

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

### **Daily Orders – Draft**

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

Date: 6<sup>th</sup> Jan 2021

#### **1 CA/125/KOB/2020**

Learned PCS for the Appellant Ms Sreepraya Kalarikkal appeared through VC. Orders pronounced. **CA/ 125 /KOOB/2020 is disposed of vide separate order.**

#### **2 TCP/(CAA)/04/KOB/2020 (CA/337/CAA/2019/CB)**

Learned counsel for the petitioners Shri J.Ravikumar appeared through VC. Orders pronounced. **TCP/(CAA)/04/KOB/2020 (CA/337/CAA/2019/CB) is disposed of vide separate order.**

#### **3 CA/122/KOB/2020**

Learned PCS for the Appellant Shri Gokul RI appeared through VC. Report of ROC is on record. **Reserved for orders. List for pronouncement of orders on 11.01.2021.** The learned PCS submitted that the company applied for the licence for the crushing unit. He is directed to submit the copy of licence related to the Crushing Unit of the Company within two days.

#### **4 IA/02/KOB/2021 IN IBA/13/KOB/2020**

Learned counsel for applicant/OC Ms Jayanthi K. Shah as well as learned counsel for the respondent/CD Shri PV.George appeared through VC. This IA is filed by the applicant to restore and revive Application No.IBA/13/KOB/2020 filed under Section 7 of IBC, 2016. Learned counsel for the OC submitted that she has received the copy of counter only yesterday at 9 pm and she wants to file rejoinder. She submitted that the CD has failed to comply the settlement terms, which were recorded by this Tribunal in the Order dated 24.09.2020 in IBA/13/KOB/2020. She has also submitted that the CD is attempting to sell their property to a third party and hence prayed to maintain status quo as of today regarding the sale of the property of the CD till the disposal of this case.

On the other hand, learned counsel for the respondent submitted that according to the MCA Portal, the IRP proceedings are still pending. So, there is no question of disposal of the properties as apprehended by the OC.

Heard both sides and perused the records. Considering the facts and submissions of both the parties, the Corporate Debtor/Respondent is directed to maintain **status quo as of today regarding the sale of the property of the Corporate Debtor M/s. Sree Bhadra Parks and Resorts Ltd., Museum Road, Chembukkavu, Thrissur, Kerala, until further orders.**

The Applicant/OC is directed to file the rejoinder within a week. **List on 19.01.2021 for hearing.**

**5 IA/03/KOB/2021 IN TIBA/03/KOB/2019**

Learned counsel for the Applicant/RP Shri Vinod PV appeared through VC. This is an application filed under Section 12(2) of IBC 2016 read with Regulation 40 of the IBBI Regulation 2016 for Extension of CIRP Period. Heard and perused the records. Orders passed. **IA/03/KOB/2021 IN TIBA/03/KOB/2019 is disposed of vide separate sheets.**

**6 IBA/22/KOB/2020**

Learned counsel for the OC Shri Cimill C. Kottalil submitted an email seeking an adjournment stating that his father is seriously ill and is admitted in Hospital. Vide our order dated 02.11.2020 the OC was directed to issue paper publication and submit proof of publication on or before 14.12.2020. But the paper publication has not been made by the OC. The OC is directed to make the paper publication and submit the proof of publication with an affidavit positively before the next date fixed, failing which the law will take its own course. **List on 28.01.2021.**

**7 IBA/23/KOB/2020**

Learned counsel for the OC Shri Cimill C. Kottalil submitted an email seeking an adjournment stating that his father is seriously ill and is admitted in Hospital. Vide our order dated 02.11.2020 the OC was directed to issue paper publication and submit proof of publication on or before 14.12.2020. But the paper publication has not been made by the OC. The OC is directed to make the paper publication and submit the proof of publication with an affidavit positively before the next date fixed, failing which the law will take its own course. **List on 28.01.2021.**

**8 IBA/38/KOB/2020**

Learned counsel for OC Shri Johnson Gomez and learned counsel for the CD Shri Nebil Nizar appeared through VC. Shri Nebil Nizar submitted that the concerned official of CD is suffering from Covid and hence prayed another two weeks' time to file the counter. Request is allowed. The CD may file the counter positively within

two weeks and the OC may file the rejoinder, if any, before the next date fixed. **List on 29.01.2021 for hearing.**

**9 IA/100/KOB/2020 IN TCP/22/KOB/2019**

Learned counsel for the Applicant Shri Shivashankar R. Panicker submitted an email stating that he has relinquished the vakalath of the applicant/Kerala Chamber of Commerce. Learned counsel for the R1 & R2 Shri CS Ajith Prakash, learned counsel for R3 & R7 Shri Anil D. Nair (through Telma Raju) also appeared through VC. **Adjourned to 15.02.2021 for final hearing.** Registry is directed to issue copy of this order to the Applicant through email.

**10 IA/150/KOB/2020 IN TCP/22/KOB/2019**

Learned counsel for the Applicants Shri CS Ajith Prakash appeared through VC. Learned counsel for R2 & R6 Ms Telma Raju appeared through VC. Learned counsel for the R1, R10 and R11 Shri Shivashankar R. Panicker submitted an email stating that he has relinquished the vakalath for the Kerala Chamber of Commerce & Industry. It appears that the applicant has filed this case on 18.09.2020. Vide our order dated 24.09.2020 the respondents were directed to file the counter on or before 16.10.2020. But none has filed the counter till date. The respondents are directed to file their counter within two weeks positively, failing which the law will take its own course. The Argument Notes filed by the Applicant is on record. **List on 02.02.2021 for final hearing.** Both the parties may bear in mind that there shall be no further adjournment in this case. Registry is directed to issue copy of this order to Respondents 1, 10 and 11 through email.

**11 TCP/22/KOB/2019**

Learned counsel for the Petitioners Shri CS Ajith Prakash appeared through VC. Learned counsel for the R2 & R6 Ms Telma Raju also appeared through VC. Learned counsel for the R1, R10 and R11 Shri Shivashankar R. Panicker submitted an email stating that he has relinquished the vakalath for the Kerala Chamber of Commerce & Industry. Registry is directed to issue copy of this order to R1, R10 and R11 through email in addition to normal procedure. **List on 02.02.2021.**

**12 IA/193/KOB/2020 IN CP/121/KOB/2019**

No response from both the parties. This IA is filed by the applicant/petitioner to implead additional respondents in the CP. It appears from records that the notice issued by this Tribunal to the Respondent in the CP was returned with the noting "*notice returned as addressee left*". Therefore, this IA to implead the Directors of the

Respondent Company viz: Shri Joseph Alappatt, Managing Director, Joshure Foods Pvt Ltd., Nirappukattil House, Building No.111/292-M, Sy.No.2/1 pt, Chembumukku, Kakkanad-682030 as Additional Respondent No.2 and Mrs. Toby Alappat, Managing Director, Joshure Foods Pvt Ltd., Nirappukattil House, Building No.111/292-M, Sy.No.2/1 pt, Chembumukku, Kakkanad-682 030 as Additional Respondent No.3 is allowed. **IA/193/KOB/2020 IN CP/121/KOB/2019 is disposed of accordingly. Registry to carry out the impleadment in the main CP.**

### 13 CP/121/KOB/2019

No response from both the parties. Vide our order dated 06.01.2021 in **IA/193/KOB/2020, the directors of the Respondent Company have been impleaded as additional Respondents in this CP.** Therefore the petitioner is directed to issue notice to the Additional Respondents viz: Shri Joseph Alappatt, Managing Director, Joshure Foods Pvt Ltd., Nirappukattil House, Building No.111/292-M, Sy.No.2/1 pt, Chembumukku, Kakkanad - 682 030 and Mrs. Toby Alappat, Managing Director, Joshure Foods Pvt Ltd., Nirappukattil House, Building No.111/292-M, Sy.No.2/1 pt, Chembumukku, Kakkanad – 682 030 through email and Registered post with A/D and submit proof of service with an affidavit within two weeks. The above Additional Respondents are directed to file their counter before the next date fixed. Registry is also directed to issue notice to the above additional respondents through email. **List on 17.02.2021.**

### 14 IA/92/KOB/2020 IN CP/127/KOB/2019

Learned counsel for applicants Shri S.Easwar appeared along with Ms Aanchal Nichani. It appears from records that the original vakkalath for the applicants have not yet been filed. Learned counsel for R1 & R2 Shri Bijoy P. Pulipra, learned counsel for R3 Shri Gokul RI and learned counsel for R4 Shri Zibi Jose also appeared through VC. Shri Easwar submitted that he will file the original vakkalath within a week and sought an adjournment of the matter. R1 & R2 have already filed the counter and rejoinder to the same is on record. But R3 to R5 have not yet filed their counter. They are directed to file the counter within a week. **List on 21.01.2021 for final hearing. The parties may bear in mind that there shall be no further adjournment in this case. Registry is directed to issue copy of this order to both the parties through email.**

### 15 CP/07/KOB/2020

Learned counsel for the Petitioner Shri Philip Mathew and learned counsel for R1 Shri Anil D Nair (through proxy Ms.Telma Raju) appeared through VC. Shri Philip

Mathew sought an adjournment of two weeks for filing the rejoinder. Allowed. **List on 02.02.2021.**

**16 CP/17/KOB/2020**

Learned counsel for Petitioner Shri Philip Mathew appeared through VC. Learned counsel for R1 Shri Saji Varghese, learned counsel for R2 Ms Jeslin, learned counsel for R4 Ms Ayiswarya, learned counsel for R6 Shri Abhilash Nediyaalil and learned GP for R8 Shri Mohammed Fazil MP appeared through VC.

Learned counsel for the Petitioner submitted that the Writ Petition filed before the Hon'ble High Court of Kerala has been disposed of in favour of the Petitioner. The Writ Appeal filed against the said order is pending. The Bench directed the learned counsel for the petitioner to submit the relevant orders of the Hon'ble High Court of Kerala in this regard within a week. **List on 18.02.2021 for hearing.**

**17 IA/226/KOB/2020 IN CP/21/KOB/2020**

Learned counsel for the applicant Ms. Sabeela CB appeared through VC. Learned counsel for R1 Shri Bijoy P. Pulipra, learned counsel for R2 to R7, R9 & R10 Shri V.Ajakumar, learned counsel for R8 & R16 Shri Saji Varghese, learned counsel for R11 & R18 to R20 Shri Vinod V. Luka and learned GP Shri Mohammed Fazil MP also appeared through VC. Shri Ajakumar submitted that the Hon'ble High Court of Kerala has stayed the proceedings in this case. But no such stay order has been produced before this Tribunal. Anyhow he sought two weeks' time to file counter. He may do so positively within two weeks. **List on 25.01.2021 for hearing.**

**18 IA/214/KOB/2020 IN CP/21/KOB/2020**

Learned counsel for the applicant Shri Bijoy P. Pulipra appeared through VC. Learned counsel for R1 Smt Sabeela CB, learned counsel for R2 to R7, R9 & R10 Shri V.Ajakumar, learned counsel for R8 & R16 Shri Saji Varghese, learned counsel for R11 & R18 to R20 Shri Vinod V. Luka and learned GP Shri Mohammed Fazil MP also appeared through VC.

This IA is filed by the applicant to advance the hearing of the case from 25.01.2021 to 15.12.2020. **Since today is 06.01.2021 this IA has become infructuous and hence dismissed.**

**19 IA/199/KOB/2020 IN CONTEMPT PETITION/09/KOB/2020 IN CP/21/KOB/2020**

Learned counsel for the applicant Shri Bijoy P. Pulipra appeared through VC. Learned counsel for R1 to R5, R7 & R9 Shri V.Ajakumar, learned counsel for R8

Shri Saji Varghese and learned counsel for R6 Ms Sabeela CB and learned GP Shri Mohammed Fazil appeared through VC. Shri Bijoy P. Pulipra submitted that the respondents have not yet filed their counter in spite of the order issued by this Tribunal on 23.11.2020 directing them to file the counter before 07.12.2020. Shri Ajakumar submitted that he will file the counter within one week. All the respondents are directed to file their counter within one week positively, failing which law will take its own course. **List on 25.01.2021 for hearing.**

## 20 CONTEMPT PETITION/09/KOB/2020 IN CP/21/KOB/2020

Learned counsel for both the parties appeared through VC. **List on 25.01.2021 for hearing.**

## 21 CA/72/KOB/2020

No response from the Appellant. It appears from records that vide our earlier order the appellant was directed to submit the latest Financial Statements, IT return and Memorandum of Association of the Appellant Company on or before 15.12.2020. The learned counsel for the Appellant has also assured before this Tribunal in the earlier hearing that the above documents will be filed before 15.12.2020. But the said documents have not been filed by the Appellant on 15.12.2020. Accordingly, the Appellant was given a last opportunity to submit the above documents on or before 18.12.2020. But nothing has been filed till this date. **Anyhow, the case is reserved for orders. List for pronouncement of orders on 08.01.2021. Registry is directed to issue copy of this order to the Appellant through email.**

## 22 CP/42/KOB/2020

Learned counsel for the petitioner Shri Sunil Shanker as also learned counsel for Respondents 1 to 5 Shri A.N.Rajan Babu appeared through Video conferencing. Learned Government Pleader appearing for Respondents 6 & 7 appeared and sought further time to file counter. Two weeks' time is granted. List for final hearing on **10.2.2021 at 2.30 pm.**

## 23 IA/208/KOB/2020 IN CP/42/KOB/2020

Learned counsel for the applicant Shri Sunil Shanker as also learned counsel for Respondents 1 to 5 Shri A.N.Rajan Babu appeared through Video conferencing. Learned Government Pleader appearing for Respondents 6 & 7 also appeared. This IA has been filed by the petitioner in the CP for advancing the CP from 29.12.2020 to 3.12.2020 or a near date prior to 10.12.2020, or such other date as may be convenient to this Tribunal. Since the date mentioned in the IA for early hearing of the case is 3.12.2020 and today's date is 6.1.2021, no further orders in

this IA is necessary as the prayer sought has become infructuous. Hence **IA No.208/KOB/2020 is dismissed.**

**24 IA/209/KOB/2020 IN CP/42/KOB/2020**

Learned counsel for the applicant Shri Sunil Shanker as also learned counsel for Respondents 1 to 5 Shri A.N.Rajan Babu appeared through Video conferencing. Learned Government Pleader appearing for Respondents 6 & 7 also appeared. The prayers made in this IA is to be considered alongwith the main CP, as there is an undertaking by the learned counsel for Respondents 1 to 5 in IA 213/KOB/2020 in CP 51/KOB/2020, which matter is connected to CP 42/KOB/2020, that the Yogam General Body Meeting will not be held on or before 29.12.2020, and today, the learned counsel for Respondents 1 to 5 agreed to extend this undertaking until further orders, let this IA be listed along with the main CP **on 10.2.2021 at 2.30 pm.**

**25 CP/50/KOB/2020**

Learned counsel for the petitioner Shri Madhu Radhakrishnan as also learned counsel for Respondents 1 to 5 Shri A.N.Rajan Babu appeared through Video conferencing. Learned Government Pleader appearing for Respondents 6 & 7 also appeared and sought further time to file counter. Two weeks' time is granted. Learned counsel for the petitioner stated that he has filed three IAs for amendment etc. Registry reported that these IAs have been returned to the counsel, being defective. Learned counsel for petitioner stated that he will cure the defects and re-present it within two days. List those IAs also along with the CP. List for final hearing on **10.2.2021 at 2.30 pm.**

**26 CP/51/KOB/2020 WITH IA/213/KOB/2020**

Learned counsel for the petitioner Shri Madhu Radhakrishnan as also learned counsel for Respondents 1 to 5 Shri A.N.Rajan Babu appeared through Video conferencing. Learned Government Pleader appearing for Respondents 6 & 7 also appeared and sought further time to file counter. Two weeks' time is granted. Learned counsel for the petitioner stated that he has filed three IAs for amendment etc. Registry reported that these IAs have been returned to the counsel, being defective. Learned counsel for petitioner stated that he will cure the defects and re-present it within two days. List those IAs also along with the CP. List for final hearing on **10.2.2021 at 2.30 pm.**

**IA:213/KOB/2020:** When the matter was taken up for hearing, learned counsel for Respondents 1 to 5 stated that he has no objection in extending the undertaking given by him on 10.12.2020. Hence this Tribunal directs that the undertaking given by the respondents 1 to 5 that the Yogam General Body Meeting will not be held will stand extended until further orders. In view of the undertaking, **IA 213/KOB/2020 stands disposed of.**

