

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

Date: 23rd Nov 2021

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

1 COMP.APPLN/105/KOB/2021 IN TCP/7/KOB/2019

This CA has been filed by the applicant/petitioner under Rules 11 and 32 of the NCLT Rules, 2016 with the prayer to implead the Auditor of the 1st Respondent Company Shri M. Mohanan, Chartered Accountant as Additional 6th Respondent in the TCP/7/KOB/2019.

Learned counsel for the Applicant Shri C.K.Karunakaran as well as learned counsel for R1 & R2 Shri Madhu Namboodiripad appeared through VC.

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

COMP.APPLN/105/KOB/2021 IN TCP/7/KOB/2019 stands disposed of vide separate sheets.

2 TCP/7/KOB/19

Learned counsel for the Petitioner Shri C.K.Karunakaran as well as learned counsel for R1 & R2 Shri Madhu N. Namboothiripad appeared through VC. None appeared for R3, R4 & R5.

In view of the impleading petition to implead the Auditor as 6th Respondent has been allowed vide today proceedings, let this TCP be adjourned to 17.12.2021.

The petitioner is directed to issue notice to the Auditor (Additional 6th respondent) through email and 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 6th Respondent through email. The 6th Respondent Auditor is directed to file his Reply Statement within two weeks. **List on 17.12.2021 (Part Heard). High on Board.**

3 IA/7(KOB)/2020 IN TCP/7/KOB/19

Learned counsel for the applicant Shri Madhu N. Namboothiripad as well as learned counsel for R1 Shri C.K.Karunakaran appeared through VC. None appeared for other respondents.

This matter will be heard along with the main CP

List on 17.12.2021 for hearing.

4 IA/79/KOB/2020 IN CP/127/KOB/2019

Learned counsel for the applicant Shri Bijoy P. Pulipra appeared through VC. Learned counsel for R1 to R3 Smt. Aanchal M. Nichani and learned counsel for R5 Shri Zibi Jose also appeared through VC.

This IA will be heard along with the hearing of the main CP.

List on 25.11.2021 (High on Board).

5 IA/92/KOB/2020 IN CP/127/KOB/2019

Learned counsel for the Applicant Smt. Aanchal M. Nichani appeared through VC. Learned counsel for R1 & R2 Shri Bijoy P. Pulipra and learned counsel for R4 Shri PP Zibi Jose and learned counsel for R3 Shi Yogindunath appeared through VC.

This IA will be heard along with the hearing of the main CP.

List on 25.11.2021 (High on Board).

6 CP/127/KOB/2019

Learned counsel for the applicant Shri Bijoy P. Pulipra appeared through VC. Learned counsel for R1 to R3 Smt. Aanchal M. Nichani and learned counsel for R5 Shri Zibi Jose also appeared through VC.

Shri Bijoy P. Pulipra argued the case for some time.

List on 25.11.2021 for further arguments of the parties (PART HEARD) (High on Board).

7 IA(IBC)/174/KOB/2021 IN CP(IBC)/9/KOB/2021

This IA has been filed by the applicant under Rule 32 read with Rule 34 of the NCLT Rules, 2016 with the prayer to treat the date of default as 18.06.2018, ie. the date on which the Corporate Debtors default exceeded Rupees one crore.

Learned counsel for the applicant Shri Prasanth Kumar as well as learned counsel for the Corporate Debtor Shri P.V.Dinesh appeared through VC.

Shri Prasanth Kumar submitted that Corporate Insolvency Resolution Process has already been ordered by this Tribunal against the CD in another CP(IB) and the said matter is coming up before this Tribunal on 24.11.2021.

In view of the above, let this matter be adjourned to 03.12.2021.

8 CP(IB)/9/KOB/2021

Learned counsel for the Petitioners Shri Prasanth Kumar as well as learned counsel for the CD Shri P.V.Dinesh appeared through VC.

Shri Prasanth Kumar submitted that CIR Process has already been ordered by this Tribunal against the CD in another CP(IB). Hence, he sought an adjournment.

In view of the above, let this matter be adjourned to 03.12.2021.

9 TCP/40/KOB/2019

Learned counsel for the Petitioner Shri Philip Mathew appeared through VC. Learned counsel for R3 Shri Sankar Panicker and learned Company Prosecutor for ROC Shri Prasanth Kumar Mishra appeared through VC.

Shri Philip Mathew submitted that the matter related to this case is still pending before the Hon'ble High Court of Kerala and it is likely to be taken up within a couple of weeks.

Vide order dated 14.7.2021 ROC was directed to file counter/report in this case within two weeks. But ROC has not submitted his counter/report till date. ROC is therefore, directed to file his counter/report within two weeks of receipt of this Order, failing which, law will take its own course.

Registry is directed to issue copy of this Order to ROC through Special Messenger and obtain his acknowledgement.

List on 15.12.2021.

10 IA/43/KOB/2019 IN TCP/55/KOB/2019

Learned counsel for the applicant Vijay V. Paul as well as learned counsel for R2 to R5 Shri Akhil Suresh appeared through VC.

During the proceedings of this case on 27.09.2021 both the parties submitted that settlement talks are going on in the matter and hence sought an adjournment.

But no settlement memo has been filed.

List this matter for hearing on 06.01.2022, making it clear that no further adjournment will be granted in this matter, as the matter pertains to the year 2019.

11 IA/44/KOB/2019 IN TCP/55/KOB/2019

Learned counsel for the applicant Shri Vijay V. Paul as well as learned counsel for R2 to R5 Shri Akhil Suresh appeared through VC.

During the proceedings of this case on 27.09.2021 both the parties submitted that settlement talks are going on in the matter and hence sought an adjournment.

But no settlement memo has been filed.

List this matter for hearing on 06.01.2022, making it clear that no further adjournment will be granted in this matter, as the matter pertains to the year 2019.

12 IA/68/KOB/2019 IN TCP/55/KOB/2019

Learned counsel for the applicant Shri Vijay V. Paul as well as learned counsel for R2 to R5 Shri Akhil Suresh appeared through VC.

During the proceedings of this case on 27.09.2021 both the parties submitted that settlement talks are going on in the matter and hence sought an adjournment.

But no settlement memo has been filed.

List this matter for hearing on 06.01.2022, making it clear that no further adjournment will be granted in this matter, as the matter pertains to the year 2019.

13 TCP/55/KOB/2019

Learned counsel for the Petitioners Shri Akhil Suresh as well as learned counsel for R3 to R6 Shri Vijay V. Paul appeared through VC.

During the proceedings of this case on 27.09.2021 both the parties submitted that settlement talks are going on in the matter and hence sought an adjournment.

But no settlement memo has been filed.

Vide Order dated 10.12.2019 it was decided that the scope of the Forensic Audit, as decided from 01.04.2011 to 31.03.2019 of the R1 Company shall continue. Justice

(Retired) Mrs Chitra Venkataraman was directed to closely monitor the Forensic Audit being conducted by the Auditor appointed by her and ensure that the audit is completed well within 6 months as agreed to by the auditor from the date of the order. It was indicated in the said Order that the final report with her legal opinion and suggestions should be submitted within 15 days from the date of receipt of the final report of the Auditor so appointed. It was also directed that no extension of time shall be permitted to the auditor, as sufficient time has already been elapsed

Vide Order dated 29.01.2021, it was again directed that Justice (Retired) Mrs Chitra Venkataraman shall submit her report within 5 months from 29.01.2021.

But no report has been filed even after 9 months.

Therefore Justice (Retired) Mrs Chitra Venkataraman is again directed to submit her report at least 7 days before the next date of hearing positively.

List this matter for hearing on 06.01.2022, making it clear that no further adjournment will be granted in this matter, as the matter pertains to the year 2019.

Registry is directed to issue copy of this Order to the learned counsel of both the parties and also to Justice (Retired) Mrs Chitra Venkataraman through Email immediately.

14 CP/31/KOB/2020

Learned counsel for the Petitioners Shri Akhil Suresh as well as learned counsel for R3 to R6 Shri Vijay V. Paul appeared through VC.

During the hearing on 27.09.2021 both the parties submitted that settlement talks are going on in the matter and hence sought an adjournment. On that basis adjournment was granted. However, the parties submitted that no settlement could be worked out. Hence they want to argue the matter.

List this matter for hearing on 10.12.2021, making it clear that no further adjournment will be granted in this matter. Learned counsel for both the parties are directed to submit their written submissions in brief (limiting 3-4 pages) at least two days before the next date fixed.

Registry is directed to issue copy of this Order to the learned counsel of both the parties through Email immediately.

15 CP(IB)/30/KOB/2021

Learned counsel for the applicant Shri Vinod PV as well as learned counsel for the respondent Smt Liza Meghan Cyriac appeared through VC.

The reply filed by the Corporate Debtor is on record.

Shri Vinod PV submitted that he has filed **IA(IBC)/176/KOB/2021** with the prayer to correct the name "Patel Cars Private Limited" to "ITMA Hotels India Private Limited: and also to correct the name "Dhanalaxmi Bank Limited" to "State Bank of India" in the notice of admission.

Smt. Liza Meghan Cyriac submitted that she has already received the aforesaid IA and she has no objection in allowing the reliefs sought for in the IA.

Accordingly, IA/(IBC)/176/KOB/2021 in CP(IB)/30/KOB/2021 stands allowed.

Registry is directed to permit the learned counsel for the applicant to make necessary corrections in the CP as prayed for the above IA, with proper authentication. The petitioner shall serve a corrected copy of the CP to the Corporate Debtor.

List for final hearing on 01.12.2021.

Learned counsel for both the parties may file their written submission in brief (limiting 3-4 pages) at least 2 days before the above date

16 TCP/22/KOB/2019

Learned counsel for the applicant Shri C.S.Ajith Prakash appeared through VC. Learned counsel for R1 Shri Rohan Batra, learned counsel for R7, R10 & R11 Smt. Marian GM Tharakan, learned counsel for R8, R9, R12, R14, R15, R17 and R18 Shri Anver K.M. appeared through VC. None appeared for the NCLT appointed Chairman.

Shri C.S.Ajith Prakash stated that the appeal preferred before the Hon'ble NCLAT against the Order of this Tribunal dated 27.11.2020 in IA/66/KOB/2020 will be coming up for hearing on 06.12.2021. He has also pointed out that vide proceedings dated 20.10.2021 the **IA/150/KOB/2020 IN TCP/22/KOB/2019** filed by him is Reserved for Orders. Therefore, he requested to post this TCP to a date after 6th December, 2021. His request is allowed.

List on 21.12.2021 for hearing.