

Mr. Mohabir Anil Nandlall, SC MP  
Attorney General and Minister of Legal  
Affairs of Guyana and  
Mr. Nigel Ovid Hawke,  
Solicitor General  
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**IN THE HIGH COURT OF THE SUPREME COURT OF JUDICATURE  
OF GUYANA**

**REGULAR JURISDICTION**

**2022- HC- DEM- CIV -FDA- 47**

**BETWEEN:**

**GLENN LALL**

Applicant

-and -

**ATTORNEY GENERAL OF GUYANA**

Respondent

**AFFIDAVIT IN DEFENCE ON BEHALF OF THE RESPONDENT**

I, **GOPNAUTH BOBBY GOSSAI JR**, of the Ministry of Natural Resources,  
Brickdam, Georgetown, Demerara, being duly sworn make oath and say as  
follows:

1. That I am employed at the Ministry of Natural Resources as the Senior Petroleum Co-ordinator and I am duly authorised to depose this Affidavit on behalf of the Respondent herein.
2. That the facts to which I depose herein are true and correct and within my personal knowledge except where otherwise stated in which case I verily believe the same to be true and correct to the best of my information, knowledge and belief.
3. That I have read what purports to be a true copy of the Applicant's Fixed Date Application supported by Affidavit of Glenn Lall, sworn to on the 12<sup>th</sup> day of January, 2022, and save as is herein after expressly admitted, I specifically deny each and every averment of fact or contention of law made and contained in the said Affidavit of Glenn Lall in Support of his Application as if the same were herein set out verbatim and traversed seriatim.
4. That I make no admission to the averments contained in paragraphs 1, 2, 3, 5, 7, 8, 9, 10, 15 and 21 of the Affidavit of Glenn Lall in Support of his Application.
5. That I deny the averments contained in paragraphs 4, 6, 11, 12, 16, 17, 18, 19, 20, 22, 23 and 24 of the Affidavit of Glenn Lall in Support of his Application.
6. That I admit the averments contained in paragraphs 13 and 14 of the Affidavit of Glenn Lall filed in Support of his Application.

7. That I am advised by my Attorneys-at-law and verily believe, that the Defendant's contention is that there is no breach or violation of the **Petroleum (Exploration and Production) Act, Cap 65:04, Financial Administration and Audit Act (formerly Cap. 73:01), Prevention of Discrimination Act, Cap 99:08** and the **Constitution**, as alleged or at all.
8. That in answer to paragraphs 6, 7 and 8 of the Affidavit of Glenn Lall in Support of his Application, I am advised by my Attorneys-at-law and verily believe, that the Minister is vested with the power under **section 51 of the Petroleum (Exploration and Production) Act, Cap 65:04** (hereinafter referred to as "**the Act**") and the **Petroleum (Exploration and Production) (Tax Laws) (Esso Exploration and Production Limited, CNOOCNexen Petroleum Guyana Limited and Hess Guyana Exploration Limited) Order 2016, No. 10 of 2016** (hereinafter referred to as "**the Order**"), to make concessions or tax exemptions to the Licensees.
9. That further and in answer to paragraphs 6, 7 and 8 of the Affidavit of Glenn Lall in Support of his Application, I am advised by my Attorneys-at-law and verily believe that Parliament expressly made provisions for the grant of tax exemptions to persons who are non-resident in Guyana generally under the provisions of the Laws of Guyana, including the **Income Tax Act, Chapter 81:01, Laws of Guyana**. Further, the said Petroleum Agreement dated the 27<sup>th</sup> day of June, 2016, (hereinafter referred to as "**the Petroleum Agreement**") accords with those provisions.

10. That as it further pertains to paragraphs 6, 7 and 8 of the Affidavit of Glenn Lall in Support of his Application, the Licensee under the Act is one and same as the Contractor under the Petroleum Agreement.
11. That in answer to paragraphs 9 and 16 of the Affidavit of Glenn Lall in Support of his Application, I am advised by my Attorneys-at-law and do verily believe that at all material times, the Minister had the express power by virtue of **sections 10 and 51 of the Petroleum (Exploration and Production) Act, Cap. 65:04**, to enter into the said Petroleum Agreement and direct by **the Order**, which was subject to the affirmative resolution of the National Assembly, that specified Acts relating to tax, shall not apply to, or in relation to, a person who enters into a production sharing agreement with the Government of Guyana.
12. That in answer to paragraph 10 of the Affidavit of Glenn Lall in Support of his Application, I am advised by my Attorneys-at-law and do verily believe that the Applicant has not furnished any evidence to this Honourable Court to demonstrate how, and in what manner **Articles 15.1, 15.4, 15.5, 15.7, 15.9, 15.10, 15.11 and 15.12 of the Petroleum Agreement** violate the **Financial Administration (and Audit) Act**, but instead the Applicant has only stated each of the aforesaid Articles from pages 43 to 49 of the Affidavit of Glenn Lall.
13. That in answer to paragraph 11 of the Affidavit of Glenn Lall in Support of his Application, I am advised by my Attorneys-at-law and do verily believe that the provisions of the Petroleum

Agreement cannot alter the laws of Guyana separately, cumulatively, or in other manner. Moreover, the tax exemptions were lawfully sanctioned and duly passed by the National Assembly by affirmative resolution as aforesaid.

14. That in answer to paragraphs 12, 13, 14 and 18 of the Affidavit of Glenn Lall in Support of his Application, I am advised by my Attorneys-at-law and verily believe that the Applicant, Glenn Lall, has failed and/or neglected to show how he has been discriminated against in accordance with the **Prevention of Discrimination Act, Cap. 99:08**, or how his rights under **article 149 of the Constitution** has been infringed by the provisions of the Petroleum Agreement.
  
15. That in answer to paragraph 15 of the Affidavit of Glenn Lall in Support of his Application, I am advised by my Attorneys- at- law and do verily believe that **section 51 of the Petroleum (Exploration and Production) Act, Cap. 65:04**, is misconstrued by the Applicant as it only addresses the issue of waiver of taxes and makes no mention of remission of taxes by the Government on behalf of Licensees.
  
16. That in answer to paragraphs 17, 20, 21, 22 and 23 of the Affidavit of Glenn Lall in support of his Application, I repeat and rely on my contentions and assertions made in paragraph 11 above.
  
17. That in answer to paragraph 19 of the Affidavit of Glenn Lall in Support of his Application, I am advised by my Attorneys-at-law

and do verily believe that the Applicant has failed and /or neglected to show in his evidence, the nexus as to how **section 49** of the **Petroleum (Exploration and Production) Act, Cap. 65:04** violates **section 6** of the **Financial Administration and Audit Act (formerly Cap. 73:01)**.

18. That I am advised by my Attorneys-at-law and do verily believe that the Affidavit of Glenn Lall in Support of his Application consists of opinions of law held by the Applicant, and with which I am not in agreement with.
19. The **Petroleum (Exploration and Production) Act, Cap 65:04**, and **the Order** is presumed constitutional, and, to displace the constitutional presumption is a high bar, the burden of which rests on the Applicant.
20. That **the Order** met the statutory requirement in that it was made by the Minister responsible for finance under section 51 of the Act and passed by affirmative resolution of the National Assembly.
21. That I am advised by my Attorneys-at-law and do verily believe that the Applicant has failed and/or neglected to ground his claim under one of the categories of discrimination outlined in **Article 149 of the Constitution**. The Applicant cannot purport to implant a ground into the **Constitution** which does not exist.

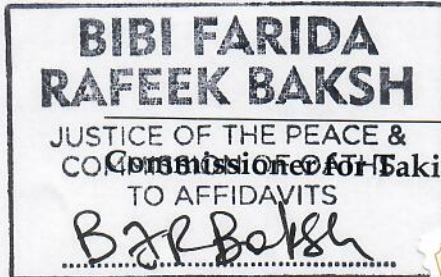
22. That I am advised by my Attorneys-law and do verily believe that the Applicant has not established any basis upon which he can rely upon **section 5 of the Prevention of Discrimination Act, Cap 99:08.**
23. That I am advised by my Attorneys-at-law and do verily believe that the Petroleum Agreement is between the Licensees and the Government of Guyana in private law.
24. That in the circumstances, this Honourable Court ought not to grant the declaratory Orders sought by the Applicant in his Fixed Date Application.
25. That I am advised by my Attorneys-at-law and do verily believe that having regard to the foregoing that there is insufficient evidence furnished by the Applicant to determine the Fixed Date Application on its merits.
26. In the circumstances, the Respondent respectfully prays that this Honourable Court dismiss the Applicant's Fixed Date Application with substantial costs.

This Affidavit was drawn on my instructions and on my behalf by **Mr Nigel Hawke**, Solicitor General, **Ms. Deborah Kumar**, Deputy Solicitor General and **Ms Ronetta Sargent**, Principal Legal Adviser, and **Mr. Chevy Devonish**, State Counsel for and on behalf of **Mr. Mohabir Anil Nandlall, SC MP**, Attorney General and Minister of Guyana, Attorneys-at-Law for the Respondent herein and whose address for service and place of business is the Attorney General's Chambers at Lot 95 Carmichael Street, North Cummingsburg, Georgetown.

Sworn before me at the City of Georgetown

In the County of Demerara on the

7<sup>th</sup> day of March, 2022



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GOPNAUTH BOBBY GOSSAI JR



TO: **MR. MOHAMED R. ALI**  
**ATTORNEY-AT-LAW FOR THE APPLICANT**  
**LOT 185 CHARLOTTE STREET**  
**LACYTOWN**  
**GEORGETOWN**



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