

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
KOLKATA BENCH (COURT-II)  
KOLKATA**

CP. No 182/KB/2021

*A Petition Under Section 271 (c) & 272(1) (d) of The Companies Act, 2013*

***In the matter of:***

**THE REGISTRAR OF COMPANIES, WEST BENGAL, MINISTRY OF CORPORATE AFFAIRS** having its Registered office at Nizam Palace, 2<sup>nd</sup> MSO Building, 234/4 Acharya Jagdish Chandra Bose Road, Kolkata, 700020, India.

***...Petitioner***

Versus

1. **RELIABLE GEMS & JEWELLERY LIMITED, (CIN: U27205WB2010PLC152239)** a Company incorporated under the provision of Companies act, 1956, and having its registered office at Uday Shankar Bithi, City Centre, Durgapur Bardhawan West Bengal- 713216.
2. **SWARUP DUTTA (DIN: 02498000)**, director of **RELIABLE GEMS & JEWELLERY LIMITED**, presently residing at 25/26, Joydev Road, B Zone, Durgapur, Bardhwan, Durgapur- 713205, West Bengal.
3. **SUMANTA GORAI (DIN: 02946871)**, director of **RELIABLE GEMS & JEWELLERY LIMITED**, presently residing at Gopinathpur Bankura- 722101, West Bengal.
4. **SUSANTA GHOSH (DIN:05185974)**, director of **RELIABLE GEMS & JEWELLERY LIMITED** presently residing at Gram Chinpai Paschim, Khosh Kadambapur, Sadaipur, Birbhum-731102, West Bengal.
5. **SUSANTA DUTTA (DIN:05235908)**, director of **RELIABLE GEMS & JEWELLERY LIMITED** presently residing at 25/26, Joydev Road, B Zone, Durgapur, Bardhwan, Durgapur- 713205, West Bengal.
6. **KOUSHIK BEJ (DIN: 05236482)**, director of **RELIABLE GEMS & JEWELLERY LIMITED** presently residing at Satyasahana Road Gobind Nagar, Ward 22- Kenduyad, 22, Bankura- 722102, West Bengal.
7. **NAJIB SEIKH (DIN: 05241253)** director of **RELIABLE GEMS & JEWELLERY LIMITED** presently residing at Ward No-15 Municipality- Bankura, S. Div: Sadar, Bankura, 722101, west Bengal.

8. **ANJAN JANA (DIN: 05247414)**, director of **RELIABLE GEMS & JEWELLERY LIMITED** presently residing at Paharipur, Municipality ward No 19, Kotowali, Midnapore, 722101, west Bengal.

....*Respondents*

**Coram:**

**Smt Bidisha Banerjee: Member (Judicial)**

**Shri D. Arvind : Member (Technical)**

**Date of pronouncing the order: 21/02/2024**

**Appearance (through hybrid conferencing):**

**For Petitioner: Mr. S.K Tiwari, Adv**

**Mr. Jayesh Kumar Choradia, Adv**

**ORDER**

**Per: D. Arvind , Member (Technical)**

1. This court convened through Hybrid mode.
2. The instant petition has been filed by **The Registrar of Companies, West Bengal** (“petitioner” or “ROC”) to initiate Winding Up Proceeding under section 271 and 272 of the Companies Act, 2013 against, **RELIABLE GEMS & JEWELLERY LIMITED**, an existing Company with the meaning of the Companies Act, 2013.
3. It is submitted by the Ld. Counsel on behalf of the Petitioner that the office of Ministry of Corporate Affairs (MCA) has directed inspection of **RELIABLE GEMS & JEWELLERY LIMITED**, vide Order No 1/74/2017/CL-II (ER) dated 26.08.2019 to the Office of Regional Director (Eastern Region). The Director of Eastern Region of Ministry of Corporate Affairs (MCA) wrote vide Order No JD/(Inspn)cal/48/19/10087 dated 16.12.2019 in connection to the inspection report of **RELIABLE GEMS & JEWELLERY LIMITED**. The said inquiry/ investigation report revealed various contraventions and/or violation including the following violation:

- I) It was observed that the director/promoters of the company Reliable Gems & Jewellery limited entered into a criminal conspiracy and induced the investors to deposit their monies with the companies promising with very lucrative returns. The company **RELIABLE GEMS & JEWELLERY LIMITED** had collected money/deposits from the public in the guise of lucrative returns without following the due process of law and had consequently cheated misappropriated and defrauded the public at large by defaulting repayment of deposits and interest of small investors. The company has made default in stating the true and fair value of the financial statement. The company has not filed any financial statement for 2013-14 onwards. Since, the company has not carrying on any other business except collection of funds from the public illegally and unlawfully the business being carried on by it was fraudulent. Further, the company has lot of investor creditors who have invested their hard earned money in the company for better Returns. It is therefore, recommended that in order to protect the interest of the investors and to stop fraudulent activities of the company, the company winding up.
- II) Default in repayment of deposits and interest of small investor- Violation of section 58A and 58AA of the companies act, 2013.
- III) Default in refund of all deposits – offence under section 74 of the companies act, 2013.
- IV) The Company and the directors of the Company have not co-operated with the ROC in the course of inquiry.
4. The Registrar of Companies, West Bengal of Ministry of Corporate Affairs, Government of India vide letter being memo No ROC/LEGAL/2019/2600, issued a notice under second proviso of sub-section-3 of the Section 272 of the Companies act, 2013 to **RELIABLE GEMS & JEWELLERY LIMITED**, providing for making representation within seven days from the date of issue of this notice as to why this Company should not be Wound Up under the provision of the Companies act, 2013. The Registrar of Companies, West Bengal has not received reply from the company of the said notice issued.
5. The Petitioner has submitted that in light of the given circumstance of the instant case, it is necessary that Respondent Company be Wound Up.

6. This Tribunal, vide order dated 20.09.2021, had directed the Registry to issue notice to the Respondent by speed post and email and place tracking information on record.
7. Thereafter, on 20.07.2022 the Tribunal directed the Petitioner to cause a publication of an advertisement of the Petition under rule 7 of the Companies (Winding Up) Rules, 2020 and also to serve a copy of the same on the Company and its director.
8. In compliance of the order dated 20.07.2022, the Petitioner, by affidavit of service dated 06.02.2023, confirmed that the Petitioner had published the notice of the Petition in two newspapers as per the details given below:

Language	Name of Newspaper	Date of publication
English	The statesman	19.09.2022
Bengali	Eai Samay	19.09.2022

9. Despite such publication of notice, no one has come forward to object or oppose the present Company Petition before this Tribunal.
10. It has been stated by the Petitioner that all the statutory formalities of Winding Up order by the Tribunal have been duly complied with by the Petitioner. We are satisfied with explanation given by the Petitioner and thus feel that it would be just and equitable that the Respondent Company should be Wound Up.
11. In view of the above we, therefore, hereby order as follows: -
  - a) The present Company Petition stands admitted. The Respondent Company being **RELIABLE GEMS & JEWELLERY LIMITED** is to be Wound Up by this Tribunal under the provision of the Companies act, 2013.
  - b) The **Official Liquidator** attached with Hon'ble High Court at Calcutta is appointed as a Company Liquidator of the Respondent Company in terms of Section 275 (1) of the Companies act, 2013.
  - c) In terms of Section 277 (1) and 277 (2) of the act, registry is directed to cause intimation to the Company Liquidator and the Registrar of Companies, West Bengal. On receipt of the copy of such order, the Registrar shall make an endorsement to that effect and notify in the Official Gazette that such an order has been made.

- d) The Company Liquidator is directed to file a declaration in Form WIN 10, disclosing conflict of interest or lack of independence in respect of his appointment, if any, with this Tribunal within seven days from the pronouncement of this order.
- e) In accordance with Section 277(3) of the act, this Liquidation order shall be deemed to be a notice of discharge to the officers, employees, and workmen of the Company, except when the business of the Company is continued.
- f) The Company Liquidator shall initiate Liquidation process in accordance with Section 277 (4), 277(5), 277(6), 277(7), 277(8), 293 and 294 of the act. The Company Liquidator shall fulfil the following function, namely: -
  - I) Taking into custody, all properties, actions and actionable claims to which the Respondent Company appears to be entitle to;
  - II) Preservation and protection of the properties of the Respondent Company.
  - III) Examination of the Statement of Affairs.
  - IV) Recovery of property, cash or any other asset of the company including benefits derived their form;
  - V) Review of audit reports and accounts of the Company
  - VI) Sale of asset
  - VII) Finalization of list of creditors and contributories;
  - VIII) Compromise, abandonment and settlement of claims;
  - IX) Payment of dividends, if any: and
  - X) Any other function, as the Tribunal may direct from time to time.
- g) As envisaged under section 279 (1) of the act, no suit or other legal proceeding shall be commenced, or if pending at the date of the Winding Up order, shall be proceeded with, by or against the Company, except with the leave of the Tribunal and subject to such terms as the Tribunal may impose.
- h) In accordance with section 281, the Company Liquidation shall submit to the Tribunal, a report in Form 16 within sixty days of passing this order. Further the Company Liquidator shall file periodical report to the Tribunal as envisaged under section 288.
- i) The Company Liquidator shall prepare and file in the tribunal a provisional list of contributories of the Company in terms of Rule 28 of the Companies (Winding Up) rules, 2020 within twenty-one days after the date of the instant order.

- j) There shall be Advisory Committee, having power and function in terms of section 287. The meeting of the said Advisory Committee will commence in accordance with the provision of section 287(3). The Company Liquidator shall report the result of such meeting to the tribunal within 7 days from the holding of the said meeting.
- k) All power and duties of the Company Liquidator will be exercised in accordance with section 290 and section 292.
- l) The Company Liquidator shall also file its report with the Tribunal as per section 281 of the act.
- m) List the company petition 182/KB/2021 on **18.04.2024** filing of Periodical Report.
- n) Copy of the order be sent to the parties, the Company Liquidator, The Registrar of Companies, West Bengal and the Authorized Representative for Petitioner, within seven days through email and registered post.
- o) Certified copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

**D. Arvind**  
Member (Technical)

**Bidisha Banerjee**  
Member (Judicial)

**Signed this, on the 21<sup>st</sup> day of February, 2024.**

NKS(LRA)