

NCLT, KOCHI BENCH

Daily Orders – Draft

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

Date: 26th Feb 2021

1 IBA/35/KOB/2020

Learned counsel for the Operational Creditor Shri Maninder Singh as well as learned counsel for the Corporate Debtor Shri Vinod PV appeared through VC. Orders Pronounced. **IBA/35/KOB/2020 stands disposed of vide separate sheets.**

2 IA/169/KOB/2020 IN CP/114/KOB/2019

Learned counsel for the Applicant Shri P.Sanjay appeared through VC. Learned counsel for R1 & R2 Shri Sukumar Nainan Oommen, learned PCS for R3 Shri PP Zibi Jose and learned counsel for R4 Shri Sumit Agarwal appeared through VC. Orders pronounced. **IA/169/KOB/2020 IN CP/114/KOB/2019 is disposed of vide separate sheets.**

3 CA/25/KOB/2021 IN IA/170/KOB/2020 IN CP/119/KOB/2019

In view of the orders in IA 170/KOB/2020, this CA/25/KOB/2021 stands disposed of.

4 IA/170/KOB/2020 IN CP/119/KOB/2019

Learned counsel for the Applicant Shri P.Sanjay appeared through VC. Learned counsel for R1 & R2 Shri Sukumar Nainan Oommen, learned PCS for R3 Shri PP Zibi Jose and learned counsel for R4 Shri Sumit Agarwal appeared through VC. Orders pronounced. **IA/170/KOB/2020 IN CP/119/KOB/2019 is disposed of vide separate sheets.**

5 CA/24/KOB/2021 IN IA/171/KOB/2020 IN CP/125/KOB/2019

Learned counsel for the Applicant Shri P.Sanjay appeared through VC. Learned counsel for R1 & R2 Shri Sukumar Nainan Oommen, learned PCS for R3 Shri PP

Zibi Jose and learned counsel for R4 Shri Sumit Agarwal appeared through VC. Orders pronounced. **CA/24/KOB/2021 IN IA/171/KOB/2020 IN CP/125/KOB/2019 is disposed of vide separate sheets.**

6 IA/171/KOB/2020 IN CP/125/KOB/2019

Learned counsel for the Applicant Shri P.Sanjay appeared through VC. Learned counsel for R1 & R2 Shri Sukumar Nainan Oommen, learned PCS for R3 Shri PP Zibi Jose and learned counsel for R4 Shri Sumit Agarwal appeared through VC. Orders pronounced. **IA/171/KOB/2020 IN CP/125/KOB/2019 is disposed of vide separate sheets.**

7 IA(IBC)/42/KOB/2021 IN MA/97/KOB/2020 IN MA/7/KOB/2019 IN IBA/258/19/CB

Learned counsel for the Applicant Shri Shivsankar R. Panicker appeared through VC. Advocate Shri Kunal Kanungu and Advocate Shri Akhil Suresh appeared through VC for the Liquidator. Shri Shivsankar R. Panicker submitted that the liquidator has not issued the documents, such as, details of calculations of the admitted and non-admitted claims, etc to the applicant. On the other hand, Shri Kunal Kanungu submitted that those details have already been provided to the applicant as stated in page Nos 14 to 16 of the counter. Heard both **sides. Reserved for orders. List for pronouncement of orders on 04.03.2021.**

8 IA(IBC)/43/KOB/2021 IN MA/98/KOB/2020 IN MA/7/KOB/2019 IN IBA/258/19/CB

Learned counsel for the Applicant Shri Shivsankar R. Panicker appeared through VC. Advocate Shri Kunal Kanungu and Advocate Shri Akhil Suresh appeared through VC for the Liquidator. Shri Shivsankar R. Panicker submitted that the liquidator has not issued the documents, such as, details of calculations of the admitted and non-admitted claims, etc to the applicant. On the other hand, Shri Kunal Kanungu submitted that those details have already been provided to the applicant as stated in page Nos 14 to 16 of the counter. Heard both **sides. Reserved for orders. List for pronouncement of orders on 04.03.2021.**

9 IA(IBC)/44/KOB/2021 IN MA/127/KOB/2020 IN MA/7/KOB/2019 IN IBA/258/19/CB

Learned counsel for the Applicant Shri Shivsankar R. Panicker appeared through VC. Advocate Shri Kunal Kanungu and Advocate Shri Akhil Suresh appeared

through VC for the Liquidator. Shri Shivsankar R. Panicker submitted that the liquidator has not issued the documents, such as, details of calculations of the admitted and non-admitted claims, etc to the applicant. On the other hand, Shri Kunal Kanungu submitted that those details have already been provided to the applicant as stated in page Nos 14 to 16 of the counter. Heard both **sides. Reserved for orders. List for pronouncement of orders on 04.03.2021.**

10 IA(IBC)/45/KOB/2021 IN MA/117/KOB/2020 IN MA/7/KOB/2019 IN IBA/258/19/CB

Learned counsel for the Applicant Shri Shivsankar R. Panicker appeared through VC. Advocate Shri Kunal Kanungu and Advocate Shri Akhil Suresh appeared through VC for the Liquidator. Shri Shivsankar R. Panicker submitted that the liquidator has not issued the documents, such as, details of calculations of the admitted and non-admitted claims, etc to the applicant. On the other hand, Shri Kunal Kanungu submitted that those details have already been provided to the applicant as stated in page Nos 14 to 16 of the counter. Heard both **sides. Reserved for orders. List for pronouncement of orders on 04.03.2021.**

11 IA/220/KOB/2020 IN MA/97/KOB/2020 & MA/98/KOB/2020 IN MA/7/KOB/2019 IN IBA/258/19/CB

Learned counsel for the Applicant Shri Shivsankar R. Panicker appeared through VC. Advocate Shri Kunal Kanungu and Advocate Shri Akhil Suresh appeared through VC for the Liquidator. Heard both sides. Reserved for orders. List for pronouncement of orders on 04.03.2021.

12 MA/97/KOB/2020 IN MA/7/KOB/2019 IN IBA/258/19/CB

Learned counsel for the Applicant Shri Shivsankar R. Panicker appeared through VC. Advocate Shri Kunal Kanungu and Advocate Shri Akhil Suresh appeared through VC for the Liquidator. Heard both sides. Reserved for orders. List for pronouncement of orders on 04.03.2021.

13 MA/98/KOB/2020 IN MA/7/KOB/2019 IN IBA/258/19/CB

Learned counsel for the Applicant Shri Shivsankar R. Panicker appeared through VC. Advocate Shri Kunal Kanungu and Advocate Shri Akhil Suresh appeared

through VC for the Liquidator. Heard both sides. Reserved for orders. List for pronouncement of orders on 04.03.2021.

14 IA/33/KOB/2021 IN TIBA/25/KOB/2019

Learned counsel for the Applicant Shri Gokul Ashok appeared through VC. Learned counsel for IRP/R1 Shri Vinod PV, learned counsel for R2 & R3 Ms Manjula devi and learned counsel for R4 Shri Biju Varghese appeared through VC.

Vide order dated 3rd Feb 2021, it was ordered that final sale of the properties in question, be kept in abeyance till counter is filed by the IRP in this IA. In the said order, the IRP and other respondents were also directed to file their counter within two weeks. But none has filed the counter. Shri Vinod PV submitted that there are some perishable items in the stock of the CD and requested the Tribunal to allow him to dispose the perishable items. The Bench directed him to file an IA, if he so desire, detailing the perishable items.

The IRP as also other respondents submitted that they have not received the hard copy of the petition and hence find difficulties to file the counter. Therefore, the Applicant is directed to provide the hard copy of the application with all attachments to all the respondents, if not yet done so. All the respondents are directed to file their counter within two weeks positively. The petitioner may file his rejoinder, if any, before the next date fixed.

List on 19.03.2021.

15 TCP/21/KOB/2019

Learned counsel for the Petitioners Shri A.C.Venugopal appeared through VC. Learned counsel for the Administrator Shri Manuel Vivera and learned counsel for R3 to R6 Smt C.G.Preetha appeared through VC. Learned ROC has also appeared through VC.

It appears from records that the learned counsel for the SFIO Shri Girish Kumar submitted in the hearing on 10.08.2020 that the Government of India is under the process of constituting the team to investigate into the affairs of the Bhagyodhayam Company (R1) and at least two months period may require to complete the investigation against the R1 Company. But none has appeared for the SFIO on the last date of hearing on 4.01.2021 as well as today.

Meanwhile, learned ROC submitted that they have already forwarded the records to the Ministry of Corporate Affairs for approval for filing the appeal before NCLAT against the Order of this Tribunal.

Learned counsel for the petitioners Shri Venugopal submitted that SFIO has not yet given any seriousness to the Order of this Tribunal dated 11.3.2020 in IA/29/KOB/2020 in TCP/21/KOB/2019.

Meanwhile M/s. Babu A. Kallivayalil & Co., Chartered Accountants, have submitted an email dated 25.2.2021 stating that they have not yet received the financial statements approved by the Administrator of R1 Company.

Learned counsel for the Administrator submitted that the financial statements are under the active consideration of the Administrator and decision on the same will be taken shortly.

I have heard the learned counsel for the parties. Since no stay order is passed by the Hon'ble NCLAT, the proceedings of this Tribunal will continue.

List on 20.04.2021.

16 CA/44/KOB/2019

Learned counsel for the Petitioners Shri A.C.Venugopal appeared through VC. Learned counsel for the Administrator Shri Manuel Vivera and learned counsel for R4, R6-R9, R11, R13 & R18 Ms C.G.Preetha as also learned counsel for R 2&3 Shri Ashok B Shenoy also appeared through VC. Learned ROC also appeared through V C. **List on 20.04.2021 for final hearing.**

17 IA/153/KOB/2020 IN CP/08/KOB/2020 WITH MEMO

Learned counsel for the Applicant Shri Vinu Thomas as well as learned counsel for R1 to R4 Shri Gokul RI appeared through VC. This IA is filed by the 2nd respondent in the CP/08/KOB/2020 seeking direction for an independent audit of the books of accounts and financial statements as on date of the Shareholders Agreement by a Practicing Chartered Accountant and also for direction for an independent cost audit of the stock and records of the 5th Respondent Company by a Practicing Cost Accountant. Vide order dated 18th Feb 2021 both the parties were directed to suggest a mutually agreed name of a PCA for appointment as Independent Auditor.

Accordingly, both the parties suggested names of the Practicing Chartered Accountants. During the hearing today, both the parties mutually agreed to appoint **M/s. P.N.Krishan Mani & Co., Chartered Accountants, TC 28/1839 TENRA 24 Line Road (PTC) Thycaud, Trivandrum 695 014 (Firm Regn No.001472S)** to conduct the independent audit of the books of accounts and financial statements of the R5 Company.

Regarding independent cost audit, both the parties mutually agreed to appoint **CMA Ajith Kumar A, FCMA, Membership No. 31011, (email id: ajiththycaud@yahoo.com)** to conduct the independent cost audit of the stock and records of the R5 Company as on date of the Shareholders Agreement, ie. 15.01.2019.

This Tribunal approves the appointment of the aforesaid Chartered Accountants and Auditors to conduct the independent audit and the independent cost audit of the accounts of the company as on the date of the shareholders agreement on 15.1.2019. **The fee of the Auditors will be borne by the applicant in this IA. Both the above Auditors are directed to submit their report within one month from the date of receipt of this order.**

Accordingly, IA/153/KOB/2020 IN CP/08/KOB/2020 stands disposed of.

Registry is directed to communicate a copy of this order to the Chartered Accountants and Cost Auditor by email.

18 **CA/30/KOB/2021 IN CP/33/KOB/2020**

No response from the Applicant. Adjourned to 01.04.2021.

19 **CP/33/KOB/2020**

No response from the Applicant. Adjourned to 01.04.2021.

20 **CP/52/KOB/2020**

Learned counsel for the petitioner Shri C. Harikumar submitted an email seeking an adjournment stating that he is having some inconvenience in appearing before the Tribunal. Learned PCS for R1 & R2 Shri PP Zibi Jose submitted an email stating willingness to appear through VC. List on **5.4.2021**.

21 **IBA/25/KOB/2020**

Learned counsel for the Financial Creditor Shri Leo George as well as learned counsel for the Corporate Debtor Shri Jithin Saji Issac appeared through VC. Heard both sides. **Reserved for orders. List for pronouncement of orders on 08.03.2021.**

Learned counsel for the Corporate Debtor sought permission to inspect original documents produced by the financial creditor before this Tribunal. Learned counsel for the financial creditor also stated that the original documents may be verified in his presence. Both parties are at liberty to apply for inspection of records, as per the NCLT Rules, within a week.

22 **CA/55/KOB/2020**

Learned counsel for the Applicant Shri Bijoy P. Pulipra submitted an email stating willingness to appear through VC. However, learned counsel for R2 Shri Ponnann Alex submitted an email seeking an adjournment stating that he is not able to attend the case today due to ill health. Adjourned to **24.3.2021.**