

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
SOUTH ZONE, CHENNAI
Appeal No. 16/2023**

BETWEEN

M/s Sandhar Technologies Ltd

Appellant

AND

Karnataka State Pollution Control Board

Respondent

INDEX

SI. No.	Particulars	Page No.
1.	Statement of Objections on behalf of Respondents	1-6
2.	Verifying Affidavit	7
3.	Annexure R1	Copy of the inspection report dated 14.06.2016 8-10
4.	Annexure R2	Copy of the inspection report dated 11.06.2019 11-12
5.	Service Copy	13

Date: 06.05.2024

Place: Bangalore



Advocate for Respondents

A. Mahesh Chowdhary

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**STATEMENT OF OBJECTIONS ON BEHALF OF THE RESPONDENT
BOARD**

1. The Respondent Board denies and disputes all the averments, contentions and allegations raised by the Appellant, in the present Appeal and except what has been specifically admitted herein under, in writing, any omission on the part of the Respondent to deal with any specific averment, contention or allegation of the Appellant should not be construed as an admission on the part of the Respondent Board.
2. It is submitted that instead of para wise reply to the averments in the Appeal, it is prayed that, allow the instant objections constituting an overall response to the Appeal filed by the Appellant herein. Therefore, it is humbly prayed to read the same in totality for assessing the facts and nature of the case.
3. At the outset, Respondent submits that the above-mentioned Appeal is liable to be dismissed in limine as being misconceived and not maintainable in law and fact.
4. It is relevant to state that the present Appeal is filed by the Appellant being aggrieved by the order dated 12.07.2023 (Annexure A1) wherein an



environmental compensation of Rs 4,93,59,375/- has been levied upon the Appellant by the Respondent Board.

Violations committed by the Appellant Industry

5. It is relevant to state that the Appellant's industry is a Large Red Category Industry that had obtained the consent for discharge of effluents under the Water and Air Act on 19.09.2015 valid up to 30.06.2016. Subsequently, the industry also applied for combined consent on 03.08.2016 under the Water Act, 1974 and Air Act, 1981. Accordingly, the Appellant obtained the combined consent on 27.09.2016 valid from 03.08.2016 to 30.06.2021. It is necessary to state that the consent had been given subject to certain terms and conditions that the Appellant was required to follow to operate in accordance with law.
6. It is relevant to state that after obtaining the consent for the operation, the appellant industry was inspected on several occasions wherein it was observed that the appellant industry has been operating in violation of the provisions of the law. It is noteworthy to mention that the following actions have been taken by the Respondent Board to provide reasonable opportunity to ensure compliance from the appellant's end:

Sl. No.	Date	Actions done by the Respondent Board
1.	14.06.2016	Inspection conducted by the Respondent Board wherein the observations were made that the STP plant has been in operation in violation to the consent condition along with other issues regarding monitoring and emissions. Copy of the inspection report has been enclosed as Annexure R1 for the kind perusal of this Hon'ble Tribunal
2.	28.06.2016	Vague reply submitted by the Appellant industry without showing any compliances. (Annexure A4)



3.	11.06.2019	Industry was inspected wherein several violations such as bad STP, non-installation of energy meter and non-segregation of hazardous wastes etc have been recorded. Copy of the inspection report has been enclosed as Annexure R2 for the kind perusal of this Hon'ble Tribunal
4.	18.06.2019	Show Cause notice issued by the Respondent Board. (Annexure A6)
5.	26.06.2019 And 09.08.2019	Another vague response submitted by the Appellant industry failing to show any compliances. (Annexure A7)
6.	23.07.2019	Notice of proposed directions issued by the Respondent Board under Section 33 (A) of the Water Act. (Annexure A8)
7.	05.08.2019	Response submitted by the Appellant industry wherein the Appellant industry has acknowledged the violations committed by the Appellant industry (Annexure A9, Page 360)

7. It is relevant to state that the Hon'ble NGT in various orders had directed the CPCB and SPCB to take steps by exercising statutory powers under the Water, Air and Environment Act to prohibit the operation of polluting activities in the critically polluted areas, as well as to make assessment of compensation to be recovered from the polluting units and recover the same towards cost of restoration and damage to the public health and environment and the deterrence element.
8. The Respondent Board had imposed an interim compensation of Rs 1,00,00,000 in terms of the scale suggested by the Hon'ble NGT for large scale industries. This imposition was neither challenged or questioned by Petitioner in any of the forums, except providing a vague and elusive reply dated 11.03.2020.



9. On 12.07.2023, placing reliance on the directions of Hon'ble NGT issued in order to protect and preserve environment, Respondent Board imposed the environment compensation upon the Appellant industry calculated as per the formula provided by CPCB.

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

PI = Where PI is not mentioned, for Red Category PI is taken as 50

N = No of days (From 23.05.2015 to 11.03.2020 i.e. 1755 days)

R = Factor in Rupees (Rs 250)

S = Small/medium/large categorisation or volume of effluent discharge (1.5 for large category)

LF = Location Factor (1.5 to critically polluted areas)

Therefore, $EC = 50 \times 1755 \times 250 \times 1.5 \times 1.5$

$$= \text{Rs } 4,93,59,375 \text{ /-}$$

10. The environmental compensation value mentioned above has been calculated after careful consideration of the duration of the appellant industry's violations. Appellants at no point of time have ever denied the fact that, there was violation or there has been non compliance. Appellant has only maintained that, such non compliance has been cured and the is accepted by Respondent Board. It is the not the case of It is crucial to emphasize that mere compliance with the law at a later stage does not absolve industries from the responsibility of adhering to the principle of 'polluter pays'. Appellants argument that, since there is compliance, environmental compensation cannot be accepted as the same stands an anti-thesis to principle of 'polluter pays'.
11. The rationale behind imposing environmental compensation on the Polluters is that the law violating he provisions of law needs to be punished. The objective is that punishment in terms of imposition of compensation and recover the for



restoration. Keeping this in mind the Hon'ble National Green Tribunal decided to impose the environmental compensation on the Polluters. Therefore, the argument that, unless they are classified as a particular type of industry, compensation cannot be levied is not erroneous. In any event, the Appellant's industry is located in the CEPI location, which can be ascertained by the address in the impugned notice.

12. It is significant to state that reversing the imbalance caused to the ecology is part and parcel of the industrial process. Thus, the financial responsibility of taking prevention and controlling measures for the pollution caused should rest upon the industry which caused pollution. The principle of polluter pays has time and again been also upheld by the Hon'ble Apex Court and High Court in a plethora of judgements such as *Indian Council for Environment Legal v Union of India, 1996 SCC (3) 212, M.C Mehta v Kamal Nath (2000) 6 SCC 213 etc.*
13. The Respondents maintain that the Appellant had a opportunity to present its case and submit supporting documents during the response to the show-cause notice. The issuance of the demand notice is not arbitrary; rather, it is a culmination of a comprehensive review of the Appellant's responses, evidence, and the severity of the alleged violations. The quantum of compensation is calculated in consideration of the potential environmental impact, and the imposition is seen as a means to rectify and offset any harm caused to the environment.
14. This act of Respondent Board imposing Environmental Compensation is not an isolated event, but is a consequence of acts or pollutions caused over a period of time by any polluting industry. Therefore, the argument that, no opportunity was afforded is based on wrong understanding of principles of Natural Justice.
15. Respondent Board contends that the computation formula considers the period from the date of the first inspection (23/05/2-15) to the date of the last reply submitted (11/03/2020) as the 'Number of days of the violation.' This period is



crucial for assessing the duration during which potential violations were observed, and necessary corrective actions were not taken. The formula aligns with the need to deter non-compliance and ensure timely rectification. The computation formula used by Respondent Board reflects the preventive nature of environmental compensation. By considering the entire period from the first inspection to the issuance of the closure order, the formula incentivizes prompt corrective actions and discourages prolonged non-compliance. This approach is aligned with the broader goal of the principle – ‘polluter pays’.

16. It is necessary to state that the impugned order has been issued relying upon valid observations that the industry has not been complying with the consent norms and has fallen with the pollution index/CEPI Score as noted down by the Hon’ble NGT in its order. Hence, the formula applied by the Respondent Board in calculated the impugned EC value is right in law and requires no interference. It is relevant to state that the impugned order levying environmental compensation has been issued as per the procedure established by law.
17. The violations committed by the Appellant are an admitted fact and hence warrant no interference by this Hon’ble Court as the prayer made by the Appellant is based on suppression of facts and liable to be dismissed for not being maintainable either in law or in facts.
18. In light of the aforesaid, it is relevant to state that the impugned environmental compensation levied by the Respondent Board upon the Appellant industry amounting to Rs 4,93,59,375/- vide Annexure A1 is valid and legal.
19. The present appeal is filed by the Appellant only to escape from its liability by misleading this Hon’ble Court and hence, requires to be dismissed for not being maintainable either in law or in facts

Place : Bangalore

Date : 06.05.2024



Advocate for Respondent Board

A. Mahesh Chowdhary

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SOUTH ZONE, CHENNAI**

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BETWEEN

M/s Sandhar Technologies Ltd

Appellant

AND

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Respondent

AFFIDAVIT

I, Narayanaswamy.S.T the authorized representative of the Respondent Board having its office at Nisarga Bhavan, 7th D Main, Road, Thimmaiaha Road, Basaveshwaranagara, Shiva Nagar, Bengaluru 560010 do hereby solemnly affirm, and state as follows:

1. I am the authorised representative of the Respondent Board in the instant petition. We are well conversant with the facts of the case; I swear to this Affidavit.
2. I hereby state that the facts contained in Para no. 1 in the petition accompanying this Affidavit are true to best of my knowledge.
3. I state that the Annexure R₁ to R₂ produced, include certified copies and true copies of the originals.

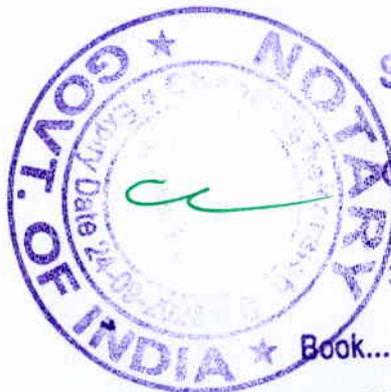
We swear that the contents made out in the above paragraph 1 to 19 are true and correct to the best of my knowledge, information, and belief.

Deponent

Place: Bangalore.

Date: 06.05.2024

Identified by Me.



SWORN TO BEFORE ME

CHANDRASHEKARAIAH. S
Advocate & Notary

9/7, Kampegowda 1st Stage,
3rd Cross, Muthurayaswamy Extension,
Sunkadakatta, Bangalore - 560 091.

Book.....3 Page.....57

Reg. No.....130 Date.....6/5/2024

DATE:

INSPECTION REPORT OF SRI S. SHIVAPPA NAIK., ENVIRONMENTAL OFFICER,
REGIONAL OFFICE, ANEKAL

Officer Accompanied :- Sri. V. Suneel - DEO

1	Name & Address of the Industry inspected	M/s Sandhar Automotives Bammasandra, (A unit of Sandhar Technologies Ltd.), Plot No. 8, Bommasandra – Jigani Link Road, KIADB Industrial Area, Anekal Taluk, Bangalore Urban District
2	Category	Large Red
3	Capital Investment	Rs.19.50 Crore
4	Date of inspection	14/06/2016 & 26/07/2016
5	No of employees	400 Nos.
6	Persons Contacted	Sri M. Ramanathan – Manager (Maintenance)
7	Consent Status	Expired on 30.06.2016. Applied for renewal for further period.
8	Products Manufactured and capacity	Automobile Components – <ul style="list-style-type: none"> • Mirror– 12 Lakhs /annum • Lock sets 1.5 Lakhs / annum • Fuel taps-3.5 Lakh pieces/annum • Latches-4.5 Lakh pieces/annum

Preamble:

M/s. Sandhar Automotives, Bammasandra located at Plot No. 8, Bommasandra – Jigani Link Road, KIADB Industrial Area, Anekal Taluk, Bangalore Urban District has obtained Consent under both Water and Air acts for the period up to 30-6-2016 vide No. KSPCB/CEO/NEIA/Sandhar/2015-16/H-763 dated 19.09.2015 for the manufacture Automobile Components - Mirror & Lock sets – 12 Lakhs / Annum and 1.5 Lakhs / Annum, Fuel Taps-3.5 Lakh pieces/Annum & Latches-4.5 Lakh pieces/Annum respectively.

Further, the industry had submitted the CFO application seeking for one year consent by paying one year consent fee of Rs. 60,000/- under both the Acts vide HDR. No. 110902, dated: 27/05/2016. The industry was inspected on 14/06/2016, in view of the application. During inspection the industry was working and engaged in the manufacture Automobile Components - Mirror & Lock sets – 12 Lakhs / Annum and 1.5 Lakhs / Annum, Fuel Taps-3.5 Lakh pieces/Annum & Latches-4.5 Lakh pieces/Annum.

This office has issued the notice based on the non-compliances observation during inspection. In the notice mentioned that the CFO application will be treated as incomplete and kept as pending till the industry authorities has to submit the compliance report. Later, the industry authorities had submitted the compliance report vide dated: 28/06/2016.

Now, the industry authorities has submitted the letter vide dated: 30/06/2016 by paying 5 years consent fee seeking for 5 years consent under both Water and Air Acts i.e., for the period from 01/07/2017 to 30/06/2021.

Based on the compliance report submitted by the industry authorities, the industry was once again inspected by this office on 26/07/2016 to verify the same.

Consent fee details :- The industry has paid consent fee of Rs. 3,00,000 totally, under both Acts at the rate of Rs. 30,000/- per act per year i.e., Rs.60,000/- X 5 years =3 Lakhs, which is adequate against the declared capital investment of Rs. 19.50 Crores. The Industry had submitted gross block of fixed assets for the period ending 31.03.2016 certified by Chartered Accountant

Water Pollution Source and Control Measures:

The water is obtained from tankers and is used both for domestic and industrial purpose (for cooling). The domestic effluents are being treated in Existing Sewage treatment plant of capacity-15 KLD consisting of Bar screen cum grit chamber, Collection cum Equalization tank, Aeration tank, Settling tank, Treated water collection sump, Dual media filter & final treated water collection sump. The treated domestic sewage is being utilized for gardening in their plant premises. The water used for glass washing is being recycled back. There is no generation of trade effluents. The water used for cooling is completely recycled.

The details on water consumption and effluent discharge are shown below.

a) Water Consumption in Ltrs	Domestic	20000 liters/day
	Washing	500 liters/day
	Cooling	1000 liters/day
b) Wastewater generated in Ltrs	Domestic	12000 liters/day
	Washing	500 liters/day
	Cooling	Recycled

The Sewage treatment plant was operating at the time of inspection. The treated sewage effluents were being utilized on land for gardening inside the industry. All the STP units were under operation. The sample of treated domestic sewage collected on 14.06.2016 and sent it to Board Laboratory for analysis. The analysis report reveals that the parameters were confirming to the standards stipulated by the Board (Copy enclosed).

Air Pollution Source and Control Measures:

The details of Air pollution sources and control measures provided by the industry are as follows:-

Sl. No.	Source of Air Pollution	APC Equipment Stipulated	APC Equipment provided by the industry
1	D.G. Set of 125 KVA	5 mts chimney ARL with acoustic enclosure	5 mts chimney ARL with acoustic enclosure
2	D.G. Set of 380 KVA	6 mts chimney ARL with acoustic enclosure	6 mts chimney ARL with acoustic enclosure
3	Paint Coating Section	3 mts chimney ARL with dust collector	Closed section (Where mirror to be coated are placed on moving conveyor where paint gets coated. The entire operations are carried out in closed condition). The same condition may be stipulated.
4	Buffing Section	3 mts chimney ARL with dust collector.	3 mts ARL with water curtain system. The same condition may be stipulated.
5	Heating Furnace.	3 mts chimney ARL with dust collector.	3 mts chimney ARL with dust collector.

Hazardous Waste Management:

The authorization issued under the provisions of HWM Rules is valid up to 30-06-2019. The details of Hazardous waste and accumulated quantity in the industry is as given below:

Sl. No.	Category	Quantity of Generation	Mode of Storage & disposal
1	Used Oil – 5.1	0.11 KL/Annum	Collected in container & stored in secured manner and not yet disposed.

The industry has provided display board and stored the Hazardous waste in a closed room. They have submitted Annual returns in Form-4.

Water Cess:- Industry is filing Cess returns.

Recommendations:

The issue of CFO under the provisions of both Water Act, 1974 and Air Act, 1981 for the period up to 30/06/2021 may be considered with required terms and conditions.


ENVIRONMENTAL OFFICER
ANEKAL REGION
 

INSPECTION REPORT OF SRI BHASKAR HG, DEPUTY, ENVIRONMENTAL
OFFICER, REGIONAL OFFICE, ANEKAL.

1	Name & Address of the Industry inspected	M/s Sandhar Automotives India Pvt Ltd., Plot No. 8, KIADB Industrial Area, Bommasandra Jigani Link Road, Bangalore Urban District - 562106.
2	Category	Large -Red
3	Date of inspection	11.06.2019 & 09.07.2019.
5	No of employees	400 Nos.
6	Person Contacted	1. Sri. J. AshokKumar, Operation Head. 2. Sri. SunilKumar. N, HR Manager.
7	Consent Status	Consent under Water and Air Act is valid upto 30.06.2021.
8	Authorization Status	Expired on 30-06-2019.
	Products Manufactured and capacity	Automobile Manufacturing (Integrated facilities), like Fuel taps, Latches, Lock sets & Mirror.

Preamble: M/s Sandhar Automotives India Pvt Ltd is an existing large scale red category industry having valid consent under Water and Air acts for the period up to 30-06-2021 for manufacture of Automobile Manufacturing (Integrated facilities), like Fuel taps, Latches, Lock sets & Mirror.

Industry has applied for renewal of authorization under Hazardous and Other wastes (Management & Transboundary Movement) Rules, 2016 with help desk reg No. 163911 dtd. 30.05.2019 vide ref (2). In view of this, industry was inspected on 11.06.2019, during inspection, RO has observed the following non-compliances.

1. Industry was under operation and engaged in manufacture of Automotive Components like Mirror, Lock sets, Fuel taps and Latches.
2. They have established STP to treat the sewage, wherein all the units are below ground level. Physical appearance of the STP reveals that you are not operating continuously & scientifically.
3. Not labeled the STP units and it was difficult to identify the treatment units.
4. Not installed flow meter and energy meter to the STP to record the inflow of the sewage and outflow of treated sewage.
5. They have not kept the records for treated water usage on land for gardening/landscape.
6. Stored coolant oil in plastic drums, glass pieces in open area without shelter.
7. Solid wastes like thermo cool, cartoon boxes were dumped along with hazardous waste like oil soaked cotton waste without proper segregation.
8. Not provided designated area for storage of hazardous wastes.
9. No records were available on the Hazardous waste and other wastes generation and disposal.
10. Segregation needs to be improved for storage of other wastes & Hazardous wastes.

“ದೃಢೀಕೃತ ನೆಲೆ”

ಸಾರ್ವಜನಿಕ ಮಾಹಿತಿ ಅಧಿಕಾರ
ಹಾಗೂ ಪರಿಸರ ಅಧಿಕಾರಿ,

ಕರ್ನಾಟಕ ರಾಜ್ಯ ಮಾಲಿನ್ಯ ನಿಯಂತ್ರಣ ಮಂಡಳಿ,
ಪ್ರಾದೇಶಿಕ ಕಛೇರಿ-ಆನೇಕಲ್, ಬೆಂಗಳೂರು.

- 11. Not updated the display Board under H & OW (Management & Transboundary) Movement Rules, 2016.
- 12. They are generating coolant oil and other wastes which are categorized under Hazardous & Other Waste (Management & Transboundary) Movement Rules, 2016.
- 13. On verification of your HWM application it was noticed that you have applied for category 5.1 used oil and not furnished the details of other waste.
- 14. Submitting false information to the Board is violation under Section 42 (g) of Water Act says any person knowingly or willfully makes a statement which is false in any material particular, shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to (ten thousand rupees) or with both.

In view of the above, non compliance observations made a Show-Cause notice was addressed to the industry on 18.06.2019 to submit the compliance report within 7 days.

Industry submitted reply on 29.06.2019, to verify the compliance on the reply submitted, industry was again inspected on 09.07.2019 and observed non-compliances. Treated sewage sample before discharging to the garden was collected under the provision of Water Act, 1974 and drawn mahazar and handed over the sample to Central lab for analysis.

Recommendation: In view of the above non- compliances and industry is not serious in implementing the consent & HW authorization conditions, It is hereby recommend to RSEO to Issue Notice of Proposed Directions under Section 33 (A) of Water (Prevention & Control of Pollution) Act, 1974, read with Rule 34 of Water (Prevention & Control of Pollution) Rules 1976, under Section 31 (A) of the Air (Prevention and Control of Pollution) act, 1981.

Red
Deputy Environmental Officer.

“ದೃಢೀಕೃತ ಸವಲು”

ಸಾರ್ವಜನಿಕ ಮಾಹಿತಿ ಅಧಿಕಾರಿ
ಹಾಗೂ ಪರಿಸರ ಅಧಿಕಾರಿ,
ಕರ್ನಾಟಕ ರಾಜ್ಯ ಮಾಲಿನ್ಯ ನಿಯಂತ್ರಣ ಮಂಡಳಿ,
ಪ್ರಾದೇಶಿಕ ಕಛೇರಿ-ಅನೇಕಲ್, ಬೆಂಗಳೂರು.

[Objections : Service Copy] OA No. 16 of 2023 between M/s Sandhar Technologies and KSPCB

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Cc "Mahesh Chowdhary" <amc@precinctlegal.com>, "Krishika Vaishnav"
<krishika@precinctlegal.com>

Sir

Please find enclosed a copy of the statement of objections filed by the Respondent Board in the aforesaid matter.

Rashi Singh
Associate

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LEGAL

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📎 **1 Attachment(s)** • [Download as Zip](#)



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