

# Gaurav Dalmia vs Vistra Itcl (India) Limited & Anr on 27 September, 2019

**Author: J.R. Midha**

**Bench: J.R. Midha**

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\* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ O.M.P. (COMM) 265/2019 & I.A. 9346/2019

GAURAV DALMIA

Through:

..... Petitioner  
Mr.Jayant Mehta, Mr.Vijay Nair,  
Mr.Shubham Paliwal and Ms.Sakshi  
Kapoor, Advocates

versus

VISTRA ITCL (INDIA) LIMITED & ANR.

..... Respondents

Through: Mr.Sandeep Sethi, Senior Advocate  
and Mr.Arun Kathpalia, Senior  
Advocate with Mr.Rakesh Sinha,  
Mr.Amit Kr. Mishra, Mr.Mohit  
Singh, Mr.Turab Ali Kazmi,  
Ms.Samridhi and Ms.Kanika Singhal,  
Advocates for R-1  
Mr.Gaurav Varma and Mr.Sujoy  
Datta, Advocates for R-2

CORAM:

HON'BLE MR. JUSTICE J.R. MIDHA

ORDER

% 27.09.2019

1. Arguments partly heard.
2. List for continuation of the arguments on 07th November, 2019.
3. The petitioner is directed to file the affidavit of his assets on the date of cause of action, date of the award as well as today in Form 16A, Appendix E under Order XXI Rule 41(2) of the Code of Civil Procedure within 30 days.
4. The petitioner is directed to file an additional affidavit in format attached hereto as Annexure A along with the documents mentioned therein within 30 days.

5. Both the parties are directed to file fresh brief note of submissions not exceeding three pages along with copies of the relevant documents and judgments on which they wish to rely with relevant portions duly highlighted for the convenience of this Court within three weeks.
6. The parties shall file an additional note of two pages to respond to the submissions of the opposite party within one week thereafter.
7. The petitioner shall remain present in Court on the next date of hearing.
8. Record of the Arbitral Tribunal be requisitioned before the next date of hearing.

J.R. MIDHA, J.

SEPTEMBER 27, 2019 ds ANNEXURE A FORMAT OF AFFIDAVIT OF ASSETS AND INCOME (In case of a Company, the affidavit of assets and income shall be filed by all the Director(s). In case of a Partnership Firm, the affidavit of assets and income shall be filed by all the Partners).

I \_\_\_\_\_, son of / wife of \_\_\_\_\_, aged about \_\_\_\_\_ years, resident of \_\_\_\_\_, do hereby solemnly affirm and declare as under:

PART - I PERSONAL INFORMATION RELATING TO THE DEPONENT S. No.  
Description Particulars

1. Name
2. Age
3. Educational/ Professional qualifications
4. Occupation
5. Monthly income
6. Marital Status
7. Members of the family: (a) Dependent  
(b) Independent
8. (a) Residential address  
(b) Office address

(c) E-mail address

9. Whether you are assessed to Income Tax?

PART - II DECLARATION OF ASSETS S.No. Assets List of Assets Present Estimated On the date On the date of Present Market of the cause the Value of action award/decreed

1. Immovable assets Including land, built up properties, lease hold properties, agricultural land and investment in real estate such as booking of plots, flats and other immovable properties List any interest in properties, including lease hold interest and mortgages, whether or not you are registered as owner.

Provide legal descriptions and indicate estimated market value of your interest (In case of partnership/HUF/ company, give the particulars of the assets of the firm/HUF/ company as well as the assets of all the partners/members/ directors.)

2. Joint Properties Particulars of the joint properties and the share of the deponent. Give the status of the possession. Whether any litigation pending with respect to the joint property? If so, give particulars.

3. Financial Assets: A/c No. & Balance on the Present Name of date of the date of the Balance

(i) Details of all bank accounts cause of action award/decreed including Current and Savings Bank & Accounts in your name, or Branch joint name.

(In case of partnership/HUF/ company, give the particulars of the particulars of bank accounts of the firm/HUF/ company as well as the bank accounts of all the partners/members/ directors.)

(ii) Cash in hand

4. Investments List of Assets Current Details of all investments you On the date On the date of Present Value hold or, in which you have of the cause the interest and their current value: of action award/decreed

(i) FDRs, NSC, IVP, KVP, Post Office schemes, PPF etc.

(ii) Deposits with Government and Non-Government entities

(iii) Stocks, shares, debentures, bonds, units and mutual funds, etc.

(iv) Life and endowment policies and surrender value

(v) Loan given to friends, relatives and others

(vi) Other investments not covered by above items

5. Pensions and Retirement Savings Plan Indicate name of institution where accounts are held, name and address of pension plan and pension details.

6. Corporate/Business Interests List any interest you hold, directly or indirectly, in any corporation, unincorporated business, partnership, trust, joint venture and Association of Persons, Society etc.

7. Movable Assets

(i) Motor Vehicles (List of cars, motorcycles, scooters etc. along with their brand and registration number)

(ii) Livestock

(iii) Mobile phone(s)

(iv) Computer/Laptop

(v) Other electronic gadgets including I-pad etc.

(vi) TV, Fridge, Air Conditioner, etc.

(vii) Other household appliances

(viii) Quantity of gold, silver and diamond jewellery

(ix) Quantity of Silver Utensils

8. Intangible properties Including patents, trademark, copyright, design, goodwill and their value

9. About disposal of properties Particulars of properties (movable as well as immovable) sold/agreed to be sold between the date of the cause of action upto the date of filing this affidavit and the sale consideration received from the purchaser(s)

10. Others List anything else of value that you own, including precious metals, collections, works of art, jewellery or household items of high value. Include location of any safety deposit lockers.

#### PART-III DECLARATION OF INCOME S.No Description Particulars

1. In case of salaried persons: On the date of the On the date of the Present cause of action award/decreed

(i) Designation

(ii) Name and address of the . employer

(iii) Date of employment

(iv) Gross Income including the salary, D.A., commissions/incentives, bonus, perks etc.

(v) Perquisites and other benefits provided by the employer including accommodation, cars/other automotive, sweeper, gardener, watchman or personal attendant, gas, electricity, water, interest free or concessional loans, holiday expenses, free or concessional travel, free meals, free education, gifts, vouchers, etc. credit card expenses, club expenses, use of movable assets by employees, transfer of assets to employees, value of any other benefit/amenity/service/ privilege and the value of such perquisites and benefits

(vi) Deductions from the gross income

(vii) Income tax paid

(viii) Net income

(ix) Value of stock option benefits, if provided by the employer

(x) Pension and retirement benefits payable at the time of retirement

2. In case of self-employed persons:

(i) Nature of business/ profession

(ii) Whether the business/ profession is carried on as an individual, sole proprietorship concern, partnership concern, company or association of persons, HUF, joint family business or any other form.

2A. In case of an individual /proprietorship firm:

(i) Office address and the branch offices, if any,

(ii) Number of employees

(iii) Annual turnover/gross receipts

(iv) Gross Profit

(v) Income Tax

(vi) Net Income

(vii) Details and value of benefits in kind, perks or other remuneration received from the business e.g. provision of car, payment of accommodation etc

(viii) Amount of regular monthly withdrawal or drawings from the business

(ix) Current value of your business interest(s)

(x) Current value of your business assets

(xi) Location of the statutory records and books of account of the business 2B. In case of company, partnership, HUF, joint family business or any other form:

(i) Address of the Registered Office and the branch offices, if any, of the firm

(ii) Net worth of the company /firm/HUF in which you are Director /Partner/ Member and your share in the business.

(iii) Number of employees

(iv) Annual turnover/gross receipts

(v) Gross Profit

(vi) Income Tax

(vii) Net Income

(viii) Details and value of benefits in kind, perks or other remuneration received from the business e.g. provision of car, payment of accommodation etc

(ix) Amount of regular monthly withdrawal or drawings from the business

(x) Current value of your business interest(s)

(xi) Current value of your business assets

(xii) Location of the statutory records and books of account of the firm

### 3. Income from Other Sources:

(i) Agricultural Income

(ii) Rent .

(iii) Interest on bank deposits and FDRs

(iv) Interest on investments including deposits, NSC, IVP, KVP, Post Office schemes, PPF, loans etc.

(v) Dividends

(vi) Income from machinery, plant or furniture let on hire.

(vii) Gifts

(viii) Profit on sale of movable/ immovable assets

4. Any other income not covered above TOTAL MONTHLY INCOME PART IV DOCUMENTS  
RELATING TO ASSETS AND INCOME S. No. Document Description of Document

1. Aadhaar Card

2. PAN Card

3. Passport

4. Driving Licence

5. Ration Card

6. Voter ID

7. Statement of Account of all bank accounts including current and savings accounts for last 3 years (In case of partnership/HUF/ company, give the particulars of the bank accounts of the firm/HUF/ company as well as the bank accounts of all the partners/members/ directors).

8. Income Tax Return(s) along with the balance sheets, statement of Income and annexures for last 3 years (In case of partnership/HUF/ company, give the particulars of the ITRs of the firm/HUF/ company as well as the ITRs of all the partners/members/ directors.)

9. In case of Salaried Persons

(i) Appointment Letter

(ii) Salary slip

(iii) Forms 16, 16A & 12BA

(iv) Cost to Company Certificate and CIBIL Certificate, wherever applicable

(v) Copies of TDS certificates

10. In case of Income from other sources:

(i) Lease Deed(s)/ Rent Agreement(s) / Licence Agreement(s) in respect of the rental income at time when the cause of action arose; at time of the award/decreed and at time of filing of this affidavit.

(ii) Interest Certificate in respect of the interest income on deposits and investments at time when the cause of action arose; at time of the award/decreed and at time of filing of this affidavit.

(iii) Dividend Certificates in respect of dividend income at time when the cause of action arose; at time of the award/decreed and at time of filing of this affidavit.

(iv) Sale Deed(s)/transfer documents in respect of the profit on sale of property/properties at time when the cause of action arose; at time of the award/decreed and at time of filing of this affidavit.

Other relevant documents

11. relating to Income and Assets Declaration:

1. I declare that I have/do not \*have means to satisfy the order/decreed/award.

2. I declare that I have made full and accurate disclosure of my income and assets from all sources. I further declare that I have no income and assets other than set out in this affidavit.

3. I undertake to inform this Court immediately upon any material change in my income and assets or any other information included in this affidavit.

4. I understand that any false statement in this affidavit may constitute an offence under Section 199 read with Sections 191 and 193 of the Indian Penal Code punishable with imprisonment upto seven years and fine, and Section 209 of Indian Penal Code punishable with imprisonment upto two years and fine. I have read and understood Sections 191, 193 199 and 209 of the Indian Penal Code.

DEPONENT Verification:

Verified at \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_ that the contents of the above affidavit relating to my income and assets are true to my knowledge, no



part of it is false and nothing material has been concealed therefrom. I further verify that the copies of the documents filed along with the affidavit are the copies of the originals.

DEPONENT \* Please strike out what is not applicable.