

NCLT, KOCHI**Daily Orders – Draft**

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

Date: 23rd Sept 2020

1 CA/50/KOB/2020

Learned PCS for the Appellant Shri Madhusudhanan EP appeared in the VC. Orders pronounced. CA/50/KOB/2020 is disposed of vide separate order.

2 CP/21/KOB/2020

Learned PCS for the petitioners Shri Bijoy P. Pulipra as well as learned counsel for R2 to R7, R9 & R10 Shri Sidharth A. Menon and learned GP for R12 & R13 Shri Mohammed Fazil MP appeared in the VC. Orders pronounced in the Interim Reliefs sought by the petitioners in the CP.

3 IA/147/KOB/2020 IN CP/21/KOB/2020

Learned counsel for the Applicants/R2 to R7, R9 & R10 Shri Sidharth A Menon as well as learned PCS for the Respondents/Petitioners Shri Bijoy P. Pulipra and learned GP for R12 & R13 Shri Mohammed Fazil MP appeared in the VC. This IA is filed by the Applicants, who are R2 to R7, R9 & R10 in the CP, praying to extend the time for filing reply statement/counter by the aforesaid respondents to the CP for a further period of 6 weeks from 21.9.2020 and to give a physical hearing of the CP in the open Bench in the next posting complying with the Covid 19 protocol. The Applicants/Respondents may file their counter in the CP within four weeks. Thereafter, the petitioners in the CP may file their rejoinder, if any, within two weeks. The request of the Applicants/respondents to hear the matter physically in open Bench cannot be considered as of now. **IA/147/KOB/2020 is disposed of accordingly.** List the CP on 23.11.2020.

4 CA/61/KOB/2020

Learned counsel for the Appellant Shri Harikrishnan R Nair appeared in the VC. I have heard and perused the application. It appears from records that the Appellant has submitted almost all the documents except the Income Tax return. Learned counsel for the appellant submitted that consequent to the striking off, the Company is not doing its business and hence the non-filing of the IT return. In that case the Bench directed the appellant to file a nil IT return before this Tribunal. Registry is directed to issue notice to ROC through special messenger for his report. List on 29.9.2020.

5 CA/62/KOB/2020

Learned PCS for the appellant Shri Gokul RI appeared in the VC. He submitted that the Appellant Company is an ongoing concern. Heard. Registry is directed to issue notice to ROC through special messenger for his report. List on 1.10.2020.

6 MA/140/KOB/2020 IN TIBA/11/KOB/2019 Connected with IBA/28/KOB/2019

Learned Government Pleader for the Applicant Shri Muhammed Fazil MP as well as learned RP/Respondent Shri Bijoy P. Pulipra appeared in the VC. Learned RP submitted that he has already submitted a reply to the MA through email and by post. But registry reported that they have not received the reply to the MA by post. Learned GP also submitted that he has not received the reply to the MA. RP may serve a copy of his reply to the MA to the Applicant/GP immediately. After receiving the reply to the MA from the RP, the Applicant may file his rejoinder, if any, before the next date fixed. Registry is directed to issue a copy of this order through email to both the parties. List on 30.9.2020 for hearing.

7 TCP/38/KOB/2019 (TCP/794/2018)

No response from the petitioner. Learned counsel for respondents 21 & 22 sought an adjournment. It is seen from records that none has appeared for the petitioner on 21.5.2020, 4.6.2020, 22.6.2020 and 18.8.2020. As such, it appears that the petitioner is not interested in pursuing the matter. However, as a last opportunity the matter is adjourned to 23.11.2020. Registry is directed to issue a copy of this order to the petitioner through email in addition to normal procedure.

8 TCP/40/KOB/2019

Learned counsel for the Petitioner Shri Philip Mathew as well as learned counsel for R3 Shri Sankar P. Panicker appeared in the VC. Shri Philip Mathew submitted that the matter related to this case is still pending before the Hon'ble High Court of Kerala. Probably it may be disposed of in the 2nd week of October 2020. Considering the above, the matter is adjourned to 12.11.2020.

9 TCP/45/KOB/2019

Learned Counsel for the petitioner Shri Shameem Ahamed as well as learned counsel for R1 to R5 Shri S.Easwar and learned counsel for R7 Shri Harikumar G Nair appeared in the VC. Shri Shameem Ahamed submitted that he has filed an IA yesterday with a prayer to add some additional documents in the Company Petition. Learned Counsel for R1 to R5 submitted that he has already received the copy of the said IA. He vehemently opposed the IA stating that this matter is pending for the past 10 years and there were enough opportunities to the petitioner to file such documents in earlier occasions. He also submitted that the CP itself is not

maintainable. Heard both the parties. It appears from records that this CP is posted today for final hearing. Since the petitioner wants to submit some additional documents in the matter, the Bench is of the view that reply from the opposite party is required. Therefore, the respondents may file reply to the IA within two weeks with copy served to the petitioner. List the IA as well as CP on 16.10.2020 for final hearing. Registry is directed to issue the copy of this order to both the parties through email. Please bear in mind that there shall be no further adjournment in this matter.

10 TIA/19/KOB/2019 IN TCP/47/KOB/2019

Learned counsel for the Applicants Shri Sharad Kodianthara, learned counsel for the respondent Shri Philip Mathew and learned Administrator Shri Sankar P Panicker appeared in the VC. This TIA was filed by Applicants/R2 and R3 seeking appropriate interim direction in the interest of justice to resolve the entire issue. Learned counsel for both the parties submitted that this TIA has become infructuous consequent to the filing of the final report of the Administrator appointed by this Tribunal. Therefore **TIA/19/KOB/2019 IN TCP/47/KOB/2019** is disposed of as infructuous.

11 TCP/47/KOB/2019 WITH REPORT NO.82/KOB/2020 & IA/146/KOB/2020

Learned counsel for the applicant Shri Philip Mathew, learned counsel for the Respondents Shri Sharad Kodianthara and learned Administrator Shri Shankar P Panicker appeared in the VC. Report No.82/KOB/2020 is the final report of the Administrator appointed by this Tribunal. Report of the Administrator is accepted and taken on record. Registry is directed to place the Report of the Administrator at the appropriate file. The Administrator in his report has stated that there are no prospective buyers interested in taking over the Company nor any Promoter-Director is interested in continuing the business.

IA/146/KOB/2020 is filed by the Applicant/Petitioner for winding up of the 1st Respondent Company and appoint a Company Liquidator as per Section 275(1) of the Companies Act, 2013. Shri Sharad Kodianthara sought two weeks time to file his counter in the IA. Allowed. The Applicant may file his rejoinder, if any, before the next date fixed. List on 19.10.2020 for hearing.

12 CP/08/KOB/2020

Learned counsel for Petitioner Shri Yogindunath and learned counsel for the respondent Shri Vinu Thomas appeared through VC. Shri Vinu Thomas stated that he has filed two IAs, one is for an independent audit and cost audit and the other one is for loan to equity or suspension of shareholders rights. But these IAs are not listed today. Learned counsel for the petitioner sought one weeks' time through mail to file counter to both IAs. It appears that the reliefs sought in the IAs are integral part of

the main CP. Hence instead of arguing the IAs separately, both the parties may argue the matter in the Main CP itself. However, the petitioner in the CP may file counter in the IA within a week. List the IAs as well as main CP on 9.10.2020 for final hearing.

13 CA/48/KOB/2020

Learned counsel for the appellant Shri Nebil Nizar appeared through VC. Heard. Orders reserved. **List for pronouncement of orders on 28.9.2020.**

14 CA/46/KOB/2020

Learned PCS for the appellant Shri Abhilash Nediyaalil Abraham appeared through VC and argued the matter. He stated that he has filed an affidavit of the Directors for reactivation of the DIN. Orders reserved. **List for pronouncement of orders on 29.9.2020.**