

NCLT, KOCHI**Daily Orders – Draft****In the Bench of: Shri Ashok Kumar Borah, Member (Judicial)****Date: 14th July 2020****1 REPORT NO. 59/KOB/2020 IN TIBA10/KOB/2019 & TIBA/31/KOB/2019**

Learned Resolution Professional Shri P.D.Vincent appeared in person in the VC. Seen the Report No.59 of the RP. The RP has stated in the said report that he had forwarded the Order of this Tribunal dated 12.03.2020 to the applicants in TIBA/10/KOB/2019 and TIBA/31/KOB/2019 and to their Authorised Representative. However, no withdrawal application in form FA was received from the applicants. Since no withdrawal applications were received from the applicants, the Resolution Professional on relaxations provided by the appropriate Governments on lockdown imposed in the Country decided to convene a sixth meeting of CoC on 16.6.2020. The RP placed the agenda of withdrawal from the IBC proceedings initiated against the Corporate Debtor under Section 12A of Code, before the 6th meeting of CoC. However on circulation of the minutes of the 6th meeting of CoC, the Financial Creditors did not approve the agenda for withdrawal application from IBC and also the agenda for ratifying the CIRP cost spent by the RP even though all costs and expenses of the IRP/RP was approved by the First meeting of the CoC. Hence the application for withdrawal from IBC proceedings initiated against the CD under Section 12A of the Code cannot be filed.

The RP also submitted that no further resolution can be derived at for the CD despite the RP following all the processes and procedures. The period of 180 days expired on 16.3.2020. This Tribunal had extended the period by further 30 days to give an opportunity to the SEBI Recovery Officer to participate and co-operate in the proceedings; however, SEBI Recovery officer had not participated in the CoC meeting citing there was no scope for SEBI to be a participant or observer in such proceedings or meetings.

The RP further submitted that since no resolution can be derived at for the CD within the time period, the RP has filed an application for Liquidation of the CD under Section 33(1) of the Code. However, on enquiry with the Registry, it appears that the application for liquidation of the CD was defective, which was later rectified but not yet been numbered.

The Report No.59 of the RP is accepted. Registry is directed to place the same on record.

Registry is directed to number the application for liquidation and list for hearing on **16.7.2020 positively**.

2 REPORT NO.61/KOB/2020 IN CA(CAA)/19/KOB/2019

Official Liquidator Shri Chandrasekhar appeared in person in the VC. The Official Liquidator has prayed to engage the services of a Chartered Accountant for taking up the scrutiny of the books of accounts, statutory registers and other relevant records and papers relating to the transferor company viz: Cochin Surfactants Pvt Ltd. and direct the petitioner company to pay the fees that may be payable to the Chartered Accountant.

Seen the report No.61 filed by the Official Liquidator. The Official Liquidator is hereby permitted to engage the services of the Chartered Accountant from the panel available with him for taking up the scrutiny of the books of accounts, statutory registers and other relevant records and papers relating to the transferor company viz: Cochin Surfactants Pvt Ltd.

The petitioner company is directed to pay the fees of the Chartered Accountant for the above works in accordance with the fee prescribed by the Chartered Accountants Association of India.

3 MA/70/KOB/2020 & MA/72/KOB/2020 IN TIBA/11/KOB/2019

MA/70/KOB/2020

Learned RP Shri Bijoy Prabhakaran Pulipra appeared in person in the VC. This MA is filed by the RP against the Incident Commander and Sub Divisional Magistrate, Fort Kochi, Ernakulam – Thekkady Road, Kakanad, Kochi, Kerala 682 030 with the prayers to (1) issue necessary directions to the Incident Commander and Sub Divisional Magistrate, Fort Kochi to put forward a definite date to handover the possession of the premises of the Corporate Debtor to the Resolution Professional to meet the timelines under Insolvency and Bankruptcy Code and to obtain the prior permission of this Bench for any further extension of the possession (b) issue necessary directions to the Incident Commander and Sub Divisional Magistrate Fort Kochi to protect and upkeep the assets, as seen in the video recording, of the CD and ensure proper security system in the premises and (c) issue necessary directions to the Incident Commander and Sub Divisional Magistrate Fort Kochi to ensure that the functioning of the "Covid Care Centre" in the premises of the Corporate Debtor is not hindering the Corporate Insolvency Resolution Process in any manner, whatsoever.

It appears that notice was not duly served to the opposite party. **Therefore, the RP as well as Registry is directed to serve notice to the Incident Commander and Sub Divisional Magistrate, Fort Kochi.** Next date fixed for hearing. The opposite party is directed to file his reply before the next date fixed, failing which the matter will be decided ex parte. List on **3.8.2020** for hearing.

MA/72/KOB/2020

This MA is also related to the facts and circumstances of MA/70/KOB/2020. Hence list this MA along with MA/70/KOB/2020 on 3.8.2020

4 TCP/49/KOB/19 WITH CA/13/2009(CLB)

Petitioners submitted an email stating that the counsel engaged by them (KSR & Company) at Chennai has relinquished the vakalath of the petitioner. Due to the present Covid 19 situation they could not collect the files and entrust the same to a counsel at Ernakulam. Hence, they prayed for an adjournment to engage an Advocate at Ernakulam. Learned counsel for R6, R13 and R16 submitted an email stating their willingness to hear the matter through VC. List on 8.9.2020.

5 IA23(KOB)/2020 IN TCP/49/KOB/19

Learned counsel for applicant in IA and R8 submitted an email stating their willing to hear the matter through VC. List on 8.9.2020. Respondents in IA submitted an email stating that the counsel engaged by them (KSR & Company) at Chennai has relinquished the vakalath of the petitioner. Due to the present Covid 19 situation they could not collect the files and entrust the same to a counsel at Ernakulam. Hence, they prayed for an adjournment to engage an Advocate at Ernakulam. List on 8.9.2020.

6 TCP/14/KOB/2020 (TCP/67/2016(CB))

Learned counsel for the petitioner submitted an email requesting for an adjournment of the case stating that the independent auditors appointed by this Tribunal has not yet submitted their report. List on 9.9.2020.

7 CP/02(KOB)/2020

Learned Senior Counsel for the petitioner Shri Aravind Pandian and learned PCS for the respondent Shri K.S.Ravichandran argued the matter through VC. Both the parties submitted that the Hon'ble NCLAT today heard the appeal filed against the Order of this Tribunal dated 5.6.2020 and directed to issue notice to the respondents fixing the next date on 29.7.2020 before that date the parties are directed to file counter as well as rejoinder. Learned PCS Dr.K.S.Ravinchandran stated that a stay order was issued till 29.7.2020, but the details of the stay order are awaited.

Learned PCS for the respondent submitted that the area where his office is situated is declared under Containment zone Covid 19 and hence it is difficult for him to get assistance and to collect all the documents pertaining to the case. On the other hand, learned senior counsel for the Petitioner submitted that the Respondent has taken adjournments on many times, and he requested to hear the matter urgently.

Both the parties agreed to submit their written argument brief before the next date fixed. Meanwhile the learned PCS for the Respondent is directed to produce the stay order of Hon'ble NCLAT. **List on 20.7.2020 at 2.30 PM for hearing.**

8 IA/44/KOB/2020 IN CP/02/KOB/2020

Learned PCS for the applicant Dr K.S.Ravichandran and learned Senior Counsel for the respondent Shri Aravind Pandian in the IA argued the matter through VC. Both the parties submitted that the Hon'ble NCLAT today heard the appeal filed against the Order of this Tribunal dated 5.6.2020 and directed to issue notice to the respondents fixing the next date on 29.7.2020 before that date the parties are directed to file counter as well as rejoinder. Dr. Ravin Chandran stated that a stay order was issued till 29.7.2020, but the details of the stay order are awaited.

Learned PCS for the applicant in IA submitted that the area where his office is situated is declared under Containment zone covid 19 and hence it is difficult for him to get assistance and to collect all the documents pertaining to the case. On the other hand, learned senior counsel for the respondent submitted that the applicant has taken adjournments on many times, and he requested to hear the matter urgently.

Both the parties agreed to submit their written argument brief before the next date fixed. Meanwhile the learned PCS for the applicant is directed to produce the stay order of Hon'ble NCLAT. **List on 20.7.2020 at 2.30 PM for hearing.** There shall be no further adjournment in the matter.

9 CA/30/KOB/2020

Learned PCS for the appellant Shri Vivek Kumar appeared in the VC. ROC's report is on record. **Reserved for orders. List for pronouncement of orders on 16.7.2020.**

10 CA/31/KOB/2020

Learned counsel for the appellant Shri Shameed Ahamed appeared in the VC. He submitted that another CA filed along with this CA/31/KOB/2020 may also be heard along with this CA since the documents related to both the CAs are interlinked. Report of ROC is on Record. Registry is directed to list both the CAs on 20.7.2020.

11 CA/33/KOB2020

Learned counsel for the appellant Shri R.Krishna Kumar appeared in the VC. ROC's report is on record. **Reserved for orders. List for pronouncement of orders on 16.7.2020.**