

NCLT, KOCHI BENCH

Daily Orders – Draft

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

Date: 16th Sept 2020

1 CA/47/KOB/2020

Learned counsel for the Appellant Shri Kandampilly Vikram appeared in the VC. Orders pronounced. CA/47/KOB/2020 is disposed of vide separate order.

2 IBA/30/KOB/2020

Learned counsel for the Operational Creditor Shri Akhil Suresh appeared in the VC. He submitted that the Operational Creditor has filed this application on 12.3.2020 under section 9 of IBC for realization of his salary for an amount of Rs.11,02,400/-, which consists of principal amount of Rs.10,40,000/- and interest thereon @ 12%. The OC was appointed as Project Manager in the CD Company on 28.5.2018. The OC has not been terminated from the employment as mentioned in the appointment letter. The OC had issued several reminders to the CD regarding the salary due to him, but there was no response to the reminders and correspondences initiated.

Learned counsel for the OC 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 to implead the said INKEL as additional CD. He may file an IA for considering such a prayer, if so advised.

OC is directed to issue fresh notice to the CD through Registered post with A/D and submit proof of service with an affidavit before the next date fixed. Registry is also directed to issue notice to CD through email in addition to normal procedure. CD is directed to file their counter within two weeks and the OC may file his rejoinder, if any, before the next date fixed. List on 7.10.2020 for hearing.

3 IBA/31/KOB/2020

Learned counsel for the Financial Creditor Shri Niranjan as well as learned counsel for the Corporate Debtor Shri Sivasankar Panicker appeared in the VC.

Shri Sivasankar Panicker submitted that as per Order of NCLAT dated 24.8.2020 in Indison Agro Foods Ltd. Vs. Registrar & another in CA(AT) Insolvency 726-727 of 2020, IB matters cannot be heard by NCLT Single Bench. Hence, he wants to file a petition regarding the maintainability of this IBA. Heard both the parties. CD may file counter in the IBA along with the application for Maintainability before the next date fixed. List on 8.10.2020 for hearing.

4 CA/54/KOB/2020

Learned counsel for the Appellant Ms. Nidhi Jacob appeared in the VC. She submitted that the Appellant Company is an ongoing concern and up-to-date in filing the IT returns. Registry is directed to issue notice to ROC through special messenger. ROC is directed to file his report in this case before the next date fixed. The appellant is also directed to pursue the matter with the ROC.

Meanwhile the Bankers of the Appellant Company M/s.Coconutcounty Projects and Developers Private Limited, Oasis Athani Lane, Vanchiyoor, Thiruvananthapuram – 695035, ie. Axis Bank Ltd., Pattom P.O., Thiruvananthapuram Branch and Federal Bank Ltd. Thiruvananthapuram, Palayam Branch are directed to defreeze the Bank accounts (A/c No.113010200014793 and A/c. No.10210200015801 respectively) to enable the Appellant Company hassle free operation of the bank accounts until further orders. The Appellant Company is permitted to carry out the operation of the above Bank Accounts solely for the purpose of the Appellant Company's business as undertaken by them in the Appeal. List on 25.9.2020.

5 CA(CAA)5/KOB/2020

Learned PCS for the applicant Shri Gokul RI appeared in the VC. He submitted that the Board of Directors of both the Transferor Company and Transferee Company have passed resolution unanimously and approved the proposed Scheme of merger in their Board Meeting on 22.2.2020. It appears from records that there are 3 Equity Shareholders holding in aggregate 2000 Equity Shares of Rs.100 each in transferor company and there are 2 Equity Shareholders holding in aggregate 2,00,000 Equity Shares of Rs.100 each in the transferee company. Consent of all these Equity Shareholders by way of an affidavit for the proposed merger have also been filed. Shri Gokul RI further submitted that there are in fact no secured creditors in the transferor company and only one secured creditor in the transferee company, whose consent for the proposed scheme has filed as annexure with the Application. But due to an oversight the consent affidavit from the Directors in their capacity as lenders have not been filed. So, the learned PCS for the Applicant prayed one weeks time to file the consent affidavit from the Directors as lenders. He may do so. Next date fixed for hearing. List on 14.10.2020.

6 IA/129/KOB/2020 IN TIBA/07/KOB/2020

Learned Resolution Professional Shri Jasin Jose appeared in the VC. Heard the RP. Orders passed. **IA/129/KOB/2020 is disposed of by separate order.**

7 REPORT NO.90/KOB/2020 IN IBA/08/KOB/2020

Learned RP Shri Vinod Parinhare Veettil appeared in the VC. In his report, the RP has also prayed not to count the period from 22.3.2020 to 10.9.2020 from the time line of 180 days granted by this Tribunal for the CIR Process of the CD in view of the lock down imposed by the State and Central Government. Report No.90 of the RP is accepted and taken on record. Registry is directed to place the Report of the RP in the appropriate file.

8 REPORT NO.91/KOB/2020 IN IBA/23/KOB/2019

Learned RP Shri Vinod Parinhare Veettil appeared in the VC. In his report, the RP has also prayed not to count the period from 22.3.2020 to 10.9.2020 from the time line of 180 days granted by this Tribunal for the CIR Process of the CD in view of the lock down imposed by the State and Central Government. Report No.91 of the RP is accepted and taken on record. Registry is directed to place the Report of the RP in the appropriate file.

9 IA/90/KOB/2020 IN IBA/49/KOB/2019

Learned counsel for the applicant Shri Mohan Pulickkal appeared in the VC. Shri Abraham Mathew, Advocate appeared in the VC claiming that he represents R2 to R5. But it appears from records that Shri Abraham Mathew has filed a Memo of Appearance stating that "respondents 2 to 4 in the above matter who are now held up in the USA on account of the Covid 19 have authorized him to appear on their behalf before this Tribunal in the above matter and accordingly, this memo of appearance for respondents 2 to 4 is being filed". But it is interesting to note that there is no Vakalat executed by R2 to R4 showing the authorisation to the Advocate on behalf of them. However, he has filed the counter for R2 to R5 containing the signature of R5 along with the Vakalat for R5 only. Therefore, R2 to R4 may enter appearance through counsel duly executing the Vakalat within 3 weeks so as to consider their counter as counter filed by R2 to R5. R1 (RP) has also filed his counter. The applicant may file his rejoinder to both the counters, if any, before the next date fixed. List on 14.10.2020

10 IBA/29/KOB/2020

Learned counsel for the Operational Creditor Shri Vinod P.V. as well as learned PCS for the CD Shri Gokul RI appeared in the VC. Learned counsel for the CD submitted that he has not filed the counter in the case because they are trying to settle the matter amicably. So, he sought an adjournment for 2 weeks. CD is directed to file his counter within two weeks. List on 13.10.2020 for final hearing.

11 CP/22/KOB/2020

Learned counsel for petitioner, learned PCS for R1 & R2 and learned counsel for R3 and R4 submitted an email stating their willingness to appear through VC. R1 and R2 sought further time for filing the counter. Due to paucity of time both sides were informed that the matter will be adjourned. Learned counsel for the petitioner stated that he has no objection in adjourning the matter. List on 10.11.2020.

12 TCP/46/KOB/19 WITH IA/55/KOB/2020

Learned counsel for petitioner as well as learned counsel for R1 to R4 submitted an email stating their willingness to appear through VC. But due to paucity of time the matter is adjourned to 9.11.2020. This was duly informed over phone.

13 IBA/21/KOB/2020

Learned counsel for both the parties submitted an email stating their willingness to argue the matter through VC. But due to paucity of time the matter is adjourned to 215.9.2020. This was duly informed over phone.

14 IA/106/KOB/2020 & IA/132/KOB/2020 IN CP/19/KOB/2020

Learned counsel for both the parties appeared in the VC. Partly heard the learned counsel for the petitioner in CP/117/KOB/19. List on 25.9.2020 at 2.30 pm as part heard for further hearing.

15 CP/19/KOB/2020

Learned counsel for both the parties appeared in the VC. Partly heard the learned counsel for the petitioner in CP/117/KOB/19. List on 25.9.2020 at 2.30 pm as part heard for further hearing.

16 CP/117/KOB/19 WITH IA/97/KOB/2020 & IA/133/KOB/2020

Learned counsel for both the parties appeared in the VC. Partly heard the learned counsel for the petitioner in CP/117/KOB/19. List on 25.9.2020 at 2.30 pm as part heard for further hearing.