

NCLT, KOCHI BENCH

Daily Orders – Draft

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

Date: 22nd Sept 2020

1 IA/80/KOB/2020 IN TCP/116/KOB/19

Learned counsel for the applicant Smt. Sindhu Santhalamam as well as learned counsel for the respondent Shri V.A.Ramalingham appeared in the VC. Orders pronounced in the **IA. IA/80/KOB/2020 is disposed of vide separate order.**

2 CA/59/KOB/2020

Learned counsel for the appellant Shri Nebil Nizar appeared in the VC. He submitted that the Appellant Company is an ongoing concern. Report of ROC is on record. Heard. **Orders reserved.** List for pronouncement of orders on 24.9.2020.

3 CA/60/KOB/2020

Learned counsel for the Appellant Shri Byju K. appeared in the VC. Heard. Registry is directed to issue notice to ROC through special messenger for his report. List on 28.9.2020.

**4 MA/139/KOB/2020 IN CP/252/CAA/2018 Connected with
CA/192 & 193/CAA/2018(CHENNAI BENCH)**

Learned PCS for the Applicant Shri Abhilash Nediyaalil Abraham appeared in the VC. He submitted that the scheme of amalgamation has been sanctioned on 21st March 2019 by the Hon'ble NCLT Chennai Bench. This MA is filed by the Applicant Transferee Company M/s. Nitta Gelatin India Ltd with the prayers (a) to direct the 1st Respondent Chief Commissioner of Goods and Service Tax, Kerala and 3rd Respondent, Chief Commissioner of Goods and Service Tax, Gujarat to refund the GST Input Tax Credit of Rs.21,91,837 standing to the credit of Transferor Company to the Applicant Transferee Company; (b) to direct the 4th Respondent and 5th Respondent to make necessary changes in the GST Portal to enable transfer of Input Tax Credit especially in the case of merger of companies in two states as envisaged under Section 18 of the CGST/SGST Act read with Rule 41 of the CGST Rules; and (c) to direct the Applicant-Transferee Company to file form ITC-02 manually if online filing is not possible for getting refund and also order the 1st Respondent and 3rd Respondent to honour the same.

After perusal of the records, I am of the view that it would be justified to hear the opposite parties. The Applicant may issue fresh notice to the respondents and file proof of service with an affidavit before the next date fixed. Registry is also directed

to issue notice to the Respondents through email in addition to normal procedure. List on 11.11.2020.

5 CONTEMPT PETITION (KOB)/01/2020 IN IA/74/KOB/2019 IN TCP/34/KOB/2019

No response from the Contempt Petitioner. Learned Senior counsel for R1 to R3 Shri Joseph Kodianthara sought an adjournment through email. Learned counsel for R6 Shri C.S.Vivek Kumar as well as learned PCS for R4, R8, R9, R10 & R11 Shri P.P.Zibi Jose submitted an email stating willingness to appear through VC. No response from R5. Adjourned to 17.11.2020.

6 CONTEMPT PETITION (KOB)/02/2020 IN IA/23/KOB/2019 IN TCP/34/KOB/2019

No response from the Contempt Petitioner. Learned Senior counsel for R1 to R3 Shri Joseph Kodianthara sought an adjournment through email. Learned counsel for R6 Shri C.S.Vivek Kumar as well as learned PCS for R4, R8, R9, R10 & R11 Shri P.P.Zibi Jose submitted an email stating willingness to appear through VC. No response from R5. Adjourned to 17.11.2020.

7 IA/50/KOB/2019 IN TCP/34/KOB/2019

Learned Senior counsel for the petitioners Shri Joseph Kodianthara sought an adjournment through email. No response from R1 & R2. Learned counsel for R6 Shri C.S.Vivek Kumar as well as learned PCS for R4, R8, R9, R10 & R11 Shri P.P.Zibi Jose submitted an email stating willingness to appear through VC. Adjourned to 17.11.2020.

8 TCP/34/KOB/2019 WITH IA/66/KOB/2020 & IA/67/KOB/2020

No response from the Petitioner. Learned Senior counsel for R1 to R3 Shri Joseph Kodianthara sought an adjournment through email. Learned counsel for R6 Shri C.S.Vivek Kumar as well as learned PCS for R4, R8, R9, R10 & R11 Shri P.P.Zibi Jose submitted an email stating willingness to appear through VC. No response from R5. Adjourned to 17.11.2020.

**9 TIA/131/KOB/2020 (CA/228/CHENNAI BENCH) IN
TCP/53/KOB/2019 (CP/33/2017/CHENNAI BENCH)**

No response from the Petitioner. Learned Senior counsel for R1 & R2 Shri Joseph Kodianthara sought an adjournment through email. Learned counsel for R3 Shri C.S.Vivek Kumar submitted an email stating willingness to appear through VC. Adjourned to 17.11.2020.

10 TCP/53/KOB/19 (CP/33/17)

Learned counsel for the petitioners Shri C.S.Vivek Kumar submitted an email stating willingness to argue the matter through VC. Learned Senior counsel for R1 & R3 Shri Joseph Kodianthara sought an adjournment through email. Adjourned to 17.11.2020.

11 CP/123/KOB/2019 WITH WITHDRAWAL MEMO

Learned counsel for the petitioner Shri Benny P. Thomas appeared in the VC. The petitioner has filed a Withdrawal Memo praying to withdraw the CP No.123 of 2019 filed before this Tribunal with liberty to initiate such other appropriate proceedings as are available to the applicant in law. This CP was filed seeking for a direction to the Respondents for investigation into the irregularities in the affairs of the 1st Respondent Company during the tenure of the 2nd Respondent as Managing Director by invoking Section 213 of the Companies Act.

Meanwhile learned counsel for R2 and R3 Shri Shaijan C. George submitted that he has filed interim reply against the CP.

I have thoroughly perused the records including the interim reply filed in the CP. As the petitioner wants to withdraw the case, the petitioner is allowed to withdraw CP/12/KOB/2019 with liberty to initiate such other appropriate proceedings as are available to him as per law. **CP/123/KOB/2019 is disposed of as withdrawn vide separate order.** No costs..

12 CA/53/KOB/2020

Learned counsel for the Appellant Ms. Nidhi Jacob appeared in the VC. Heard. Report of the ROC is on record. **Reserved for orders. List for pronouncement of orders on 25.9.2020.**

13 CP/3(KOB)/2020

Learned Counsel for the petitioners Shri John Vadassery as well as learned counsel for R1 and R3 Shri Krishnan Unni and learned counsel for R2 Shri Prashant Kumar appeared in the VC. **Heard both the parties. Arguments concluded. Orders reserved. List for pronouncement of orders on 20.10.2020.**