

NCLT – KOCHI BENCH

Daily Orders – For reference purpose only

Date 4th March 2022

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

Shri Ashok Kumar Borah
Hon'ble Member (Judicial)

1 IA(IBC)/33/KOB/2022

This IA has been filed under Section 605) and 53 read with 35(n) of the IBC, 2016 by the Liquidator with the prayer to direct the respondent – BPCL Kochi Refinery – to transfer Rs. 25,13,38,078/- deposited by way of Fixed Deposit and interest accrued thereon till date and Rs. 5,46,08,871.37 to the account of the Liquidator.

This IA was Reserved for Orders vide proceedings dated 17.02.2022. However, it is noticed that the counsel who represented the respondent had not submitted the vakalat in this IA and respondent was also not served the notice pertaining to this IA. Hence the matter is posted today as “to be spoken to”.

The matter is therefore de-reserved and released from the list of orders to be pronounced.

Learned liquidator Shri Vinod Balachandran appeared through VC along with his counsel Shri K.B.Arunkumar.

The liquidator is directed to issue notice along with the copy of this IA to the respondent through Speed Post or Registered post with A/D and file proof of service (A/D card / Postal Track Record) with an affidavit before the next date fixed.

The respondent is directed to file the Reply Statement within 7 days of receipt of notice. **List for hearing on 16.03.2022.**

2 CP(C/ACT)/6/KOB/2022

This Petition has been filed under Section 66 of the Companies Act, 2013 by M/s. Grome Projects Pvt Ltd for confirming the reduction of Share Capital.

Learned counsel for the Petitioner Shri Nebil Nizar appeared through VC. None appeared for the respondent ROC.

Registry is directed to issue notice to ROC through Special Messenger. ROC is directed to file his report if any within two weeks from today.

List on 22.03.2022 for hearing.

3 CP(CAA)/3/KOB/2022

This 2nd Motion Petition has been filed under Section 230-240 of the Companies Act, 2013 by the Authorised Representative of the Applicant Companies Shri Vivek Kumar in the matter of Scheme of Amalgamation between Crust N Crumb Food Innovations India Ltd (Transferee Company) and Mastermade Bio Combines Pvt Ltd.

Learned PCS for the Petitioners Shri Vivek Kumar appeared through VC.

Vide order dated 18.011.2021 in CA(CAA)/4/KOB/2020 the Petitioners/Applicants were directed to individually send notice to the Central Government, Income Tax Authorities, Registrar of Companies, Official Liquidator and other sectoral regulators who may have significant bearing on the operation of the Petitioner/Applicant Companies along with copy of required documents and disclosures required under the provisions of Companies Act, 2013 read with Companies (Compromises Arrangements and Amalgamations) Rules, 2016.

It appears from records that the Applicants have submitted the notice to the above statutory authorities, but no reply has yet been received from the Statutory Authorities in this regard. Therefore, it is presumed that the statutory authorities have no objection in the matter of amalgamation of the Petitioner Companies.

The consent affidavit filed by the Secured Creditor and the Report of the Chairman appointed by this Tribunal to conduct the meeting of the Unsecured and Secured Creditors of the Transferee Company are on record.

Heard the learned counsel for the petitioner Companies. **CP(CAA)03/KOB/2022 is admitted.**

The Petitioners are directed to make necessary paper publications in the same newspapers as has been done in the 1st motion, ie in English Daily "New Indian Express" and Malayalam Daily "Deepika" which have wide circulation where the companies are situated, not less than 10 days before the date fixed for the hearing as prescribed under the relevant provisions of the *Companies* (Compromises, Arrangements, and Amalgamations) Rules, 2016 and file proof of publication at least 3 days before the next date fixed.

List on 06.04.2022 for hearing.

4 IA(IBC)/43/KOB/2022

This IA has been filed under Section 60(5) of the IBC, 2016 READ WITH Regulation 47A of the IBBI (Liquidation Process) Regulations, 2016 and Rule 11 of the NCLT Rules, 2016 by the Liquidator seeking exclusion of 188 days, ie. from 31.07.2021 to 04.02.2022 from the Liquidation Process.

Learned Liquidator Shri Ravindra Chaturvedi appeared through VC along with his counsel Shri Kunal Kunango.

On hearing the Id.counsel for the Liquidator and also on perusal of the records including the litigations taken place in this case before the Hon'ble High Court of Kerala, this Tribunal is of the opinion that the prayer of the Liquidator be allowed.

Accordingly, IA(IBC)/43/KOB/2022 IN IBA/258/CB/2019 stands allowed and the period of 31.07.2021 to 04.02.2022 (188 days) is hereby excluded from the period of Liquidation Process in this case.

Since, this is an IBC matter, the Liquidator is directed to complete the liquidation process within the stipulated period.

5 REPORT/50/KOB/2022

This 9th Progress Report has been filed under Section 33(1)(a) of the IBC, 2016 by the liquidator in the matter of liquidator process of Excel Glasses Ltd.

The learned liquidator Shri Ravindra Chaturvedi appeared through VC.

Perused the Report. Report is taken on record. Registry is directed to place the report in IBA/258/CB/2019.

6 REPORT/51/KOB/2022

This Progress Report and Asset Sale Report as on 31.12.2021 has been filed under Regulation 15(1)(2)(3)(4)(5) and 36 of IBBI (Liquidation Process) Regulation, 2016 by the Liquidator in the matter of liquidation process of Adhils Builders and Developers Pvt Ltd.

Learned Liquidator Shri Dileep K.P. appeared through VC.

Perused the Report. Report is taken on record. Registry is directed to place the report in IBA/45/KOB/2019.

7 CP(IB)/35/KOB/2021

Learned RP Smt. Celine P. Thomas as well as learned counsel for the Creditor Bank Shri Akhil Suresh and learned counsel for the Personal Guarantor Shri Arun Chand appeared through VC.

Heard both sides.

Hearing concluded. Orders reserved.

8 CP(IB)/36/KOB/2021

Learned RP Smt. Celine P. Thomas as well as learned counsel for the Creditor Bank Shri Akhil Suresh and learned counsel for the Personal Guarantor Shri Arun Chand appeared through VC.

Heard both sides.

Hearing concluded. Orders reserved.

9 TCP/21/KOB/2019

Learned counsel for the Petitioners Shri A.C.Venugopal appeared through VC. Learned counsel for R1/Administrator Shri Philip Mathew, learned counsel for R2 Shri Ashok B. Shenoy and learned counsel for R3 to R6 Smt. C.G.Preetha appeared through VC.

Shri A.C.Venugopal submitted that the appeal filed by ROC has been dismissed by the NCLAT. Learned counsel for the Petitioner is directed to produce the copy of the Order of the NCLAT within 2 weeks.

List on 25.03.2022 for hearing.

9 IVNP/2/KOB/2022 in TCP/21/KOB/2019

This Intervention Petition has been filed under Rule 11 of the NCLT Rules, 2016 by the applicants (members of the R4 Company) with the prayer to permit them to be heard on being impleaded as party respondents in TCP/21/KOB/2019.

Learned counsel for the Intervening Petitioners Shri Ashok B. Shenoy and learned counsel for the R4/Administrator Shri Philip Mathew appeared through VC. Though Shri AC Venugopal appeared through VC stating that he represents R1-R3 he has not yet filed the vakalat.

Vide Order dated 04.01.2022 the Intervening Petitioners were directed to issue notice enclosing a copy of the application to all the respondents who have not appeared on that date and produce proof of service (AD Card/Postal Track report) with an affidavit within two weeks. It appears from records that the Intervening Petitioners have not yet produced the proof of service till date.

The Intervening Petitioners are directed to file the Proof of service (A/D card or Postal Track Report) at least 3 days before the next date fixed. The Respondents are directed to submit their Counter within two weeks of receipt of notice.

List on 25.03.2022 for hearing.

9 IVNP/1/KOB/2022 in TCP/21/KOB/2019

This IVNP has been filed under Rule 11 of the NCLT Rules, 2016 by the applicants/intervenors against the Respondents (Petitioners and Respondents in TCP/21/KOB/2019) seeking direction to conduct due election of the Board of Directors of R4 Company and entrust the Management of the R4 Company to the Board of Directors so elected.

Learned counsel for the Intervening Petitioners Shri Ashok B. Shenoy as well as learned counsel for the R4/Administrator Shri Philip Mathew appeared through VC. Though Shri AC Venugopal appeared through VC stating that he represents R1-R3, he has not yet filed the vakalat.

Vide Order dated 04.01.2022 the Intervening Petitioners were directed to issue notice enclosing a copy of the application to all the respondents who have not appeared on that date and produce proof of service (AD Card/Postal Track report) with an affidavit within two weeks. It appears from records that the Intervening Petitioners have not yet produced the proof of service till date.

The Intervening Petitioners are directed to file the Proof of service within two weeks. The Respondents are directed to submit their Counter within two weeks of receipt of notice.

List on 25.03.2022 for hearing.

9 EP/1/KOB/2021

The Bench observed that this Execution Petition is not maintainable since the same has not been filed in accordance with the established law.

Shri Philip Mathew sought an adjournment to take adequate steps in this matter. His prayer is allowed.

List on 07.03.2022 for hearing and disposal.

9 EP/2/KOB/2021

The Bench observed that this Execution Petition is not maintainable since the same has not been filed in accordance with the established law.

Shri Philip Mathew sought an adjournment to take adequate steps in this matter. His prayer is allowed.

List on 07.03.2022 for hearing and disposal.

9 IA(C/ACT)/15/KOB/2022 in TCP/21/KOB/2019

This IA has been filed under Rule 11 and 32 read with Rule 15 of the NCLT Rules, 2016 for modification of Order dated 02.02.2022 and disallowing the claim of the Auditor as per Order dated 02.02.2022 in TCP/21/KOB/2019.

Learned counsel for the Applicant Shri Philip Mathew as well as learned counsel for the respondent Shri Pradeep Joy appeared through VC.

Shri Philip Mathew sought an adjournment to enable him to file rejoinder. Prayer allowed. He is directed to file the rejoinder within four days from today making it clear that no further time will be allowed for filing the rejoinder. **At his request the case is adjourned to 10.03.2022 for hearing.**

9 EP/1/KOB/2022

This Petition has been filed under Section 424(3) of the Companies Act, 2013 read with Order 21, R.11 and 11A of CPC by the Administrator of Bhagyodayam Company with reference to the Order dated 28.08.2018.

The Bench observed that this Execution Petition is not maintainable since the same has not been filed in accordance with the established law.

Shri Philip Mathew sought an adjournment to take adequate steps in this matter. His prayer is allowed.

List on 07.03.2022 for hearing and disposal.

9 EP/2/KOB/2022

This Petition has been filed under Section 424(3) of the Companies Act, 2013 read with Order 21, R.11 and 11A of CPC by the Administrator of Bhagyodayam Company with reference to the Order dated 28.08.2018.

The Bench observed that this Execution Petition is not maintainable since the same has not been filed in accordance with the established law.

Shri Philip Mathew sought an adjournment to take adequate steps in this matter. His prayer is allowed.

List on 07.03.2022 for hearing and disposal.

9 EP/3/KOB/2022

This Petition has been filed under Section 424(3) of the Companies Act, 2013 read with Order 21, R.11 and 11A of CPC by the Administrator of Bhaguodayam Company with reference to the Order dated 28.08.2018.

The Bench observed that this Execution Petition is not maintainable since the same has not been filed in accordance with the established law.

Shri Philip Mathew sought an adjournment to take adequate steps in this matter. His prayer is allowed.

List on 07.03.2022 for hearing and disposal.

9 EPI/4/KOB/2022

This Petition has been filed under Section 424(3) of the Companies Act, 2013 read with Order 21, R.11(2) and 35 of CPC by the Administrator of Bhagyodayam Company with reference to the Order dated 28.08.2018.

The Bench observed that this Execution Petition is not maintainable since the same has not been filed in accordance with the established law.

Shri Philip Mathew sought an adjournment to take adequate steps in this matter. His prayer is allowed.

List on 07.03.2022 for hearing and disposal.

10 CP/36/KOB/2020

Learned counsel for the petitioner Shri Ashok B. Shenoy as well as learned counsel for the Respondent Shri C.A.Anupaman appeared through VC.

Shri Anupaman sought 3 more weeks' time to file the Reply Statement stating that the respondent is still in the Jail and the bail application is posted for hearing before the Hon'ble High Court of Kerala today.

It appears from records that the case was adjourned on 16.08.2021, 22.11.2021, 06.01.2022 and 07.02.2022 based on the same reason submitted by the respondent. The bench observed that the case cannot be prolonged indefinitely.

However, the prayer of the learned counsel for the respondent for filing the Reply Statement as a special case. The respondent is directed to file the Reply Statement **on or before 25.03.2022 positively, failing which the right to file the reply statement by the respondent shall stand forfeited.** There shall be no further adjournment in this case.

List on 31.03.2022 for hearing.

11 CP/43/KOB/2021

This Petition has been filed under section 241 & 242 of the Companies Act, 2013 read with Rule 81 of the NCLT Rules, 2016 by the Petitioner Smt Mabin Jose seeking 5 main reliefs along with 6 interim reliefs.

Learned counsel for the Petitioner Shri Aditya Venugopalan appeared through VC. None appeared for the respondents. Adv Shri Irfan appeared through VC stating

that he represents R2 and sought an adjournment to enable him to file the vakkalath and counter.

Shri Aditya Venugopalan submitted that R3 is now residing outside India and notice issued to his local address has been returned by the postal department with the postal remark that "door is locked". The Petitioner is directed to issue fresh notice to R3 through Speed Post to his address outside India and file proof of service (Postal Track Report) with an affidavit before the next date fixed.

List on 04.04.2022 for hearing.

12 CP/44/KOB/2021

This Petition has been filed under Section 73(4) of the Companies Act, 2016 by the Petitioner Shri C. Viswanathan against the Respondent Grameen Kairali Agro Pvt Ltd with the prayer to make payment of the amount deposited with the Respondent for Share Certificate.

Learned counsel for the Petitioner Shri Abraham John appeared through VC and submitted that notice could not be served to the R1 as he could not trace out the correct address of the respondent company.

The Petitioner is directed to make necessary newspaper publications in one English Daily and Malayalam Daily which have wide circulation, not less than 10 days before the date fixed for the hearing and file proof of publication with an affidavit at least 3 days before the date of hearing.

List on 05.04.2022 for hearing.