

NCLT, KOCHI BENCH

Daily Orders – Draft

Date: 3rd Nov 2021

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

1 CP(IB)/05/KOB/2021

Learned counsel for the Operational Creditor Shri Akhil Suresh appeared through VC. None appeared for the Corporate Debtor.

Orders pronounced. **CP(IB)/05/KOB/2021 stands admitted vide separate Order.**

2 IA(IBC)/161/KOB/2021 IN TIBA/07/KOB/2019

This is an IA filed by Shri V.K.Abdul Rahim, Shareholder and suspended Managing Director of the CD against the Liquidator and 6 others under Section 60(5) of the IBC, 2016 read with the Rule 11 of the NCLT Rules, 2016 with the prayer to set aside the claims of R2 to R7 admitted by the Liquidator(R1) and to adjudicate such claims and fix the same on the basis of the documents/evidences produced by the applicant and the documents or other evidences as may be produced by the respondents.

Learned counsel for the applicant Shri Wazim Karukapadath as well as learned Liquidator Shri Jasin Jose (R1) and learned counsel for R2 Shri Mohan Jacob George appeared through VC.

Shri Wazim Karukapadath sought an adjournment to enable his senior to argue the matter.

The Applicant is directed to issue notice to the respondents 3 to 7 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 3-7 through email.

Respondents are directed to file their counter within 2 weeks. **List on 16.11.2021**

3 COMP.APPL/102/KOB/2021 IN CP/26/KOB/2021

This is a CA filed by the applicant (4th respondent in the CP) with the prayer to accept the reply statement filed in the CP.

Learned counsel for the applicant Smt Anila Peter as well as learned counsel for R1 Shri Sajen Thampan and learned counsel for R3 & R4 Shri Akhil Suresh appeared through VC.

It appears from records that vide order dated 17.09.2021 the right to file counter by R4 had been forfeited since he has failed to file the counter in compliance of the Orders of this Tribunal.

After hearing the learned counsel for both the parties, this Tribunal is of the considered opinion that in the interests of justice, the reply statement filed by R4 in the CP may be accepted on the condition that the applicant/R4 pays the **costs of Rs.2,000/-** (Rupees two thousand only) to the accounts of Ministry of Corporate Affairs and submit proof of payment on or before 15.11.2021.

Accordingly, COMP.APPL/102/KOB/2021 IN CP/26/KOB/2021 stands disposed of. Registry is directed to accept the reply statement, if the proof of payment of Rs. 2000/- is produced by the applicant along with the reply statement and place it on record, if it is otherwise in order.

4 COMP.APPL/103/KOB/2021 IN CP/25/KOB/2021

This is a CA filed by the applicant (4th respondent in the CP) with the prayer to accept the reply statement filed by him in the CP.

Learned counsel for the applicant Smt Anila Peter as well as learned counsel for R1 Shri Sajen Thampan and learned counsel for R3 & R4 Shri Akhil Suresh appeared through VC.

It appears from records that vide order dated 17.09.2021 the right to file counter in respect of R4 had been forfeited since he has failed to file the counter in compliance of the Order of this Tribunal.

After hearing the learned counsel for both the parties, this Tribunal is of the considered opinion that in the interests of justice, the reply statement filed by R4 in the CP may be accepted on the condition that the applicant/R4 pays the **costs of Rs.2,000/-** (Rupees two thousand only) to the accounts of Ministry of Corporate Affairs and submit proof of payment on or before 15.11.2021.

Accordingly, COMP.APPL/103/KOB/2021 IN CP/25/KOB/2021 stands disposed of. Registry is directed to accept the reply statement, if the proof of payment of Rs. 2000/- is produced along with the reply statement and place it on record, if it is otherwise in order.

5 REPORT/96/KOB/2021 IN CP(IB)/54/KOB/2019

This is the 3rd Progress Report filed under Regulation 15(1)(a) of the IBBI (Liquidation Process) Regulations, 2016 by the Liquidator in the matter of liquidation process of Auto Friction India Pvt Ltd for the quarter ended 30.09.2021.

Learned liquidator Shri Raju Palanilkunnathil Kesavan appeared in person through VC.

Perused the Report. Report is taken on record. Registry shall place it on record.

6 REPORT/97/KOB/2021 IN IA(IBC)18/KOB/2021 IN TIBA/14/KOB/2019

This is the 3rd Progress Report filed under Regulation 15(1)(a) of the IBBI (Liquidation Process) Regulations, 2016 by the Liquidator in the matter of liquidation process of India Techs Limited for the quarter ended 30.09.2021.

Learned liquidator Shri Sasitharan Ramaswamy appeared in person through VC.

Perused the Report. Report is taken on record. Registry shall place it on record.

7 CP/114/KOB/2019

Learned counsel for the Petitioner Shri Sukumar Ninan Oommen as well as learned counsel for Respondents Shri George G. Poothicote, and PCSs Shri PP Zibi Jose and Shri Sumit Agarwal appeared through VC.

Shri George G. Poothicote concluded his arguments and Shri PP Zibi Jose argued for some time.

List for further arguments of Shri Zibi Jose and for the arguments of Shri Sumit Agarwal on 10.11.2021. (HOB)

8 IA/58/KOB/2019 IN CP/114/KOB/2019

Learned counsel for the Petitioner Shri Sukumar Ninan Oommen as well as learned counsel for Respondents Shri George G. Poothicote, and PCSs Shri PP Zibi Jose and Shri Sumit Agarwal appeared through VC.

This IA will be heard along with the main CP.

List on 10.11.2021 as part heard (High on Board).

9 IA 83/KOB/2020 IN CP/114/KOB/2019

Learned counsel for the Petitioner Shri Sukumar Ninan Oommen as well as learned counsel for Respondents Shri George G. Poothicote, and PCSs Shri PP Zibi Jose and Shri Sumit Agarwal appeared through VC.

This IA will be heard along with the main CP.

List on 10.11.2021 as part heard (High on Board).

10 IA/87/KOB/2020 IN CP/114/KOB/2019

Learned counsel for the applicant Shri Sukumar Ninan Oommen as well as learned counsel for respondents Shri George G. Poothicote, PCSs Shri PP Zibi Jose and Shri Sumit Agarwal appeared through VC.

This IA will be heard along with the main CP.

List on 10.11.2021 as part heard (High on Board).

11 IA/95/KOB/2020 IN CP/114/KOB/2019

Learned counsel for the Petitioner Shri Sukumar Ninan Oommen as well as learned counsel for Respondents Shri George G. Poothicote, and PCSs Shri PP Zibi Jose and Shri Sumit Agarwal appeared through VC.

This IA will be heard along with the main CP.

List on 10.11.2021 as part heard (High on Board).

12 CP/119/KOB/2019

Learned counsel for the Petitioner Shri Sukumar Nainan Oommen appeared through VC. Learned counsel for R1 & R2 Shri George G.Poothicote , learned PCS for R3 Shri P.P.Zibi Jose and learned PCS for R4 Shri Sumit Agarwal appeared through VC.

Shri George G. Poothicote concluded his arguments and Shri PP Zibi Jose argued for some time.

List for further arguments of Shri Zibi Jose and for the arguments of Shri Sumit Agarwal on 10.11.2021. (HOB)

13 IA/65/KOB/2019 IN CP/119/KOB/2019

Learned counsel for the Petitioner Shri Sukumar Ninan Oommen as well as learned counsel for Respondents Shri George G. Poothicote, and PCSs Shri PP Zibi Jose and Shri Sumit Agarwal appeared through VC.

This IA will be heard along with the main CP.

List on 10.11.2021 as part heard (High on Board).

14 IA/84/KOB/2020 IN CP/119/KOB/2019

Learned counsel for the Petitioner Shri Sukumar Ninan Oommen as well as learned counsel for Respondents Shri George G. Poothicote, and PCSs Shri PP Zibi Jose and Shri Sumit Agarwal appeared through VC.

This IA will be heard along with the main CP.

List on 10.11.2021 as part heard (High on Board).

15 IA/86/KOB/2020 IN CP/119/KOB/2019

Learned counsel for the Petitioner Shri Sukumar Ninan Oommen as well as learned counsel for Respondents Shri George G. Poothicote, and PCSs Shri PP Zibi Jose and Shri Sumit Agarwal appeared through VC.

This IA will be heard along with the main CP.

List on 10.11.2021 as part heard (High on Board).

16 IA/93/KOB/2020 IN CP/119/KOB/2019

Learned counsel for the Petitioner Shri Sukumar Ninan Oommen as well as learned counsel for Respondents Shri George G. Poothicote, and PCSs Shri PP Zibi Jose and Shri Sumit Agarwal appeared through VC.

This IA will be heard along with the main CP.

List on 10.11.2021 as part heard (High on Board).

17 CP/125/KOB/2019

Learned counsel for the Petitioner Shri Sukumar Nainan Oommen appeared through VC. Learned counsel for R1 & R2 Shri George Poothicote, learned PCS for R3 Shri P.P.Zibi Jose and learned PCS for R4 Shri Sumit Agarwal appeared through VC.

Shri George G. Poothicote concluded his arguments and Shri PP Zibi Jose argued for some time.

List for further arguments of Shri Zibi Jose and for the arguments of Shri Sumit Agarwal on 10.11.2021. (HOB)

18 IA/85/KOB/2020 IN CP/125/KOB/2019

Learned counsel for the Petitioner Shri Sukumar Ninan Oommen as well as learned counsel for Respondents Shri George G. Poothicote, and PCSs Shri PP Zibi Jose and Shri Sumit Agarwal appeared through VC.

This IA will be heard along with the main CP.

List on 10.11.2021 as part heard (High on Board).

19 IA/88/KOB/2020 IN CP/125/KOB/2019

Learned counsel for the Petitioner Shri Sukumar Ninan Oommen as well as learned counsel for Respondents Shri George G. Poothicote, and PCSs Shri PP Zibi Jose and Shri Sumit Agarwal appeared through VC.

This IA will be heard along with the main CP.

List on 10.11.2021 as part heard (High on Board).

20 IA/94/KOB/2020 IN CP/125/KOB/2019

Learned counsel for the Petitioner Shri Sukumar Ninan Oommen as well as learned counsel for Respondents Shri George G. Poothicote, and PCSs Shri PP Zibi Jose and Shri Sumit Agarwal appeared through VC.

This IA will be heard along with the main CP.

List on 10.11.2021 as part heard (High on Board).

21 CP/23/KOB/2020

Learned counsel for the Petitioner Shri Sharan Sahir appeared through VC.

Adv Shri Sajith Kumar appeared through VC on behalf of the learned counsel for R1 to R4 Shri Ratheesh P.R. and sought an adjournment.

List on 12.11.2021 for hearing (HOB). There shall be no further adjournment in this matter.

22 **IA(IBC)/139/KOB/2021 IN IBA/04/KOB/2020**

This is an application filed by the RP under Section 33(2) of IBC, 2016 seeking liquidation of the Corporate Debtor and appointment of the RP as Liquidator.

Learned RP Shri K. Easwara Pillai appeared through VC. Learned counsel for the Financial Creditor Shri V.A.Ajaikumar also appeared through VC

Since the learned RP could not properly replied to the questions raised by the Bench, this application will be heard in detail in the next date of hearing.

List on 16.11.2021 for hearing. On that day the learned RP will appear and submit the arguments clarifying the questions put forth by the Bench.

23 **IA(C/ACT)/12/KOB/2021 IN CP/08/KOB/2021**

Learned PCS for the applicant Shri Zibi Jose appeared through VC. Learned counsel for R1 to R8 Shri Paulose C. Abraham and learned counsel for R9 Shri Ashwin Sathyanath also appeared through VC.

Today this IA is posted for final hearing. But, Shri Paulose C. Abraham stated that the counter filed by him has not been accepted by the Registry due to late filing. He submitted that he may be permitted to file an IA to condone the delay in filing the counter. In the interest of justice, his request is allowed. He may file an IA to condone the delay on or before 15.11.2021.

Shri Zibi Jose insisted to pass orders on this IA stating that the respondents are dragging the matter unnecessarily.

Since pleadings are complete, this IA will be heard along with the hearings of the main CP. List on 17.11.2021.

24 **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 and learned counsel for R9 Shri Aswin Sathyanath appeared through VC.

Pleadings are complete. Shri Ashwin Sathyanath submitted that he has already submitted the written submissions.

Today this CP is posted for final hearing. But, at the request of Shri Paulose C. Abraham the case is adjourned **to 17.11.2021 for final hearing.**

25 CP/35/KOB/2021

This Company Petition is filed under Section 340 read with Section 246 of the Companies Act, 2013 by the Petitioner Shri PM. Johny against the respondents Shri K.J. Paul and 3 others alleging loss or damage to the R4 Company to the tune of Rs.50,01,49,418/- by the mismanagement of respondents.

Adv Smt. Amritha Vidyadharan appeared through VC on behalf of the learned counsel for the Petitioner Shri Mohan Pulickkal and sought an adjournment to enable her senior to argue the matter. Learned counsel for the respondents Shri Sharad Kodianthara appeared through VC.

Vide order dated 30.09.2021 the respondents were directed to file the counter within 3 weeks. But counter has not been filed. Shri Sharad Kodianthara submitted that he has filed an IA questioning the maintainability of this CP and that is the reason for non-filing of the counter against this CP. The Bench observed that non-filing of counter cannot be clubbed with the maintainability application. Consequently, Shri Sharad Kodianthara sought some more time to file the counter. The respondents are given the **last chance and final opportunity** to file the counter on or before 15.11.2021, failing which, their right to file the counter in the CP will be forfeited.

List on 18.11.2021 for hearing.

26 IA/15/KOB/2020 IN TCP/01(KOB)/2020 (CP/20/1985/HC)

Learned counsel for the Applicant Smt Sindhu Lekshmi as well as learned counsel for R1-R3 Shri Joseph Antony and learned counsel for R4 and R5 Shri Rohith R. Shenoy appeared through VC.

This IA will be taken up along with the main TCP.

List on 03.12.2021.

27 TCP/01(KOB)/2020 (CP/20/1985/HC)

Learned counsel for the Petitioners Shri Joseph Antony as well as learned counsel for R1 & R2 Shri Rohith R. Shenoy and learned counsel for R3 Smt. Sindhu Lekshmi appeared through VC.

This case was filed on 23.09.1985 before the Hon'ble High Court of Kerala and on transfer to this Tribunal, first posting was held in this Bench on 20.01.2020 and the matter is pending from that date before this Tribunal. On every occasion either the petitioner or respondents sought adjournments.

Today both the parties sought an adjournment to enable them to explore the possibility of settling the matter through mediation talks.

In view of the above submissions, both the parties are directed to sit together and sort out the issues and file a report by the Petitioners as to what transpired in their joint meeting before the next date fixed.

The case is adjourned to 03.12.2021.

Registry is directed to issue copy of this Order to the learned counsel of both the parties through email.

28 CP/28/KOB/2020

Adv. Shri M.A.Shaji appeared through VC on behalf of the learned counsel for the Petitioner Shri Philip Mathew and Adv. Shri John P. Thomas appeared on behalf of the learned counsel for R1-R4 & R6 Shri Abraham P. George.

Both the parties sought an adjournment.

Pleadings are complete.

List on 06.12.2021 for final hearing. Both the parties may submit their written submissions in brief (4-5 pages) at least two days before the above date.

29 CP/09/KOB/2021

Learned counsel for the Petitioner Shri Akhil Suresh as well as learned counsel for R1 to R4 Shri Clint Li Johny appeared through VC. Learned counsel for the petitioner sought adjournment.

Shri Clint Li Johny consented to the adjournment request of the counsel for the petitioner.

List for final hearing on 01.12.2021 (HOB).

Both the parties are directed to submit their written submissions in brief (within 3-4 pages) at least two days before the above date.