

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

### **Daily Orders – Draft**

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

Date: 3<sup>rd</sup> Jan 2021

#### **1 IBA/39/KOB/2020**

Learned PCS for the Operational Creditor Shri N.R.Krishnan Unni as well as learned PCS for the Corporate Debtor Mrs Midhuna KC appeared through VC. **Orders pronounced.** IBA/39/KOB/2020 is disposed of vide separate sheets.

#### **2 IA/96/KOB/2020 IN CP/04/KOB/2020**

Since the order is not ready, the pronouncement of orders in this case is adjourned to **25.02.2021**.

#### **3 CP/04/KOB/2020**

Since the order is not ready, the pronouncement of orders in this case is adjourned to **25.02.2021**.

#### **4 REPORT NO.5A/KOB/2021 IN TIBA/08/KOB/2019**

Learned Liquidator Shri R.Aravindakshan Nair appeared through VC. This is a Report filed by the Liquidator in the matter of Kerala State Industrial Development Corporation Vs. Lake View Ayurvedic Resorts and Research Centre Pvt Ltd. I have thoroughly perused the report. **The Report is Admitted. Registry is directed to place the report in the appropriate file.**

#### **5 REPORT NO.6A/KOB/2021 IN TIBA/08/KOB/2019**

Learned Liquidator Shri R.Aravindakshan Nair appeared through VC. This is a Report filed by the Liquidator in the matter of Kerala State Industrial Development Corporation Vs. Lake View Ayurvedic Resorts and Research Centre Pvt Ltd. I have thoroughly perused the report. **The Report is Admitted. Registry is directed to place the report in the appropriate file.**

**6 REPORT NO.7A/KOB/2021 IN TIBA/08/KOB/2019**

Learned Liquidator Shri R.Aravindakshan Nair appeared through VC. This is a Report filed by the Liquidator in the matter of Kerala State Industrial Development Corporation Vs. Lake View Ayurvedic Resorts and Research Centre Pvt Ltd. I have thoroughly perused the report. **The Report is Admitted. Registry is directed to place the report in the appropriate file.**

**7 REPORT NO.8A/KOB/2021 IN TIBA/08/KOB/2019**

Learned Liquidator Shri R.Aravindakshan Nair appeared through VC. This is a Report filed by the Liquidator in the matter of Kerala State Industrial Development Corporation Vs. Lake View Ayurvedic Resorts and Research Centre Pvt Ltd. I have thoroughly perused the report. **The Report is Admitted. Registry is directed to place the report in the appropriate file.**

**8 REPORT NO.9A/KOB/2021 IN TIBA/08/KOB/2019**

Learned Liquidator Shri R.Aravindakshan Nair appeared through VC. This is a Report filed by the Liquidator in the matter of Kerala State Industrial Development Corporation Vs. Lake View Ayurvedic Resorts and Research Centre Pvt Ltd. I have thoroughly perused the report. **The Report is Admitted. Registry is directed to place the report in the appropriate file.**

**9 REPORT NO.10A/KOB/2021 IN MA/45/KOB/2019 IN MA/30/KOB/2019 IBA/240/CB/IB/2019**

Learned Liquidator Shri Mahalingam Sureshkumar appeared through VC. This is a Report filed by the Liquidator in the matter of M/s. Raihan Healthcare Private Limited (under liquidation) Vs. Union Bank of India (FC). I have thoroughly perused the report. **The Report is Admitted. Registry is directed to place the report in the appropriate file.**

**10 IA(IBC)/14/KOB/2021 IN IBC/35/KOB/2019**

Learned counsel for the Applicant Shri Amal Stanley appeared through VC. This is an IA filed by the Applicant/ Corporate Debtor M/s. Goodwin Packpet Private Limited against the Respondent/Interim Resolution Professional in IBC/35/KOB/2019, seeking the following reliefs:

- (a) To condone the delay in filing this application seeking to set aside the exparte order in IBA/35/KOB/2019 dated 22.4.2020;
- (b) To take this application seeking to set aside the exparte order in IBA/35/KOB/2019 dated 22.4.2020 on file;
- (c) To permit the applicant company and the Directors Shri Anirudhan and Rajeevan C.M. to contest the case and dispose of this application on merits; and
- (d) To keep the further proceedings in the case in abeyance including the further steps of the CIRP in the matter.

I have heard the learned counsel for the applicant and thoroughly perused the whole records. Shri Sathiq Buhari, learned IRP intimated that since he is appearing another matter in Trivandrum, he could not appear before this Tribunal. However, he has stated that since the matter is under liquidation proceedings, the prayers in this IA may not be granted. It appears from records that the applicant has filed another IA(IBC)/15/KOB/2021 in IBA/35/KOB/2019 seeking condonation of delay of 142 days in filing the application to set aside the exparte Order in IBA/35/KOB/2019 dated 22.4.2020, which was dismissed by this Tribunal vide order dated 1<sup>st</sup> February 2021. Since the matter has already been heard under IA(IBC)/15/KOB/2021 and that IA was dismissed, the prayers in this IA to set aside the exparte order cannot be allowed. Hence, this **IA(IBC)/14/KOB/2021 IN IBC/35/KOB/2019 deserves no merit and hence stands dismissed.**

#### 11      **IA/33/KOB/2021 IN TIBA/25/KOB/2019**

Learned counsel for the Applicant Shri Vijay V. Paul appeared through VC. None has appeared for the respondents. This IA is filed by the applicant M/s. Roxcel Trading Company GmbH against the Resolution Professional and 4 others seeking the following reliefs:

- (a) Consider the matter as Emergent and take up the applications on an urgent basis;
- (b) Direct the 1<sup>st</sup> Respondent to admit the total claim amount of Usd 16,74,303.61 submitted by the Applicant;
- (c) Adjudge the fraud committed by the R2 and R3 in the day to day affairs of NUI Pulp and Paper Industries Private Limited in collusion with the officials of R4 and initiate appropriate action against the said Respondents including under S.68 of the IBC, 2016 for the same; AND
- (d) Direct R5 to conduct an investigation through the SFIO into the affairs of Nui Pulp and Paper Industries Private Ltd as envisaged under S.213 of the Companies Act, 2013.

The learned counsel for the applicant during the hearing submitted that IRP may be directed not to pass sale order until the counter in this IA is filed. I have heard the learned counsel for the applicant and thoroughly perused the records.

Considering the facts and circumstances of this case as well as on hearing the learned counsel for the applicant, it is ordered that final sale of the properties in question, be kept in abeyance till counter is filed by the IRP in this IA.

The applicant is directed to issue fresh notice to the respondents through email and Registered Post with A/D and submit proof of service (A/D card or Postal Track Record) with an affidavit before the next date fixed. Registry is also directed to issue notice to the respondents through email. Respondents may file their counter within two weeks. Rejoinder, if any, be filed well before the next date fixed. **List on 26.02.2021 for hearing.**

#### 12 IA/143/KOB/2020 IN TIBA/19/KOB/2019

Learned Resolution Professional Shri Jasin Jose appeared through VC. Heard and perused the records. **IA/143/KOB/2020 IN TIBA/19/KOB/2019 is disposed of vide separate sheets.**

#### 13 IBA/48/KOB/2019

Learned counsel for the Operational Creditor Shri Akhil Suresh appeared through VC. Learned counsel for the Corporate Debtor Shri Terry V. James also appeared through VC. It appears that vide order dated 19.12.2019 the case was withdrawn by the Operational Creditor as the matter was settled by giving three post-dated cheques for the amount involved in this case. Since the settlement was failed, the Operational Creditor has filed MA/99/KOB/2020 to restore the application filed by him in IBA/48/KOB/2019 stating that the 3 cheques were dishonoured due to lack of sufficient funds in the account of the Corporate Debtor. The said MA was allowed vide our order dated 05.01.2021.

Learned counsel for the Corporate Debtor sought two weeks' time to file the counter. Allowed. CD is directed to file the counter positively within two weeks. The OC may file the rejoinder, if any, before the next date fixed. **List on 23.02.2021.** Registry is directed to issue copy of this order to the counsel of both the parties. **List on 03.03.2021 for hearing.**

#### 14 IA/168/KOB/2020 IN CP/107/(KOB)/2019

Learned counsel for the Applicant Shri Vijay V. Paul as well as learned counsel for R1 Shri PV George and learned counsel for R2 Shri M.Sreekumar appeared through VC. It appears that none has filed counter in this IA. No representation for other respondents. All the respondents are directed to file their counter in this IA within two

weeks positively. The matter will be heard along with the main CP. Adjourned to **22.03.2021 hearing.**

15 CP/107/(KOB)/2019

Learned counsel for the Applicant Shri Vijay V. Paul as well as learned counsel for R1 Shri PV George and learned counsel for R2 Shri M.Sreekumar appeared through VC. Shri Nadarajan Sadasivan (R5) submitted an email seeking adjournment stating that he is laid up due to viral fever. Learned counsel for R4 has been provided the link, but he has not appeared. No representation for other respondents.

Learned counsel for the Applicant submitted that the respondents have not yet complied with the order dated 17.12.2020 in IA/21(KOB)/2020. In the aforesaid order, R1 was directed to provide the proof of conduct of AGMs, EGMs and Board Meetings of the Company for the period from 2008 to 2018 and to provide the proof of service of notice on the petitioners within two weeks from 17.12.2020. Learned counsel for R1 submitted that he has given instruction to the Company Secretary of the Company to transmit all documents as directed by this Tribunal to the petitioner. He has also submitted that some of the documents has been ceased by the Police in Crime No. 1162/2019 pending before the JFMC, Varkala and he has already taken steps to get copy of those documents from the court.

R1 is directed to obtain the aforesaid documents immediately and file the same before this Tribunal with an affidavit before the next date fixed.

It appears from records that notice was duly served to all the respondents through email. But R3, R6, R7, R8, R9, R10, R11, R12, R13 and R14 have neither appeared nor made arrangements for their representation before this Tribunal. **Hence R3, R6, R7, R8, R9, R10, R11, R12, R13 and R14 are hereby set ex parte.**

All remaining respondents in this case, those who have not filed counter, are directed to file their counter within 3 weeks positively. **Adjourned to 22.03.2021 for hearing.**

16 CP/104/KOB/2019

Learned counsel for the Petitioners Shri Srikanth Mohan as well as learned counsel for R22 Shri Vivek Kumar appeared through VC. Learned counsel for R1, R2, R20 and R25 Shri Pranoy Harilal as well as learned PCS for R3 to R16, R18, R23 and R24 Shri Yoginthnath sought an adjournment through email. No response from R.17.

**List on 23.03.2021 for final hearing.** Before that date both the parties are directed to file their argument note in brief (limited within 5 pages).

17 CP/112/KOB/2019

Learned counsel for the Petitioners Shri Srikanth Mohan as well as learned counsel for R22 Shri Vivek Kumar appeared through VC. Learned counsel for R1, R4 and R23 Shri Pranoy Harilal as well as learned PCS for R2, R3, R5 to R13, R16, R17, R20 and R22 Shri Yoginthnath sought an adjournment through email. Sur-rejoinder, if any, in this case may be filed within 2 weeks. No response from R15.

**List on 23.03.2021 for final hearing.** Before that date both the parties are directed to file their argument note in brief (limited within 5 pages).

**18 CP/113/KOB/2019**

Learned counsel for the Petitioners Shri Srikanth Mohan as well as learned counsel for R22 Shri Vivek Kumar appeared through VC. Learned counsel for R1, R4, R15, R20 and R25 Shri Pranoy Harilal as well as learned PCS for R2, R5 to R14, R16, R18 to R20, R23 and R26 Shri Yoginthnath sought an adjournment through email. Sur-rejoinder, if any, in this case may be filed within 2 weeks.

**List on 23.03.2021 for final hearing.** Before that date both the parties are directed to file their argument note in brief (limited within 5 pages).

**19 CA/55/KOB/2020**

Learned Counsel for the Applicant Shri Bijoy P. Pulipra as well as learned counsel for R2 Shri Ponnan Alex G.R. appeared through VC. **Learned counsel for the Applicant submitted that he do not want to file rejoinder in this case. His submission is recorded.** The arguments of Shri Bijoy P. Pulipra heard and concluded today. **List for hearing of R2 on 26.02.2021 at 2.30 PM as Part Heard. Before that date both the counsel may file their Argument Brief (limited within 5 pages).**

**20 TCP/81/KOB/19**

Learned counsel for the petitioner Shri Philip Mathew and the learned counsel for the respondents Shri T.K.Bhaskar appeared through VC. Learned counsel for the petitioner argued the matter and concluded. Learned counsel for the respondents argued in part. While arguing this TCP, he has narrated his contentions in the matter TCA/29/KOB/2019 also. List for further hearing of learned counsel for the Respondents on **10.2.2021 at 2.30 pm as PART HERD**. Both parties are directed to file their written brief limiting within 5-6 pages before the next date fixed.

**21 TCA/29/KOB/19**

Learned counsel for the petitioner Shri T.K. Bhakar and the learned counsel for the respondents 2^3 Shri Philip Mathew appeared through VC. List this TCA along with TCP/81/KOB/2019 on **10.2.2021 at 2.30.pm for hearing.**