

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

### **Daily Orders – Draft**

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

Date: 11<sup>th</sup> Jan 2021

#### **1 IA/205/KOB/2020 IN IBA/35/KOB/2019**

Learned counsel for the Applicant/IRP Shhri Sathiq Buhari appeared through VC. **Orders pronounced. IA/205/KOB/2020 IN IBA/35/KOB/2019 is disposed of vide separate order**

#### **2 CA/122/KOB/2020**

Learned PCS for the Appellant Shri Gokul RI appeared through VC. This appeal is posted for pronouncement of orders today. Since the documents sought for by this Tribunal has not been produced and the learned PCS agreed to produce the same today itself, **pronouncement of orders postponed to 12.01.2021.**

#### **3 CA/128/KOB/2020**

Mrs. Sreepriya Kalarikkal appeared for appellants. Orders pronounced. **CA/128/KOOb/2020 is disposed of vide separate order.**

#### **4 TCP/56/KOB/2020 (CP/47/2009 of High Court of Kerala)**

None has appeared for the petitioner. It appears from records that this case was originally filed before the Hon'ble High Court of Kerala and subsequently transferred to this Tribunal. Perused the records. Registry is directed to issue notice to the Respondents through email in addition to normal procedure. List on **4.3.2021**

#### **5. TCP/57/KOB/2020 (CP/19/1999 of High Court of Kerala)**

None has appeared for the petitioner. It appears from records that this case was originally filed before the Hon'ble High Court of Kerala and subsequently transferred to this Tribunal. Perused the records. Registry is directed to issue notice to the Respondents through email in addition to normal procedure. List on **4.3.2021**

**6 TCP/58/KOB/2020 (Writ Petition no.5442/2019 of High Court of Kerala)  
WITH CAVEAT NO. 17/KOB/2020**

None has appeared for the Petitioner. Learned counsel for R20 Shri Madhu Radhakrishnan appeared through VC. It appears from records that this case was originally filed before the Hon'ble High Court of Kerala and subsequently transferred to this Tribunal. Perused the records. Registry is directed to issue notice to the Respondents through email in addition to normal procedure. List on 5.3.2021

**7 TCP/59/KOB/2020 (Writ Petition no.5375/2019 of High Court of Kerala)  
WITH CAVEAT NO.16/KOB/2020**

None has appeared for the Petitioner. Learned counsel for R20 Shri Madhu Radhakrishnan appeared through VC. It appears from records that this case was originally filed before the Hon'ble High Court of Kerala and subsequently transferred to this Tribunal. Perused the records. Registry is directed to issue notice to the Respondents through email in addition to normal procedure. List on 5.3.2021

**8 TCP/60/KOB/2020 (Writ Petition no.24764/2018 of High Court of Kerala)**

None has appeared for the petitioner. It appears from records that this case was originally filed before the Hon'ble High Court of Kerala and subsequently transferred to this Tribunal. Perused the records. Registry is directed to issue notice to the Respondents through email in addition to normal procedure. List on 5.3.2021

**9 TCP/61/KOB/2020 (Writ Petition no.13385/2019 of High Court of Kerala)**

Learned counsel for the petitioner Shri Pranoy Harilal appeared through VC. It appears from records that this case was originally filed before the Hon'ble High Court of Kerala and subsequently transferred to this Tribunal. Perused the records. Registry is directed to issue notice to the Respondents through email in addition to normal procedure. List on 5.3.2021

**10 TCP/62/KOB/2020 (Writ Petition no.22206/2015A of High Court of Kerala)**

None has appeared for the petitioner. It appears from records that this case was originally filed before the Hon'ble High Court of Kerala and subsequently transferred to this Tribunal. Perused the records. Registry is directed to issue notice to the Respondents through email in addition to normal procedure. List on 5.3.2021

**11 TCP/63/KOB/2020 (Writ Petition no.22211/2015B of High Court of Kerala)**

None has appeared for the petitioner. It appears from records that this case was originally filed before the Hon'ble High Court of Kerala and subsequently transferred

to this Tribunal. Perused the records. Registry is directed to issue notice to the Respondents through email in addition to normal procedure. List on **5.3.2021**

**12 TCP/64/KOB/2020 (Writ Petition no.22180/2015V of High Court of Kerala)**

None has appeared for the petitioner. It appears from records that this case was originally filed before the Hon'ble High Court of Kerala and subsequently transferred to this Tribunal. Perused the records. Registry is directed to issue notice to the Respondents through email in addition to normal procedure. List on **5.3.2021**

**13 TCP/65/KOB/2020 (Writ Petition no.2649/2014 of High Court of Kerala)**

None has appeared for the petitioner. It appears from records that this case was originally filed before the Hon'ble High Court of Kerala and subsequently transferred to this Tribunal. Perused the records. Registry is directed to issue notice to the Respondents through email in addition to normal procedure. List on **5.3.2021**

**14 TCP/82/KOB/2019 (CP/08/2016)**

None has appeared for the parties. This case was received on transfer. Registry is directed to issue notice to the Petitioner and Respondents through email in addition to normal procedure. List on **9.3.2021**

**15 MA/141/KOB/2020 IN MA/33/KOB/2019 IN MA/12/KOB/2019 IN CP(IB)/91/CB/2018**

Learned counsel for the Applicant/Liquidator Smt Midhuna KC as well as learned counsel for the erstwhile directors of CD Shri Akhil Suresh appeared through VC. This MA is filed by the liquidator under Regulation 9 of the IBBI (Liquidation Process) Regulations, 2016 read with Section 60(5) of IBC, 2016 seeking certain directions to the erstwhile directors. It appears from records that Advocate Harikumar G Nair has appeared for the erstwhile directors through VC in the Proceedings of this Tribunal on 14.12.2020. Vide our order dated 14.12.2020 the erstwhile directors of CD were directed to file the counter within 2 weeks and Liquidator has to file the rejoinder on or before 11.01.2021. However, they have not filed their counter till date. The erstwhile directors of CD are hereby **given the last opportunity** to file their counter within a week, failing which it will be presumed that they are not interested to contest the case and the matter will be decided in accordance with the available records. **List on 16.02.2021 for hearing.**

**16 IA/143/KOB/2020 IN TIBA/19/KOB/2019**

Learned RP Shri Jasin Jose appeared through VC. The RP suggested the name of Shri Kizhakkekara Kuriakose Jose, Insolvency Professional as authorised representative for the Home Buyers. But on verification, it is found that the name of Shri Kizhakkekara Kuriakose Jose is not appeared in the list of approved Insolvency Professionals issued by the IBBI. Therefore, the RP is directed to suggest any other name of IP approved by IBBI for the period from January 2021 to June, 2021 to represent the Home Buyers in this case. **List on 28.01.2021.**

**17 IA/124/KOB/2020 IN IBA/16/KOB/2020**

Learned counsel for the Applicant/CD Shri Vino Jose as well as learned counsel for the RP Shri Jasin Jose appeared through VC. This IA is filed by the Applicant/CD under section 12A of the IBC 2016 with the prayer to recall the order dated 22.04.2020 and to dismiss the original application filed by the Operational Creditor on the basis of settlement arrived between the parties and to stay all further proceedings in IBA/16/KOB/2020 on the file of this Tribunal. After hearing learned counsel for OC, CD and IRP this Tribunal vide order dated 21<sup>st</sup> September fixed the fee of IRP as Rs.90,000/- and directed the OC to file the Form FA through IRP on or before 30.09.2020. Even though the parties were repeatedly directed in the hearings on 30.09.2020, 15.10.2020, 10.11.2020 and 16.12.202 to settle the fee of the IRP, the learned counsel for the IRP submitted that the fee of IRP has not yet been settled till date. In spite of giving several opportunities the parties have also not yet filed the Form FA. Therefore, in view of non-filing of Form FA through IRP this **IA/124/KOB/2020 IN IBA/16/KOB/2020 is dismissed.**

**As directed vide our order dated 22.04.2020 the Operational Creditor is directed to deposit a sum of Rs.2,00,000/- (Rupees two lakh only) with the IRP to meet the expenses towards issue of public notice and inviting claims within two days from the date of this order. The IRP may proceed with the Corporate Insolvency Resolution Process within three days from the date of this order. Registry is directed to issue a copy of this Order to the Registrar of Companies, Kerala for updating the Master Data of the Corporate Debtor, who shall send a compliance report in this regard to the Registry within seven days.**

**Registry is also directed to issue copy of this order to the OC, CD and IRP through email.**

**18 IA/125/KOB/2020 IN IBA/16/KOB/2020**

Learned counsel for the Applicant/RP Shri Jasin Jose as well as learned counsel for the CD Shri Vino Jose appeared through VC. This IA is filed by the IRP under Section 12 A of the IBC, 2016. The learned counsel for the IRP on 21.09.2020 submitted that the OC as well as CD has communicated to him that they have settled the matter. But the parties have not taken steps to file the withdrawal application in Form FA through IRP. After hearing learned counsel for OC, CD and IRP this Tribunal vide order dated 21<sup>st</sup> September fixed the fee of IRP as Rs.90,000/- and directed the OC to file the Form FA through IRP on or before 30.09.2020. Even though the parties were repeatedly directed in the hearings on 30.09.2020, 15.10.2020, 10.11.2020 and 16.12.2020 to settle the fee of the IRP, the learned counsel for the IRP submitted that the fee of IRP has not been settled till date. In spite of giving several opportunities the parties have also not yet filed the Form FA.

Therefore, in view of non-filing of Form FA through IRP this IA/125/KOB/2020 IN IBA/16/KOB/2020 is dismissed.

As directed vide our order dated 22.04.2020 the Operational Creditor is directed to deposit a sum of Rs.2,00,000/- (Rupees two lakh only) with the IRP to meet the expenses towards issue of public notice and inviting claims within two days from the date of this order. The IRP may proceed with the Corporate Insolvency Resolution Process within three days from the date of this order as stipulated under IBC, 2016.

Registry is directed to issue a copy of this Order to the Registrar of Companies, Kerala for updating the Master Data of the Corporate Debtor, who shall send a compliance report in this regard to the Registry within seven days.

Registry is also directed to issue a copy of this order to OC, CD and IRP through email.

19 IBA/32/KOB/2020

Learned counsel for the Operational Creditor Shri Vinod PV as well as learned counsel for the Corporate Debtor Shri Paulose Abraham and Pranoy Harilal appeared through VC. Learned counsel for CD submitted the matter has already been settled as an amount of Rs. 2 crores has already been paid and the applicant has given an undertaking to the CD to file the withdrawal application before this tribunal. The submission of the learned counsel for CD is recorded. **List on 21.01.2021 before that date the parties may file their withdrawal memo.**

20 IA/146/KOB/2020 IN TCP/47/KOB/2019

Learned counsel for the Applicant Shri Philip Mathew appeared through VC. None has appeared for the respondents. Due to network problem the case is **adjourned to 17.02.2021 for hearing. Before that both the parties may file their argument notes.**

21 TCP/47/KOB/2019

Learned counsel for the Applicant Shri Philip Mathew appeared through VC. None has appeared for the respondents. Due to network problem the case is **adjourned to 17.02.2021 for hearing. Before that both the parties may file their argument notes.**

22    **IA/149/KOB/2020 IN TCP/67/KOB/2019**

Learned counsel for the Applicant Shri Sankar P. Panicker submitted an email stating willingness to appear through VC. However, learned senior counsel for the R1 to R6 Shri Joseph Kodianthara submitted an email seeking an adjournment. **Adjourned to 19.02.21.**

23    **TCP/67/KOB/2019**

Learned counsel for the Petitioner Shri Sankar P. Panicker submitted an email stating willingness to appear through VC. However, learned senior counsel for the R1 to R6 Shri Joseph Kodianthara submitted an email seeking an adjournment. **Adjourned to 19.02.21.**

24    **CP/09/KOB/2020**

Learned counsel for the Petitioner Shri Philip Mathew as well as learned counsel for the Respondents Shri V.V.Surendran appeared through VC. Shri VV Surendran, sought an adjournment stating that the present Management of the R1 company has been changed and hence he requires instructions in this case from the new Management. Allowed. **Adjourned to 25.02.2021.**

25    **CP/30/KOB/2020**

Learned counsel for the Petitioner Shri Anil D. Nair submitted an email stating willingness to appear through VC. However, the Chairman of the Respondent Company M/s. Kerala Chamber of Commerce & Industry Dr. Biju Ramesh has submitted an email stating that their lawyer Shri Sivasankar R. Panicker has relinquished the vakalath and they are in the process of identifying a new counsel for appearing on their behalf. Hence, he sought an adjournment. Allowed. **Adjourned to 01.03.2021.** Both the parties may bear in mind that there shall be no further adjournment in this case.

26    **CA/109/KOB/2020**

Learned counsel for the Appellant Shri Shameem Ahamed appeared through V C. Today the learned counsel for the appellant has filed a memo in compliance with the order of this Tribunal dated 18.12.2020. In the memo it is impliedly shown that the appellant was in India on 10.11.2020. It is true that the appeal was filed before this Tribunal on 14.12.2020 where the appellant put her signature on 11.12.2020. But in para 8 of the appeal the appellant has stated that “even today, the Promotor 1, the appellant’s husband is undergoing judicial custody and the appellant is currently staying in Dubai”. The learned counsel for the appellant has also admitted through

his memo that the statement that the appellant is currently staying in Dubai was a bonafide mistake on the part of the counsel. The learned counsel for the appellant is directed to file an IA with an affidavit to strike off the last sentence in Para 8 of the appeal, if so advised. **List on 01.02.2021.** (upto 34)

27 CA/111/KOB/2020

28 CA/112/KOB/2020

29 CA/113/KOB/2020

30 CA/114/KOB/2020

31 CA/116/KOB/2020

32 CA/117/KOB/2020

33 CA/118/KOB/2020

34 CA/119/KOB/2020

35 IBA/35/KOB/2020

Due to network problem, the Video conference could not be held. Hence adjourned to 4.2.2021 at 2.30 pm.

36 IA/91/KOB/2020 IN CP/16/KOB/2020

37 IA/126/KOB/2020 IN CP/16/KOB/2020

38 IA/127/KOB/2020 IN CP/16/KOB/2020

39 IA/128/KOB/2020 IN CP/16/KOB/2020

40 CONTEMPT PETITION/06/KOB/2020 IN CP/16/KOB/2020

41 CP/16/KOB/2020

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