

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

Date: 17th Sept 2021

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

1 CA(CAA)/4/KOB/2021

Learned PCS for the applicants Shri CS Vivek Kumar appeared through VC.

This is a joint application filed by the applicants under Section 230-233 of the Companies Act, 2013 in the matter of Scheme of Amalgamation.

Heard and perused the records.

Reserved for orders. The date of pronouncement of orders will be intimated later.

2 REPORT/78/KOB/2021 IN IBA/38/KOB/2019

Learned RP Shri Vinod Balachandran appeared in person through VC.

This is the 9th Progress Report submitted by the RP in the matter of CIRP against the Corporate Debtor.

Perused the Report. Report is taken on record. Registry shall place it on proper record.

3 IA/194/KOB/2020 IN IA/55/KOB/2019 IN TCP/20/KOB/2019

Learned counsel for the applicant Shri A.M.Sridharan as well as learned counsel for R4 Shri Sankar P. Panicker appeared through VC. Adv. Shri Abraham Chandapillai, who appeared for R1 sought an adjournment stating that his senior Shri Joseph Kodianthara is held up at Chennai in connection with the hospitalisation of his father.

Vide order dated 10.08.2021 the Manager, South Indian Bank, Ernakulam South Branch, Ernakulam was directed to provide the pay-in-slips for all the credit entries in the Current Account No.9705 maintained in the name of M/s. Indo Asian News Channel Private Limited for the Financial years 2010-11 and 2011-12 before this Tribunal within two weeks. In reply to the letter of this Tribunal, the South Indian Bank vide letter dated 24.08.2021 reported that as per Banking Companies (Period

of Preservation of Records) Rules 1985, pay-in-slips are to be preserved for a period not less than 5 years and that the pay-in-slips in question are not available at their office.

Vide order dated 10.08.2021 the R1 was directed to submit the statutory Audit Report along with the Tax Audit Report in full for the Financial Years 2010-11 and 2011-12 and also to provide copies of Ledger Accounts of Shri Nikesh Kumar (R2) and Smt Lally Joseph (Petitioner) for the Financial Years 2010-11 and 2011-12 within two weeks.

Even though some of the records submitted as directed to be filed, it appears from records produced, R1 has not filed the following documents as ordered by this Tribunal:

- (i) Directors Report for the FYs 2010-11 and 2011-12.
- (ii) Tax Audit Report for the FYs 2010-11 and 2011-12.

R1 is therefore directed to file the aforesaid reports (i) & (ii) before this Tribunal, on or before 01.10.2021.

Since South Indian Bank has not produced the pay-in-slips as ordered by this Tribunal, Respondent No.1 is also directed to file the counterfoil of the pay-in-slips and copy of vouchers with enclosures for all the credit entries in the Current Account No.9705 maintained in the name of R1 Company for the Financial years 2010-11 and 2011-12.

Registry is directed to issue copy of this order to the learned counsel for R1 for compliance.

List on 20.10.2021 as part heard (High on Board). There shall be no further adjournment in this case.

4 MA(CA)/02/KOB/2021 IN TCP/20/KOB/2019

Learned counsel for the applicant Shri A.M.Sridharan appeared through VC. Adv. Shri Abraham Chandapillai, who appeared for R1 sought an adjournment stating that his senior Shri Joseph Kodianthara is held up at Chennai in connection with the hospitalisation of his father.

List on 20.10.2021 (High on Board). There shall be no further adjournment in this case.

5 TCP/20/KOB/2019

Learned counsel for the applicant Shri A.M.Sridharan appeared through VC. Adv. Shri Abraham Chandapillai, who appeared for R1 sought an adjournment stating that his senior Shri Joseph Kodianthara is held up at Chennai in connection with the hospitalisation of his father.

List on 20.10.2021 (High on Board). There shall be no further adjournment in this case.

6 CA/65/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. None appeared for R4.

Vide order dated 11.8.2021 the right to file the counter by R2 & R3 was forfeited due to their non-compliance of the order of this Tribunal.

This CA will be heard along with the main CP.

List on 25.10.2021.

7 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. None appeared for R4.

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.

This IA will be heard along with the main CP.

List on 25.10.2021.

8 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. None appeared for R4.

This is an IA 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.

This IA will be heard along with the main CP.

List on 25.10.2021.

9 COMP.APPL/96/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. None appeared for R4.

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.

This IA will be heard along with the main CP.

List on 25.10.2021.

10 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. None appeared for R4.

R1 was set exparte vide order dated 22.07.2021.

R2 & R3 have filed their counter. R4 neither appeared nor filed counter. **Hence the right to file counter in respect of R4 is forfeited.**

Vide order dated 11.08.2021 it was decided that since the pleadings are complete, the matter is ripe for hearing.

List on 25.10.2021 for final hearing (High on Board).

11 CA/66/KOB/2021 IN 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. None appeared for R4.

Even though sufficient time was granted, R2 to R4 have not yet filed the counter. **Their right to file counter is forfeited.**

This CA will be heard along with the main CP.

List on 25.10.2021 for final hearing (High on Board).

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

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.

This IA will be heard along with the main CP.

List on 25.10.2021.

13 **COMP.APPL/93/KOB/2021 IN 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. None appeared for R4.

This is an IA 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.

This IA will be heard along with the main CP.

List on 25.10.2021.

14 **COMP.APPL/95/KOB/2021 IN 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. None appeared for R4.

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.

This IA will be heard along with the main CP.

List on 25.10.2021.

15 **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. None appeared for R4.

R1 was set exparte vide order dated 22.07.2021.

R2 & R3 have filed their counter. R4 neither appeared nor filed counter. **Right of R4 to file a counter is forfeited.**

Vide order dated 11.08.2021 it was decided that since the pleadings are complete, the matter is ripe for hearing..

List on 25.10.2021 for final hearing (High on Board).

16 **CP.IB/1/KOB/2021**

Learned counsel for the Operational Creditor Shri Prashant Kumar as well as learned counsel for the Corporate Debtor Shri Vinod PV appeared through VC.

On 02.08.2021, after hearing both sides, this Bench had directed both sides to sit together and explore the possibility to settle the matter out of court and file their settlement memo, if any, before 16.08.2021. It was also ordered that if there is no settlement worked out, the matter will be taken up for appropriate orders as per law.

Learned counsel for both parties today submitted that no settlement has been arrived till date and that there is no possibility of settling the matter out of court. The learned counsel for applicant that both sides have already argued the matter and that the matter may be taken for orders. However, learned counsel for corporate debtor stated that he want to argue certain points. Learned counsel for Corporate Debtor is given permission to put forth his arguments through a written argument note (4-5 pages).

Heard learned counsel for both the parties.

Reserved for orders. The date of pronouncement of orders will be intimated later.

Learned counsel for both sides are directed to submit their written submissions in brief (4-5 pages) on or before 22.09.2021.

17 CP(IBC)/25/KOB/2021

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

The arguments of learned counsel of both sides heard and concluded. However, at the request of the learned counsel for Corporate Debtor, the matter is adjourned to submit a firm plan, as to whether they can settle the matter out of court, within fifteen days from today.

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

List on 07.10.2021.

18 IA/217/KOB/2020 IN TCP/26/KOB/2019 (CP/716/19)

Learned counsel for the Petitioner Shri Aswin Gopakumar as well as learned counsel for R1 to R6 Dr. K.S.Ravi Chandran appeared through VC.

Due to paucity of time, adjourned to 28.10.2021.

19 CA(CA)/79/KOB/2021 IN TCP/26/KOB/2019 (CP/716/19)

Learned counsel for both parties appeared through VC. **Due to paucity of time, adjourned to 28.10.2021.**

20 TCP/26/KOB/2019 (CP/716/19)

Learned counsel for the Petitioner Shri Aswin Gopakumar as well as learned counsel for R1 to R6 Dr. K.S.Ravi Chandran appeared through VC.

Due to paucity of time, adjourned to 28.10.2021.

21 CP/12/KOB/2021

Learned PCS for the Petitioner Shri Vivek Kumar as well as learned counsel for the respondents Shri Srihari Indu Kaladharan appeared through VC.

Vide Order dated 19.7.2021 respondents were directed to file the counter within two weeks. Today the case is posted for hearing. It appears from records that respondents have taken many adjournments seeking time to file the counter. Today also learned counsel for the respondent sought another time to file the counter. **The prayer of the respondents is allowed on condition that the respondents pay costs of Rs.25,000/- (Rupees twenty five thousand) to the account of Ministry of Corporate Affairs** and submit proof of payment along with the counter, within two weeks serving a copy in advance to the Petitioner, who may file rejoinder, if any, two days before the next date of hearing.

List on 06.10.2021 for hearing.

22 CA/67/KOB/2021 IN CP/20/KOB/2021

Learned counsel for the applicant Shri Sherry Oommen as well as learned counsel for the respondent Shri Abid Millath appeared through VC

This is an IA filed by the R2 under Rule 11 of the NCLT Rules with the prayer to determine the maintainability of the Company Petition as a preliminary issue.

This CA will be heard along with the main CP and at that time the prayer of preliminary issue of maintainability may be considered..

List on 01.10.2021.

23 CP/20/KOB/2021

Learned counsel for the Petitioner Shri Abid Millath appeared through VC. Learned counsel for R3 & R4 Shri Sherry Samuel Oommen and learned counsel for R6 Shri Shameem Ahamed MP appeared through VC. It is noted that respondents have not filed their counter, even though sufficient time was granted.

Respondents are given the last and final opportunity to file the counter within 10 days, failing which, their right to file the counter shall stand forfeited. List on 01.10.2021 for hearing.

24 CP/22/KOB/2021

Learned counsel for the Petitioner Shri Ashok B. Shenoy (through proxy counsel) as well as learned PCS for R1 & R2 Shri Yogindunath and learned counsel for R3 & R4 Shri Nikhil Narayanan appeared through VC.

This is a Company Petition filed under Section 213 of the Companies Act 2013

Vide Order dated 28.4.2021 Respondents were directed to file their counter within two weeks of receipt of notice. But the respondents have not filed their counter till date. **Respondents are given the last and final opportunity to file the counter on or before 03.10.2021 failing which their right to file shall stand forfeited.**

List on 06.10.2021.