

NCLT, KOCHI BENCH

Daily Orders

Date: 24th Nov 2021

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

1 CP(IB)/41/KOB/2021

This CP(IB) has been filed under Section 9 of the IBC, 2016 by the Operational Creditor IAPETUS Shipping against the Corporate Debtor Fontana Impex Pvt Ltd for recovery of the Debt Amount of Rs.1,27,20,141/-.

Learned counsel for the Operational Creditor Shri Hardik Paranjape appeared through VC.

The Operational Creditor is directed to issue fresh notice to the Corporate Debtor through email and Registered Post with A/D 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 CD through email.

The Corporate Debtor is directed to file the Reply Statement within two weeks, serving a copy to the OC, who may file rejoinder, if any, within 7 days thereafter.

List on 20.12.2021

2 IA(IBC)/175/KOB/2021 IN CP.IB/1/KOB/2021

This IA has been filed by the IRP under Regulation 30A of the IBBI (Insolvency Process for Corporate Persons) Rules 2016 seeking withdrawal of the CIR Process initiated against the Corporate Debtor.

Learned IRP Shri Dileep KP appeared in person along with his learned PCS Shri N.R.Krishnan Unni through VC. Adv Shri Vinod PV appeared through VC for the Corporate Debtor.

On verification of records of this Tribunal, it is learnt that there are other Financial Creditors / Home buyers having similar grievance against the Corporate Debtor, who have filed applications which are pending consideration.

Therefore, the IRP is directed to issue paper publication in this case in accordance with the Corporate Insolvency Resolution Process.

The CD is directed to file a memo attaching declaration of all the Home Buyers of the Corporate Debtor that the Home Buyers are not having any objection with respect to the withdrawal of this CIR Process, within ten days.

List on 16.12.2021.

3 CP.IB/1/KOB/2021

Learned counsel for the Financial Creditors Shri N.R.Krishnan Unni as well as learned counsel for the Corporate Debtor Shri Vinod PV appeared through VC.

In view of todays proceedings in **IA(IBC)/175/KOB/2021**, **since this matter has already been admitted, no orders are required today.**

4 CA/44/KOB/2019

Learned counsel for the applicant Shri A.C.Venugopal appeared through VC. Learned counsel for the Care Taker Administrator (R1) Shri Manuel Vivera as well as learned counsel for R2 & R3 Shri Ashok B. Shenoy appeared through VC. None appeared for other respondents.

Both the parties, who appeared today, argued and arguments concluded.

Reserved for Orders.

5 IA/152/KOB/2020 IN CP/08/KOB/2020

Learned counsel for the Applicant Shri Vinu Thomas as well as learned counsel for R1 to R4 Shri Yogindunath appeared through VC.

List along with main case on 7.12.2021.

6 CA/33/KOB/2021 IN CP/08/KOB/2020

Learned counsel for the Applicants Shri Yogindunath as well as learned counsel for R1 & R2 Shri Vinu Thomas appeared through VC.

List along with main case on 7.12.2021.

7 IA(C/ACT)/07/KOB/2021 IN CP/08/KOB/2020

Learned counsel for the Applicants Shri Yogindunath as well as learned counsel for R1 & R2 Shri Vinu Thomas appeared through VC.

List along with main case on 7.12.2021.

8 CP/08/KOB/2020

Learned counsel for the Petitioners Shri Yogindunath as well as learned counsel for R2 & R3 Shri Vinu Thomas appeared through VC. No appearance for R1

Shri Yogindunath argued and concluded. Shri Vinu Thomas argued for some time.

List on 07.12.2021 for further hearing (Part Heard) - High on Board

9 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 Contempt Application will be **heard on 24.11.2021** along with **MA(IBC)/17/KOB/2021 IN IA(IBC)/13/KOB/2021 IN TIBA/11/KOB/2019**.

List on 03.12.2021.

10 MA(IBC)/17/KOB/2021 IN IA(IBC)/13/KOB/2021 IN TIBA/11/KOB/2019

This application has been filed by the Monitoring Agent under Section 60(5) of IBC, 2016 against the respondents/suspended directors of the Corporate Debtor.

Learned Monitoring Agent Shri Bijoy Pulipra appeared through VC. None appeared for the Respondents.

During the hearing on 16.11.2021, Adv Sajith, who represented the suspended Directors through VC, submitted that he is hospitalized at PVS Hospital, Kozhikode and that the balance keys would be handed over to the Monitoring Agent within 7 days. His submission was recorded and he was directed to hand over the balance keys and other documents before 24.11.2021.

Today the Monitoring Agent stated that Adv Sajith has not yet handed over the keys and other documents to him.

In view of the above, the Monitoring Agent is directed to file a memo stating under which Superintendent of Police / District Collector's jurisdiction the suspended Directors are residing now and also submit the present available address of the suspended Directors so as to take further action by this Tribunal under Section 429 of the Companies Act, 2013.

List on 03.12.2021.

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

11 IA(IBC)/151/KOB/2021 IN MA(IBC)/25/KOB/2021 IN IA(IBC)/21/KOB/2021 IN TIBA/03/KOB/2019

This IA has been filed by the Applicant, who is an ex-employee of the CD, under Rule 11 of NCLT Rules, 2016 for passing an Interim Order restraining the R1 from utilising the land belonging to the CD under Resolution for running a Rubber Industry in the name and Style Kerala Rubber Ltd.

Learned counsel for the applicant Shri Philip Mathew as well as learned counsel for R4 Shri Vinod PV appeared through VC.

Vide Order dated 09.11.2021 the petitioner was directed to issue fresh notice to R1 to R3 through Registered Post with A/D / Speed post and submit proof of service (A/D card or Postal Track Report) with an affidavit before 24.11.2021. Since, no such proof of service has been filed by the Applicant till date, he is directed to file the same before the next date fixed positively. Respondents are directed to file their counter within 15 days with a copy served in advance to the petitioner.

List on 13.12.2021 for hearing.

12 MA(IBC)/25/KOB/2021 IN IA(IBC)/21/KOB/2021 IN TIBA/03/KOB/2019

This is an MA filed by the applicant Shri N.P.Rajan under Section 33(3) & 74(3) of IBC, 2016 read with Regulation 36-B (4-A) of CIRP Regulations, 2016 for passing an order for liquidation of the Corporate Debtor Hindustan News Print Ltd.

Learned counsel for the applicant Shri Philip Mathew as well as learned counsel for R2 Shri Chitransh Vijayvergia and learned counsel for R4 Shri Vinod PV appeared through VC.

Shri Vinod submitted that he has already filed the counter for R4 through on line and the hard copy will be filed within 3 days. Other respondents have not yet filed the counter. Though vide Order dated 09.11.2021 R1 to R3 were directed to file the counter before 24.11.2021, they have not yet filed the counter. R1 to R3 are given the last chance to file the counter on or before 10.12.2021, failing which, their right to file the counter will stand forfeited.

List on 13.12.2021.

13 MA(IB)/22/KOB/2021 IN IBA/258/CB/2019

This is an MA filed by the Applicant Shri P.X.Xavier. under Section 42 of the IBC, 2016 read with Rule 11 of the NCLT Rules, 2016 against the decision dated 21.08.2020 of the Liquidator.

Learned counsel for the Applicant Smt Latha K appeared through VC. Learned Liquidator Shri Ravindra Chaturvedi appeared through VC along with his learned counsel Shri Kunal Kanungo.

Heard both sides and perused the case records.

Reserved for Orders.

14 MA(IBC)/23/KOB/2021 IN IBA/258/CB/2019

This is an MA filed by the Applicant Shri Sanil P.D.. under Section 42 of the IBC, 2016 read with Rule 11 of the NCLT Rules, 2016 against the decision dated 21.08.2020 of the Liquidator.

Learned counsel for the Applicant Smt Latha K appeared through VC. Learned Liquidator Shri Ravindra Chaturvedi appeared through VC along with his learned counsel Shri Kunal Kanungo.

Heard both sides and perused the case records.

Reserved for Orders.

15 MA(IBC)/26/KOB/2021 IN IBA/258/CB/2019

This is an MA filed by the Applicant Shri Jose K.J. under Section 42 of the IBC, 2016 read with Rule 11 of the NCLT Rules, 2016 against the decision dated 21.08.2020 of the Liquidator.

Learned counsel for the Applicant Smt Latha K appeared through VC. Learned Liquidator Shri Ravindra Chaturvedi appeared through VC along with his learned counsel Shri Kunal Kanungo.

Heard both sides and perused the case records.

Reserved for Orders.

16 MA(IBC)/27/KOB/2021 IN IBA/258/CB/2019

This is an MA filed by the Applicant Shri Nalankunju under Section 42 of the IBC, 2016 read with Rule 11 of the NCLT Rules, 2016 against the decision dated 21.08.2020 of the Liquidator.

Learned counsel for the Applicant Smt Latha K appeared through VC. Learned Liquidator Shri Ravindra Chaturvedi appeared through VC along with his learned counsel Shri Kunal Kanungo.

Heard both sides and perused the case records.

Reserved for Orders.

17 MA(IBC)/28/KOB/2021 IN IBA/258/CB/2019

This is an MA filed by the Applicant Shri Nobi K.S. under Section 42 of the IBC, 2016 read with Rule 11 of the NCLT Rules, 2016 against the decision dated 21.08.2020 of the Liquidator.

Learned counsel for the Applicant Smt Latha K appeared through VC. Learned Liquidator Shri Ravindra Chaturvedi appeared through VC along with his learned counsel Shri Kunal Kanungo.

Heard both sides and perused the case records.

Reserved for Orders.**18 IA(IBC)/125/KOB/2021 IN IBA/35/KOB/2020**

Learned counsel for the IRP Smt. J. Parimala appeared through VC. Learned counsel for the Corporate Debtor Shri Vikram Karla also appeared through VC.

Both the parties submitted that the Hon'ble NCLAT has stayed the constitution of Committee of Creditors and the case is Reserved for Orders by NCLAT.

In view of the above, let this IA be adjourned to 15.12.2021.

19 TCP/50/KOB/2019

Learned counsel for the Petitioner Smt. Lakshmi Sreedhar appeared through VC. None appeared for R1 & R2.

Pleadings are complete.

List on 15.12.2021 for hearing.

20 TCP/116/KOB/19

None appeared for the Petitioner. Adv. Smt. Lakshmi Sreedharan appeared for R2 through VC.

It appears from the records that R2 was set ex parte vide order dated 15.11.2019. The said exparte order was set aside vide order dated 12.02.2020.

Smt Lakshmi Sreedharan today submitted that R2 has already filed the counter. She also stated that R2 has paid the costs of Rs.10,000/- as ordered by this Tribunal and proof of payment produced.

In view of the above, Registry is directed to accept the counter filed by R2 and place it on record.

The Petitioner may file rejoinder, if any, before the next date fixed.

List on 15.12.2021 for hearing.

21 TCP/58/KOB/19 (TCP/235/17)

Learned counsel for the Petitioners Smt. Jayalakshmi appeared through VC. Adv. Shri K. Manoj Menon appeared for the respondents through VC.

Smt. Jayalakshmi sought an adjournment stating that the appeal in the matter is still pending before the Hon'ble NCLAT and the date of posting is yet to be decided. However, Mr. Menon stated that this matter may be disposed of without waiting for the orders of Hon'ble NCLAT.

In view of the fact that there is no stay order in proceeding with this matter, let this case be listed for hearing on 03.01.2022.

There shall be no adjournment in this case.

22 IA(C/ACT)/8/KOB/2021 IN CP(C/ACT)/23/KOB/2021

Learned counsel for the applicant Shri P.G. Jayashankar as well as learned PCS for the respondents Shri CS Viivek Kumar appeared through VC.

Pleadings are complete in the main CP. Hence this IA will be heard along with the main CP.

List on 23.12.2021 for hearing (High on Board).

23 CP(C/ACT)/23/KOB/2021

Learned counsel for the applicant Shri P.G. Jayashankar as well as learned PCS for the respondents Shri CS Viivek Kumar appeared through VC.

Pleadings are complete. Both sides sought to place the case High on Board in the next date of hearing. Allowed.

List on 23.12.2021 for hearing (High on Board).

24 IA(C/ACT)/20/KOB/2021 IN CP/31/KOB/2021

Learned counsel for petitioner/applicant Shri Dinesh R. Shenoy appeared through VC. Learned counsel for Respondents 1 to 3 Shri VV Sidharthan also appeared through VC.

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

Adjourned to **13.12.2021 for hearing.**

25 IA(C/ACT)/42/KOB/2021 IN CP/31/KOB/2021

This IA has been filed by the Applicants (Respondents 1 & 2 in the CP) under Rule 32 of the NCLT Rules, 2016 seeking permission to convene the meeting of the Board of Directors and to convene the AGM of the Company.

Learned counsel for applicant Shri VV Sidharthan as well as learned counsel for the respondents Shri Dinesh R. Shenoy appeared through VC.

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

List on 13.12.2021 for hearing.

26 CP/31/KOB/2021

Learned counsel for petitioner/applicant Shri Dinesh R. Shenoy appeared through VC. Learned counsel for Respondents 1 to 3 Shri VV Sidharthan also appeared through VC.

Shri Dinesh R. Shenoy submitted that Registry refused to accept the rejoinder filed by him, stating delay in filing. Hence petitioner sought time to file an IA to condone the delay in filing the Rejoinder.

Adjourned to **13.12.2021 for hearing.**

27 CP(CA)/33/KOB/2021

Learned counsel for the Petitioners Shri Shaijan C. George as well as learned counsel for R2 Shri Chitransh Vijayvergia appeared for R.2. through VC. None appeared for other respondents.

Shri Shaijan C. George sought two weeks time to file the rejoinder. His request is allowed. He may file the rejoinder at least 5 days before the next date fixed.

List on 16.12.2021 for hearing.