

NCLT, KOCHI BENCH

Daily Orders – Draft

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

Date: 18th Sept 2020

1 CA/45/KOB/2020

Learned PCS for the Appellant Shri Gokul RI appeared in the VC. Orders pronounced. CA/45/KOB/2020 is disposed of vide separate order.

2 IBA/32/KOB/2020 WITH CAVEAT NO.11/KOB/2020

Learned counsel for the Operational Creditor Ms. Reetha D appeared in the VC. She submitted that the amount claimed in this IB application is Rs.3,06,20,091/- with interest at the rate of 18% from 7.4.2018 till the date of payment. She also submitted that the Corporate Debtor has confirmed the outstanding amount of Rs.3,06,20,091/- as on 31.3.2020.

Shri Pranoy Harilal appeared in the VC for the Corporate Debtor. He sought two weeks time to submit the counter in this case. He may do so. The Operational Creditor may file his rejoinder, if any, before the next date fixed. Next date fixed for hearing. The Caveat No.11/KOB/2020 may be kept with the records. List on 9.10.2020.

3 CA/57/KOB/2020

Learned counsel for the Appellant Shri Mohan Pulickkal appeared in the VC. He submitted that he will submit the financial statements to this Tribunal as required by RoC within a short time. Allowed. Registry is directed to issue notice to ROC through special messenger to file his report in this matter. Appellant may also pursue the matter with the ROC. Let a copy of this order be sent to the Appellant through email. List on 28.9.2020.

4 CP/09/KOB/2020

Learned counsel for the petitioner Shri Philip Mathew appeared in the VC. None has appeared for the respondents. It appears from records that R1 submitted an email in the last date of posting of this case stating that owing to the declaration of the location where the registered office of the company is situated as a containment zone, the officials of R1 Company is not in a position to move out of Kozhikode District and hence he sought 3 weeks adjournment. By allowing that prayer of R1, vide our order dated 17.8.2020, he was directed to file his counter on or before today. But it appears that R1 has not filed their counter till date. RoC has also not filed any report in this case. R1 is directed to file their counter within two weeks

positively failing which law will take its own course. ROC may also file his report before the next date fixed. Let a copy of this order be issued to both the parties through email. List on 21.10.2020.

5 CP/12/KOB/2020 WITH IA/107/KOB/2020

Learned counsel for the petitioners Shri Jagan Abraham as well as learned counsel for R1 to R4 Shri Issac Thomas appeared in the VC. This IA is filed by the petitioners with a prayer to implead the statutory auditor of the R1 Company Mr. Paul Sebastian (M.No.037057) as additional Respondent No.5 in the CP. Learned counsel for the petitioner cited the Order of the NCLAT dated 4.3.2020 in CA(AT) No.190 of 2019 in the matter of Deloitte Haskins & Sells LLP Vs. Union of India in support of the Impleading Petition.

On the other hand, learned counsel for the Respondents vehemently opposed the Impleading petition stating that the Statutory Auditor of the Company is a third party and it is settled law that third parties who are not members in the company cannot be impleaded in or brought under the purview of Petition under Sections 241 and 242 of the Companies Act, 2013. He cited the order of NCLAT dated 6.11.2017 in CA(AT) No.297 of 2017 in the matter of Shanta Prasad Chakrivarty and others Vs. M/s. Bochapathar Tea Estate Private Ltd.

Heard both the parties. Orders reserved. **List for pronouncement of Orders in the IA on 28.9.2020.**

6 TCAA/4&5/KOB/19

Learned counsel for the Appellant Shri Pranoy Harilal appeared in the VC. He submitted that this matter is pending from 2016 and hence sought an early disposal.

Today the case is posted for the report of the Regional Director, MCA, Chennai. Learned ROC appeared in the VC and submitted that report in the matter has been filed by him based on the direction of RD. ROC in his report stated that as per the provisions of Rule 2(1)(c) (viii) of the Companies (Acceptance of Deposits) Rules, 2014, any amount received from the Directors will be exempted only if a declaration is given by such Director to the Company that the amounts so given were not borrowed from 3rd parties (others) and that such disclosure along with details of money so collected is made in the Board's Report. However, a perusal of the Board's report for 2014-15 and 2015-16 reveals that such a disclosure was not made rendering acceptance of deposits of Rs.17,50,000/- and Rs.15,00,000/- from the said Directors to be in violations of the provisions of Section 73 of the Companies Act, 2013. ROC has also pointed out many other violations of the provisions of the Companies Act by the Applicant Company, which according to the ROC, the Company officials are liable to get punishment. Accordingly, ROC prayed that this Tribunal may deny the approval of Scheme of Amalgamation in the circumstances of this case and render justice. The report of the ROC is taken on record and Registry is directed to place the report in the appropriate file.

The Applicant is directed to submit reply against the Report of the ROC within two weeks. Next date fixed for hearing. List on 2.11.2020.

7 MA/96/KOB/2020 IN IBA/44/KOB/2019

Learned Resolution Professional Shri Dileep KP appeared in the VC. This MA is filed by the RP with the prayer to approve the Resolution Plan submitted by the Resolution Applicant M/s. Tolins Pure Foods Private Limited on the terms and conditions mentioned in the resolution plan. The Bench observed that the RP has not submitted before this Tribunal the minutes of the Committee of Creditors, which approved the Resolution Plan of the Resolution Applicant. RP submitted that he will file the minutes of meeting of the CoC within a day or two. He may do so. Reserved for orders. **List on 29.9.2020 for pronouncement of orders.**

8 CA/49/KOB/2020

Learned counsel for the Appellant Shri John Vadassery appeared in the VC. He submitted that the Appellant Company is an ongoing concern and up-to-date in filing the Income Tax returns. Heard. Report of ROC is on record. **Reserved for orders. List for pronouncement of orders on 21.9.2020.**

9 CA/50/KOB/2020

Learned PCS for the Appellant Shri Madhusudhanan E.P. appeared in the VC. He submitted that the Officials of the Appellant Company were unaware of the rules and regulations of the Companies Act and that is why they failed to file the annual returns before the ROC at the appropriate time. He also submitted that the Appellant Company is an ongoing concern and up-to-date in filing the Income Tax returns. Heard. Report of ROC is on record. Reserved for orders. **List for pronouncement of orders on 23.9.2020.**

10 MA/9/(KOB)/19 IN CP(IB)/689/17(CHENNAI BENCH)

Learned counsel for the applicant in MA Shri Ravi Rajagopalan along with Learned Advocate Shri NPS Choula appeared in the VC. Learned counsel for respondents for R1, R2, R5, R6, R12, R13, R14, R15 & R16, R20, R21 & R22, R10 and R3 appeared through VC. Learned counsel for applicant and learned counsel for R1, R2, R5, R6, R12, R13, R14 and learned counsel for R20, R21 and R22 argued the matter. **List on 28.9.2020 at 2.30 PM as part heard for hearing the arguments of the counsel for the remaining respondents.**

11 MA/12/KOB/2020 IN CP(IB)/689/17(CHENNAI BENCH)

Learned counsel for the applicant appeared through VC and argued the matter. Learned counsel for respondents also appeared through VC. List for further arguments on 28.9.2020 at 2.30 PM as part heard.

12 MA/16/KOB/2020 IN CP(IB)/689/2017

Learned counsel for the applicant appeared through VC and argued the matter. Learned counsel for respondents appeared through VC. List for further arguments on 28.9.2020 at 2.30 PM as part heard.

13 MA/17/KOB/2020 IN CP(IB)/689/2017

Learned counsel for the applicant appeared through VC and argued the matter. Learned counsel for respondents appeared through VC. List for further arguments on 28.9.2020 at 2.30 PM as part heard.

14 MA/18/KOB/2020 IN CP(IB)/689/2017

Learned counsel for the applicant appeared through VC and argued the matter. Learned counsel for respondents appeared through VC. List for further arguments on 28.9.2020 at 2.30 PM as part heard.

15 MA/19/KOB/2020 IN CP(IB)/689/2017

Learned counsel for the applicant appeared through VC and argued the matter. Learned counsel for respondents appeared through VC. List for further arguments on 28.9.2020 at 2.30 PM as part heard.