

NCLT, KOCHI BENCH

Daily Orders – Draft

Date: 29th Septt 2021

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

1 IA(C/ACT)/27/KOB/2021 IN MA(CA)/02/KOB/2021 & IA/194/KOB/2020 IN TCP/20/KOB/2019 & TCP/20/KOB/2019

This is an IA filed by the applicant/petitioner under Rule 11 of NCLT Rules, 2016 with the prayer to accept the common written submission filed online on 31.08.2021.

Learned counsel for the applicant Shri A.M.Sridharan appeared through VC.

Heard and perused the records.

IA(C/ACT)/27/KOB/2021 IN MA(CA)/02/KOB/2021 & IA/194/KOB/2020 IN TCP/20/KOB/2019 & TCP/20/KOB/2019 stand allowed. Registry is directed to place the common written submissions filed by the petitioner on record.

2 IVNP(C/ACT)/1/KOB/2021 IN CP/21/KOB/2021

This is an IVNP filed under Rule 11 of NCLT Rules, 2016 by the applicant Shri Padmakumar Mampilly Rajan, Director and Shareholder of the Petitioner Company with the prayer to permit him to intervene in this Company Petition. The applicant is also the petitioner in CP/11/KOB/2021 filed against certain other Directors of the Petitioner Company.

Adv. Niranjana Sudhir appeared through VC for the Intervening Applicant.

It is noticed that the Intervening Applicant has not made the petition in CP/21/KOB/2021 as a respondent. Without hearing the petitioner in that Company Petition, no intervening application can be entertained. Learned counsel for the IVNP applicant stated that he will be filing a modified application impleading the proper respondent.

Hence the **IVNP No.1/KOB/2021 stands disposed of.**

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

This is an IA filed under Section 60(5) of IBC, 2016 read with Rule 11 of NCLT Rules, 2016 by Union Bank of India, leader of the Consortium of lenders of the

Corporate Debtor with the prayer to permit them to intervene in **IA(IBC)/87/KOB/2021 IN IBA/23/KOB/2019**.

Adv Shri Sijo George appeared through VC for the Intervening petitioner. Resolution Professional Shri Vinod PV also appeared through VC for the Corporate Debtor.

Shri Sijo George sought an adjournment to enable his senior to argue the matter. **At his request the matter is adjourned to 25.10.2021.**

4 IA(IBC)/145/KOB/2021 IN MA/100/KOB/2020 IN IBA/45/KOB/2019

This is an IA filed under Rule 11 read with 34 of NCLT Rules 2016 by the Liquidator seeking directions in the matter of release of security interest from Liquidation Estate in regard to the request received from M/s. Daimler Financial Services Pvt Ltd.

Learned liquidator Shri Dileep KP appeared through VC along with his learned counsel Shri N.R.Krishnan Unni. Learned counsel for Daimler Financial Services India Pvt Ltd Shri Krusch Antony also appeared through VC.

M/s. Daimler Financial Services Pvt Ltd is directed to file their reply in this IA within 7 days.

List on 22.10.2021.

5 IA(IBC)100/KOB/2021 IN IBA/25/KOB/2020

Learned counsel for the Applicant Shri Divakar Maheshwari as well as learned IRP Shri Sathiq Buhari appeared through VC.

Heard both sides.

Reserved for Orders. Learned counsel for the parties are directed to submit their written submissions in brief (3-4 pages) in this IA within 7 days.

6 IA(IBC)/105/KOB/2021 IN IBA/25/KOB/2020

Learned IRP Shri Sathiq Buhari appeared through VC.

This is an application filed by the IRP on behalf of CoC for appointment of the IRP as RP under Section 22(3)(a) of IBC, 2016.

Heard both sides.

Reserved for Orders.

7 IVNP/5/KOB/2021 IN IA(IBC)/109/KOB/2021 IN IBA/25/KOB/2020

Learned senior counsel for the Intervening Petitioner Shri Joseph Kodianthara as well as learned IRP Shri Sathiq Buhari appeared through VC.

This is an IA filed by the applicant seeking the following reliefs:

- A. Permit the applicant to intervene in IA(IBC)/109/KOB/2021;

- B. Set aside the decision of the CoC dated 18.05.2021 to liquidate the CD on account of the same being illegal;
- C. Direct 1st Respondent/IRP to call for Resolution Applicants in accordance with Section 30 of the IBC, 2016 And permit the Applicant to participate in the same as a resolution applicant.
- D. Heard both sides.

Heard both sides and perused the records.

Reserved for Orders.

8 IA(IBC)/109/KOB/2021 IN IBA/25/KOB/2020

Learned IRP Shri Sathiq Buhari appeared through VC.

This application has been filed by the IRP/RP for liquidation of the Company as per the decision taken in the 3rd CoC meeting held on 18.05.2021.

Vide Order dated 15.09.2021 the CoC members were directed to be present on 29.09.2021 for hearing through video conferencing. Accordingly, Shri Sajan Philip Mathew of Federal Bank Ltd and Shri Anoop Nair of Dhanalakshmi Bank appeared through VC. Adv Shri Leo George also appeared through VC representing the Federal Bank Ltd.

Heard all the parties.

Reserved for Orders. Learned counsel for the parties are directed to submit their written submissions in brief (3-4 pages) in this IA within 7 days.

9 IA(IBC)/138/KOB/2021 IN MA/76/KOB/2020 IN IBA/240/(IB)/2019/CHENNAI BENCH

Learned liquidator Shri Mahalingam Suresh Kumar appeared through VC along with his learned counsel Shri A.G.Satyanarayana.

This is an IA filed under Section 60(5) of IBC, 2016 read with Rule 11 of NCLT Rules, 2016 by the Liquidator to implead the respondents in this IA as party to the proceedings in pending MA/76/KOB/2020.

The liquidator submitted that the Hon'ble High Court of Kerala vide Judgement dated 26.04.2021 has directed this Tribunal to hear the MA/76/KOB/2020 afresh by providing an opportunity to the Personal Guarantors/Mortgagers/Petitioners in the Writ Petitions before passing an order in the application. Hence the liquidator has filed this Impleading application to implead the respondents as parties to the proceedings to comply the Judgement of the Hon'ble High Court of Kerala.

Heard the Id.counsel for the Liquidator and perused the records.

In view of the direction of the Hon'ble High Court of Kerala as mentioned above, IA(IBC)/138/KOB/2021 IN MA/76/KOB/2020 IN IBA/240/(IB)/2019 stands

allowed. Registry is directed to carry out the impleadment of the persons mentioned in the Impleading application as respondents in MA/76/KOB/2020.

The Liquidator is directed to serve copy of this IA to the learned counsel for the respondents Shri S.Easwaran within 7 days.

10 MA/76/KOB/2020 IN IBA/240/(IB)/2019/CHENNAI BENCH

Learned Liquidator Shri Mahalingam Sureshkumar appeared through VC along with his learned counsel Shri A.G.Satyanarayana. The learned counsel for the respondents Shri S. Easwaran also appeared through VC.

Since the **IA(IBC)/138/KOB/2021** for impleading the Personal Guarantors/Mortgagers as respondents in this MA has been allowed vide today's proceedings, this MA will be heard afresh. **The newly impleaded respondents are directed to file their reply against this MA within two weeks.**

List on 28.10.2021.

11 IA/63/KOB/2020 IN IBA/240/2019/CB

Learned counsel for the Interveners Shri S. Easwaran appeared through VC. Learned liquidator Shri Mahalingam Suresh Kumar also appeared through VC along with his learned counsel Shri A.G.Satyanarayana.

Since the **IA(IBC)/138/KOB/2021** for impleading the Personal Guarantors/Mortgagers including the applicants in this IA as respondents in MA/76/KOB/2020 has been allowed, and that the MA will be heard afresh, **this IA filed by the interveners, who have now parties to the proceedings in MA, this IA 63/KOB/2020 has become infructuous and hence dismissed.**

12 IA(IBC)/136/KOB/2021 IN IBA/240/2019/CB

This is an IA filed under Section 60(5) of IBC, 2016 read with Regulation 47A of IBBI (Liquidation Process) Regulations, 2016 read with Rule 11 & 14 of NCLT Rules, 2016 by the Liquidator with the prayer to exclude the Covid-19 lockdown period and the stay order of the Hon'ble High Court of Kerala for a period of 231 days from 13.01.2021 to 31.08.2021 from the liquidation Process of the Corporate Debtor.

The liquidator submitted that the period of liquidation process will be expired on 26.11.2021.

On hearing the learned counsel for the liquidator and on perusal of the records, this Tribunal is of the opinion that the prayer of the liquidator may be allowed. **Hence we allow the IA** and exclude the period of 232 days from 13.01.2021 to 31.08.2021 from the liquidation process time of the Corporate Debtor. The liquidator is directed

to complete the **liquidation process** of the Corporate Debtor **on or before 15.07.2022.**

13 IA(C/ACT)/13/KOB/2021 IN RST.APPLN(C/ACT)/1/KOB/2021 IN TCP/13/KOB/2019

Learned counsel for the Applicant Shri Raj Carolin V appeared through VC. Learned counsel for the respondent Shri Harikumar G. Nair also appeared through VC.

This is an IA filed under Section 433 of the Companies Act, 2013 read with Section 5 of the Limitation Act, 1963 praying to condone the delay of 272 days in filing the restoration application in TCP/13/KOB/2019.

Heard both sides and perused the whole case records.

Reserved for Orders.

14 RST.APPLN(C/ACT)/1/KOB/2021 IN TCP/13/KOB/2019

Learned counsel for the Applicant Shri Raj Carolin V appeared through VC. Learned counsel for the respondent Shri Harikumar G. Nair also appeared through VC.

This is an application filed by M/s. S.T. Reddiar and Sons (Quilon) Pvt Ltd against the Respondent Mrs. Girija Muthukrishnan for restoration of TCP/13/KOB/2019, which was dismissed due to non-prosecution vide Order dated 28.09.2020.

It appears from records that the applicant was barred from representing the company until the disposal of the Company Petition No.TCP/13/KOB/2019. The learned counsel for the applicant submitted that there is a stay order by the Hon'ble High Court of Kerala against the order passed by this Tribunal, but he could not file any order of the Hon'ble High Court of Kerala staying the order.

Vide Order dated 14.09.2021 the applicant was granted one week time to produce the stay order of the Hon'ble High Court of Kerala. But the applicant has not produced any Stay Order till date. Counsel for the applicant stated that today the Hon'ble High Court of Kerala passed an order, which he states that he will produce within a day. He may do so.

Reserved for Orders.

15 TCP/21/KOB/2019 with Memo by administrator

Learned counsel for the petitioners Shri A.C.Venugopal appeared through VC. Learned counsel for the Administrator (R1) Shri Manuel Vivera, Asst. ROC Shri Ramesh and Auditor Shri Babu A.Kallivayalil appeared through V C.

The Reports filed by the Auditors M/s. Babu A. Kallivayalil are on record.

The Administrator has filed counter against the report of the Auditors.

Meanwhile the Administrator appointed by NCLT-Chennai Bench, Hon'ble Justice Shri K. Narayana Kurup as well as the Auditors appointed by this Bench M/s.Babu A. Kallivayalil have submitted their resignations stating various reasons.

On hearing both sides, this Bench is of the view that accepting both the above resignations will affect the affairs of the R1 Company. Hence, the resignation of the Administrator is hereby accepted and he is directed to act as Care Taker Administrator of the R1 Company until a new Administrator takes charge.

The Auditors M/s.Babu A. Kallivayalil will continue in the position of Auditors of the R1 Company till further orders from this Tribunal.

The Petitioners and Respondents are directed to suggest the name of a new Administrator through an affidavit within 2 weeks of receipt of this Order.

Registry is directed to issue copy of this Order to the learned Administrator, the learned counsel of the parties and also to the Auditors through email.

List on 05.11.2021.

16 CA/44/KOB/2019

Learned counsel for the applicant Shri A.C.Venugopal appeared through VC. Learned counsel for the Administrator (R1) Shri Manuel Vivera also appeared through VC.

List on 05.11.2021 for hearing.

17 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. The respondents may file their reply if any well before the next date fixed.

List this CA for final hearing on 08.11.2021 (High on Board).

18 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.

Shri Dhiren R. Dave submitted that the petition itself is not maintainable and not a single relief within the parameters of Section 241 and 242 of the Companies Act, 2013. Moreover, many adjournments were sought by the petitioner to file the rejoinder.

Vide Order date 29.07.2021 the petitioner was given the last and final opportunity to file the rejoinder, if any, within two weeks, failing which it was ordered that his rights to file the rejoinder shall stand forfeited. Even then the petitioner has not filed any rejoinder till date. **Hence the right to file rejoinder stands forfeited.**

List on 08.11.2021 for final hearing (High on Board).

19 CA/78/KOB/2020

Learned counsel for the applicant Shri Aswin Gopakumar appeared through VC. None appeared for the respondents.

Pleadings are complete.

List on 09.11.2021 for hearing (High on Board).

20 CP/4/KOB/2021

Learned counsel for the petitioner Shri Abid Millath as well as learned counsel for R1 to R4 Shri Harikumar G Nair appeared through VC.

Pleadings are complete.

List on 10.11.2021 for final hearing.

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