

NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH - I
CHENNAI

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ATTENDANCE CUM ORDER SHEET OF THE HEARING OF CHENNAI BENCH, NATIONAL
COMPANY LAW TRIBUNAL, HELD ON 23.09.2020 AT 10.30 AM. THROUGH VIDEO
CONFERENCING:

PRESENT: SHRI R. VARADHARAJAN, MEMBER-JUDICIAL
SHRI ANIL KUMAR B, MEMBER - TECHNICAL

APPLICATION NUMBER : MA/99/2019 IN CP/55/IB/2018 IN
PETITION NUMBER : TCP/ 225/2017
NAME OF THE PETITIONER(S) : REGIONAL PROVIDENT COMMISSIONER -1
THIRUNELVELI
NAME OF THE RESPONDENT(S) : G.GUNASEKARAN
UNDER SECTION : SEC 33(2) OF IBC

S.No.	NAME (IN CAPITAL)	DESIGNATION	SIGNATURE
		REPRESENTATION BY WHOM	

ORDER

Ld. Liquidator Mr. G.Gunasekaran in person and Mr. Muralidharan Krishnamurthy, Advocate for ESIC are present through Video Conferencing Platform. No representation on behalf of EPFO being the Applicant in MA/99/2019.

Ld. Liquidator refers to the Order passed by the Hon'ble NCLAT annexed along with the typed set at page Nos.1 to 14. Pertinent attention is drawn to page No.2 being the Order passed by the Hon'ble NCLAT dated 05.09.2019, the penultimate paragraph of the said Order which reads as follows: -


“Hence the matter is remitted to the Adjudicating Authority (National Company Law Tribunal), Chennai to give hearing to the Appellant; the Regional Provident Commissioner-I, Tirunelveli; Respondents including ‘Employees State Insurance Corporation’ and other creditors and decide as to which Authority/creditor is entitled for the said amount uninfluenced by order passed by the Adjudicating Authority or this Appellate Tribunal. It will be also open to the aggrieved person to move against such order in appeal.

The Appeal stands disposed of. No costs.”

Focusing on the said Order, it is seen that all the parties named therein as well as other creditors are required to be given an opportunity by this Tribunal uninfluenced by the earlier Orders passed



by this Tribunal as well as by the Hon'ble NCLAT thereby virtually directing this Tribunal to give a fresh hearing. In the circumstances, we direct the EPFO to be present positively on the next date of hearing without fail, so that its representation can be heard in relation to its claim.

In relation to the Liquidator, the Ld. Liquidator is directed to file a comparative chart in relation to the missing inventory items ascertained from the inventory taken by the IRP and subsequently from the inventory taken by the Liquidator along with valuers and as well as to file both the inventories presently not annexed, in original. 

Further, Ld. Liquidator is also directed to file the FIR copy lodged with the police authorities which is pending investigation by the police authorities as of today and based on which the Liquidator has sought for extension of time in relation to the liquidation process inter-alia and the same was ordered by this Tribunal.

In relation to ESIC, we direct the Ld. Advocate for the ESIC to submit a short synopsis in relation to the claim made giving the break-up of the claim made as well as the citations, if any, supporting as to whether who is to be given priority in relation to the claims namely, EPFO or ESIC in case of shortage of funds during the process of



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liquidation. Similarly, the EPFO is also directed to file a short synopsis in relation to its claims made giving break-up as well as citations in support of its cause.

Let all the compliance be done within a period of 3 weeks from today. Post this matter on **10.11.2020** for enquiry.

Ld. Liquidator is also directed to approach the Police authorities to expedite the investigation in view of the limited time frame available to the Liquidator for completing the liquidation process and which already stands extended in view of the Order passed in IA/358/2020.

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(ANIL KUMAR B)
MEMBER (TECHNICAL)

-SD-

(R.VARADHARAJAN)
MEMBER (JUDICIAL)