

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH – 1**
ATTENDANCE CUM ORDER SHEET OF THE HEARING HELD ON
09-05-2022 AT 10:30 A.M. THROUGH VIDEO CONFERENCE.

IA(IBC) 737/2021
CP(IB) 377/7/HDB/2018
U/s 7 of IBC, 2016

IN THE MATTER OF:

State Bank of India

...Financial Creditor

Vs

Varam Bio Energy Pvt Ltd

...Corporate Debtor

C O R A M:-

DR. VENKATA RAMAKRISHNA BADARINATH NANDULA, HON'BLE MEMBER (JUDICIAL)

SH. VEERA BRAHMA RAO AREKAPUDI, HON'BLE MEMBER (TECHNICAL)

ORDER

Orders passed in IA No. 737/2021 today. Recorded vide separate sheets.

In the result, the Application is allowed directing Respondents 1-7 and 8-9 to furnish information mentioned therein within 10 days from the date of this order. In default, the Respondents would be liable for the action as provided under law.

Sd/-

MEMBER (T)

Sd/-

MEMBER (J)

**IN THE NATIONAL COMPANY LAW TRIBUNAL
BENCH AT HYDERABAD**

IA No.737of 2021

In

C.P (IB)NO.377/7/ HDB/2018

Application u/s 60 (5) of IBC, 2016, R/w Regulation 9 of IBBI (Liquidation Process) Regulations, 2016 & Rule 11 of NCLT Rules, 2016

IN THE MATTER OF M/S VARAM BIOENERGY PVT LTD

Between

1. M/s Varam Bioenergy Pvt Ltd
Having its Reg office at
B 32, Steel & Mines Complex Srinagar Colony
Hyderabad, Telangana 500073

Represented by its Liquidator Mr. Vikas Prakash Gupta
Reg# IBBI/IPA-001/IP-P00501/2017-18/10889
G-19, Shree Wardhan Complex
Mezzanine Floor, Besides Landmark Building
Ramdespeth, Wardha Road, Nagpur 440010.
Email: liqoffice.varam@gmail.com
Phone: 9545622000

..... Applicant /Liquidator

VERSUS

1. Mr Lakshman Raju Vysyaraju
Flat 101, Aditya Green Fields
BP Raju Marg, white Fields
Near Botanical Gardens, Kondapur
Ranga Reddy District, Telangana 500084.
Email: rajuvk@gmail.com
Phone: 040-23418268

Sd/-

Sd/-

2. Mr Satyanarayana Malla
B-64, Steel and Mines Complex
Srinagar Colony, Hyderabad 500073
Email: snmalla@yahoo.com
3. Mr Kameswara Raju Vysyaraju
Flat 101, Aditya Green Fields

BP Raju Marg, white Fields

Near Botanical Gardens, Kondapur

Ranga Reddy District, Telangana 500084.

Email: rajuvk@gmail.com
Phone: 9885034349
4. Mr Mohan Kumar Podugu
Falt 303, Aditya Monarch
Botanical Garden Road, Kondapur
Ranga Reddy District, Telangana 500084
Email: podugu.mohankumar@gmail.com
Phone: 9966024393
5. Mr HarikrishnaPolavarapu
#3061, Falmingo Circle
Southlake, Texas 760092, USA
Also at:
C-3, ECIL Officers Colony
Hyderabad 500062
Email: hpolavarapu@numbersonly.com
Phone: 040-23418268
6. Mr Prashant Mupparaju
#64, Prospect Plac, 123F
Brooklyn, New York 11213, USA
Also at:
A 73, Steel & Mines Complex Srinagar Colony
Hyderabad, Telangana 500073
Email: syncwithu@yahoo.com
Phone: 040-23418268

Sd/-

Sd/-

7. Mr Venkat Satya
B 32, Steel & Mines Complex Srinagar Colony
Hyderabad, Telangana 500073
Email: venkat.t@numbersonly.co.in
Phone: 9966404395
8. M/s Indo Unique Flame Ltd
U23201MH1987PLC044597
301, Kothari Bldg, WHC Road,
Dharmapeth, Near Sudama Theatre,
Nagpur 440010, Maharashtra
Email: vipul@indouniqueflame.com
hari.om@indouniqueflame.com
Phone: 9552511867
9. M/s Target Industrial Security Solutions Pvt Ltd
U93090MH2017PTC302712
Plot No 50, Netaji Housing Society,
Gorewada Nagpur MH 440013 IN
Email: targetsecurityngp@gmail.com
Phone: 9325375179
10. Mr Uday Raj Patwardhan
Erstwhile IRP/RP of M/s Varam Bioenergy Pvt Ltd
Naman Midtown, B Wing, 1106, 11th Floor ,
Behind Kamgar Kala Kendra, Senapati Bapat Marg ,
Elphinstone West , Mumbai City, Maharashtra , 400013
Email: udayraj_patwardhan@sumedhamanagement.com
Phone: 9822026867
11. Employees Provident Fund Organization
132-A, Ridge Road, Raghujji Nagar
Nagpur 440009, Maharashtra
Email: ro.nagpur@epfindia.gov.in
Phone: 8208884794

..... Respondents

Sd/-

Sd/-

Date of order: 09.05.2022

Coram

Dr. N.Venkata Ramakrishna Badarinath, Hon'ble Member (Judicial)
Shri Veera Brahma Rao Arekapudi, Hon'ble Member (Technical)

Appearance:

For Applicant : Ms. Manoranjani, Advocate

PER: BENCH

1. This Application is filed under Section 60 (5) OF IB CODE, 2016 R/W REGULATION 9 of the IBBI (LIQUIDATION PROCESS) REGULATIONS 2016 & RULE 11 OF THE NCLT RULES, 2016, by the Liquidator who is appointed vide this Tribunal order dated **08.07.2021**, seeking directions to Ex-Management of Corporate Debtor i.e. Respondents 1-7 & 8th and 9th Respondents herein for providing registers and information as sought for, enabling the Liquidator to appear before EPF Authorities.
2. To put concisely, this Tribunal had, vide order dated 18.07.2019 passed in CP (IB) 377/7/HBD/2018, filed by State Bank of India (Financial Creditor) admitted the Petition and put M/s Varam Bioenergy Pvt Ltd (Corporate Debtor) into CIRP and Mr Udayraj Patwardhan (Reg No. IBBI/IPA-001/IP-P00024/2016-17/10057) was appointed as the Interim Resolution Professional, who continued as Resolution Professional.
3. It is brought to the notice of the Adjudicating Authority that Ex-management of Corporate Debtor were not co-operating with the erstwhile IRP/RP in providing with the updated books of accounts as on the Insolvency Commencement Date i.e., 18.07.2019. It is averred

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that the IRP has only received the audited financial statements of the Corporate Debtor for the FY 2008-09 to 2017-18, and was not provided with the information regarding its financial position, assets, liabilities and the Corporate Debtor's operations in spite of his repeated follow up.

5. It is further stated that the Corporate Debtor was not functioning from Registered Office at the address shown in the MCA site and that premises have been occupied by another resident.
6. Subsequently, the Tribunal vide its order dated 22.03.2021 replaced Mr Udayraj Patwardhan with Mr Vikas Prakash Gupta to function as the Resolution Professional. The Applicant then filed IA 196/2021 for liquidation of the Corporate Debtor which was allowed vide order dated 08.07.2021 and Applicant is appointed as the Liquidator.
7. Upon taking over charge as Liquidator, the Applicant informed the suspended board about initiation of liquidation process and made public announcement on 15.07.2021 in Form B inviting claims from various stakeholders of the Corporate Debtor. However, on 15th July 2021, the Liquidator received a notice U/S 30 of the Code of Civil Procedure, 1908 from the Employees' Provident Fund Organization directing the Corporate debtor, the Liquidator and the Ex-Management to appear before the Assistant PF Commissioner (compliance), Regional Office, Nagpur on 27.07.2021 at 3.00PM in connection with the Inquiry under Section 7A of the EPF & MP Act, 1952 along with the following records:

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- a. Attendance Register from the date of set up
- b. Membership eligibility register
- c. Cash book and vouchers from the date of set up
- d. Salary register / wages register / pay bills from the date of set up
- e. Copies of work orders
- f. Balance Sheet from date of set up
- g. Copies of receipts of challans / ECR
- h. Copies of bills raised to the agency
- i. Bank statement from the date of set up
- j. Any other documents necessary for ascertaining attendance of the workers and payment of wages etc
- k. Documents sought by enforcement officer

9. It is averred that the Corporate Debtor got registered with the EPF Organization at Nagpur on 15.02.2009 with Registration No. NGNAG0066965000, and the Liquidator is required to provide the information w.e.f 15.02.2009 to Employees Provident Fund Organization.

10. Despite several reminders, the Respondents 1 to 10 have not provided the Liquidator with complete records required for the purpose of inquiry by the EPF department. While Ex-Management, as the principal employer is responsible to provide all the required information till the initiation of CIRP to the Applicant, they have passed on their responsibility to 8th Respondent for the period during which the license to operate the plant was given to the 8th Respondent. It is averred that, a legal notice was also sent to the 9th Respondent which is the Security Agency i.e., M/s Target Industrial Security Solutions Pvt Ltd, appointed by the erstwhile IRP/RP immediately after admission of the Corporate Debtor into CIRP on 26th July 2019, for providing security to the bio mass Power Plant, when the 9th Respondent failed to provide the records

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required under the EPF Notice in spite several mails and verbal reminders.

12. The Applicant is unable to comply and follow the instructions of the subsequent notice dated 01.10.2021 of the EPF Organization owing to non-availability of the complete records as required by the EPF organization. The Applicant had deliberated this issue in the Second meeting of stakeholders, dated 21st October 2021 and apprised the stakeholders about the receipt of EPF Notice and about moving an application to this Tribunal in case the information and records is not provided by the Respondents 1 to 9.

13. Thus submitting, the Liquidator has filed this Application under Regulation 9 of the IBBI (Liquidation Process) Regulations 2016 seeking directions all the Respondents to cooperate with the Liquidator in providing the information and records as under, for complying with the statutory requirements of the EPF Organization.

Record/documents required from Ex Management (Respondents 1-7)
of Corporate Debtor

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Registers/Information to be provided by the Ex-Management:		
SNo	Registers / Information	For the Period
1	Attendance Register from date of set up	15.02.2009 to 10.08.2015 1.10.2018 to 25.07.2019
2	Membership eligibility Register	15.02.2009 to 10.08.2015 1.10.2018 to 25.07.2019
3	Cash Book & Vouchers from date of set up	15.02.2009 to 10.08.2015 1.10.2018 to 25.07.2019
4	Salary register/ wages register/ Pay bills from date of set up	15.02.2009 to 10.08.2015 1.10.2018 to 25.07.2019
5	Copies of work orders	15.02.2009 to 10.08.2015 1.10.2018 to 25.07.2019
6	Vouchers & supporting documents for all the financial transactions along with necessary explanation.	15.02.2009 to 18.07.2019
7	Copies of Receipt & ECR	15.02.2009 to 10.08.2015
8	Copies of bills raised to the agency	15.02.2009 to 10.08.2015 1.10.2018 to 25.07.2019
9	Invoices	15.02.2009 to 10.08.2015 1.10.2018 to 25.07.2019
10	Bank statement from date of set up	15.02.2009 31.03.2014

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Records/documents required from M/s Indo Unique Flame Ltd
(Respondents 8)

Registers to be provided by the Respondent 8		
S No	Registers	For the Period
1	Attendance Register from date of set up	11.08.2015 to 30.09.2018
2	Membership eligibility Register	11.08.2015 to 30.09.2018
3	Cash Book & Vouchers from date of set up	11.08.2015 to 30.09.2018
4	Salary register/ wages register/ Pay bills from date of set up	11.08.2015 to 30.09.2018
5	Copies of Receipt & ECR	11.08.2015 to 15.12.2015 15.12.2015 to 31.01.2016 01.03.2017 to 31.08.2018
6	Copies of bills raised to the agency	11.08.2015 to 30.09.2018
7	Invoices	15/12/2015 to 01/03/2016 10/07/2017 to 30/11/2018

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Record/documents required from M/s Target Industrial Security Solutions Pvt Ltd (Respondents 9)

Registers to be provided by the Respondent 9		
S No	Registers	For the Period
1	Attendance Register from date of set up	July & Aug 2019
2	Membership eligibility Register	26.07.2019 - 31.10.2021
3	Cash Book & Vouchers from date of set up	26.07.2019 - 31.10.2021
4	Salary register/ wages register/ Pay bills from date of set up	26.07.2019 - 31.10.2021
5	Copies of Receipt & ECR	26.07.2019 - 31.10.2021
6	Copies of bills raised to the agency	26.07.2019 - 31.10.2021

14. Though no relief is sought against Respondent No.10, a short reply is filed by erstwhile RP/Respondent 10 herein, inter-alia, contending that upon receipt of this Tribunal order dated 22.03.2021, an email was sent to all concerned including Respondent No.9, regarding appointment of Applicant herein as Resolution Professional in place of Respondent No.10 and the resultant change in vesting of the management and control of the Corporate Debtor, and to extend all necessary co-operation and support as may be required by the Applicant.

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15. The 10th Respondent contended that he had co-operated and clarified on all the issues as sought for by the Applicant. Further he had handed over all the records and documents of the Corporate Debtor provided to him by Respondents 1 to 8 during his tenure as IRP/RP, to the Applicant herein vide emails dated 31.03.2021, 07.04.2021, 14.04.2021, 17.04.2021, 04.05.2021, 05.05.2021, 16.06.2021, 01.07.2021 and 18.11.2021 and that he would extend all co-operation as and when required by the Applicant and that there is no relief qua 10th Respondent.
16. In the above backdrop, the point that emerges for consideration is;
Whether the ex-management of the Corporate Debtor i.e. Respondents 1-7 and Respondents 8 & 9 can be directed to provide the registers and information sought for in this application by the Applicant?
17. We have heard Ms. Manoranjani, Ld. Counsel for the Liquidator, perused the records and case law.
18. At the outset it may be stated that as per the averments in the Application, the genesis of this application is a notice has been served on the Applicant/Liquidator by the Assistant Provident Fund Commissioner (compliance), Regional Office, Nagpur on 27.07.2021, where under the following information was sought from the Liquidator in connection with an enquiry under Section 7A of the EPF & MP Act, 1952 by the concerned authority.
- i. Attendance Register from the date of set up
 - ii. Membership eligibility register
 - iii. Cash book and vouchers from the date of set up
 - iv. Salary register / wages register / pay bills from the date of set up
 - v. Copies of work orders
 - vi. Balance Sheet from date of set up
 - vii. Copies of receipts of challans / ECR

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- viii. Copies of bills raised to the agency
- ix. Bank statement from the date of set up
- x. Any other documents necessary for ascertaining attendance of the workers and payment of wages etc
- xi. Documents sought by enforcement officer

19. There is no dispute that the Corporate Debtor got registered with EFP at Nagpur on 15.02.2009 under Registration No. NGNAG0066965000. Since the notice that was issued by the Statutory Authority in exercise of powers conferred to the said authority, it is necessary for the liquidator to comply the terms of the said notice. The Applicant therefore, had taken steps for obtaining the information from all the Respondents.
20. According to the 10th Respondent, who is the erstwhile Resolution Professional, he had furnished whatever documents he had with him ever since he was appointed. However, the Applicant would contend that the Respondents 1-9 have not provided complete information as sought for despite repeated requests. Therefore, it was necessary for the Respondents to furnish the same. However, no record is placed before us evidencing furnishing of the said information. Therefore, we find sufficient force in the plea of the Applicant that Respondents 1-7 and 8-9 have not co-operated with the Applicant. Hence, the Applicant is seeking directions to Respondents 1-7 and 8 & 9 to provide the documents as sought for.
21. We therefore allow this petition by directing Respondents 1-7 and 8-9 to furnish information mentioned as under within 10 days from the date of this order. In default, the Respondents would be liable for the action as provided under law.

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Record/documents required from Ex Management (Respondents 1-7) of Corporate Debtor

Registers/Information to be provided by the Ex-Management:		
SNo	Registers / Information	For the Period
1	Attendance Register from date of set up	15.02.2009 to 10.08.2015 1.10.2018 to 25.07.2019
2	Membership eligibility Register	15.02.2009 to 10.08.2015 1.10.2018 to 25.07.2019
3	Cash Book & Vouchers from date of set up	15.02.2009 to 10.08.2015 1.10.2018 to 25.07.2019
4	Salary register/ wages register/ Pay bills from date of set up	15.02.2009 to 10.08.2015 1.10.2018 to 25.07.2019
5	Copies of work orders	15.02.2009 to 10.08.2015 1.10.2018 to 25.07.2019
6	Vouchers & supporting documents for all the financial transactions along with necessary explanation.	15.02.2009 to 18.07.2019
7	Copies of Receipt & ECR	15.02.2009 to 10.08.2015
8	Copies of bills raised to the agency	15.02.2009 to 10.08.2015 1.10.2018 to 25.07.2019
9	Invoices	15.02.2009 to 10.08.2015 1.10.2018 to 25.07.2019

10	Bank statement from date of set up	15.02.2010 31.03.2014
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**Records/documents required from M/s Indo Unique Flame Ltd
(Respondents 8)**

Registers to be provided by the Respondent 8		
S No	Registers	For the Period
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4	Salary register/ wages register/ Pay bills from date of set up	11.08.2015 to 30.09.2018
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7	Invoices	15/12/2015 to 01/03/2016 10/07/2017 to 30/11/2018

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Record/documents required from M/s Target Industrial Security Solutions Pvt Ltd (Respondents 9)

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3	Cash Book & Vouchers from date of set up	26.07.2019 - 31.10.2021
4	Salary register/ wages register/ Pay bills from date of set up	26.07.2019 - 31.10.2021
5	Copies of Receipt & ECR	26.07.2019 - 31.10.2021
6	Copies of bills raised to the agency	26.07.2019 - 31.10.2021

19. With the above directions, this IA is disposed of.

Sd/-

Sd/-

Veera Brahma Rao Arekapudi
Member (Technical)
Binu

Dr N. Venkata Ramakrishna Badarinath
Member (Judicial)