

NCLT, KOCHI BENCH

Daily Orders

Date: 25th Nov 2021

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

1 IVNP/4/KOB/2021 IN IA(IBA)/87/KOB/2021 IN IBA/23/KOB/2019

Learned counsel for both the parties appeared through VC.

Orders pronounced. **IVNP/4/KOB/2021 IN IA(IBA)/87/KOB/2021 IN IBA/23/KOB/2019 stands dismissed vide separate Order.**

2 IA(IBC)/87/KOB/2021 IN IBA/23/KOB/2019

Learned counsel for both the parties appeared through VC.

Orders pronounced. **IA(IBC)/87/KOB/2021 IN IBA/23/KOB/2019 stands allowed vide separate Order. Liquidation ordered.**

3 IA(IBC)92/KOB/2021 IN IBA/23/KOB/2019

Learned counsel for both the parties appeared through VC.

Orders pronounced. **IA(IBC)92/KOB/2021 IN IBA/23/KOB/2019 stands disposed of vide separate Order.**

4 CP(IB)/10/KOB/2021

Learned counsel for the Operational Creditor Shri S.V.Ramakrishna appeared through VC. None appeared for the Corporate Debtor.

Orders pronounced. **CP(IB)/10/KOB/2021 stands dismissed vide separate Order.**

5 COMP.APPL/87/KOB/2021 IN CP/40/KOB/2020

Learned counsel for both the parties appeared through VC.

Orders pronounced. **COMP.APPL/87/KOB/2021 IN CP/40/KOB/2020 stands disposed of vide separate Order.**

6 IA(IBC)/178/KOB/2021 IN MA(IBC)/31/KOB/2021 IN IBA/258/CB/2019

This IA has been filed by the applicant/appellant for condonation of 44 days delay in filing the MA.

None appeared for the Applicant. Learned Liquidator Shri Ravindra Chaturvedi appeared through VC along with his learned counsel Shri Kunal Kanungo.

The applicant in his application stated that he is only a poor labour worker having no email ID and send the Form E by using internet café email. According to the applicant, he spent blood and sweat of his entire life for the Company, but in turn thrown out to street without granting any claim and not even the last month salary also. With no other alternative remedy, he again filed this present appeal challenging the final email communication of the liquidator issued based on his Form E claim. During the course of this, a delay of 44 days occurred. Hence this IA to condone the delay in filing the Appeal.

On hearing the liquidator and on perusal of the records, this Tribunal is of the opinion that the prayer of the Applicant to condone the delay in filing the Appeal be allowed. Hence the **IA(IBC)/178/KOB/2021 IN MA(IBC)/31/KOB/2021 IN IBA/258/CB/2019 stands allowed.**

7 MA(IBC)/31/KOB/2021 IN IBA/258/CB/2019

This is an MA filed by the Applicant Shri Sibi A. 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.

None appeared for the Applicant. Learned Liquidator Shri Ravindra Chaturvedi appeared through VC along with his learned counsel Shri Kunal Kanungo.

Shri Kunal Kanungo submitted that he has already filed the counter through on line and hard copy will be filed within 3 days. He may do so positively within 3 days.

List on 30.11.2021 for hearing.

8 MA(IBC)/33/KOB/2021 IN IBA/258/CB/2019

This IA has been filed by the applicant/appellant for condonation of 44 days delay in filing the MA.

None appeared for the Applicant. Learned Liquidator Shri Ravindra Chaturvedi appeared through VC along with his learned counsel Shri Kunal Kanungo.

The applicant in his application stated that he is only a poor labour worker having no email ID and send the Form E by using internet café email. According to the applicant, he spent blood and sweat of his entire life for the Company, but in turn thrown out to street without granting any claim and not even the last month salary

also. With no other alternative remedy, he again filed this present appeal challenging the final email communication of the liquidator issued based on his Form E claim. During the course of this, a delay of 44 days occurred. Hence this IA to condone the delay in filing the Appeal.

On hearing the liquidator and on perusal of the records, this Tribunal is of the opinion that the prayer of the Applicant to condone the delay in filing the Appeal be allowed. Hence the **MA(IBC)/33/KOB/2021 IN IBA/258/CB/2019 stands allowed.**

9 MA(IBC)/32/KOB/2021 IN IBA/258/CB/2019

This is an MA filed by the Applicant Shri Charley Lopez 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.

None appeared for the Applicant. Learned Liquidator Shri Ravindra Chaturvedi appeared through VC along with his learned counsel Shri Kunal Kanungo.

Shri Kunal Kanungo submitted that he has already filed the counter through on line and hard copy will be filed within 3 days. He may do so positively within 3 days.

List on 30.11.2021 for hearing.

10 IA(IBC)/179/KOB/2021 IN IBA/258/CB/2019

This IA has been filed by the applicant/appellant for condonation of 44 days delay in filing the MA.

None appeared for the Applicant. Learned Liquidator Shri Ravindra Chaturvedi appeared through VC along with his learned counsel Shri Kunal Kanungo.

The applicant in his application stated that he is only a poor labour worker having no email ID and send the Form E by using internet café email. According to the applicant, he spent blood and sweat of his entire life for the Company, but in turn thrown out to street without granting any claim and not even the last month salary also. With no other alternative remedy, he again filed this present appeal challenging the final email communication of the liquidator issued based on his Form E claim. During the course of this, a delay of 44 days occurred. Hence this IA to condone the delay in filing the Appeal.

On hearing the liquidator and on perusal of the records, this Tribunal is of the opinion that the prayer of the Applicant to condone the delay in filing the Appeal be allowed. Hence the **IA(IBC)/179/KOB/2021 IN IBA/258/CB/2019 stands allowed.**

11 MA(IBC)/34/KOB/2021 IN IBA/258/CB/2019

This is an MA filed by the Applicant Shri O.J.Joseph 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.

None appeared for the Applicant. Learned Liquidator Shri Ravindra Chaturvedi appeared through VC along with his learned counsel Shri Kunal Kanungo.

Shri Kunal Kanungo submitted that he has already filed the counter through on line and hard copy will be filed within 3 days. He may do so positively within 3 days.

List on 30.11.2021 for hearing.

12 REPORT/106/KOB/2021 IN IBA/13/KOB/2020

This Report has been filed by the Resolution Professional in the matter of CIR Process against the Corporate Debtor Sree Bhadra Parks and Resorts Ltd.

Perused the Report. Report is taken on record. Registry shall place it on record.

13 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 R4 Mr.Nikhil Narayanan and learned PCS for R5 Shri Zibi Jose also appeared through VC.

Pleadings are complete.

List on 09.12.2021 for final hearing (High on Board).

14 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 Shri S.Eshwar Sabhapathy and learned counsel for R4 & R5 Shri Nikhil Narayanan and PCS Shri Zibi Jose also appeared through VC.

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

List on 09.12.2021 (High on Board).

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

Learned counsel for the Applicant Shri S.Eshwar Sabhapathy appeared through VC. Learned counsel for R1 & R2 Shri Bijoy P. Pulipra and learned counsel for R4 Shri

PP Zibi Jose appeared through VC. Learned counsel shri Nikhil Narayanan appeared for R3.

Heard both the learned counsel for the Parties and perused the records.

Reserved for Orders.

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

16 COMP.APPL/91/KOB/2021 IN CP/44/KOB/2020

Learned counsel for the petitioner Smt. Rema Smrithi VK as well as learned counsel for R1 to R3 Shri Dhiren R. Dave appeared through VC.

Reply has already been filed by the respondents.

As directed by this Tribunal, ROC has already filed his report in this CA.

Since pleadings are complete in the main CP, this CA will be heard along with the hearings of the main CP.

List on 21.12.2021.

17 CP/44/KOB/2020

Learned counsel for the petitioner Smt. Rema Smrithi VK as well as learned counsel for R1 to R3 Shri Dhiren R. Dave appeared through VC. Asst ROC Shri Ramesh also appeared through VC.

Heard the arguments of the learned counsel for the petitioner. Her arguments concluded. .

Shri Dhiren R. Dave submitted that the petition itself is not maintainable and reliefs sought for are not coming within the parameters of Section 241 and 242 of the Companies Act, 2013.

Even though ROC is one of the respondents in this case, he has not yet submitted his reply statement till date. Since his reply statement is essential in this case, he is directed to file his reply statement within 2 weeks positively.

List on 21.12.2021 (High on Board).

18 TCP/38/KOB/19 (TCP/794/2018)

This TCP was dismissed by this Tribunal **for default and non-prosecution vide Order** dated 23.11.2020 since none has appeared for the Petitioner on the hearing dates 21.5.2020, 04.6..2020, 22.6.2020, 18.8.2020 and 23.11.2020.

Consequently, the petitioner filed CA(CA)/74/KOB/2021 on 05.02.2021 with the prayer to recall the Order passed on 23.11.2020 and to restore it into file. Vide order dated 06.10.2021 the prayer of the Petitioner was allowed and the TCP was restored by imposing on the petitioner the costs of Rs.10,000/- payable in favour of the Ministry of Corporate Affairs. This amount has been paid the matter was restored to file. However, even after restoration of the case as mentioned above, none appeared today for the petitioner. In order to give a chance to the counsel for the petitioner, this matter is adjourned.

List on 07.01.2022 for hearing.

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

19 TCP/57/KOB/2020 (CP/19/1999 of High Court of Kerala)

Learned counsel for the Petitioner Shri Paul Jacob appeared through VC.

It is noted that with regard to the notice issued from this Registry to the respondents, all notices have been returned with postal remarks stating "closed", "left", "unclaimed", "deceased", "locked", "no such addressee", etc.

Shri Paul Jacob submitted that except R3 & R6 notice has not yet been served to other respondents. However, no proof of service has been produced.

Shri Paul Jacob sought an adjournment to search the present address of the respondents so as to issue fresh notice to them.

It appears from records that notice was duly served to R3 and R6. But they neither appeared through VC nor filed any counter. Notice issued to R5 is seen returned with the postal remark "unclaimed. **Hence, R3, R5 and R6 are hereby set ex-parte.**

The Petitioner is directed to make paper publication in two newspapers (one in English and one in Malayalam having wide publicity in Kerala) stating the details and next posting of this case, within four weeks and file proof of publication along with an affidavit before the next date fixed.

List on 17.01.2022.

20 CA/10/KOB/2021 IN CP/21/KOB/2020

Learned counsel for the Applicants Shri V. Ajakumar appeared through VC. Learned counsel for R1 to R8 Shri Bijoy P. Pulipra, learned counsel for R9 Ms Sabeela CB, learned counsel for R10 & R16 Shri Saji Varghese, learned counsel for R11, R18 to R20, R22 Shri Vinod V. Luka, learned GP for R12 & R13 Shri Arun Chandi, and learned counsel for R17 **Smt Amritha Vidyadharan** appeared through VC. Adv Smitha Gopinath represented the learned counsel for R14 & R15 Shri Ponnann Alex.

This CA will be heard at the time of hearing of the main case.

List on 07.01.2022.

21 CA/36/KOB/2021 IN IA/198/KOB/2020 IN CP/21/KOB/2020

Learned counsel for the Applicants Shri Bijoy P. Pulipra appeared through VC. Learned counsel for R1 Smt. Sabeela CB, learned counsel for R2 to R7, R9 & R10 Shri V. Ajakumar, learned counsel for R8 & R16 Shri Saji Varghese, learned counsel for R11, R18 to R20 & R22 Shri Vinod V. Luka, learned GP for R12 & R13 Shri Arun Chandi and learned counsel for R17, R21 and R23 Smt Amritha Vidyadharan also appeared through VC. Adv Smitha Gopinath represented the learned counsel for R14 & R15 Shri Ponnann Alex.

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

Reserved for Orders.

22 COMP.APPL/84/KOB/2021 IN CP/21/KOB/2020

Learned counsel for the Applicants Shri Bijoy P. Pulipra appeared through VC. Learned counsel for R1 Smt. Sabeela CB, learned counsel for R2 to R7, R9 & R10 Shri V. Ajakumar, learned counsel for R8 & R16 Shri Saji Varghese, learned counsel for R11, R18 to R20 & R22 Shri Vinod V. Luka, learned GP for R12 & R13 Shri Arun Chandi, and learned counsel for R17, R21 and R23 Smt Amritha Vidyadharan also appeared through VC. Adv Smitha Gopinath represented the learned counsel for R14 & R15 Shri Ponnann Alex.

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

Reserved for Orders.

23 COMP.APPL/85/KOB/2021 IN CP/21/KOB/2020

Learned counsel for the Contempt Petitioners Shri Bijoy P. Pulipra as well as learned counsel for R1-R5 Shri V.Ajakumar appeared through VC.

It appears from records that the respondents have not yet filed any reply against this CA. Today Shri Ajakumar sought time to file reply statement to this CA. His request is allowed. He is directed to file the reply statement positively within two weeks, failing which, the right of the respondents to file the reply statement will stand forfeited.

List on 07.01.2022 for hearing.

24 COMP.APPL/89/KOB/2021 IN CP/21/KOB/2020

Learned counsel for the Applicants Smt Amritha Vidyadharan appeared through VC. Learned counsel for R1-R8 Bijoy P. Pulipra, learned counsel for R9 Smt. Sabeela CB, learned counsel for R10-R15, R17, R18 Shri V. Ajakumar, learned counsel for R16 & R24 Shri Saji Varghese, learned counsel for R19, R25 to R27 & R29 Shri Vinod V. Luka, learned counsel for R28 Smt Amritha Vidyadharan and learned GP for R20 & R21 Shri Arun Chandi also appeared through VC. Adv Smitha Gopinath represented the learned counsel for R22 & R23 Shri Ponnann Alex.

List on 07.01.2022.

25 CP/21/KOB/2020

Learned counsel for the petitioners Shri Bijoy P. Pulipra appeared through VC. Learned counsel for R1 Ms Sabeela, learned counsel for R2 to R7, R9 & R10 Shri V. Ajakumar, learned counsel for R8 & 16 Shri Saji Varghese, learned counsel for R11, R18 to R20 & R22 Shri Vinod V. Luka, learned GP for R12 & R13 Shri Arun Chandi and learned Counsel for R17, R21 & 23 Smt Amritha Vidyadharan also appeared through VC. Adv Smitha Gopinath represented the learned counsel for R14 & R15 Shri Ponnann Alex.

List on 07.01.2022 for hearing.

26 CP/39/KOB/2020

Learned counsel for the Petitioner Shri Jerin Asher Sojan appeared through VC. None appeared for the Respondents.

Shri Jerin Asher Sojan submitted that settlement talks have been failed and they are proposing to appoint a mediator for the amical settlement.

List on 22.12.2021.

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27 CP/09/KOB/2020

Advocate Shri Shaji appeared on behalf of the learned counsel for the Petitioner Shri Philip Mathew. None appeared for R1.

Pleadings are complete.

Learned counsel for both the parties are directed to submit their written submissions in brief (3-4 pages) at least 2 days before the next date of hearing.

List on 23.12.2021 for final hearing.

28 CP/53/KOB/2020

Learned counsel for the Petitioner Smt Merin Thaliath as well as learned PCS for R1 to R3 Shri Vivek Kumar appeared through VC.

Pleadings are complete.

Both the parties sought an adjournment for a detailed hearing.

List on **05.01.2022** for final hearing.

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