

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

CP. No 128/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. **RGS INFRACON (I) LIMITED, (CIN: U45400WB2012PLC174864)** a Company incorporated under the provision of Companies act, 1956, and having its registered office at 172A, Jodhpur Garden 2<sup>nd</sup> Floor, Kolkata-700045, West Bengal.
2. **SIKHA PANJA (DIN: 03461740)**, director of **RGS INFRACON (I) LIMITED**, presently residing at 17/2, Umesh Banerjee Lane, Howrah-711101, West Bengal.
3. **SOUMEN MUKHERJEE (DIN: 05336742)**, director of **RGS INFRACON (I) LIMITED**, presently residing at 20. Dr Saroj Mukherjee Road, Panihati, Khardaha, N24-Parganas- 700058, West Bengal.
4. **RANJAN KANJI (DIN: 06582289)**, director of **RGS INFRACON (I) LIMITED**, presently residing at Neoda, Saharahat, Falta, S24-Parganas-743540, West Bengal.

*....Respondents*

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**Coram:**

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

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

Date of pronouncing the order: 01/04/2024

**Appearance (through hybrid conferencing):**

Mr. Goutam Sardar, Adv. ] For the Petitioner

Mr. Sohanlal Adak, Adv. ] For the Respondent

**ORDER**

**Per: Bidisha Banerjee, Member (Judicial)**

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, **RGS INFRACON (I) 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 **RGS INFRACON (I) LIMITED**, vide Order No RD/T/28545/206(4)/18/2359 dated 31.05.2019 to the Office of Regional Director (Eastern Region). The Director of Eastern Region of Ministry of Corporate Affairs (MCA) wrote vide Order dated 26.07.2019, in connection to the inspection report of **RGS INFRACON (I) LIMITED**. The said inquiry/ investigation report revealed various contraventions and/or violation including the following violation:
  - I) That the Petitioner was directed by the Ministry in the meeting of the Oversight committee on 07.05.2019, it is submitted that the Company was found to be formed for fraudulent and unlawful

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purpose and the said Company have been conducted in fraudulent manner and further the directors of the Company are guilty of fraud, misfeasance and misconduct. Again, the Company has made default in filing financial statement or annual returns for more than five consecutive financial years.

- II) That the company and its directors failed to respond and/or comply with the notice of inquiry issued by RoC, W.B. on 20.09.2019 under Section 272(3) of the Companies Act, 2013.
  - III) That the Petitioner states that the Company has not filed their balance sheet and annual returns since its incorporation and thus the Company is not functioning and it is just and equitable that the said Company, M/S RGS INFRACON (I) LIMITED, be wound up by this Hon'ble Tribunal under the provisions of Section 271(c)/(d) and 272(3) of the Companies Act, 2013 and the Official Liquidator attached to Hon'ble Court be directed to take possession of the assets and properties both movable and immovable including books of accounts and records and bank accounts of the said Company forthwith.
  - IV) The Company and the directors of the Company have not co-operated with the ROC in the course of inquiry.
4. The office of Regional Director, (ER) of Ministry of Corporate Affairs, Government of India vide letter being memo No. RD/T/28545/206(4)/18/5554 dated 07.08.2019, issued a notice under second proviso of sub-section-3 of the Section 272 of the Companies act, 2013 to **RGS INFRACON (I) 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,

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West Bengal has not received reply from the company of the said notice issued dated 20.09.2019.

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 19.01.2023, had directed the petitioner to serve the amended petition to the Respondent Company and file affidavit of service.
7. Thereafter, on 19.01.2023 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 19.01.2023, the Petitioner, by affidavit of service dated 11.03.2024, 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  | Sunday Times      | 19.02.2023          |
| Bengali  | Eai Samay         | 19.02.2023          |

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

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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 **RGS INFRACON (I) 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: -

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- 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

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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 128/KB/2021 on **16/05/2024** 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 1<sup>st</sup> April, 2024.

**SG, (Steno)**