IN THE NATIONAL COMPANY LAW TRIBUNAL

KOCHI BENCH

IA (C/Act)/120/KOB/2025
IN
CP(C/Act)/26/KOB/2023

(Under Rule 11 r/w Rule 32 of the NCLT Rules, 2016)

Date of Institution:19.05.2025
Order delivered on: 06.05.2026

In the matter of:

M/s Green Hearts Private Ltd.

Memo of parties:

VIVEK MENON P K,
S/o Viswanatha Menon PK,
1479(14/1479), Padinjattil,
Kadakampalli, Trivandrum-695011

.....Applicant

Vs.

1. **GREEN HEARTS PVT. LTD,**
   CC 49/1124A House No.CRA 45
   Changampuzha Road Edappally,
   Ernakulam, Kochi -682024.
   Email: csrajithar@gmail.com.

2. **SANDEEP SADANANDAN**
   11, Aiswarya Near Govy
   Guest House, Kannur-670001.
   Email: sandysadanandan@gmail.com.

3. **KOLLANNUR JOSE LIGI MARIA**
   Vadakelan House, Chettikulam,
   Near Lakshmana Temple,
   Vattaparambu, Aluva,
   Ernakulam -683 579.
   Email id: ligimaria2009@gmail.com.

4. SMITHA KUIRAN
Sreenilayam, Near Telephone Bhavan,
Taliparamba, Kannur - 670 141
Email id: sreelakshmirajeev693@gmail.com.

5. PURANDOD SHANIBAN
Shanavas Manzil. Chalil Vayal,
Taliparamba, Kannur-670 142
Email id: shanibakareem2@gmail.com.

6. REGISTRAR OF COMPANIES
Registrar of Companies, Kochi,
Company Law Bhawan, BMC Road,
Thrikkakara, Kochi – 682021
Email: - roc.ernakulam@mca.gov.in.

7. AXIS BANK
Represented by its Branch Manager
Vithayathil Building, Nelson Mandela Road,
Edappally, Kochi, Kerala 682024
Email:edapally.operationhead@axisbank.com.

8. SATHISH PAUL
Vadakelan House, Chettikulam,
Near Lakshmana Temple, Vattaparambu,
Aluva, Ernakulam – 683579
Email id: - ligimaria2009@gmail.com.

..... Respondents

Coram:

HON'BLE MEMBER (JUDICIAL) SHRI. VINAY GOEL

Appearances:

For the Applicant : Mr. Akhil Suresh, Advocate
For the Respondent Nos. 2 to 5 & 8 : Mr. Shameem Ahamed, Advocate
For the Respondent No.6 : Representative of RoC
For the Respondent R7 :Respondent No. 7 has not entered appearance, and no relief has been sought against Respondent No. 7; therefore,

this case can be effectively decided even in the absence of Respondent No. 7.

O R D E R

1. The present application has been filed under Rule 11 read with Rule 32 of the NCLT Rules, 2016, seeking the following reliefs: -

> *i. To Appoint Mr. Renjith Balachandran as Additional Director in the 1ª Respondent Company:*
> *ii. Direct the 6th Respondent to give effect to the Order passed by this Hon'ble Tribunal dated 09.01.2025 in CP(C/ACT)/26/KOB/2023 to effect removal of the Names of Respondent 3-5 from the Master Data of the Registrar of Companies*
> *iii. Pass such other order or direction as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case and in the interest of justice.*

Brief facts of the case: -

2. The Applicant stated that he is the founder director and 50% shareholder of the 1st Respondent Company and has been managing its day-to-day affairs. It is asserted that the 2nd Respondent, holding the remaining 50% shares, has failed to participate in management and has engaged in acts of oppression and mismanagement, including non-signing of financial statements, unilateral dealings with third parties, removal of company records, non-attendance at Board meetings, and purported unauthorized appointment of additional directors.

3. The Applicant stated that he filed CP(C)/26/KOB/2023 under Sections 241 and 242 of the Companies Act, 2013, seeking relief against oppression and mismanagement. He contended that this Tribunal, upon prima facie satisfaction, granted interim orders on 19.12.2023 and further in I.A. No. 45/KOB/2024 on 25.11.2024, restraining Respondents 2 to 5 and 8 from representing the Company and directing them to hand over all records, documents, and stocks. It

was submitted that the interim orders have attained finality, as no appeal had been preferred within the statutory period.

4. The Applicant asserted that, despite the interim directions, Respondents 2 to 5 and 8 continued to operate the Company, removed records and stocks, and occupied the premises, thereby excluding the Applicant and paralyzing the Company's governance. It is further contended that such acts hindered statutory compliance, including holding Board meetings, filing audited financials, convening Annual General Meetings, and maintaining corporate records, which jeopardized the legal continuity of the Company.

5. The Applicant submitted that prior to the interim order, notices were issued for Board meetings on 13.11.2023 and 25.11.2023, with one of the agenda items being the appointment of Mr. Renjith Balachandran as an additional director. It is contended that the 2nd Respondent deliberately abstained, preventing quorum, and subsequently purportedly appointed Respondents 3 to 5 as directors without proper notice or valid meetings. The Applicant asserted that statutory records at the Registrar of Companies continue to reflect these unauthorized appointments, misleading stakeholders, and obstructing lawful management of the Company.

6. The Applicant contended that the deadlock in Board composition and continued non-cooperation of Respondents 2 to 5 created irreparable prejudice, including inability to comply with statutory obligations under the Companies Act, 2013, which may attract regulatory action, including striking off of the Company. The Applicant further submitted that the appointment of an additional director under Section 161 of the Companies Act, 2013, specifically Mr. Renjith Balachandran, is necessary to restore the minimum required board strength,

enable lawful governance, and protect the interests of the Company and its shareholders.

7. Respondent Nos. 2 to 5 and 8 contended that the present application seeks the appointment of Mr. Renjith Balachandran as an additional director of the 1st Respondent Company and directions to the 6th Respondent to give effect to the order dated 09.01.2025, which prejudices the rights of the Respondents.

8. The Respondent Nos. 2 to 5 and 8 stated that they initially appointed counsel upon receiving notice of the Company Petition, but due to non-representation by their lawyer, the orders dated 25.11.2024 and 09.01.2025 were passed ex-parte. They further submitted that I.A.(C/ACT)/102/KOB/2025 (recall) and I.A.(C/ACT)/103/KOB/2025 (permission to file additional counter) are pending adjudication before this Tribunal.

9. Respondent Nos. 2 to 5 and 8 submitted that the proposed appointment of Mr. Renjith Balachandran is misconceived, not independent, and likely prejudices the interests of shareholders other than the Petitioner. The said Respondents contended that the Applicant, in collusion with Mr. Renjith Balachandran, incorporates a competing company, 'Pure Seasons Private Limited,' engaged in the same line of business as the 1st Respondent Company, and does not disclose this to the Respondents, amounting to a breach of fiduciary duty.

10. Respondent Nos. 2 to 5 and 8 submitted that the 1st Respondent Company is incorporated in 2016 with the Applicant and one Jayalakshmi holding 50% shares each. The 2nd Respondent purchases Jayalakshmi's shares and joins as a director under the understanding that the Applicant manages the day-to-day affairs. The Respondent Nos. 2 to 5 and 8 stated that the 2nd Respondent invested substantial funds in the Company, while the Applicant contributed minimal

funds and allegedly misused Company resources for personal purposes, including retail purchases and ATM withdrawals.

11. Respondent Nos. 2 to 5 and 8 contend that the Petitioner, without disclosing material facts, incorporated and joined a competing venture while continuing as director and shareholder of the 1st Respondent Company. They asserted that the appointment of Mr. Renjith Balachandran enabled the Applicant and his associate to divert benefits, including government grants under the RKVY-RAFFAAR scheme, prejudicing the 1st Respondent Company and other shareholders.

12. The Respondent Nos. 2 to 5 and 8 submitted that there is no legal, commercial, or practical necessity to appoint Mr. Renjith Balachandran to the Board and that the application is filed with mala fide intent. They asserted that the second prayer in this application seeking removal of Respondents' names from the MCA portal is not maintainable, as the orders dated 25.11.2024 and 09.01.2025 merely restrain them from representing the Company, without directing removal of directorship. The Respondents Nos. 2 to 5 and 8 further submitted that if the Tribunal considers induction of an additional director necessary, such appointment should be of a neutral, independent person of the Tribunal's choice, not associated with the Applicant or his competing interests.

Findings: -

13. Heard learned counsel for the parties and perused the material available on record. The Applicant has filed the present Company Petition under Sections 241 and 242 of the Companies Act, 2013, alleging acts of mismanagement in the affairs of the Company and a deadlock in the Board of Directors affecting the governance of the Company. It is observed that the Company has two shareholders, each holding 50% of the shareholding, who are also the only

Directors. Owing to disputes between them, the Company is presently suffering from corporate paralysis. The Applicant has, therefore, filed the present application seeking the appointment of an Additional Director. It is also noted that in the main Company Petition, the Applicant has challenged the validity of the appointment of three persons on the ground that such appointments were made by the 2nd Respondent without following due procedure.

14. This Tribunal, by order dated 25.11.2024[1], restrained Respondent Nos. 2 to 5 and 8 from representing the Company and issued directions for the restoration of records and stock. The present application has been filed seeking the appointment of an Additional Director to restore the minimum Board strength, to break the deadlock, and to ensure compliance with statutory requirements. The Respondents have opposed the application, contending that it is not maintainable and has come with the plea that this is a classic case where winding up is the only remedy under Sections 241 & 242 of the Companies Act, 2013, and

[1] **IA(C/ACT)/45/KOB/2024 in CP(C/ACT)/26/KOB/2023**
Learned counsel, Mr. Akhil Suresh appears on behalf of the applicant through virtual mode. None appears on behalf of the respondents.
In this application, the Applicant has sought for the following prayers: -
1. Restrain the Respondents 2 to 5 and 8 from representing the 1st Respondent company in any manner whatsoever;
2. Direct the Respondents 2 to 5 to handover all the records pertaining to the Company illegally removed from the premises of the Company;
3. Direct the Respondents 2 to 5 to handover to the Applicant all the stocks worth Rs. 35,00,000/- or an amount equivalent to Rs. 35,00,000/- into the account of the 1st Respondent Company.
The respondents have not filed the reply, in spite of reasonable opportunities given to them and subsequently, their right to file reply in this matter was closed. Today also, there is no representation for the respondents, accordingly, the respondents in this application are set ex-parte. Therefore, the case is heard on merits and decided as follows: -
1. Respondents 2 to 5 and 8 are restrained from representing the 1st Respondent company.
2. Respondents 2 to 5 to handover all the records pertaining to the Company to the applicant.
3. Respondents 2 to 5 to handover to the Applicant all the stocks worth Rs. 35,00,000/- or an amount equivalent to Rs. 35,00,000/- into the account of the 1st Respondent Company.
With the above directions this IA is disposed of with a liberty to the applicant to file an application at a later date. Respondents are directed to comply the above directions within four weeks from today. The compliance memo be filed by both the parties in the main CP(C/ACT)/26/KOB/2023 at least two days before the next date of hearing of the main CP.

that the relief sought cannot be granted. Objections have also been raised regarding the proposed Additional Director.

15. Upon consideration of the submissions and materials on record, this Tribunal is of the opinion that the welfare and well-being of the Company is of paramount importance. The powers conferred under Sections 241 and 242 of the Companies Act, 2013, empower this Tribunal to pass appropriate orders under the given facts and circumstances of the case for the smooth functioning of the Company.

16. The applicant has based its relief on the order dated 25.11.2024 passed in IA(C/Act)/45/KOB/2024, followed by the order dated 09.01.2025[2]. I have perused the order dated 19.12.2023[3], and it is observed that all these orders were passed by way of interim measures, with no final adjudication on merits.

[2] **CP(C/ACT)/26/KOB/2023**
Learned Counsel Mr. Akhil Suresh appears on behalf of Petitioner through virtual mode. None appears on behalf of the respondents.
In this case, we find that we passed an order dated 25.11.2024 in IA(C/ACT)/45/KOB/2024, which was heard on merits and decided as follows: - **1.** Respondents 2 to 5 and 8 are restrained from representing the 1st Respondent company.**2.** Respondents 2 to 5 to handover all the records pertaining to the Company to the applicant.**3**. Respondents 2 to 5 to handover to the Applicant all the stocks worth Rs. 35,00,000/- or an amount equivalent to Rs. 35,00,000/- into the account of the 1st Respondent Company.
With the above directions this IA is disposed of with a liberty to the applicant to file an application at a later date. The compliance memo be filed by both the parties in the main CP(C/ACT)/26/KOB/2023 at least two days before the next date of hearing."The Counsel for the Petitioner stated that the respondents have not complied with the said order and also not handed over the records pertaining to the company to the applicant. Further, Counsel for the Petitioner also stated that the RoC has not made the necessary correction in their registry in accordance with the Interim Order. RoC is directed to make necessary corrections as per the Interim Order passed by this Tribunal on 19.12.2023. Further we also find that R2 to R5 have not appeared in spite of giving several opportunities and also not complied with the orders of this Tribunal issued on 25.11.2024. Therefore, registry is directed to serve the notice to appear on next date of hearing, failing which bailable warrant will be issued to enforce the attendance.Post this case for further consideration on 13.02.2025.

[3] **CP(C/ACT)/26/KOB/2023**
This is a CP bearing No. 26/KOB/2023 filed by the Petitioner, viz., Vivek Menon PK under Section 241 and 242 of the Companies Act, 2013. In the said. Petition, Petitioner has arrayed seven Respondents as parties.
Learned Counsel, Mr. Akhil Suresh appears on behalf of the Petitioner, who is the Founder Director and Shareholder in the 1st Respondent Company holding fifty percent shares. The 2nd Respondent is also a Director and is holding fifty percent shares in the 1st Respondent Company. The learned Counsel appearing for the Petitioner prima facie brought out the case of mismanagement by the 2nd Respondent and has sought some interim reliefs as at prayer clauses, 3,4,5 and 6. After hearing the learned Counsel's submissions appearing for the Petitioner for a considerable time and on the perusal of the averments made in the CP, we are of the considered view that the petitioner's counsel has prima facie made out a case to obtain interim relief at an immediate basis. Accordingly, this bench grants interim reliefs as under: **- 1.** Respondent Nos. 2,3 4 and 5 are directed to maintain status quo with regard to shareholding of the 1st Respondent Company as on 01.08.2023.**2.** Respondent Nos.2,3 4 and 5 are further directed to stay the operation and implementation of Annexure A19(a) Form DIR-12 and Annexure A20(a) Form DIR-12 and the consequent appointment of Respondent Nos. 3 to 5 as Directors of the 1st Respondent Company.**3.** The 7th Respondent bank is directed to de-freeze the bank account of the Company and the partitioner is permitted to deposit the amounts received dealing with the day-to-day business affairs of the Company, however, it is made clear that no withdrawal in any manner from the account shall be permitted by the Bank.
The above granted interim reliefs shall remain enforced till the next date of hearing or until further order/orders. Registry is directed to issue notice to R1 to R7 returnable on 18/01/2024. In addition to above, Petitioner is also directed to issue notice to the R1 to R7 by all available means i.e., e-mail, Registered Post and file affidavit of service enclosing therewith a proof of service of notice served on the Respondents at least three days before the next date of hearing.
List this matter for further consideration on 18/01/2024.

Even in the order dated 19.12.2023, there is no direction removing Respondent Nos. 2 to 5 from the directorship. The said order merely granted status quo with respect to the shareholding of R1 as on 01.08.2023. Further, Respondent Nos. 3 to 5 were directed to address the operation and implementation of Annexure A19 (Form DIR-12) and Annexure A20 (Form DIR-12), as well as their subsequent appointment as directors. Accordingly, the cut-off date for status quo would be 19.12.2023. Upon a query raised by this Tribunal, the RoC has filed a memo stating that the names of Respondent Nos. 3 to 5 were entered in its records prior to the order dated 19.12.2023. In view of the same, the applicant cannot, at this stage, seek the relief claimed at Serial No. 2. It is, however, clarified that the alleged appointment of Respondent Nos. 3 to 5 shall remain subject to the final adjudication of the main Company Petition, and the parties shall not claim any equity solely on the basis of the interim orders passed earlier.

17. Owing to the existing deadlock between the Directors and shareholders, and in light of the order dated 25.11.2024 restraining Respondent Nos. 2 to 5 and 8 from representing the Company, this Tribunal finds it necessary to appoint an Independent Director to ensure the smooth functioning of the Company. Such appointment will not prejudice the rights and contentions of any party, and the observations made herein shall not have any bearing on the merits of the main Company Petition.

18. The Applicant has proposed the name of Mr. Renjith Balachandran, who has expressed willingness to act as an Independent Director without remuneration, subject to filing an affidavit to that effect within ten days from receipt of this order. But the Respondents are vehemently opposing the appointment of Mr. Renjith Balachandran as an additional independent director and have levelled serious allegations against the Applicant and the proposed person.

19. Though appointment of an independent director is necessary for smoother functioning and to facilitate statutory compliances, this Tribunal cannot shut its eyes towards the concerns of the Respondents. It is a matter of concern that the said person has agreed to work without any remuneration. Why and under what consideration he has agreed for that has not been explained. Accordingly, the said person cannot be appointed as an additional independent director.

20. No observation made in this order shall have any bearing on the merits of the main Company Petition.

21. Accordingly, this Tribunal deems it just and proper to pass the following directions:

    i. **Mr. Ajithkumar S, Advocate,** having an address at **Panicker and Panicker Advocates, 1st Floor, Gatewell Arcade, Veekshanam Road, Kochi – 682018**, Phone : 9645343924, Email id: adv.ajithkumarsoman@gmail.com is appointed as an **Additional Director** (third Director) on the Board of the Company to address the deadlock and to facilitate the smooth functioning of the Company.

    ii. The Additional Director shall be entitled to participate in all Board Meetings and shall ensure that statutory compliances are duly carried out.

    iii. The Additional Director shall have the right to cast a vote, wherever necessary, for resolving any deadlock in the decision-making process.

    iv. The initial tenure of the Independent Director shall be for a period of one year, subject to further orders of this Tribunal.

v. The Independent Director shall be entitled to remuneration of Rs. 10,000/- monthly, apart from Director fees, if any, at par with other Directors.

vi. The existing Directors are directed to extend full cooperation to the Additional Director and shall not obstruct the functioning of the Board.

vii. Subject to the provisions of this Act, a director of a company shall act in accordance with the articles of the company.

viii. A director of a company shall act in good faith in order to promote the objects of the company for the benefit of its members as a whole, and in the best interests of the company, its employees, the shareholders, the community and for the protection of environment.

ix. A director of a company shall exercise his duties with due and reasonable care, skill and diligence and shall exercise independent judgment.

x. A director of a company shall not involve in a situation in which he may have a direct or indirect interest that conflicts, or possibly may conflict, with the interest of the company.

xi. A director of a company shall not achieve or attempt to achieve any undue gain or advantage either to himself or to his relatives, partners, or associates and if such director is found guilty of making any undue gain, he shall be liable to pay an amount equal to that gain to the company.

xii. The Additional Director so appointed shall restrain from indulging in any power politics within R1 or among its rightful shareholders and

shall not act in a manner prejudicial to the individual rights of any shareholder.

22. With the aforesaid orders, this IA(C/Act)/120/KOB/2025 in CP/26/KOB/2023 stands **disposed of.**

23. The Registry is hereby directed to send e-mail copies of this order forthwith to all the parties and their counsel for information and to take necessary steps.

24. Let the certified copy of this order be issued upon compliance with requisite formalities.

25. File be consigned to records.

Sd/-
VINAY GOEL
(MEMBER JUDICIAL)

Signed on this the 06th day of May, 2026.

Steno_A