

NCLT, KOCHI BENCH

Daily Orders – Draft

Date: 5th Nov 2021

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

1 CP(IB)/34/KOB/2021

This is a Petition filed by the Financial Creditor Dhanalaxmi Bank Ltd against the Corporate Debtor S.D.Pharmacy Pvt Ltd under Section 7 of the IBC, 2016 claiming a debt amount of Rs.1,08,58,311.16.

Learned counsel for the Financial Creditor Shri Vinod PV appeared through VC.

The FC is directed to issue fresh notice to the CD 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 of hearing. Registry is also directed to issue notice to the Corporate Debtor through email. The CD is directed to file the counter within 15 days serving a copy of counte to the FC, who may file rejoinder, if any, within 7 days thereafter.

List on 30.11.2021 for hearing.

2 CP/38/KOB/2021

This is a Petition filed under Rule 11 of the NCLT Rules, 2016 read with Section 97 of the Companies Act, 2013 by Shri Athish Mathew against Sofine Decors Pvt Ltd and another.

Learned counsel for the Petitioner Shri Sabu Joseph appeared through VC.

Heard and perused the whole case records.

Reserved for Orders.

3 IA(IBC)/162/KOB/2021 IN IA/160/KOB/2020 IN TIBA/08/KOB/2019

This is an IA filed by the Applicant/Liquidator in the matter of Liquidation Process of Lake View Ayurvedic Resort & Research Centre Pvt Ltd seeking the following reliefs:

- (i) To allow an extension of the Liquidation Process from 15.10.2021 to 14.10.2022.
- (ii) To permit the liquidator to continue the liquidation process for the extended period and to complete the liquidation at an estimated additional expense of Rs.7,56,000/-.

Learned Liquidator Shri R.Aravindakshan Nair appeared in person through VC along with his learned counsel Shri Shawn Jeff Christopher.

The Corporate Debtor is under liquidation process with effect from 15.10.2020 vide Order in IA/160/KOB/2020 in TIBA/08/KOB/2019..

The liquidator submitted that he has taken reasonable efforts to invite bids through E-auctions (3 times) by way of public announcement for selling the CD's immovable property but significant difficulty was faced in obtaining proper response / identifying a buyer so far due to the effect of the Covid 19 pandemic and its adverse effect on the tourism industry.

On hearing the Liquidator and on perusal of the case records, this Tribunal is of the opinion that the Liquidation Process in this case can be extended only for a period of three months and the estimated additional expenses projected by the liquidator cannot be considered at this time.

Accordingly, the liquidator is directed to complete the Liquidation Process on or before 15.01.2022. The prayer for approval of estimated additional expenses is declined.

IA(IBC)/162/KOB/2021 IN IA/160/KOB/2020 IN TIBA/08/KOB/2019 stands disposed of with the above directions.

4 CP/05/KOB/2021

Learned counsel for the applicant Shri Terry V James as well as learned counsel for respondents Shri Santhosh Mathew appeared through VC.

Learned counsel for both the parties concluded their arguments.

Reserved for Orders.

The learned counsel for both the parties may submit their written submissions, if they so desire, in brief (limiting 3-4 pages) on or before 15.11.1021.

5 CA/63/KOB/2021 IN CP/05/KOB/2021

Learned counsel for the applicant Shri Terry V James as well as learned counsel for respondents Shri Santhosh Mathew appeared through VC.

Heard both the learned counsel for the parties.

Reserved for Orders.

6 IA(IBC)/128/KOB/2021 IN MA/05/KOB/2020 IN TIBA/1/KOB/2019

Learned liquidator Shri Shawn Jeff Christopher appeared in person through VC.

This is an IA filed by the liquidator under Section 54(2) & 60(5) of IBC 2016 read with Regulation 44 of IBBI (Liquidation Process) Regulations 2016 and Rule 11 of NCLT Rules seeking the order of dissolution of the Corporate Debtor M/s. Achariya Techno Solutions (India) Pvt Ltd.

Heard the liquidator and perused the records.

Reserved for Orders.

7 IA(IBC)/51/KOB/2021 IN MA/05/KOB/2020 IN TIBA/1/KOB/2019

Learned liquidator Shri Shawn Jeff Christopher as well as learned counsel for R1-R3 and R5 Shri Simod Sivan appeared through VC.

Heard both the parties and perused the records.

Reserved for Orders.

8 CONT.APPL(IBC)/3/KOB/2021 IN MA/44/KOB/2019 IN TIBA/11/KOB/2019

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

This Contempt Application will be **heard on 09.11.2021** along with **MA(IBC)/17/KOB/2021 IN IA(IBC)/13/KOB/2021 IN TIBA/11/KOB/2019.**

9 MA(IBC)/17/KOB/2021 IN IA(IBC)/13/KOB/2021 IN TIBA/11/KOB/2019

This is an application filed by the Monitoring Agent under Section 60(5) of IBC, 2016 against the respondents/suspended directors of the Corporate Debtor.

Learned Monitoring Agent Shri Bijoy Pulipra and learned counsel for respondents Shri V.K.Sajith appeared through VC.

Vide Order dated 04.10.2021 the Respondents were directed to handover the vehicles along with the keys and RC documents and also the keys of the cabin of the Managing Director, original set of keys of the locker inside the Cabin, Original

Licenses and Permits of the various facilities of the Corporate Debtor, etc within 10 days. The Respondents/Suspended Directors of the Corporate Debtor were also directed to appear before this Tribunal through Video Conference.

When the learned counsel for the Respondents sought some more time to comply the above, vide order dated 29.10.2021 the respondents were given time upto 03.11.2021 to hand over the above to the Monitoring Agent.

The suspended directors Smt Mini and Shri Abhilash also appeared through VC as directed by this Tribunal.

The learned counsel for the Respondents Shri V.K.Sajith submitted that some vehicles could not be handed over to the Monitoring Agent since the same are under servicing. He further submitted that the Order of this Tribunal dated 29.10.2021 will be fully complied within 3 days positively. Smt Mini stated that there was a bereavement in their family and that was the reason for their absence on the last date of hearing. She also stated that she is ready to comply the order of this Tribunal to hand over the aforesaid items.

The respondents are directed to fully comply the order dated 29.10.2021 on or before 08.11.2021. The suspended directors are exempted from appearing through VC in the next date of posting.

List on 09.11.2021 for hearing.

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

10 IVNP/4/KOB/2021 IN IA(IBA)/87/KOB/2021 IN IBA/23/KOB/2019

Learned counsel for the intervening applicants Shri Santhosh Mathew as well as learned RP Shri Vinod PV appeared through VC.

This is an IA filed by the applicants/interveners under Section 60(5) of IBC, 2016 read with Rule 11 of NCLT Rules praying to intervene in IA(IBC)/87/KOB/2021.

Heard the learned counsel for both the parties and perused the whole case records.

Reserved for Orders.

11 IA(IBC)/87/KOB/2021 IN IBA/23/KOB/2019

Learned RP Shri Vinod Padinhare Veetil appeared through VC.

This is an application filed by the RP under Section 33(1)(a) of IBC 2016 for liquidation of the CD.

Heard the RP and perused the whole case records.

Reserved for Orders.

12 IA(IBC)92/KOB/2021 IN IBA/23/KOB/2019

Learned counsel for the Applicant/OC Shri Santhosh Mathew as well as learned RP Shri Vinod PV appeared through VC.

This IA has been filed by the OC seeking the following reliefs:

- (a) Direct the Resolution Professional to grant the Applicants access to all the documents submitted by the Financial Creditors pertaining to claim made before the Resolution Professional;
- (b) Direct the conduct of a forensic audit by an independent third-party auditor into the amounts that have been lent by Respondents 4 to 13 to the Corporate Debtor and the amounts recovered.
- (c) Stay further proceedings in the Corporate Insolvency Resolution Process of the Corporate Debtor till such time the forensic audit is complete.
- (d) Restrain the 3rd Respondent Resolution Professional from acting as the Resolution Professional or the liquidator.
- (e) Pass such further orders in the interests of justice and equity.

Heard learned counsel for both the parties and perused the records.

Reserved for Orders.

13 IA(IBC)/134/KOB/2021 IN IBA/22/KOB/2020 & IBA/23/KOB/2020

Learned RP Shri Renahan Vamakesan appeared through VC along with his counsel Shri Akhil Suresh.

This is an application filed by the RP for dissolution of the company under Section 54(1) of IBC, 2016 read with Rule 11 of NCLT Rules, 2016.

While arguing the case in the last date of hearing, the RP as well as his counsel submitted before the Bench that there is no asset with the Company as the respective secured creditors have taken recourse of the assets of the company as well as properties which were mortgaged by the company have already been taken into possession by the bank and other financial institutions.

Taking into consideration of the above submissions, vide Order dated 15.09.2021 the learned counsel for the RP was directed to pursue the matter with the Financial Creditor State Bank of India. Shri Akhil Suresh today submitted that the matter has taken up with the State Bank of India.

Meanwhile, State Bank of India filed an affidavit dated 03.11.2021 stating inter alia that they will be proceeding against the Personal Guarantors of the Corporate Debtor

under Section 95 of the Insolvency and Bankruptcy Code, 2016 before dissolution of the Corporate Debtor.

Under the circumstance, the FC State Bank of India is directed to proceed under Section 95 of the IBC, 2016 within 14 days.

Accordingly, list this IA on 30.11.2021.

14 MA/187/KOB/2020 IN IBA/34/KOB/2020

Learned counsel for the Applicant Shri Akhil Suresh as well as learned counsel for the Corporate Debtor Shri Sharad Kodianthara appeared through VC.

Both the parties 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 by the Hon'ble High of Kerala on 29.06.2021 and orders reserved, but the orders are yet to be pronounced.

In view of the above, let this matter be adjourned to 29.11.2021.

15 IBA/34/KOB/2020

Learned counsel for the Applicant Shri Akhil Suresh as well as learned counsel for the Corporate Debtor Shri Sharad Kodianthara appeared through VC.

Both the parties 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 by the Hon'ble High of Kerala on 29.06.2021 and orders reserved, but the orders are yet to be pronounced.

In view of the above, let this matter be adjourned to 29.11.2021.

16 CP(IBC)/20/KOB/2021

Learned counsel for the Operational Creditor Smt Telma Raju as well as learned counsel for the Corporate Debtor Shri Irfan.Ziraj appeared through VC.

Shri Irfan Ziraj sought an adjournment to enable his senior to argue the matter.

List on 11.11.2021 for final hearing.

Since this is an IBC matter, the parties may bear in mind that this case cannot be prolonged and **hence no further adjournment will be granted on any count.**

17 TCP/21/KOB/2019

Learned counsel for the Petitioners Shri A.C.Venugopal appeared through VC. Learned counsel for the Caretaker Administrator (R1) Shri Manuel Vivera also appeared through VC. None appeared for the respondents.

Vide Order dated 29.09.2021 the Petitioners and Respondents were directed to suggest the name of a new Administrator through an affidavit within 2 weeks of receipt of the Order.

Though the Petitioners have submitted an affidavit suggesting the name of a new Administrator, the Respondents neither suggested any name nor appeared/represented.

Under the circumstances, the Caretaker Administrator shall continue till a new Administrator takes charge. The respondents are given the last chance to suggest the name of an Administrator through an affidavit on or before 19.11.2021, failing which, it would be presumed that they have no name to suggest and appropriate steps taken to appoint a new Administrator.

List on 29.11.2021. Registry is directed to issue copy of this Order to the learned counsel of both the parties as also to the Caretaker Administrator through email.

18 CA/44/KOB/2019

Learned counsel for the applicant Shri A.C.Venugopal appeared through VC. Learned counsel for the Care Taker Administrator (R1) Shri Manuel Vivera as well as learned counsel for R2 & R3 Shri P.S.Gireesh appeared through VC.

Pleadings are complete.

Today the case is posted for hearing. However, due to paucity of time, the case could not be heard.

List on 15.11.2021 for final hearing.

19 CP/30/KOB/2021

Learned counsel for the Petitioners Sm Rema Smrithi as well as learned counsel for the Respondents Shri Nebil Nizar appeared through VC.

Pleadings are complete.

List on 06.12.2021 for final hearing (High on Board).

20 CP/49/KOB/2020

Learned PCS for the petitioners Shri C.S.Vivek Kumar as well as learned counsel for the respondents Shri Terry V. James appeared through VC.

Pleadings are complete.

List on 01.12.2021 for final hearing (High on Board).

