

## ***NCLT, KOCHI***

### **Daily Orders – Draft**

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

Date: 28th Sept 2020

#### **1 CA/48/KOB/2020**

Learned counsel for the Appellant Shri Nebil Nizar appeared in the VC. Orders pronounced. **CA/48/KOB/2020 is disposed of vide separate order.**

#### **2 CP/12/KOB/2020 WITH IA/107/KOB/2020**

Learned counsel for the petitioner Shri Jagan Abraham M George as well as learned counsel for the respondents Shri Issac Thomas appeared in the VC. Orders pronounced. **IA/107/KOB/2020 is disposed of vide separate order.** The respondents may file their counter in the CP within two weeks.

The learned counsel for the petitioner submitted that vide order dated 13.3.2020 this Tribunal had permitted the petitioner to inspect the documents at any time during office hours of the Company. But the petitioner has not yet got the opportunity to inspect the documents since the petitioners are stationed at Mumbai and not in a position to move out of the State in the existing pandemic situation. Accordingly, the learned counsel for the petitioners submitted that the petitioners may be allowed to take scanned copy of the documents or their representative may be permitted to take copies of the documents. The Bench directed the petitioners to file fresh IA if they want to modify the order of this Tribunal dated 13.3.2020.

**List on 1.12.2020.**

#### **3 IBA/34/KOB/2020**

Learned counsel for the Applicant/Operational Creditor Shri Akhil Suresh appeared in the VC. Shri Issac Thomas, Advocate took notice for the CD and submitted through VC that he will file Vakalat before the next date fixed. Shri Akhil Suresh submitted that the debt is for an amount for Rs.31,33,595/-. The demand notice to the CD was issued on 25.2.2020 and hence the cause of action arose before 25.3.2020. Learned counsel for the CD vehemently opposed the IB application pointing out that the case is not maintainable as the amount of debt is below Rupees one crore.

I have perused the whole case records. After hearing both the parties and perusal of the whole case records including the documents appended with the Application, I am of the view that the respondent may file their counter within two weeks positively. The respondent is also directed to maintain status quo with regard to the shareholding pattern of the Company/Corporate Debtor until further orders. List on 13.10.2020.

**4 CP/(CAA)/04/KOB/2020 (CA/337/CAA/2019/CB)**

Learned counsel for the Petitioner Shri Ravikumar appeared in the VC. This Second motion petition under Section 232 of the Companies Act, 2016 is filed for sanctioning the scheme of Amalgamation between the Transferor and Transferee Companies. The Chairman appointed to conduct the meeting of Equity Shareholders, Secured Creditors and un-secured creditors have already filed their reports and the NCLT, Chennai Bench disposed of CA/337/CAA/2019 on 4.4.2019. Thereafter this CP(CAA)/04/KOB/2020 was filed on 3<sup>rd</sup> June 2020 before the NCLT, Chennai Bench, which was subsequently transferred to Kochi Bench and renumbered as CP/(CAA)/04/KOB/2020.

In pursuance to the order dated 4.4.2019, the applicant has issued notice to the (i) Regional Director, MCA, Chennai, (ii) ROC, Kerala and Official Liquidator. It appears from records that though the report of the Official Liquidator has been received, the reports of RD and ROC has not yet been received. RD and ROC may submit their report in this regard within two weeks positively. On receipt of the report from RD and ROC, Petitioner may obtain copies of the reports of RD, ROC and Official Liquidator from this Tribunal, as per the prescribed rules. Registry is directed to issue copy of this order to ROC. List on 2.11.2020.

**5 TIA/108/KOB/2020 IN TCP/13/KOB/2019  
(CA/615/2006 IN CA/405/2003 IN CP/43/2003)**

In view of the dismissal of the TCP/13/KOB/2019 for non-prosecution today, **this TIA stands disposed of.**

**6 TIA/109/KOB/2020 IN TCP/13/KOB/2019 (CA/320/2008 IN  
CA/80/2008 IN CA/615/2006 IN CA/405/2003 IN CP/43/2003)**

In view of the dismissal of the TCP/13/KOB/2019 for non-prosecution today, **this TIA stands disposed of.**

**7 TIA/110/KOB/2020 IN TCP/13/KOB/2019  
(CA/385/2008 IN CA/320/2008 IN CA/80/2008 IN  
CA/615/2006 IN CA/405/2003 IN CP/43/2003)**

In view of the dismissal of the TCP/13/KOB/2019 for non-prosecution today, **this TIA stands disposed of.**

8 TIA/111/KOB/2020 IN TCP/13/KOB/2019  
(CA/644/2005 in CP/43/2003)

This TCP/13/KOB/2019 is filed by the petitioners M/s. S.T.Reddiar & Sons (Quilon) Pvt Ltd and the TIA/111/KOB/2020 is filed by the opposite party Smt. Girija Muthukrishnan. Learned counsel for the applicant in TIA Shri Harikumar G. Nair appeared in the VC. It appears from records that after receiving the exact address of the petitioner furnished to this Tribunal by ROC, the petitioner was issued fresh notice from this Registry through Speed post with A/D. The said speed post notice was duly served on the petitioner company on 9.9.2020 as per the acknowledgement receipt signed by the authorised person along with the seal. But today none has appeared for the petitioner. Since the petitioner is absent, in spite of receipt of the notice, I presume that the petitioner is no more interested to prosecute the case. **As such TCP/13/KOB/2019 is dismissed for non-prosecution vide separate order. However, since this TIA is filed by the opposite party, list the TIA/111/KOB/2020 on 12.11.2020 for hearing.**

9 TIA/112/KOB/2020 IN TCP/13/KOB/2019  
(CA/485/2008 IN 644/2005 in CP/43/2003)

In view of the dismissal of the TCP/13/KOB/2019 for non-prosecution today, **this TIA stands disposed of.**

10 TIA/113/KOB/2020 IN TCP/13/KOB/2019  
(CA/493/2005 IN CP/43/2003)

In view of the dismissal of the TCP/13/KOB/2019 for non-prosecution today, **this TIA stands disposed of.**

11 TIA/114/KOB/2020 IN TCP/13/KOB/2019  
(CA/750/2008 IN CA/493/2005 IN CP/43/2003)

In view of the dismissal of the TCP/13/KOB/2019 for non-prosecution today, **this TIA stands disposed of.**

12 TIA/115/KOB/2020 IN TCP/13/KOB/2019  
(CA/751/2008 IN CA/493/2005 IN CP/43/2003)

In view of the dismissal of the TCP/13/KOB/2019 for non-prosecution today, **this TIA stands disposed of.**

13 TIA/116/KOB/2020 IN TCP/13/KOB/2019  
(CA/333/2007 IN CP/43/2003)

In view of the dismissal of the TCP/13/KOB/2019 for non-prosecution today, **this TIA stands disposed of.**

14 TIA/117/KOB/2020 IN TCP/13/KOB/2019  
(CA/372/2007 IN CA/333/2007 IN CP/43/2003)

In view of the dismissal of the TCP/13/KOB/2019 for non-prosecution today, **this TIA stands disposed of.**

15 TIA/118/KOB/2020 IN TCP/13/KOB/2019 (CA/701/2007 IN  
CA/372/2007 IN CA/333/2007 IN CP/43/2003)

This TCP/13/KOB/2019 is filed by the petitioner M/s. S.T.Reddiar & Sons (Quilon) Pvt Ltd and the TIA/118/KOB/2020 is filed by Mr. M.Vinod Krishnan& another. In view of the dismissal of the TCP/13/KOB/2019 for non-prosecution today, **this TIA stands disposed of.**

16 TIA/119/KOB/2020 IN TCP/13/KOB/2019  
(CA/282/2007 IN CA/405/2003 IN CP/43/2003)

In view of the dismissal of the TCP/13/KOB/2019 for non-prosecution today, **this TIA stands disposed of.**

17 TIA/120/KOB/2020 IN TCP/13/KOB/2019  
(CA/484/2006 IN CP/43/2003)

In view of the dismissal of the TCP/13/KOB/2019 for non-prosecution today, **this TIA stands disposed of.**

18 TIA/121/KOB/2020 IN TCP/13/KOB/2019  
(CA/204/2010 IN CP/43/2003)

In view of the dismissal of the TCP/13/KOB/2019 for non-prosecution today, **this TIA stands disposed of.**

19 **TIA/122/KOB/2020 IN TCP/13/KOB/2019**  
**(CA/268/2010 IN CP/43/2003)**

This TCP/13/KOB/2019 is filed by the petitioner M/s. S.T.Reddiar & Sons (Quilon) Pvt Ltd and the TIA/122/KOB/2020 is filed by the opposite party Smt. Girija Muthukrishnan. Learned counsel for the applicant in the TIA Shri Harikumar G. Nair appeared in the VC. Even though TCP/13/KOB/2019 is dismissed for non-prosecution today, **since this TIA is filed by the opposite party, list the TIA/122/KOB/2020 on 12.11.2020 for hearing.**

20 **TIA/123/KOB/2020 IN TCP/13/KOB/2019**  
**(CA/486/2008 IN CP/43/2003)**

In view of the dismissal of the TCP/13/KOB/2019 for non-prosecution today, **this TIA stands disposed of.**

21 **TCP/13/KOB/19**

This TCP/13/KOB/2019 is filed by the petitioner M/s. S.T.Reddiar & Sons (Quilon) Pvt Ltd. Learned counsel for the Respondent Shri Harikumar G. Nair appeared in the VC. Today the case is posted for appearance of the petitioner. It appears from records that after receiving the exact address of the petitioner furnished to this Tribunal by ROC, the petitioner was issued fresh notice from this Registry through Speed post with A/D. The said speed post notice was duly served on the petitioner company on 9.9.2020 as per the acknowledgement receipt signed by the authorised person along with the seal. But today none has appeared for the petitioner. Since the petitioner is absent, in spite of receipt of the notice, I presume that the petitioner is no more interested to prosecute the case. **Accordingly, TCP/13/KOB/2019 is dismissed for non-prosecution vide separate order.**

22 **CONTEMPT PETITION/03/KOB/2020 IN**  
**IA/33/KOB/2020 IN CP/72/KOB/2019**

Learned counsel for the Contempt Petitioner Shri Sharad Kodianthara appeared in the VC. He submitted that NCLAT has stayed the operation of the order of this Tribunal dated 19.2.2020 until further orders and the case is posted before NCLAT on 9.11.2020. In view of the above, list on 18.11.2020.

23 **CONTEMPT PETITION/04/KOB/2020 IN**  
**IA/32/KOB/2020 IN CP/71/KOB/2019**

Learned counsel for the Contempt Petitioner Shri Sharad Kodianthara appeared in the VC. He submitted that NCLAT has stayed the operation of the order of this Tribunal dated 19.2.2020 until further orders and the case is posted before NCLAT on 9.11.2020. In view of the above, list on 18.11.2020.

24 **CONTEMPT PETITION/05/KOB/2020 IN  
IA/31/KOB/2020 IN CP/69/KOB/2019**

Learned counsel for the Contempt Petitioner Shri Sharad Kodianthara appeared in the VC. He submitted that NCLAT has stayed the operation of the order of this Tribunal dated 19.2.2020 until further orders and the case is posted before NCLAT on 9.11.2020. In view of the above, list on 18.11.2020.

25 **IA/141/KOB/2020 IN CONTEMPT PETITION/05/KOB/2020 IN  
IA/31/KOB/2020 IN CP/69/KOB/2019**

Learned counsel for the Contempt Petitioner Shri Sharad Kodianthara appeared in the VC. He submitted that NCLAT has stayed the operation of the order of this Tribunal dated 19.2.2020 until further orders and the case is posted before NCLAT on 9.11.2020. In view of the above, list on 18.11.2020.

Learned counsel for the applicants in IA/141/KOB/2020 Shri Philip Mathew submitted that the applicants in this IA (Respondent Nos 4, 5, and 6) will not stand even to the basic scrutiny of law. Hence he prayed that in the interest of justice, the names of the Applicants in this IA be struck out from the array of respondents in the Contempt Petition. Learned counsel for the Contempt Petitioner also stated that he is not opposing the IA filed by R4 to R6. Therefore, the names of R4 to R6 in the Contempt Petition are hereby struck off. **IA/141/KOB/2020 is disposed of accordingly.** Registry is directed to struck off the names of R4 to R6 in the Contempt Petition.

26 **IA/32/KOB/2019 IN CP/69/KOB/2019**

Learned counsel for the Respondents in the IA Shri Sharad Kodianthara appeared in the VC. He submitted that NCLAT has stayed the operation of the order of this Tribunal dated 19.2.2020 until further orders and the case is posted in NCLAT on 9.11.2020. In view of the above, list on 18.11.2020.

27 **CP/69/KOB/2019**

Learned counsel for the Petitioner Shri Sharad Kodianthara appeared in the VC. He submitted that NCLAT has stayed the operation of the order of this Tribunal dated 19.2.2020 until further orders and the case is posted before NCLAT on 9.11.2020. In view of the above, list on 18.11.2020.

28 **IA/140/KOB/2020 IN CONTEMPT PETITION/04/KOB/2020 IN  
IA/32/KOB/2020 IN CP/71/KOB/2019**

Learned counsel for the Contempt Petitioner Shri Sharad Kodianthara appeared in the VC. He submitted that NCLAT has stayed the operation of the order of this Tribunal dated 19.2.2020 until further orders and the case is posted before NCLAT on 9.11.2020. In view of the above, list on 18.11.2020.

Learned counsel for the applicants in IA/140/KOB/2020 Shri Philip Mathew submitted that the applicants in this IA (Respondent Nos 4, 5, and 6) will not stand even to the basic scrutiny of law. Hence he prayed that in the interest of justice, the names of the Applicants in this IA be struck out from the array of respondents in the Contempt Petition. Learned counsel for the Contempt Petitioner also stated that he is not opposing the IA filed by R4 to R6. Therefore, the names of R4 to R6 in the Contempt Petition are hereby struck off. **IA/140/KOB/2020 is disposed of accordingly.** Registry is directed to struck off the names of R4 to R6 in the Contempt Petition.

29 **IA/33/KOB/2019 IN CP/71/KOB/2019**

Learned counsel for the Respondents in the IA Shri Sharad Kodianthara appeared in the VC. He submitted that NCLAT has stayed the operation of the order of this Tribunal dated 19.2.2020 until further orders and the case is posted before NCLAT on 9.11.2020. In view of the above, list on 18.11.2020.

30 **CP/71/KOB/2019**

Learned counsel for the Petitioner Shri Sharad Kodianthara appeared in the VC. He submitted that NCLAT has stayed the operation of the order of this Tribunal dated 19.2.2020 until further orders and the case is posted before NCLAT on 9.11.2020. In view of the above, list on 18.11.2020.

31 **IA/139/KOB/2020 IN CONTEMPT PETITION/03/KOB/2020 IN  
IA/33/KOB/2020 IN CP/72/KOB/2019**

Learned counsel for the Contempt Petitioner Shri Sharad Kodianthara appeared in the VC. He submitted that NCLAT has stayed the operation of the order of this Tribunal dated 19.2.2020 until further orders and the case is posted before NCLAT on 9.11.2020. In view of the above, list on 18.11.2020.

Learned counsel for the applicants in IA/139/KOB/2020 Shri Philip Mathew submitted that the applicants in this IA (Respondent Nos 4, 5, and 6) will not stand even to the basic scrutiny of law. Hence he prayed that in the interest of justice, the names of the Applicants in this IA be struck out from the array of respondents in the Contempt Petition. Learned counsel for the Contempt Petitioner also stated that he is not opposing the IA filed by R4 to R6. Therefore, the names of R4 to R6 in the Contempt Petition are hereby struck off. **IA/139/KOB/2020 is disposed of accordingly.**

32    **IA/34/KOB/2019 IN CP/72/KOB/2019**

Learned counsel for the Respondents in the IA Shri Sharad Kodianthara appeared in the VC. He submitted that NCLAT has stayed the operation of the order of this Tribunal dated 19.2.2020 until further orders and the case is posted before NCLAT on 9.11.2020. In view of the above, list on 18.11.2020.

33    **CP/72/KOB/2019**

Learned counsel for the Petitioner Shri Sharad Kodianthara appeared in the VC. He submitted that NCLAT has stayed the operation of the order of this Tribunal dated 19.2.2020 until further orders and the case is posted before NCLAT on 9.11.2020. In view of the above, list on 18.11.2020.

34    **CA/57/KOB/2020**

Learned counsel for the appellant Shri Mohan Pulickkal appeared in the VC. Heard and perused the records. Report of the ROC is on record. **Orders reserved. List for pronouncement of orders on 9.10.2020.**

35    **CA/58/KOB/2020**

Learned PCS for the Appellant Shri P.P.Zibi Jose appeared in the VC. He submitted that the Appellant Company is an ongoing concern. The report of the ROC is on record. **Orders reserved. List for pronouncement of orders on 7.10.2020.**

36    **CA/60/KOB/2020**

Learned counsel for the Appellant Shri Byju K appeared in the VC. Heard and perused the records. Report of the ROC is on record. **Orders reserved. List for pronouncement of orders on 8.10.2020.**

37    **CA(CAA)/17/(KOB)/2019**

Learned counsel for the Appellant Shri Pranoy Harilal appeared in the VC. Heard the perused the record. **Orders reserved. List for pronouncement of orders on 3.11.2020.**

38    **CA(CAA)/18/(KOB)/2019**

Learned counsel for the Appellant Shri Pranoy Harilal appeared in the VC. Heard the perused the record. **Orders reserved. List for pronouncement of orders on 3.11.2020.**



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

Both the parties appeared in the VC. **Orders reserved. List for pronouncement of orders on 22.10.2020.**

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

Both the parties appeared in the VC. **Orders reserved. List for pronouncement of orders on 22.10.2020.**

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

Both the parties appeared in the VC. **Orders reserved. List for pronouncement of orders on 22.10.2020.**

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

Both the parties appeared in the VC. **Orders reserved. List for pronouncement of orders on 22.10.2020.**

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

Both the parties appeared in the VC. **Orders reserved. List for pronouncement of orders on 22.10.2020.**

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

Both the parties appeared in the VC. **Orders reserved. List for pronouncement of orders on 22.10.2020.**

**URGENT MOTION - Item No.45 - CP/ 31 /KOB/2020**

This CP is filed by the petitioners through Shri Akhil Suresh, Advocate with an Urgent Motion to hear the matter today itself in view of the AGM of the Company scheduled to be held on 29.9.2020. Learned senior counsel for the Petitioners Shri Venkitesh Arbatti as well as Learned senior counsel for R2 to R6 (Caveator R5) Shri Joseph Kodianthara appeared in the VC. Learned counsel for the petitioners prayed to pass interim orders sought by the petitioners in view of the AGM scheduled on 29.9.2020. Learned counsel for R2 to R6 vehemently opposed the interim prayers sought by the petitioners. I have heard both the parties and perused the whole records. **Interim orders passed vide separate order. Since the learned counsel for the Caveator (R5) has been appeared and heard, Caveat Petition No.13/KOB/2020 is disposed of. List on 3.11.2020.**