) No.5009/2020(A) has granted interim stay for two weeks against the Order of this Tribunal dated 13.02.2020. Shri Kalyan Jhabakh submitted that the stay order has been extended until further orders vide order dated 03.08.2020. In view of the Stay Order of the Hon'ble High Court of Kerala until further orders, which has a bearing to the issue in this MA also, adjourned to **20.05.2021**.

#### 6 MA/143/KOB/2020 IN TIBA/34/KOB/2019

Learned RP Shri Sathiq Buhari as well as learned counsel for the Operational Creditor Shri Kalyan Jhabakh appeared through VC.

This is an MA filed by the RP under Section 33(2) of IBC 2016 for Liquidation of the CD.

It appears that the Hon'ble High Court of Kerala vide order dated 20.02.2020 in WP(C ) No.5009/2020(A) has granted interim stay for two weeks against the Order of this Tribunal dated 13.02.2020. Shri Kalyan Jhabakh submitted that the stay order has been extended until further orders vide order dated 03.08.2020. In view of the Stay Order of the Hon'ble High Court of Kerala until further orders, which has a bearing to the issue in this MA also, adjourned to **20.05.2021**.

## 7 MA/144/KOB/2020 IN TIBA/34/KOB/2019

Learned Resolution Professional Shri Sathiq Buhari appeared through VC. Learned counsel for OC Shri Kalyn Jhabakh as well as learned counsel for the suspended Director of CD Shri Vinod PV also appeared through VC. This MA is filed by the RP under Section 60 read with Section 74 of the IBC, 2016 with a prayer to conduct an enquiry and on satisfaction refer the matter for prosecution against the CD on the basis of the guidelines laid down by the NCLAT on 16.8.2019 in CA(AT)(Insolvency) No.219 of 2019.

Shri Vinod submitted that he will file the counter within two weeks. He may do so.

It appears that the Hon'ble High Court of Kerala vide order dated 20.02.2020 in WP(C ) No.5009/2020(A) has granted interim stay for two weeks against the Order of this Tribunal dated 13.02.2020. Shri Kalyan Jhabakh submitted that the stay order has been extended until further orders vide order dated 03.08.2020. In view of the Stay Order of the Hon'ble High Court of Kerala until further orders, which has a bearing to the issue in this MA also, adjourned to **20.05.2021**.

## 8 CP(IB)/3/KOB/2021

Learned counsel for the Operational Creditor Ms Sreedevi S as well as learned counsel for the Corporate Debtor Shri Nebil Nizar appeared through VC. Ms Sreedevi submitted that she has already submitted an affidavit in the form of an IA explaining the delay in curing the defects in the CP(IB). But registry reported that the said matter has not been uploaded in the Computer system as an IA, instead, it was uploaded as a document. The Operational Creditor is therefore directed to upload it as an IA within a week positively so as to accept the same in the Computer System. Shri Nebil Nizar submitted that he has already received the copy of the said IA. He may file counter, if any, before the next date fixed. List on **29.03.2021**.

## 9 CP/121/KOB/2019

Learned counsel for the petitioner Ms Neethu appeared through VC. None has appeared for the respondents. As directed by this Tribunal vide order dated 23.02.2021 the petitioner has filed an affidavit stating that the name of Mrs Treesa Toby Alappat was wrongly mentioned as Mrs Toby Alappat in the impleading petition. Hence the Petitioner has prayed through the affidavit to implead Mr. Joseph Alappat, Managing Director and Mrs. Treesa Toby Alappat, the director of Joshsure Foods Pvt Ltd, the respondent in the above proceedings as additional respondents.

I have heard the learned counsel for the petitioner and perused the records. Since the impleadment cannot be allowed through an affidavit, the petitioner, if so advised, may file an IA to implead the correct respondent in the CP. **List on 29.03.2021.**

10 CP/12/KOB/2020

Learned counsel for the petitioners Shri Jagan Abraham M. George as well as learned counsel for R1 to R4 Shri Issac Thomas and learned counsel for R5 Shri Terry V. James appeared through VC. Shri Issac Thomas submitted that the pendrive submitted as Annexure 18 along with the reply statement filed on behalf of the petitioners is not a readable one. The Petitioners are directed to provide a readable pendrive to the learned counsel for R1 to R4 within two weeks positively.

Pleadings are complete. List for hearing on **07.04.2021 at 2.30 pm**. Learned counsel for both the parties may file their Argument Brief (limiting 5/6 pages) before the next date fixed.

Registry is directed to issue copy of this order to the learned counsel for both the parties through email.

11 CP/39/KOB/2020

Learned counsel for the Petitioner Shri Jerin Asher Sojan as well as learned counsel for R2 Shri Navod Prasannan appeared through VC. Even though link was provided, none appeared for R3. R2 and R3 have already filed their counter. It appears from records that notice was duly served on R1. But none has appeared for R1. **Therefore R1 is hereby set ex parte.**

Shri Jerin Asher Sojan sought time to file the rejoinder. He may do so within two weeks.

List on **01.04.2021**.

12 MA/184/KOB/2020 IN IA/129/KOB/2020 IN TIBA/07/KOB/2019

Learned Liquidator Shri Jasin Jose as well as learned counsel for the suspended Directors Shri S. Easwaran appeared through VC. Arguments heard. Reserved for orders. **List for pronouncement of orders on 19.04.2021.**

13 MA/207/KOB/2020 IN IA/129/KOB/2020 IN TIBA/07/KOB/2019

Learned counsel for the Applicant Shri S. Easwaran as well as learned Liquidator Shri Jasin Jose and learned counsel for R2 Shri Mohan Jacob George appeared through VC. Arguments heard partly. **List for further hearing on 19.04.2021 at 2.30 pm as Part Heard.**

**14 CA/22/KOB/2021 IN CP/05/KOB/2020**

Learned counsel for the Applicant Shri Vijay V. Paul sought link to appear through VC. Learned counsel for R 1&2 sought an adjournment stating some personal inconvenience to him to appear today. Hence adjourned to **8.4.2021 at 2.30 pm.**

**15 IA/163/KOB/2020 IN CP/05/KOB/2020**

Learned counsel for the Applicant Shri Vijay V. Paul sought link to appear through VC. Learned counsel for R 1&2 sought an adjournment stating some personal inconvenience to him to appear today. Hence adjourned to **8.4.2021 at 2.30 pm.**

**16 CP/05/KOB/2020**

Learned counsel for the Petitioner Shri Vijay V. Paul sought link to appear through VC. Learned counsel for R 1&2 sought an adjournment stating some personal inconvenience to him to appear today. Hence adjourned to **8.4.2021 at 2.30 pm.**