

## ***NCLT, KOCHI bench***

### **Daily Orders – Draft**

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

**Date: 7<sup>th</sup> Oct 2020**

**1 CA/58/KOB/2020**

Learned PCS for the Appellant Shri P.P.Zibi Jose appeared through VC. **Orders pronounced. CA/58/KOB/2020 is disposed of vide separate order.**

**2 CP/33/KOB/2020**

Learned PCS for the Petitioner Shri Arun K. Kamalobhavan appeared through VC. This CP is filed by the petitioner Mr. Razooludeen M, representing a group of shareholders of the Company against the respondents M/s. Davani Silks Private Limited and others under section 97 of the Companies Act, 2013. I have heard the learned PCS and perused the records. The petitioner has prayed for the following reliefs in the Company Petition:

- (1) To seek direction to hold AGM for the Financial year ending 31.3.2017, 31.3.2018 and 31.3.2019, preferably to conduct AGM before 21.9.2020;
- (2) To appoint a scrutinizer for proper conduct of the voting in the Annual General Meetings;
- (3) To appoint an expert as the observer to ensure that the meeting is conducted in accordance with the Companies Act, 2013;
- (4) To immune the officers in default including the Board of Directors, other than R2 and R3 for not holding the AGM and relieve the Directors other than R2 and R3, from the disqualification of directors as specified in the Companies Act, 2013; and
- (5) To condone the delay in filing the financial statements and annual returns of the company with Ministry of Corporate Affairs as required under Section 92 and 137 of the Companies Act, 2013.

The learned PCS submitted through VC that the AGM of the R1 Company has already been held on 26.9.2020. As such, I am of the view that the prayers (1) to (3) in the CP have become infructuous. Therefore, the petitioner may take steps to amend the CP, if he so desires. List on **9.11.2020**.

### 3 CA/71/KOB/2020

Learned counsel for the Appellant Shri Biju Varghese Abraham appeared in the VC. This is an Appeal filed by the Appellant for restoring the name of the Appellant Company in the Register of ROC. The documents submitted by the Appellant in his Appeal include the following:

- (i) Master Data
- (ii) Memorandum of Association and Articles of Association
- (iii) Annual Return for the period 30<sup>th</sup> September 1999
- (iv) Order of Cochin Port Trust Authority
- (v) Directors Report and Financial Statements for the year ended 1999-2019.

It appears from records that the Income Tax return of the Appellant Company has not been produced along with the Appeal. Learned counsel for the Appellant submitted that the Appellant Company is not in operation consequent to the Order of Cochin Port Trust as per Annexure 10. In that case, the Bench directed the Appellants to submit a 'NIL' Income Tax return with an affidavit. Registry is directed to issue notice to ROC through special messenger for his report. List on 14.10.2020.

### 4 IA/145/KOB/2020 IN IBA/21/KOB/2019

Learned Resolution Professional Shri Jasin Jose sent a mail today seeking to file a proper IA as ordered vide this Tribunal's order dated 25.9.2020, as the modification has to be done based on the Transaction Audit report which is awaiting. Hence list on 21.10.2020.

### 5 IBA/30/KOB/2020

Learned counsel for the operational creditor Shri Akhil Suresh appeared through Video Conferencing. It appears from records that in the hearing held on 16.9.2020 the learned counsel for the applicant Shri Akhil Suresh submitted that majority of the shares of the CD is held by INKEL and most of the assets of CD is alienated to the said INKEL. Therefore, he prayed for impleading the said INKEL as an additional CD. Based on his submission, the Bench permitted him to file an IA for impleading the said INKEL. Registry reported that no such impleading petition has been filed till date. However, the learned counsel stated that the application is ready and he has to obtain the signature of his party and sought time for that.

Meanwhile Registry reported that the notice issued to the present CD was duly served. The AD card has been returned to this Bench with the signature and seal of the CD. But none has appeared for the present CD.

Next date fixed for hearing. Registry is directed to issue a copy of this order to both the parties through email. List on **11.11.2020**.

6 TIA/10/KOB/2019 IN TCP/20/KOB/2019

Learned counsel for both the parties sought an adjournment through email. List on **19.11.2020**.

7 IA/54/KOB/2020 IN TCP/20/KOB/2019

Learned counsel for both the parties sought an adjournment through email. List on **19.11.2020**.

8 TCP/20/KOB/2019

Learned counsel for both the parties sought an adjournment through email. List on **19.11.2020**

9 IA/62/KOB/2020 IN TCP/26/KOB/2019

Learned counsel for the applicant/petitioner through email sought an adjournment as they have to submit certain documents which are vital for consideration in the present matter. Learned counsel for respondents through email stated that they are ready to argue the matter. However, they further stated that if the petitioner is not ready, the matter may be adjourned. Hence list on **10.12.2020**.

10 TCP/26/KOB/2019 (CP/716/19)

Learned counsel for the applicant/petitioner through email sought an adjournment as they have to submit certain documents which are vital for consideration in the present matter. Learned counsel for respondents through email stated that they are ready to argue the matter. However, they further stated that if the petitioner is not ready, the matter may be adjourned. Hence list on **10.12.2020**.

11 TCP/51/KOB/2019

Learned counsel for the applicant sought an adjournment by sending an email. No response from the respondents. **List on 24.11.2020. No further adjournment will be granted.**

12 TCP/58/KOB/19 (TCP/235/17)

Learned counsel for the petitioner sought an adjournment through email. Learned counsel for the respondent informed his willingness to appear through VC. However, with the consent of the learned counsel for respondents, adjourned to **3.12.2020**.

**13 CA/65/KOB/2020**

Learned counsel for the Appellant Shri R.Krishna Kumar appeared in the VC. This is an appeal filed under section 252 of the Companies Act 2013 for restoring the name of the Appellant Company in the Register of Registrar of Companies. It appears from records that on 25.9.2020 after perusal of the records and hearing the learned counsel for the appellant, this Tribunal issued notice to ROC for his report. But no report has been received from ROC till date. Registry is directed to remind ROC through special messenger for his report. List on 12.10.2020.

**14 IA/106/KOB/2020 IN CP/19/KOB/2020**

This case is posted today for hearing at 2.30 pm. In view of the constitution of the Special Bench for NCLT, Bengaluru Bench with this Bench, with effect from 1.10.2020 to 14.10.2020, the case stands adjourned to **21.10.2020 at 2.30.pm.**

**15 IA/132/KOB/2020 IN CP/19/KOB/2020**

This case is posted today for hearing at 2.30 pm. In view of the constitution of the Special Bench for NCLT, Bengaluru Bench with this Bench, with effect from 1.10.2020 to 14.10.2020, the case stands adjourned to **21.10.2020 at 2.30.pm.**

**16 CP/19/KOB/2020**

This case is posted today for hearing at 2.30 pm. In view of the constitution of the Special Bench for NCLT, Bengaluru Bench with this Bench, with effect from 1.10.2020 to 14.10.2020, the case stands adjourned to **21.10.2020 at 2.30.pm.**

**17 IA/97/KOB/2020 IN CP/117/KOB/2019**

This case is posted today for hearing at 2.30 pm. In view of the constitution of the Special Bench for NCLT, Bengaluru Bench with this Bench, with effect from 1.10.2020 to 14.10.2020, the case stands adjourned to **21.10.2020 at 2.30.pm.**

**18 IA/133/KOB/2020 IN CP/117/KOB/2019**

This case is posted today for hearing at 2.30 pm. In view of the constitution of the Special Bench for NCLT, Bengaluru Bench with this Bench, with effect from 1.10.2020 to 14.10.2020, the case stands adjourned to **21.10.2020 at 2.30.pm.**

**19 CP/117/KOB/2019**

This case is posted today for hearing at 2.30 pm. In view of the constitution of the Special Bench for NCLT, Bengaluru Bench with this Bench, with effect from 1.10.2020 to 14.10.2020, the case stands adjourned to **21.10.2020 at 2.30.pm.**

