

NCLT – KOCHI BENCH

Daily **Orders** – For reference purpose only

Date 21st March 2022

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

Shri Ashok Kumar Borah
Hon'ble Member (Judicial)

1 CP(IBC)/15/KOB/2022

**Orders pronounced. CP(IBC)/15/KOB/2022 stands allowed and RP appointed.
List on 05.04.2022 for report of RP.**

2 CP(IBC)/16/KOB/2022

**Orders pronounced. CP(IBC)/16/KOB/2022 stands allowed and RP appointed.
List on 05.04.2022 for report of RP.**

3 CP(IBC)/17/KOB/2022

**Order pronounced. CP(IBC)/17/KOB/2022 stands allowed and RP appointed.
List on 05.04.2022 for report of RP.**

4 CP(IBC)/18/KOB/2022

**Orders pronounced. CP(IBC)/18/KOB/2022 stands allowed and RP appointed.
List on 05.04.2022 for report of RP.**

5 CP(IBC)/19/KOB/2022

**Orders pronounced. CP(IBC)/19/KOB/2022 stands allowed and RP appointed.
List on 05.04.2022 for report of RP.**

6 IA(C/ACT)/42/KOB/2021

Orders pronounced. IA(C/ACT)/42/KOB/2021 stands disposed of vide separate Order.

7 MA(C/ACT)/3/KOB/2022

Orders pronounced. MA(C/ACT)/3/KOB/2022 is allowed vide separate Order.

8 MA(C/ACT)/5/KOB/2022

This Application has been filed under Rule 11 read with Rule 32 of the NCLT Rules, 2016 by the applicant/petitioner with the prayer to post CP/43/KOB/2021 along with IA/593/KOB/2022 for urgent hearing.

None appeared for the applicant.

It appears from records that vide Order dated 17.03.2022 in IA(C/ACT)/28/KOB/2022 this Tribunal has decided to hear the CP on 04.04.2022.

In view of the above, this MA has become infructuous and hence dismissed.

9 IA(IBC)/184/KOB/2021 IN CP(IB)/91/CB/2018

This IA has been filed under Section 35(N) and 60(5) of the IBC, 2016 by the Liquidator seeking replacement of the Liquidator.

Smt Merin Thaliath, learned counsel for the Liquidator stated that the Liquidator is present and that his video system is not working and sought a pass over of the matter. Shri Akhil Suresh, learned counsel for the Respondents also appeared through VC. The suspended Directors ShriJohn Zakaria and ShriMathew John also appeared through VC. They have stated that the other Director is ill today hence could not appear. When the matter was called on second call, the learned counsel for the Liquidator stated that the Liquidator is busy on account of financial year ending. We cannot accept the stand taken by the Liquidator.

Hearing concluded. Orders reserved.

9 IA(IBC)/53/KOB/2022

This IA has been filed under Rule 11 of NCLT Rules, 2016 by the Applicant/R3 to accept the counter affidavit of R3 condoning the delay of 86 days in filing the reply.

Shri Akhil Suresh, learned counsel for the Suspended Director appeared through VC. Learned counsel for the liquidator Smt. Merin Thaliath also appeared through VC.

On hearing the learned counsel for the Applicant/Suspended Director, we are of the considered opinion that the delay of 86 days in filing the counter affidavit be condoned provided the **Applicant pays the costs of Rs.10,000/- (Rupees ten thousand only)** to the accounts of “Bharatkosh - Ministry of Corporate Affairs” and submit proof of payment along with the counter affidavit within 7 days. Ordered accordingly. Registry is directed to accept the counter affidavit, if it is filed on or before 29.03.2022, provided the applicants herein produces proof of payment of costs, and if the Counter affidavit is otherwise in order.

IA(IBC)/53/KOB/2022 stands allowed as above.

10 IA(IBC)/134/KOB/2021 IN IBA/22/KOB/2020 & IBA/23/KOB/2020

Learned RP Shri Renahan Vamakesan appeared through VC along with his counsel Shri Akhil Suresh.

This IA has been filed by the RP for dissolution of the company under Section 54(1) of IBC, 2016 read with Rule 11 of NCLT Rules, 2016.

Since the CP(IB)4/KOB/2022 and CP(IB)5/KOB/2022 have been Reserved for Orders, the orders of which have a bearing in this matter, list this IA on 18.04.2022 for hearing.

11 CP(IB)/1/KOB/2022

Learned counsel for the Operational Creditor Smt. Jinnu Sara George appeared through VC.

It appears from records that as directed by this Tribunal the OC has filed necessary paper publications in English Daily “Financial Express” and Malayalam Daily “Mathrubhoomi”. But the Corporate Debtor neither appeared through VC nor filed any reply statement. **Hence, the Corporate Debtor is hereby set ex-parte.**

Heard the learned counsel for the Operational Creditor.

Hearing concluded. Orders reserved.

12 CP(IB)/2/KOB/2022

This Petition has been filed under Section 59 of the IBC, 2016 by the Voluntary Liquidator for dissolution of Aspinwall Technologies Limited (in Voluntary Liquidation).

Heard the Liquidator Shri Balakrishnan Baburajan.

Hearing concluded. Orders reserved.

13 IA(C/ACT)/15/KOB/2022 in TCP/21/KOB/2019

This IA has been filed under Rule 11 and 32 read with Rule 15 of the NCLT Rules, 2016 for modification of Order dated 02.02.2022 and disallowing the claim of the Auditor as per Order dated 02.02.2022 in TCP/21/KOB/2019.

Shri Philip Mathew, learned counsel for the Administrator as well as Shri Pradeep Joy, learned counsel for the respondent appeared through VC.

Shri Pradeep Joy submitted that he has filed the additional documents against this IA, but Registry reported that the same is defective. The respondent is directed to rectify the defects within 7 days.

List on 23.03.2022 for hearing.

14 TCP/34/KOB/2019

Shri Renjith Rajappan, learned counsel for the Petitioners, Shri George G. Poothicote, learned senior counsel for R1 & R2, Shri Mohan Jacob George, learned counsel for R3 & R5 and Shri Zibi Jose, learned PCS for R4, R8-R11 appeared through VC. None appeared for other parties.

Adjourned to 31.03.2022 for hearing.

14 IA/50/KOB/2019 IN TCP/34/KOB/2019

Learned counsel for the applicant Shri George G. Poothicote appeared through VC. Shri RenjithRajappan, learned counsel for R1-R9, Shri Mohan Jacob George, learned counsel for R10 & R12, Shri P.P.Zibi Jose, learned PCS for R11, R15-R18 and Shri Vinod PV learned counsel for R21 appeared through VC.

This IA will be heard at the time hearing of the main CP.

Adjourned to 31.03.2022 for hearing.

14 IA/66/KOB/2020 IN TCP/34/KOB/2019

Shri Renjith Rajappan, learned counsel for the applicant, Shri George G. Poothicote, learned senior counsel for R1 & R2, Shri Mohan Jacob George, learned counsel for R5 and Shri Zibi Jose, learned PCS for R4, R8-R11 appeared through VC. None appeared for other parties.

This IA will be heard at the time hearing of the main CP.

Adjourned to 31.03.2022 for hearing.

14 IA/67/KOB/2020 IN TCP/34/KOB/2019

Shri Renjith Rajappan, learned counsel for the applicant, Shri George G. Poothicote, learned senior counsel for R1 & R2, Shri Mohan Jacob George, learned counsel for R3 & R5 and Shri Zibi Jose, learned counsel for R4, R8-R11 appeared through VC. None appeared for other parties.

Adjourned to 31.03.2022 for hearing.

14 IA/204/KOB/2020 IN TCP/34/KOB/2019

Shri George G. Poothicote, learned counsel for the applicant as well as Shri Ranjith Rajappan, learned counsel for R1 & R2 appeared through VC. None appeared for R3.

Adjourned to 31.03.2022 for hearing.

14 CA/9/KOB/2021 IN TCP/34/KOB/2019

Shri Renjith Rajappan, learned counsel for the applicant, Shri Vinod PV, learned counsel for R1 and Shri George G. Poothicote, learned senior counsel for R2 & R3 Shri Vinod PV appeared through VC. None appeared for R4 & R5.

During the course of the hearing, Shri Rejith Rajappan stated that he is not pressing this CA. Accordingly, **CA/9/KOB/2021 IN TCP/34/KOB/2019 stands dismissed as not pressed.**

14 IA(C/ACT)/41/KOB/2021 IN TCP/34/KOB/2019

This IA has been filed by the applicant/R3 with the following prayers:

- (i) Pass an order directing the Company Petitioners 1 & 2 to produce the original of Annexure A17 MoU before this Tribunal within a time limit specified and allow R3 to adduce evidence to contradict the same.

- (ii) Pass an order allowing the applicant to challenge Annexure A17 by adducing evidence including by way of cross examination of the makers and signatories of Annexure A17.

Shri Mohan Jacob George, learned counsel for the applicant, Shri Renjith Rajappan , learned counsel for R1-R9, Shri George G. Poothicote, learned senior counsel for R10 & R11, Shri Zibi Jose, learned counsel for R12, R16-R19 and Shri Vinod PV, learned counsel for R22 appeared through VC.

On hearing the learned counsel of both sides and on perusal of the records, we are of the considered view that in the interests of justice, the aforesaid prayer (i) be allowed. Ordered accordingly. The Petitioners 1 and 2 in the Company Petition are therefore directed to produce the Original of Annexure A17 Memorandum of Understanding before this Tribunal within 7 days from today. Other relief is a consequential relief, for which permission of this Tribunal is not required.

IA(C/ACT)/41/KOB/2021 IN TCP/34/KOB/2019 is disposed of accordingly.

15 TCP/53/KOB/2019

None appeared for the Petitioner. Shri George G. Poothicote, learned counsel for R1, Shri Renjith Rajappan learned counsel for R2 and ShriMohan Jacob George, learned counsel for R3 appeared through VC.

Pleadings are complete.

At the request of both the parties, the case is adjourned to 31.03.2022 for hearing.

15 TIA/131/KOB/2020 IN TCP/53/KOB/2019

Shri Renjith Rajappan, learned counsel for the applicant, Shri George G. Poothicote, learned senior counsel for R1 and Shri Mohan Jacob George, learned counsel for R2 also appeared through VC. None appeared for R3.

At the request of both the parties, the case is adjourned to 31.03.2022 for hearing.

16 IA(C/ACT)/16/KOB/2022

This IA has been filed under Rule 11 of the NCLT Rules, 2016 by the Applicants/Petitioners 1 & 2 for an Order allowing petitioners in the CP to purchase the entire shares of the respondents 2 & 3 and any other shares available for purchase @ Rs.17,400/- per share.

Learned counsel for the applicant Shri Babu Cherukara as well as learned counsel for R1 to R3 Shri Philip Mathew appeared through VC.

At the request of the learned counsel for the Petitioners, the matter is adjourned to 27.04.2022 for hearing.

16 IA(C/ACT)/20/KOB/2022 in CP/128/KOB/2019

This IA has been filed under Rule 11 read with Rule 23A(1) of the NCLT Rules, 2016 by the Applicants / R5 & R6 seeking an order allowing them to purchase the shares of Rs.1000/- each from all willing shareholders of the Respondent Company at a price of Rs.27,090/- per share upon cancellation of held by respondents/ Petitioners 1 & 2 at a price of Rs.17,400/- per share upon cancellation of the 40 invalid equity shares held by R1 and 80- invalid equity shares held by R2.

Smt. Karthika K.J., learned counsel appeared for the applicants through VC. Shri Babu Cherukara, learned counsel for R1 & R2 and Shri Philip Mathew, learned counsel for R3-R5 also appeared through VC.

Smt. Karthika submitted that she has filed a CA for rectification of the Register of Members (Share Register), but Registry reported that the same is defective. She is directed to rectify the defects within 7 days.

List this matter along with the related IAs on 27.04.2022 for hearing.