

NCLT, KOCHI BENCH

Daily Orders – Draft

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

Date: 3rd March 2021

**1 IA(IBC)/54/KOB/2021 IN MA/115/KOB/2020 IN MA/515/2019, CHENNAI BENCH IN
Company Appeal(AT)(Ins)No.315 of 2019 IN CP(IB) No.689 OF 2017**

Learned counsel for the applicant Shri N .R.Krishnan Unni appeared through VC. Learned counsel for R1 Shri PV Vinod, learned counsel for R2 Smt Elavarasi and learned counsel for R3 Shri Surekh Kant Baxy appeared through VC. Order pronounced. **IA(IBC)/54/KOB/2021 IN MA/115/KOB/2020 IN MA/515/2019, CHENNAI BENCH IN Company Appeal(AT)(Ins)No.315 of 2019 IN CP(IB) No.689 OF 2017 stands dismissed vide separate sheets.**

2 CP/09/KOB/2021

Learned counsel for the Petitioner Shri Harikumar G. Nair appeared through VC. Advocate Shiju Varghese has filed vakkalath for R1. On behalf of him Advocate Clint Li Johny appeared through VC.

This is a Company Petition filed by Shri Palathingal Thomas Manuel against Alarm India Pvt Ltd and 5 others alleging oppression and mismanagement in the R1 Company.

The petitioner submitted that he is a businessman engaged in the business of setting up of alarm and security monitoring systems. The Petitioner is the Managing Director of Tech Source Emerging Info Technologies Pvt. Ltd., a company engaged in the said business for over 20 years. To market the services offered by TEIT internationally, the petitioner along with the 2nd Respondent had set up the 1st Respondent Company, then known as "Tech Source Managed Services International Private Limited". The name of the Company was changed to its present style viz: "Alarm India Private Limited" vide certificate of Incorporation dated 10.6.2019. The Petitioner alleges that he was illegally removed from the directorship of the 1st respondent company by Board Resolution dated 28.09.2020.

Along with the main reliefs, the petitioner has sought 9 Nos of interim reliefs, out of which, during the hearing, the learned counsel for the petitioner insisted to pass orders on relief numbers 1, 2, 4, 5 & 6.

I have heard the learned counsel for the petitioner as well as learned counsel for R1. After perusal of the records attached with the petition, I think it would not be justified to pass orders on interim reliefs as sought for, without perusing the counter of the

respondents. However, the Respondents are directed to maintain status quo with regard to the share holding pattern of the R1 Company as of today until further orders. The Respondents are also directed to produce a copy of the Minutes Register of the R1 company before this Tribunal before the next date fixed.

Learned counsel for R1 sought two weeks time to file the counter. He may do so.

The petitioners are directed to issue fresh notice to R2 to R6 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 2 to 6 through email. Respondents may file their counter within two weeks. **List on 08.04.2021.**

3 IBA/48/KOB/2019

Learned counsel for the Financial Creditor Shri Harikumar G. Nair as well as learned counsel for the Corporate Debtor Shri Terry V. James 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.

During the hearing on 03.02.2021 the learned counsel for the Corporate Debtor has sought two weeks' time to file the counter. Accordingly vide order dated 03.02.2021 the CD was directed to file the counter within two weeks. But till today he has not filed any counter. The learned counsel for CD today submitted that he will file the counter within a week. **He may do so positively within a week, failing which law will take its own course.** The Operational Creditor may file the rejoinder, if any, before the next date fixed.

Since this is an IBC matter, the CD may bear in mind that this case cannot be prolonged and **hence there shall be no further adjournment in this case.**

Registry is directed to issue copy of this order to the learned counsel for both the parties through email. **List on 23.03.2021 for hearing.**

4 CONTEMPT PETITION(IBC)/1/KOB/2021 IN IBA/13/KOB/2020

Learned counsel for the Contempt Petitioner Smt. Jayanthi K. Shah as well as learned counsel for the Respondent Shri P.V. George appeared through VC. Shri PV George submitted that appeal filed before NCLAT is posted on 25.03.2021 and hence sought an adjournment. The Bench observed that since there is no stay

order, the proceedings of this Tribunal will continue. Then, Shri PV George submitted that he will submit the Argument Brief in this case. He may do so.

List on 08.03.2021 before that date both the parties may submit their argument brief (limiting 5/6 pages).

5 IBA/13/KOB/2020

Learned counsel for the applicant Smt Jayanthi K. Shah as well as learned counsel for the Respondent Shri P.V.George appeared through VC. Shri PV George submitted that appeal filed before NCLAT is posted on 25.03.2021 and hence sought an adjournment. The Bench observed that since there is no stay order, the proceedings of this Tribunal will continue. Then, Shri PV George submitted that he will submit the Argument Brief in this case. He may do so.

List on 08.03.2021 before that date both the parties may submit their argument brief (limiting 5/6 pages).

6 IBA/22/KOB/2020

Learned counsel for the Operational Creditor Shri Aswin R. Patel appeared through VC along with Advocate Shri Cimil C. Kottalil. None has appeared for the respondents. Shri Aswin Patel has submitted that he shall file the proof of paper publication in "Deshabhimani" within a couple of days. He may do so positively within a week. Heard the learned counsel for OC and perused the records. **Reserved for Orders. List for pronouncement of orders on 23.03.2021.**

7 IBA/23/KOB/2020

Learned counsel for the Operational Creditor Shri Aswin R. Patel appeared through VC along with Advocate Shri Cimil C. Kottalil. None has appeared for the respondents. Shri Aswin Patel has submitted that he shall file the proof of paper publication in "Deshabhimani" within a couple of days. He may do so positively within a week. Heard the learned counsel for OC and perused the records. **Reserved for Orders. List for pronouncement of orders on 23.03.2021.**

8 IBA/31/KOB/2020

Learned counsel for the Operational Creditor Shri Aswin Gopakumar appeared through VC. Learned counsel for the CD Shri Rohan Batra submitted an email seeking an adjournment stating that there is a bereavement in his family and hence unable to appear through VC today. However, another learned counsel for the

Corporate Debtor Smt. Marian GM Tharakan appeared through VC and argued the case.

Heard both sides. **Reserved for orders. List for pronouncement of orders on 21.04.2021.** Before that date both the parties may submit their Argument Brief (limiting 4/5 pages).

9 IBA/40/KOB/2020

Learned counsel for the Operational Creditors Shri Jack Thalakkottur appeared through VC. He submitted that he has submitted an application through email praying to allow to withdraw the IBA/40/KOB/2020 with liberty to institute a fresh application in respect of the subject matter. The OC is directed to file the hard copy of his withdrawal application within a week. **List on 12.03.2021.**

10 TCP/68/KOB/2019 (TCP/49/2016)

The petitioner Shri Karthikeyan Kasiviswanathan has filed his Written submissions in person. Learned counsel for R1 to R3 Shri George G. Poothicote, learned counsel for R4 Shri Aswin Gopakumar (he has stated that he has filed vakalath-registry to verify) and learned counsel for R5 Shri KJayan, PCS appeared through VC. Arguments of learned counsel for R 1 to 3 has been heard. Arguments of remaining respondents will be heard on next posting date. Learned counsel for R1 to R3 may submit the hard copy of the judgements referred to by him during today's hearing. **List on 29.03.2021 as Part Heard.**

11 CP/34/KOB/2020

Learned counsel for the Petitioner Shri S.Krishnamoorthy appeared through VC. Learned counsel for R1 to R4 Shri Yogindunath S and learned Auditor Shri Jobin George appeared through V C.

The Auditor appointed by this Tribunal has submitted his report on 26.02.2021. Shri S.Krishnamoorthy submitted that the Auditors Report is incomplete and silent about the funds diverted or siphoned off by R2 to R4. Therefore, he sought time to file reply to the Auditors Report. Shri Yogindunath S. also submitted that he wants to file reply to the Auditors Report. Both the parties are directed to file reply to the Auditors report within two weeks.

The Auditor, Shri Jobin George, who appeared in person, sought two weeks time to submit his additional report since he requires to verify some more documents of the respondent company.. He may do so.

The petitioner is directed to file his rejoinder, if any, within three weeks. **List on 07.04.2021.**

12 CA/78/KOB/2020

Learned counsel for the Applicant Shri Aswin Gopakukmar submitted an email seeking an adjournment for filing the rejoinder. Learned counsel for R1 and R2 Ahri Nebil Nizar submitted an email stating willingness to appear through VC. The Applicant may file the rejoinder within two weeks. **Adjourned to 25.03.2021.**

13 IA/151/KOB/2020 IN TCP/45/KOB/2019

Learned counsel for the applicant Shri Shameem Ahamed as well as learned counsel for R1, R3, and R5 Shri S. Easwar appeared through VC. None has appeared for R7. **Partly heard. Adjourned to 29.03.2021 at 2..30 pm as PART HEARD.**

14 TCP/45/KOB/2019

Learned counsel for the applicant Shri Shameem Ahamed as well as learned counsel for R1, R3, and R5 Shri S. Easwar appeared through VC. None has appeared for R7. **Partly heard. Adjourned to 29.03.2021 at 2..30 pm as PART HEARD.**