

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

CP/118(KB)2021

In the Matter of:

Winding up petition under the provisions of Section 271(c)&(d) read with Section 272(1)(d) and 272(3) of the Companies Act, 2013.

AND

In the Matter of:

The Registrar of Companies, West Bengal, Ministry of Corporate Affairs, having its registered office at Nizam Palace, 2nd MSO Building, 234/4, Acharya Jagadish Chandra Bose Road, Kolkata - 700 020, West Bengal, India

...Petitioner

Versus

1. **Icore Poly Fab Private Limited** (CIN: U74120WB2009PTC139946), being a company incorporated under the provisions of the Companies Act 1956 and having its registered office at 54/2, Rafi Ahmed Kidwai Road, 2nd Floor, Kolkata, West Bengal, 700016, India;

...Respondent No.1

2. **Anukul Maiti**, (DIN: 01884307) Director of **Icore Poly Fab Private Limited**, presently residing at 1/29, Khanpur Road, Naktala, Kolkata-700047, West Bengal, India;

...Respondent No.2

3. **Kanika Maiti**, (DIN: 02029931) Director of **Icore Poly Fab Private Limited**, presently residing at 1/29, Khanpur Road near Opposite Satsangha Bihar, P.O. Naktala PS, Jadavpur, Kolkata-700047, West Bengal, India;

...Respondent No.3

AND

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IA(COMPANIES.ACT)/10(KB)2023
In CP/118(KB)2021
Registrar of Companies, West Bengal vs.Icore Poly Fab Private Limited

IA(COMPANIES.ACT)/10(KB)2023

IN

CP/118(KB)2021

In the Matter of:

The Application IA(COMPANIES.ACT)/10(KB)2023 is filed by Mrs. Kanika Maity (Respondent No.3 in the main Petition CP/118(KB)2021 under Rule 11 of the National Company Law Tribunal Rules, 2016 for recalling the order dated 23.12.2022 passed by this Hon'ble Tribunal and praying for an opportunity to submit the reasons for non-appearances in the Company Petition before this Hon'ble Tribunal in the interest of natural justice.

AND

In the Matter of:

Mrs. Kanika Maiti, (DIN: 02029931) Director of Mega Mould India Limited, presently residing at 1/29, Khanpur Road, Near Opposite Satsangha Bihar, P.O. Naktala, PS Jadavpur, Kolkata-700047, West Bengal, India;

...Applicant

Versus

Icore Poly Fab Private Limited (CIN: U74120WB2009PTC139946), being a company incorporated under the provisions of the Companies Act 1956 and having its registered office at 54/2, Rafi Ahmed Kidwai Road, 2nd Floor, Kolkata, West Bengal, 700016, India;

...Company

CORAM:

Smt. Bidisha Banerjee : Member (Judicial)

Shri D. Arvind: Member (Technical)

Date of pronouncing the order: 01/04/2024

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Appearances (Physically/ via video conference) (in CP/118(KB)2021)

For the Petitioner Registrar of Companies, West Bengal:

- 1) Mr. Joyesh Choraria, Adv., Proxy Counsel

Appearances (Physically/ via video conference) (in IA(COMPANIES.ACT)/10(KB)2023)

For the Applicant:

- 1) Mr. Dripto Majumdar, Adv.
- 2) Ms. Sonam Agarwal, PCS

For the Petitioner (in CP/118(KB)2021):

- 2) Mr. S. K. Tiwari, Adv.
- 3) Mr. Jayesh Choradia, Adv.

ORDER

(in IA(COMPANIES.ACT)/10(KB)2023)

Smt. Bidisha Banerjee : Member (Judicial)

1. Heard Learned Counsel for the parties at length.
2. The instant Interlocutory Application has been filed by **Mrs. Kanika Maiti, Director of Icore Poly Fab Private Limited (“Respondent No.3”)** who prays for the following reliefs:
 - (a) Recalling of the order dated 23.12.2022 passed by this Hon’ble Tribunal;
 - (b) To further allow the Respondent No.3 with an opportunity of filing necessary pleadings and a reasonable opportunity of being heard in connection with C.P. No.118/KB/2021 as this Hon’ble Tribunal may deem fit and proper in the interest of natural justice.
 - (c) For consideration of the instant application in the given facts and circumstances and condone the delay.
3. It is submitted by the Applicant of the **IA(COMPANIES.ACT)/10(KB)2023** (Respondent No.3 in **CP/118(KB)2021**) that the Respondent No.1 Company was incorporated on 7thDecember, 2009 with a paid up share capital of Rs.1,00,000/- (Rupees One lakh only). Mr. Anukul Maiti (Respondent No.2)

and Mrs. Kanika Maiti (Respondent No.3) were the first subscribers to the Memorandum of Association and Articles of Association of the Respondent No.1 Company and were also the first Directors of the Respondent No.1 Company since its incorporation. Subsequently, the paid up capital of the Respondent no.1 Company was increased in the year 2013 and 2014.

4. It is also submitted that Respondent No.2 and Respondent No.3 are the Directors of Respondent No.1 Company and also husband and wife. That the demise of Respondent No.2 was due to heart attack on 7th November, 2020. A copy of Death Certificate of Respondent No.2 has been annexed with the Application as **Annexure-‘A’**.
5. It is further submitted that due to sudden demise of the Respondent No.2, Respondent No.3 being not aware of business activity of Respondent No.1 Company, was completely dependent on its Statutory Auditor M/s. Nandy Halder & Ganguli, Chartered Accountant Firm (Firm Registration No.302017E) of the Company and the entire compliances were taken care of by the Chartered Accountant Firm.
6. That the Applicant became aware of the Company Petition only on 10.01.2023 while searching for an order of another Icore Company i.e. ‘Icore Apparels Private Limited’ at NCLT Portal that the said Company Petition No.118/KB/2021 was being filed under Section 271-272 of the Companies Act before this Hon’ble Tribunal as well as the Tribunal’s Order dated 23.12.2022 by which the Tribunal had reserved the order for pronouncement. A copy of the order passed by this Tribunal is annexed with the Application as **Annexure-‘B’**.
7. The Applicant claims that she had not received any copy of the Company Petition nor any notice from the Registrar of Companies, West Bengal till the date of filing her I.A and therefore she demands a strict proof and an explanation from the Petitioner to show proof of delivery to Respondent No.2 i.e. her husband.

8. It is further submitted that the Hon'ble High Court of Delhi, New Delhi was pleased to pass an order dated 14.11.2022 in W.P. (C) No.15569/2022 and CM APPL.48451/2022 (Interim) pronouncing "... the Petitioner shall further maintain status quo in so far as possession of the attached property is concerned and shall also not create any third party rights over the properties in question nor create any fresh or further encumbrances over the same ..". A copy of the said order is annexed with the Application as **Annexure-‘C’**.
9. The Petitioner of **CP/118(KB)2021**) has submitted its reply affidavit dated 29.03.2023 to the Interlocutory Application No.10/KB/2023. The respondent has averred as under:

“7. With reference to the paragraph IV (v) of the said application, the contents of the said para is denied and disputed. The Petitioner through its learned counsel Mr. Sailendra Kumar Tiwari had served a copy of the said petition to all the respondent namely Company and its two directors on 25.05.2022. The speed post tracking details are mentioned herein below and the same was filed before the Hon'ble Tribunal on 11.07.2022 in the form of Affidavit of Service of amended petition.

Name of the Respondent	Consignment Number	Status
<i>ICORE Poly Fab Private Limited</i>	<i>EW253697853IN</i>	<i>Item Delivery Confirmed</i>
<i>Ankul Maiti</i>	<i>EW253697840IN</i>	<i>Item Returned, Deceased</i>
<i>Kanika Maiti</i>	<i>EW253697867IN</i>	<i>Item Onhold Door Locked</i>

Thus, the contention of the respondent is totally vague as the petitioner had taken necessary and adequate steps to serve the copy of the petition and provided opportunity of being heard.

8. With reference to paragraph IV (vi) of the said application, the same is matter of facts. Further, the order passed by the Hon'ble

High Court in maintaining the status quo regarding the possession of the property of the Company will have no bearing on proceeding with the present petition.

9. With reference to the paragraph IV (vii) to IV (xiv) of the said application, save and except, what are matter of facts, the contents of the said paras are denied and disputed.”

10. We would note that on **23.12.2022**, this Tribunal had passed the following order: -

1. “Ld. Counsel appearing for the RoC is not available. Ld. Proxy Counsel appearing in the matter submits that as per directions given vide order dated 21/07/2022, publication has been made in “Times of India” (English) and “Ei Samay” (Bengali) and affidavit of service has been filed by the RoC, West Bengal.

*2. **Reserved for orders.**”*

11. Further on **30.01.2023**, the following order was passed: -

1. “Ld. Counsel for the RoC, West Bengal present. Ld. Counsel for the applicant in IA (Companies Act)/10(KB)2023 present.

*2. **IA (Companies Act)10(KB)2023-** Ld. Counsel for the RoC seeks time to take instructions whether to file any reply in the matter. Let reply, if any, be filed within three weeks with copy served on the Ld. Counsel-on-Record for the applicant. Ld. Counsel for the applicant states that the Hon’ble High Court of Delhi, New Delhi was pleased to pass an order in W.P.(C) 15569/2022 and CM APPL.48451/2022 (Interim Stay) dated 14/11/2022 as follows: -*

“4. In view of the above, the respondents shall stand restrained from taking any further steps under Section 8 of the Prevention of Money Laundering Act, 2022. The petitioners shall further maintain status quo in so far as

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possession of the attached property is concerned and shall also not create any third-party rights over the properties in question nor create any fresh or further encumbrances over the same.”

3. *List the matter on 13/03/2023.”*

12. On **13.03.2023**, the following order came to be passed: -

1. *“Ld. Counsel for the petitioner present. Ld. Authorised Representative for the respondent nos. 1 to 3 and applicant in IA (Companies Act)/10(KB)2023 present.*

2. *List this matter before the Regular Bench on 01/05/2023.”*

13. Thereafter, on 01.05.2023, 27.06.2023, 18.08.2023, 05.10.2023 and 04.12.2023 either due to non-representation or as the matter could not be taken up, the matter got adjourned.

14. Finally, on 19.01.2024, the Interlocutory Application was reserved for orders directing the parties to submit their written note of arguments.

15.1 The instant Petition has been filed by **The Registrar of Companies, West Bengal** (“petitioner”) to initiate winding up proceedings under the provisions Sections 271(c)&(d) read with 272(1)(d) and 272(3) of the Companies Act 2013 against **Icore Poly Fab Private Limited** (CIN: U74120WB2009PTC139946), an existing company within the meaning of the Companies Act, 2013.

15.2 This petition has been filed on the ground that the Companies under the “Icore Group of Companies” are involved in illegal collection of deposits from public in guise of schemes, unauthorized collection of deposits in garb of Preference shares, NCD, APBIS, Gold schemes. The Companies had defaulted in filing its statutory documents i.e. Financial Statements and Annual Returns for the last five years. The Company and its directors

failed to respond and/or complied with the notice issued by the Petitioner under second proviso of subsection (3) of Section 272 of the Companies Act 2013.

- 15.3 It is submitted by the Ld. Counsel on behalf of the Petitioner that the Company **Icore Poly Fab Private Limited** was incorporated on 07.12.2009 under the Companies Act, 1956 as private company limited by shares. The Respondent No.1. Respondent No.2 and 3 are the directors of the said Company.
- 15.4 The authorised share capital of the Company is Rs.3,00,00,000/- (Rupees three crore only). The amount of capital paid up or credited as paid-up is Rs.32,70,000/- (Rupees thirty two lakh seventy thousand only).
- 15.5 The Company was incorporated to carry on in India or elsewhere the business to manufacture, process, alter, convert, commercialize, control, compound design, develop, research, distribute, formulate, derive, discover, manipulate, prepare, produce, promote, supervise, supply, import, export, buy, sell, turn to account and to act as agent, broker, wholesaler, retailer, concessionaries, consultant, consultant, consignor, collaborator, transporter, C&F agents, stockist, jobworker, franchiser or otherwise deal in all varieties, characteristics, descriptions, applications and uses of synthetic natural or blended polymer and rubber produces, polymer intermediaries, raw material, derivatives, mixtures, compounds, constituents, auxiliary products, by-products or co-products, etc.
- 15.6 It is alleged that the Company had not filed its Balance Sheet and Annual Return on and from 31st March, 2014 and thereby committed default which gets transpired from the copy of the Master Data, copy whereof is annexed with the Petition as **Annexure-‘A’**.
- 15.7 The Petitioner contends that the Ministry had ordered for investigation of the affairs of the Company M/s. Icore Poly Fab Private Limited along with other

10 companies under the “I-Core Group of Companies” under section 235 of the Companies Act, 1956 by Serious Fraud Investigation Office (SFIO). The SFIO vide their Investigation Report on 11 nos. of Icore Group of Companies had submitted in Chapter IV of Part B, ‘Finding of Investigation’ in page no. 203 vide point no. 4.14, that the Investigation Team had found evidence of collection of public deposits from 5 companies namely Icore E Services Limited (IESL), Riju Cement Limited (RCL), Mega Mould India Limited (MMIL), Icore Jewellery & Gold Private Limited (IJ&GPL) and PIL and quantified the amount so collected.

15.8 That these five companies had collected Rs.3194.69 Crore through 40.69 lakhs of applications/certificates /receipts during 2004-05 to 2013-14. An analysis of ERP data had revealed that these companies had raised funds from public under three schemes namely Fixed Deposits (FD), Recurring Deposits (RD), and Monthly Income Scheme (MIS) through chain of agents. The funds had been collected by allotting purportedly Redeemable Preference Shares (RPS) and Non-Convertible Debenture (NCD) of the companies and by collecting monthly instalments against the purported product/gold booked by the investors. It was also submitted to had been revealed from the fact that the Icore Group Companies had claimed the issue of Redeemable Preference Shares and Non-Convertible Debenture and had raised funds but the same collections were not collection of money out of issue of Redeemable Preference Shares and Non-Convertible Debenture but it was in nature of deposits taken from public which had never been returned to depositors.

15.9 Further that the Icore Group Companies fraudulently induced the depositors to make deposit under various deposit schemes by offering them higher rate of return on their investment knowing fully well that their business model was not sustainable in the long run. They could only repay the money back to the depositors as long as the inflow of the funds into these companies from new investors was much higher than the outflows on account of

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maturity proceeds.

15.10 The SFIO had recommended that the affairs of the 11 nos. of companies of the Icore Group, names of which are appended below, had been conducted in the fraudulent manner for unlawful purpose:-

- i) Icore E-Services Ltd. (IESL)
- ii) Riju Cement Ltd. (RCL)
- iii) Mega Mould India Ltd. (MMIL)
- iv) Icore Jewellery & Gems Pvt. Ltd. (IJ&GPL)
- v) Icore Apparels Pvt. Ltd. (IAPL)
- vi) Icore Paints Pvt. Ltd. (IPPL)
- vii) Icore Super Cement Pvt. Ltd. (ISCPL)
- viii) Icore Iron & Steel Pvt. Ltd. (II&SPL)
- ix) Icore Global Medicines Pvt. Ltd. (IGML)
- x) Icore Polyfab Pvt. Ltd. (IPFPL), and
- xi) ICORE Housing Finance Corporation Ltd. (IHFCL)

15.11 It is submitted that the Directorate vide its letter dated 16.03.2020 had shared the Investigation Report of SFIO to the Registrar of Companies, West Bengal to initiate necessary action a copy whereof is marked as **Annexure-‘B’**.

15.12 That the Petitioner, Registrar of Companies observed that all the 11 nos. of Icore Group of Companies had defaulted in filing statutory documents since last five years, for which winding up petition could be filed under Section 271(d) of the Companies Act, 2013 and accordingly, the Petitioner vide its letter dated 15.12.2020 had sent the report to the Regional Director (Eastern Region), Kolkata as marked as **Annexure-‘C’**.

16. It is submitted by the Ld. Counsel for the Petitioner that the Regional Director, Eastern Region, Kolkata vide its letter dated 15.12.2020 (a copy whereof is marked as **Annexure-‘D’**) had directed the Registrar of

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Companies, West Bengal to initiate immediate action for winding up of the companies as per proposal of the SFIO and as authorised to initiate winding up action under Section 272(1)(d) for non-filing of statutory documents since last five years as per section 271(d) of the Companies Act, 2013.

17. That thereafter, the Petitioner had issued notice to the Company under proviso of sub-section (3) of section 272 of the Companies Act, 2013 giving an opportunity for making representation vide its letter dated 08.02.2021 (a copy whereof is marked as **Annexure-‘E’**) but no reply had been received in turn.
18. Ld. Counsel for the Petitioner thus would contend that it is just and equitable that the said Company **M/s Icore Poly Fab Private Limited** be wound up by this Hon’ble Tribunal under the provisions of Section 271(c)&(d) read with 272(1)(d) and 272(3) of the Companies Act, 2013 and the Official Liquidator attached to Hon’ble High Court, Calcutta be appointed and 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.
19. This Tribunal, *vide* its order dated 31.08.2021, had directed the Registry to issue notice to the respondents by speed post and e-mail and place tracking information on record.
20. Further, this Tribunal *vide* its order dated 03.12.2021, directed the Registrar of Companies to make newspaper publication under rule 35 of the National Company Law Tribunal Rules, 2016.
21. This Tribunal, *vide* order dated 04.04.2022, had directed the Petitioner to implead the directors of the respondent Company as respondents and directed the Registry to issue notice to the newly impleaded respondents by speed post and e-mail and place tracking information on record. Accordingly, a service affidavit dated 23.06.2022 was filed by the petitioner

causing service of the amended petition to the newly added Respondents.

22. The Directors having not turned up, this Tribunal, *vide* its order dated 21.07.2022, had directed the Petitioner to cause publication of an advertisement of the petition under Rule 7 of the Companies (Winding Up) Rules, 2020 and also to file affidavit of service alongwith original paper cuttings. In compliance of the said order, the Petitioner, by an affidavit of service dated 07.12.2022, confirmed that the petitioner had published the notice of petition in two newspapers as under:

<i>Language</i>	<i>Name of newspaper</i>	<i>Date of publication</i>
English	Times of India	19.09.2022
Bengali	Ei Samay	19.09.2022

23. It has been stated by the Petitioner and is evident that all the statutory formalities requisite for obtaining the sanction of winding up order by the Tribunal have been duly complied with by the Petitioner.
24. In this regard, we would refer to the decision taken by this Tribunal in the matter of Registrar of Companies, West Bengal vs. Icore Apparels Private Limited¹, wherein this Tribunal *vide* its order dated 14.12.2022, amended its previous order dated 08.08.2022, omitting the words “Copies of the paper publication be served on the company and its directors who may file reply to the petition within two weeks of the date of publication in the said papers” from the said order.
25. This Tribunal made the said amendment applicable to other petitions as well, thereby doing away with the requirement to further serve the copies of paper publication to the respondent company as the necessity to publish the notice had arisen in the first place because the regular service could not be made on the known addresses. In the instant matter also, regular service of notice to

¹COMP.APPL/95/KB/2022 in C.P. 115(KB) 2021, decided on 14th December 2022

the company and its directors was attempted and upon the failure of the same, the direction for newspaper publication under rule 7 of the Companies (Winding Up) Rules, 2020 was given.

26. It is discernible that despite such publication of notice, no one had come forward to object or oppose the present company petition before this Tribunal. Therefore, in light of the said order dated 14.12.2022 in COMP.APPL/95/KB/2022, we are satisfied that pursuant to the publishing of the notice of the petition as required under rule 7, the service is complete.
27. It has been stated by the Petitioner that all the statutory formalities requisite for obtaining the sanction of winding up order by the Tribunal have been duly complied with by the Petitioner. We are satisfied with the explanations given by the Petitioner and thus feel that it would be just and equitable and in public interest that the Company should be wound-up.
28. By way of written arguments, no new facts have come to light as to why statutory documents were not filed for last five years preceding the filing of the CP No.118/KB/2021 and no justification for carrying on fraudulent activities as pointed out by the S.F.I.O.
29. The claim of the Applicant fails and therefore, **IA(COMPANIES.ACT)/10(KB)2023** is **dismissed** and accordingly **disposed of**.
30. Certified Copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

ORDER

(in CP/118(KB)2021)

1. The instant Petition has been filed by **The Registrar of Companies, West Bengal** (“petitioner”) to initiate winding up proceedings under the provisions

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Sections 271(c)&(d) read with 272(1)(d) and 272(3) of the Companies Act 2013 against **Icore Poly Fab Private Limited** (CIN: U74120WB2009PTC139946), an existing company within the meaning of the Companies Act, 2013. This petition has been filed on the ground that the Companies under the “Icore Group of Companies” are involved in illegal collection of deposits from public in guise of schemes, unauthorized collection of deposits in garb of Preference shares, NCD, APBIS, Gold schemes. The Companies had defaulted in filing its statutory documents i.e. Financial Statements and Annual Returns for the last five years. The Company and its directors failed to respond and/or complied with the notice issued by the Petitioner under second proviso of subsection (3) of Section 272 of the Companies Act 2013.

2. The Petitioner has filed the instant Petition with the following reliefs:
 - (a) *“That the **Icore Poly Fab Private Limited** (i.e. the Company) be wound up by the Tribunal under the provisions of Section 271(c)&(d) read with 272(1)(d) and 272(3) of the Companies Act 2013;*
 - (b) *The Official Liquidator attached to the Hon’ble High Court, Calcutta be appointed as liquidator and be directed to take possession of the assets and properties of the Company Icore Poly Fab Private Limited;*
 - (c) *The Icore Poly Fab Private Limited be restrained from disposing of its assets and properties pending disposal of the instant petition;*
 - (d) *Costs and incidental to the instant petition be directed to be paid out of the assets and properties of Icore Poly Fab Private Limited”.*

3. It is submitted by the Ld. Counsel on behalf of the Petitioner that the Company **Icore Poly Fab Private Limited** was incorporated on 07.12.2009 under the Companies Act, 1956 as private company limited by shares. The

Respondent No.1. Respondent No.2 and 3 are the directors of the said Company.

4. The authorised share capital of the Company is Rs.3,00,00,000/- (Rupees three crore only). The amount of capital paid up or credited as paid-up is Rs.32,70,000/- (Rupees thirty two lakh seventy thousand only).
5. The Company was incorporated to carry on in India or elsewhere the business to manufacture, process, alter, convert, commercialize, control, compound design, develop, research, distribute, formulate, derive, discover, manipulate, prepare, produce, promote, supervise, supply, import, export, buy, sell, turn to account and to act as agent, broker, wholesaler, retailer, concessionaries, consultant, consultant, consignor, collaborator, transporter, C&F agents, stockist, jobworker, franchiser or otherwise deal in all varieties, characteristics, descriptions, applications and uses of synthetic natural or blended polymer and rubber produces, polymer intermediaries, raw material, derivatives, mixtures, compounds, constituents, auxiliary products, by-products or co-products, etc.
6. It is alleged that the Company had not filed its Balance Sheet and Annual Return on and from 31st March, 2014 and thereby committed default which transpires from the copy of the Master Data, copy whereof is annexed with the Petition as **Annexure-‘A’**.
7. The Petitioner contends that the Ministry had ordered for investigation of the affairs of the Company M/s. Icore Poly Fab Private Limited along with other 10 companies under the “I-Core Group of Companies” under section 235 of the Companies Act, 1956 by Serious Fraud Investigation Office (SFIO). The SFIO vide their Investigation Report on 11 nos. of Icore Group of Companies had submitted in Chapter IV of Part B, ‘Finding of Investigation’ in page no. 203 vide point no. 4.14, that the Investigation Team had found evidence of collection of public deposits from 5 companies namely Icore E Services Limited (IESL), Riju Cement Limited (RCL), Mega Mould India

Limited (MMIL), Icore Jewellery & Gold Private Limited (IJ&GPL) and PIL and quantified the amount so collected. That these five companies had collected Rs.3194.69 Crore through 40.69 lakhs of applications/certificates /receipts during 2004-05 to 2013-14. An analysis of ERP data had revealed that these companies had raised funds from public under three schemes namely Fixed Deposits (FD), Recurring Deposits (RD), and Monthly Income Scheme (MIS) through chain of agents. The funds had been collected by allotting purportedly Redeemable Preference Shares (RPS) and Non-Convertible Debenture (NCD) of the companies and by collecting monthly instalments against the purported product/gold booked by the investors. It was also submitted to had been revealed from the fact that the Icore Group Companies had claimed the issue of Redeemable Preference Shares and Non-Convertible Debenture and had raised funds but the same collections were not collection of money out of issue of Redeemable Preference Shares and Non-Convertible Debenture but it was in nature of deposits taken from public which had never been returned to depositors.

8. Further that the Icore Group Companies fraudulently induced the depositors to make deposit under various deposit schemes by offering them higher rate of return on their investment knowing fully well that their business model was not sustainable in the long run. They could only repay the money back to the depositors as long as the inflow of the funds into these companies from new investors was much higher than the outflows on account of maturity proceeds. The SFIO had recommended that the affairs of the 11 nos. of companies of the Icore Group, names of which are appended below, had been conducted in the fraudulent manner for unlawful purpose:-

- i) Icore E-Services Ltd. (IESL)
- ii) Riju Cement Ltd. (RCL)
- iii) Mega Mould India Ltd. (MMIL)
- iv) Icore Jewellery & Gems Pvt. Ltd. (IJ&GPL)
- v) Icore Apparels Pvt. Ltd. (IAPL)

- vi) Icore Paints Pvt. Ltd. (IPPL)
 - vii) Icore Super Cement Pvt. Ltd. (ISCPL)
 - viii) Icore Iron & Steel Pvt. Ltd. (II&SPL)
 - ix) Icore Global Medicines Pvt. Ltd. (IGML)
 - x) Icore Polyfab Pvt. Ltd. (IPFPL), and
 - xi) ICORE Housing Finance Corporation Ltd. (IHFCL)
9. It is submitted that the Directorate vide its letter dated 16.03.2020 had shared the Investigation Report of SFIO to the Registrar of Companies, West Bengal to initiate necessary action a copy whereof is marked as **Annexure-‘B’**.
10. That the Petitioner, Registrar of Companies observed that all the 11 nos. of Icore Group of Companies had defaulted in filing statutory documents since last five years, for which winding up petition could be filed under Section 271(d) of the Companies Act, 2013 and accordingly, the Petitioner vide its letter dated 15.12.2020 had sent the report to the Regional Director (Eastern Region), Kolkata a copy whereof is marked as **Annexure-‘C’**.
11. It is submitted by the Ld. Counsel for the Petitioner that the Regional Director, Eastern Region, Kolkata vide its letter dated 15.12.2020 (**Annexure-‘D’**) had directed the Registrar of Companies, West Bengal to initiate immediate action for winding up of the companies as per proposal of the SFIO and as authorised to initiate winding up action under Section 272(1)(d) for non-filing of statutory documents since last five years as per section 271(d) of the Companies Act, 2013.
12. That thereafter, the Petitioner had issued notice to the Company under proviso of sub-section (3) of section 272 of the Companies Act, 2013 giving an opportunity for making representation vide its letter dated 08.02.2021 (**Annexure-‘E’**) but no reply had been received in turn.
13. Ld. Counsel for the Petitioner thus would contend that it is just and

equitable that the said Company **M/s Icore Poly Fab Private Limited** be wound up by this Hon'ble Tribunal under the provisions of Section 271(c)&(d) read with 272(1)(d) and 272(3) of the Companies Act, 2013 and the Official Liquidator attached to Hon'ble High Court, Calcutta be appointed and 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.

14. This Tribunal, *vide* its order dated 31.08.2021, had directed the Registry to issue notice to the respondents by speed post and e-mail and place tracking information on record.
15. Further, this Tribunal *vide* its order dated 03.12.2021, directed the Registrar of Companies to make newspaper publication under rule 35 of the National Company Law Tribunal Rules, 2016.
16. This Tribunal, *vide* its order dated 04.04.2022, had directed the Petitioner to implead the directors of the respondent Company as respondents and directed the Registry to issue notice to the newly impleaded respondents by speed post and e-mail and place tracking information on record. Accordingly, a service affidavit dated 23.06.2022 was filed by the petitioner causing service of the amended petition to the newly added Respondents.
17. The Directors having not turned up, this Tribunal, *vide* its order dated 21.07.2022, had directed the Petitioner to cause publication of an advertisement of the petition under Rule 7 of the Companies (Winding Up) Rules, 2020 and also to file affidavit of service alongwith original paper cuttings. In compliance of the said order, the Petitioner, by an affidavit of service dated 07.12.2022, confirmed that the petitioner had published the notice of petition in two newspapers as under:

<i>Language</i>	<i>Name of newspaper</i>	<i>Date of publication</i>

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

IA(COMPANIES.ACT)/10(KB)2023

In CP/118(KB)2021

Registrar of Companies, West Bengal vs. Icore Poly Fab Private Limited

English	Times of India	19.09.2022
Bengali	Ei Samay	19.09.2022

18. It has been stated by the Petitioner and is evident that all the statutory formalities requisite for obtaining the sanction of winding up order by the Tribunal have been duly complied with by the Petitioner.
19. In this regard, we would refer to the decision taken by this Tribunal in the matter of Registrar of Companies, West Bengal vs. Icore Apparels Private Limited², wherein this Tribunal vide its order dated 14.12.2022, amended its previous order dated 08.08.2022, omitting the words “Copies of the paper publication be served on the company and its directors who may file reply to the petition within two weeks of the date of publication in the said papers” from the said order.
20. This Tribunal made the said amendment applicable to other petitions as well, thereby doing away with the requirement to further serve the copies of paper publication to the respondent company as the necessity to publish the notice had arisen in the first place because the regular service could not be made on the known addresses. In the instant matter also, regular service of notice to the company and its directors was attempted and upon the failure of the same, the direction for newspaper publication under rule 7 of the Companies (Winding Up) Rules, 2020 was given.
21. It is discernible that despite such publication of notice, no one had come forward to object or oppose the present company petition before this Tribunal. Therefore, in light of the said order dated 14.12.2022 in COMP.APPL/95/KB/2022, we are satisfied that pursuant to the publishing of the notice of the petition as required under rule 7, the service is complete.
22. It has been stated by the Petitioner that all the statutory formalities requisite

²COMP.APPL/95/KB/2022 in C.P. 115(KB) 2021, decided on 14th December 2022

IN THE NATIONAL COMPANY LAW TRIBUNAL
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for obtaining the sanction of winding up order by the Tribunal have been duly complied with by the Petitioner. We are satisfied with the explanations given by the Petitioner and thus feel that it would be just and equitable and in public interest that the Company should be wound-up.

23. In view of the above we, therefore, hereby order as follows:-

- (a) The present company petition stands admitted. The respondent company being **Icore Poly Fab Private Limited** is to be wound up by this Tribunal under the provisions of Companies Act, 2013.
- (b) The **official liquidator** attached with the High Court of Calcutta is appointed as a **company liquidator** of the respondent company as provided under section 275(1) of the Companies Act, 2013
- (c) In terms of section 277 (1) and 277 (2) of the Act, the 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 functions, namely:—

- (i) taking into custody, all properties, actions and actionable claims to which the respondent company appears to be entitled 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 assets of the company including benefits derived there from;
 - (v) review of audit reports and accounts of the company;
 - (vi) sale of assets;
 - (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 Liquidator shall submit to the tribunal, a report in Form 16 within sixty days of passing this order. Further the company Liquidator shall file periodical reports 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 an advisory committee, having powers and functions in terms of section 287. The meetings of the said advisory committee will commence in accordance with the provisions 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 powers 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 CP/118(KB)2021 on 15.05.2024** for filing periodical reports.
- (n) Copy of the order be sent to the parties, the company liquidator, Registrar of Companies, West Bengal and the Authorised Representative for the Petitioner and also to the Official Liquidator, 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 1st day of April, 2024

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