

NCLT, KOCHI BENCH

Daily Orders – Draft

Date: 11th Nov 2021

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

1 IA(IBC)/165/KOB/2021 IN CP(IB)/33/KOB/2021

This is an IA filed by the applicant to amend the details in respect of the amount claimed to be in default and the date of which the default occurred.

Learned counsel for the applicant Shri A.V.Thomas appeared through VC. Smt. Marian G.Tharakan, Advocate appeared and stated that she is appearing for the respondent and that she will be filing the vakalath today. We have heard both parties.

On hearing the parties and also on perusal of the records, this Tribunal is of the opinion that the prayer of the Applicant to amend the CP(IB)/33/KOB/2021 may be allowed. Hence the **IA(IBC)/165/KOB/2021 IN CP(IB)/33/KOB/2021 stands allowed.**

The applicant is directed submit the amended CP(IB) on or before 16.11.21. Registry is directed to accept the amended CP(IB), if it is in otherwise in order.

2 CP(IB)/33/KOB/2021 resto

This is a Petition filed by the Financial Creditor Phoenix Arc Pvt Ltd (Trustee of Phoenix Trust FY 17-8) against the Corporate Debtor, Kerala Chambers of Commerce and Industries Ltd, under Section 7 of the IBC, 2016 read with Rule 4 of the IB(AAA) Rules, 2016.

Learned counsel for the applicant Shri A.V.Thomas appeared through VC. Smt. Marian G.Tharakan, Advocate appeared and stated that she is appearing for the respondent and that she will be filing the vakalath today

Since the application filed by the Petitioner to amend the CP(IB) has been allowed vide today's proceedings, the petitioner is directed to serve copy of the amended petition to the learned counsel for the Corporate Debtor within 7 days.

The Corporate Debtor is directed to file the reply well before the next date fixed.

List on 22.11.2021.

3 CP(IB)/35/KOB/2021

This CP (IB) has been filed by the Financial Creditor The Kerala State Co-Operative Bank Ltd against the Personal Guarantor Shri Babu George claiming a Debt amount of Rs.65,06,79,601/-

Adv. Shri Akhil Suresh appeared for the FC. Heard his arguments and perused the case records.

Reserved for Orders.

4 CP(IB)/36/KOB/2021

This CP (IB) has been filed by the Financial Creditor The Kerala State Co-Operative Bank Ltd against the Personal Guarantor Shri K.Sivadas claiming a Debt amount of Rs.65,06,79,601/-

Adv. Shri Akhil Suresh appeared for the FC. Heard his arguments and perused the case records.

Reserved for Orders.

5 IA(IBC)/169/KOB/2021 IN TIBA/35/KOB/2019

This IA has been filed by the Liquidator against the suspended Managing Director of the Corporate Debtor seeking the following reliefs:

1. Pass an order directing Mr. Muraly Narayanan, Managing Director of Goodwin Packpet Private Limited to pay cash balance of Rs.2,07,826/- of the Company with him to the Liquidation Account of the Company maintained by the Liquidator with CSB Bank Ltd., Palarivattom Branch, Kochi.
2. Pass an order directing Mr. Muraly Narayanan, Managing Director of Goodwin Packpet Private Limited to hand over address and other contact details of debtors of Goodwin Packpet Private Limited to the Liquidator.
3. Pass an order directing Mr. Muraly Narayanan, Managing Director of Goodwin Packpet Private Limited to hand over the records of the Company including books of accounts to the Liquidator from the date of incorporation of the Company to the date of commencement of CIRP.
4. Pass such other order or orders that the Hon'ble Tribunal may deem fit and proper in the circumstances of the case.

The Liquidator is directed to issue fresh notice to the Respondent (Shri Muraly Narayanan, Managing Director of Goodwin Packpet Pvt Ltd) 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 respondent through email. Respondent is directed to file the counter within 15 days serving a copy to the learned Liquidator.

Registry is also directed to issue copy of this order to the Respondent through email.

List on 30.11.2021.

6 IA(C/ACT)/14/KOB/2021 IN CP/25/KOB/2021

Learned counsel for the applicant Shri Akhil Suresh as well as learned counsel for R1 Shri Sajen Thampan appeared through VC. A proxy counsel for learned counsel for R4 Smt. Anila Peter also appeared through VC.

This is an IA filed by the applicant/R1 under Rule 49(2) read with Rule 11 of the NCLT Rules 2016 with the prayer to recall and set aside the order dated 22.07.2021 to the extent it sets the Applicant Company as ex-parte.

The Vakalat filed by Shri Akhil Suresh for the applicant/R1 Company supported by the Board Resolution is on record.

On hearing the parties and also on perusal of the records, this Tribunal is of the opinion that the prayer of the Applicant to set aside the ex-parte order be allowed. Hence the **IA(C/ACT)/14/KOB/2021 IN CP/25/KOB/2021 stands allowed.**

Registry is directed to restore the name of Respondent No.1 in the CP/25/KOB/2021.

7 COMP.APPL/94/KOB/2021 IN CP/25/KOB/2021

Learned counsel for the applicant Shri Sajen Thampan as well as learned counsel for R2 & R3 Shri Akhil Suresh appeared through VC. A proxy counsel for learned counsel for R4 Smt. Anila Peter also appeared through VC.

This IA has been filed by the applicant/petitioner under Section 424(2)(b) of the Companies Act, 2013 read with Rule 131 of the NCLT Rules 2016 seeking direction to R1 to R3 to produce certain documents.

Reply filed on behalf of R1 to R3 has already been taken on record.

Heard the learned counsel for both the parties. The R1 to R3 are hereby directed to provide the copies of the eligible documents to the applicant to be provided to a shareholder/promoter under Section 17 of Companies Act, 2013 on or before 26.11.2021.

COMP.APPL/94/KOB/2021 IN CP/25/KOB/2021 stands disposed of accordingly.

8 COMP.APPL/95/KOB/2021 IN CP/25/KOB/2021

Learned counsel for the applicant Shri Sajen Thampan as well as learned counsel for R2 & R3 Shri Akhil Suresh appeared through VC. A proxy counsel for learned counsel for R4 Smt. Anila Peter also appeared through VC.

This is an IA filed by the applicant/petitioner under Rule 32 read with Rules 11, 15 and 42 of the NCLT Rules 2016 with the prayer to enlarge the time for filing the rejoinder by the petitioner until the respondents 1 to 3 produce the documents as prayed for.

Since rejoinder has already been filed by the Petitioners in the CP/25/KOB/2021 and this Tribunal accepted the said rejoinder vide order in CA/99/KOB/2021, this CA has become infructuous and hence closed.

9 COMP.APPLN/99/KOB/2021 IN CP/25/KOB/2021

This CA has been filed by the applicant/petitioner under Rule 11 read with Rule 40 & 43 of the NCLT Rules, 2016 with the prayer to accept the rejoinder filed by him.

On hearing the parties and also on perusal of the records, this Tribunal is of the opinion that the prayer of the Applicant may be allowed. Hence the **COMP.APPLN/99/KOB/2021 IN CP/25/KOB/2021 stands allowed.**

Registry is directed to accept the rejoinder and place it in the file of CP/25/KOB/2021, if it is otherwise in order.

10 CP/25/KOB/2021

Learned counsel for the applicant Shri Sajen Thampan as well as learned counsel for R1 to R3 Shri Akhil Suresh appeared through VC. A proxy counsel for learned counsel for R4 Smt. Anila Peter also appeared through VC.

R1 was set exparte vide order dated 22.07.2021. Vide today's proceedings the said ex-parte order has been set aside and the Vakalat filed by Shri Akhil Suresh for the R1 supported by the Board Resolution is taken on record.

R2 & R3 have already filed their counter. Shri Akhil Suresh today submitted that he is not filing counter for R1 and that the counter filed by R2 & R3 may be considered as the counter of R1 to R3. His submission is recorded. Applicant has already filed rejoinder.

Pleadings are complete.

List on 14.12.2021 for hearing.

11 IA(C/ACT)/15/KOB/2021 IN CP/26/KOB/2021

This IA has been filed by the applicant/R1 under Rule 49(2) read with Rule 11 of the NCLT Rules 2016 with the prayer to recall and set aside the order dated 22.07.2021 to the extent it sets the Applicant Company as ex-parte.

The Vakkalath filed by Shri Akhil Suresh for the applicant/R1 Company supported by the Board Resolution is on record.

On hearing the parties and also on perusal of the records, this Tribunal is of the opinion that the prayer of the Applicant to set aside the ex-parte order may be allowed. Hence the **IA(C/ACT)/15/KOB/2021 IN CP/26/KOB/2021 stands allowed.**

Registry is directed to restore the name of Respondent No.1 in the CP/26/KOB/2021.

12 COMP.APPL/93/KOB/2021 IN CP/26/KOB/2021

Learned counsel for the applicant Shri Sajen Thampan as well as learned counsel for R1 & R3 Shri Akhil Suresh appeared through VC. A proxy counsel for learned counsel for R4 Smt. Anila Peter also appeared through VC.

This CA has been filed by the applicant/petitioner under Section 424(2)(b) of the Companies Act, 2013 read with Rule 131 of the NCLT Rules 2016 seeking direction to R1 to R3 to produce certain documents.

Reply filed on behalf of R1 to R3 has been taken on record.

Heard the learned counsel for both the parties. The R1 to R3 are hereby directed to provide the copy of the eligible documents to the applicant to be provided to a shareholder/promotor under Section 17 of Companies Act, 2013 on or before 26.11.2021.

COMP.APPL/93/KOB/2021 IN CP/26/KOB/2021 stands disposed of accordingly.

13 COMP.APPL/96/KOB/2021 IN CP/26/KOB/2021

Learned counsel for the applicant Shri Sajen Thampan as well as learned counsel for R1 to R3 Shri Akhil Suresh appeared through VC. A proxy counsel for learned counsel for R4 Smt. Anila Peter also appeared through VC.

This CA has been filed by the applicant/petitioner under Rule 32 read with Rules 11, 15 and 42 of the NCLT Rules 2016 with the prayer to enlarge the time for filing the rejoinder by the petitioner until the respondents 1 to 3 produce the documents as prayed for.

After hearing the learned counsel for both the parties, the CA/96/KOB/2021 is allowed and the rejoinder filed by the applicant is taken on record. Registry is directed to place it on record, if it is otherwise in order.

14 CP/26/KOB/2021

Learned counsel for the applicant Shri Sajen Thampan as well as learned counsel for R2 & R3 Shri Akhil Suresh appeared through VC. A proxy counsel for learned counsel for R4 Smt. Anila Peter also appeared through VC.

R1 was set exparte vide order dated 22.07.2021. Vide today's proceedings the said ex-parte order has been set aside and the Vakkalath filed by Shri Akhil Suresh for the R1 supported by the Board Resolution is on record.

R2 & R3 have already filed their counter. Shri Akhil Suresh today submitted that he is not filing separate counter for R1 and that the counter filed by R2 & R3 may be considered as the counter filed by the R1 to R3 also. His submission is recorded.

Pleadings are complete.

List on 14.12.2021 for hearing.

15 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 16.11.2021** along with **MA(IBC)/17/KOB/2021 IN IA(IBC)/13/KOB/2021 IN TIBA/11/KOB/2019.**

List on 16.11.2021.

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

This application has been 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 as well as learned counsel for the respondents Shri V.K. Sajith appeared through VC. The suspended Director of the CD Smt PV Mini also 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.

During the hearing of this case on 29.10.2021 Adv. Shri V.K.Sajith, who appeared for the Respondents through VC had submitted that the vehicles along with the keys

and RC documents, 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. will be handed over to the Monitoring Agent on or before 03.11.2021. Accordingly, the matter was posted on 05.11.2021 for compliance of the Order by the Respondents. The Respondents were also directed to appear through VC on 05.11.2021.

However, when the matter has taken up for hearing on 05.11.2021 learned counsel Shri 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 would be fully complied with, within 3 days positively. The suspended Director Smt PV Mini, who appeared through VC on 05.11.2021 had also stated that she is ready to comply the order of this Tribunal to hand over the aforesaid items, hence she was directed not to attend during next posting date.

However, when the case has come up for hearing on 09.11.2021, the Monitoring Agent Shri Bijoy Pulipra submitted that the respondents have not fully complied with the Order of this Tribunal. Two cars, keys of the cabin of the Managing Director, original set of keys of the locker inside the cabin, etc. have not yet been handed over to the Monitoring Agent.

Accordingly, vide Order dated 09.11.2021 the Respondents were given direction to fully comply with the Order dated 29.10.2021 within 24 hours of receipt of the Order through Email, failing which, appropriate proceedings would follow.

Today the suspended Director Smt PV Mini appeared through VC along with her counsel Shri Sajith and stated that one vehicle is at Chennai and another one is at Kochi and they failed to comply the Order of this Tribunal in view of the flood situation at Chennai. The Bench observed that the Suspended Directors are dragging the matter and hence it is necessary to take strict action against the Suspended Directors of the Corporate Director for their non-compliance of the order.

The Monitoring Agent as well as the Suspended Director Smt PV Mini are directed to submit an affidavit within 48 hours of receipt of this Order through email, stating under which District Collectors jurisdiction, the Cars are available now,. The Suspended Directors are also directed to appear before this Tribunal through VC in the next date fixed.

List on 16.11.2021 for the appearance of the Respondents/Suspended Directors and report compliance of order dated 29.10.2021 and this order.

Registry is directed to issue copy of this Order to the learned counsel of both the parties and also to the Respondents / Suspended Directors through Email immediately.

17 REPORT NO. 28/KOB/2020 IN TIBA/34/KOB/2019

Learned RP Shri Sathiq Buhari as well as learned counsel for the Operational Creditor Shri Kalyan Jhabakh appeared through VC.

Shri Kalyan Jhabakh pointed out that the RP himself in his Report has sought permission to relieve him from the duties as RP.

Heard RP as well as the learned counsel for the OC.

Reserved for Orders.

18 MA/15/KOB/2020 IN TIBA/34/KOB/2019

This is an MA filed by Wittur Elevator Components India Pvt Ltd, the sole member of CoC under Section 27 and Section 70 of the IBC 2016 read with Rule 11 of the NCLT Rules 2016 seeking 6 reliefs, which include to change the RP and refer the case to the IBBI for proposing the name of a new RP.

Learned RP Shri Sathiq Buhari as well as learned counsel for the Operational Creditor Shri Kalyan Jhabakh appeared through VC. Shri Jhabakh stated that since the Hon'ble High Court has disposed of the matter pending before it, this MA may be considered for orders.

Heard the learned counsel for the applicant and the learned Resolution Professional.

Reserved for Orders.

19 MA/143/KOB/2020 IN TIBA/34/KOB/2019

Learned RP Shri Sathiq Buhari as well as learned counsel for the Operational Creditor Shri Kalyan Jhabakh and learned counsel for the CD Shri Vinod PV appeared through VC.

This MA has been filed by the applicant/RP to liquidate the CD under Section 33(2) of IBC, 2016 for ordering liquidation of the CD.

Heard both sides and perused the records.

Reserved for Orders.

20 IA(IBC)/168/KOB/2021 IN MA/144/KOB/2020 IN TIBA/34/KOB/2019

Learned counsel for applicant Shri Vinod PV as well as learned RP appeared through VC.

This IA has been filed by the Suspended Directors of the Corporate Debtor under section 5 of the Limitation Act read with Rule 11 of the NCLT Rules, 2016 with the prayer to condone the delay of 17 days in filing the reply in MA/144/KOB/2020 in TIBA/34/KOB/2019.

On hearing the parties and also on perusal of the records, this Tribunal is of the opinion that the prayer of the Applicant be allowed. Hence the IA(IBC)/168/KOB/2021 IN MA/144/KOB/2020 IN TIBA/34/KOB/2019 stands allowed.

Registry is directed to accept the counter and place the same on file of MA/144/KOB/2020 IN TIBA/34/KOB/2019, if it is otherwise in order.

21 MA/144/KOB/2020 IN TIBA/34/KOB/2019

Learned RP Shri Sathiq Buhari as well as learned counsel for the Operational Creditor Shri Kalyan Jhabakh and learned counsel for the CD Shri Vinod PV appeared through VC.

Both the parties submitted that the Hon'ble High Court of Kerala vide order dated 08.09.2021 in WP(C) No.5009/2020 has set aside the Order of this Tribunal dated 13.02.2020.

Vide today's proceedings, direction has been given to the Registry to accept the counter filed by the CD.

Heard both sides and perused the case records.

Reserved for Orders.

22 TCP/52/KOB/2019 (CP/7/2017)

Learned counsel for the Petitioners Shri Pranav Gopalakrishnan appeared through VC. Adv Smt. Meghan L appeared for the respondents through VC.

Respondents 1 to 6 have already filed their counter and the petitioner filed rejoinder to that counter. Other respondents have not filed their counter, even though sufficient time was granted. **Hence their right to file counter stand forfeited.**

Pleadings are treated as complete.

List on 07.12.2021 (High on Board).

23 CA(CAA)/2/KOB/2021

Learned counsel for the Appellant Shri Sumit Agarwal appeared through VC.

Heard the learned counsel for the applicant and perused the records.

Reserved for Orders.

24 CA(CAA)/3/KOB/2021

Learned counsel for the Appellant Shri Sumit Agarwal appeared through VC.

Heard the learned counsel for the applicant and perused the records.

Reserved for Orders.

25 CP(IBC)/20/KOB/2021

Learned counsel for the Operational Creditor Shri Anil D. Nair as well as learned counsel for the Corporate Debtor Shri Irfan.Ziraj appeared through VC.

Due to paucity of time, adjourned to 16.11.2021 for final hearing (High on Board).