

NCLT, KOCHI BENCH

Daily Orders – Draft

Date: 27th JULY 2021

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

1 CP/32/KOB/2021

Learned counsel for the Petitioner Shri Nebil Nizar appeared through VC.

This Company Petition has been filed under Section 66 of the Companies Act, 2013 for confirming the Reduction of Share Capital of the Petitioner Company.

Heard and perused the records.

Orders reserved. The Date of Pronouncement of Orders will be intimated later.

2 INVP(IBC)/3/KOB/2021 IN IBA/01/KOB/2020

Learned counsel for the Intervening Petitioner Shri Terry V. James as well as learned RP Shri Raju PK appeared through VC.

Adv Shri A.S.P.Kurup appeared for R2 and Adv Shri M.A.Shaji appeared for R4 and R5 through VC and stated that they will be filing their vakalath. They sought time to file a counter to the petition. They may file the counter within two weeks.

This is an intervening petition filed under section 60(5) of IBC 2016 with certain prayers, which include impleading the applicant as additional respondent in the above case.

The Intervening petitioner is directed to issue fresh notice to the respondents 3 and 6 through Registered Post with A/D or Speed Post with A/D and submit proof of service (A/d card or Postal Track Report) with an affidavit before the next date fixed. Registry is also directed to issue notice to R3 & R6 through email. R3 & R6 are also directed to file the counter within 2 weeks of receipt of notice. The Intervening Petitioner may file rejoinder, if any, two days before the next date fixed. **List on 09.09.2021.**

3 REPORT/63/KOB/2021 IN TCP/59/KOB/2019

Learned liquidator Shri Kizhakkekara Kuriakose Jose appeared through VC.

This is the 7th Progress Report submitted by the Liquidator in the matter of liquidation process of the CD. He submitted that works are under progress for the 5th round of E-auction with regard to the Liquidation Process of the CD. His submission is recorded.

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

4 MA(IBC)/4/KOB/2021 IN TIBA/25/KOB/2019

Learned PCS for the applicant Dr. K.S.Ravichandran, learned RP Smt. Satyadevi Alamuri along with her learned counsel Sri Vinod PV and learned counsel for R1/Operational Creditor Shri Vijay V. Paul also appeared through VC.

Pleadings are complete.

List on 05.08.2021 on high on board for final hearing.

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

Learned counsel for applicant Shri Vijay V. Paul and learned counsel for the respondents Dr. K.S.Ravichandran appeared through VC. The rejoinder filed by the applicant is taken on record.

List this IA for hearing on 05.08.2021 on high on board.

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

Learned counsel for the Applicant/RP Shri Vinod PV along with the Liquidator as well as learned PCS for respondents Dr. KS Ravichandran 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.

Dr.Ravichandran submitted that the suspended directors are co-operating with the RP and the required documents/datas have already been provided to the RP.

However the learned RP refuted the said statement and stated that the suspended directors are not cooperating.

Heard both sides.

In view of the above submission of both parties, they are directed to sit together and sort out the issues so as to enable the Liquidator to discharge her duties smoothly. The suspended directors are directed to fulfil all requirements of the Liquidator as prayed for in the IA within a week positively and file a report by the RP what transpired in their joint meeting before the next date fixed.

List on 05.08.2021 (high on board).

7 IA(IBC)100/KOB/2021 IN IBA/25/KOB/2020

Learned counsel for the Applicant Shri Divakar Maheshwari as well as learned IRP Shri Sathiq Buhari appeared through VC.

It is noted that Shri Sathiq Buhari is the IRP at present. But he himself claims that he is the RP and filed the Liquidation application also in this case.

Registry reported that the counter filed by the IRP is defective. The IRP may cure the defects and submit before the next date fixed. During the hearing the IRP submitted that the applicant is a creditor of the CD. The IRP is directed to submit the relevant extracts from books of accounts of the CD with an affidavit within a week serving an advance copy to the promoter as well as to the applicant.

List on 06.08.2021 for hearing.

8 IA(IBC)/105/KOB/2021 IN IBA/25/KOB/2020

Learned IRP Shri Sathiq Buhari appeared through VC. Learned Senior Counsel Shri Joseph Kodianthara appeared through VC for the Promotor/CD.

This is an application filed by the RP on behalf of CoC for appointment of the IRP as RP under Section 22(3)(a) of IBC, 2016.

The IRP submitted that he was appointed as IRP on 08.03.2021 vide order in IBA/25/KOB/2020 and the CoC meeting held on 12.04.2021 resolved to appoint him as RP. He also submitted that the liquidation application submitted by him is pending before this Tribunal.

All CoC members in this case are directed to appear in person through VC at the time of next hearing.

Registry is directed to list this IA along with the Liquidation application. Registry is also directed to issue copy of this order to the IRP through email directing him to serve copy of this order to all CoC members for their appearance on 27.8.2021.

List on 27.08.2021 for hearing.

9 IA(IBC)/109/KOB/2021 IN IBA/25/KOB/2020

Learned applicant/IRP Shri Sathiq Buhari appeared through VC. Learned senior counsel for the Promoter/CD Shri Joseph Kodianthara as well as learned counsel for the Financial Creditor Shri Diwakar Maheshwari appeared through VC.

This is an application filed by the IRP for liquidation of the CD.

Shri Joseph Kodianthara submitted that the IRP cannot file liquidation application as per rules and hence this IA filed by the IRP is prima facie unsustainable.

This application will be heard in detail on 27.08.2021.

10 REPORT/49/KOB/2021 IN IBA/41/KOB/2020

The learned IRP Shri Jasin Jose appeared through VC.

This is a progress report submitted by the IRP intimating the stay order passed by the Hon'ble High Court of Kerala in this IBA.

The IRP submitted that the stay order is continuing and the matter is now list on 09.08.2021. The submission of the IRP is noted.

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

11 CP(IB)/8/KOB/2021

Learned counsel for the FC Shri Sunil Shankar as well as learned counsel for the CD Shri C.K.Karunakaran appeared through VC.

Both the counsel submitted that this case may be posted on 10.8.2021.

The respondents are given one week's further time to file their counter and the applicant may file rejoinder, if any, well before the next date fixed.

List on 10.08.2021 for hearing.

12 CONTEMPT PETITION/05/KOB/2020 IN IA/31/KOB/2020 IN CP/69/KOB/2019

Both the parties appeared through VC.

Learned senior counsel Shri Joseph Kodianthara submitted that as per the direction given by this Tribunal on 26.07.2021 the works are under progress in his office so as to submit the scanned copies before the Tribunal. Since the documents in this case

are quite voluminous he sought an adjournment to complete the scanning process of the documents. Allowed.

At the request of the parties, adjourned to 09.09.2021.

13 IA/32/KOB/2019 IN CP/69/KOB/2019

Both the parties appeared through VC.

Learned senior counsel Shri Joseph Kodianthara submitted that as per the direction given by this Tribunal on 26.07.2021 the works are under progress in his office so as to submit the scanned copies before the Tribunal. Since the documents in this case are quite voluminous he sought an adjournment to complete the scanning process of the documents. Allowed.

At the request of the parties, adjourned to 09.09.2021.

14 CP/69/KOB/2019

Both the parties appeared through VC.

Learned senior counsel Shri Joseph Kodianthara submitted that as per the direction given by this Tribunal on 26.07.2021 the works are under progress in his office so as to submit the scanned copies before the Tribunal. Since the documents in this case are quite voluminous he sought an adjournment to complete the scanning process of the documents. Allowed.

At the request of the parties, adjourned to 09.09.2021.

15 CONTEMPT PETITION/04/KOB/2020 IN IA/32/KOB/2020 IN CP/71/KOB/2019

Both the parties appeared through VC.

Learned senior counsel Shri Joseph Kodianthara submitted that as per the direction given by this Tribunal on 26.07.2021 the works are under progress in his office so as to submit the scanned copies before the Tribunal. Since the documents in this case are quite voluminous he sought an adjournment to complete the scanning process of the documents. Allowed.

At the request of the parties, adjourned to 09.09.2021.

16 **IA/33/KOB/2019 IN CP/71/KOB/2019**

Both the parties appeared through VC.

Learned senior counsel Shri Joseph Kodianthara submitted that as per the direction given by this Tribunal on 26.07.2021 the works are under progress in his office so as to submit the scanned copies before the Tribunal. Since the documents in this case are quite voluminous he sought an adjournment to complete the scanning process of the documents. Allowed.

At the request of the parties, adjourned to 09.09.2021.

17 **CP/71/KOB/2019**

Both the parties appeared through VC.

Learned senior counsel Shri Joseph Kodianthara submitted that as per the direction given by this Tribunal on 26.07.2021 the works are under progress in his office so as to submit the scanned copies before the Tribunal. Since the documents in this case are quite voluminous he sought an adjournment to complete the scanning process of the documents. Allowed.

At the request of the parties, adjourned to 09.09.2021.

18 **CONTEMPT PETITION/03/KOB/2020 IN IA/33/KOB/2020 IN CP/72/KOB/2019**

Both the parties appeared through VC.

Learned senior counsel Shri Joseph Kodianthara submitted that as per the direction given by this Tribunal on 26.07.2021 the works are under progress in his office so as to submit the scanned copies before the Tribunal. Since the documents in this case are quite voluminous he sought an adjournment to complete the scanning process of the documents. Allowed.

At the request of the parties, adjourned to 09.09.2021.

19 **IA/34/KOB/2019 IN CP/72/KOB/2019**

Both the parties appeared through VC.

Learned senior counsel Shri Joseph Kodianthara submitted that as per the direction given by this Tribunal on 26.07.2021 the works are under progress in his office so as

to submit the scanned copies before the Tribunal. Since the documents in this case are quite voluminous he sought an adjournment to complete the scanning process of the documents. Allowed.

At the request of the parties, adjourned to 09.09.2021.

20 CP/72/KOB/2019

Both the parties appeared through VC.

Learned senior counsel Shri Joseph Kodianthara submitted that as per the direction given by this Tribunal on 26.07.2021 the works are under progress in his office so as to submit the scanned copies before the Tribunal. Since the documents in this case are quite voluminous he sought an adjournment to complete the scanning process of the documents. Allowed.

At the request of the parties, adjourned to 09.09.2021.

21 CP/53/KOB/2020

Learned counsel for the Petitioner Smt Merin Thaliath as well as learned PCS for R1 to R3 Shri Vivek Kumar appeared through VC.

Smt. Merin Thaliath sought an adjournment to file the rejoinder stating that copy of certain documents related to this case are to be collected from abroad.

It appears from records that counter by respondents 1 to 3 was filed on 18.01.2021. The petitioner had sought adjournment on 04.02.2021 for filing the rejoinder and on that date, she was directed to file the rejoinder within two weeks. Even after more than five months after receipt of the counter, the present approach of the petitioner to prolong the case by seeking further time to file the rejoinder is not at all justifiable. However, in the interests of justice, **the petitioner is given the last and final opportunity to file the rejoinder, if any, within two weeks, failing which her rights to file the rejoinder shall stand forfeited. No further time will be granted to file rejoinder.**

List on 30.09.2021 for hearing.

22 CA/78/KOB/2020

Learned counsel for the applicant Shri Praful Surendran appeared through VC. None appeared for the respondents.

Shri Praful Surendran sought an adjournment to file the rejoinder. It appears from records that the petitioner had sought adjournment on 03.03.2021 to file the rejoinder and on that date, he was directed to file the rejoinder on or before 25.03.2021. Even after more than four months after receipt of the counter, the present approach of the applicant to prolong the case by seeking further time to file the rejoinder is not at all justifiable. However, in the interests of justice, **the applicant is given the last and final opportunity to file the rejoinder, if any, within two weeks from today, failing which his right to file the rejoinder shall stand forfeited.**

List on 13.09.2021 for hearing.

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

Learned counsel for the Petitioner Shri Pawan Jhabhak appeared through VC. He sought some more time to file the financial statements as directed by this Tribunal vide order dated 12.07.2021.

Two more weeks from today is granted to file the Balance Sheets 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.

List on 17.08.2021.