

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

### **Daily Orders – Draft**

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

**Date: 2<sup>nd</sup> Feb 2021**

#### **1 CP/4/KOB/2021**

Learned counsel for the Petitioner Shri Abid Millath appeared through VC. Shri Harikumar G. Nair, Advocate appeared through VC for R1 to R4. However, he has not filed Vakalath. He sought time to file counter and vakalath. He may do so within two weeks positively. The Petitioner may file his rejoinder, if any, before the next date fixed. Registry is directed to issue notice to R5 to file his counter, if any. List on **08.03.2021 for hearing.**

#### **2 CA/6/KOB/2021**

Shri Renjith Rajappan, Advocate appeared on behalf the counsel for appellant through VC. This is an Appeal filed by the Appellant for restoring the name of the Appellant Company in the Register of ROC. The documents submitted by the Appellant in his Appeal include the following:

- (i) Master Data
- (ii) Memorandum of Association and Articles of Association
- (iii) Latest Income Tax Return acknowledgement
- (iv) Financial Statements from 2012-13 to 2019-20

Shri Renjith Rajappan submitted that the Appellant has not obtained the statutory permits and licenses which are required for commencing the operations of the Appellant Company.

**The Appellant is directed to file an affidavit with regard to the status of statutory permits and licenses within a week. ROC has already filed his Report. Hence reserved for orders. List for pronouncement of orders on 10.02.2021.**

#### **3 IA(IBC)/27/KOB/2021 IN IBA/133/KOB/2019/CB**

Learned counsel for the Liquidator Shri Vinod PV appeared through VC. This application is filed by the liquidator under Section 66 read with Section 60(5) of IBC, 2016 with the prayer to pass an order to declare that the entries of Rs.21.37 crore

made in the audited financial statement for the year 2018 described in Paragraphs 15 of the application are fraudulent transactions and to pass an order to declare that the Respondent Nos.1 to 3 are liable for the loss of Rs.21.37 crore suffered by the Corporate Debtor and direct the R1 to R3 to pay Rs.21.37 crores to the account of the Liquidator for distribution under Section 53 of the IBC, 2016.

I have heard and perused the records thoroughly. It appears that it would be justified to pass order on this application only after perusing the counter. The applicant is therefore directed to issue notice to Respondents 1 to 3 along with copy of this IA by Registered Post with A/D and submit proof of service (acknowledgement card or postal track record) with an affidavit before the next date fixed. Registry may also issue notice to Respondent Nos 1 to 3 through email. Respondents may file their counter within two weeks. **List on 02.03.2021.**

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

Learned counsel for the applicant Shri Ramalingam VA as well as learned GP for R1, R2, R5, R6, R1, R13 and R14 Shri Mohammed Fazil MP appeared through VC. This is an application filed by the applicant for rectification of our order dated 06.11.2020 in MA/9/KOB/2019 in respect of paragraph 76, lines 4, 5 and 6 to the extent of stating that “the sole statutory creditor (R17 and 18 in MA 9/2019) ie. The Joint Director General of Foreign Trade and The Deputy Director General of Foreign Trade)”.

I have heard the learned counsel for the applicant Shri Ramalingam and have also perused the case records. It is noted that in Page 11 para 32 of the Common Written submissions filed by the counsel on behalf of the Corporate Debtor, it is stated that “the sole statutory creditor (R24 and 25 in MA9/2019) who submitted his claim has been paid under the Resolution Plan”.

Therefore, there was an error in the Common Written Submissions filed by the CD. Learned counsel for applicant stated that he shall file an application to rectify the mistake occurred in the written submission and sought an adjournment of this matter to another date. **List the IA(IBC) on 01.03.2021**, before that date the applicant may file the application for rectification.

#### 5 IBA/46/KOB/2019

Both sides sought an adjournment through email. Today the case is posted for final hearing. This case is filed by the Financial Creditor M/s. Tata Global Beverages Ltd against the Corporate Debtor K/s. Kerala Ayurveda Limited under Section 7 of IBC, 2016 on 01.11.2019. Pleadings are complete. Meanwhile the respondents have raised the issue of referring the matter to the Arbitrator and also the maintainability of the IB Application, which have already been disposed of.

It appears that this is a very old case. However, the adjournment sought at this time is allowed. Since this is an IBC matter, the parties may bear in mind that this case

cannot be prolonged and **hence there shall be no further adjournment in this case. In case the learned counsel for the parties are not cooperating for hearing, the case will be disposed of as per the available records and that no further adjournment will be granted.**

Registry is directed to issue copy of this order to the learned counsel of both the parties through email. **List on 24.02.2021 for final hearing.**

#### **6 IA/150/KOB/2020 IN TCP/22/KOB/2019**

Learned counsel for the applicant Shri Ajith Prakash as well as learned counsel for R1 Smt Marian GM Tharakan and learned counsel for R2 Smt. Telma Raju appeared through VC. Smt.Marian submitted that she has been newly engaged in this case after relinquishment of Vakkalath by Advocate Shivsankar R. Panicker and hence sought two weeks' time to file the counter in the IA. She may do so positively within two weeks with copy served to the applicant in advance. The applicant may file his rejoinder, if any, well before the next date fixed. **List on 26.03.2020 at 2.30 pm for final hearing.**

#### **7 TCP/22/KOB/2019**

Learned counsel for the petitioner Shri Ajith Prakash as well as learned counsel for R1 Smt Marian GM Tharakan and learned counsel for R2 Smt. Telma Raju appeared through VC. Pleadings are complete. **This is a very old pending case. List on 26.03.2021 at 2.30 pm for final hearing. The parties may bear in mind that there shall be no further adjournment in this case.**

Retired Justice Shri K. Narayana Kurup, the NCLT appointed Chairman may submit the status report with regard to the convening the AGM of the R1 Company within two weeks.

Registry is directed to issue copy of this order to all the learned counsel of the parties of this case including Retired Justice Shri K. Narayana Kurup through email.

#### **8 CP/07/KOB/2020**

Learned counsel for the Petitioner Shri Philip Mathew as well as learned counsel for R1 Smt. Telma Raju appeared through VC. **Heard the arguments of Shri Philip Mathew and concluded.** He has submitted that he will be filing an argument note. Smt. Telma Raju submitted that she wants to file some documents against the rejoinder filed by the Petitioner. Allowed. She may file an argument note along with the documents, if any, within a week. **Next date fixed for the arguments of the learned counsel for R1. List on 18.02.21 as part heard**

9 CP/54/KOB/2020

Learned counsel for the Petitioner Shri John Vadassery appeared through VC. None has appeared for the respondents. Meanwhile registry has received an email from R2, who is the MD of R1, seeking an adjournment for 3 weeks stating that he is under hospital treatment for Covid 19. It appears from records that even though the respondents have received notice in this case long back, none has filed the counter. Respondents are directed to file their counter within two weeks with copy served to the petitioner in advance. The petitioner may file the rejoinder, if any, before the next date fixed. **List on 18.03.2021 for hearing.** Registry is directed to issue copy of this order to the respondents through email.

10 CA/2/KOB/2021

Learned counsel for the Appellant Shri Krishnakumar G appeared through VC. Report of ROC is on record. However, it is noted that the appellant has not filed the Audited Financial Statements for the last 3 financial years prior to 2018. The Appellants may file the same within a week. **Reserved for orders. List for pronouncement of orders on 11.02.2021.**

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

Both sides sought an adjournment through email. List on **25.02.2021 at 2.30 pm** for hearing. Registry is directed to issue copy of this order to the learned counsel for both the parties through email.

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

Both sides sought an adjournment through email. List on **25.02.2021 at 2.30 pm** for hearing. Registry is directed to issue copy of this order to the learned counsel for both the parties through email.