

NCLT, KOCHI bench**Daily Orders – Draft**

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

Date: 25th Sept 2020

1 IBA/18/KOB/2020

Learned counsel for the Applicant Shri Kevin Thomas as well as learned counsel for the Corporate Debtor Shri P. Shanes Methar appeared in the VC. Orders pronounced. IBA/18/KOB/2020 is dismissed vide separate order.

2 CA/53/KOB/2020

Learned counsel for the applicant Shri Sukumar Nainan Oommen appeared in the VC. Orders pronounced. CA/53/KOB/2020 is disposed of vide separate order.

3 CP/30/KOB/2020

Learned counsel for the petitioner Ms. Telma Raju appeared in the VC. This is a petition filed under section 73(4) of the Companies Act, 2013 for refund of the deposit with interest. I have heard the learned counsel for the petitioner and perused the records. The petitioner is directed to issue fresh notice to the Respondent through email and 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 Respondent through email. Respondent may file his counter before the next date fixed. List on 21.10.2020.

4 CA/65/KOB/2020

Learned counsel for the appellant Shri R.Krishna Kumar appeared in the VC. Learned counsel for the Appellant submitted that the Company is an ongoing concern and had complied with all the Acts, rules, regulations applicable to the Company from time to time. The Company has filed the IT returns up to 2019-20. I have heard the learned counsel for the appellant and perused the records. Registry is directed to issue notice to ROC through special messenger for his report. List on 7.10.2020.

5 **IA/142/KOB/2020 & IA/145/KOB/2020 IN IBA/21/KOB/2019**

IA/142/KOB/2020

Learned RP Shri Jasin Jose appeared in the VC. This is an IA filed by the Resolution Professional under Section 40(2) of CIRP Regulation and as per Section 12(2) of IBC 2016 for extension of time period of Corporate Insolvency Resolution Process. Learned Resolution Professional submitted that the 180 days of CIRP period has been ended on 13.09.2020 (excluding the lockdown period of 63 days) and this application is filed to extend the CIRP period from 13.9.2020 to 12.10.2020 (30 days). The prayer is allowed. RP is directed to complete the CIR Process on or before 12.10.2020. **IA/142/KOB/2020 is disposed of vide separate order.**

IA/145/KOB/2020

Learned RP Shri Jasin Jose appeared in the VC. This is an IA filed by the RP under section 43(1) of IBC, 2016. It appears from records that the RP has not made any specific prayer in his application. Learned RP submitted that he requires one-week time to file a proper IA. He may do so. List on 7.10.2020

6 **MA/142/KOB/2020 IN TIBA/03/KOB/2019**

Learned counsel for the applicant Shri Sandeep Gopalakrishnan as well as learned counsel for the RP Shri Vinod PV appeared in the VC. This is an application filed by the application under Section 60(5) read with Section 25 of IBC 2016. Learned counsel for the applicant submitted that as per direction from the Regional Labour Commissioner (Central), Trivandrum to the Managing Director of the Corporate Debtor, the applicant is entitled for gratuity and interest thereon from 1.12.2017 till the date of actual payment. But the RP has not considered the interest on gratuity. The learned counsel for RP requested two weeks' time to file counter to the MA. Allowed. List on 12.10.2020 before that date the RP may file his counter.

7 **MA/143/KOB/2020 IN TIBA/34/KOB/2019**

Learned Resolution Professional Shri Sathiq Buhari appeared in the VC. Learned counsel for Operational Creditor Shri Kalyn Jhabakh also appeared in the VC. This is an MA filed by the RP under Section 33(2) of IBC 2016 for Liquidation of the CD. He submitted that along with this MA he has filed an application to sanction/condone the delay in filing the liquidation application. But the sanction/condonation application is not seen along with the MA. RP submitted that he will file the application for sanction/ condonation of delay within a day or two. List on 14.10.2020.

8 **MA/144/KOB/2020 IN TIBA/34/KOB/2019**

Learned Resolution Professional Shri Sathiq Buhari appeared in the VC. Learned counsel for OC Shri Kalyn Jhabakh also appeared in the VC. This MA is filed by the RP under Section 60 read with Section 74 of the IBC, 2016 with a prayer to conduct an enquiry and on satisfaction refer the matter for prosecution against the CD on the

basis of the guidelines laid down by the NCLAT on 16.8.2019 in CA(AT)(Insolvency) No.219 of 2019. Heard the RP and perused the records. RP may issue fresh notice to the Respondents/CD through email and Registered Post with A/D and submit proof of service with an affidavit in this Tribunal before the next date fixed. The Respondent/CD may also file their counter before the next date fixed. List on 14.10.2020 for hearing.

9 REPORT NO. 28/2020 IN TIBA/34/KOB/2019

Learned Resolution Professional Shri Sathiq Buhari appeared in the VC. Learned counsel for OC Shri Kalyn Jhabakh as well as the service provider Shri Giji Joseph, Tax Consultant appeared in the VC. The service provider submitted that he is ready to provide the required documents to the RP. Learned counsel for OC submitted that the Hon'ble High Court of Kerala has not yet vacated the stay order against the order passed by this Tribunal dated 13.2.2020. List on 14.10.2020.

10 MA/15/KOB/2020 IN TIBA/34/KOB/2019

Learned counsel for the Operational Creditor Shri Kalyn Jhabakh as well as Learned Resolution Professional Shri Sathiq Buhari appeared in the VC. This is an application filed in the Applicant/OC under section 27 and section 70 of the IBC 2016 read with Rule 11 of NCLT Rules 2016 with a prayer to permit the applicant to change the RP and refer the case to IBBI for proposing the name of a new RP in place of the Respondent/RP. The RP submitted that he has filed a counter. But the registry reported that the counter filed by the RP is defective. RP has agreed to cure the defects within one week. He may do so. List on 14.10.2020.

11 IBA/21/KOB/2020

Learned counsel for the Operational Creditor Shri Sojan James as well as learned counsel for the Corporate Debtor Shri K.N.Somakumar appeared in the VC. The CD has already filed the counter. Learned counsel for the OC submitted that he is not filing any rejoinder and ready to argue the matter. Pleadings are complete. Both the parties may file their synopsis of written arguments before the next date fixed. List on 12.10.2020 for final hearing.

12 TCP/68/KOB/2019 (TCP/49/2016)

Learned counsel for the respondents submitted an email stating their willingness to appear through VC. It is seen from records that during the last two postings, since the learned counsel for petitioner Shri Anil D Nair has relinquished vakalath, the applicant through mail sought time to engage another counsel to contest his case. However, today neither the petitioner nor any counsel appeared on his behalf. In order to give a final opportunity to the petitioner, the matter is adjourned to **26.11.2020**. Registry is directed to send a copy of this order to the petitioner. If no appearance is made, the matter will be decided based on available records, as per the procedure of law.

13 CP/104/KOB/2019 WITH IA/155/KOB/2020

Learned counsel on either side are ready to argue the matter through Video conferencing. However, due to paucity of time, the matter is adjourned to **13.11.2020**. The rejoinder, if any may be filed before that date. **Let the matter be listed on the top of the list after admission matter.**

14 CP/112/KOB/2019 WITH IA/154/KOB/2020

Learned counsel on either side are ready to argue the matter through Video conferencing. However, due to paucity of time, the matter is adjourned to **13.11.2020**. The rejoinder, if any may be filed before that date. **Let the matter be listed on the top of the list after admission matter.**

15 CP/113/KOB/2019 WITH IA/156/KOB/2020

Learned counsel on either side are ready to argue the matter through Video conferencing. However, due to paucity of time, the matter is adjourned to **13.11.2020**. The rejoinder, if any may be filed before that date. **Let the matter be listed on the top of the list after admission matter.**

16 IA/92/KOB/2020 IN CP/127/KOB/2020

Learned counsel for both parties intimated their willingness to appear through VC. However, due to paucity of time, adjourned to **16.11.2020**. **Let the matter be listed on the top of the list after admission matter.**

17 CP/127/KOB/19 WITH IA/79/KOB/2020

Learned counsel for both parties intimated their willingness to appear through VC. However, due to paucity of time, adjourned to **16.11.2020**. **Let the matter be listed on the top of the list after admission matter.**

18 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. Report of the ROC is on record. **Orders reserved. List for pronouncement of orders on 6.10.2020.**

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

Learned counsel for the applicants Shri B.K.Gopalakrishnan as well as learned counsel for R1 to R3 Shri Santhosh Mathew appeared in the VC. Arguments of both sides partly heard. List for further arguments (part heard) on 7.10.2020 at 2.30 pm.

20 **CP/19/KOB/2020**

Learned counsel for the Petitioners Shri Santhosh Mathew as well as learned counsel for R2 & R3 Shri B.K.Gopalakrishnan appeared in the VC. Arguments of both sides partly heard. List for further arguments (part heard) on 7.10.2020 at 2.30 pm.

21 **CP/117/KOB/19 WITH IA/97/KOB/2020 & IA/133/KOB/2020**

Learned counsel for the applicants Shri B.K.Gopalakrishnan as well as learned counsel for R1 to R3 Shri Santhosh Mathew appeared in the VC. Arguments of both sides partly heard. List for further arguments (part heard) on 7.10.2020 at 2.30 pm.