

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI**

O.A. NO. 950/ 2018

IN THE MATTER OF:

RWA Jain Colony

.... APPLICANT

VERSUS

GOVT. OF NCT OF DELHI & ORS.

....RESPONDENTS

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NDOH:- 19/7/19

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NEW DELHI
DATED: 16.07.2019

Delhi Pollution Control Committee
(Respondent)

through

Narender Pal Singh
Advocate
K-18 Level -1, Green Park Main,
New Delhi-110016

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**ACTION TAKEN REPORT ON BEHALF OF DELHI
POLLUTION CONTROL COMMITTEE IN COMPLIANCE TO
ORDER DATED 05.04.2019**

MOST RESPECTFULLY SHOWETH:

1. That this Hon'ble Tribunal in above referred matter vide its order dated 05.04.2019 ordered as follows:

"In affidavit filed on 13.03.2019, while confirming that action is called for, only stand taken by DPCC is that there is a Monitoring Committee headed by the Chief Secretary, Delhi to stop illegal industrial activities. The DPCC has given general directions and issued show cause notice for recovering compensation of Rs. 5 Lakhs each from landlord and four polluting industries and Rs. 50 Lakhs from TPPDL (Power Distribution Company in North Delhi). However, nothing has been recovered. There is nothing to show that the DPCC has closed the industries. The directions are said to have been issued more than a year back on 20.12.2017 but still it is not shown that the polluting industries were stopped. The basis of the calculation of environment compensation is not clear. This requires consideration of the period of violation, extent of damage to the environment

and deterrent effect so as not to allow such activity to be profitable. Adhocism can only be interim arrangement and actual damage is to be as per norms.

Once serious violations are noticed, the action has to be commensurate to the violation. It is also noticed that the affidavit of the DPCC acknowledges violation of Bio-Medical Waste Rules for which no prosecution has been initiated. It is not clear as to what penal action has been taken. If action is not taken for serious violations of this nature, it is clear failure on the part of the DPCC either on account of collusion or incompetence. This matter may also be enquired into by the Chief Secretary, Delhi, along with Original Application No. 936 of 2018, Rajesh Kumar vs. Govt. of NCT of Delhi in which separate order has been passed today.

The DPCC may now take remedial actions before the next date”.

2. That DPCC officials had inspected the site on 08.03.2019 and issued directions on 13.03.2019 for closure to 04 units namely, (i) M/s Ramson Industries, (ii) M/s Sunil ki factory, (iii) M/s Golden Industries, (iv) M/s Unity Packers.
3. Out of the 04 units, 02 units namely, M/s Ramson & Sunil Ki Factory found vacant and also the remaining two units namely:
1. Golden Industries 2. Unity Packers were sealed. Copy of the letter dated 18.04.19 is enclosed herewith as Annexure-R-1.
4. That the electricity connection of all the 04 units were got disconnected through M/S Tata Power Distribution Delhi Ltd. Copy of the letter dated 25.03.19 received from TPDDL is enclosed herewith as Annexure-R-2.

5. That prosecution u/s 25 read with Section 44 & 49 of The Water (Prevention & Control of Pollution) Act, 1974 and under section 21 read with Section 37 & 43 of The Air (Prevention & Control of Pollution) Act, 1981 has also been filed against the Bio-Medical Waste Processing unit M/s Sunil ki Factory on 09.07.2019 before the court of Additional Chief Metropolitan Magistrate, Delhi.
6. That DPCC has framed guidelines for deciding the methodology for assessing the Environmental Compensation to be levied on individual units. Copy of the guidelines is enclosed herewith as Annexure – R-3.
7. Environmental Compensation for an amount of Rs 5 lakhs each has been imposed on 13.03.2019 on four units and the landlord for violation of environment laws.
8. Recovery Certificate has been issued on 07.06.2019 for effecting recovery of environmental damages compensation as arrears of land revenue. Copy of the letter dated 07.06.2019 is enclosed herewith as Annexure – R-4.
9. In view of the above action taken, it is prayed that the case may be disposed off.

16/07/2019



(B L Chawla)
Env. Engineer
Delhi Pollution Control Committee



NORTH DELHI MUNICIPAL CORPORATION
FACTORY LICENSING DEPARTMENT
11th Floor, S.P.M CIVIC CENTRE,
J.L.N. MARG, MINTO ROAD
NEW DELHI - 110002.

Annexure - 1

No. DC/FL/2019/NDMC/856

Dated: 18/4/19

Sr. Environment Engineer,
Delhi Pollution Control Committee,
Govt. of NCT of Delhi,
ISBT Kashmere Gate Building,
Delhi-110006.

Subject: letter No. DPCC/CMC-III/2019/3734-36 dt.13.03.2019

Sir,

Kindly refer to your letter bearing No. DPCC/CMC-III/2019/3734-36 dt. 13.03.2019 regarding show cause notice under water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981 as amended to date.

In this connection it is to inform you that the F.L. Deptt. Of North DMC takes each & every direction of Hon'ble Court and NGT very sincerely. The four unit which were mentioned in the above letter were identified by the field staff of FL Deptt. as well as the Zonal Staff also, and found that two units namely :

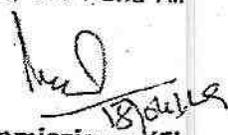
1. M/s Ramson Industries, 40 Feet Road, Near Gatta Factory, Kh. No. 36/22, Jain Colony, Bhagya Vihar, Ph-2, Rani Khera, Delhi.
2. M/s Sunil ki factory, 40 feet Road, near Gatta Factory, Kh. No. 36/22, Jain colony, Bhagya Vihar, Ph-2, RANI Khera, Delhi. (Mfg. drying and Storing of plastic waste) were found vacant.

Further, sealing action against remaining two units were executed the details of these two units is as under :

1. M/s Golden Industries, 40 feet road, Near Gatta Factory, Kh. No.36/22, Jain Colony, Bhagya Vihar Ph-2, RANI Khera, Delhi (Mfg. of Ink stamp pad)
2. M/s Unity Packers, 40 feet road, Near Gatta Factory, Kh. No. 36/22, Jain colony, Bhagya Vihar, Ph-2, Rani Khera, Delhi, (Mfg. Corrugated sheet & boxes).

It is also informed that F.L. Deptt. Is continuously taking closure, sealing action against the impermissible industrial units operating from non-conforming/ residential area under its jurisdiction. The Factory Licensing Deptt. has issued letter for disconnection of electricity and water supply of 1923 units since 01.04.2016 to 26.03.2019. The department has just completed Step-I & Step-II sealing as per the direction of Hon'ble Supreme Court of India in the case of M.C. Mehta V/s UOI & Ors in WP (C) No. 4677/1985. The survey work of step-III in the above case is in progress.

Therefore, it is requested that the Show Cause Notice issued to North DMC for imposing penalty under Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981 may please be vacated.


Dy. Commissioner/FL
North DMC

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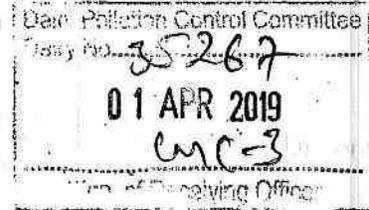
TATA POWER DELHI DISTRIBUTION LIMITED
(OFFICE OF THE REVENUE RECOVERY GROUP, CENCARE BUILDING)
OPPOSITE C-2 BLOCK, ESHAV PURAM, NEW DELHI-110035

To,
The Sr. Environment Engineer-CMC-III,
Delhi Pollution Control Committee,
Department of Environment,
(Govt. of NCT of Delhi)
4th and 5th Floor ISBT Building, Kashmere Gate
Delhi-110006

Annexure - 2

No.RRG/Cencare/2110
Dated: 25.03.2019

Subject: - Disconnection of Electric Supply.



Ref:- DPCC/CMC-III/2019/3737-38 Dated 13.03.2019

Dear Sir,

This has reference to your letter no DPCC/CMC-III/2019/3737-38 Dated 13.03.2019, in which it has been requested to disconnect the electricity connection of the unit in the aforesaid premises.

S No	Name	Address	Trade	CA No	Remarks
1	M/s unity Packers	Kh No 36/22 Jain Colony Bhagya Vihar Phase-2, Rani Khera, North West Delhi-110081 (40 feet Road, Near Gatta Factory)	Making Corrugated Sheets and Corrugated Boxes	60008966115	Disconnected
2	M/s Ramson Industries	Kh No 36/22 Jain Colony Bhagya Vihar Phase-2, Rani Khera, North West Delhi-110081 (40 feet Road, Near Gatta Factory)	Making Stamp Pad Ink	60012339630	Disconnected
3	M/s Golden Industries	Kh No 36/22 Jain Colony Bhagya Vihar Phase-2, Rani Khera, North West Delhi-110081 (40 feet Road, Near Gatta Factory)	Making Stamp Pad Ink	600134/8569, 60021469998	Disconnected
4	M/s Sunil Ki Factory	Kh No 36/22 Jain Colony Bhagya Vihar Phase-2, Rani Khera, North West Delhi-110081 (40 feet Road, Near Gatta Factory)	Drying and storing of Plastic Waste	60019664147	Disconnected

EE CMCIII
03/04/19

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In this regards, it is to inform that the address of registered consumer and address provided by DPCC is not matching. There is no sign board or identifications are available to identify with industries name. With the help of Local resident TPDDL conformed the site and disconnect the supply on dated 22-Mar-2019 of above mentioned units. For Early resolution of cases, you are requested to provide meter No/CA No in future referred cases.

It is for your kind information & further cooperation please.

Yours faithfully,

For Tata Power Delhi Distribution Limited



DGM (Revenue recovery Group)

TPDDL Building, Opp C-2 Block, Lawrence Road, Keshav Puram, New Delhi -110035



F.No. DPCC/CMC-III/2019/ 4438-39

Dated: 7/6/19

To,
SDM (Kanjhawala)
O/o Dy. Commissioner
North-West District
Kanjhawala, Delhi-110081

Annexure-7

Subject: Direction under 33(A) of Water (Prevention & Control of Pollution) Act, 1974 and 31(A) of Air (Prevention & Control of Pollution) Act, 1981, as amended to date.

Whereas, Central Pollution Control Board is the State Board for all the union Territories to exercise powers and performs functions under the Water (Prevention & Control of Pollution) Act, 1974 and Air (Prevention & Control of Pollution) Act, 1981, as amended to date.

And whereas, Central Pollution Control Board has delegated all its powers and functions under the Water (Prevention & Control of Pollution) Act, 1974 and Air (Prevention & Control of Pollution) Act, 1981, in respect of Union Territory of Delhi to Delhi Pollution Control Committee (DPCC) vide notification Dated 15.03.1991.

And whereas, the whole Union Territory of Delhi has been declared as an Air Pollution Control area, under sub section (I) of section 19 of the Air (Prevention & Control of Pollution) Act, 1981 vide notification no. GSR 106 (E) dated 20.02.1987.

And whereas, as per the mandatory provisions u/s 25/26 of the Water (Prevention and Control of Pollution) Act, 1974, no person without the previous consent of DPCC shall Establish or take any steps to establish any industry, operation or process or any treatment and disposal system or any extension or addition thereto, which is likely to discharge sewage or trade effluent into a stream or well or sewer or on land, bring into use any new or altered outlet for the discharge of sewage or begin to make any new discharge of sewage.

And whereas, as per the mandatory provisions u/s 21 of the Air (Prevention and Control of Pollution) Act, 1981, no person without the previous consent of the State Pollution Control Board (DPCC in case of Delhi) shall establish or operate any industrial plant in an Air Pollution Control Area.

And whereas, the Hon'ble NGT passed an order on 2.01.2019 in the matter of RWA Jain Colony versus Govt. of NCT of Delhi as follows:

"Allegation in this letter is that polluted water is being discharged on the street causing bad smell and breeding of mosquitoes which is a source of diseases. The location of the problem is said to be 40 Feet Road, Near Gatta Factory, KH-36/22, Jain Colony, Bhagya Vihar, Phase-2, Rani Khera, North West Delhi 110081.

Let the Delhi Pollution Control Committee (DPCC) look into the matter and furnish a factual and action taken report, including report of the action against the person responsible who has failed to perform his duties in the matter"

And whereas, an inspection of units were conducted by the officials of DPCC on 08.03.2019 and found that between 40 Feet Road, Jain Colony, Bhagya Vihar, Phase-II, Rani Khera, Delhi-110081 and as per the information provided by the local residents the team visited the above said site. Four factories namely M/s Ramson Industries, M/s Golden Industries, M/s Unity Packers and M/s Sunil ki factory found operating at the site in question.

And whereas, with regard to closure of the illegal units from the residential / non-conforming areas: Hon'ble Supreme Court has passed a judgment on 07.05.2004 in WP(C) No. 4677 of 1985 titled as "M.C. Mehta Vs. Union of India & Others". As per the order, all industrial units that have come up in residential / non-conforming areas in Delhi on or after 1st August, 1990 shall close down.

And Whereas, Environmental Compensation of sum of Rs. 5.00,000 Lakhs (Rs. Five Lakhs only) was imposed on Four factories namely M/s Ramson Industries, M/s Golden Industries, M/s Unity Packers and M/s Sunil ki factory as decided by the competent authority, for facilitating the units to operate in residential/non-conforming area in violation of MPD 2021 and Environmental Laws.

Now therefore, in view of the above, SDM (Kanjhawala) is hereby directed to recover the Rs 5 Lakhs (Rs. Five Lakhs only) each from above four units and Rs 5 Lakhs (Rs. Five Lakhs only) from landlord Sh. Purushotam as arrears of land revenue and deposit by the way of demand draft in favour of Delhi Pollution Control Committee.

This is being issued as per the approval of the Competent Authority, Delhi Pollution Control Committee.



(B.L. Chawla)
Env. Engineer

To.

1. Master file.



DELHI POLLUTION CONTROL COMMITTEEReport of The Committee Constituted for Deciding Methodology for Assessing Environmental Compensation to be Levied on Industrial Units

1. Delhi Pollution Control Committee has been imposing Environmental Compensation towards damages caused by the polluting units as a deterrent, in compliance of court orders. In the absence of any basis for calculating Environmental Damages in terms of money, the quantum of penalties imposed is being challenged by the units. Keeping in view the complexities involved on the issue of assessing Environmental Damages, which may have an element of arbitrariness, it was decided that a Committee under the Chairmanship of Member Secretary with following members may be formed to finalize formula/device/mechanism to resolve the issue on the basis of 'Polluters Pay Principle', as enumerated in various Court Orders:

- Dr. Chandra Prakash, SEE, CMC-II
- Sh. D.K. Singh, SEE, WMC-II
- Sh. Pankaj Kapil, SEE, EIA Cell
- Sh. Dinesh Jindal, ALO

2. The imposition of penalties vis-à-vis available enabling provisions were deliberated in the Committee.

CPCB had forwarded a Record Note of Discussion on 'Environment Compensation to be levied on Industrial Units' in 63rd Conference of Chairmen and Member Secretaries of Pollution Control Boards and Committees held on 18.03.2019. In the said conference, it was decided that "SPCBs/PCCs may frame their Guidelines on Environment Compensation based on CPCB's Report". Accordingly, the chapter regarding 'Environment Compensation to be levied on Industrial Units' as recommended by CPCB was taken as the basis for framing the guidelines of DPCC.

The following formula for calculating Environmental Compensation arrived by CPCB, has been taken as the basis for deciding the Environmental Compensation (to be levied) for the polluting units operating in Delhi.

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The block contains several handwritten signatures and initials. On the left, there is a signature that appears to be 'Anand'. In the center, there is a signature that looks like 'Anurag'. On the right, there is a signature that appears to be 'Dinesh Jindal' and another signature that looks like 'Pankaj Kapil'. There are also some initials and scribbles scattered around these signatures.

Methodology

The formula recommended by CPCB for calculating Environmental Compensation (EC) is reproduced as below:

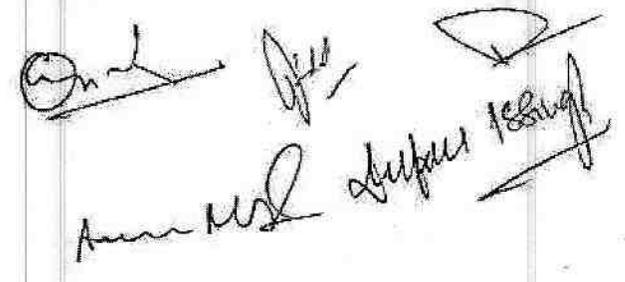
$$EC = PI \times N \times R \times S \times LF$$

Where,

- EC is Environmental Compensation in Rs.
- PI= Pollution Index of Industrial Sector
- N=Number of days of violation took place
- R= A factor in Rupees for EC
- S=Factor for scale of operation
- LF=Location Factor

4. After deliberation, the members of the committee unanimously arrived on the following recommendations:

- a) The average Pollution Index (PI) is a factor based on Pollution potential of a unit. The CPCB has categorized industrial units into Red, Orange, Green on the basis of Pollution potential, Red being the highest category of polluting units followed by Orange, and Green being the least polluting. As suggested by CPCB, Pollution Index for Red, Orange and Green Industries may be adopted as 80, 50, 30 respectively.
- b) "R" is a factor in Rupees, which may be minimum of 100 and maximum of 500. We may adopt "R" as 250 as average Rupee factor as recommended by CPCB.
- c) The Location Factor (LF) in NCT of Delhi may be adopted based on combination of 2 distinct factors such as (i) Population of the city/area near which unit is located (LF₁) and (ii) Type of industrial cluster in conformity with the Master Plan of Delhi in which unit is located (LF₂).



 [Handwritten signatures and initials, including a large signature that appears to be 'Anand' and another that says 'Anurag Mishra']

As recommended by CPCB, the Location Factor (LF₁) could be based on population of the city/area near which the industrial unit is located and the factor may be adopted as follows:-

S.No.	Population (million)	Location Factor (LF ₁)
1.	1 to <5	1.25
2.	5 to <10	1.5
3.	10 and above	2.0

Since Delhi Metropolitan area has a population exceeding 10 Million, location factor (LF₁) may be adopted as 2 uniformly for every part of the city.

As discussed above, another location factor (LF₂) may be adopted based on the type of industrial cluster in conformity with the Master Plan of Delhi in which unit is located i.e. a lower factor may be considered for approved industrial estate (conforming area), a higher factor for industrial cluster notified for re-development under Master Plan and a highest factor for non-conforming land use where industrial activity is not allowed. Accordingly, the same are depicted in the table as below:-

S.No.	Type of area as per Master Plan	Location Factor (LF ₂)
1.	Notified industrial area	1.0
2.	Industrial cluster notified for re-development	1.25
3.	Non-conforming to the land use	1.5

By adopting these factors, the formula will simplified as below:

S.No.	Category of Industries	Calculation (EC=PI x N x R x S x LF ₁ x LF ₂)	Simplified Formula
1.	Red	80 x 250 x 2 x N x S x LF ₂	40,000 x N x S x LF ₂
2.	Orange	50 x 250 x 2 x N x S x LF ₂	25,000 x N x S x LF ₂
3.	Green	30 x 250 x 2 x N x S x LF ₂	15,000 x N x S x LF ₂

3

On 11/11/11
Amir Singh
Supervisor
11/11/11

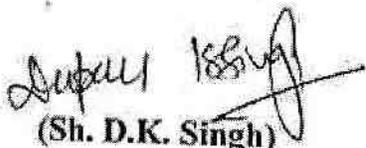
d) The "S" Factor which is a measure of scale of operation of a unit or facility may be based on small/medium/large industry categorization. It may be 0.5 for micro or small, 1.0 for medium and 1.5 for large units.

S. No.	Activity	S Factor
1.	Micro/Small Scale	0.5
2.	Medium Scale	1.0
3.	Large Scale	1.5

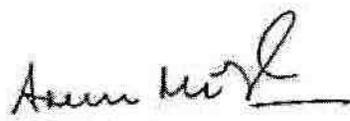
- 5. a) In order to include deterrent effect for repeated violations, EC may be increased on exponential basis, i.e. by 2, 4, 8 times on each repeat violation.
- b) For trades other than industries such as hotels, restaurants, banquet halls, hospitals, office complexes etc. a separate chapter will be prepared.


 (Sh. Dinesh Jindal)
 ALO


 (Sh. Pankaj Kapil)
 SEE


 (Sh. D.K. Singh)
 SEE


 (Dr. Chandra Prakash)
 SEE


 (Sh. Arun Mishra)
 Member Secretary, DPCC