

NCLT, KOCHI BENCH**Daily Orders – Draft**

Date: 15th Nov 2021

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

1 MA(IBC)/30/KOB/2021 IN IA(IBC)/21/KOB/2021 IN TIBA/03/KOB/2019

This MA has been filed by the Petitioner Canara Bank against RBL Bank Ltd and 3 others under Section 60(5) of the IBC, 2016 with the prayer to direct to amend the Resolution Plan and incorporate the rights of the Petitioner/dissenting creditor.

The Applicant is directed to issue fresh notice to the respondents 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 fixed. Registry is also directed to issue notice to the respondents through email. Respondents may file their counter within two weeks.

List on 01.12.2021 for hearing.

2 CP/18/KOB/2020

Learned counsel for the Petitioner Smt Deepthi Susan George as well as learned counsel for R2 Shri Shameem Ahamed appeared through VC. None appeared for other respondents.

Heard the learned counsel for both the parties.

Reserved for Orders.

Written submission of the learned counsel for R2 is on record. The petitioner and R1, R3 and R5 may submit their written submission in brief (limiting 3-4 pages) within 5 days from today.

3 IA(C/ACT)/9/KOB/2021 IN CP/18/KOB/2020

This is an IA filed by the applicant/petitioner under Rule 32 of the NCLT Rules 2016 seeking direction to maintain status quo of the affairs of the R1 Company.

Heard the learned counsel for both the parties.

Reserved for Orders.

4 IA(IBC)/145/KOB/2021 IN MA/100/KOB/2020 IN IBA/45/KOB/2019

This is an IA filed under Rule 11 read with 34 of NCLT Rules 2016 by the Liquidator seeking directions in the matter of release of security interest from Liquidation Estate in regard to the request received from M/s. Daimler Financial Services Pvt Ltd.

Learned counsel for the liquidator Shri Krishnan Unni appeared through VC. Learned counsel for Daimler Financial Services India Pvt Ltd Shri Krusch Antony also appeared through VC.

Reply filed by Daimler Financial Services India Pvt Ltd is on record.

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

Reserved for Orders.

5 REPORT/88/KOB/2021 IN IBA/42/KOB/2020

This Report has been filed by the RP Shri Kizhakkekara Kuriakose Jose under Section 99 of the IBC, 2016 in the matter of IB Application filed by the FC State Bank of India against the Personal Guarantor Sahadulla MI.

The RP Shri Kizhakkekara Kuriakose Jose appeared in person through VC and stated that this report is a final report.

This report is taken on record. Registry will put p the record during the hearing of this matter.

6 IBA/42/KOB/2020

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

Vide Order dated 06.10.2021 in IBA/42/KOB/2020, IBA/43/KOB/2020, IBA/44/KOB/2020 and IBA/45/KOB/2020 Shri Kizhakkekara Kuriakose Jose was

appointed as Resolution Professional and directed him to make the recommendations with reasons in writing for acceptance or rejection of this IB Application within 10 days as envisaged under the provisions of Section 99 of the Code.

The RP Shri Kizhakkekara Kuriakose Jose appeared in person through VC and stated that the report filed by him in this case is a final report.

The RP in his report has stated that Demand Notice dated 17.11.2020 issued under rule 7(1) of the IB (Application to Adjudicating Authority for Insolvency Resolution Process of Personal Guarantors to Corporate Debtors) Rules, 2019 was delivered on 21.11.2020 as evidenced by India Post Track Consignment report annexed to the Application. Sahadulla M.I. had filed a reply dated 30.11.2020 through Advocate disputing the liability on account of various reasons stated in the reply. No repayment has been made within fourteen days of receipt of notice satisfying the requirement of Section 95(4)(b). The RP in his report recommended the acceptance of the application filed under Section 95(1) of the IBC, 2016 by the applicant State Bank of India against the Debtor Sahadulla M.I.

The Applicant is directed to issue fresh notice to the Respondent/Personal Guarantor attaching the copy of the aforesaid Report of the Resolution Professional 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 Personal Guarantor through email. The Personal Guarantor is directed to file the counter within 2 weeks serving a copy to the applicant.

List on 09.12.2021 for hearing.

7 REPORT/89/KOB/2021 IN IBA/43/KOB/2020

This Report has been filed by the RP Shri Kizhakkekara Kuriakose Jose under Section 99 of the IBC, 2016 in the matter of IB Application filed by the FC State Bank of India against the Personal Guarantor Zaheer E.N.

The RP Shri Kizhakkekara Kuriakose Jose appeared in person through VC and stated that this report is a final report.

This report is taken on record. Registry will put p the record during the hearing of this matter.

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8 IBA/43/KOB/2020

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

Vide Order dated 06.10.2021 in IBA/42/KOB/2020, IBA/43/KOB/2020, IBA/44/KOB/2020 and IBA/45/KOB/2020 Shri Kizhakkekara Kuriakose Jose was

appointed as Resolution Professional and directed him to make the recommendations with reasons in writing for acceptance or rejection of this IB Application within 10 days as envisaged under the provisions of Section 99 of the Code.

The RP Shri Kizhakkekara Kuriakose Jose appeared in person through VC and stated that the report filed by him in this case is final.

The RP in his report has stated that Demand Notice dated 17.11.2020 issued under rule 7(1) of the IB (Application to Adjudicating Authority for Insolvency Resolution Process of Personal Guarantors to Corporate Debtors) Rules, 2019 was delivered on 21.11.2020 as evidenced by India Post Track Consignment report annexed to the Application. Zaheer E.N. had filed a reply dated 30.11.2020 through Advocate disputing the liability on account of various reasons stated in the reply. No repayment has been made within fourteen days of receipt of notice satisfying the requirement of Section 95(4)(b). The RP in his report recommended the acceptance of the application filed under Section 95(1) of the IBC, 2016 by the applicant State Bank of India against the Debtor Zaheer E.N.

The Applicant is directed to issue fresh notice to the Respondent/Personal Guarantor attaching the copy of the aforesaid Report of the Resolution Professional through Registered Post with A/D / Speed post with A/D 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 Personal Guarantor through email. The Personal Guarantor is directed to file the counter within 2 weeks serving a copy to the applicant.

List on 09.12.2021 for hearing.

9 REPORT/90/KOB/2021 IN IBA/44/KOB/2020

This Report has been filed by the RP Shri Kizhakkekara Kuriakose Jose under Section 99 of the IBC, 2016 in the matter of IB Application filed by the FC State Bank of India against the Personal Guarantor E.Iqbal.

The RP Shri Kizhakkekara Kuriakose Jose appeared in person through VC and stated that his report is final.

This report is taken on record. Registry will put p the record during the hearing of this matter.

10 IBA/44/KOB/2020

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

Vide Order dated 06.10.2021 in IBA/42/KOB/2020, IBA/43/KOB/2020, IBA/44/KOB/2020 and IBA/45/KOB/2020 Shri Kizhakkekara Kuriakose Jose was appointed as Resolution Professional and directed him to make the recommendations with reasons in writing for acceptance or rejection of this IB

Application within 10 days as envisaged under the provisions of Section 99 of the Code.

The RP Shri Kizhakkekara Kuriakose Jose appeared in person through VC and stated that the report filed by him in this case is final.

The RP in his report has stated that Demand Notice dated 17.11.2020 issued under rule 7(1) of the IBC (Application to Adjudicating Authority for Insolvency Resolution Process of Personal Guarantors to Corporate Debtors) Rules, 2019 was delivered on 21.11.2020 as evidenced by India Post Track Consignment report annexed to the Application. E.Iqbal had filed a reply dated 30.11.2020 Advocate disputing the liability on account of various reasons stated in the reply. No repayment has been made within fourteen days of receipt of notice satisfying the requirement of Section 95(4)(b). The RP in his report recommended the acceptance of the application filed under Section 95(1) of the IBC, 2016 by the applicant State Bank of India against the Debtor E.Iqbal

The Applicant is directed to issue fresh notice to the Respondent/Personal Guarantor attaching the copy of the aforesaid Report of the Resolution Professional through Registered Post with A/D / Speed post with A/D 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 Personal Guarantor through email. The Personal Guarantor is directed to file the counter within 2 weeks serving a copy to the applicant.

List on 09.12.2021 for hearing.

11 REPORT/91/KOB/2021 IN IBA/45/KOB/2020

This Report has been filed by the RP Shri Kizhakkekara Kuriakose Jose under Section 99 of the IBC, 2016 in the matter of IB Application filed by the FC State Bank of India against the Personal Guarantor E.N.Najeeb.

The RP Shri Kizhakkekara Kuriakose Jose appeared in person through VC and stated that his report is final.

This report is taken on record. Registry will put p the record during the hearing of this matter.

12 IBA/45/KOB/2020

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

Vide Order dated 06.10.2021 in IBA/42/KOB/2020, IBA/43/KOB/2020, IBA/44/KOB/2020 and IBA/45/KOB/2020 Shri Kizhakkekara Kuriakose Jose was appointed as Resolution Professional and directed him to make the recommendations with reasons in writing for acceptance or rejection of this IB

Application within 10 days as envisaged under the provisions of Section 99 of the Code.

The RP Shri Kizhakkekara Kuriakose Jose appeared in person through VC and stated that the report filed by him in this case is final.

The RP in his report has stated that Demand Notice dated 17.11.2020 issued under rule 7(1) of the IBC (Application to Adjudicating Authority for Insolvency Resolution Process of Personal Guarantors to Corporate Debtors) Rules, 2019 was delivered on 21.11.2020 as evidenced by India Post Track Consignment report annexed to the Application. E.M. Najeeb had filed a reply through dated 30.11.2020 advocate disputing the liability on account of various reasons stated in the reply. No repayment has been made within fourteen days of receipt of notice satisfying the requirement of Section 95(4)(b). The RP in his report recommended the acceptance of the application filed under Section 95(1) of the IBC, 2016 by the applicant State Bank of India against the Debtor E.M.Najeeb.

The Applicant is directed to issue fresh notice to the Respondent/Personal Guarantor attaching the copy of the aforesaid Report of the Resolution Professional through Registered Post with A/D / Speed post with A/D 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 Personal Guarantor through email. The Personal Guarantor is directed to file the counter within 2 weeks serving a copy to the applicant.

List on 09.12.2021 for hearing.

13 CP(IB)/32/KOB/2021

Learned counsel for the Operational Creditor Shri Clintly Johny appeared through VC.

This IB case has been filed under Section 9 of the IBC, 2016 by the Operational Creditor M/s BMSS Steel Industries Pvt Ltd against the Corporate Debtor M/s. BHEL Electrical Machines Ltd claiming a debt amount of Rs.5,22,852.25/-.

It appears from records that notice has been duly served to the Corporate Debtor on 08.11.2021 as per Postal Track Consignment report.

Since service is complete, list for final hearing on 20.12.2021. If the Corporate Debtor is not appearing on the next date fixed, the case will be decided based on available records.

List on 20.12.2021.

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

14 IA/26/KOB/2019 IN CP/74/KOB/2019

Adv Shri Josey Stephen appeared on behalf of the learned counsel for the Applicant Shri Philip Mathew. Learned counsel for R1 Smt Telma Raju, learned counsel for R4 Smt. Bhairavi, and learned counsel for R3 Shri Ameerul Millath appeared through VC. None appeared for ROC(R5).

Shri Josey Stephen, Smt. Telma Raju and Smt Bhairavi sought an adjournment to enable their senior to argue the matter. Request is allowed.

List this IA on 13.12.2021 for hearing.

15 IA/47/KOB/2020 IN CP/74/KOB/2019

Learned counsel for the applicant Shri Thomas Johan Ambooken appeared through VC. Adv Shri Josey Stephen appeared on behalf of the learned counsel for the R2 Shri Philip Mathew. Learned counsel for R1 Smt Telma Raju, learned counsel for R4 Smt. Bhairavi, and learned counsel for R3 Shri Ameerul Millath appeared throu VC. None appeared for ROC(R5).

Shri Josey Stephen, Smt. Telma Raju and Smt Bhairavi sought an adjournment to enable their senior to argue the matter. Allowed.

List this IA on 13.12.2021 for hearing.

16 CP/74/KOB/2019

Adv Shri Josey Stephen appeared on behalf of the learned counsel for the petitioner Shri Philip Mathew. Learned counsel for R1 Smt Telma Raju, learned learned counsel for R2 Shri Thomas Johan Ambooken, learned counsel for counsel for R3 Smt. Bhairavi and learned counsel for R4 Shri Ameerul Millath appeared throu VC. None appeared for ROC(R5).

Shri Josey Stephen, Smt. Telma Raju and Smt Bhairavi sought an adjournment to enable their senior to argue the matter. Allowed.

Pleadings are complete.

List this CP on 13.12.2021 for hearing.

Those counsel who have not yet submitted their written submissions may submit the same within 7 days.

17 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.

Learned counsel for the applicant Shri Niranjan Sudheer as well as learned counsel for R1 Shri Tobias Powel and learned Company Prosecutor for R2 (ROC) Shri Prasanth Kumar Mishra appeared through VC.

The Respondents are directed to file their counter within 7 days. The applicant is directed to provide a copy of this IVNP to the Company Prosecutor within 3 days.

List on 01.12.2021.

18 CP/21/KOB/2021

Learned counsel for the Petitioner Shri Maliekal Tobias appeared through VC. Learned Company Prosecutor Shri Prasanth Kumar Mishra appeared for R2.

The Company Prosecutor submitted that he would file the counter in this CP within 7 days. He may do so positively within 7 days.

List this matter for final hearing on 01.12.2021 along with CP/11/KOB/2021.

19 CP/92/KOB/2019

Learned counsel for the Petitioner Shri Anil D. Nair as well as learned counsel for R1 to R8 Shri Paulose C. Abraham appeared through VC.

Shri Anil D. Nair sought some more time to submit the translation of pages 55 to 60 of the Petition. Allowed. He may submit the translation within 10 days.

The report of the ROC has not yet been received. ROC is directed to submit his report in this case within 10 days positively.

Registry is directed to issue copy of this Order to ROC through special messenger.

List on 07.12.2021.

20 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.

Shri A.C.Venugopal, learned counsel for the appellant argued the matter. List for arguments of respondents on 22.11.2021. The parties who have not filed their

written argument notes (limiting 4-5 pages) may file their argument notes. The learned counsel for appellant stated that he wants to supplement the arguments notes already filed. His request is granted. List on **22.11.2021 for further hearing (Part Heard). (HOB)**.

21 IA(C/ACT)/38/KOB/2021 IN CP/55/KOB/2020

This IA has been filed by the applicant/2nd Respondent under Rule 32 of the NCLT Rules, 2016 with the prayer to allow him to file sur-rejoinder in the CP and also to direct the petitioner in the CP to issue fresh, legible and complete copy of the rejoinder filed by him as some of the pages are not readable and some pages are missing.

The prayer in this IA for permission to file a surrejoinder is allowed. Applicant (respondent) is permitted to file the sur-rejoinder within three days (on or before 18.11.2021). **IA(C/Act)/38/KOB/2021 stands disposed of** accordingly.

22 CP/55/KOB/2020

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

Since the respondents are permitted to file a sur-rejoinder today, List on **2.12.2021 for final hearing**.

23 IA(C/ACT)/20/KOB/2021 IN CP/31/KOB/2021

Learned counsel for petitioner/applicant Shri Ebin Mathew appeared through VC,. Learned counsel for Respondents 1 to 3 Shri VV Sidharthan also appeared through VC. Shri Ebin Mathew sought an adjournment due to a medical emergency of his senior. Adjourned to **24.11.2021 for hearing**.

24 CP/31/KOB/2021

Learned counsel for petitioner/applicant Shri Ebin Mathew appeared through VC,. Learned counsel for Respondents 1 to 3 Shri VV Sidharthan also appeared through VC. Shri Ebin Mathew sought an adjournment due to a medical emergency of his senior. **Adjourned to 24.11.2021 for hearing**. Shri VVSidharthan, learned counsel stated that he has filed an IA, but the same is not listed today. Registry is directed to list this IA also, if it is in order