

## ***NCLT, KOCHI BENCH***

### **Daily Orders – Draft**

Date: 21<sup>st</sup> Oct 2021

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

#### **1 IA(IBC)/149/KOB/2021 IN CP(IB)/8/KOB/2021**

This is an IA filed by the applicant/Corporate Debtor against the Respondent/ Financial Creditor under Rule 11 of NCLT Rules, 2016 praying to accept the additional objections.

It appears from the records that the Hon'ble High Court of Kerala vide Judgement dated 28.09.2021 in WP(C) 10015 of 2021 has stayed all further proceedings in CP(IB)/8/KOB/2021 till final order is passed by Reserve Bank of India, pertaining to the subject matter of this case.

**Accordingly, CP(IB)/8/KOB/2021 was adjourned Sine Die vide Order of this Tribunal dated 01.10.2021.**

**In view of the above, let this IA be adjourned Sine Die. Both the parties are at liberty to approach this Tribunal, when a final order is passed by the Reserve Bank of India.**

#### **2 IA(IBC)/150/KOB/2021 IN CP(IB)/8/KOB/2021**

This is an IA filed by the Applicant/Corporate Debtor against the Respondent Financial Creditor under Rule 11 of NCLT Rules 2016 praying for consideration of question of maintainability of the Petition filed under Section 7 by the FC as a preliminary issue.

It appears from the records that the Hon'ble High Court of Kerala vide Judgement dated 28.09.2021 in WP(C) 10015 of 2021 has stayed all further proceedings in CP(IB)/8/KOB/2021 till final order is passed by Reserve Bank of India, pertaining to the subject matter of this case.

**Accordingly, CP(IB)/8/KOB/2021 was adjourned Sine Die vide Order of this Tribunal dated 01.10.2021.**

**In view of the above, let this IA be adjourned Sine Die. Both the parties are at liberty to approach this Tribunal, when a final order is passed by the Reserve Bank of India.**

### **3 IA(IBC)/152/KOB/2021 IN TIBA/35/KOB/2019**

This is an IA filed by the Applicant/Liquidator under Section 60(5) of the IBC, 2016 read with regulations 2B & 4 of IBBI (Liquidation Process) Regulations, 2016 seeking order from this Tribunal to exclude the period from 11.01.2021 to 28.07.2021, ie. the period allowed for restructuring the CD, from the period of liquidation process and also seeking an order to allow the liquidator to calculate the fee of the Liquidator excluding the period from 11.01.2021 to 28.07.2021, ie. the period allowed for restructuring the CD, from the liquidation period.

The liquidator submitted that this Tribunal vide Order dated 28.06.2021 has granted 30 days time to the Directors/Promoters of the Corporate Debtor to restructure the Company. The period allowed by this Tribunal has expired on 28.07.2021.

The liquidator has also submitted that he has not received any fee/remuneration during the period allowed for restructuring the Corporate Debtor.

Hence this IA.

On hearing the Liquidator and also on perusal of the records, this Tribunal is of the opinion that the prayer of the Liquidator be allowed. Hence the **IA(IBC)/152/KOB/2021 IN TIBA/35/KOB/2019 stands allowed vide separate order.**

### **4 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 is a part heard case. Since NCLT-Kochi Bench has been reconstituted as per Order dated 10.10.2021 this case is released from part heard.

It appears from the records that the Respondents/Suspended Directors of the Corporate Debtor were directed to appear before this Tribunal through Video Conferencing on 29.10.2021.

In view of the above, let this Contempt Application be **listed on 29.10.2021** along with **MA(IBC)/17/KOB/2021 IN IA(IBC)/13/KOB/2021 IN TIBA/11/KOB/2019.**

**5 IA/33/KOB/2021 IN TIBA/25/KOB/2019**

Learned counsel for applicant Shri Vijay V. Paul and learned counsel for the respondents Dr. K.S.Ravichandran appeared through VC.

This is a part heard case. Since NCLT-Kochi Bench has been reconstituted as per Order dated 10.10.2021 this case is released from part heard.

The Forensic Audit in this case has already been done.

The Independent Chartered Accountant appointed by this Tribunal vide order dated 06.09.2021 for the limited purpose of verification of the claim of the applicant as per the request of the applicant has filed his report on 11.10.2021.

Both the parties may collect the copy of the report of the Independent Chartered Accountant from the Registry, if so desired, complying the filing procedures and offer their comments, if any, before the next date of hearing.

**List this IA for hearing on 08.11.2021 along with related IAs (High on board).**

**6 IA(IBC)/78/KOB/2021 IN TIBA/25/KOB/2019**

Learned RP Smt Sathydevi Alamuri appeared through VC along with her counsel Shri Vinod PV. Learned PCS for respondents Dr. KS Ravichandran also appeared through VC.

This is a part heard case. Since NCLT-Kochi Bench has been reconstituted as per Order dated 10.10.2021 this case is released from part heard.

This is an IA filed by the RP under Section 19(2) of IBC 2016 for a direction from this Tribunal against the suspended directors/respondents to provide the documents required by the RP and provide all assistance until the completion of the CIR Process of the CD.

Dr.Ravichandran submitted that the suspended directors are co-operating with the RP and the required documents/data have already been provided to the RP. However, the learned RP refuted the said statement and stated that the suspended directors are not cooperating.

It appears from the records that Vide Order dated 27.07.2021 both the parties were directed to sit together and sort out the issues so as to enable the RP to discharge her duties smoothly. The suspended directors were also directed to fulfil all the requirements of the RP as prayed for in the IA within a week positively and file a report by the RP as to what transpired in their joint meeting before 05.08.2021. But RP has not filed any report till date.

Shri Vinod today submitted that he would file the report within a week. He may file the report within one week positively.

**List on 08.11.2021 (high on board).**

**7 MA(IBC)/4/KOB/2021 IN TIBA/25/KOB/2019**

Learned PCS for the applicant Dr. K.S.Ravichandran, learned RP Smt. Satyadevi Alamuri along with her learned counsel Sri Vinod PV and learned counsel for R1/Operational Creditor Shri Vijay V. Paul also appeared through VC.

**Pleadings are complete.**

This is a part heard case. Since NCLT-Kochi Bench has been reconstituted as per Order dated 10.10.2021 this case is released from part heard.

**List on 08.11.2021 high on board for hearing.**

**8 IA/7(KOB)/2020 IN TCP/7/KOB/19**

Learned counsel for the applicant Shri Madhu N. Namboothiripad appeared through VC. Learned counsel for R1 Shri C.K.Karunakaran, learned counsel for R2 Smt Rema Smrithi and learned counsel for R3 Shri Keerthivas Giri also appeared through VC.

This is a part heard case. Since NCLT-Kochi Bench has been reconstituted as per Order dated 10.10.2021 this case is released from part heard.

Pleadings are complete in the main CP.

**List on 01.11.2021 for hearing (High on Board).**

**9 TCP/7/KOB/19**

Learned counsel for the Petitioner Shri C.K.Karunakaran appeared through VC. Learned counsel for R1 & R2 Shri Madhu N. Namboothiripad, learned counsel for R3 Smt. Rema Smrithi and learned counsel for R4 Shri Keerthivas Giri also appeared through VC.

This is a part heard case. Since NCLT-Kochi Bench has been reconstituted as per Order dated 10.10.2021 this case is released from part heard.

**Today the arguments of the learned counsel for the petitioner heard for some time. List on 01.11.2021 for further hearing.**

**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 is an application filed by the RP for dissolution of the company under Section 54(1) of IBC, 2016 read with Rule 11 of NCLT Rules, 2016.

While arguing the case, the RP as well as his counsel submitted before the Bench that there is no asset with the Company as the respective secured creditors have taken recourse of the assets of the company as well as properties which were mortgaged by the company have already been taken into possession by the bank and other financial institutions.

Shri Akhil Suresh sought time to pursue the matter with the Financial Creditor State Bank of India.

**List on 05.11.2021.**

**11 CP(IBC)/26/KOB/2021**

Learned counsel for the Operational Creditor Shri Dhruvraj R. Bhavsar appeared through VC. None appeared for the Corporate Debtor.

Shri Dhruvraj submitted that an agreement has already been signed between the parties to settle the matter amicably. Accordingly, he sought time to file an IA for withdrawal of this CP(IBC).

He may file the IA within a week. **List on 28.10.2021.**

**12 CONT.APPL(C/ACT)/3/KOB/2021 IN IA/47/KOB/2019 IN TCP/54/KOB/19 (TCP/108/16)**

This is a Contempt Petition filed by the petitioner Shri C.J.Mathew against the Respondents August Builders and Contracts (India) Pvt Ltd and others under Section 425 of the Companies Act, 2013 read with Section 12 of the Contempt of Courts Act, 1971.

Even though Registry issued notice on 08.10.2021 to the Respondents/Contemners directing them to file reply affidavit and show cause as to why contempt should not be initiated against them for the alleged non-compliance of the directions of this Tribunal, the proof of service is not seen in the records. Registry is directed to issue fresh notice to the Respondents/Contemners within 2 days through Speed Post with A/D and place the proof of service in the case file.

**List on 22.11.2021.**

**13 TCP/54/KOB/2019 (TCP/108/16)**

Learned counsel for the Petitioner Shri Mohan Pulickkal as well as learned counsel for R1 to R4 Shri K.S.Ravi Chandran appeared through VC.

Vide order dated 11.03.2020 this Tribunal directed the respondents to produce the following documents in Original being maintained by the Respondent Company in the regular course of business within 15 days:

- i. Register of Members
- ii. Share Certificate Book
- iii. Directors' Attendance Register maintained under Article 64
- iv. Share Transfer Deed in respect to transfer of 5000 shares to the 3rd Respondent on 24.08.2007.

Shri Ravi Chandran submitted that he has complied the above order and filed an affidavit in this regard on 26.08.2021.

**List on 22.11.2021 for hearing.**

**14 TCP/81/KOB/2019**

Learned counsel for the Petitioner Ms Karthika KJ as well as learned counsel for R1-R7 Ms Pushpitha K. Chandrasekhar appeared through VC.

Pleadings are complete.

At the request of the learned counsel for the petitioner, the case is adjourned to 17.11.2021.

**15 TCA/29/KOB/19**

Learned counsel for the Applicant Ms Pushpitha K. Chandrasekhar as well as learned counsel for R2 & R3 Ms Karthika K.J.appeared through VC.

Pleadings are complete.

At the request of the learned counsel for R2 & R3, the case is adjourned to 17.11.2021.