

**IN THE NATIONAL COMPANY LAW TRIBUNAL,  
NEW DELHIBENCH  
BENCH III**

IA-3697/2021  
In  
CP (IB) – 921/ND/2020  
Filed under Section 33  
Of the IBC, 2016

**In the matter of Gem Batteries Pvt. Ltd. (CD)**

Mr. Chandra Prakash  
Interim Resolution Professional  
(M/s Gem Batteries Pvt. Ltd.)

... Applicant

*Order delivered on 17<sup>th</sup> of September, 2021*

**CORAM:**

**SHRI P.S.N. PRASAD, HON'BLE MEMBER (JUDICIAL)**

**SHRI NARENDER KUMAR BHOLA, HON'BLE MEMBER  
(TECHNICAL)**

**Parties/Counsels present**

For Applicant : Mr. Sanju Kumar (Advocate), Mr. Chandra Prakash  
(Interim Resolution Professional)

**ORDER**

**Per: NARENDER KUMAR BHOLA, MEMBER (T)**

1. IA- 3697/2021 filed in CP (IB) – 921/ND/2020 by Interim Resolution Professional Mr. Chandra Prakash (hereinafter referred to as 'Applicant') under Section 33(2) of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of the NCLT Rules, 2016. The prayer made in the

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Application is to pass an order of liquidation pertaining to the Corporate Debtor (CD) viz., Gem Batteries Pvt. Ltd.

2. Originally CP (IB) – 921/ND/2020 was admitted by this Adjudicating Authority vide Order dated 01.12.2020, the Corporate Insolvency Resolution Process (CIRP) was initiated against the Corporate Debtor and Mr. Chandra Prakash ('Applicant') was appointed as Interim Resolution Professional vide the same order.
3. It is submitted that public announcement was made by the Applicant on 07.12.2020 as per the relevant regulations in the English daily being 'Financial Express' and the Hindi daily being 'Jansatta' Delhi NCR edition inviting the claims from the creditors of M/s Gem Batteries Pvt. Ltd. The applicant constituted the CoC pursuant to the collation of claims, initially there were 2 financial creditors in the CoC later on the CoC was reconstituted and one more financial creditor was added in the CoC. It is stated that members of CoC in 1<sup>st</sup> meeting of CoC meeting dated 04.01.2021 confirmed the appointment of the Applicant as Resolution Professional (RP), however, the confirmation by Adjudicating Authority



is pending in this regard.

4. It is further submitted that the Applicant convened the 3<sup>rd</sup> CoC meeting on 17.02.2021 and presented the draft Expression of Interest (EOI) and Form G for the Perusal of the members of CoC and in the same meeting appointment of Transaction Auditor, valuer and Security Agency was approved. It is further stated that in 4<sup>th</sup>CoC meeting dated 22.04.2021 the discussion on the matter of EOI submitted by the erstwhile promoter of the CD took place, the financial creditor RBL Bank Limited said that the erstwhile promoter has been declared as wilful defaulter, hence, should not be declared as prospective resolution applicant and can submit a settlement proposal if he deems fit. Republication of Form G was also approved by CoC to invite further EOI.

5. It is averred that this Hon'ble adjudicating Authority has approved the exclusion and CIRP date was extended till 18.08.2021 vide order dated 20.07.2021. It is further stated that in 7<sup>th</sup>CoC meeting dated 11.08.2021, the CoC by 100% voting recommended the liquidation of CD as the Applicant neither received any EOI nor any



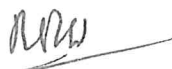
settlement proposal from the erstwhile promoter of CD and in the same meeting CoC also approved the appointment of applicant as the Liquidator.

6. Since no EOI or settlement proposal received by the IRP even after publishing the Form G twice so the Corporate Debtor has to be ordered for liquidation.

### **ORDER**

7. In view of the facts and circumstances recorded by Applicants in IA- 3697/2021 filed in CP (IB) – 921/ND/2020 and in exercise of powers conferred under Sub-Clauses (i) (ii) and (iii) of Clause (a) of Sub-Section (1) of Section 33 of the I&B Code, 2016, this Authority proceeds to pass following Liquidation Order:-

I. This Authority hereby orders for liquidation of the Corporate Debtor (CD) viz., M/s. Gem Batteries Pvt. Ltd. which shall be conducted in the manner as laid down in Chapter III of part II of the Insolvency & Bankruptcy Code, 2016;



II. This Authority hereby appoints Mr. Chandra Prakash having registration no. IBBI/IPA-002/IP-N00660/2018-19/12023 as Liquidator who shall issue a public announcement stating therein that the Corporate Debtor is in liquidation;

III. Subject to Section 52 of the Insolvency & Bankruptcy Code, 2016, no suit or other legal proceedings shall be instituted by/or against the Corporate Debtor. However, a suit and other legal proceedings may be instituted by the Liquidator, on behalf of the Corporate Debtor, with the prior approval of this Authority.

IV. This Authority makes it clear that Para (IV) hereinabove shall not apply to legal proceedings in relation to such transactions as notified by the Central Government in consultation with any financial sector regulator.

V. This Order shall be deemed to be a notice of discharge to the officers, employees and workmen of the Corporate Debtor, except when the business of the



Corporate Debtor is continued during the liquidation process by the Liquidator.

VI. All the powers of the Board of Directors, Key Managerial Personnel and the Partners of the Corporate Debtor, as the case may be, shall cease to have effect and shall be vested with the Liquidator viz., Mr. Chandra Prakash, in addition to it, the Company Liquidator shall exercise the powers and duties as enumerated in Sections 35 to 50, 52 to 54 of the Insolvency & Bankruptcy Code, 2016, r/w Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

VII. The personnel of the Corporate Debtor shall extend all assistance and co-operation to the Liquidator as may be required by him in managing the affairs of the Corporate Debtor.

VIII. The Liquidator shall be entitled to charge such fees as approved by the CoC in its 7<sup>th</sup> Meeting dated 11.08.2021 for the conduct of the liquidation proceedings.



IX. The Registry is directed to communicate this order with immediate effect to the concerned Registrar of Companies (ROC) with which the Corporate Debtor is registered, OL, Registered Office of the Corporate Debtor and Liquidator viz. Mr. Chandra Prakash, for information and compliance.

8. In terms of the above, IA-3697/2021 filed in CP (IB) – 921/ND/2020 by the Applicants under Section 33(2) of the Insolvency & Bankruptcy Code, 2016, for initiation of the Liquidation Proceedings against the Corporate Debtor viz., M/s Gem Batteries Pvt. Ltd. is **allowed**.



**(NARENDER KUMAR BHOLA)**  
MEMBER (TECHNICAL)



**(P.S.N. PRASAD)**  
MEMBER (JUDICIAL)