

NCLT, KOCHI BENCH

Daily Orders – Draft

Date: 12th July 2021

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

1 CP(IB)/10/KOB/2021

Learned counsel for the Operational Creditor Shri S.V.Ramakrishna appeared through VC. Adv Shri Kevin Mathew appeared through VC for the CD.

Shri Kevin Mathew sought time to file the Vakalat and Counter.

Shri S.V.Ramakrishna submitted that there was a typographical mistake in the CP(IB) and hence sought permission to file a correction memo. He is directed to file an IA for making any correction in the CP(IB).

The Petitioner is directed to serve the copy of CP(IB) as well as the IA for correction in the CP(IB) to the learned counsel of the CD within a week.

The CD is directed to file the Vakalat and counter within two weeks.

List on 26.07.2021.

2 IA(IBC)/102/KOB/2021 IN MA/7/KOB/2019 IN IBA/258/CHENNAI BENCH/2019

Learned Liquidator Shri Ravindra Chaturvedi appeared through VC along with his learned counsel Shri Kunal Kanungo.

This is an application filed by the liquidator under Section 60(5) of the IBC 2016 seeking exclusion of the period from 01.12.2020 to 31.07.2021 (243 days) from the liquidation period of the CD.

Heard the learned liquidator.

IA(IBC)/102/KOB/2021 IN MA/7/KOB/2019 IN IBA/258/CHENNAI BENCH/2019 stands disposed of vide separate sheets.

3 IA(IBC)/104/KOB/2021 IN IBA/39/KOB/2020

Learned RP Shri Dileep KP appeared through VC.

This is an application filed by the RP under Section 12(2) of IBC 2016 for extension of the period of CIR Process for 90 days beyond 180 days (total period 270 days).

Heard and perused the records.

IA(IBC)/104/KOB/2021 IN IBA/39/KOB/2020 stands disposed of vide separate sheets.

4 REPORT/50/KOB/2021 IN IA(IBC)/18/KOB/2021 IN TIBA/14/KOB/2019

Learned Liquidator Shri Sasitharan Ramaswamy appeared through VC.

This is a Report filed by the Liquidator under Regulation 31 and 31A of IBBI (Liquidation Process) Regulations, 2016.

Perused the Report. **Report is taken on record.** Registry shall place it on record.

5 REPORT/51/KOB/2021 IN IA(IBC)/18/KOB/2021 IN TIBA/14/KOB/2019

Learned Liquidator Shri Sasitharan Ramaswamy appeared through VC.

This is a First Progress Report filed by the Liquidator under Regulation 15(1)(a) of IBBI (Liquidation Process) Regulations, 2016.

Perused the Report. **Report is taken on record.** Registry shall place it on record.

6 REPORT/52/KOB/2021 IN IA(IBC)/18/KOB/2021 IN TIBA/14/KOB/2019

Learned Liquidator Shri Sasitharan Ramaswamy appeared through VC.

This is a Preliminary Report and Asset Memorandum of the CD filed by the Liquidator under Regulation 13 and 34 of IBBI (Liquidation Process) Regulations, 2016.

Perused the Report. **Report is taken on record.** Registry shall place it on record.

7 IA(IBC)/103/KOB/2021 IN MA/9/(KOB)/19 IN CP(IB)/689/17(CHENNAI BENCH)

Learned counsel for the applicant/CD Shri Ravi Rajagopalan appeared through VC. This is an application filed by the CD under Rule 154 of the NCLT Rules 2016 for correcting the bonafide typographical error occurred in the common written submissions filed by the counsel on behalf of the 1st respondent Corporate Debtor in MA/9/2019. We have gone through the records made available. It is found that there is a typographical error in the written statement and that was the reason there is an error in the final order in MA/9/KOB/2019 passed by this Tribunal. Hence, **IA(IBC)103/KIOB/201 is allowed. Registry is directed to carry out the correction by correcting the Respondents instead of R24 and R 25 to R17 and 18 in the common written statement** filed by the 1st respondent.

8 IA(IBC)/32/KOB/2021 IN MA/9/(KOB)/19 IN CP(IB)/689/17(CHENNAI BENCH)

Learned counsel for the applicant/CD Shri Ravi Rajagopalan appeared through VC. This is an application filed by the CD under Rule 154 of the NCLT Rules 2016 for rectification/correction of the order dated 06.11.2020 in MA/09/KOB/2019 in CP(IB)/689/2017 (Chennai Bench).

Heard and perused the records.

Reserved for orders. List for pronouncement of orders on 16.07.2021.

9 IA(IBC)/87/KOB/2021 IN IBA/23/KOB/2019

Learned RP Shri Vinod Padinhare Veetil appeared through VC.

This is an application filed by the RP under Section 33(1)(a) of IBC 2016 for liquidation of the CD.

The RP submitted that the period of CIR Process has already been expired on 09.04.2021. He further submitted that this application is filed before this Tribunal in accordance with the resolution passed by the CoC in its 18th meeting held on 27.04.2021 for liquidating the CD.

Heard the RP partly. The arguments of learned counsel for OC will also be heard at the time of next date of hearing.

List for further hearing on 10.8.2021.

10 IA(IBC)92/KOB/2021 IN IBA/23/KOB/2019

Learned counsel for the Applicant/OC Shri Santhosh Mathew as well as learned RP Shri Vinod PV and learned counsel for the FC Shri Nidhi Sam John also appeared through VC.

This IA has been filed by the OC seeking the following reliefs:

- (a) Direct the Resolution Professional to grant the Applicants access to all the documents submitted by the Financial Creditors pertaining to claim made before the Resolution Professional;
- (b) Direct the conduct of a forensic audit by an independent third-party auditor into the amounts that have been lent by Respondents 4 to 13 to the Corporate Debtor and the amounts recovered.
- (c) Stay further proceedings in the Corporate Insolvency Resolution Process of the Corporate Debtor till such time the forensic audit is complete.
- (d) Restrain the 3rd Respondent Resolution Professional from acting as the Resolution Professional or the liquidator.
- (e) Pass such further orders in the interests of justice and equity.

The RP submitted that the period of CIR Process has already been expired on 09.04.2021. He further submitted that CoC in its 18th meeting held on 27.04.2021 has recommended for liquidating the CD and accordingly the application for liquidation has already been filed before this Tribunal.

RP as well as the FC are directed to file reply to this IA within a week positively.

List on 10.08.2021 for final hearing.

11 MA/187/KOB/2020 IN IBA/34/KOB/2020

Learned counsel for the Applicant/OC Shri Harikumar G. Nair as well as learned counsel for the Corporate Debtor Shri Sharad Kodianthara appeared through VC.

Shri Sharad Kodianthara submitted that there is a stay of all further proceedings in this IBA by the Hon'ble High Court of Kerala and that the matter was finally heard by the Hon'ble High of Kerala on 29.06.2021 and reserved for pronouncement of orders but the orders are not pronounced. Hence he sought an adjournment in the matter.

In view of the above, let the matter be adjourned to 11.08.2021 for hearing,

12 IBA/34/KOB/2020

Learned counsel for the OC Shri Harikumar G. Nair as well as learned counsel for the Corporate Debtor Shri Sharad Kodianthara appeared through VC.

Shri Sharad Kodianthara submitted that there is a stay of all further proceedings in this IBA by the Hon'ble High Court of Kerala and that the matter was finally heard by the Hon'ble High of Kerala on 29.06.2021 and reserved for pronouncement of orders but the orders are not pronounced. Hence, he sought an adjournment in the matter.

In view of the above, let the matter be adjourned to 11.08.2021.

13 CP(IB)/3/KOB/2021

Learned counsel for the petitioner Shri Sanjay John as well as learned counsel for the CD Shri Nebil Nizar appeared through VC.

Shri Sanjay John submitted that he has filed an application to withdraw the CP(IB). But the same has not been listed today.

List on 20.07.2021 along with the said withdrawal application.

14 CP(IB)/05/KOB/2021

Learned counsel for the Petitioner Shri Harikumar G. Nair as well as learned counsel for CD Shri Manjunath Menon appeared through VC.

The CD is directed to file his counter within 15 days positively with copy served to the petitioner in advance. **No further chance will be given to the CD for filing the Counter.** The Petitioner may file his rejoinder, if any, within 7 days of receipt of the counter.

List on 05.08.2021.

15 CP/35/KOB/2020

Learned counsel for the Petitioner Shri Pratap Pillai as well as learned counsel for the CD Shri Paul Jose appeared through VC.

Shri Prathap Pillai submitted that he shall submit the copy of the stay order of the Hon'ble High Court of Kerala in this case within a day.

List on 16.08.2021.

16 CP/36/KOB/2020

Learned counsel for the Petitioner Shri B. Ashok Shenoy appeared through VC.

None appeared for the Respondents.

List on 16.08.2021.

17 CP(CAA)/2/KOB/2021 IN CA(CAA)/7/KOB/2020

Learned counsel for the Petitioners Shri Pawan Jhabakh appeared through VC.

He submitted that he has filed the soft copy of the details sought by this Tribunal on 09.07.2021. But the hard copy of the same has not been filed.

The Petitioners are directed to file the hard copy of the Balance Sheet and Assets and Liabilities of the Petitioner Companies for the last 5 years and also the proof of service of the statutory authorities (A/d Card or Postal Track Report) with an affidavit before the next date of hearing.

List on 27.07.2021.

18 CA/55/KOB/2021 IN CP/104/KOB/2019

Learned counsel for the Applicant Shri Poulose Abraham appeared through VC. Learned counsel for R6-R19, R18, R26 & R27 Shri Yoginthunath also appeared through VC.

This is an application filed by the applicant seeking to grant leave and take on record the Sur-Rejoinder filed on behalf of the Applicant/R1.

The Respondents have not raised any objection in accepting the sur-rejoinder.

CA/55/KOB/2021 IN CP/104/KOB/2019 stands allowed. Registry shall place the sur-rejoinder on record.

19 CP/104/KOB/2019

Learned counsel for the Petitioners Shri Srikanth Mohan appeared through VC. Learned counsel for R1, R2, R20 & R25 Shri Poulose Abraham, learned counsel for R3-R16, R18, R23 & R25 Shri Yoginthunath appeared through VC.

Pleadings are complete.

List for hearing on 01.09.2021. Before that date the parties may submit their written argument brief (limiting 4-5 pages).

20 CA/57/KOB/2021 IN CP/112/KOB/2019

Learned counsel for the Applicant Shri Poulose Abraham appeared through VC. Learned counsel for R1-R4 Shri Srikanth Mohan, learned counsel for R7 & R8 Shri Yoginthunath also appeared through VC.

This is an application filed by the applicant seeking to grant leave and take on record the Sur-Rejoinder filed on behalf of the Applicant/R1.

The Respondents have not raised any objection in accepting the sur-rejoinder.

CA/57/KOB/2021 IN CP/112/KOB/2019 stands allowed. Registry shall place the sur-rejoinder on record.

21 CP/112/KOB/2019

Learned counsel for the Petitioners Shri Srikanth Mohan appeared through VC. Learned counsel for R1, R4, & R23 Shri Poulose Abraham, learned counsel for R2, R3, R5, R13, R16, R17, R20 & R22 Shri Yoginathunath and learned PCS for R18 Shri Vivek Kumar appeared through VC.

Pleadings are complete.

List for hearing on 01.09.2021. Before that date the parties may submit their Written argument brief (limiting 4-5 pages).

22 CA/56/KOB/2021 IN CP/113/KOB/2019

Learned counsel for the Applicant Shri Poulose Abraham appeared through VC. Learned counsel for R5, R6, R8-R16, R19, R20, R23 & R25 Shri Yoginathunath and learned PCS for R21 Shri Vivek Kumar also appeared through VC.

This is an application filed by the applicant seeking to grant leave and take on record the Sur-Rejoinder filed on behalf of the Applicant/R1.

The Respondents have not raised any objection in accepting the sur-rejoinder.

CA/56/KOB/2021 IN CP/113/KOB/2019 stands allowed. Registry shall place the sur-rejoinder on record.

23 CP/113/KOB/2019

Learned counsel for the Petitioners Shri Srikanth Mohan appeared through VC. Learned counsel for R2, R5, R14, R18-R20, R23 & R26 Shri Yoginathunath appeared through VC.

Pleadings are complete.

List for hearing on 01.09.2021. Before that date the parties may submit their written argument brief (limiting 4-5 pages).

IN THE NATIONAL COMPANY LAW TRIBUNAL

KOCHI BENCH, KERALA

IA(IBC)/104/KOB/2021

in

IBA/39/KOB/2020

(Under Section 12(2) of IBC 2016)

Order delivered on: 12.07.2021

Coram:

Hon'ble Mr. Ashok Kumar Borah, Member (Judicial)

Hon'ble Mr. Rajesh Sharma, Member (Technical)

Applicant

Shri Dileep K.P.

Resolution Professional

Tierra Food India Pvt Ltd

In the matter of

Tierra Food India Pvt Ltd

- Corporate Debtor

Vs.

Kerala State Industrial Development Corporation

- Financial Creditor

Appearance:

For applicant/RP

- Shri Dileep K.P.
Resolution Professional

O R D E R

1. This Order has arisen upon the application filed by the Resolution Professional under Section 12(2) of IBC, 2016 seeking extension of the time period of Corporate

Insolvency Resolution Process of the Corporate Debtor for a further period of 90 days.

2. The Application for Corporate Insolvency Resolution Process filed by Shri Alex Thomas, Managing Director of M/s. Tierra Food India Private Limited (Corporate Debtor) against M/s. Kerala State Industrial Development Corporation Limited (KSIDC) (Financial Creditor) was admitted by this Tribunal vide order dated 3rd February 2021 in IBA/39/KOB/2020 wherein the applicant herein was appointed as Interim Resolution Professional. In the 1st meeting of Committee of Creditors held on 09.03.2021, the IRP was appointed as Resolution Professional.
3. Accordingly, the Resolution Professional is carrying on the CIR Process. The RP submitted that the 180 days period of the CIRP will be expiring on 08.08.2021.
4. The RP further submitted that almost 50 days was lost on account of complete lockdown. Only one bid was received and that too from the promoter, who qualifies for bidding the resolution of the Company as per Section 240A of IBC.
5. Accordingly, the CoC resolved with 100% voting at its meeting held on 28th May 2021 to seek approval of extension of 90 days from this Tribunal i.e., from 180 days to 270 days for conclusion of the CIRP Proceedings.
6. Hence the RP filed this IA seeking indulgence of this Tribunal to grant an extension of 90 days to enable him to complete the CIR process of the Corporate Debtor.
7. We have heard the learned Resolution Professional through video conferencing and also gone through the records including the Resolution passed by the CoC in its meeting held on 28.05.2021. In the minutes of CoC held on 28th May, 2021 as

Agenda item No.4 the extension of time in CIRP due to the present lockdown was discussed and it was resolved with 100% voting right to seek approval of the Adjudicating Authority for extension of further period of 90 days beyond 180 days already taken in the matter. Section 12(2) of IBC states that “if the Resolution Professional files an application before the Adjudicating Authority for extension of the period of the CIRP beyond one hundred and eighty days by a resolution passed at a meeting of the committee of creditors by a vote of 66% of the voting share, if the Adjudicating Authority satisfies that the subject matter of the case is such that CIRP cannot be completed within one hundred and eighty days, it may by an order extend the duration of such process beyond one hundred and eighty days, but not exceeding ninety days.”

8. In view of the aforesaid provision and considering the resolution passed by the CoC, this Tribunal finds that it is a fit case to grant the extension sought by the applicant/Resolution Professional. Hence this Tribunal **allows the IA/IBC/104/KIOB/2021 granting further extension of 90 days from 8.8.2021. The Resolution Professional is directed to complete the CIRP on or before 06.11.2021.** He is at liberty to complete the process before that date also.

Dated this the 12th day of July, 2021.

(Rajesh Sharma)
Member (Technical)

(Ashok Kumar Borah)
Member (Judicial)