

## **NCLT, KOCHI BENCH**

Daily **Orders** – For reference purpose only

Date 9<sup>th</sup> FEB 2022

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

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

**1 CP(IB)/3/KOB/2022**

Learned counsel for the Liquidator Smt. Merin Thaliath appeared through VC.

**Orders pronounced. CP(IB)/3/KOB/2022 stands allowed vide separate Order.**

**2 IA(IBC)/195/KOB/2021**

Learned RP Shri K.Parameswaran Nair appeared in person through VC.

**Orders pronounced. IA(IBC)/195/KOB/2021 stands disposed of vide separate Order.**

**3 CP(CAA)/1/KOB/2022**

This 2<sup>nd</sup> Motion Petition has been filed under Section 230/232 of the Companies Act, 2013 by the Petitioners M/s. Bescoat Clays Pvt Ltd (Transferor Company) and Southern Clays and Minerals Pvt Ltd (Transferee Company) with the prayer to sanction the scheme of merger of the Applicant Companies.

Learned PCS for the Petitioners Shri P.P.Zibi Jose appeared through VC.

Vide order dated 16.11.2021 in CA(CAA)/01/KOB/2021 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 was also indicated that if no response is received from the aforesaid authorities within 30 days of date of receipt of the notice, it would be presumed that such authorities have no objection to the proposed Scheme of Amalgamation.

The Petitioners have filed Compliance Report against the aforesaid Order on 14.12.2021. But it appears that the petitioners have not yet filed the proof of service (A/D card or Postal Track Report) with regard to the notice issued to the above statutory authorities. The Petitioners are therefore directed to submit the proof of service with an affidavit within 7 days.

The Petitioners are also directed to make necessary paper publications in the same newspapers, as in the case of 1<sup>st</sup> motion, in English Daily "Indian Express" and Malayalam Daily "Mathrubhoomi" which have wide circulation, 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 before the next date fixed.

**List on 30.03.2022 for hearing.**

#### **4      IA(IBC)/24/KOB/2022**

This IA has been filed under Section 22(3)(b) of the IBC, 2016 by the Committee of Creditors with the prayer to replace the IRP Shri Krishna Raj M by Shri Prathap Pillai Advocate as the Resolution Professional of the Corporate Debtor.

Learned counsel for the Committee of Creditors Shri Sunil Shankar appeared through VC. Learned IRP Shri Krishna Raj also appeared through VC.

Shri Krishna Raj is directed to clarify through a Memo within 2 weeks as to why he is unwilling to continue as RP in this CIR Process.

**List on 01.03.2022 for hearing.**

#### **5      IA(IBC)/25/KOB/2022**

This IA has been filed under Section 35 of the IBC, 2016 read with Rule 11 of the NCLT Rules, 2016 by the Liquidator against the Secretary, Erattupetta Municipality with the prayer to direct the respondent to discharge the total overdue amount of Rs.19,57,637/- together with interest @ 18% till the date of realization of dues.

Learned counsel for the liquidator Shri A.G.Sathyanarayana appeared through VC.

The liquidator is directed to issue notice enclosing a copy of the application to the respondent and produce proof of service (AD Card/Postal Track report) with an affidavit within two weeks.

Respondent is directed to file reply statement within 7 days of receipt of notice.

**List on 02.03.2022 for hearing.**

#### **6      IA(IBC)/26/KOB/2022**

This IA has been filed by the IRP under Section 22(3)(b) of the IBC, 2016 by the Financial Creditor with the prayer to appoint Shri CA Mahalingam Suresh Kumar, Insolvency Professional as the Resolution Professional in the matter of CIR Process against the Corporate Debtor Tip Top Furniture Pvt Ltd.

Learned counsel for the FC Shri A.G.Sathyanarayana appeared through VC. Learned IRP Shri C.J. Davis also appeared through VC.

Heard the submissions of both sides and perused the records.

**IA(IBC)/26/KOB/2022 stands rejected vide separate Order.**

## **6 REPORT/38/KOB/2022**

This Report has been filed under Regulation 13(2) (d) and 17(1) of the IBC, 2016 by the IRP in the matter of CIR Process against the Corporate Debtor Tip Top Furniture Pvt Ltd.

Learned IRP Shri C.J.Davis appeared in person through VC.

**Perused the report. Report is taken on record. Registry is directed to place the Report in CP/IB/29/KOB/2021.**

## **7 REPORT/39/KOB/2022**

This Report has been filed under Regulation 17(1) of the IBC, 2016 by the IRP in the matter of CIR Process against the Corporate Debtor Periyar Agro Food Industries Pvt Ltd

Learned IRP Shri George Varkey appeared in person through VC.

**Perused the report. Report is taken on record. Registry is directed to place the Report in CP/IB/20/KOB/2021.**

## **8 CP(IB)/41/KOB/2021**

Learned IRP Shri Mohanan T.S. appeared in person through VC.

**Since the IA(IBC)/19/KOB/2022 has been allowed vide separate Order, this CP(IB)/41/KOB/2021 stands disposed as withdrawn vide separate Order.**

## **8 IA(IBC)/19/KOB/2022 in CP(IB)/41/KOB/2021**

This IA has been filed under Section 12A of the IBC, 2016 and Regulation 30A of the IBBI (Insolvency Resolution Process for corporate Persons) Regulations, 2016 by the Interim Resolution Professional seeking withdrawal of CIR Process against the Corporate Debtor.

Learned IRP Shri Mohanan T.S. appeared in person through VC along with his learned PCS Shri Vinu Thomas.

Heard the submissions of the learned PCS for the IRP and perused the records.

**IA(IBC)/19/KOB/2022 in CP(IB)/41/KOB/2021 stands allowed vide separate Order.**

## **8 IA(IBC)/28/KOB/2022 IN IA(IBC)/19/KOB/2022**

This IA has been filed under Section 12A and Regulation 30A of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 read with Rule 11 of the NCLT Rules, 2016 for withdrawal of the CIR Process initiated against the Corporate Debtor Fontana Impex Pvt Ltd.

Learned IRP Shri Mohanan T.S. appeared in person through VC along with his learned PCS Shri Vinu Thomas.

Heard the submissions of the learned PCS for the IRP and perused the records.

**IA(IBC)/28/KOB/2022 stands disposed of along with IA(IBC)19/KOB/2022.**

## **9 CP/128/KOB/2019**

Learned counsel for the Petitioner Shri Babu Cherukara as well as learned counsel for R1 to R3 Shri Philip Mathew and learned counsel for the Additional Respondents 5 to 7 Ms Karthika K.J. also appeared through VC.

It appears that the petitioners have filed an MA 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.

On the other hand, R 1 to R3 have an IA seeking an order allowing them to purchase the shares held by respondents/ Petitioners 1 & 2 at a price of Rs.17,400/- per share.

The learned counsel for the petitioners stated that the petitioners are ready to purchase the shares of respondents for Rs. 17,400/ per share. In the light of the

above, the Petitioners may file an IA within two weeks if they are interested to purchase the entire shares of R1 to R3 at a price of Rs.17,400/- per share.

**List on 07.03.2022 for hearing.**

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

Learned counsel for the Applicant Shri Babu Cherukara as well as 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 07.03.2022 for hearing.**

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

Learned counsel for the Applicants Shri Philip Mathew as well as learned counsel for R1 & R2 Shri Babu Cherikara appeared through VC. None appeared for 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 07.03.2022 for hearing.**

## **10 CP(CAA)/3/KOB/2021**

Vide order dated 24.01.2022 the petitioner was directed to comply with the condition stipulated in the relevant circular dated 21.08.2019 issued by Ministry of Corporate Affairs with regard to the "appointed date" in the matter of amalgamation.

Shri Paulose C. Abraham submitted that clarifications with regard to the “appointed date” have already been provided in the Scheme of Amalgamation itself.

Learned counsel for the Petitioner is directed to submit the clarifications regarding the “appointed date” through a memo within 7 days.

**List on 22.02.2022 for hearing.**

## **11 CP(CAA)/4/KOB/2021**

Vide order dated 24.01.2022 the petitioner was directed to comply with the condition stipulated in the relevant circular dated 21.08.2019 issued by Ministry of Corporate Affairs with regard to the “appointed date” in the matter of amalgamation.

Shri Paulose C. Abraham submitted that clarifications with regard to the “appointed date” have already been provided in the Scheme of Amalgamation itself.

Learned counsel for the Petitioner is directed to submit the clarifications regarding the “appointed date” through a memo within 7 days.

**List on 22.02.2022 for hearing.**

## **12 CP/41/KOB/2021**

This CP has been filed under Section 73(4), 76-A & 213 of the Companies Act, 2013 by Shri Bastin Gomez Headmon and another against the Respondents Annakairali Hospitality Pvt Ltd and others seeking two main reliefs and two interim reliefs.

Learned counsel for the Petitioner Shri Shinu J. Pillai appeared through VC.

It appears that during the last date of hearing Adv Arun Chand appeared through VC stating that he has filed vakkalath for R3 today and vakkalath for other respondents would be filed within 10 days. But Registry reported that no vakkalath has been filed by any of the Respondents.

Today Adv Shri Vinayak appeared through VC and sought time to file the vakkalath and counter. Shri Shinju J. Pillai has not raised any objection to grant time to the respondents to file their vakkalath and Reply Statement.

Adv Shri Vinayak is directed to file the vakkalath on behalf of the Respondents immediately. The respondents are given **the last and final opportunity to file their Reply Statement within 7 days, failing which, their right to file the Reply Statement shall stand forfeited.**

**List on 23.02.2022 for hearing.**

