

**IN THE NATIONAL COMPANY LAW TRIBUNAL**  
**KOLKATA BENCH**  
**KOLKATA**

**CA(IB) No. 1320/KB/2019**  
**In**  
**C.P. (IB) No. 1331/KB/2019**

**In the matter of:**

An application under Section 7 of the Insolvency and Bankruptcy Code, 2016 read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.

-And-

**In the matter of:**

An application under Section 33 of the Insolvency and Bankruptcy Code, 2016.

-And-

**In the matter of:**

**Union Bank of India**, a body corporate constituted under the Provisions of the Banking Companies (Acquisition & Transfer of Undertakings) Act, 1970, having its Head Office at 239, Vidhan Bhawan Marg, Mumbai- 400021 and carrying on business through its different branches including its branch office at Overseas Branch, 9, India Exchange Place, Police Station-Hare Street, Kolkata-700 001, West Bengal, and Assets Recovery Branch, 15, India Exchange Place, Kolkata - 700001;

**... Financial Creditor**





**-Versus-**

**IN THE MATTER OF:**

**M/s. Enfields Gems & Jewellery Ltd.**, a Private Sector Company and a body corporate within the meaning of the Companies Act, 1956, having its Registered Office at 4/1A, Jogmohan Mullick Lane, Police Station - Posta, Kolkata - 700007;

**... Corporate Debtor**

**And**

**In the matter of:**

**Sanjai Kumar Gupta**, the Resolution Professional of Enfield Gems and Jewellery Limited.

**... Applicant**

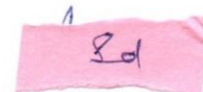
**Coram: Shri Jinan K.R., Hon'ble Member (Judicial) &  
Shri Harish Chander Suri, Hon'ble Member (Technical)**

**Counsel on Record:**

- |                                     |                                      |
|-------------------------------------|--------------------------------------|
| <b>1. Mr. Sanjai Kumar Gupta</b>    | <b>] Resolution Professional</b>     |
| <b>2. Mr. Rahul Auddy, Advocate</b> | <b>] For Resolution Professional</b> |

**Order pronounced on: 16/10/2019.**





**ORDER**

**Per Shri Harish Chander Suri, Hon'ble Member (T).**

1. This application has been filed by the Resolution Professional Mr. Sanjai Kumar Gupta. Vide order dated 23<sup>rd</sup> April, 2019, Corporate Insolvency Resolution Process (CIRP) was initiated against the Corporate Debtor M/s. Enfield Gems & Jewellery Limited followed by declaration of moratorium and appointment of Mr. Sanjai Kumar Gupta as Interim Resolution Professional (IRP)
2. In its meeting held on 22<sup>nd</sup> May, 2019 the Committee of Creditors approved the IRP as a Resolution Professional by 100% voting share which was later on approved by this Tribunal on 3<sup>rd</sup> June, 2019, as submitted in the 1<sup>st</sup> Progress Report by the said Resolution Professional.
3. In the 2<sup>nd</sup> Progress Report filed on 1<sup>st</sup> August, 2019 it was submitted that the Corporate Debtor was absconding and there was no saleable assets because the assets pertaining to the Corporate Debtor were under attachment. The matter was listed on 26<sup>th</sup> August, 2019 when the 3<sup>rd</sup> Progress Report was filed and it was submitted by the Resolution Professional that there was no possibility of Resolution of the Corporate Debtor because the Directors of the Corporate Debtor are also absconding and the Committee of Creditors is contemplating for liquidation of the Corporate Debtor.
4. The 4<sup>th</sup> Progress Report was thus filed on 20.09.2019 and an application for passing an order of liquidation was prayed for. In his

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5th/Final Progress Report dated 10.10.2019 the R.P. has submitted that by way of an order of appointment dated 23<sup>rd</sup> April, 2019 he was assigned the duties for ascertaining the particulars of creditors and convening a meeting of the Committee of Creditors for evolving a Resolution Plan and to submit the Resolution passed by the Committee of Creditors. Pursuant thereto publication of public announcement was made in the Newspapers at Kolkata in English and Bengali on 25<sup>th</sup> April, 2019.

5. The RP has submitted that the details of the claim received by him in the present case are as under:-

"M/s. Enfield Gems & Jewellery Limited (under CIRP)

Sl. No.	Name of the Creditors	Amount claimed by the Creditors (Rs.)	Amount Admitted till date (Rs.)	Remarks
A.	Financial Creditors			
1.	Union Bank of India	29,99,52,537.00	29,99,52,537.00	As CD could not be contacted and books of account is not available, claim submitted by FC has been admitted.

Note: Union Bank of India, being the only Financial Creditors who have submitted the claim, constitute 100% of COC."

6. The R.P. further submitted that the Registered Office of the Corporate Debtor is closed, no Directors of the suspended Board of Directors or other Officers of the Corporate Debtor are contactable, no records or books of

accounts are available, there is no business of the Corporate Debtor which is operational.

7. It is further submitted that with the records available with the Financial Creditor, the only assets of the Corporate Debtor is the manufacturing unit in Manikanchan SEZ, which is a sub-lease hold property and is under seize. The R.P. further submitted that he had enquired from the Assistant Development Commissioner (ADC) of the SEZ about the status of the SEZ unit of the Corporate Debtor but the reply thereto is still awaited. It is further submitted by the R.P. that the valuations, as required under CIRP is difficult at present.

8. The Operational Creditor has thus submitted that in view of the meetings held by the Committee of Creditors it has been concluded that the Resolution is not possible in the present case and there is no point in publication of EOI.

9. It is submitted that the 4<sup>th</sup> Meeting of the Committee of Creditors held on 13<sup>th</sup> September, 2019 it was decided by 100% in favour of the liquidation of the Corporate Debtor. The R.P. has further submitted that he had already communicated to the Committee of Creditors his inability and unwillingness to be appointed as Liquidator, in the present case and therefore after due deliberations, on the question of appointment of a new Insolvency Professional as Liquidator, in the place of the existing Resolution Professional, and also the plan providing for contribution for meeting the liquidation costs because there is no liquid asset with the Corporate Debtor, the Financial Creditor in the Committee of Creditors will propose the name





of a Liquidator and also plan providing part contribution to meet the liquidation costs to the existing R.P. through e-mail after taking approval for the same from their competent authority, it is informed now that the said approvals would take some more time.

10. The only member of the Committee of Creditors has communicated to the R.P. through e-mail on 1<sup>st</sup> October, 2019, the name of the proposed liquidator Ms C.A. Sonu Jain having registration no. IBBI/IPA-001/IP-P00575/2017-18/11016 and also estimated liquidation cost. The aforesaid Ms. Sonu Jain has by way of communication dated 3<sup>rd</sup> October, 2019 written to this Tribunal giving her consent to be appointed as the Liquidator if this application is allowed in accordance with the provisions of the Insolvency & Bankruptcy Board of India (insolvency Resolution Process for Corporate Persons) Regulations, 2016.

11. We have heard the Ld. Counsel for the Resolution Professional and gone through the application filed on behalf of the Resolution Professional. In view of the fact that as per the Progress Reports filed by the Resolution Professional from time to time, conveying the decisions taken by the Committee of Creditors in its various meetings and finally concluding that there is nothing left with the Corporate Debtor for Resolution, there being no saleable assets of the Corporate Debtor, no books of accounts or financial statements available with the Resolution Professional and the Directors are also absconding and their whereabouts are not known to the Resolution Professional, no fruitful purpose would be served in keeping the process of resolution in progress. We, therefore, consider it appropriate to order of

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liquidation in terms of Section 33 of the IBC. Therefore, we pass an order of liquidation of the Corporate Debtor with the following directions:-

**ORDERS**

- (i) In view of the facts that the Corporate Debtor has been ordered to be liquidated, **Ms. Sonu Jain C.A.**, an Insolvency Professional registered with the Institute of Chartered Accountant of India, who is holding IBBI registration No. IBBI/IPA-001/IP-P00575/2017-2018/11016 is appointed as the Liquidator and act in accordance with Rule 12 of Liquidation Process Regulation 2016 and submit the Preliminary Report as per Regulation 13 of the said Code.
- (ii) The Registry is directed to communicate this order to the Registrar of Companies, West Bengal and to the Insolvency and Bankruptcy Board of India.
- (iii) The order of moratorium passed under section 14 of the Insolvency and Bankruptcy Code, 2016 shall cease to have its effect and that a fresh moratorium u/s 33(5) of the Insolvency and Bankruptcy Code shall commence.

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- (iv) This order shall be deemed to be a notice of discharge of the Officers, employees and the workmen of the Corporate Debtor as per Section 33(7) of the Insolvency and Bankruptcy Code, 2016.
- (v) A copy of this order be sent to the Financial Creditor, Corporate Debtor and the Liquidator for taking necessary steps.
- (vi) **C.A. (IB) No. 1320/KB/2019 is disposed of** as above.
- (vii) Urgent certified copy of this order, if applied for, be issued to the parties upon compliance of all requisite formalities.



(Harish Chander Suri)

Member (T)



(Jinan K.R.)

Member (J)

Signed on this 16<sup>th</sup> day of October, 2019.

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