

NCLT, KOCHI BENCH

Daily **Orders** – Purely for reference

Date 1st FEB 2022

Coram: **Shri Anil Kumar B.**
Hon'ble Member (Technical)

Shri Ashok Kumar Borah
Hon'ble Member (Judicial)

1 IA(IBC)/13/KOB/2022 in IBA/27/KOB/2020

This IA has been filed under Section 12 A of IBC, 2016 read with Regulation 30A(1)(a) of CIRP Regulation and also read with Section 60(5)(a) of the IBC, 2016 by the IRP for withdrawal of the CIR Process.

This IA has already been disposed of vide order dated 27.01.2022. To clarify certain points the matter is posted today as “to be spoken to”.

The matter is suo motu restored to file and listed for hearing.

Heard the IRP who appeared in person through VC.

The IRP is directed to file the proof of newspaper publication and to explain as to why this IA has been filed before the last date fixed for receiving the claims of creditors, in an affidavit within 7 days. He is also directed to clarify whether any claims received pursuant to the paper publication, and if so how many claims received.

List on 23.02.2022 for hearing.

2 CONT.APPLN/1/KOB/2022

This Contempt Application has been filed under Section 425 of the Companies Act, 2013 read with Rule 11 of the NCLT Rules, 2016 by the Applicant Shri Ashraf Ali Patel (Petitioner in the CP) seeking initiation of Contempt Proceedings against the alleged contemnors for wilful violation of the Order dated 28.04.2020 passed by this Tribunal.

Learned counsel for the Contempt Applicant Shri Harikumar G. Nair appeared through VC.

During the course of the argument Shri Harikumar G. Nair submitted that he wants to withdraw this Contempt Application on the ground that the Contemner No.1 (Registrar of Companies) has already complied with the Order of this Tribunal. The withdrawal request is allowed.

Therefore, CONT.APPLN/1/KOB/2022 stands dismissed as withdrawn.

3 IA(IBC)/15/KOB/2022

This IA has been filed under Section 19(2) of the IBC, 2016 by the Resolution Professional against Shri Asique Ponnamparambath, suspended Managing Director of the Corporate Debtor Platino Classic Motors (India) Pvt Ltd seeking the following reliefs:

- (a) An Order directing the Respondent to immediately and forthwith surrender the sale deed or sale deeds for all immovable properties owned by the Corporate Debtor to the Applicant;*
- (b) An order directing the Respondent to immediately and forthwith surrender any agreements for sale of immovable properties in favour of the Corporate Debtor to the Applicant and to account for advances of Rs. 6,76,00,000/- purported to be paid for purchase of immovable property in favour of the Corporate Debtor;*
- (c) An order directing the Respondent to immediately and forthwith surrender all the motor vehicles owned by the Corporate Debtor to the Applicant;*
- (d) An order directing the Respondent to immediately and forthwith provide evidence of any sales of motor vehicles which are the fixed assets of the Corporate Debtor since the last audited financial statements of the Corporate Debtor, i.e., March 31, 2020, and to account for the sale proceeds, if any.;*
- (e) An order directing the Respondent to immediately and forthwith surrender the motor vehicles which have been purchased by the Corporate Debtor as exchange vehicles' and are of a value of Rs. 56,69,186/- and held as assets of the Corporate Debtor as per the last audited financial statements, i.e., March 31, 2020;*
- (f) An order directing the Respondent to immediately account for plant and machinery and tools and equipment of the CD which are of a written down value of Rs.2,41,44,481/- as per the last audited financial statements, ie. March 31, 2020.*
- (g) Such further and other order or orders be made and / or direction or directions are given as to this Tribunal may deem fit and proper.*

Learned RP Shri Reuben George Jose appeared in person through VC.

The RP is directed to issue notice enclosing a copy of the application to the respondent and produce proof of service (AD Card/Postal Track report) with an affidavit within two weeks. Respondent is directed to file his reply statement within 7 days of receipt of notice.

List on 22.02.2022 for hearing.

4 IA(IBC)/17/KOB/2022

This IA has been filed under Section 21(6A)(b) of the IBC, 2016 read with Regulation 2(1) (aa), 4A, 16A of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 by the Interim Resolution Professional with the prayer to appoint Shri Krishna Raj M as the Authorised Representative for the Financial Creditors for

the class of 'Home Buyers' in the matter of CIR Process against the Corporate Debtor MIR Realtors Pvt Ltd.

During the course of argument, the IRP submitted that there are 73 home buyers in this case. On perusal of the IA, it appears that the IRP has not produced the individual consent letters of these 73 home buyers to appoint Shri Krishna Raj M as their Authorised Representative of the Home Buyers.

The IRP is therefore directed to file the individual consent letters of all the home buyers within two weeks.

List on 14.02.2022 for hearing.

5 REPORT/17/KOB/2022in TIBA/19/KOB/2019

This Report has been filed under Regulation 15 of the I&B BOI (Liquidation Process) Regulations, 2016 by the Liquidator with regard to the liquidation process for the period 01.10.2021 to 31.12.2021 against the Corporate Debtor Atlas Gold Townships (India) Pvt Ltd.

Learned counsel for the liquidator Shri Akhil Suresh appeared through VC.

Perused the report. Report is taken on record. Registry is directed to place the Report in TIBA/19/KOB/2019.

6 REPORT/18/KOB/2022 in IBA/17/KOB/2020

This Report has been filed under Regulation 15 of the I&B BOI (Liquidation Process) Regulations, 2016 by the Liquidator with regard to the liquidation process for the period 01.10.2021 to 31.12.2021 against the Corporate Debtor Moon River Resorts Pvt Ltd.

Learned liquidator Shri K.T.Mathew appeared in person through VC.

Perused the report. Report is taken on record. Registry is directed to place the report in IBA/17/KOB/2020.

7 REPORT/19/KOB/2022 in TIBA/7/KOB/2019

This Report has been filed under Regulation 15 of the I&B BOI (Liquidation Process) Regulations, 2016 by the Liquidator with regard to the liquidation process for the period 01.10.2021 to 31.12.2021 against the Corporate Debtor Sargam Builders Pvt Ltd..

Learned counsel for the Liquidator Shri Akhil Suresh appeared through VC.

Perused the report. Report is taken on record. Registry is directed to place the report in TIBA/7/KOB/2019.

8 CP/08/KOB/2021

Learned PCS for the Petitioner Sri P.P.Zibi Jose as well as learned counsel for R1-R8 Shri Paulose C. Abraham appeared through VC. **R11, R13, R14 and R15 have already been set ex-parte.** Awaiting return of notice of R2.

This is a part heard case. Since the NCLT-Kochi has been re-constituted from 28.01.2022 this case is released from Part heard.

At the request of both the parties, the case is adjourned to 16.02.2022 for hearing.

8 IA(C/ACT)/12/KOB/2021 in CP/08/KOB/2021

Learned PCS for the Petitioner Sri P.P.Zibi Jose as well as learned counsel for R1-R8 Shri Paulose C. Abraham appeared through VC.

At the request of both the parties, the case is adjourned to 16.02.2022 for hearing.

8 IA(C/ACT)/57/KOB/2021 in CP/08/KOB/2021

This IA has been filed under Rule 11 of the NCLT Rules, 2016 by the Applicant/Petitioner seeking the following reliefs:

1. *To direct that all the agenda items 1-12 in the proposed AGM of 2020-21 to be held on 30.12.2021 shall be decided only through e-voting.*
2. *To add as additional respondent No.16 proposed director Mr. Nilayattingal Antony Lonappan in the Company Petition CP/08/KOB/2021.*
3. *To invalidate the appointment of additional Respondent No.16 as additional director at the Board Meeting held on 03.12.2021.*
4. *To add as additional Respondent No.17 Central Depository Services Ltd in the Company Petition CP/08/KOB/2021.*
5. *To direct CDSL (subject to grant of relief as Additional Respondent No.17) and SKDC (Respondent No.15) to generate the login id and password and despatch the same only to the shareholders by speed post directly by them under the supervision of the Independent Chairman.*
6. *Any other reliefs this Tribunal deems fit considering the circumstances of the case.*

Learned PCS for the applicant Shri Zibi Jose as well as learned counsel for R1 to R8 Shri Paulose C. Abraham appeared through VC.

At the request of both the parties, the case is adjourned to 16.02.2022 for hearing.

9 CP(IBC)/13/KOB/2021

Learned counsel for the Petitioner Shri Sunil Shankar as well as learned counsel for the Respondent/Guarantor Shri Harikumar G. Nair appeared through VC.

Shri Sunil Shanker stated that no stay order exists in this matter as on date.

Heard both sides.

Reserved for Orders.

10 CP(IBC)/14/KOB/2021

Learned counsel for the Petitioner Shri Sunil Shankar appeared through VC.

Shri Sunil Shanker stated that the notice sent to the Personal Guarantor has been returned with the postal remark "*Addressee Expired*" and hence sought the permission of this Tribunal to implead the legal heirs as Respondent.

On hearing the learned counsel for the petitioner and also on thorough perusal of the records, this Tribunal is of the opinion that the request of the petitioner be allowed.

The petitioner is therefore allowed to file an IA to implead the legal heirs of the Personal Guarantor as Respondent/respondents in this case within 2 weeks.

List on 24.02.2022.

11 CP(IBC)/15/KOB/2021

Learned counsel for the Petitioner Shri Sunil Shankar as well as learned counsel for the Respondent/Guarantor Shri Harikumar G. Nair appeared through VC.

Shri Sunil Shanker stated that no stay order exists in this matter as on date.

Heard both sides.

Reserved for Orders.

12 CP(IBC)/16/KOB/2021

Learned counsel for the Petitioner Shri Sunil Shankar as well as learned counsel for the Respondent/Guarantor Shri Harikumar G. Nair appeared through VC.

Shri Sunil Shanker stated that no stay order exists in this matter as on date.

Heard both sides.

Reserved for Orders.

13 CP(IBC)/17/KOB/2021

Learned counsel for the Petitioner Shri Sunil Shankar as well as learned counsel for the Respondent/Guarantor Shri Harikumar G. Nair appeared through VC.

Shri Sunil Shanker stated that no stay order exists in this matter as on date.

Heard both sides.

Reserved for Orders.

14 CP(IBC)/18/KOB/2021

Learned counsel for the Petitioner Shri Sunil Shankar as well as learned counsel for the Respondent/Guarantor Shri Harikumar G. Nair appeared through VC.

Shri Sunil Shanker stated that no stay order exists in this matter as on date.

Heard both sides.

Reserved for Orders.

15 CP(IBC)/19/KOB/2021

Learned counsel for the Petitioner Shri Sunil Shankar as well as learned counsel for the Respondent/Guarantor Shri Harikumar G. Nair appeared through VC.

Shri Sunil Shanker stated that no stay order exists in this matter as on date.

Heard both sides.

Reserved for Orders.

16 TCP/22/KOB/2019

Learned counsel for the Petitioner Ajith Prakash as well as learned counsel for R7, R10 and R11 Smt. Marian GM Tharakan appeared through VC. None appeared for other respondents.

Shri Ajith Prakash stated that Justice Shri Narayana Kurup, the NCLT appointed Chairman to conduct the AGM of the R1 Company, has submitted his resignation stating personal reasons and that this was brought to the notice of Hon'ble NCLAT where an appeal is pending on the question of appointment of the Administrator. The Hon'ble NCLAT has also posted the said appeal on 03.02.2022. Accordingly, Shri Ajith Prakash sought an adjournment. Allowed.

List on 14.02.2022 for hearing.

17 CP/23/KOB/2020

Learned counsel for the Petitioner Shri Sharan Shahier as well as well as learned counsel for R1 to R4 Shri Ratheesh PR appeared through VC.

Both sides argued and concluded their submissions.

Reserved for Orders.

The Petitioner will be at liberty to submit any additional documents in support of his arguments within 7 days.

18 CP/53/KOB/2020

Learned counsel for the Petitioner Smt Merin Thalith as well as learned PCS for R1 to R3 Shri Vivek Kumar appeared through VC.

Pleadings are complete.

Smt. Merin Thalith sought an adjournment to enable her senior to argue the matter.

At her request the case is adjourned to 02.03.2022 for hearing.

18 IA(C/ACT)/5/KOB/2022

This IA has been filed under Sections 241/242 of the Companies Act, 2013 read with Rules 11, 32 and 43 of the NCLT Rules, 2016 by the Applicant/R1 seeking direction to produce the Original Annexure P2 document submitted along with the Rejoinder and order for forensic examination of the same by Central Forensic Science Laboratory or any other competent authority.

Learned counsel for the applicant Shri Vivek Kumar as well as learned counsel for the respondent Smt. Merin Thaliath appeared through VC.

This IA will be heard at the time of hearing of the main CP.

List on 02.03.2022 for hearing.

18 IA(C/ACT)/6/KOB/2022

This IA has been filed under Sections 241/242 of the Companies Act, 2013 read with Rules 11, 32 and 55 of the NCLT Rules, 2016 by the Applicants/R1 & R2 with the prayer to take on record the additional documents produced along with the IA as part of the Company Petition.

Learned counsel for the applicant Shri Vivek Kumar as well as learned counsel for the respondent Smt. Merin Thaliath appeared through VC.

This IA will be heard at the time of hearing of the main CP.

List on 02.03.2022 for hearing.