

NCLT, KOCHI BENCH

Daily Orders – Draft

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

Date: 4th Feb 2021

1 IA(IBC)/24/KOB/2021 IN IA/01/2021 IN MA/05/KOB/2020 IN TIBA/1/KOB/2019

Learned Liquidator Shri Shawn Jeff Christopher appeared through VC. This IA is filed by the Liquidator for impleading the suspended Directors of the Corporate Debtor Company, which is under liquidation process vide Order dated 19.02.2020. The learned liquidator submitted that he is facing significant hardship in identifying the number of outstanding debtors to the Corporate Debtor in reference to certain inadequate disclosures in the audited financial statements of the Corporate Debtor.

I have heard the arguments advanced by the Liquidator. I have also perused the whole case records. Considering the facts and circumstances of the case I am of the view that the statements of the Suspended Directors of the Corporate Debtor are necessarily required in the liquidation process. Therefore, **IA(IBC)/24/KOB/2021 is allowed**. The following suspended directors of the Corporate Debtor are hereby impleaded in the **IN IA/01/2021 IN MA/05/KOB/2020 IN TIBA/1/KOB/2019** as Respondent Nos. 2 and 3:

Respondent No.2

Shri Reji Sivankutty,
Vishakhsthil, Olakettiambalam
Thekkekara, Alappauzha, Kerala 690 510.

Respondent No.3

Shri Tinu Jose,
415(9/291), Valancherry 9,
Kalady Panchayath, Kalady, Kerala 683 574.

Registry is directed to carry out the impleadment in **IA/01/2021 arising out of MA/05/KOB/2020 (TIBA/1/KOB/2019)**.

2 IA/01/2021 IN MA/05/KOB/2020 IN TIBA/1/KOB/2019

Learned Liquidator Shri Shawn Jeff Christopher appeared through VC. Shri Jerrin Asher Sojan, Advocate appeared for the suspended director Shri Simod Sivan. But he has not filed the Vakalat. Shri Jerrin submitted that he has received the copy of

IA, but without the annexures. On the other hand, the learned liquidator submitted that he has served the copy of IA to Shri Reji Sivankutty and Tinu Jose in advance with all annexures.

Since Shri Reji Sivankutty and Shri Tinu Jose, the suspended directors are impleaded in this IA as R2 and R3 vide our order dated 04.02.2021 in IA(IBC)/24/KOB/2021, **the applicant/liquidator is directed to issue fresh notice to them with copy of this IA with all documents and submit proof of service (A/d card or Postal Track record) with an affidavit before the next date fixed.** Registry may also issue notice to R2 & R3 through email.

The impleaded Respondent Nos 2 and 3 are directed to file their counter within two weeks positively. **List on 25.02.2021.**

3 IA/176/KOB/2020 IN MA/05/KOB/2020 IN TIBA/01/KOB/2019

Learned Liquidator Shri Shawn Jeff Christopher as well as learned counsel for R2 (EPFO) Shri A. Rajasimhan appeared through VC. Counter filed by R2 is on record. Learned liquidator submitted that there is an order from the Hon'ble High Court of Kerala in this case. Heard both sides and perused the records. Reserved for Orders. **List for pronouncement of orders on 18.02.2021. In the meantime, the learned liquidator shall submit a copy of the Order of the Hon'ble High Court of Kerala.**

During the hearing of this IA, the liquidator pointed out that the period of liquidation process will be expired on 19.02.2021 and hence prayed to allow him to file an IA for extension of the Liquidation Process. He may do so, if advised.

4 MA/71/KOB/2020 IN IBA/38/KOB/2019

Learned counsel for the RP/Applicant Shri K.B.Arun Kumar as well as learned counsel for R3 Shri Reji George and learned counsel for R4 Shri Pranoy Harilal appeared through VC. The learned counsel of both the parties pointed out that the stay order passed by the Hon'ble NCLAT against the order of this Tribunal in MA/25/KOB/2020 still exists and the matter is posted by NCLAT on 24.02.2021.

It appears that R3 and R4 have filed their counter on 08.09.2020 and 28.08.2020 respectively. Since the matter is pending before NCLAT, **adjourned to 04.03.2021.**

5 IBA/30/KOB/2020

Learned counsel for the Operational Creditor Shri Akhil Suresh as well as learned counsel for R2 (Additional Corporate Debtor) Shri Shivsankar R. Panicker appeared through VC. Shri Shivsankar R. Panicker submitted that he has filed an appeal

before NCLAT against the order of this Tribunal dated 26.11.2020 in IA/187/KOB/2020 in IBA/30/KOB/2020. Subsequently he filed an IA before this Tribunal, which has not yet been numbered, praying to keep in abeyance of this IBA till his appeal is disposed of by NCLAT.

On the other hand, learned counsel for the OC Shri Akhil Suresh vehemently opposes the arguments of the learned counsel for R2, stating that the appeal filed before NCLAT is only to delay the process. He further submitted that as per **Section 61 (2) of IBC** an appeal to the NCLAT against an order passed by the National Company Law Tribunal shall be filed within thirty days from the date of the impugned order. In this case the Appeal has not been filed within the prescribed period.

Heard both sides. In view of the fact that the Hon'ble NCLAT has not stayed the proceedings of this Tribunal, R2 is directed to file his counter within 7 days positively with copy served to the OC in advance, failing which law will take its own course. The Operational Creditor may file his rejoinder, if any, well before the next date fixed. **List on 15.02.2021** for hearing

6 TCP/89/KOB/2019 (CP/03/2009)

Learned counsel for the Petitioners Smt Priyadarsini Vincent appeared through VC. Learned GP for R3 and R4 Shri Mohammed Fazil and learned counsel for R6 Shri Rajan Babu also appeared through VC. None has appeared for R8. Heard the arguments of both sides. Reserved for Orders. **List for pronouncement of orders on 05.03.2021.**

7 CP/53/KOB/2020

Learned counsel for the Petitioner Smt Midhuna KC as well as learned PCS for the respondents 1 to 3 Shri Vivek Kumar appeared through VC. It appears that counter was filed on 18.01.2021. Smt Midhuna KC submitted that she wants to file rejoinder. She may do so positively within two weeks. **List on 24.03.2021 for hearing.**

8 CA(CAA)/07/KOB/2020

Learned counsel for the Applicants Shri Pawan Jhabakh appeared through VC. Heard and perused the records. Reserved for orders. **List for pronouncement of orders on 08.02.2021.**

9 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. Heard both sides. Reserved for orders. **List for pronouncement of orders on 26.02.2021.**

10 **IA/91/KOB/2020 IN CP/16/KOB/2020**

Due to paucity of time, adjourned to **05.03.2021 at 2.30** pm for hearing.

11 **IA/126/KOB/2020 IN CP/16/KOB/2020**

Due to paucity of time, adjourned to **05.03.2021 at 2.30** pm for hearing.

12 **IA/127/KOB/2020 IN CP/16/KOB/2020**

Due to paucity of time, adjourned to **05.03.2021 at 2.30** pm for hearing.

13 **IA/128/KOB/2020 IN CP/16/KOB/2020**

Due to paucity of time, adjourned to **05.03.2021 at 2.30** pm for hearing.

14 **CONTEMPT PETITION/06/KOB/2020 IN CP/16/KOB/2020**

Due to paucity of time, adjourned to **05.03.2021 at 2.30** pm for hearing.

15 **CP/16/KOB/2020**

Due to paucity of time, adjourned to **05.03.2021 at 2.30** pm for hearing.