

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

### **Daily Orders – Draft**

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

**Date: 21<sup>st</sup> Sept 2020**

#### **1 CA/49/KOB/2020**

Learned counsel for the Appellant Shri John Vadassery appeared in the VC. **Orders pronounced. CA/49/KOB/2020 is disposed of vide separate order.**

#### **2 IBA/33/KOB/2020**

Even though Advocate Nidhi Sam John, Advocate intimated his willingness through appearance, since he has not filed the Vakalath for the financial creditor, he sought a short adjournment to file his vakalath and enter appearance on the next date. Hence, adjourned to **1.10.2020**.

#### **3 CA/58/KOB/2020**

Learned PCS for the appellant Shri PP Zibi Jose appeared in the VC. This CA is filed under Section 252 of the Companies Act, 2013 for restoration of the Company's name in the Register of the ROC, which was struck off by the ROC. I have heard the learned PCS. Along with the Appeal, the appellant has filed copies of Share Certificates, Memorandum and Articles of Association, Master data and signatory details, IT return acknowledgement, certificate of GST Registration, Form No. 2 & 12 of NCLT, Auditors Report, Balance sheet for the year ended 31.3.2015 and Annual Return for the year ended 31.3.2015, etc. Since this is an appeal under Section 252 of the Companies Act, 2016, the report of ROC is to be called for. Hence, Registry is directed to issue notice to ROC through special messenger for his report. List on **28.9.2020**.

#### **4 IA/136/KOB/2020 IN CP/24/KOB/2020**

Learned counsel for the applicant Shri Anil D. Nair as well as learned Senior counsel for R1 in IA Shri Joseph Kodianthara appeared in the VC. This IA is filed by the R1 in the CP with the prayer to advance the hearing and to modify the interim order of this Tribunal dated 28.8.2020. R2 in the CP has filed the counter in the CP. Shri Joseph Kodianthara stated that he has no objection in preponing the hearing of the CP. Accordingly, the hearing of CP/24/KOB/2020 is preponed from 16.10.2020 to 30.9.202. Modification of the order dated 28.8.2020 of this Tribunal can be decided only after hearing the Petitioner, who is R1 in this IA. List the IA as well as CP on **30.9.2020 at 2.30 pm** for hearing, before that date the petitioner may file his rejoinder, if any, in the CP as well as counter, if any, in the IA.

#### 5 **IA/137/KOB/2020 IN CP/24/KOB/2020**

Learned counsel for the applicant Shri Anil D. Nair as well as learned senior counsel for R1 in IA Shri Joseph Kodianthara appeared in the VC. This IA is filed under Section 420 of the Companies Act, 2013 read with Rule 11 and Rule 154 of the NCLT Rules, 2016 for recalling the order of this Tribunal dated 28.8.2020. Shri Joseph Kodianthara stated that he will file his counter in the IA within a week and ready to argue the matter at an early date. Respondents may file their counter in the IA before the next date fixed. List the **IA/137/KOB/2020 IN CP/24/KOB/2020** on 30.9.2020 at 2.30 pm for hearing.

#### 6 **IA/138/KOB/2020 IN CP/29/KOB/2020**

Learned counsel for the applicant Shri Anil D. Nair as well as learned senior counsel for the respondent in IA Shri Joseph Kodianthara appeared in the VC. This IA is filed by the R1 in the CP with the prayer to advance the hearing and to modify the interim order of this Tribunal dated 28.8.2020. Shri Joseph Kodianthara stated that he has no objection in preponing the hearing of the CP. Accordingly, the hearing of CP/24/KOB/2020 is preponed from **16.10.2020 to 30.9.2020**. Modification of the order dated 28.8.2020 can be decided only after hearing the Applicant/R1. List the IA as well as CP on 30.9.2020 at 2.30 pm.

#### 7 **IA/124/KOB/2020 IN IBA/16/KOB/2020**

Learned counsel for the Applicant/CD Shri Vino Jose, learned counsel for the Operational Creditor Shri John V. Mony, and learned PCS for the R2/IRP Shri Jasin Jose appeared in the VC. This IA is filed by the Corporate Debtor under Section 12A of the IBC, 2016. The CD submitted that they have settled the matter with the OC and OC informed the CD through email that their advocate had contacted the IRP/R2 and they are trying to file the Form FA. But the IRP submitted that he has not received any money from the OC though he gave a proposal for Rs.1,25,000/- towards his fee. Learned counsel for the OC submitted that the fee proposed by the IRP is exorbitantly high in view of the fact that the debt involved the case was Rs.8,00,000/- and they settled the matter at a lesser amount of Rs.6,91,921/-. After hearing the learned counsel for OC and IRP and also considering the fact that the matter was settled before convening the CoC meeting and issue of paper publication, the Bench hereby fix the fee of IRP as Rs.90,000/- (Rupees ninety thousand only). The OC may file the Form FA through IRP before the next date fixed. List **on 30.9.2020**.

#### 8 **IA/125/KOB/2020 IN IBA/16/KOB/2020**

Learned counsel for the Applicant/IRP Shri Jasin Jose, Learned counsel for the OC Shri John V. Mony, and learned counsel for the CD Shri Vino Jose appeared in the VC. This IA is filed by the IRP under Section 12A of the IBC, 2016. The learned counsel for the IRP submitted that the OC as well as CD has communicated to him that they have settled the matter. But the IRP has not received from the applicant any withdrawal application. The amount ordered by this Tribunal for CIRP expenses has also not been received. Therefore, he prayed to pass appropriate direction as

may deem fit in the interest of justice and equity. IRP submitted that he has not received any money from the OC though he gave a proposal for Rs.1,25,000/- towards his fee. Learned counsel for the OC submitted that the fee proposed by the IRP is exorbitantly high in view of the fact that the debt involved in this case was Rs.8,00,000/- and they settled the matter at a lesser amount of Rs.6,91,921/-. After hearing the OC and IRP and also considering the fact that the matter was settled before convening the CoC meeting and issue of paper publication, the Bench hereby fix the IRP fee of Rs.90,000/- (Rupees ninety thousand). The OC may file the Form FA through IRP before the next date fixed. List on 30.9.2020.

**9 IA//80/KOB/2019 IN IBA/46/KOB/2019**

Learned counsel for the Applicant in the IA submitted an email seeking an adjournment. Learned senior counsel for the Respondent in the IA Shri Joseph Kodianthara appeared in the VC and sought an adjournment. Allowed. List on 5.10.2020 **at 2.30 pm** for hearing.

**10 IBA/46/KOB/2019**

Learned counsel for the Applicant Shri Joseph Kodianthara appeared in the VC and sought an adjournment. Learned counsel for the Respondent also sought an adjournment. Allowed. List **on 5.10.2020 at 2.30 pm** for hearing

**11 CP/21/KOB/2020**

Learned PCS for the Petitioner Shri Bijoy P. Pulipra appeared in the VC. Learned counsel for R2 to R7 Shri V.Ajakumar, learned counsel for R14 & R15 Shri Aravind J.S., Learned counsel for R12 & R13 Shri Mohammed Fazil, learned counsel for R11, R18, R19, R20 and R22 Shri Vinod V. Luka and learned counsel for R8 and R16 Shri Saji Varghese appeared in the VC. It appears from records that notice was duly served to R21. But he neither represented by any Advocate nor filed any counter. **Therefore R21 is hereby set exparte.** Learned Advocate Sabeela CB sent an email stating that she will be filing vakalath for R1.

Arguments of both sides heard on the interim reliefs prayed for. **List for pronouncement of orders on interim relief on 23.09.2020.**

**12 CA/31/KOB/2020**

Learned counsel for the appellant intimated his willingness to appear through VC. However, due to paucity of time with the consent of the learned counsel, the matter is adjourned to **12.10.2020**. Before that date the appellant may produce the documents directed to be produced by this Tribunal vide order dated 20.7.2020.

13 CA/34/KOB/2020

Learned counsel for the appellant intimated his willingness to appear through VC. However, due to paucity of time with the consent of the learned counsel, the matter is adjourned to **12.10.2020**. Before that date the appellant may produce the documents directed to be produced by this Tribunal vide order dated 20.7.2020.