

NCLT, KOCHI BENCH

Daily Orders

Date: 2nd Dec 2021

In the Bench of: **Shri Ashok Kumar Borah, Hon'ble Member (Judicial) & Shri Anil Kumar B, Hon'ble Member (Technical)**

1 **CP(IB)/35/KOB/2021 & CP(IB)/36/KOB/2021**

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

Orders pronounced. CP(IB)/35/KOB/2021 & CP(IB)/36/KOB/2021 stand allowed and RP appointed vide separate Order.

2 **COMP.APPL/84/KOB/2021 IN CP/21/KOB/2020**

Learned counsel for the Petitioners Shri Bijoy P. Pulipra appeared through VC.

Orders pronounced. COMP.APPL/84/KOB/2021 IN CP/21/KOB/2020 stands allowed vide separate Order.

3 **IA(IBC)/147/KOB/2021 IN IBA/38/KOB/2019**

Learned RP Shri Vinod Balachandran appeared in person through VC.
IA(IBC)/147/KOB/2021 IN IBA/38/KOB/2019 stands allowed vide separate Order.

4 **CP/41/KOB/2021**

This CP has been filed under Section 73(4), 76-A & 213 of the Companies Act, 2013 by Shri Bastin Gomez Headmon and another against the Respondents Annakairali Hospitality Pvt Ltd and others seeking two main reliefs and two interim reliefs.

Learned counsel for the Petitioner Shri Shinu J. Pillai appeared through VC.

The main reliefs sought for in the Petition are:

- (i) That the Respondents be directed to make repay an amount of Rs.1,86,00,000/- towards the Deposit and assured returns along with the interest due thereon in accordance with the Terms and Conditions of the Deposit.
- (ii) Issue orders under Section 213 of the Companies Act and appoint a competent inspector to investigate into the affairs of the company in the

matters including the mismanagement, misappropriations, related party transactions and unlawful activities committed in the Respondent Company and prosecute them as per the procedure established by the Companies Act, 2013 and other applicable penal statutes.

The petitioners have also sought for two interim reliefs as shown below:

- (i) Issue a Mareva injunction restraining the Respondents from selling, disposing of or otherwise dealing with their personal properties/assets of 1st Respondent Company including money or other movable or from removing them from the jurisdiction of this Tribunal.
- (ii) Issue an order of provisional attachment of the properties of the 1st Respondent Company most specifically scheduled hereunder with due intimation to the jurisdictional Sub-Registrar and Village Officer so as to protect the subject matter of this Company Petition.

We have heard the learned counsel for the petitioners and also thoroughly perused the records attached with the Petition. Considering the materials on record, and after hearing the petitioners, the respondents are directed to **maintain status quo as of today with regard to the properties and assets of the 1st Respondent Company Annakairali Hospitality Pvt Ltd until further orders.**

The petitioners are directed to issue fresh notice to the respondents through Registered Post with A/D / Speed Post and submit proof of service (A/d Card or Postal Track report) with an affidavit before the next date fixed. Registry is also directed to issue notice to the respondents through email. Respondents are directed to file their Reply Statement within two weeks of receipt of notice, serving a copy to the petitioners, who may file rejoinder, if any, at least 3 days before the next date fixed.

The Learned counsel for the Petitioners is directed to serve a certified copy of this Order to the concerned Sub-Registrar and Village Officer so as to ensure compliance of this Order.

List on 07.01.2022 for hearing.

5 CA/21/KOB/2021

This Appeal has been filed under Section 252(3) of the Companies Act, 2013 seeking restoration of the name of the Company M/s. Connect Warehousing Pvt Ltd on the Register of Companies, Ernakulam.

Registry is directed to issue notice to ROC through special messenger for his report. RoC is directed to submit his report within 7 days.

List on 14.12.2021 for hearing.

6 IA(C/ACT)/45/KOB/2021 IN CP/31/KOB/2021

This IA has been filed by the applicant/petitioner under Rule 155, 17(1)(b) and Rule 32 of the NCLT Rules, 2016 seeking permission of this Tribunal to amend the petition.

Learned counsel for applicant Shri Rohit Shenoy appeared through VC. None appeared for the respondents.

The Applicant is directed to issue fresh notice to the Respondents through email and Registered Post with A/D and submit proof of service (A/d card or Postal Track record) with an affidavit before the next date fixed. Registry is also directed to issue notice to the Respondents through email. The respondents are directed to submit their reply statement within 7 days of receipt of notice.

List on **13.12.2021 for hearing.**

7 IA(C/ACT)/46/KOB/2021 IN CP/34/KOB/2021

This IA has been filed under Rule 153 of the NCLT Rules, 2016 by the Applicants/R1 to R3 with the prayer to condone the delay of 5 days in filing the Reply Statement in the CP.

Learned counsel for the applicant Shri Harikrishnan R. Nair appeared through VC.

On hearing the learned counsel for the applicant and also on perusal of the records, we are of the opinion that the prayer in this IA may be allowed. Hence the **delay in filing the Reply Statement is hereby condoned.**

Registry is directed to accept the Reply Statement and place it on record with proper indexing, if it is otherwise in order

8. CP/16/KOB/2020

Learned counsel for the Petitioner Shri Sukumar Nainan Oommen and Shri Sherry Samuel Oommen appeared through VC. Learned counsel for R1 & R11 Shri Philip Mathew as well as learned counsel for R3, R6, R7 & R8 Shri Thomas Geeverghese and learned counsel for R2, R4, R5 and R9 Shri Jomy George also appeared through VC. None appeared for R10 and R14.

It appears from records that Registered Notice was issued to R13 M/s Axiz Bank on 12.06.2020. But even after 30 days of issue of notice, the said notice has not been returned. As such, it is presumed that notice was served to R13. But R13 has neither appeared before this Tribunal nor filed any Reply Statement. **Therefore, R13 is hereby set ex-parte.**

Shri Sherry Samuel Oomen argued and concluded. Subsequently Shri Philip Mathew argued for some time.

List on 10.12.2021 for further arguments of Shri Philip Mathew and other learned counsel in this case. (Part Heard) – High on Board.

8 IA/91/KOB/2020 IN CP/16/KOB/2020

Learned counsel for the applicant/R3 Shri Thomas Geeverghese as well as learned counsel for R1 Shri Sukumar Nainan Oommen and learned counsel for R2 Shri Philip Mathew appeared through VC.

Since pleadings are complete in the main CP this IA will be heard along with the hearing of the main CP

List on 10.12.2021 for hearing (High on Board).

8 IA/126/KOB/2020 IN CP/16/KOB/2020

Learned counsel for the applicant Shri Philip Mathew as well as learned counsel for respondent Shri Sukumar Nainan Oommen appeared through VC.

Since pleadings are complete in the main CP this IA will be heard along with the hearing of the main CP

List on 10.12.2021 for hearing (High on Board).

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

Learned counsel for the applicant Shri Sukumar Nainan Oommen appeared through VC. Learned counsel for R1 & R11 Shri Philip Mathew as well as learned counsel for R3, R6, R7 & R8 Shri Thomas Geeverghese also appeared through VC. None appeared for R10 & 14.

Since pleadings are complete in the main CP this IA will be heard along with the hearing of the main CP

List on 10.12.2021 for hearing (High on Board).

8 IA/128/KOB/2020 IN CP/16/KOB/2020

Learned counsel for the applicant Shri Sukumar Nainan Oommen appeared through VC. Learned counsel for R1 & R11 Shri Philip Mathew as well as learned counsel for R3, R6, R7 & R8 Shri Thomas Geeverghese also appeared through VC. None appeared for R10 & 14..

Since pleadings are complete in the main CP this IA will be heard along with the hearing of the main CP

List on 10.12.2021 for hearing (High on Board).

8 Contempt Petition/06/KOB/2020 in CP/16/KOB/2020

Learned counsel for the Contempt Petitioner Shri Philip Mathew as well as learned counsel for respondent Shri Sukumar Nainan Oommen appeared through VC.

Shri Philip Mathew suggested that this contempt petition may be heard along with the main CP since pleadings are complete in the main CP.

List on 10.12.2021 for hearing (High on Board).

9 CP/126/KOB/2019

Learned counsel for the Petitioners Shri Philip Mathew as well as learned PCS for R1 to R3 Shri PP Zibi Jose appeared through VC.

Shri Philip Mathew argued for some time.

List on 20.12.2021 for further arguments – Part Heard (High on Board).

10 CP/38/KOB/2020

Learned counsel for the Petitioners Shri Shri Philip Mathew as well as learned PCS for R1 & R5 Shri PP Zibi Jose appeared through VC.

Shri Philip Mathew argued for some time.

List on 20.12.2021 for further arguments – Part Heard (High on Board).

10 IA/215/KOB/2020 IN CP/38/KOB/2020 c/w CP/126/KOB/2019

Learned counsel for the Applicants Shri Philip Mathew as well as learned PCS for R1 & R5 Shri PP Zibi Jose appeared through VC.

Shri Philip Mathew argued for some time.

List on 20.12.2021 for further arguments – Part Heard (High on Board).

11 CP(IBC)/24/KOB/2021

Learned senior counsel for the Operational Creditor Shri. Ratnanko Banerji as well as learned Sr counsel for the Corporate Debtor Shri E.K.Nandakumar appeared through VC.

Shri Banerji submitted has filed an IA to condone the delay in filing the rejoinder. But Registry reported that the said IA could not be numbered and listed due to network problem.

List this CP(IBC) on 15.12.2021 for hearing along with the said IA (High on Board).

12 COMPANY APPEAL/15/KOB/2021

Learned counsel for the Appellant Philip Mathew as well as learned counsel for the Respondents Shri Gautam Krishnan appeared through VC.

It appears that the Respondents have not yet filed the Reply Statement even though specific direction was given to them vide Order dated 23.09.2021. Shri Gautam Krishnan submitted that the Appeal is not maintainable and hence that issue may be considered first. **The maintainability issue will be considered, after filing the reply statement of the respondents. Shri Gautam Krishnan stated that he would be filing the reply statement within week. This submission is recorded. No further time for reply statement will be granted.** If reply statement is filed, appellants may file rejoinder, if any, within one week thereafter.

List on 07.01.2022 for hearing.

13

COMPANY APPEAL/16/KOB/2021

Learned counsel for the Appellant Philip Mathew as well as learned counsel for the Respondents Shri Gautam Krishnan appeared through VC.

It appears that the Respondents have not yet filed the Reply Statement even though specific direction was given to them vide Order dated 23.09.2021. Shri Gautam Krishnan submitted that the Appeal is not maintainable and hence that issue may be considered first. **The maintainability issue will be considered, after filing the reply statement of the respondents. Shri Gautam Krishnan stated that he would be filing the reply statement within week. This submission is recorded. No further time for reply statement will be granted.** If reply statement is filed, appellants may file rejoinder, if any, within one week thereafter.

List on 07.01.2022 for hearing.

14 **COMPANY APPEAL/17/KOB/2021**

Learned counsel for the Appellant Philip Mathew as well as learned counsel for the Respondents Shri Gautam Krishnan appeared through VC.

It appears that the Respondents have not yet filed the Reply Statement even though specific direction was given to them vide Order dated 23.09.2021. Shri Gautam Krishnan submitted that the Appeal is not maintainable and hence that issue may be considered first. **The maintainability issue will be considered, after filing the reply statement of the respondents. Shri Gautam Krishnan stated that he would be filing the reply statement within week. This submission is recorded. No further time for reply statement will be granted.** If reply statement is filed, appellants may file rejoinder, if any, within one week thereafter.

List on 07.01.2022 for hearing.

15 **COMPANY APPEAL/18/KOB/2021**

Learned counsel for the Appellant Philip Mathew as well as learned counsel for the Respondents Shri Gautam Krishnan appeared through VC.

It appears that the Respondents have not yet filed the Reply Statement even though specific direction was given to them vide Order dated 23.09.2021. Shri Gautam Krishnan submitted that the Appeal is not maintainable and hence that issue may be considered first. **The maintainability issue will be considered, after filing the reply statement of the respondents. Shri Gautam Krishnan stated that he would be filing the reply statement within week. This submission is recorded. No further time for reply statement will be granted.** If reply statement is filed, appellants may file rejoinder, if any, within one week thereafter.

List on 07.01.2022 for hearing.

16 **CP/55/KOB/2020**

Learned counsel for the Petitioner Shri Vinu Thomas as well as learned counsel for the R1 to R4 Shri John Vadassery appeared through VC.

Due to paucity of time, the case is adjourned to 07.01.2022 for final hearing (High on Board).