

NCLT, KOCHI BENCH

Daily Orders – Draft

Date: 8th Dec 2021

In the Bench of: **Shri Ashok Kumar Borah, Member (Judicial) &
Shri Shyam Babu Gautam, Member (Technical)**

1 IA(C/ACT)/49/KOB/2021

This IA has been filed by the Applicants / R7, R10 and R11 with the prayer to condone the delay in filing the counter.

Learned counsel for the applicants Smt Marian GM Tharakan appeared through VC.

On verification of the application, it is seen that this IA has not been filed by the respondents who want to file any reply statement after the original time granted by this Tribunal. When this was pointed out to the learned counsel, she sought permission to withdraw this IA. Permission is granted and **IA(C/ACT)/49/KOB/2021 stands dismissed as withdrawn.**

2 IA(IBC)/188/KOB/2021

This IA has been filed under Section 33(2)(d) of the IBC, 2016 by the Liquidator seeking private sale of the asset under liquidation.

Learned Liquidator Shri Kizhekkakara Jose appeared in person through VC. He stated that no bidders were available in the previous 5 e-auctions conducted. However, M/s. Guardian Aviation Inc have given a fresh EOI to purchase through private sale for the price of USD 4.00 Lacs (INR Approximately Rs.3 crore), which they have offered in earlier occasion also.

However, the Liquidator as well as the Authorised Representative of M/s. Guardian Aviation Inc are directed to appear before this Tribunal through VC tomorrow.

List on 09.12.2021 for appearance / hearing.

3 CA/55/KOB/2020

Learned counsel for the Appellant Shri Bijoy P. Pulipra as well as learned counsel for R1 & R2 Smt Jinnu Sarah George appeared through VC.

This is a part heard case. Since NCLT-Kochi Bench has been re-constituted with effect from 06.12.2012 this case is released from Part Heard.

Accordingly, learned counsel for both the parties started their arguments afresh and learned counsel for appellant concluded his arguments.

Since the soft copy of the case files are not available with the Member (Technical), the case is adjourned to 21.12.2021 for hearing. Registry is directed to do the needful.

3 **IA(C/ACT)/50/KOB/2021 IN CA/55/KOB/2020**

This IA has been filed by the applicants / respondents under Rule 11 of the NCLT Rules, 2016 for condonation of delay of 91 days in filing the affidavit by the applicants/respondents.

It appears that vide Order dated 02.07.2021 both the parties were directed to file an affidavit stating on the date of subscription of shares before 26.8.2020, what was the constitution of the partnership in the company.

Learned counsel for the applicant Smt. Jinnu Sarah George as well as learned counsel for the Respondent Shri Bijoy P. Pulipra appeared through VC.

Smt Jinnu Sarah George submitted that the delay in filing the affidavit was due to the accident and ill-health of the earlier counsel as well as the change of vakkalath in the appeal.

On hearing the parties, we are of the considered opinion that the change of the learned counsel should not be a reason in delaying the filing of papers before the Tribunal. In the interest of justice, the prayer of the Applicant is allowed on the condition that the applicant in this IA pays the costs of **Rs.25,000/- (Rupees twenty five thousand only)** to the respondents/appellant within one week from today and submit proof of payment along with the Affidavit before the next date of hearing. **Registry is directed to accept the Affidavit, provided the applicant produces proof of payment of costs, and if the Affidavit is otherwise in order.**

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

4 **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 and learned counsel for R2 Shri Mohan Jacob George appeared through VC.

Reply Statement filed by R1 & R2 is on record.

Shri Wazim Karukapadath submitted that notice sent to R3 & R4 have been returned and sought some more time to file an affidavit in this regard and also to file rejoinder against the reply filed by R1 & R2. The Petitioner may file affidavit and rejoinder as sought for above on or before 15.12.2021.

List on 21.12.2021 for hearing.

5 IA(IBC)/142/KOB/2021 IN IBA/04/KOB/2020

This IA has been filed by the RP under Section 67 of IBC, 2016 seeking certain directions against the Corporate Debtor.

The RP Shri K.Easwara Pillai appeared in person through VC. He submitted that a related IA(IBC)/173/KOB/2021 is posted on 23.12.2021 and hence requested to list this IA along with the said IA. The request of the RP is allowed.

List this IA on 23.12.2021 along with IA(IBC)/173/KOB/2021.

6 IA(IBC)/118/KOB/2021 IN IBA/41/KOB/2020

Learned counsel for the Applicant/Corporate Debtor Shri Peer Mohammed as well as learned IRP Shri Jasin Jose and learned counsel for R2 Smt Uma Rani appeared through VC.

Learned IRP Shri Jasin Jose submitted that the Suspended Directors are not co-operating with the CIR Process.

Vide Order dated 07.12.2021 the suspended directors were directed to appear in person through VC today. Accordingly, Shri Aljo Joseph, suspended director of the Corporate Debtor appeared through VC today.

The suspended Directors are hereby directed to hand over all Book of Accounts and the entire assets of the Corporate Debtor to the Interim Resolution Professional on or before 16.12.2021.

The IRP is directed to submit the Inventory and the List of Creditors at least two days before the next date fixed.

List on 22.12.2021 for hearing.

Registry is directed to issue copy of this Order to the IRP as well as to the suspended director through email immediately.

7 CP(IB)/39/KOB/2021

This CP has been filed by the Operational Creditor Shri Jose Samuel against the Corporate Debtor Royals International Trade and Allied Products Pvt Ltd under Section 9 of the IBC, 2016 read with Rule 6 of the IBC, 2016 for initiation of Corporate Insolvency Resolution Process against the Corporate Debtor

Learned counsel for the OC Shri Johnson Gomez as well as learned counsel for the Corporate Debtor Shri Nebil Nizar appeared through VC.

Shri Johnson Gomez sought time to file the rejoinder. He is directed to file the rejoinder on or before 15.12.2021

List on 17.12.2021 for hearing.

8 CP/39/KOB/2021

This Petition has been filed by the Petitioner Smt. Accamma Eapen represented by her Power of Attorney Holder Shri M.K.Varghese against the Respondents Sungkai Plantations Pvt Ltd and 7 others alleging oppression and mismanagement of the R1 Company by Respondents 2 and 3.

Learned counsel for the Petitioner Shri Anil D. Nair appeared through VC. Learned counsel for R1 to R3 Shri Sherry Samuel Oommen also appeared through VC. Shri Shivshankar R. Panicker appeared through VC and stated that he will be appearing for Respondent 4 to 7 and sought time to file reply statement. He has not filed vakalath in this case. He stated that he will file the vakalath during the course of the day.

Shri Shivshankar R. Panicker stated that he has received only the notice and the copy of the petition has not been received. The petitioner is directed to serve the copy of the Petition to Shri Shivshankar R. Panicker within 3 days.

R4 to R7 are directed to file their Reply Statement on or before 21.12.2021, serving copy to the Petitioner, who may file rejoinder, if any, at least 3 days before the next date fixed.

List on 03.01.2022 for hearing.

8 IA(C/ACT)/54/KOB/2021 IN CP/39/KOB/2021

This IA has been filed by the applicants / R1, R2 and R3 seeking condonation of delay of 6 days in filing the reply statement in the CP and to accept the same on record.

On hearing the parties, we are of the considered opinion that for the reasons stated in the IA, the relief sought be allowed. **Hence IA(C/ACT)/54/KOB/2021 IN CP/39/KOB/2021 stands allowed and Registry is directed to place the Reply Statement on record, if it is in order.**

9 CP/36/KOB/2021

Learned counsel for the Petitioners Shri Shivshankar R. Panicker as well as learned counsel for R1 to R3 Shri Sherry Samuel Oommen appeared through VC.

Pleadings are complete.

List on 03.01.2022 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.

10 CP/104/KOB/2019

Adv Shri Srikanth Mohan appeared for the Petitioners through VC. Learned counsel for R1, R2, R20 & R25 Shri Pranoy Harilal, learned counsel for R3-R16, R18, R23 & R24 Shri Yogindunath, learned counsel for R17 Shri Abhilash Nediyaalil Abraham and learned PCS for R22 Shri Vivek Kumar appeared through VC.

Shri Pranoy Harilal sought for an adjournment to enable his senior to argue the case.

At his request, the case is adjourned to 07.01.2022 for hearing.

10 IA(C/ACT)/6/KOB/2021 IN CP/104/KOB/2019

Adv Shri Srikanth Mohan appeared for the Petitioners through VC. Learned counsel for R1, R2, R20 & R25 Shri Pranoy Harilal, learned counsel for R3-R16, R18, R23 & R24 Shri Yogindunath, learned counsel for R17 Shri Abhilash Nediyaalil Abraham and learned PCS for R22 Shri Vivek Kumar appeared through VC

Shri Pranoy Harilal sought for an adjournment to enable his senior to argue the case.
At his request, the case is adjourned to 07.01.2022 for hearing.

10 IA(C/ACT)/52/KOB/2021 IN IA(C/ACT/6/KOB/2021 IN CP/104/KOB/2019

This IA has been filed under Rule 11 of the NCLT Rules, 2016 by the Applicant/R1 for condonation of delay of 72 days in filing the reply in IA(C/ACT/6/KOB/2021 IN CP/104/KOB/2019 and to accept the reply statement on record.

Learned counsel for the applicant Shri Pranoy Harilal appeared through VC.

On hearing the learned counsel for the applicant, we are of the considered opinion that the prayer of the Applicant be allowed provided the applicant pays the costs of **Rs.5,000/- (Rupees five thousand only)** to the account of “**Ministry of Corporate Affairs**” within one week from today and submit proof of payment along with the Reply Statement.

IA(C/ACT)/52/KOB/2021 IN IA(C/ACT/6/KOB/2021 IN CP/104/KOB/2019 stands disposed of accordingly.

Registry is directed to accept the Reply Statement, provided the applicant produces proof of payment of costs, and if the Reply Statement is otherwise in order.

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

11 CP/112/KOB/2019

Adv Shri Srikanth Mohan appeared for the Petitioners through VC. Learned counsel for R1, R2, R20 & R25 Shri Pranoy Harilal, learned counsel for R3-R16, R18, R23 & R24 Shri Yogindunath, learned counsel for R17 Shri Abhilash Nediyaalil Abraham and learned PCS for R22 Shri Vivek Kumar appeared through VC.

Shri Pranoy Harilal sought for an adjournment to enable his senior to argue the case.

At his request, the case is adjourned to 07.01.2022 for hearing.

11 **IA(C/ACT)/5/KOB/2021 IN CP/112/KOB/2019**

Adv Shri Srikanth Mohan appeared for the Petitioners through VC. Learned counsel for R1, R2, R20 & R25 Shri Pranoy Harilal, learned counsel for R3-R16, R18, R23 & R24 Shri Yogindunath, learned counsel for R17 Shri Abhilash Nediyaalil Abraham and learned PCS for R22 Shri Vivek Kumar appeared through VC

Shri Pranoy Harilal sought for an adjournment to enable his senior to argue the case.

At his request, the case is adjourned to 07.01.2022 for hearing.

11 **IA(C/ACT)/53/KOB/2021 IN IA(C/ACT)/5/KOB/2021 IN CP/112/KOB/2019**

This IA has been filed under Rule 11 of the NCLT Rules, 2016 by the Applicant/R1 for condonation of delay of 72 days in filing the reply in IA(C/ACT)/5/KOB/2021 IN CP/112/KOB/2019 and to accept the reply statement on record.

Learned counsel for the applicant Shri Pranoy Harilal appeared through VC.

On hearing the learned counsel for the applicant, we are of the considered opinion that the prayer of the Applicant be allowed provided the applicant pays the costs of **Rs.5,000/- (Rupees five thousand only)** to the account of “**Ministry of Corporate Affairs**” within one week from today and submit proof of payment along with the Reply Statement.

IA(C/ACT)/52/KOB/2021 IN IA(C/ACT)/6/KOB/2021 IN CP/104/KOB/2019 stands disposed of accordingly.

Registry is directed to accept the Reply Statement, provided the applicant produces proof of payment of costs, and if the Reply Statement is otherwise in order.

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

12 **CP/113/KOB/2019**

Adv Shri Srikanth Mohan appeared for the Petitioners through VC. Learned counsel for R1, R2, R20 & R25 Shri Pranoy Harilal, learned counsel for R3-R16, R18, R23 & R24 Shri Yogindunath, learned counsel for R17 Shri Abhilash Nediyaalil Abraham and learned PCS for R22 Shri Vivek Kumar appeared through VC.

Shri Pranoy Harilal sought for an adjournment to enable his senior to argue the case.

At his request, the case is adjourned to 07.01.2022 for hearing.

12 IA(C/ACT)/4/KOB/2021 IN CP/113/KOB/2019

Adv Shri Srikanth Mohan appeared for the Petitioners through VC. Learned counsel for R1, R2, R20 & R25 Shri Pranoy Harilal, learned counsel for R3-R16, R18, R23 & R24 Shri Yogindunath, learned counsel for R17 Shri Abhilash Nediyaalil Abraham and learned PCS for R22 Shri Vivek Kumar appeared through VC.

Shri Pranoy Harilal sought for an adjournment to enable his senior to argue the case.

At his request, the case is adjourned to 07.01.2022 for hearing.

12 IA(C/ACT)/51/KOB/2021 IN IA(C/ACT)/4/KOB/2021 IN CP/113/KOB/2019

This IA has been filed under Rule 11 of the NCLT Rules, 2016 by the Applicant/R1 for condonation of delay of 72 days in filing the reply in IA(C/ACT)/4/KOB/2021 IN CP/113/KOB/2019 and to accept the reply statement on record.

Learned counsel for the applicant Shri Pranoy Harilal appeared through VC.

On hearing the learned counsel for the applicant, we are of the considered opinion that the prayer of the Applicant be allowed provided the applicant pays the costs of **Rs.5,000/- (Rupees five thousand only)** to the account of “**Ministry of Corporate Affairs**” within one week from today and submit proof of payment along with the Reply Statement.

IA(C/ACT)/52/KOB/2021 IN IA(C/ACT)/6/KOB/2021 IN CP/104/KOB/2019 stands disposed of accordingly.

Registry is directed to accept the Reply Statement, provided the applicant produces proof of payment of costs, and if the Reply Statement is otherwise in order.

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

13 CP/12/KOB/2021

Learned PCS Shri Vivekkumar appeared through VC for the petitioner. None appeared for the respondents even though a vakalath has been filed by Mr.Sreehari Indukaladharan. No counter filed by the respondents and their right to file counter has already been forfeited.

It appears from records that notice was duly served to R1 and R2. But none appeared for the Respondents in the last two hearing dates. As such, it is presumed that the Respondents are not interested to defend the case filed against them. **Therefore, R1 and R2 are hereby set ex-parte.**

List on 06.01.2022 for the hearing the arguments of the learned counsel for the Petitioner.

Registry is directed to issue copy of this Order to PCS/counsel for the parties as also to the Respondent No.2 through email immediately.