

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
IA NO. _____ OF 2024 in Appeal No. 7/2024/EZ
U/s 16(h) R/W SECTION 18(1) OF NGT ACT 2010**

IN THE MATTER OF:-

SANJAYA KUMAR MISHRA

...APPLICANT/APELLANT

VERSUS

Ministry of Environment, Forest and Climate Change

...RESPONDENT

IA WITH AFFIDAVIT

The Humble IA of Sanjaya Kumar Mishra, the applicant u/s 16(h) R/W Section 18(1) of the National Green Tribunal Act, 2010.

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Balangir

Dated 04.05.2024

(FILED BY)

Sanjaya Kumar Mishra
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Advocate

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SYNOPSIS

This Interlocutory Application (IA) is a prayer for condonation of delay in filing the Appeal No. 7/2024/EZ challenging the Environmental Clearance dated 06.03.2024 bearing Identification No. EC23A0101OR5745830N granted by Ministry of Environment, Forest and Climate Change (Respondent) to Subhadra Open Cast Mine with production capacity of 25 MTPA in mine lease area of 1111.85 ha of M/s Mahanadi Coalfield Limited located at Village Gopal Prasad, Kumuda, Nisha, Kankarei, Raijharan, Nisha P.S Angul, Tehsil Talcher Sadar and Chhendipada, District Angul (Odisha).

It is most respectfully submitted before Hon'ble Tribunal that the initial filing of the above said Appeal was made on 05.04.2024, within the statutory 30-day window as mandated by the National Green Tribunal Act, 2010. However, due to an inadvertent jurisdictional confusion, a fresh filing of the Appeal was necessitated. This unintended 24 days delay in fresh filing was due to reasons beyond the control of the Applicant and occurred despite due diligence and bona fide efforts.

LIST OF DATES AND EVENTS

15-01-2024	Email to Member Secretary, EAC (Coal) Mining Projects on the Subject “Proposal No. IA/OR/CMIN/445297/2023 regarding EIA Clearance of Subhadra Open Cast Mine with production capacity of 25 MTPA in mine lease area of 1111.85 ha of M/s Mahanadi Coalfield Limited located at Village Gopal Prasad, Kumuda, Nisha, Kankarei, Raijharan, Nisha P.S Angul, Tehsil Tachler Sadar and Chhendipada, District Angul (Odisha) - reg.”, apprising concerns over results reported in respect of Benzene in the EIA report.
10-02-2024	Reminder/Follow-up Email to Member Secretary, EAC (Coal) Mining Projects on the Subject as mentioned above.
24-02-2024	The Expert Appraisal Committee’s Minutes of Meeting (bearing MoM ID: EC/MOM/EAC/880056/2/2024) has deliberated on the subject, however, it does not mention the complainant's name. But it is perceived that it pertains to the above subject/emails.
06-03-2024	Date of granting Environmental Clearance dated bearing Identification No. EC23A0101OR5745830N to the above project, which was seen by Appellant at a later date, as there was no response to the communication dated 12-03-2024.
12-03-2024	Counter reply to the deliberations in the Expert Appraisal Committee’s Minutes of Meeting (bearing MoM ID: EC/MOM/EAC/880056/2/2024) and sought information on any actions initiated concerning my grievance. No response/reply from authority.
05-04-2024	The appeal challenging the EC issued on 06.03.2024, with Identification No. EC23A0101OR5745830N, was filed on 05.04.2024, duly within the prescribed 30 days. Following the initial filing, defects identified during the scrutiny phase were addressed in accordance with directives from the Hon'ble NGT issued on 11.04.2024. A jurisdictional confusion necessitated a fresh filing, as communicated by the Hon'ble NGT on 25.04.2024.
29.04.2024	Fresh filing before Hon’ble Eastern Zone Bench of NGT
<u>04.05.2024</u>	<u>Filing of this Interlocutory Application (IA) seeking condonation of delay in Appeal No. 7/2024/EZ</u>

BEFORE THE EASTERN ZONE BENCH OF THE NATIONAL GREEN TRIBUNAL

IA NO. _____ OF 2024 in Appeal No. 7/2024/EZ

MEMO OF PARTIES

Sanjaya Kumar Mishra, Advocate
Masjid Chowk, Tikrapara
Balangir 767001
(Odisha)
Mobile No. 9818326647
Email: sanjayakmishra@gmail.com

...Applicant/Appellant

VERSUS

Ministry of Environment, Forest and Climate Change
Indira Paryavaran Bhawan, Jor Bagh
New Delhi - 110003
(Through Member Secretary, Expert Appraisal Committee for Coal Mine Projects)
Email: amit.vashishtha@nic.in

...Respondent

IA WITH AFFIDAVIT

To

THE HONOURABLE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH
KOLKATA

IT IS MOST RESPECTFULLY SHOWETH:

1. The Applicant/Appellant, an Advocate enrolled under Enrolment No. O-1047/2011 in The Orissa State Bar Council. Although the applicant/appellant also maintains a communication address in Gurugram, Delhi/NCR, the aforementioned address and contact details are provided specifically for the service of notices related to the Application/Appeal, Replies, or Rejoinders.
2. The address and contact details of the Respondent(s) as given above for the service of notice of the IA.

3. That the present IA is in furtherance to the Appeal No. 7/2024/EZ filed under the Sections 16, R/W Section 18(1) of the National Green Tribunal Act, 2010. The Applicant/Appellant is committed to advancing environmental conservation, water resources management, and sustainable development initiatives, as well as promoting environmental awareness and compliance. In line with these objectives, the Applicant/Appellant contributes to India's First Environmental Weekly Newspaper, 'ENVIRO ANNOTATIONS,' by authoring articles and editorial opinions. These contributions aim to raise awareness of environmental laws, highlight key issues related to pollution and waste management, and identify areas for corrective action to facilitate green growth. Previously, the applicant/appellant has been actively involved in various activities including Environmental Impact Assessment (EIA), environmental audits, monitoring, and protection efforts.
4. The Applicant/Appellant is well acquainted with the facts and circumstances of the case and is competent to file this appeal before the National Green Tribunal and seek justice under the National Green Tribunal Act, 2010. Hence, the applicant/appellant has approached this Honorable National Green Tribunal.

5. **FACTS OF THIS CASE:**

5.1 This Interlocutory Application (IA) is an humble submission of prayer for condonation of delay in filing the Appeal No. 7/2024/EZ.

5.2 It is most respectfully shown to this Hon'ble National Green Tribunal that the initial filing of the above said Appeal was made on 05.04.2024, within the statutory 30-day window as mandated by the National Green Tribunal Act, 2010. However, due to an inadvertent jurisdictional confusion it was filed in the Principal Bench of the Hon'ble NGT. Following the initial filing, defects identified during the scrutiny phase were addressed in accordance with directives from the Hon'ble NGT issued on

11.04.2024. A fresh filing was necessitated as per communication by the Hon'ble NGT on 25.04.2024.

5.3 It is most respectfully submitted before the Hon'ble Eastern Zone Bench, National Green Tribunal that the aforesaid Appeal No. 7/2024/EZ raises significant issues concerning the environmental clearance process including EIA baseline data, and EIA reporting. It is humbly requested before this Hon'ble Tribunal for a kind and judicious consideration of the IA.

6. GROUNDS:

The applicant draws attention to similar precedents where condonation of delay was granted by this Hon'ble Tribunal, notably in Appeal No. 03/2024 concerning Kisan Sahkari Chini Mills Ltd., Semikhera, Bareilly vs. Uttar Pradesh Pollution Control Board and Appeal No. 18/2023 in the case of Hafed Sugar Mill vs. Haryana State Pollution Control Board & Anr., wherein it was held that Hon'ble National Green Tribunal possesses the discretionary power to condone delays in filing up to 60 days beyond the initial period prescribed under the law.

7. LIMITATION:

This IA is being submitted before the Hon'ble National Green Tribunal seeking condonation of delay in filing the appeal challenging the Environmental Clearance issued on 06.03.2024, with Identification No. EC23A0101OR5745830N. It is most respectfully submitted that the initial appeal was filed on 05.04.2024, which is duly within the prescribed 30 days. Due to inadvertent jurisdictional confusion, a fresh filing was necessitated. Hon'ble NGT has explicitly declared its discretionary power to condone filing delays extending up to 60 days beyond the initial statutory period. Therefore, the Appeal and this IA remains timely and is not barred by limitation.

8. PRAYER:

In light of the above-mentioned circumstances and precedents, the applicant prays for the following relief:

- 1) That this Hon'ble Tribunal may be pleased to condone the 24 days delay in the fresh filing of the Appeal No. 7/2024/EZ.
- 2) That this Hon'ble Tribunal permits the Appeal No. 7/2024/EZ to proceed on merits without being barred by any statutory limitation.

Balangir

Dated: 04.05.2024


(Applicant/Appellant)

Verification

I, Sanjaya Kumar Mishra, S/o Shri Nilamani Mishra, the Applicant/Appellant, an Advocate bearing Enrolment No. O-1047/2011, having contact address Maszid Chowk, Tikrapara, Balangir 767001, (Odisha); do hereby declare that what is stated in the appeal is true to the best of my information and belief.

Verified today, the 4th day of May 2024


(Signature of the Applicant/Appellant)

BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA

IA NO. ____ OF 2024

U/s 16 R/W SECTION 18(1) OF NGT ACT 2010

IN THE MATTER OF

Sanjaya Kumar Mishra

...APPLICANT

VERSUS

Ministry of Environment, Forest and Climate Change

...RESPONDENT

AFFIDAVIT

I, Sanjaya Kumar Mishra, Advocate (Enrolment No. O-1047/2011), S/o Shri Nilamani Mishra, Maszid Chowk, Tikrapara, Balangir 767001 (Odisha), do hereby solemnly affirm and declare as under: -

- 1) That I am the Appellant in the Appeal filed against the Ministry of Environment, Forest and Climate Change challenging the Environmental Clearance dated 06.03.2024 bearing Identification No. EC23A0101OR5745830N. The Appeal was filed before Hon'ble National Green Tribunal on 05.04.2024, duly within the prescribed 30-day window. Filing the appeal initially before the Hon'ble Principal Bench of the Tribunal was a jurisdictional confusion that necessitated a fresh filing on 29.04.2024 before Hon'ble Eastern Zone Bench of the Tribunal.
- 2) That I am filing this IA in furtherance to the Appeal for condonation of filing delays.
- 3) I am fully conversant with the fact of the case and therefore, I am fully competent to sign and swear this Affidavit.
- 4) That the accompanying IA has been drafted by myself and I, hereby, declare that the same is true and correct.
- 5) That the contents of the accompanying IA be read as part and parcel of this Affidavit as the same are not repeated herewith for the sake of brevity.

DISTRICT COURT GURUGRAM
HARYANA, INDIA

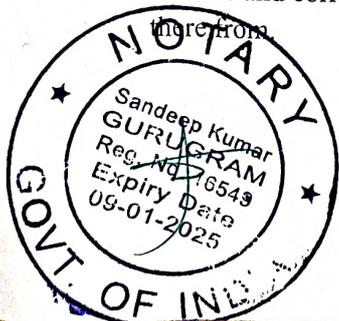
NOTARIZED

This document has been registered
at Sr. No. 1744.....Book No. 04.....
Page No. 06...On Dated. 01/05/2024.....

Sanjaya Kumar Mishra
DEPONENT

VERIFICATION:

Verified at Gurugram on this 1st Day of May 2024 that the contents of the above Affidavit are true and correct to the best of my knowledge and nothing material has been concealed



ATTESTED
01/05/2024
SANDEEP KUMAR, ADVOCATE
NOTARY, GURUGRAM, HR. (INDIA)

Sanjaya Kumar Mishra
DEPONENT

01 MAY 2024

Annexure-A/1 Proof of Appeal Submission on 05.04.2024 within the 30-days period

National Green Tribunal	
Case Title	Sanjaya Kumar Mishra Vs. Ministry of Environment Forest and Climate Change
Payee Name	Sanjaya Kumar Mishra
Case Type	Appeal
Filing No.	0701102006562024
Transaction id	0700110064272024
Bank Transaction id	0504240048767
Payment Date	2024-04-05 00:00:00.0
Amount	1235 Rs.
Status	SUCCESS

National Green Tribunal	
Case Title	Sanjaya Kumar Mishra Vs. Ministry of Environment Forest and Climate Change
Miscellaneous No.	0701102006562024/1
Transaction id	0700110066842024
Bank Transaction id	1104240020886
Payment Date	2024-04-11 00:00:00.0
Amount	355 Rs.
Status	SUCCESS

S. No.	File Name	Party Name	Location	Document Type
1	SKM Appeal MoEFCC Dt05.04.2024.pdf	Sanjaya Kumar Mishra	NEW DELHI (PRINCIPAL BENCH)	Complete-Petition

Reason	Status	Remarks
Has the index of documents been filed and pagination done properly?	NO	
Is the Application/Appeal in the proper form?	NO	Matter is related with Kolkata bench as issue of said matter is related with State of Odisha
Proceed further?	NO	

Annexure-A/2**Copy of Identity of Applicant/Appellant**

The Orissa State Bar Council
CUTTACK - 753 002
Phone No.- 0671-2607885

Enrolment No. & Date 0-1047/17.12.11

Name SANJAYA KUMAR
MISHRA, ADV.

Place of Practice : Cuttack

Date of Birth : 04.03.1969



[Signature] Sign. of the Chairman *[Signature]* Sign. of the Secretary

TO WHOM IT MAY CONCERN

The holder of this card is an advocate under **Orissa State Bar Council**. If found, please return or post in the following address.

Father's/Husband's Name : **Sri Nilamani Mishra**

Address **At: -Maszid Chowk,
P.o./Dist: -Bolangir,**

Phone No. :
06652: -232723

[Signature]
Sign. of the Card Holder