

NCLT, KOCHI BENCH**Daily Orders – For reference only**

Date: 5th Jan 2022

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

Shri Ashok Kumar Borah
Hon'ble Member (Judicial)

1 **IA(IBC)/1/KOB/2022 in IBA/39/KOB/2020**

This IA has been filed by the Resolution Professional under Section 30(6) and 31 of the IBC, 2016 for approval of the Resolution Plan.

Learned RP Shri Dileep KP appeared in person through VC.

On verification of the records, it is noted that the Resolution Application has been submitted by the Corporate Debtor himself enjoying the MSME facility. The Bench observed that the Resolution Professional sought various exemptions in his application. At that point, the learned Resolution Professional stated that no exemptions are necessary in this matter. He stated sought permission to withdraw this application with liberty to file a fresh application deleting the claims which are not required. He is permitted to do so.

Accordingly, IA(IBC)/1/KOB/2022 stands dismissed as withdrawn.

The RP will be at liberty to file fresh application with the amended Resolution Plan, if any, within 7 days.

2 **CP/11/KOB/2021**

Adv Ms Nikitha S appeared for the petitioners through VC and sought an adjournment to enable her senior Shri Aswin Gopakumar to argue the case, as her senior is infected with Covid 19 yesterday. Learned counsel for R1 Shri Thobias Powell also appeared through VC.

R2, R3, R4 and R5 have already been set ex-parte.

At the request of the learned counsel for the Petitioners, the case is adjourned to 16.02.2022.

3 **CP/21/KOB/2021**

Learned counsel for the Petitioner Shri Thobias Powell appeared through VC.

Report filed by ROC is on record.

List this matter for final hearing 16.02.2022.

3 IVNP/2/KOB/2021 IN CP/21/KOB/2021

This IVNP has been filed by the applicant under Rule 11 of the NCLT Rules, 2016 for intervention in CP/21/KOB/2021 and to implead him as an Additional Respondent in the said CP.

Adv Ms Nikitha S appeared for the petitioners through VC and sought an adjournment to enable her senior Shri Aswin Gopakumar to argue the case. Learned counsel for R1 Shri Thobias Powel appeared through VC. Shri Ramesh, Asst ROC appeared for R2 (ROC).

Reply Statement of R1 is on record.

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

List this matter for final hearing 16.02.2022.

4 MA(IBC)/35/KOB/2021 IN TIBA/11/KOB/2019

This MA has been filed by the Applicant / Monitoring Agent in connection with the implementation of Resolution Plan of PVS Memorial Hospital Pvt Ltd.

Learned Monitoring Agent Shri Bijoy Prabhakaran Pulipra appeared through VC.

It appears from records that notice was duly served to all Respondents. But R1, R2 and R3 have neither appeared through VC nor filed any Reply Statement. **Therefore R1, R2 and R3 are hereby set ex-parte.**

Adv Shri Vipin D.G. and Adv Smt. Rekha appeared through VC for R4 and R5 respectively. Registry reported that the Reply Statement filed by R4 is defective for the reason that the reply has been filed after the time granted and that the hard copy of reply has not been filed. The Reply Statement of R5 is also defective since English translation of some Annexures have not been attached. R4 and R5 are therefore directed to cure the defects on or before 13.01.2022.

List on 21.01.2022 for final hearing.

5 MA(IBC)/36/KOB/2021 IN IBA/258/CB/2019

This is an MA filed by the Applicant Shri Sunil K. under Section 42 of the IBC, 2016 read with Rule 11 of the NCLT Rules, 2016 against the decision dated 30.08.2020 of the Liquidator.

Learned counsel for the Applicant Shri Jayesh Pillai appeared through VC. Learned Liquidator Shri Ravindra Chaturvedi also appeared through VC along with his counsel Shri Akhil Suresh.

Shri Jayesh Pillai submitted that he would file an IA with regard to the delay in filing this MA. He may do so within 7 days.

In the meantime, reply statement of respondent may be filed.

List on 25.01.2022 for hearing.

5 MA(IBC)/37/KOB/2021 IN IBA/258/CB/2019

This is an MA filed by the Applicant Shri TP Johnson under Section 42 of the IBC, 2016 read with Rule 11 of the NCLT Rules, 2016 against the decision dated 30.08.2020 of the Liquidator.

Learned counsel for the Applicant Shri Jayesh Pillai appeared through VC. Learned Liquidator Shri Ravindra Chaturvedi also appeared through VC along with his counsel Shri Akhil Suresh.

Shri Jayesh Pillai submitted that he would file an IA with regard to the delay in filing this MA. He may do so within 7 days.

In the meantime, reply statement of respondent may be filed

List on 25.01.2022 for hearing.

5 MA(IBC)/38/KOB/2021 IN IBA/258/CB/2019

This is an MA filed by the Applicant Shri Venuji.B. under Section 42 of the IBC, 2016 read with Rule 11 of the NCLT Rules, 2016 against the decision dated 30.08.2020 of the Liquidator.

Learned counsel for the Applicant Shri Jayesh Pillai appeared through VC. Learned Liquidator Shri Ravindra Chaturvedi also appeared through VC along with his counsel Shri Akhil Suresh.

Shri Jayesh Pillai submitted that he would file an IA with regard to the delay in filing this MA. He may do so within 7 days.

In the meantime reply statement of respondent may be filed

List on 25.01.2022 for hearing.

6 CP(IB)/8/KOB/2021

Learned counsel for the Financial Creditor Shri Sunil Shankar as well as learned counsel for the Corporate Debtor Shri C.K.Karunakaran appeared through VC. Both sides argued the matter. In reply to the arguments of the learned counsel for the Corporate Debtor, the learned counsel for the applicant stated that he will file an IA enclosing (i) the Certificate of Registration of Charge, (2) the authorisation issued by the Bank for filing the IBC matter before this Tribunal. He may do so within a week from today, serving a copy on the Corporate Debtor. List this **CP(IB) as PART HEARD on 25.1.2022, along with the IA if any** filed by the Financial Creditor/Applicant.

6 IA(IBC)/149/KOB/2021 IN CP(IB)/8/KOB/2021

This is an IA filed by the applicant/Corporate Debtor against the Respondent/ Financial Creditor under Rule 11 of NCLT Rules, 2016 praying to accept the additional objections.

This IA will be considered along with the main CP(IB).

List on 25.1.2022.

6 IA(IBC)/150/KOB/2021 IN CP(IB)/8/KOB/2021

This is an IA filed by the Applicant/Corporate Debtor against the Respondent Financial Creditor under Rule 11 of NCLT Rules 2016 praying for consideration of question of maintainability of the Petition filed under Section 7 by the FC as a preliminary issue.

This IA will be considered along with the main CP(IB).

List on 25.01.2022

7 CP(IBC)/13/KOB/2021

Learned RP Shri Francis Mathew as well as learned counsel for the Petitioner Shri Sunil Shankar and learned counsel for the Respondent/Guarantor Shri Akhil Suresh appeared through VC.

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

The report submitted by the RP under Section 99 of the IBC, 2016 recommending for approval of Application filed under Section 95 by M/s. JM Financial Assets Reconstruction Company Limited, is on record.

Registry is directed to issue notice to the Personal Guarantor and place the proof of service in the file.

The Personal Guarantor is directed to submit his Reply Statement within two weeks of receipt of notice.

List on 01.02.2022 for hearing.

8 CP(IBC)/14/KOB/2021

Learned RP Shri Francis Mathew as well as learned counsel for the Petitioner Shri Sunil Shankar appeared through VC.

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

The report submitted by the RP under Section 99 of the IBC, 2016 recommending for approval of Application filed under Section 95 by M/s. JM Financial Assets Reconstruction Company Limited, is on record.

Registry is directed to issue notice to the Personal Guarantor and place the proof of service in the file

The Personal Guarantor is directed to submit his Reply Statement within two weeks of receipt of notice.

List on 01.02.2022 for hearing.

9 CP(IBC)/15/KOB/2021

Learned RP Shri Francis Mathew as well as learned counsel for the Petitioner Shri Sunil Shankar and learned counsel for the Respondent/Guarantor Shri Akhil Suresh appeared through VC.

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

The report submitted by the RP under Section 99 of the IBC, 2016 recommending for approval of Application filed under Section 95 by M/s. JM Financial Assets Reconstruction Company Limited, is on record.

Registry is directed to issue notice to the Personal Guarantor and place the proof of service in the file

The Personal Guarantor is directed to submit his Reply Statement within two weeks of receipt of notice.

List on 01.02.2022 for hearing.

10 CP(IBC)/16/KOB/2021

Learned RP Shri Francis Mathew as well as learned counsel for the Petitioner Shri Sunil Shankar and learned counsel for the Respondent/Guarantor Shri Akhil Suresh appeared through VC.

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

The report submitted by the RP under Section 99 of the IBC, 2016 recommending for approval of Application filed under Section 95 by M/s. JM Financial Assets Reconstruction Company Limited, is on record.

Registry is directed to issue notice to the Personal Guarantor and place the proof of service in the file

The Personal Guarantor is directed to submit his Reply Statement within two weeks of receipt of notice.

List on 01.02.2022 for hearing.

11 CP(IBC)/17/KOB/2021

Learned RP Shri Francis Mathew as well as learned counsel for the Petitioner Shri Sunil Shankar and learned counsel for the Respondent/Guarantor Shri Akhil Suresh appeared through VC.

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

The report submitted by the RP under Section 99 of the IBC, 2016 recommending for approval of Application filed under Section 95 by M/s. JM Financial Assets Reconstruction Company Limited, is on record.

Registry is directed to issue notice to the Personal Guarantor and place the proof of service in the file

The Personal Guarantor is directed to submit his Reply Statement within two weeks of receipt of notice.

List on 01.02.2022 for hearing.

12 CP(IBC)/18/KOB/2021

Learned RP Shri Francis Mathew as well as learned counsel for the Petitioner Shri Sunil Shankar appeared through VC.

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

The report submitted by the RP under Section 99 of the IBC, 2016 recommending for approval of Application filed under Section 95 by M/s. JM Financial Assets Reconstruction Company Limited, is on record.

Registry is directed to issue notice to the Personal Guarantor and place the proof of service in the file.

The Personal Guarantor is directed to submit his Reply Statement within two weeks of receipt of notice.

List on 01.02.2022 for hearing.

13 CP(IBC)/19/KOB/2021

Learned RP Shri Francis Mathew as well as learned counsel for the Petitioner Shri Sunil Shankar and learned counsel for the Respondent/Guarantor Shri Akhil Suresh appeared through VC.

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

The report submitted by the RP under Section 99 of the IBC, 2016 recommending for approval of Application filed under Section 95 by M/s. JM Financial Assets Reconstruction Company Limited, is on record.

Registry is directed to issue notice to the Personal Guarantor and place the proof of service in the file

The Personal Guarantor is directed to submit his Reply Statement within two weeks of receipt of notice.

List on 01.02.2022 for hearing.

14 CP(IB)/42/KOB/2021

This CP(IB) has been filed under Section 7 of the IBC, 2016 read with Rule 4 of the IB(AAA) Rules, 2016 by the Financial Creditor Shri Sathish Gopalakrishna Pillai against the Corporate Debtor Savute Textiles Pvt Ltd for initiation of Corporate Insolvency Resolution Process against the Corporate Debtor.

Learned senior counsel for the Financial Creditor Shri Joseph Kodianthara appeared through VC. Adv Smt Dhanisha, who appeared through VC stated that she has already filed the vakkalath for the Corporate Debtor through online and sought one week's time to file the Reply Statement.

It appears from records that during the last date of hearing another Advocate appeared for the CD and sought time to file reply statement. This Tribunal accordingly vide Order dated 09.12.2021 granted time to file the Reply Statement on or before 20.12.2021. However, neither he appeared today, nor reply statement of Corporate Debtor filed.

On hearing the learned counsel for the CD Smt Dhanisha, we are of the considered opinion that the CD be given a last and final opportunity to file the reply statement

provided the **CD pays the cost of Rs.20,000/- (Rupees twenty thousand only) to Ministry of Corporate Affairs through Bharath Khosh** and submit proof of payment along with the Reply Statement within 7 days. Ordered accordingly. Registry is directed to accept the reply statement, if it is filed on or before 13.01.2022, provided the CD produces proof of payment of costs along with the reply statement, and if the Reply Statement is otherwise in order. If no Reply Statement is filed as ordered above, the matter will be decided based on the available records.

If reply is filed, the FC is directed to file the rejoinder, if any, before the next date fixed.

List on 27.01.2022 for hearing.

15 CP(IB)/44/KOB/2021

This CP has been filed under Section 7 of the IBC, 2016 read with Rule 4 of the IB (AAA) Rules, 2016 by the Financial Creditor Malayalam Vehicles India Pvt for initiation of Corporate Insolvency Resolution Process against the Corporate Debtor Malayalam Motors Pvt Ltd

Learned counsel for the FC Smt Telma Raju appeared through VC.

Adv Shri Gokul Ashok, who appeared through VC, stated that he has already filed the vakalath for the Corporate Debtor and sought 7 days' time to file the Reply Statement.

It appears from records that during the last date of hearing another Advocate Shri Vijay V. Paul appeared for the CD and sought time to file reply statement. This Tribunal accordingly vide Order dated 10.12.2021 granted time to file the Reply Statement on or before 23.12.2021. However, neither that counsel filed vakalath nor the CD filed reply statement in this matter.

On hearing the learned counsel appearing for the CD Shri Gokul Ashok, we are of the considered opinion that the CD be granted a last and final opportunity to file the reply statement, provided the **CD pays the cost of Rs.20,000/- (Rupees twenty thousand only) to Ministry of Corporate Affairs through Bharath Khosh** and submit proof of payment along with the Reply Statement within 7 days. Ordered accordingly. Registry is directed to accept the reply statement, if it is filed on or before 13.01.2022, provided the CD produces proof of payment of costs along with the reply statement, and if the Reply Statement is otherwise in order. If no Reply Statement is filed as ordered above, the matter will be decided based on the available records.

If reply is filed, the FC is directed to file the rejoinder, if any, before the next date fixed.

List on 28.01.2022 for hearing.

16 TCP/52/KOB/2019

Learned counsel for the Petitioners Shri Pranav G appeared through VC. Adv Jolly John appeared for R1-R4, R2.1-R2.5, R5.1-R5.3, R12 and R13. Adv Shri A Murali appeared for R6. The learned Senior counsel Shri Aravind Pandian also appeared for respondents. Asst ROC Shri Ramesh appeared for ROC(R14).

Shri Pranav sought an adjournment to enable his senior Shri T.K.Bhaskar to argue the case.

At the request of the learned counsel for the Petitioners, the case is adjourned to 06.01.2022 for hearing (High on Board).

17 CP/42/KOB/2021

This Petition has been filed under Section 252(3) of the Companies Act, 2013 by Kaippadath Property Development Company Pvt Ltd for revival of the name of the Company in the Register of Companies maintained by the Registrar of Companies, Kerala.

Learned PCS for the Petitioner Shri Vinu Thomas appeared through VC.

AROC Shri Ramesh, who appeared through VC stated that ROC has no objection in the revival of the name of the Company in the Register of Companies.

Reserved for Orders.

18 CP/53/KOB/2020

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

Pleadings are complete.

Today the case is posted for final hearing. Even though Shri Sandeep Kumar started his arguments, his voice could not be heard due to network glitches. Hence adjourned.

List on 01.02.2022 for final hearing.