

NCLT, KOCHI BENCH**Daily Orders – Draft**

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

Date: 29th Jan 2021

1 CAVEAT NO. 04/KOB/2021 IN TIBA/03/KOB/2019

Learned counsel for the Caveator Ms Jinnu Sara George appeared through VC. This Caveat is filed by a contractor of the Corporate Debtor Company who is also an applicant in MA/185/KOB/2020. Ms Jinnu Sara George submitted that the Resolution Plan submitted by the Resolution Applicant in this case is an undervalued plan. She also submitted that this Tribunal may ensure the payment with regard to PF and Gratuity while approving the Resolution Plan. She prayed that the Resolution Plan shall not be approved by this Tribunal without hearing the Caveator.

Learned counsel for the RP Shri PV VINOD submitted that the Resolution Plan contemplates payments related to PF and Gratuity. He also submitted that valuation of the property of the CD was done by the Registered Valuer.

The submission of the learned counsel for both the parties are recorded.

In view of the fact that the Caveator has been heard, this CAVEAT NO. 04/KOB/2021 IN TIBA/03/KOB/2019 is closed.

2 CAVEAT NO. 05/KOB/2021 IN TIBA/03/KOB/2019

Learned counsel for the Caveator Ms Jinnu Sara George appeared through VC. This Caveat is filed by a retiree of the Corporate Debtor Company who is also an applicant in MA/208/KOB/2020. Ms Jinnu Sara George submitted that the Resolution Plan submitted by the Resolution Applicant in this case is an undervalued plan. She also submitted that this Tribunal may ensure the payment with regard to PF and Gratuity while approving the Resolution Plan. She prayed that the Resolution Plan shall not be approved by this Tribunal without hearing the Caveator.

Learned counsel for the RP Shri PV VINOD submitted that the Resolution Plan contemplates payments related to PF and Gratuity. He also submitted that valuation of the property of the CD was done by the Registered Valuer.

The submission of the learned counsel for both the parties are recorded.

In view of the fact that the Caveator has been heard, this CAVEAT NO. 05/KOB/2021 IN TIBA/03/KOB/2019 is closed.

3 **IA(IBC)/21/KOB/2021 IN TIBA/03/KOB/2019**

Learned counsel for the Applicant/Resolution Professional Shri Vinod PV appeared through VC. Orders pronounced. **IA(IBC)/21/KOB/2021 IN TIBA/03/KOB/2019 stands disposed of vide separate order.**

4 **IA/224/KOB/2020 IN IBA/49/KOB/2019**

Learned counsel for the Applicant Shri Vinod PV appeared through VC. Orders pronounced. **IA/224/KOB/2020 IN IBA/49/KOB/2019 is disposed of vide separate order.**

5 **CA/1/KOB/2021**

None has appeared for the Appellants. Orders pronounced. **CA/1/KOB/2021 is disposed of vide separate order.**

6 **CA/3/KOB/2021**

Learned counsel for the Appellant Shri Abid Millath appeared through VC. **CA/3/KOB/2021 is disposed of vide separate order.**

7 **CP(IB)/2/KOB/2021**

None has appeared for applicant. In view of submission of memo for withdrawal of the application, **CP(IB)/2/KOB/2021 is disposed of as withdrawan vide separate order.**

8 **UNNUMBERED CA IN ~~CP/01/KOB/2021~~**

Learned counsel for the Applicant Shri Sabu P. Joseph submitted an email seeking an adjournment stating that today he has a hearing matter before the Hon'ble High Court of Kerala. **Adjourned to 18.02.2021.**

9 **REPORT NO.4A/KOB/2021 IN TIBA/25/KOB/2019**

None has appeared for the RP. **REPORT NO.4A/KOB/2021 IN TIBA/25/KOB/2019 of the RP is accepted and taken on record. Registry is directed to place the report at the appropriate file.**

10 IA(IBC)/25/KOB/2021 IN CP(IB)/54/KOB/2019

Learned counsel for the RP Shri Vinod PV appeared through VC. Heard and perused the records. **Reserved for orders. List for pronouncement of orders on 05.02.2021.**

11 IA(IBC)/26/KOB/2021 IN IBA/24/KOB/2020

Learned counsel for the Resolution Professional Shri Vinu Thomas appeared through VC. Heard and perused the IA. **Reserved for Orders. List for pronouncement of orders on 05.02.2021.**

12 CA/9/KOB/2021 IN TCP/34/KOB/2019

Learned counsel for the Applicant Smt. Rema Smrithi VK as well as learned counsel for R1 Shri Vinod PV and learned senior counsel for R2 & R3 Shri Joseph Kodianthara appeared through VC. This CA is filed under Section 241, 242 & 244 of the Companies Act, 2013 seeking order from this Tribunal to direct the 1st respondent not to hand over the land deeds pertaining to the land in Maradu, Ernakulam belonging to the 2nd respondent company which is at present being held as security by the 1st respondent bank to the CEO and two other Directors of the 3rd respondent company as per Annexure 5 resolutions until final disposal of TCP/34/KOB/2019.

Learned senior counsel sought time to file the counter. Learned counsel for R1 submitted that the One Time Settlement has already been approved by the Bank.

It appears that there is no specific interim prayer in the CA. Besides if the submission of the learned counsel for the applicant is allowed, it will tantamount to disposal of the CA itself. Therefore, the relief sought in the CA can be considered only after perusal of the counter. Respondents are directed to file their counter within two weeks. The applicant may file the rejoinder, if any, before the next date fixed. **List on 24.02.2021 at 2.30 pm for hearing.**

✓13 IBA/38/KOB/2020

None has appeared for the Operational Creditor. On the other hand, learned counsel Shri Nebil Nizar appeared for the Corporate Debtor. He submitted that he has filed the counter yesterday. The petitioner is therefore directed file his rejoinder, if any, within a week. **List for final hearing on 15.02.2021. Registry is directed to issue copy of this order to both the parties through email.**

14 IBA/42/KOB/2020

Learned counsel for the Applicant Shri Vinod PV as well as learned counsel for the Respondent/Guarantor Shri G.Sivasankar appeared through VC. Shri Sivasankar submitted that forensic tests are under process with regard to the signature of his client/guarantor and hence sought three weeks' time to submit the counter. Since this is an IBC matter, the parties may bear in mind that this case cannot be prolonged indefinitely. **Therefore, the respondent is directed to file his counter within two weeks positively and no further time will be given for counter.** The Applicant may file his rejoinder, if any, before the next date fixed. **List on 17.02.2021 for hearing.**

15 IBA/43/KOB/2020

Learned counsel for the Applicant Shri Vinod PV as well as learned counsel for the Respondent/Guarantor Shri Mohan Pulickkal appeared through VC. Counter has already been filed. Shri Vinod sought time to file his rejoinder. Allowed. He may file the rejoinder within two weeks. **List on 17.02.2021 for hearing.**

16 IBA/44/KOB/2020

Learned counsel for the Applicant Shri Vinod PV as well as learned counsel for the Respondent/Guarantor Shri Mohan Pulickkal appeared through VC. Counter has already been filed. Shri Vinod sought time to file his rejoinder. Allowed. He may file the rejoinder within two weeks. **List on 17.02.2021 for hearing.**

17 IBA/45/KOB/2020

Learned counsel for the Applicant Shri Vinod PV as well as learned counsel for the Respondent/Guarantor Shri Mohan Pulickkal appeared through VC. Counter has already been filed. Shri Vinod sought time to file his rejoinder. Allowed. He may file the rejoinder within two weeks. **List on 17.02.2021 for hearing.**

18 IA/43/KOB/2019 IN TCP/55/KOB/2019

None has appeared for the Applicant. Learned senior counsel for R1 Shri Joseph Kodianthara appeared through VC. Even though link was provided, none has appeared for R2 to R5 also. Learned senior counsel for R1 brought the attention of this Tribunal to the order of this Tribunal dated 10.12.2019 which reads as follows:

- A. "We are not inclined to modify the Order of NCLT, Chennai Bench passed on 28.02.2019 and 04.06.2019 and accordingly, the scope of the Forensic Audit, as decided from 01.04.2011 – 31.03.2012 to 01.04.2018 – 31.03.2019 of the 1st Respondent Company shall continue.
- B. Justice (Retired) Mrs Chitra Venkataraman is directed to closely monitor the Forensic Audit being conducted by the Auditor appointed by her and ensure that the audit is completed well within 6 months as agreed to by the auditor from the date of this order. The final report with her legal opinion and suggestions should be submitted within 15 days from the date of receipt of the final report of the Auditor so appointed.
- C. No extension of time shall be permitted to the auditor, as sufficient time has already been elapsed
- D. As regard the criminal complaint, the order dated 28.02.2019 of NCLT, Chennai Bench and the order dated 26.08.2019 of Hon'ble High Court of Kerala shall continue to be in force until the Forensic Audit is completed and the view of Justice (Retired) Mrs Chitra Venkataraman is considered by this Tribunal."

The learned senior counsel stated that the Report of Justice (Retired) Mrs Chitra Venkataraman has not yet been received. In this connection he cited the Order of the Hon'ble Supreme Court dated 23.03.2020, in which it is ordered that a period of limitation in all proceedings, irrespective of limitation prescribed under the general law or Special Laws whether condonable or not shall stand extended w.e.f. 15.3.2020 till further orders. Therefore, he sought an adjournment for 6 months in this case to enable Justice (Retired) Mrs Chitra Venkataraman to submit her report.

Heard and perused the records. Justice (Retired) Mrs Chitra Venkataraman shall submit her report within 5 months from this date.

List on 01.07.2021.

19 **IA/44/KOB/2019 IN TCP/55/KOB/2019**

None has appeared for the Applicant. Learned senior counsel for R1 Shri Joseph Kodianthara appeared through VC. Even though link was provided, none has appeared for R2 to R5 also. Learned senior counsel for R1 brought the attention of this Tribunal to the order of this Tribunal dated 10.12.2019 which reads as follows:

- A. "We are not inclined to modify the Order of NCLT, Chennai Bench passed on 28.02.2019 and 04.06.2019 and accordingly, the scope of the Forensic Audit, as decided from 01.04.2011 – 31.03.2012 to 01.04.2018 – 31.03.2019 of the 1st Respondent Company shall continue.
- B. Justice (Retired) Mrs Chitra Venkataraman is directed to closely monitor the Forensic Audit being conducted by the Auditor appointed by her and ensure that the audit is completed well within 6 months as agreed to by the auditor from the date of this order. The final report

with her legal opinion and suggestions should be submitted within 15 days from the date of receipt of the final report of the Auditor so appointed.

- C. No extension of time shall be permitted to the auditor, as sufficient time has already been elapsed
- D. As regard the criminal complaint, the order dated 28.02.2019 of NCLT, Chennai Bench and the order dated 26.08.2019 of Hon'ble High Court of Kerala shall continue to be in force until the Forensic Audit is completed and the view of Justice (Retired) Mrs Chitra Venkataraman is considered by this Tribunal."

The learned senior counsel stated that the Report of Justice (Retired) Mrs Chitra Venkataraman has not yet been received. In this connection he cited the Order of the Hon'ble Supreme Court dated 23.03.2020, in which it is ordered that a period of limitation in all proceedings, irrespective of limitation prescribed under the general law or Special Laws whether condonable or not shall stand extended w.e.f. 15.3.2020 till further orders. Therefore, he sought an adjournment for 6 months in this case to enable Justice (Retired) Mrs Chitra Venkataraman to submit her report.

Heard and perused the records. Justice (Retired) Mrs Chitra Venkataraman shall submit her report within 5 months from this date.

List on 01.07.2021.

20 IA/68/KOB/2019 IN TCP/55/KOB/2019

None has appeared for the Applicant. Learned senior counsel for R1 Shri Joseph Kodianthara appeared through VC. Even though link was provided, none has appeared for R2 to R5 also. Learned senior counsel for R1 brought the attention of this Tribunal to the order of this Tribunal dated 10.12.2019 which reads as follows:

- A. "We are not inclined to modify the Order of NCLT, Chennai Bench passed on 28.02.2019 and 04.06.2019 and accordingly, the scope of the Forensic Audit, as decided from 01.04.2011 – 31.03.2012 to 01.04.2018 – 31.03.2019 of the 1st Respondent Company shall continue.
- B. Justice (Retired) Mrs Chitra Venkataraman is directed to closely monitor the Forensic Audit being conducted by the Auditor appointed by her and ensure that the audit is completed well within 6 months as agreed to by the auditor from the date of this order. The final report with her legal opinion and suggestions should be submitted within 15 days from the date of receipt of the final report of the Auditor so appointed.
- C. No extension of time shall be permitted to the auditor, as sufficient time has already been elapsed.

- D. As regard the criminal complaint, the order dated 28.02.2019 of NCLT, Chennai Bench and the order dated 26.08.2019 of Hon'ble High Court of Kerala shall continue to be in force until the Forensic Audit is completed and the view of Justice (Retired) Mrs Chitra Venkataraman is considered by this Tribunal."

The learned senior counsel stated that the Report of Justice (Retired) Mrs Chitra Venkataraman has not yet been received. In this connection he cited the Order of the Hon'ble Supreme Court dated 23.03.2020, in which it is ordered that a period of limitation in all proceedings, irrespective of limitation prescribed under the general law or Special Laws whether condonable or not shall stand extended w.e.f. 15.3.2020 till further orders. Therefore, he sought an adjournment for 6 months in this case to enable Justice (Retired) Mrs Chitra Venkataraman to submit her report.

Heard and perused the records. Justice (Retired) Mrs Chitra Venkataraman shall submit her report within 5 months from this date.

List on 01.07.2021.

21 TCP/55/KOB/2019

None has appeared for the Petitioner even though link was provided. Learned senior counsel for R1 Shri Joseph Kodianthara appeared through VC. Learned senior counsel for R1 brought the attention of this Tribunal to the order of this Tribunal dated 10.12.2019 which reads as follows:

- A. "We are not inclined to modify the Order of NCLT, Chennai Bench passed on 28.02.2019 and 04.06.2019 and accordingly, the scope of the Forensic Audit, as decided from 01.04.2011 – 31.03.2012 to 01.04.2018 – 31.03.2019 of the 1st Respondent Company shall continue.
- B. Justice (Retired) Mrs Chitra Venkataraman is directed to closely monitor the Forensic Audit being conducted by the Auditor appointed by her and ensure that the audit is completed well within 6 months as agreed to by the auditor from the date of this order. The final report with her legal opinion and suggestions should be submitted within 15 days from the date of receipt of the final report of the Auditor so appointed.
- C. No extension of time shall be permitted to the auditor, as sufficient time has already been elapsed
- D. As regard the criminal complaint, the order dated 28.02.2019 of NCLT, Chennai Bench and the order dated 26.08.2019 of Hon'ble High Court of Kerala shall continue to be in force until the Forensic Audit is completed and the view of Justice (Retired) Mrs Chitra Venkataraman is considered by this Tribunal."

The learned senior counsel stated that the Report of Justice (Retired) Mrs Chitra Venkataraman has not yet been received. In this connection he cited the Order of

the Hon'ble Supreme Court dated 23.03.2020, in which it is ordered that a period of limitation in all proceedings, irrespective of limitation prescribed under the general law or Special Laws whether condonable or not shall stand extended w.e.f. 15.3.2020 till further orders. Therefore, he sought an adjournment for 6 months in this case to enable Justice (Retired) Mrs Chitra Venkataraman to submit her report.

Heard and perused the records. Justice (Retired) Mrs Chitra Venkataraman shall submit her report within 5 months from this date.

List on 01.07.2021.

22 CP/35/KOB/2020

None has appeared for the Petitioner. Vide our order dated 11.12.2020 all respondents were directed to file their counter within 3 weeks. But none has filed the counter. All respondents are directed to file their counter before the next date fixed. **List on 15.03.2021.**

23 CP/36/KOB/2020

Learned counsel for the Petitioner Shri Ashok B. Shenoy appeared through VC. Vide our order dated 11.12.2020 the petitioner was directed to issue paper publication in two newspapers, one in English and one in Malayalam, within ten days and submit proof of publication with an affidavit on or before 29.01.2021. Shri Ashok B Shenoy submitted that paper publication has not yet been done due to the poor financial position of the Petitioner and hence sought 3 more weeks' time to comply with the order of this Tribunal. Allowed. **List on 15.03.2021 before that date the petitioner shall file the proof of paper publication.**

24 TCP/52/KOB/2019 (CP/7/2017)

Learned counsel for the Petitioners Shri T.K.Bhaskar submitted an email seeking an adjournment stating that he prefer to argue the matter in a physical hearing. Learned counsel for R1, R4, R5, R5, R6, R12 and R13 Shri Jolly John has also submitted an email seeking an adjournment stating that he also prefer physical hearing than online hearing. Unless and until orders are received from the authorities concerned, at present no such postings can be given. However, the matter is **Adjourned to 04.03.2021 at 2.30 pm for hearing.**