

NCLT, KOCHI BENCH

Daily Orders – Draft

Date: 27th Oct 2021

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

1 IVNP/6/KOB/2021 IN IA(IBC)/87/KOB/2021 IN IBA/23/KOB/2019

Learned counsel for the Intervening Petitioner Shri Nidhi Sam John as well as learned RP/Respondent Shri Vinod PV appeared through VC.

Orders pronounced. **IVNP/6/KOB/2021 IN IA(IBC)/87/KOB/2021 IN IBA/23/KOB/2019 stands allowed vide separate Order.**

2 CP(IB)/32/KOB/2021

Learned counsel for the Operational Creditor Shri V. Haleel Ben appeared through VC.

This is an IB case filed under Section 9 of the IBC, 2016 by the Operational Creditor M/s BMSS Steel Industries Pvt Ltd against the Corporate Debtor M/s. BHEL Electrical Machines Ltd claiming a debt amount of Rs.5,22,852.25/-.

The Operational Creditor is directed to issue fresh notice to the Corporate Debtor 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 of hearing. Registry is also directed to issue notice to the CD through email. The CD is directed to file the counter within 7 days of receipt of notice serving advance copy to the OC, who may file the rejoinder, if any, within 7 days of receipt of reply from the CD.

List on 15.11.2021.

3 REST.APPLN(C/ACT)/02/KOB/2021 IN TCP/50/KOB/2019

Learned counsel for the Applicant Smt Lakshmi Sreedhar appeared through VC.

During the hearings of **TCP/50/KOB/2019** on 22.04.202, 28.07.2021 and 02.09.2021 none appeared for the petitioner even though fresh vakkalath was filed for him on

22.03.2021. Consequently, TCP/50/KOB/2019 was dismissed due to non-prosecution vide order dated 02.09.2021.

This is a Restoration Application filed by Dr. Essa Mohammed Rafique, who was the petitioner in the above CP, under Rule 48(2) of the NCLT Rules, 2016 to restore TCP/50/KOB/2019.

The Applicant submitted that the non-appearance was an omission on the part of the counsel and an unconditional apology is rendered for the inconvenience caused and stated that irreparable loss and damages would be caused if this application for restoration is not allowed. The applicant further submitted that the respondents would not be prejudiced if the restoration is allowed.

After hearing the learned counsel for the applicant, this Tribunal is of the considered opinion that in the interests of justice, the TCP/50/KOB/2019 be restored to file. REST.APPLN(C/ACT)/02/KOB/2021 is therefore allowed on the condition that the applicant/petitioner pays the costs of Rs.5,000/- (Rupees five thousand only) to the account of Ministry of Corporate Affairs and submit proof of payment on or before 15.11.2021.

On receipt of proof of payment of costs, the Registry is directed to restore the TCP/50/KOB/2019 into file and post it for hearing.

List TCP/50/KOB/2019 for hearing along with TCP/116/KOB/2019 on 24.11.2021.

4 IA(IBC)/156/KOB/2021 IN IBA/39/KOB/2020

Learned RP Shri Dileep KP appeared in person through VC.

This is an IA filed by the RP under Regulation 40(C) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

The RP submitted that the total period of 270 days allowed by this Tribunal for the CIR Process will be expired on 06.11.2021. According to the RP, the CIR Process was delayed on account of Covid-19 lockdown from May 2021 onwards. Accordingly, the CoC at its 8th meeting held on 11.10.2021 decided to seek the approval of this Tribunal to avail 60 days exclusion period in the CIR Process. Hence this IA is filed seeking 60 days exclusion from 5th May 2021 to 4th July 2021 in the period of CIR Process of the Corporate Debtor Tierra Food India Pvt Ltd.

On hearing the RP and also on perusal of the resolution passed by the CoC in its meeting held on 11.10.2021, this Tribunal is of the opinion that the prayer of the Applicant/RP be allowed. Hence, the **IA(IBC)/156/KOB/2021 IN IBA/39/KOB/2020 stands allowed.**

The RP is directed to complete the Corporate Insolvency Resolution Process of the Corporate Debtor on or before 06.01.2022.

5 CP(IB)/31/KOB/2021

This is a Petition filed under Section 59(7) of the IBC, 2016 by the Liquidator of Framework Systems and Solutions Pvt Ltd for dissolution of the Corporate Person Framework Systems and Solutions Pvt Ltd.

Learned Liquidator Shri Pankaj Lunawat appeared through VC along with his learned counsel Shri Udit Agarwal.

Heard and perused the records.

Reserved for orders.

6 COMP.APPL/86/KOB/2021 IN TCP/14/KOB/2020 (TCP/67/2016(CB))

Learned senior counsel for the Applicants / R2-R4 Shri Joseph Kodianthara appeared through VC. Learned counsel for the respondents / R1 & Petitioners in TCP Shri Mohan Pulickkal also appeared through VC.

Heard and perused the records.

Reserved for orders.

7 TCP/14/KOB/2020 (TCP/67/2016(CB))

Learned counsel for the Petitioners Shri Mohan Pulickkal as well as learned senior counsel for R2 to R4 Shri Joseph Kodianthara appeared through VC.

Heard and perused the records.

Reserved for orders.

8 IA/215/KOB/2020 IN CP/38/KOB/2020 c/w CP/126/KOB/2019

Learned counsel for the Applicants Smt Karthika K.J. as well as learned PCS for R1 & R5 Shri PP Zibi Jose appeared through VC.

Smt Karthika sought an adjournment to enable her senior to argue the matter. At her request, the case is **adjourned to 02.12.2021 (High on Board)**.

9 CP/126/KOB/2019

Learned counsel for the Petitioners Smt Karthika K.J. as well as learned PCS for R1 to R3 Shri PP Zibi Jose appeared through VC.

Smt Karthika sought an adjournment to enable her senior to argue the matter. At her request, the case is **adjourned to 02.12.2021 (High on Board)**.

10 CP/38/KOB/2020

Learned counsel for the Petitioners Shri Smt Karthika K.J as well as learned PCS for R1 & R5 Shri PP Zibi Jose appeared through VC.

Smt Karthika sought an adjournment to enable her senior to argue the matter. At her request, the case is **adjourned to 02.12.2021 (High on Board)**.

11 CP/35/KOB/2020

None appeared for the petitioner. Adv Shri Paul Jose appeared through VC for R3 to R6

The Memo filed by the Petitioner attaching the stay order dated 5.1.2021 in WP(C) 227 of 2021 of the Hon'ble High Court of Kerala is on record. However the learned counsel for the respondents could not answer a question as to what is the present position of the Writ Petition pending before the Hon'ble High Court.

Shri Paul Jose sought 3 weeks' time to file the counter. He is directed to file the counter positively within 3 weeks.

List on 03.12.2021.

12 CA(C/ACT)/71/KOB/2021 IN CP/40/KOB/2020

Learned counsel for the applicant Shri Sunil N as well as learned counsel for R1 to R4 Shri Rajesh Narayan Iyer appeared through VC. Adv Shri Renjith Rajappan, Advocate appeared for R5.

This is an IA filed by the petitioner under Section 213 and 241 of the Companies Act 2013 read with Rule 11 & 32 of NCLT Rules 2016 seeking 7 reliefs, which include to issue an Injunction Order to refrain the Respondents from conducting the alleged Board Meeting.

In CP/40/KOB/220, Vide order dated 06.11.2020 the respondents were directed to maintain status quo with regard to the disposal of any of the assets of R4 Company until further orders.

Since pleadings are complete in CP/40/KOB/2020, this CA will be heard along with the main CP.

List on 30.11.2021 for hearing.

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

Shri Sunil N and Shri Rajesh Narayan Iyer appeared for the parties through VC.

This is an IA filed by the petitioner under Section 213 of the Companies Act, 2013 read with Section 11 of the NCLT Rules 2016 seeking a direction to ROC to conduct an investigation against R1, R2, R3 & R5 in the R4 Company and also to appoint an independent Chartered Accountant to estimate the losses caused to the R4 Company by the mismanagement of R1, R2, R3 & R5.

Heard both sides and perused the whole case records.

Reserved for Orders.

14 COMP.APPL/88/KOB/2021 IN CP/40/KOB/2020

This is an IA filed by the petitioner under Order 1 Rule 3 of the Civil Procedure Code 1908 read with Rule 11 of the NCLT Rules 2016 praying to implead ROC in the CP and order an investigation by the ROC.

Learned counsel for the applicant Shri Sunil N as well as learned counsel for R1 to R4 Shri Rajesh Narayan Iyer and learned counsel for R5 Shri Renjith Rajappan appeared through VC. ROC has also appeared through VC.

On hearing the parties and also on thorough perusal of the records, this Tribunal is of the opinion that the prayer of the Applicant to implead the ROC can be allowed as the ROC has no objection in the impleadment. Hence the **COMP.APPL/88/KOB/2021 IN CP/40/KOB/2020 stands allowed and ROC is impleaded as an additional respondent. The other prayer for ordering investigation by the ROC will be dealt with in CA 87/KOB/2021 which has been reserved for orders today.**

Registry is directed to carry out the impleadment in the CP.

15 CP/40/KOB/2020

Learned counsel for the applicant Shri Sunil N as well as learned counsel for R1 to R4 Shri Rajesh Narayan Iyer and learned counsel for R5 Shri Ranjit Rajappan appeared through VC.

Pleadings are complete.

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

List on 30.11.2021 for final hearing.

16 CP/45/KOB/2020

Learned counsel for the Petitioner Shri Renjith Rajappan as well as learned counsel for R1 to R4 Shri Rajesh Narayan Iyer appeared through VC. Shri Sunil N appeared for R5. ROC appeared in person through VC

Respondents are directed to file their counter / cure the defects in their counter positively on or before 15.11.2021, failing which law will take its own course.

List on 30.11.2021 for final hearing.

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

Learned counsel for the Applicant Smt Merin Thaliath appeared through VC. ROC (R4) appeared in person through VC. None appeared for other respondents.

This is an IA filed by the applicant/petitioner against the respondents with the prayer to appoint an Advocate Commissioner to authenticate the statutory records of the Company.

This IA will be heard along with the hearings in the main CP

List on 15.11.2021.

18 CP/31/KOB/2021

Learned counsel for the Petitioner Smt Merin Thaliath appeared through VC. ROC (R4) appeared in person through VC. None appeared for other respondents.

Vide order dated 05.10.2021 the Petitioner was directed to file the rejoinder within two weeks. But rejoinder has not yet been filed. Smt.Merin submitted today stated that the petitioner wants to file the rejoinder. She is directed to file the rejoinder along with an IA to condone the delay in filing the rejoinder within a week.

List on 15.11.2021.

19 COMPANY APPEAL/15/KOB/2021

Learned counsel for the Appellant Smt Karthika KJ as well as learned counsel for the Respondents Shri Blaze K. Jose appeared through VC.

Smt Karthika sought an adjournment to enable her senior to argue the matter.

At her request, the case is adjourned to 02.12.2021.

20 COMPANY APPEAL/16/KOB/2021

Learned counsel for the Appellant Smt. Karthika KJ appeared through VC.

Smt Karthika sought an adjournment to enable her senior to argue the matter.

At her request, the case is adjourned to 02.12.2021.

21 COMPANY APPEAL/17/KOB/2021

Learned counsel for the Appellant Smt. Karthika KJ appeared through VC.

Smt Karthika sought an adjournment to enable her senior to argue the matter.

At her request, the case is adjourned to 02.12.2021.

22 COMPANY APPEAL/18/KOB/2021

Learned counsel for the Appellant Smt. Karthika KJ appeared through VC.

Smt Karthika sought an adjournment to enable her senior to argue the matter.

At her request, the case is adjourned to 02.12.2021.