

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

Date: 4th Jan 2022

Coram: **Shri Shyam Babu Gautam**  
**Hon'ble Member (Technical)**

**Shri Ashok Kumar Borah**  
**Hon'ble Member (Judicial)**

**1 CP/16/KOB/2020**

Learned counsel for the Petitioner Shri Sukumar Nainan Oommen and Sherry Samuel Oommen appeared through VC. Learned counsel for R1 and R11 Shri Philip Mathew, learned counsel for R2, R4, R5 and R9 Shri Jomy George and learned counsel for R3, R6, R7 & R8 Shri Thomas Geevarghese also appeared through VC.

The arguments on the side of the learned counsel for the petitioners and learned counsel for R3, R6, R7 & R8 have been concluded.

**List on 20.01.2022 for arguments of the learned counsel for other respondents.  
(Part Heard) – High on Board.**

**1 IA/91/KOB/2020 IN CP/16/KOB/2020**

Learned counsel for both sides appeared through VC.

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

**List on 20.01.2022 – High on Board.**

**1 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 main CP

**List on 20.01.2022 – High on Board.**

**1 IA/127/KOB/2020 IN CP/16/KOB/2020**

Learned counsel for both the parties appeared through VC.

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

**List on 20.01.2022 – High on Board.**

**1 IA/128/KOB/2020 N CP/16/KOB/2020**

Learned counsel for both the parties appeared through VC.

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

**List on 20.01.2022 – High on Board.**

**1 CONTEMPT PETITION/06/KOB/2020 N 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 20.01.2022 – High on Board.**

**2 IA(IBC)/169/KOB/2021 IN TIBA/35/KOB/2019**

This IA has been filed by the Liquidator against the suspended Managing Director of the Corporate Debtor seeking the following reliefs:

1. *Pass an order directing Mr. Muraly Narayanan, Managing Director of Goodwin Packpet Private Limited to pay cash balance of Rs.2,07,826/- of the Company with him to the Liquidation Account of the Company maintained by the Liquidator with CSB Bank Ltd., Palarivattom Branch, Kochi.*
2. *Pass an order directing Mr. Muraly Narayanan, Managing Director of Goodwin Packpet Private Limited to hand over address and other contact details of debtors of Goodwin Packpet Private Limited to the Liquidator.*
3. *Pass an order directing Mr. Muraly Narayanan, Managing Director of Goodwin Packpet Private Limited to hand over the records of the Company including books of accounts to the Liquidator from the date of incorporation of the Company to the date of commencement of CIRP.*
4. *Pass such other order or orders that the Hon'ble Tribunal may deem fit and proper in the circumstances of the case.*

Learned liquidator Shri B. Baburajan appeared in person through VC. Adv Shri Abraham Mathew appeared for the respondent through VC and stated that he has

already filed the Reply Statement. Registry reported that the same is defective since some pages are found not readable.

The learned counsel for respondents stated that he will cure the defects within a week. He may do so positively within a week.

**List on 20.01.2022 for hearing.**

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

Learned counsel for the Operational Creditor Smt.Anu B. Nambiar as well as learned counsel for the Corporate Debtor Shri Sharad Kodianthara appeared through VC.

Shri Sharad Kodianthara submitted that there is a stay of all further proceedings in this IBA by the Hon'ble High Court of Kerala and that the said Writ Petition was finally heard and orders reserved on 29.06.2021, but the orders are still awaited.

**In view of the above, let this matter be adjourned to 07.02.2022.**

### **3 MA/187/KOB/2020 IN IBA/34/KOB/2020**

Learned counsel for the Operational Creditor Smt.Anu B. Nambiar as well as learned counsel for the Corporate Debtor Shri Sharad Kodianthara appeared through VC.

Shri Sharad Kodianthara submitted that there is a stay of all further proceedings in this IBA by the Hon'ble High Court of Kerala and that the said Writ Petition was finally heard and orders reserved on 29.06.2021, but the orders are still awaited.

**In view of the above, let this matter be adjourned to 07.02.2022.**

### **4 TCP/21/KOB/2019**

Learned counsel for the Petitioners Shri A.C.Venugopal appeared through VC. Learned Administrator Shri K.R.Jinan appeared in person through VC along with his counsel Shri Manuel Vivera. None appeared for other parties.

The learned Administrator submitted the following before this Bench:

1. Shri Manuel Vivera, Advocate may be permitted to continue as counsel for the Administrator.
2. Since there is difference of opinion between the Auditor and the Administrator, and also the fact that the Auditor has already submitted his resignation, the Administrator may be permitted to appoint a new Auditor in place of the existing Auditor.
3. Permission may also be granted for the Forensic Audit of the affairs of the Company.

The learned Administrator stated he will be filing an IA to enhance his remuneration fixed by this Tribunal. He may do so serving copy to both the parties in this TCP.

It appears from records that though the Auditor submitted his resignation, vide Order dated 29.09.2021 the Auditors M/s. Babu A Kallivayalil was directed to continue in the position of Auditors of the Company till further orders from this Tribunal.

In view of the submission made by the Administrator, the Auditor Shri. Babu A. Kallivayalil is directed to appear through VC before this Tribunal in the next date of hearing.

**List this TCP on 02.02.2022.**

Registry is directed to issue copy of this Order to the Auditors M/s. Babu A. Kallivayalil & Company through email immediately.

#### **5 TCP/42/KOB/2019**

Learned PCS for the petitioners Shri Bijoy P. Pulipra as well as learned counsel for the Respondents 1 to 4 Shri Pranoy Harilal also appeared through VC.

Pleadings are complete.

**List on 03.02.2022 for hearing.**

Learned counsel for both the parties may submit their written submissions in brief (limiting 3-4 pages) at least 3 days before the above date.

#### **5 TIA/2/KOB/2019 (IA183/2019) IN TCP/42/KOB/2019**

Learned PCS for the applicant/petitioner Shri Bijoy P. Pulipra as well as learned counsel for the Respondents 1 to 4 Shri Pranoy Harilal appeared through VC.

Shri Bijoy P. Pulipra submitted that this IA has become infructuous as the petitioner has filed an amended company petition incorporating certain new events and prayers.

In view of the submission of the learned counsel for the applicant, **TIA/2/KOB/2019 (IA183/2019) IN TCP/42/KOB/2019 stands dismissed as infructuous.**

#### **5 COMP.APPL/92/KOB/2021 IN TCP/42/KOB/2019**

This CA has been filed by the applicant/2<sup>nd</sup> respondent with the prayer to accept and take on record copies of additional documents (Annexures B1 to B6).

Learned PCS for the respondent/petitioner Shri Bijoy P. Pulipra, PCS stated that he has no objection in allowing this CA.

Accordingly, **COMP.APPL/92/KOB/2021 stands allowed and Registry is directed to place the additional documents (Annexures B1 to B6) in TCP/42/KOB/2019 with proper indexing.**

#### 5 **IA(C/ACT)/64/KOB/2021**

This IA has been filed under Ruel 32 of the NCLT Rules, 2016 by the applicant/petitioner with the prayer to take on record the documents attached as Annexure P41, P42, P43, P44, P45, P46, P47, P48, P49, P50 and P51 of the TCP/42/KOB/2019.

Learned counsel for the applicant/petitioner Shri Bijoy P. Pulipra as well as learned counsel for R1 to R4 Shri Pranoy Harilal appeared through VC.

Learned counsel for R1 to 4 stated that he has no objection in accepting the aforesaid documents into file.

Accordingly, **IA(C/ACT)/64/KOB/2021 stands allowed and Registry is directed to place the additional documents (Annexures P41, P42, P43, P44, P45, P46, P47, P48, P49, P50 and P51) in TCP/42/KOB/2019 with proper indexing.**

#### 6 **CP/107/(KOB)/2019**

Learned counsel for the Petitioner Shri Gokul Ashok as well as learned counsel for R1 Shri Ajmal P appeared through VC.

**Shri Gokul Ashok sought an adjournment to enable his senior to argue the case. At his request, the case is adjourned to 08.02.2022**

#### 6 **IA/168/KOB/2020 IN CP/107/(KOB)/2019**

Both the parties appeared through VC.

**At the request of the learned counsel for the Petitioner, the matter is adjourned to 08.02.2022.**

#### 6 **IA(C/ACT)/11/KOB/2021 IN CP/107/(KOB)/2019**

Both the parties appeared through VC.

**At the request of the learned counsel for the Petitioner in the CP, the matter is adjourned to 08.02.2022.**

#### 6 **IA(C/ACT)/1/KOB/2022**

This IA has been filed under Rule 11, 32 and 49 of NCLT Rules, 2016 by the Applicant/Respondent No.14 Shri Akhil Keshav with the prayer to set aside the ex parte order dated 03.02.2021 passed against the applicant/R14.

Learned counsel for the Applicant Shri Ponnan Alex appeared through VC. Learned counsel for R1 & R2 Shri Gokul Ashok, learned counsel for R3 Shri Ajmal P and learned counsel for R4 Shri M. Sreekumar appeared through VC. None appeared for other respondents.

Vide Order dated 03.02.2021 Respondents No.14 was set ex parte due to his non-appearance even after due receipt of notice.

After hearing both sides, we are of the considered opinion that in the interests of justice, the ex parte order against R14 be set aside. **IA(C/ACT)/1/KOB/2022 stands allowed and the ex parte order against Respondent 14 is hereby set aside.**

**Registry is directed to restore the name of R14 in the main CP/107/(KOB)/2019.** R14 is directed to file the counter in the CP within 2 weeks.

#### **7 CP/128/KOB/2019**

None appeared for the Petitioners. Learned counsel for R1 to R3 Shri Philip Mathew and learned counsel for the Additional Respondents 5 to 7 Shri K.R.Jinan also appeared through VC.

Pleadings are complete.

**Adjourned to 09.02.2022 for hearing. If no appearance for the Petitioners in the above date, the case will be disposed of considering the available records.**

**Registry is directed to issue copy of this Order to the learned counsel for the Petitioners immediately through email.**

#### **7 MA(C/ACT)/03/KOB/2021 IN CP/128/KOB/2019**

None appeared for the applicants. Learned counsel for R1 to R3 Shri Philip Mathew appeared through VC. None appeared for R4(ROC).

This MA has been filed by the Applicants/Petitioners 1 & 2 under Rule 11 of the NCLT Rules 2016 seeking the relief to purchase the entire shares of R2 & R3 at a price of Rs.16,397/- per share and for direction to the respondents to make available the entire shares for purchase by the petitioners.

This MA will be heard along with the main CP.

**List on 09.02.2022 for hearing.**

**7      IA(C/ACT)/2/KOB/2021 IN CP/128/KOB/2019**

Learned counsel for the Applicants Shri Philip Mathew appeared through VC. None appeared for R1, R2 and R4(ROC).

This IA has been filed by the applicants/R1 to R3 under Rule 11 of the NCLT Rules seeking an order allowing them to purchase the shares held by respondents/ Petitioners 1 & 2 at a price of Rs.17,400/- per share.

This IA will be heard along with the main CP.

**List on 09.02.2022 for hearing.**

**8      CP/12/KOB/2020**

Learned counsel for the Petitioners Shri Jagan Abraham M George as well as learned counsel for R1 to R4 Shri Sharad Kodianthara appeared through VC.

Vide Order dated 01.12.2021 the respondents were directed to file certain documents with an affidavit before this Tribunal with a copy served to the petitioners within a week.

Shri Sharad Kodianthara sought some more time to file the aforesaid documents stating that the documents are voluminous. The respondents are hereby given the last chance to file the aforesaid documents on or before 15.01.2021, and that no further time will be granted for this purpose.

**List on 10.02.2022 for hearing.**

**9      CP/34/KOB/2020**

None appeared for the Petitioner. Learned counsel for R1 to R4 Shri Nikhil Narayanan appeared through VC.

**Adjourned to 11.02.2022.** If no appearance is made for the petitioners during the next posting date, the case will be disposed of considering the available records.

Registry is directed to issue copy of this Order to the learned counsel for the Petitioner immediately through email.