

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONAL BENCH AT CHENNAI
I.A. NO. 105 OF 2023
IN
APPEAL NO. 31 OF 2023

IN THE MATTER OF:

Arunkumar Sermakkani & Ors.

...Appellant

Versus

Union of India & Ors.

...Respondent

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Place: Chennai

Date: 13/01/2024.

Through

Respondent No.1


13/01/2024.

Ms. Kavitha P.
(Advocate for the Respondent No.1)

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**COUNTER AFFIDAVIT ON BEHALF OF MINISTRY OF
ENVIRONMENT, FOREST AND CLIMATE CHANGE**

(RESPONDENT NO. 1)

I, Dr. C.Palpandi S/o Chendurpandi , aged about 41 Years currently working as 'Scientist D' in the Regional Office of the Ministry of Environment, Forest & Climate Change, Chennai do hereby solemnly affirm and state on oath as follows:

MOST RESPECTIFULLY SHOWETH:

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1. That I am 'Scientist D' in the Regional Office of Ministry of Environment, Forest & Climate Change, Government of India (hereinafter referred to as 'MoEF&CC') and as such I am conversant with the facts and circumstances of the case and I have been authorized to file the affidavit on behalf Union of India Respondent No. 1 herein.
2. That I am fully conversant with the facts and circumstances of the case from records maintained in the office. I have read and understood the contents of the petition thereof and as such authorized and competent to swear the present affidavit.
3. That I deny all the averments and contentions made by the Appellant stated in the present petition so far as it is contrary to or inconsistent with anything that is stated by me hereafter and nothing shall be deemed to be admitted unless specifically admitted.
4. The Appellant by way of this Appeal has challenged the grant of Environmental Clearance (EC) dated 19.07.2023 and the Corrigendum dated 01.09.2023 by MoEF&CC to M/s Meenakshi Udyog (India) Ltd. for the proposed expansion of a steel rolling mill from existing capacity of 30,000 TPA of MS Billets and 60,000 TPA of TMT rods to 1,91,000 TPA of MS Billets and 1,80,000 TPA of TMT rods, located at Kalugondapalli Village, Denkanikattai Taluk, District Krishnagiri, Tamil Nadu.
5. That it is humbly submitted that the Answering Respondent in exercise of the powers conferred by Section 3 of the Environment (Protection) Act, 1986 read with clause (d) of sub-rule (3) of rule 5 of the Environment (Protection)

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Rules, 1986, had notified the Environment Impact Assessment Notification, 2006 on 14.09.2006.

6. That under the provision of the Environment Impact Assessment Notification (hereinafter referred to as EIA), 2006, construction of new projects or activities or the expansion or modernization of existing projects or activities listed in the schedule annexed to the said notification entailing capacity addition with change in process and or technology shall be undertaken in any part of India, as applicable, only after receipt of the prior environment clearance from the Central Government or by the State Level Environment Impact Assessment Authority (hereinafter referred to as SEIAA), as the case may be. It is submitted that, the Central Government under sub Section (3) of section 3 of the Environment Protection Act, 1986 in accordance with the procedures specified in the EIA Notification, 2006, duly constitutes SEIAA.

7. That the EIA Notification, 2006 in Paragraph 7, stipulates four stages in the process of obtaining Environmental Clearance. Stage (1) is screening wherein the Expert Appraisal Committee or the State Expert Appraisal Committee takes the decision whether or not Environmental Impact Assessment Report has to be prepared for the proposed projects. Stage (2) is Scoping wherein the Expert Appraisal Committee for category 'A' projects and the State Expert Appraisal Committee for category 'B' projects determines detailed and comprehensive Terms of Reference addressing all relevant environmental concern for the preparation of an EIA/EMP Report in respect of the proposed project or activity for which the prior environmental clearance is sought. Stage (3) relates to Public Consultation and has two

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components- (i) a public hearing, which is conducted by the concerned State Pollution Control Board at the project site or in its close proximity, explaining all possible environment impacts and measures proposed in EMP and (ii) obtaining written responses from other concerned persons who have a plausible stake in the environment aspects of the project or activity. Lastly, Stage (4) relates to Appraisal of the Project wherein the detailed scrutiny by the EAC or the SEAC of the application and other documents like the Final EIA Report and outcome of public consultations relating including public hearing proceedings, submitted by the Project Proponent to regulatory authority concerned for grant of environment clearance is conducted.

8. That it is respectfully submitted that EIA Notification, 2006 has decentralized the environmental clearance process by categorizing the developmental projects in two categories, i.e., Category 'A' project and Category B. The 'Category 'A' projects are appraised at Central level by the Expert Appraisal Committee (hereinafter referred to as "EAC") and Category 'B' projects are appraised at State Level Expert Appraisal Committee (hereinafter referred to as "SEAC"). State Level Environment Impact Assessment Authority (hereinafter referred to as "SEIAA") and SEAC are constituted to provide clearance to Category B projects.
9. That it is most respectfully submitted that under Schedule- I to the EIA Notification, 2006 relating to the list of projects requiring Environmental Clearance from the Central Government, metallurgical industries (ferrous & non-ferrous) comes within the purview of entry 3 (a), which is reproduced below as follows: -

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(1)	(2)	Project or Category with threshold limit		(5)
		A	B	
(1)	(2)	(3)	(4)	(5)
3(a)	Metallurgical industries (ferrous & nonferrous)	<p>a) Primary metallurgical industry All projects</p> <p>b) Sponge iron manufacturing ≥ 200TPD</p> <p>c) Secondary metallurgical processing industry</p> <p>All toxic and heavy metal producing units $\geq 20,000$ tonnes /annum</p>	<p>Sponge iron manufacturing < 200TPD</p> <p>Secondary metallurgical processing industry</p> <p>i) All toxic and heavy metal producing units $< 20,000$ tonnes /annum</p> <p>ii) All other non-toxic secondary metallurgical processing industries > 5000 tonnes/annum</p>	<p>General Condition shall apply.</p> <p>Note:</p> <p>(i) The recycling industrial units registered under the HSM Rules are exempted.</p> <p>(ii) In case of secondary metallurgical processing industrial units, those projects involving operation of furnaces only such as induction and electric arc furnace, submerged arc furnace, and cupola with capacity more than 30,000 tonnes per annum (TPA) would require environmental clearance.</p> <p>(iii) Plant / units other than power plants (given against entry no. 1(d) of the schedule), based on municipal solid waste (non-hazardous) are exempted.</p>

C. Narayanaiah

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10. That it is most respectfully submitted that the proposal for Expansion of capacities of MS Ingots to Billets (from 30,000 MTPA to 1,91,000 MTPA) TMT Rods (from 60,000 MTPA to 1,80,000 MTPA) located at Kalugondapalli Village, Denkanikotta Taluk, Krishnagiri District, Tamil Nadu by M/s. Meenakshi Udyog (India) Private Limited (hereinafter referred to as the "Project Proponent") along with the application in prescribed format, pre-feasibility report and proposed Terms of Reference (ToRs) was received by the answering Respondent vide proposal no. LA/TN/IND/156666/2020 dated 09.09.2020. The same was considered by the Expert Appraisal Committee (EAC), Industry- I in its meeting held on 28th-30th September, 2020 and the Terms of Reference dated 22.10.2020 was accorded to the Project Proponent for preparation of the Draft Environmental Impact Assessment (EIA) Report and for conducting Public Hearing for the proposed project. Copy of the Terms of Reference issued by the answering Respondent vide letter dated 22.10.2020 is herewith attached and marked as Annexure No. R1-1.

11. That it is respectfully submitted that the Project Proponent submitted an online proposal no. IA/TN/IND1/411355/2022 dated 19.05.2023 along with copy of EIA/EMP report and other requisite documents for seeking the EC for the proposed expansion from the answering Respondent.

12. That it is humbly submitted that the proposal was placed before the Expert Appraisal Committee (EAC) (Industry-I Sector) in its meeting held on 30th May, 2023, wherein the Committee recommended the proposal for grant of Environment Clearance to the Project Proponent. Copy of the Minutes of the

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EAC meeting held on 30th May, 2023, is herewith attached and marked as **Annexure No. R1-2.**

13. That it is humbly submitted that based on the recommendation of EAC, the Environment Clearance was thereafter, accorded by the answering Respondent for the proposed project and same was issued by the answering Respondent vide letter dated 19.07.2023 as per the provisions of the EIA Notification, 2006, subject to compliance of certain specific as well as general conditions by the Project Proponent. Copy of the Environmental Clearance letter dated 19.07.2023 is herewith attached and marked as **Annexure No. R1-3.**

14. That it is respectfully submitted that the Environment Clearance was granted to the Project Proponent by the answering Respondent for expansion of the Steel Rolling Mill after due deliberations held during the EAC meetings and in accordance with the procedure laid down in the EIA Notification, 2006.

WITH REGARD TO THE ISSUE OF LIMITATION

15. That it is respectfully submitted that the appellant has also filed an IA with the present appeal to condone the delay of 41 days. This issue of condonation of delay will be dealt by the provision of National Green Tribunal Act, 2010 specifically Section 16(h) that states the following:

*" Tribunal to have appellate jurisdiction. -Any person aggrieved by, -
....(h) an order made, on or after the commencement of the National Green Tribunal Act, 2010, granting environmental clearance in the area in which any industries, operations or processes or class of industries, operations and processes shall not be carried out or shall be carried out*

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subject to certain safeguards under the Environment (Protection) Act, 1986 (29 of 1986);.....may, within a period of thirty days from the date on which the order or decision or direction or determination is communicated to him, prefer an appeal to the Tribunal:

Provided that the Tribunal may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed under this section within a further period not exceeding sixty days.

16. That from the above it is evident that the period of limitation is 30 days from the date on which the order or decision or direction or determination is communicated. In the instant case decision was communicated on 19.07.2023 and this appeal along with the IA was filed on 28.09.2023.
17. That it is respectfully submitted the proviso to section 16 is also intended to benefit only those vigilant litigants who were prevented by sufficient cause from initiating the proceedings within the period of limitation prescribed by the National Green Tribunal Act, 2010. The Indian law of limitation finds its root into the Latin maxim which is *vigilantibus non dormientibus jura subveniunt* which means that *the law will assist only those who are vigilant about their rights and not those who sleep over them.*
18. That it is respectfully submitted that in the instant case, the appeal was not filed within the prescribed 30 days' period and also no sufficient cause has been shown by the appellant that prevented him from filing the present

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appeal within the extended period as provided in the proviso of section 16. Therefore, present appeal as well as IA shall be dismissed by this Hon'ble Tribunal since no satisfactory and sufficient cause has been stated by the appellant that prevented him from filing the instant appeal.

19. The answering Respondent craves liberty to file additional information, if any, till *pendente lite*.

PRAYER:

Therefore, it is most humbly prayed that this Hon'ble Tribunal may be pleased to dismiss the above appeal and pass such further orders as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case and thus render justice.

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VERIFICATION:

I, the answering Respondent herein do hereby verify at Chennai on this 3rd day of January, 2024 and declare that the contents of the above affidavit are true to the best of my knowledge derived from the records maintained in the office and nothing material has been concealed therefrom.

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