

NCLT, KOCHI BENCH

Daily Orders – Draft

Date: 21st December 2021

In the Bench of: **Shri Ashok Kumar Borah, Hon'ble Member (Judicial) & Shri Shyam Babu Gautam, Hon'ble Member (Technical)**

1 CP/43/KOB/2021

This Petition has been filed under section 241 & 242 of the Companies Act, 2013 read with Rule 81 of the NCLT Rules, 2016 by the Petitioner Smt Mabin Jose seeking 5 main reliefs along with 6 interim reliefs.

Learned counsel for the Petitioner Shri Aditya Venugopal appeared through VC. None appeared for the respondents.

The learned counsel for the petitioner during the argument stated that there are multiple instances of misappropriation of the funds of the Company by R2 & R3 and hence insisted to pass orders on interim reliefs sought in the CP.

We have heard the learned counsel for the petitioner and also perused the records attached with the Petition including the Bank transaction statements of the R1 Company. **Company Petition is admitted. The respondents are directed to maintain status quo as of today with regard of the 1st Respondent Company until further orders.**

The Petitioner is directed to issue fresh notice enclosing a copy of the CP 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 are directed to file their Reply Statement within 2 weeks of receipt of notice, serving copy to the Petitioner, who may file rejoinder, if any, at least 3 days before the next date fixed.

List on 25.01.2022 for hearing.

2 CP/44/KOB/2021

This Petition has been filed under Section 73(4) of the Companies Act, 2013 by Shri C. Viswanathan against The respondent Grameen Kairali Agro Pvt Ltd seeking

direction to make payment of the amount of Rs.1,00,000/- since the respondent failed to issue the share certificate as promised.

Learned counsel for the Petitioner Shri Abraham John appeared through VC.

The Petitioner is directed to issue fresh notice enclosing a copy of the CP 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 are directed to file their Reply Statement within 2 weeks of receipt of notice, serving copy to the Petitioner, who may file rejoinder, if any, at least 3 days before the next date fixed.

List on 27.01.2022 for hearing.

3 COMP.APPLN/112/KOB/2021 IN TCP/47/KOB/2019

This Application has been filed by the Company Liquidator seeking the following directions:

- (a) Issue a direction to Respondent No.1 to 3, directors of the Company, to submit the Liquidator the books of account of the Company completed and audited upto 19.03.2021 under Section 274(3) of the Companies Act read with Rule 18;
- (b) Issue direction to Respondents No.1 to 3, directors of the Company, to submit the statement of affairs of the Company under Section 274(1);
- (c) Pass an order directing the R1 to deposit an amount sufficient to meet the initial expenses.
- (d) Pass any other order or orders that this Tribunal deem fit and proper in the circumstances of the case.

Learned Liquidator Shri Mukesh appeared in person through VC along with his counsel Shri Vinod PV. Learned counsel for the Petitioner in TCP/47/KOB/2019 Shri Philip Mathew also appeared through VC.

The Liquidator is directed to issue fresh notice enclosing a copy of the CA 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 are directed to file their Reply Statement within 2 weeks of receipt of notice.

List on 19.01.2022 for hearing.

4 **CP/28/KOB/2020**

Learned counsel for the petitioner Shri Philip Mathew as well as learned counsel for R1-R4 & R6 Shri Abraham P. George appeared through VC.

The Arguments of Shri Philip Mathew have concluded in the last date of hearing. Today the case is posted for the arguments of the learned counsel for the respondents. Shri Abraham P. George today submitted that settlement talks are in progress and requested two weeks' time to settle the matter amicably. His submission. **Both sides are directed to file the settlement memo, if any, before 20th January, 2021, failing which the matter will be heard and orders passed.**

Next date fixed for filing settlement memo/final hearing. There shall be no further adjournment in this case.

List on 20.01.2022 for final hearing.

5 **CA/55/KOB/2020**

Learned counsel for the Appellant Shri Bijoy P. Pulipra as well as learned counsel for R1 & R2 Shri Sandeep Gopalakrishnan appeared through VC.

During the hearing Shri Sandeep Gopalakrishnan submitted that he has filed some documents connected with this case online and the hard copy will be filed today itself.

The case will be heard on day-to-day basis. There shall be no adjournment in this case.

List on 22.12.2021 as PART HEARD.

6 **CP(IB)/39/KOB/2021**

This CP has been filed by the Operational Creditor Shri Jose Samuel against the Corporate Debtor Royals International Trade and Allied Products Pvt Ltd under Section 9 of the IBC, 2016 read with Rule 6 of the IBC, 2016 for initiation of Corporate Insolvency Resolution Process against the Corporate Debtor

Learned counsel for the OC Shri Johnson Gomez as well as learned counsel for the Corporate Debtor Shri Nebil Nizar appeared through VC.

Both sides argued and concluded.

Reserved for Orders.

The learned counsel for both the parties may submit their written submissions in brief (limiting 3-4 pages) within 7 days.

7 **CPI/44/KOB/2020**

Adv. Nivedita represented the learned counsel for the petitioner Smt. Rema Smrithi and sought an adjournment to enable her senior to argue the case. Learned counsel for R1 to R3 Shri Dhiren R. Dave appeared through VC. None appeared for ROC.

This is a part heard case. Since NCLT-Kochi Bench has been re-constituted with effect from 06.12.2012 this case is **released from Part Heard**.

At the request of the learned counsel for the petitioner the case is adjourned to **22.12.2022 for hearing (High on Board)**. There shall be no adjournment in this case.

Learned counsel for the parties may submit their written submissions in brief (limiting 3-4 pages).

7 **COMP.APPL/91/KOB/2021 IN CPI/44/KOB/2020**

Adv. Nivedita represented the learned counsel for the petitioner Smt. Rema Smrithi and sought an adjournment to enable her senior to argue the case. Learned counsel for R1 to R3 Shri Dhiren R. Dave appeared through VC. None appeared for ROC through VC.

Report of the ROC is on record.

At the request of the learned counsel for the petitioner the case is adjourned to **22.12.2022 for hearing (High on Board)**. There shall be no adjournment in this case.

8 **IA(IBC)/161/KOB/2021 IN TIBA/07/KOB/2019**

This is an IA filed by Shri V.K.Abdul Rahim, Shareholder and suspended Managing Director of the CD against the Liquidator and 6 others under Section 60(5) of the IBC, 2016 read with the Rule 11 of the NCLT Rules, 2016 with the prayer to set aside the claims of R2 to R7 admitted by the Liquidator(R1) and to adjudicate such claims and fix the same on the basis of the documents/evidences produced by the applicant and the documents or other evidences as may be produced by the respondents.

Adv Shri Mushtaq represented the learned counsel for the applicant Shri Babu Karukapadath. Learned Liquidator Shri Jasin Jose appeared in person along with his counsel Shri Akhil Suresh and learned counsel for R2 Shri Mohan Jacob George also appeared through VC.

Reply Statement filed by R1 & R2 is on record.

It appears from records that notice was duly served on R3, R4, R5, R6 and R7 as per Postal Track Report produced by the applicant. But they neither appeared through VC nor filed any Reply Statement. **Therefore R3, R4, R5, R6 and R7 are hereby set ex-parte.**

Adv Shri Mushtaq sought an adjournment to enable his senior to argue the case. Hence this matter is adjourned to 03.01.2022 for hearing. There shall be no adjournment in this case.

8. IA(IBC)/194/KOB/2021

This IA has been filed under Section 31(3) of the IBBI (Liquidation Process Regulation 2016) by the Liquidator for modification of the List of Stake holders.

Learned Liquidator Shri Jasin Jose appeared in person along with his counsel Shri Akhil Suresh. Learned counsel for R2 Shri Mohan Jacob George also appeared through VC.

This IA will be heard at the time of hearing of **IA(IBC)/161/KOB/2021.**

9 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.

Learned liquidator Shri B. Baburajan appeared in person through VC. Adv Shri Abraham Mathew appeared for the respondent through VC stating that reply statement has already been filed through on-line and hard copy has also been filed with the Registry. But Registry reported that they have not yet received the on-line copy. The Respondent is directed to complete the filing formalities within a week.

List on 04.01.2022 for hearing.

10 **CP(IB)/33/KOB/2021**

This Petition has been 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 Petitioner Shri A.V.Thomas as well as learned counsel for the Corporate Debtor Smt. Marian GM Tharakan appeared through VC. Shri AV Thomas argued the matter for some time. Since the documents shares are not clear, this matter is adjourned for further hearing on 6.1.2011. List on **06.01.2022 as PART HEARD.**

11 **TCP/22/KOB/2019**

Learned counsel for the Petitioner Shri Haaris Mooza as well as learned counsel for R7, R10 & R11 Smt. Marian GM Tharakan appeared through VC. None appeared for other respondents.

At the request of learned counsel for the Petitioner, the case is adjourned to 01.02.2022.

12 **CP/08/KOB/2021**

Learned PCS for the Petitioner Sri P.P.Zibi Jose as well as learned counsel for R1-R8 Shri Paulose C. Abraham appeared through VC. Learned counsel for R9 Shri Aswin Sathyanath and learned counsel for R10 Shri Nikhil Narayanan also appeared through VC. None appeared for other respondents.

Though Adv Alphin Antony appeared for R11 and R13 in the last date of hearing, he neither filed the vakkalath nor filed the reply statement till date. **Hence it is noted that none appeared for the Respondents 11 and 13.**

It appears from records that the Petitioner has not yet filed the proof of service with regard to the notice served to R11 to R15. He may file the proof of service (A/d card or Postal Track Report) positively before the next date of hearing.

List on 03.01.2022 for hearing.

12 **IA(C/ACT)/12/KOB/2021 IN CP/08/KOB/2021**

Learned PCS for the applicant Shri Zibi Jose as well as learned counsel for R1 to R8 Shri Paulose C. Abraham appeared through VC. Learned counsel for R9 Shri Aswin Sathyanath and learned counsel for R10 Shri Akhil Narayanan also appeared through VC. None appeared for other respondents.

List on 03.01.2022 along with the related IAs.

12 IA(C/ACT)/57/KOB/2021 IN CP/08/KOB/2021

This IA has been filed under Rule 11 of the NCLT Rules, 2016 by the Applicant/Petitioner seeking the following reliefs:

1. *To direct that all the agenda items 1-12 in the proposed AGM of 2020-21 to be held on 30.12.2021 shall be decided only through e-voting.*
2. *To add as additional respondent No.16 proposed director Mr. Nilayattungal Antony Lonappan in the Company Petition CP/08/KOB/2021.*
3. *To invalidate the appointment of additional Respondent No.16 as additional director at the Board Meeting held on 03.12.2021.*
4. *To add as additional Respondent No.17 Central Depository Services Ltd in the Company Petition CP/08/KOB/2021.*
5. *To direct CDSL (subject to grant of relief as Additional Respondent No.17) and SKDC (Respondent No.15) to generate the login id and password and despatch the same only to the shareholders by speed post directly by them under the supervision of the Independent Chairman.*
6. *Any other reliefs this Tribunal deems fit considering the circumstances of the case.*

Learned PCS for the applicant Shri Zibi Jose as well as learned counsel for R1 to R8 Shri Paulose C. Abraham appeared through VC. Learned counsel for R9 Shri Aswin Sathyanath and learned counsel for R10 Shri Akhil Narayanan also appeared through VC. None appeared for other respondents.

Reply Statement filed on behalf of R1 to R8 is on record.

Shri Paulose C. Abraham submitted that the main CP itself is not maintainable as the consent filed in this CP under Section 241-242 is not a valid one.

It is noted that the AGM for the year 2020-21 is proposed to be held on 30.12.2021. After perusal of the documents in the CP/08/KOB/2021 and IA(C/ACT)/57/KOB/2021 this Tribunal directs the Respondents to maintain status quo as of today in the R1 Company and the Annual General Meeting of the R1 Company scheduled to be held on 30.12.2021 be deferred until further orders of this Tribunal.

List CP/08/KOB/2021 along with IA(C/ACT)/57/KOB/2021 for final hearing on 03.01.2022.