

**BEFORE THE NATIONAL GREEN TRIBUNAL,
SOUTHERN ZONE BENCH, CHENNAI (T.N.)**

[Appeal No. 01 of 2021 (SZ)]

IN THE MATTER OF:

Piramal Pharma Limited

..... Appellant

Versus

Telangana State Pollution Control Board

..... Respondent

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..... Respondent

WRITTEN SUBMISSIONS FILED BY THE APPELLANT

MOST RESPECTFULLY SHEWETH:

- 1) That on the receipt of a letter from Sh. K. Lakshma Reddy alleging that untreated effluents are being discharged by the Appellant along-with two other industries thereby adversely affecting the water quality & availability of ground water and drinking water to the inhabitants of the surrounding area, the Hon'ble Principal Bench had *suo-motu* registered an Application being Original Application No. 688 of 2018 titled as "K. Lakshma Reddy vs. M/s Siddi Vinayaka Oil Mill & Ors."
- 2) That the Hon'ble Principal Bench, vide Order dated 08.08.2019 [*Annexure A-8, Page No.115 – 121, Volume – 1*] had directed for the constitution of a Joint Committee comprising the officials of the Respondent along-with the officials of the Central pollution Control Board (CPCB), IIT Chennai and NEERI Nagpur for the inspection of the Appellant.
- 3) That the said Joint Committee inspected the industrial unit of the Appellant on 16.09.2019 and a Joint Committee Report dated 30.10.2019 [*Annexure: A-9, Page No.122 – 179, Volume – 1*] was filed by the said Joint Committee before the Hon'ble Principal Bench on 13.11.2019, whereby the said Joint Committee had recommended to

levy maximum Environmental Compensation of Rs.8,31,60,000/- (Rupees Eight Crore Thirty One Lakh and Sixty thousand only) from 25.03.2015 to 08.01.2019 i.e. for 1386 days @ Rs.60,000/- per day on the Appellant.

4) Submissions with Respect to the Joint Committee Report dated 30.10.2019:

(a) That the allegation against the Appellant in the aforesaid O.A. No. 688 of 2018 was that the Appellant was discharging its untreated effluents which was adversely affecting the water quality & availability of ground water and drinking water to the inhabitants of the surrounding area and it is in the light of the said allegation that the Hon'ble Principal Bench has constituted the said Joint Committee.

(b) That the Hon'ble Principal Bench while constituting the said Joint Committee, vide its said Order dated 08.08.2019, has issued the following directions [Page No.120, Volume – 1]:

"21 Having regard to the material on record, we are satisfied that a fresh inspection needs to be carried out by a joint committee comprising CPCB, IIT Chennai, NEERI Nagpur and State PCB. The CPCB will be nodal agency for compliance and coordination. The Committee may ascertain the present status of pollution caused in terms of air, land and water and assess the compensation for the last five years which should be deterrent and adequate to recover the cost of restoration. The Committee may also suggest measures for remediation of the contaminated sites in terms of ground water and soil and whether the units can be allowed to operate, having regard to the adequacy of the pollution control devices and compliance

of environmental norms. The report may be furnished to this Tribunal on or before 31.10.2019 by e-mail a judicial-ngt@gov.in. The applicant will be at liberty to participate during the inspection. The State PCB may provide all the requisite data and copies of the inspections conducted and facilitate new inspection. The applicant may furnish his e-mail ID to CPCB for being informed about the date of inspection."

- (c) That, therefore, as per the aforesaid direction passed by the Hon'ble Principal Bench, vide its aforesaid Order dated 08.08.2019, the mandate of the said Joint Committee is to ascertain the present status of pollution caused by the Appellant in terms of air, land and water and if there is any damage to the environment than to access the Environmental Compensation for the last five years which should be deterrent and adequate to recover the cost of restoration.
- (d) That, however, a perusal of the said Joint Committee Report dated 30.10.2019 reveals the below-mentioned facts:
- (i) That the said Joint Committee Report dated 30.10.2019 contains gist of various Tests/Analysis reports of various samples collected by the said Joint Committee [Page No.137 – 145, Volume – 1] during the inspection on 16.09.2019 and also during the period of observation /monitoring from 27.09.2019 to 30.09.2019 of the industrial unit of the Appellant.
 - (ii) That the perusal of the aforesaid Tests/Analysis reports shows that all the parameters of the samples collected by the said Joint Committee from in and/or around the industrial unit of the Appellant, as aforesaid, are within the permissible limits.

- (iii) That the said Joint Committee Report dated 30.10.2019 contains a table which shows the compliances of the industrial unit of the Appellant under various Acts & Rules [Page No.146, Volume – 1].
- (iv) That the findings /observations of the said Joint Committee contained in the said Joint Committee Report dated 30.10.2019 with respect to the industrial unit of the Appellant, as aforesaid, clearly shows that the Appellant is a compliant unit and all the parameters of the industrial unit of the Appellant are within the permissible limits [Page No.147, 163 & 169, Volume -1];
- (v) That, moreover, as per the findings /observations of the said Joint Committee contained in the said Joint Committee Report dated 30.10.2019, the only major alleged violation on the part of the Appellant is non-compliance of lining of rainwater collection pits [Page No.163 & 169, Volume – 1].
- (e) That, therefore, from the perusal of the said Joint Committee Report dated 30.10.2019 it can be safely concluded that the said joint Committee did not find any pollution and resultant damage to the environment caused by the Appellant during the inspection on 16.09.2019 and also during the period of observation /monitoring from 27.09.2019 to 30.09.2019 which requires remediation /restoration.
- (f) That, however, since the said Joint Committee did not find any pollution caused by the Appellant as alleged by the aforesaid Sh. K. Lakshma Reddy on the basis of which the proceedings in the aforesaid O.A. No. 688 of 2018 has been initiated against the Appellant, the said Joint Committee looked into various directions

/orders issued by the Respondent since 25.03.2015 to 08.01.2019 in regular course of business.

- (g) That although the said Joint Committee did not find any pollution and resultant damage to the environment caused by the Appellant which requires remediation /restoration, as aforesaid, the said Joint Committee illegally, arbitrarily and without any rationale treated the occasional delays in compliance due to compelling factors like technology selection, identification of vendors, ordering, mobilization of workforce, actual work, capital mobilization, routine shutdown, maintenance of equipment, operational disturbances etc by the Respondent as major violations and further treated that as such the said occasional delays in compliance has been committed by the Appellant for the whole period since 25.03.2015 to 08.01.2019 (meaning each day for 1386 days, which is incorrect and without any evidence).
- (h) That although the said Joint Committee did not find any pollution and resultant damage to the environment caused by the Appellant which requires remediation /restoration yet on the basis of such misplaced treatment /assumption, as aforesaid, the said Joint Committee has illegally, arbitrarily and without any rationale applied the "Polluter Pay Principle" on the Appellant and recommended to levy maximum Environmental Compensation of Rs.8,31,60,000/- (Rupees Eight Crore Thirty One Lakh and Sixty thousand only) for whole time period from 25.03.2015 to 08.01.2019 i.e. for 1386 days @ Rs.60,000/- per day on the Appellant.
- 5) That on the basis of the aforesaid illegal, arbitrary & unfounded recommendation given by the said Joint Committee in the said Joint

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Committee Report dated 30.10.2019, the Respondent had issued an Order dated 29.01.2020 [Annexure: A-12, Page No.180 – 201, Volume – 1] thereby directing the Appellant to pay the maximum Environmental Compensation of Rs.8,31,60,000/- (Rupees Eight Crore Thirty One Lakh and Sixty thousand only) apart from other directions

- 6) That during the whole proceedings in aforesaid O.A. No. 688 of 2018 before the Hon'ble Principal Bench and as well while passing the aforesaid Order dated 29.01.2020 by the Respondent, no opportunity of hearing was ever provided to the Appellant.
- 7) That the Appellant filed an Appeal being Appeal No. 09 of 2020 titled as "*Piramal Enterprises Limited Vs. Telangana Pollution Control Board & Anr.*" before this Hon'ble Tribunal against the direction to pay an Environmental Compensation of Rs.8,31,60,000/- (Rupees Eight Crore Thirty One Lakh and Sixty thousand only) issued by the Respondent vide the aforesaid Order dated 29.01.2020.
- 8) That this Hon'ble Tribunal has, vide its Order dated 21.07.2020 passed in Appeal No.09 of 2020 (SZ) [Annexure: A-14, Page No.206 – 219, Volume – 1], without going into the merits of the case set aside the direction to impose the Environmental Compensation issued by the Respondent vide its Order dated 29.01.2020 on the technical ground that no show cause notice has been served on the Appellant by the Respondent while imposing the said Environmental Compensation and therefore, this Hon'ble Tribunal was of the view that there was violation of the principle of natural justice by the Respondent.

- 9) That the Respondent once again issued an Order dated 19.09.2020 [*Annexure: A-18, Page No.242 – 254, Volume – 1*] thereby once again directing the Appellant to pay an Environmental Compensation of Rs.8,31,60,000/- (Rupees Eight Crore Thirty One Lakh and Sixty thousand only) apart from other directions.
- 10) That the Appellant filed yet another Appeal being Appeal No. 27 of 2020 titled as "*Piramal Enterprises Limited Vs. Telangana Pollution Control Board & Anr.*" before this Hon'ble Tribunal against the direction to pay an Environmental Compensation of Rs.8,31,60,000/- (Rupees Eight Crore Thirty One Lakh and Sixty thousand only) issued by the Respondent vide the aforesaid Order dated 19.09.2020.
- 11) That this Hon'ble Tribunal has, vide its Order dated 13.10.2020 passed in Appeal No.27 of 2020 (SZ) [*Annexure: A-19, Page No.255 – 269, Volume – 2*], again without going into the merits of the case set aside the direction to impose the Environmental Compensation issued by the Respondent vide its Order dated 19.09.2020 on the technical ground that no speaking order was passed by the Respondent by giving reasons as to why the Respondent is not considering the objections raised by the Appellant for exempting the Appellant for payment of the said Environmental Compensation.
- 12) That the Respondent, vide the impugned Order dated 09.12.2020 [*Annexure: A-1, Page No.58 – 79, Volume – 1*], had rejected all the explanation /submissions made by the Appellant in its various communications and also during the personal hearing held on 18.11.2020 and had directed the Appellant to pay an Environmental

Compensation of Rs.8,31,60,000/- (Rupees Eight Crore Thirty One Lakh and Sixty thousand only) within 15 days.

13) **Submissions with respect to the impugned Order dated 09.12.2020**

issued by the Respondent:

- (a) That the Respondent in Paragraph No.32 of the impugned Order dated 09.12.2020 [Page No.74 – 78, Volume – 1] has provided the “*chronology of events observed with respect to violations for Assessment of EC calculations*” in tabular form.
- (b) That the perusal of the said “*chronology of events observed with respect to violations for Assessment of EC calculations*” in tabular form as mentioned in Paragraph No.32 of the impugned Order dated 09.12.2020 [Page No.74 – 78, Volume – 1] shows that the alleged non-compliances observed by the Respondent in the said Table are the maintenance issues that may occur time to time normally during the operation of an industry and such maintenance issues have been duly rectified by the Appellant as and when such issues occur.
- (c) That the submissions with respect to the said alleged non-compliances observed by the Respondent in the said Table are sufficiently made by the Appellant in Paragraph No.35 of the Memorandum of Appeal [Page No.29 – 43, Volume – 1] filed by the Appellant. That said submissions made by the Appellant in the said Paragraph No.35 of the Memorandum of Appeal are not repeated herein for the sake of brevity and the same may be read as part & parcel of this present Written Submission. That the said submissions made by the Appellant in the said Paragraph No.35 of the Memorandum of Appeal are hereby reiterated and the Appellant carve leave & indulgence of this Hon’ble Tribunal to refer to and/or rely upon the said submissions with respect to the said

alleged non-compliances observed by the Respondent in the said Table.

(d) That the directions issued by the Respondent vide its various aforesaid Orders has been duly complied with by the Appellant. That, moreover, the Respondent has already forfeited the Bank Guarantee submitted by the Appellant amounting Rs.99,00,000/- (Rupees Ninety Nine Lakhs only) for the said alleged non-compliances /occasional delays in compliance of the directions issued by the Respondent vide its various Orders.

(e) That, however, the Respondent in its impugned Order dated 09.12.2020 has treated as though all the said alleged non-compliances / occasional delays in compliance has been committed by the Appellant for the whole period since 25.03.2015 to 08.01.2019 (meaning each day for 1386 days, which is incorrect and without any evidence) and on the basis of such incorrect and misplaced assumption, the Respondent, vide the impugned Order dated 09.12.2020, has, illegally & arbitrarily, again levied the "Maximum Environmental Compensation" of Rs.8,31,60,000/- (Rupees Eight Crore Thirty One Lakh and Sixty thousand only) [@ Rs.60,000/- per day for the time period from "25.03.2015 to 08.01.2019" i.e. for "1386 days"].

14) That the case of the Appellant does not fall under any category of the cases to be considered for levying the Environmental Compensation as per the Guidelines prescribing a methodology for assessing, imposing and utilising Environmental Compensation from Polluting units issued by the Central Pollution Control Board

Clause No.	Cases Considered for levying Environmental Compensation	Factual Situation/ Submission by the Appellant	Applicability on Appellant
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1.3.a	Discharges in violation of consent conditions, mainly prescribed standards /consent limits	The Joint Committee appointed by the Hon'ble Principal Bench has found the Appellant to be a compliant unit and the same is detailed in the Joint Committee Report dated 30.10.2019	Not Applicable
1.3.b	Not complying with the directions issued, such as direction for closure due to non-installation of OCEMS, Non-adherence to the action plans submitted etc	The Appellant has complied with all the Directions issued by the Respondent time & again and has updated the Respondent with respect to the same. The Respondent has verified the compliances made by the Appellant time & again of the directions issued by the Respondent and has reported with respect to the same in its various communications.	Not Applicable
1.3.c	Intentional avoidance of data submission or data manipulation by tampering the Online Continuous Emission/ Effluent Monitoring system	The Appellant have been regular in submission of the required data. Neither the Respondent nor the said joint Committee has observed any data manipulation by tampering the Online Continuous Emission/ Effluent Monitoring system	Not Applicable

1.3.d	Accidental discharges lasting for short durations resulting into damage to the environment	The said Joint Committee has observed in its in the Joint Committee Report dated 30.10.2019 that all Environmental parameters of the unit of the Appellant are within the norms and no damage to environment has been reported in any of their findings. The test reports of the samples so collected support that there has been no pollution and no damage caused to the environment by the Appellant.	Not Applicable
1.3.e	Intentional discharges to the environment – land, water & air resulting into acute injury or damages to the environment	The said Joint Committee found in its Joint Committee Report dated 30.10.2019 that all Environmental parameters of the Appellant are within the norms and no damage to environment, land, water and air or resultant injury or damage to environment has been reported by the said Joint Committee in any of their findings in Joint Committee Report dated 30.10.2019. The said Joint Committee Report dated 30.10.2019 observed that the pollution control systems of the Appellant are in place for Environmental management. Moreover, the Respondent as well as CPCB has several times visited the unit of the	Not Applicable

		Appellant and found no intentional discharges.	
1.3.f	Injection of treated / partially treated / untreated effluent to ground water	The Appellant do not have any bore or injection wells at its unit.	Not Applicable

- 15) That the Appellant, being a responsible corporate citizen, has been operating its industrial unit with due compliances with all rules & regulations and with all required permissions/licenses/consents of the concerned Government authorities /departments and is regularly paying all the taxes, duties etc to the concerned Government authorities /departments.

- 16) That the Appellant is a Zero Liquid Discharge (ZLD) unit and no effluent was ever discharged by the industrial unit of the Appellant outside the industry premises of the Appellant and, therefore, the Appellant has not caused any pollution whatsoever.

- 17) That the alleged detection of chemical compounds from the water samples collected by the officials of the Respondent from the bore-wells situated outside the premises of the Appellant is an isolated event which occurred due to unprecedented heavy rainfall. That the Appellant immediately took the necessary measures and since then till date several times water samples have been collected by the officials of the Respondent from the bore-wells situated outside the premises of the Appellant but chemicals compounds were never detected from the said water samples.

- 18) That alleged contaminated rain water was observed in **4 out of 5 lined Rain Water Collection Pits** during the inspection of the industrial unit of the Appellant conducted by the officials of the Respondent on

06.11.2018 and 14.12.2018. That the samples of the said alleged contaminated rain water was taken by the officials of the Respondent during the said inspections and the Analysis Report of the same has been contained respectively in the Order dated 29.11.2018 [*Annexure: A-32, Page No.392 – 408, Volume – 2*] and Order dated 28.12.2018 [*Annexure: A-34, Page No.411 – 415, Volume – 2*] both issued by the Respondent.

- 19) That perusal of the said Analysis Report as mentioned in the aforesaid Order dated 29.11.2018 as well as in the aforesaid Order dated 28.12.2018 issued by the Respondent shows that no chemical compound was traced in the said samples of the said alleged contaminated rain water. That as far as the increased TDS and COD of the said alleged contaminated water is concerned, the rain water run-off generally flushes air and natural soil contaminants (on account of geological profile) such as grit, deciduous leaf litter, bird excreta etc. and such air and natural soil contaminants flushed down by the rain water run-off increases the TDS and COD of the same. That moreover, since the aforesaid alleged contaminated rain water was observed in ***lined Rain Water Collection Pits***, therefore, it is not possible for the said alleged contaminated rain water to infiltrate below and contaminate the ground water.
- 20) That in view of the fact that various studies /inspections /sample analysis conducted by the Respondent as well as various committees including the Joint Committee appointed by the Hon'ble Principal Bench have time & again confirmed that the Appellant is a compliant unit and no damage has been caused to the Environment, occasional delays arising out of operational disturbances for which the penalty has already

been recovered by the Respondent from the Appellant cannot be later classified as violations which attract "*Polluter Pay Principle*".

- 21) That, therefore, the act of treating the occasional delays in compliance arising out of operational disturbances, as aforesaid, both by the said Joint Committee and thereafter by the Respondent as major violations and again penalizing the Appellant for the same on "*Polluter Pay Principle*" and that too levying of "*Maximum Environmental Compensation*" is totally unwarranted, illegal & arbitrary and against the mandate of the said joint committee as set down by the Hon'ble Principal Bench, vide its aforesaid Order dated 08.08.2019.
- 22) That although the Appellant has tried to cover all the submissions made by the Appellant in this present Written Submissions read with the Paragraph No.35 of the Memorandum of Appeal [Page No.29 – 43, Volume – 1] filed by the Appellant, yet the Appellant reserves its right to make additional submission(s) if necessitated /required during the course of final arguments in this present Appeal being Appeal No.01 of 2021 (SZ) before this Hon'ble Tribunal.

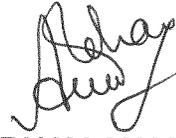
PRAYER:

In the facts and circumstances as stated above, it is therefore, most respectfully prayed that this Hon'ble Tribunal may graciously be pleased to:

- (i) Allow the present Appeal being Appeal No.01 of 2021 (SZ) titled as "*Piramal Pharma Limited vs. Telangana State Pollution Control Board*" filed by the Appellant;
- (ii) Set-aside the direction to pay an Environmental Compensation of Rs.8,31,60,000/- (Rupees Eight Crore Thirty One Lakh and Sixty thousand only) as mentioned in Paragraph-35 of the impugned Order dated 09.12.2020 issued by the Respondent;

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- (iii) Pass such other/further order(s) as this Hon'ble Tribunal may deem fit and proper in the facts & circumstances of the case.



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3/27/2021

Gmail - Written Submissions - Piramal Pharma Ltd [Appeal No.01 of 2021 (SZ)]

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Abhinav Anand <abhinav.legal@gmail.com>

Written Submissions - Piramal Pharma Ltd [Appeal No.01 of 2021 (SZ)]

1 message

Abhinav Anand <abhinav.legal@gmail.com>

To: Sai Krishnan <lawsbi@gmail.com>

Sat, Mar 27, 2021 at 12:59 PM

Kind Attn: Mr. Sai Krishnan (Advocate)

Sir,

Kindly find attached herein the Written Submissions to be filed on behalf of the Piramal Pharma Ltd. (Appellant) before the Hon'ble NGT (SZ) in Appeal No. 01 of 2021.

Regards,

Abhinav Anand
(Advocate)
Mob: 9582416270

 **Written Submissions - Piramal Pharma Ltd (Appeal No.01 of 2021 (SZ)).pdf**
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