

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

### **Daily Orders – Draft**

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

**Date: 23<sup>rd</sup> April 2021**

**1 MA/203/KOB/2020 IN TIBA/14/KOB/2019**

Learned counsel for the RP Shri Vinod PV appeared through VC. Orders pronounced. **MA/203/KOB/2020 IN TIBA/14/KOB/2019 is allowed vide separate Order.**

**2 MA/204/KOB/2020 IN TIBA/14/KOB/2019**

Learned counsel for the RP Shri Vinod PV appeared through VC. Orders pronounced. **MA/204/KOB/2020 IN TIBA/14/KOB/2019 is allowed vide separate Order.**

**3 CP/21/KOB/2021**

Learned counsel for the Petitioner Shri Maliekal Thobias Powell sought an adjournment through email.

This is a CP filed by the petitioner with the following prayers:

- (a) To allow the Company to revise its financial statements for the year ended 31.3.2019;
- (b) To waive the requirement of Advertisement under Rule 77(4) and 77(7) read with Rule 35 considering the Company being a closely held one and no public interest is involved; and direct the company to issue notice to its shareholders by Registered post with AD;
- (c) To allow consequential amendments to the statement of directors and auditors on the revised financial statements.

Registry is directed to issue notice to ROC through special messenger. ROC may file his counter within two weeks.

**List on 25.05.2021 for hearing.**

**4 IA(IBC)/78/KOB/2021 IN TIBA/25/KOB/2019**

Learned counsel for the RP Shri Vinod PV as well as learned counsel for the Suspended Directors/Respondents Smt Sruthi appeared through VC.

This is an IA filed by the RP under Section 19(2) of IBC 2016 for a direction from this Tribunal against the suspended directors/respondents to provide the documents required by the RP and provide all assistance until the completion of the CIR Process of the CD.

On the other hand, Smt. Sruthi submitted that the suspended directors are co-operating with the RP and ready to provide the requirement of the RP as stated in the prayer.

The respondents are directed to submit their acceptance of the prayer in writing within a week positively.

**List on 21.05.2021 for hearing.**

#### **5 IA(IBC)/79/KOB/2021 IN TIBA/07/KOB/2019**

Learned Liquidator Shri Jasin Jose appeared through VC. Learned counsel for R1 Shri Babu Karukapadath also appeared through VC.

This is an IA filed by the Liquidator seeking the following reliefs:

- (1) Direct Shri V KA Rahim (R1), Suspended Managing Director of Sargam Builders Pvt Ltd to collect back and hand over the purposefully returned cheque book and other account opening details provided by the bank on opening the Liquidation account in the name of the company for the smooth operation of the Company; and
- (2) In order to have more transparent and independent opinion of the financial of the Company to appoint an independent auditor for the period 2019-20.

Shri Babu Karukapadath submitted that he wants to file a counter in this IA. He may file the counter within two weeks positively.

During the hearing Shri Jasin Jose submitted that he is not insisting the 2<sup>nd</sup> prayer and consequently wants to delete the 2<sup>nd</sup> respondent/Chartered Accountant from this IA. He is directed to file an IA for the purpose of withdrawal of the 2<sup>nd</sup> prayer as well as deleting the 2<sup>nd</sup> respondent from the IA.

**List on 25.05.2021 for hearing.**

#### **6 CA/45/KOB/2021 IN TCP/67/KOB/2019 (CP/9/2016 )CHENNAI BENCH**

Learned counsel for the Applicant Shri Shankar P. Panicker as well as learned counsel for R1 to R6 Shri Abraham Markose appeared through VC.

This is an application filed under Section 166, 173(1), 173(2), 240 and 241 of the Companies Act, 2013. The applicant submitted that the decision of R2 to R6 to reopen the books of account for the years 2002-03 to 2008-09 has already been challenged in the IA/149/KOB/2020 in TCP/67/KOB/2019.

According to the petitioners, many acts of mismanagement and non-compliance on the part of the respondents are serious, continuous and are completely against the interests of the R1 Company and the Applicant.

Hence the Applicant filed this CA seeking 9 reliefs, out of which the learned counsel for the applicant during the argument insisted to pass order on relief sought under item (1), ie. to pass an order staying the alleged AGM proposed to be held on 26.04.2021 till pending final disposal of IA/149/KOB/2021.

I have heard the learned counsel for both the parties. It appears from records that IA/149/KOB/2020 in TCP/67/KOB/2019 is posted for hearing on 29.04.2021. After perusal of records, I am of the view that staying the AGM will not be proper at this stage. Therefore, the **respondents are allowed to conduct the AGM on 26.04.2021** as scheduled. However, they are **directed to keep the resolutions passed/decisions taken in the aforesaid AGM in a sealed cover, which can be opened and implemented only with the permission of this Tribunal.**

The respondents are directed to file their counter before the next date fixed. **List on 29.04.2021 along with IA/149/KOB/2021.**

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

#### **7 MA(IBC)/02/KOB/2021 IN IBA/26/KOB/2020**

Learned IRP Shri PD Vincent as well as learned counsel for the operational Creditor Shri Reji George and learned counsel for the Corporate Debtor Shri P.V.Elias appeared through VC.

This is an application filed under Section 12A of IBC 2016 read with Regulation 30A (1) and 30A (3) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 for withdrawal of the Corporate Insolvency Resolution Process.

Heard both the parties. **MA(IBC)/02/KOB/2021 IN IBA/26/KOB/2020 is disposed of vide separate sheets. IBA stands disposed of as withdrawn.**

#### **8 REPORT/32/KOB/2021 IN TIBA/24/KOB/2019**

Learned Liquidator Shri Shankar P. Panicker appeared through VC.

This is a progress report submitted by the Liquidator in the matter of Orion Kuries and Loans Pvt Ltd (under liquidation). I have perused the report. **The report is taken on record.** Registry is directed to place the report in the appropriate file.

**9 REPORT/33/KOB/2021 IN TIBA/35/KOB/2019**

None has appeared for the Liquidator.

This is a Progress Report filed by the liquidator of Goodwin Packet Pvt Ltd (Corporate Debtor) for the quarter ended 31.3.2021. I have perused the report. **The report is taken on record.** Registry is directed to place the report in the appropriate file.

**10 REPORT/34/KOB/2021 IN CP(IB)/54/KOB/2019**

Learned Liquidator Shri Raju Palanilkunnathil Kesavan appeared through VC.

This is a Preliminary Report submitted by the Liquidator under Regulation 13 of the IBBI (Liquidation Process) Regulations, 2016 in the matter of Auto Friction India Pvt Ltd (under liquidation). I have perused the report. **The report is taken on record.** Registry is directed to place the report in the appropriate file.

**11 REPORT/35/KOB/2021 IN CP(IB)/54/KOB/2019**

Learned Liquidator Shri Raju Palanilkunnathil Kesavan appeared through VC.

This is a Report submitted by the Liquidator under Regulation 31 and 31A of IBBI (Liquidation Process) Regulations, 2016 in the matter of Auto Friction India Pvt Ltd (under liquidation). I have perused the report. **The report is taken on record.** Registry is directed to place the report in the appropriate file.

**12 MA/190/KOB/2020 IN MA/45/KOB/2019 IN IBA/240/(IB)/2019/CHENNAI BENCH**

Advocate Vishnu Bhuvanachandran appeared through VC for the learned counsel for the Applicant Shri Alexander George. Learned counsel for the Liquidator Shri A.G.Sathyanarayana also appeared through VC.

It appears from records that the applicant has sought many adjournments for filing the rejoinder. Registry reported that the rejoinder now filed by the applicant is defective. Shri Vishnu Bhuvanachandran submitted that he will take necessary steps to rectify the defects within a week. He may do so within a week positively, in default, law will take its own course.

Shri Sathyanarayana submitted that the applicant is dragging the matter unnecessarily.

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

**List on 24.05.2021 for hearing.**

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

Advocate Vishnu Bhuvanachandran appeared through VC for the learned counsel for the Applicant Shri Alexander George. Learned counsel for the Liquidator Shri A.G.Sathyanarayana also appeared through VC.

It appears from records that the applicant has sought many adjournments for filing the rejoinder. Registry reported that the rejoinder filed by the applicant is defective. Shri Vishnu Bhuvanachandran submitted that he will take necessary steps to rectify the defects within a week. He may do so positively within a week positively, in default, law will take its own course.

Shri Sathyanarayana submitted that the applicant is dragging the matter unnecessarily.

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

**List on 24.05.2021 for hearing.**

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

Advocate Vishnu Bhuvanachandran appeared through VC for the learned counsel for the Applicant Shri Alexander George. Learned counsel for the Liquidator Shri A.G.Sathyanarayana also appeared through VC.

It appears from records that the applicant has sought many adjournments for filing the rejoinder. Registry reported that the rejoinder now filed by the applicant is defective. Shri Vishnu Bhuvanachandran submitted that he will take necessary steps to rectify the defects within a week. He may do so positively within a week positively, in default, law will take its own course.

Shri Sathyanarayana submitted that the applicant is dragging the matter unnecessarily.

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

**List on 24.05.2021 for hearing.**

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

Advocate Vishnu Bhuvanachandran appeared through VC for the learned counsel for the Applicant Shri Alexander George. Learned counsel for the Liquidator Shri A.G.Sathyanarayana also appeared through VC.

It appears from records that the applicant has sought many adjournments for filing the rejoinder. Registry reported that the rejoinder now filed by the applicant is defective. Shri Vishnu Bhuvanachandran submitted that he will take necessary steps to rectify the defects within a week. He may do so positively within a week positively, in default, law will take its own course.

Shri Sathyanarayana submitted that the applicant is dragging the matter unnecessarily.

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

**List on 24.05.2021 for hearing.**

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

Advocate Vishnu Bhuvanachandran appeared through VC for the learned counsel for the Applicant Shri Alexander George. Learned counsel for the Liquidator Shri A.G.Sathyanarayana also appeared through VC.

It appears from records that the applicant has sought many adjournments for filing the rejoinder. Registry reported that the rejoinder now filed by the applicant is defective. Shri Vishnu Bhuvanachandran submitted that he will take necessary steps to rectify the defects within a week. He may do so positively within a week positively, in default, law will take its own course.

Shri Sathyanarayana submitted that the applicant is dragging the matter unnecessarily.

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

**List on 24.05.2021 for hearing.**

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

Advocate Vishnu Bhuvanachandran appeared through VC for the learned counsel for the Applicant Shri Alexander George. Learned counsel for the Liquidator Shri A.G.Sathyanarayana also appeared through VC.

It appears from records that the applicant has sought many adjournments for filing the rejoinder. Registry reported that the rejoinder now filed by the applicant is defective. Shri Vishnu Bhuvanachandran submitted that he will take necessary

steps to rectify the defects within a week. He may do so positively within a week positively, in default, law will take its own course.

Shri Sathyanarayana submitted that the applicant is dragging the matter unnecessarily.

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

**List on 24.05.2021 for hearing.**

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

Advocate Vishnu Bhuvanachandran appeared through VC for the learned counsel for the Applicant Shri Alexander George. Learned counsel for the Liquidator Shri A.G.Sathyanarayana also appeared through VC.

It appears from records that the applicant has sought many adjournments for filing the rejoinder. Registry reported that the rejoinder now filed by the applicant is defective. Shri Vishnu Bhuvanachandran submitted that he will take necessary steps to rectify the defects within a week. He may do so positively within a week positively, in default, law will take its own course.

Shri Sathyanarayana submitted that the applicant is dragging the matter unnecessarily.

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

**List on 24.05.2021 for hearing.**

**19 IA/7(KOB)/2020 IN TCP/7/KOB/19**

Learned counsel for the applicants Shri Madhu N. Namboothiripad appeared through VC. Learned counsel for R1 Shri C.K.Karunakaran, learned counsel for R2 Smt. Rema Smrithi and learned counsel for R4 Shri Keerthy Vas Giri also appeared through VC.

This is an IA filed by the Respondents 1 and 2 in the Main TCP/7/KOB/2019 questioning the maintainability of the TCP. This IA will be heard along with the main TCP. **Adjourned to 07.06.2021.**

20 CA/8/KOB/2021 IN TCP/7/KOB/19

Learned counsel for the applicant Shri C.K.Karunakaran appeared through VC. Learned counsel for R1 & R2 Shri Madhu Nambootiripad, learned counsel for R3 Smt. Rema Smrithi and learned counsel for R4 Shri Keerthi Vas Giri also appeared through VC.

This CA is filed by the petitioner for amending the TCP. R1 to R3 has already filed the counter. But no counter has been filed by R4. However, the counsel for R4 stated that he is not filing the counter and will argue the matter.

Heard the parties. **Orders reserved. List for pronouncement of orders on 17.05.2021.**

21 TCP/7/KOB/19

Learned counsel for the Petitioner Shri C.K.Karunakaran appeared through VC. Learned counsel for R1 & R2 Shri Madhu Nambootiripad, learned counsel for R3 Smt. Rema Smrithi and learned counsel for R4 Shri Keerthi Vas Giri also appeared through VC.

**Pleadings are complete. List on 07.06.2021 for final hearing.**

22 CA/09/KOB/2021

Learned counsel for the Applicant Shri Mohammed Hashim appeared through VC. Report of the ROC is on record. **Reserved for orders. List for pronouncement of orders on 27.04.2021.**

23 IA/58/KOB/2019 IN CP/114/KOB/2019

Learned counsel for the applicant Shri Sukumar Nainan Oommen appeared through VC. Learned counsel for R1 & R2 Shri P. Sanjay, learned PCS for R3 Shri PP Zibi Jose and learned counsel for R4 Shri Sumit Agarwal also appeared through VC.

Shri Sukumar Nainan Oommen and Sherry Samuel Oommen argued for the applicant and concluded.

**List on 28.04.2021 at 2.30 pm for the arguments of the Respondents.**

24 IA 83/KOB/2020 IN CP/114/KOB/2019



Learned counsel for the applicant Shri Sukumar Nainan Oommen appeared through VC. Learned counsel for R1 & R2 Shri P. Sanjay, learned PCS for R3 Shri PP Zibi Jose and learned counsel for R4 Shri Sumit Agarwal also appeared through VC.

Shri Sukumar Nainan Oommen and Sherry Samuel Oommen argued for the applicant and concluded.

**List on 28.04.2021 at 2.30 pm for the arguments of the Respondents.**

**25 IA/87/KOB/2020 IN CP/114/KOB/2019**

Learned counsel for the applicants Shri Sukumar Nainan Oommen appeared through VC. Learned counsel for R1 & R2 Shri P. Sanjay, learned PCS for R3 Shri PP Zibi Jose and learned counsel for R4 Shri Sumit Agarwal also appeared through VC.

Shri Sukumar Nainan Oommen and Sherry Samuel Oommen argued for the applicant and concluded.

**List on 28.04.2021 at 2.30 pm for the arguments of the Respondents.**

**26 IA/95/KOB/2020 IN CP/114/KOB/2019**

Learned counsel for the applicants Shri Sukumar Nainan Oommen appeared through VC. Learned counsel for R1 & R2 Shri P. Sanjay, learned PCS for R3 Shri PP Zibi Jose and learned counsel for R4 Shri Sumit Agarwal also appeared through VC.

Shri Sukumar Nainan Oommen and Sherry Samuel Oommen argued for the applicant and concluded.

**List on 28.04.2021 at 2.30 pm for the arguments of the Respondents.**

**27 CP/114/KOB/2019**

Learned counsel for the Petitioner Shri Sukumar Nainan Oommen appeared through VC. Learned counsel for R1 & R2 Shri P. Sanjay, learned PCS for R3 Shri PP Zibi Jose and learned counsel for R4 Shri Sumit Agarwal also appeared through VC.

Shri Sukumar Nainan Oommen and Sherry Samuel Oommen argued for the applicant and concluded.

**List on 28.04.2021 at 2.30 pm for the arguments of the Respondents.**

**28 IA/65/KOB/2019 IN CP/119/KOB/2019**

Learned counsel for the applicants Shri Sukumar Nainan Oommen appeared through VC. Learned counsel for R1 & R2 Shri P. Sanjay, learned PCS for R3 Shri PP Zibi Jose and learned counsel for R4 Shri Sumit Agarwal also appeared through VC.

Shri Sukumar Nainan Oommen and Sherry Samuel Oommen argued for the applicant and concluded.

**List on 28.04.2021 at 2.30 pm for the arguments of the Respondents.**

**29 IA/84/KOB/2020 IN CP/119/KOB/2019**

Learned counsel for the applicant Shri Sukumar Nainan Oommen appeared through VC. Learned counsel for R1 & R2 Shri P. Sanjay, learned PCS for R3 Shri PP Zibi Jose and learned counsel for R4 Shri Sumit Agarwal also appeared through VC.

Shri Sukumar Nainan Oommen and Sherry Samuel Oommen argued for the applicant and concluded.

**List on 28.04.2021 at 2.30 pm for the arguments of the Respondents.**

**30 IA/86/KOB/2020 IN CP/119/KOB/2019**

Learned counsel for the applicants Shri Sukumar Nainan Oommen appeared through VC. Learned counsel for R1 & R2 Shri P. Sanjay, learned PCS for R3 Shri PP Zibi Jose and learned counsel for R4 Shri Sumit Agarwal also appeared through VC.

Shri Sukumar Nainan Oommen and Sherry Samuel Oommen argued for the applicant and concluded.

**List on 28.04.2021 at 2.30 pm for the arguments of the Respondents.**

**31 IA/93/KOB/2020 IN CP/119/KOB/2019**

Learned counsel for the applicants Shri Sukumar Nainan Oommen appeared through VC. Learned counsel for R1 & R2 Shri P. Sanjay, learned PCS for R3 Shri PP Zibi Jose and learned counsel for R4 Shri Sumit Agarwal also appeared through VC.

Shri Sukumar Nainan Oommen and Sherry Samuel Oommen argued for the applicant and concluded.

**List on 28.04.2021 at 2.30 pm for the arguments of the Respondents.**

32 CP/119/KOB/2019

Learned counsel for the Petitioners Shri Sukumar Nainan Oommen appeared through VC. Learned counsel for R1 & R2 Shri P. Sanjay, learned PCS for R3 Shri PP Zibi Jose and learned counsel for R4 Shri Sumit Agarwal also appeared through VC.

Shri Sukumar Nainan Oommen and Sherry Samuel Oommen argued for the applicant and concluded.

**List on 28.04.2021 at 2.30 pm for the arguments of the Respondents.**

33 IA/85/KOB/2020 IN CP/125/KOB/2019

Learned counsel for the applicant Shri Sukumar Nainan Oommen appeared through VC. Learned PCS for R3 Shri PP Zibi Jose and learned counsel for R4 Shri Sumit Agarwal also appeared through VC.

Shri Sukumar Nainan Oommen and Sherry Samuel Oommen argued for the applicant and concluded.

**List on 28.04.2021 at 2.30 pm for the arguments of the Respondents.**

34 IA/88/KOB/2020 IN CP/125/KOB/2019

Learned counsel for the applicants Shri Sukumar Nainan Oommen appeared through VC. Learned PCS for R3 Shri PP Zibi Jose and learned counsel for R4 Shri Sumit Agarwal also appeared through VC.

Shri Sukumar Nainan Oommen and Sherry Samuel Oommen argued for the applicant and concluded.

**List on 28.04.2021 at 2.30 pm for the arguments of the Respondents.**

**35 IA/94/KOB/2020 IN CP/125/KOB/2019**

Learned counsel for the applicants Shri Sukumar Nainan Oommen appeared through VC. Learned PCS for R3 Shri PP Zibi Jose and learned counsel for R4 Shri Sumit Agarwal also appeared through VC.

Shri Sukumar Nainan Oommen and Sherry Samuel Oommen argued for the applicant and concluded.

**List on 28.04.2021 at 2.30 pm for the arguments of the Respondents.**

**36 CP/125/KOB/2019**

Learned counsel for the Petitioners Shri Sukumar Nainan Oommen appeared through VC. Learned PCS for R3 Shri PP Zibi Jose and learned counsel for R4 Shri Sumit Agarwal also appeared through VC.

Shri Sukumar Nainan Oommen and Sherry Samuel Oommen argued for the applicant and concluded.

**List on 28.04.2021 at 2.30 pm for the arguments of the Respondents.**

**37 CP/126/KOB/2019**

Both the parties appeared through VC. But due to paucity of time adjourned to 27.04.2021.

**38 IA/215/KOB/2020 IN CP/38/KOB/2020 c/w CP/126/KOB/2019**

Both the parties appeared through VC. But due to paucity of time adjourned to 27.04.2021.

**39 CP/38/KOB/2020**

Both the parties appeared through VC. But due to paucity of time adjourned to 27.04.2021.

