

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA.**

O.A. NO. 153/2023/EZ

Kabiraj Mahapatra

..... APPLICANT

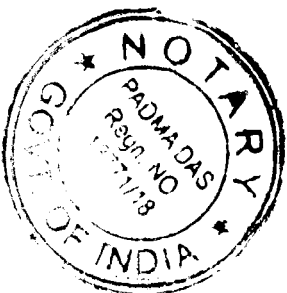
-Versus-

The Union of India & Others

.....RESPONDENTS

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Place: Kolkata

Date: 05.09.2024

Gaurav Khanna
Through
Gaurav Khanna,

Advocate for the Respondent No.11

e-mail: gaurav@gauravkhanna.in

phone no.: 9899988757

Identified by Me
Himadri Chakraborty
Advocate
Enrollment No. WB/154-A/1991
C M M Court Kolkata

SOLEMNLY AFFIRMED AND DECLARED
BEFORE ME ON IDENTIFICATION

[Signature]
PADMA DAS
NOTARY



06 SEP 2024

SL NO.....54...2024

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA.**

O.A. NO. 153/2023/EZ

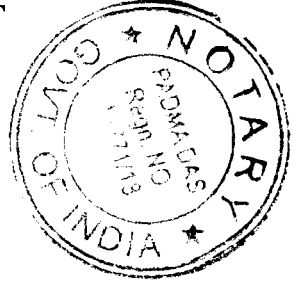
Kabiraj Mahapatra

..... APPLICANT

-Versus-

The Union of India & Others

.....RESPONDENTS



**AFFIDAVIT ON BEHALF OF RESPONDENT NO.11, ARSS
INFRASTRUCTURE PROJECTS LTD.**

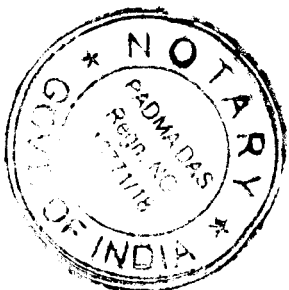
I, Uday Narayan Mitra, aged about 70 years, S/o. Late Shri Sudhansu Narayan Mitra, presently the Resolution Professional of ARSS Infrastructure Projects Ltd., having my Office at 72/1, Dawanagazi Road, Bali, Howrah- 711201, do hereby solemnly affirm and state on oath as follows:

1. I am the Resolution Professional of ARSS Infrastructure Projects Ltd. and I am competent to swear and affirm the present affidavit for and on behalf of the Respondent No.11 Company.
2. That, I have gone through the contents of the present affidavit filed by answering Respondent before this Hon'ble Tribunal, and I have understood the contents and purport thereof. I am well acquainted with the facts of the present case and competent to swear and affirm this affidavit.



Uday Narayan Mitra

3. That, at the outset, it is submitted that the assertions made against the answering Respondent i.e. Respondent No.11 in the affidavits filed on behalf Respondent authorities are misconceived, and the contentions raised therein have no factual or legal basis. The Applicant specifically and in totality denies the contentions raised and nothing stated therein ought to have been admitted owing to the lack of specific traverse unless specifically admitted as a matter of record.
4. The Applicant by way of the present Original Application *inter alia* has moved against the alleged inaction of Respondent authorities in face of alleged illegal lifting of sand from the riverbed of the river Bahuda in the Siripur area in Chikiti Tehsil, Ganjam District without clearance from the State Environmental Impact Assessment Authority ('SEIAA'). The Applicant alleges to have seen illegal lifting of sand from a quarry operating near Nuapada, Siripada Sand Depot in Chikiti Tehsil in Khata No. 115, Plot Nos.130/830 and 134/832. It is pertinent to note here that the Applicant has not made any allegation against the answering Respondent No.11 in its original application and the answering Respondent was not a party to the original application.
5. That when the captioned O.A. came before this Hon'ble Tribunal for the first time on 17.10.2023, this Hon'ble Tribunal directed the State Respondents "*to identify all the sand miner in that particular area and submit Report with regard to the miner of the sand sairat involved.*" This Hon'ble Tribunal also directed that a committee comprising the following members be constituted:
 - a. Senior Scientist, State Pollution Control Board;
 - b. Senior Scientist, Central Pollution Control Board;

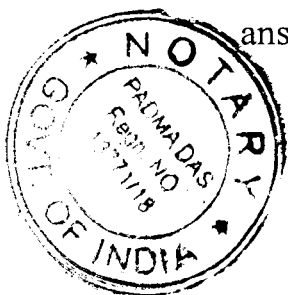


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- c. Senior Scientist, State Environment Impact Assessment Authority (SEIAA), Odisha;
 - d. Collector and District Magistrate, Ganjam or his representative Officer not below the rank of Additional District Magistrate (A.D.M.).
6. Pursuant to the aforesaid direction of the Hon'ble Tribunal, the Respondent No.4 (Collector & District Magistrate, Ganjam) filed an affidavit enclosing the report of the Joint Inspection Committee ('**Committee Report**') as directed above. The Committee found that sand mining was taking place in two quarries (i) Siripur Sand Quarry, located over Plot Nos. 130/830, 134/831, 192/832 under Khata No. 115; and (ii) River Sand Bed bearing Khata No. 223, Plot No. 1059 in village Sundara Birachaitanyapur (located downstream from Siripur). In case of Siripur sand quarry, it was found that Environmental Clearance was transferred in favour of one Krupasindhu Muduli on 09.11.2022, however no lease agreement had been executed and no Consent to Establish (CTE) or Consent to Operate (CTO) had been granted. In case of Birachaitanyapur sand quarry, it was found that lessee, one Santosh Kumar Behera, had obtained the requisite statutory clearances (EC, Mining Plan, lease agreement, CTE and CTO).

A true copy of the Joint Inspection Committee Report dated 30.11.2023 is annexed herewith as **Annexure- A/11**.

7. At paragraph k of the said Committee Report, the Committee made certain observations. It is by way of the said observation that the answering Respondent came to be impleaded as a party in the present

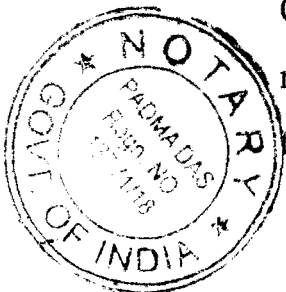


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proceedings. Paragraph k needs to be quoted in full for the appreciation of this Hon'ble Tribunal:

“k) The villagers informed the committee members that DD Builders and ARSS Companies along with Sri Santosh Kumar Behera, Lessee of Sundarada Birachaitanyapur River Sand Bed were involved in illegal mining from both Siripur Sand Quarry and Sundarada Birachaitanyapur River Sand Bed. That was also reflected in the enforcement report of Tahsildar, Chikiti submitted vide letter no. 6740 dtd. 29.11.2023 (copy attached as Annexure-V).”

8. Based on the said observation, this Hon'ble Tribunal directed the Applicant to implead 'ARSS Companies' vide its order dated 01.03.2024. Vide the said order dated 01.03.2024, this Hon'ble Tribunal also directed the Odisha State Pollution Control Board (Respondent No.3) to indicate in its affidavit the *“action (..) taken against illegal sand miners who have been identified in para 'k' of the Inspection Report ...”*. This Hon'ble Tribunal also directed the State Respondents and SEIAA (Respondent No.7) to file an affidavit indicating action taken against illegal sand miners. Pursuant to the above directions, the Applicant impleaded Respondent No.11 and 12 and served a copy of the Application.
9. That it is pertinent to note here that Respondent No. 11 has no work or operations in the vicinity in the Siripur area in Chikiti Tehsil. It has not mined or extracted any sand from the said area. Such position will be borne from the record of the companies, which the answering Respondent reserves liberty to file. The answering Respondent's name has been impleaded based on vague and unsubstantiated information by unidentified villagers. It is not based on an objective finding by the Committee. The Committee Report has not reached any finding with respect to the answering Respondent. Further, the enforcement report of the Tahsildar vide letter no. 6740 dtd. 29.11.2023 does not have any



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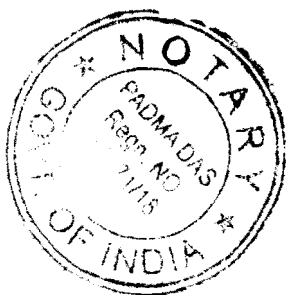
material to show Respondent Nos. 11's involvement in illegal mining. The said report refers to penalties collected by parties for illegal sand mining during the years 2021-22, 2022-23 and 2023-24. The Respondent answering Respondent's name does not appear in any of the said lists, even though Respondent No.10 DD Builder's name appears on multiple occasions. As such, there being no material against it, the deponent submits that answering Respondent ought to be non-suited from the instant proceedings.

True copies of the penalties collected in Nuapada Circle for illegal sand mining during the years 2021-22, 2022-23 and 2023-24 are annexed herewith as **Annexure B/11 (Colly)**.

10. That pursuant to this Hon'ble Tribunal's order dated 01.03.2024, the Respondent No.4 filed its affidavit dated 19.04.2024 regarding the action taken illegal sand miners. In the said affidavit, Respondent No.4 attached the following documents:

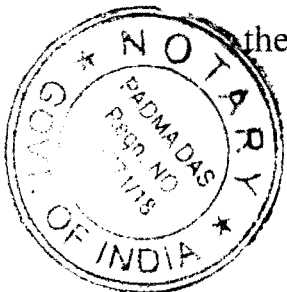
- (i) A geologist report dated 16.02.2024 stating that the quantum of sand extracted in Siripur river-bed was 2751 CuM and the quantity extracted in Birachaitanyapur river bed was 3167 CuM ("**Geology Report**").
- (ii) A letter dated 16.03.2024 addressed to Respondent No.10, DD Builders Ltd., imposing a penalty, royalty and additional charges for illegal extraction of sand to a tune of 2751 CuM at Siripur river bed.

True Copies of the Geology Report dated 16.02.2024 alongwith the letter dated 16.03.2024 addressed to DD Builders Ltd. is annexed herewith as **Annexure C/11 (Colly)**.



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11. It is pertinent to note that Respondent No.4 had only initiated action against DD Builders Pvt. Ltd. (Respondent No.10) and not against the answering Respondent for the purported illegal mining. This was because Respondent No.4 was well-aware of Respondent No.11's innocence, there being no actionable substance, material or finding against the answering Respondent.
12. Further in SEIAA's (Opposite Party No.7) affidavit dated 16.03.2024 which was also filed pursuant to this Hon'ble Tribunal's order, no material against the answering Respondent has been produced to indicate even remotely that the answering Respondent was conducting illegal mining in either Siripur or Birachaitanyapur.
13. That vide its order dated 22.04.2024, upon perusal of the aforesaid affidavits by Respondent Nos.4 and 7, this Hon'ble Tribunal directed SEIAA to file an affidavit with information on the Environmental Clearances granted to Respondent Nos. 11 and 12. Further, this Hon'ble Tribunal also noted the lack of material against Respondent Nos.11 and 12.
14. Pursuant to the above order of this Hon'ble Tribunal, SEIAA (Respondent No.7) filed an affidavit stating that answering Respondent did not possess any Environmental Clearance to extract sand from Chikita Tahsil. It is submitted that the answering Respondent has not applied for any Environmental Clearance for extraction or mining of sand because it has never worked in any area within the vicinity of Chikita Tahsil, both Siripur and Birachaitanyapur, and does not have any projects therein. It is reiterated that there is no material against the answering



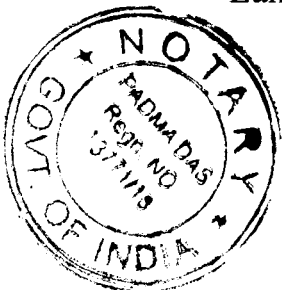
Padma Das

Respondent which evinces that it has illegally extracted sand in the said area.

15. That pursuant to this Hon'ble Tribunal's order dated 22.04.2024, Respondent No.4 filed another affidavit on 23.07.2024 wherein it attached a letter from the Mining Officer to the Tahsildar, Chitki dated 24.06.2024. In the said letter the quantum of dues recoverable from Respondent No.10, DD Builders Ltd., for the mining of the 2751 CuM of sand was calculated. It may be recalled that a demand notice for the said volume of sand had already been sent to DD Builders Ltd. earlier on 16.03.2024. By way of this letter, the quantum of dues recoverable from DD Builders Ltd. was fixed at Rs. 9,70,696/- (Rupees Nine Lakh Seventy Thousand Six Hundred and Ninety-Six Only). The letter expressly notes that "*an amount of Rs.9,70,696.1/- may be realized from M/s D/D Builders towards the above quantum of sand*". Pursuant to the above letter, a fresh demand notice was sent to DD Builders Ltd. dated 26.06.2024 seeking a deposit of the said amount of Rs. 9,70,696/-.

True Copy of the letter from the Mining Officer to the Tahsildar, Chitki dated 24.06.2024 is annexed herewith as **Annexure D/11**.

16. However, surprisingly, in its affidavit Respondent No.4 has also attached a demand notice addressed to Respondent No.11 and Respondent No.12 (Annexure C/5 and Annexure C/6 of the affidavit). The said demand notice is dated 26.06.2024 and penalizes the Respondent Nos. 11 and 12 for the purported illegal extraction of 2751 CuM of sand each. The demand amount in the said notice is for Rs. 9,70,696/- (Rupees Nine Lakh Seventy Thousand Six Hundred and Ninety-Six Only) each.

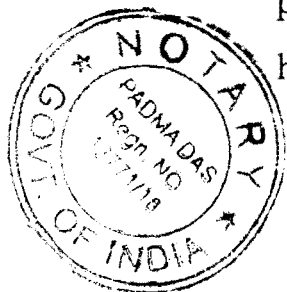


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True Copies of the demand notices for illegal mining of sand sent to Respondent Nos. 10,11 and 12 are annexed herewith as **Annexure E/11 (Colly)**.

17. That the utter arbitrariness and mechanical application of mind is clear from a *prima facie* perusal of the notices, in that, each the said notice dated 26.06.2024 addressed to DD Builders, Respondent No.11 and 12 are mechanical reproductions of each other and penalize each Respondent Nos.11 and 12 for the same quantity of sand and the same amount, for which DD Builders has already been penalized. It is clear from the Geology report of Siripur and Birachaitanyapur dated 16.02.2024 (referred to earlier) that the total sand extracted from Siripur sand quarry was 2751 cuM. It is also clear from the letter of the Mining Officer, Berhampur Circle dated 24.06.2024 to the Tahsildar, Chitki, that the amount due for illegal extraction of 2751 CuM of sand, i.e. Rs. 9,70,696/-, shall be realized from DD Builders Ltd. Yet, the Tahsildar, Chitki, has acted with non-application of mind and in gross violation of the instructions of the Mining Officer, Berhampur Circle by duplicating the penalty due from DD Builders and foisting it upon Respondent Nos. 11 and 12. In effect, the Respondent No.4 has arbitrarily imposed the same penalty for the illegal mining of the 2751 CuM on three different parties.

18. The egregious nature of the demand notice against the answering Respondent dated 26.06.2024 ("**impugned demand notice**") is further evinced from the fact that no material or finding has been produced against it. The impugned demand notice cites the following reasons for penalizing the answering Respondent: (i) during enquiry, the local people have alleged illegal lifting of sand by the answering Respondent; (ii)

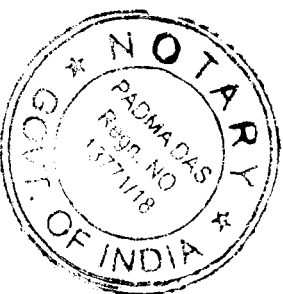


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assessment made by the Geologist that the answering Respondent has been penalized for illegal lifting of sand on different occasions. It is submitted both the above grounds are completely baseless.

19.*Firstly*, response to the allegations of local people, it is submitted that the Committee Report has merely recorded that some villagers informed the committee members of illegal mining by ARSS companies. The report has not reached any finding on the veracity of such allegations. It has not named any such villagers or provided their details or particulars in the report. The Report has not verified such allegations and has not provided an opportunity to the answering Respondent to confront the allegations or respond to them. As such, the impugned demand notice suffers from gross violation of principles of natural justice. It is submitted that to penalize the answering Respondent in such a manner *de hors* any finding against it is a gross violation of its fundamental right against arbitrary state action and a violation of its constitutional right to property. Such action is also against all established notions of justice, reason and equity.

20.*Secondly*, it is submitted that the impugned demand notice wrongly records that the Geologist assessment has penalized the answering Respondent for illegal lifting of sand on different occasions. The enforcement report of the Tahsildar vide letter no. 6740 dtd. 29.11.2023 refers to penalties collected by parties for illegal sand mining during the years 2021-22, 2022-23 and 2023-24. The Respondent No.11 or Respondent No.12's names do not appear in the said lists, even though Respondent No.10, DD Builder's name, appears on multiple occasions. Further, the letter of the Mining Officer, Berhampur Circle dated 24.06.2024 to the Tahsildar, Chitki also records that an amount of Rs.9,70,696/- "*maybe realized from M/S DD Builders towards the above*



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quantum of sand (2751 CuM)". It is for the first time that any action has been taken against the answering Respondent by the authorities.

21. Therefore, it is submitted that the reasons recorded in the impugned demand notice are arbitrary and baseless. They have been sent by way of an afterthought by the authorities only after this Hon'ble Tribunal's order dated 22.04.2024. No such notices were ever sent to the answering Respondent before 26.06.2024 and the Respondent authorities were very well aware that the answering Respondent is innocent. In fact, no action has ever been initiated against the answering Respondent before the impugned demand notice.

22. It is submitted that the answering Respondent has never worked in any area within the vicinity of Chikita Tahsil, both Siripur and Birachaitanyapur, and does not have any projects therein. The answering Respondent is a construction company working mostly in urban areas of Odisha. The Respondent authorities are put to strict proof to lead evidence or material against to show illegal mining of sand by the answering Respondent in the concerned area of Chikita.

23. Finally, without prejudice to the above, it is submitted that the instant proceedings are not maintainable against the answering Respondent company by virtue of the order of moratorium by the Hon'ble National Company Law Tribunal, Cuttack Bench in its order dated 30.11.2021 in CP(IB) No. 34/CB/2021. It is submitted that by of the said order the Hon'ble NCLT initiated CIRP against the answering Respondent upon admitting a petition by the State Bank of India under Section 7 of the Insolvency and Bankruptcy Code, 2016 ('IBC, 2016'). By way of the said order dated 30.11.2021, the Hon'ble NCLT also imposed a moratorium effective from 30.11.2021 till the approval of a resolution



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plan for the answering Respondent under Section 31(1) of the IBC or until an order for liquidation of the answering Respondent.

True Copy of the order of the Hon'ble NCLT, Cuttack bench dated 30.11.2021 in CP(IB) No. 34/CB/2021 is annexed herewith as **Annexure F/11.**

24. It is submitted that by way of the order of the Hon'ble NCLT, Cuttack bench dated 30.11.2021 a moratorium has been declared under Section 13 of the IBC, 2016 and continues to be in force as on the date of filing of the instant Affidavit as the CIRP proceedings for the answering Respondent are underway. Thus, any institution or continuation of proceedings in any Tribunal by the Respondent authorities, including a proceeding before the Hon'ble NGT, against the answering respondent directly contravenes Section 14 of the IBC, 2016 as well as the above order of the Hon'ble NCLT. It is evident that the Respondent No.4 by issuing the impugned demand notice against the answering Respondent has acted directly in violation of Section 14 of the IBC, 2016.

25. In view of the aforementioned reasons, it is therefore prayed that this Hon'ble Tribunal may be pleased to dismiss the Application and pass any such order/s as this Hon'ble Tribunal may deem fit and necessary in the circumstances of the case.

26. That, the deponent reserves right to add, supplement any further material by way of additional affidavit, for proper, effective and *bona fide* adjudication of the case.



A handwritten signature in black ink, appearing to read "Padma Das".

27. That, the facts stated above are true to the best of my knowledge and based on records. The annexures to the present affidavit are true and correct copy of its originals.

28. That the contents of the above paragraphs are true and correct to the best of my knowledge, as derived from official records, and nothing material has been concealed therefrom.

DEPONENT

VERIFICATION

I, the above named deponent, do hereby verify that the contents of the above affidavit are true and correct to the best of my knowledge, as derived from official records and that nothing material has been concealed therefrom.

Verified at Kolkata on this the 5th day of September, 2024.

Identified by Me
Himadri Chakraborty
Advocate
Enrollment No. 103154-A/1991
C.M.M. Court, Kolkata

Place: Kolkata

Date: 05.09.2024.

SOLEMNLY AFFIRMED AND DECLARED
BEFORE ME ON IDENTIFICATION


PADMA DAS
NOTARY


DEPONENT



06 SEP 2024

**JOINT INSPECTION REPORT OF THE COMMITTEE CONSTITUTED BY
THE HON'BLE NGT, EASTERN ZONE BENCH, KOLKATA IN COMPLIANCE
TO THE ORDER DTD.17.10.2023 IN THE MATTER OA NO. 153/2023/EZ-
KABIRAJ MAHAPATRA VRS. THE UNION OF INDIA & OTHERS.**

The Hon'ble NGT, EZB, Kolkata in their Order dtd. 17.10.2023 has constituted a committee in the matter O.A. No. 153/2023/EZ- Titled Kabiraj Mahapatra Vrs. The Union of India & others to visit the site and submit its report with regard to allegations made in the Original Application. The committee comprises of the following members:

- i) Senior Scientist, State Pollution Control Board, Odisha.
- ii) Senior Scientist, Central Pollution Control Board.
- iii) Senior Scientist, State Environment Impact Assessment Authority (SEIAA), Odisha.
- iv) Collector & District Magistrate, Ganjam or his representative Officer not below the rank of Additional District Magistrate (ADM).

Accordingly in compliance to the aforesaid direction of the Hon'ble NGT, the State Pollution Control Board, Odisha, Bhubaneswar vide their letter no. 16894 dtd. 30.10.2023 requested Central Pollution Control Board, Kolkata, Member Secretary, SEIAA, Odisha and the Collector & District Magistrate, Ganjam for nomination of their representatives as per Order of the Hon'ble NGT. The Regional Officer, State Pollution Control Board, Odisha, Berhampur was nominated to represent the Committee on behalf of SPC, Board, Odisha Cum Nodal Officer vide above referred letter (**copy of the letter is enclosed as Annexure-I**). The Collector & District Magistrate, Ganjam nominated Sri Debabrata Sahoo, ADM, Ganjam as the Committee Member vide letter no. 4142 dtd. 04.11.2023 (**copy of the letter is enclosed as Annexure-II**).

Prior to visit to the alleged site a preparatory meeting was held on 16.11.2023 through VC to ascertain the present position of the sand mining quarries such as EC, Lease status, Consent status etc. During course of discussion, it was decided to provide necessary documents/ information by the Committee members of their respective departments (as primary data) prior to conducting of field verification. The proceeding of such meeting has been communicated by the Nodal Officer vide letter memo nos. 3774, 3775, 3776 dtd. 17.11.2023 (**Copy enclosed as Annexure-III**).

Following documents/information were received from respective members:

- a) **Environmental Clearance:** Environmental Clearance was granted by SEIAA, Odisha vide EC Identification No. EC22B0010R155306 dtd. 18.07.2022 in favour of Tahasildar, Chikiti for Siripur Sand Bed over an area of 12.355 Acres or 5.0 Ha.

TRUE COPY

Collector, Ganjam
Chitrapur
Dibya Jyoti Panth

having Khata No. 115 over Plot Nos. 130/830, 134/831, 192/832 in village Siripur, Tahasil Chikiti in District Ganjam for mining of Sand @ 12500 Cum in the 1st Year pending submission of Annual Rate of Replenishment Study of the Sand. Subsequently, EC was transferred in favour of Sri Krupasindhu Muduli on dtd. 09.11.2022 (copy of EC and Transferred EC are enclosed as annexure-IV).

- b) **Consent Status:** Regional Officer, SPC, Board, Berhampur has intimated that Consent to Establish and Consent to Operate have not been granted for the said sand quarry.
- c) **Lease status:** As per the document submitted by the Tahasildar, Chikiti vide letter no. 6740 dtd. 29.11.2023 the lease agreement is yet to be executed with the successful bidder (copy of this letter is enclosed as Annexure- V).

Joint inspection of the alleged site of Siripur Sand Quarry (River Bahuda) over Plot No. 130/830 & 134/832 (as per Original Application) under Khata No. 115 under Tahasil of Chikiti was held on 30.11.2023 to verify allegations made in the Application. During inspection, the following members were present:

- a) Sri Debabrata Sahoo, ADM, Ganjam.
 b) Sri Sandeep Roy, Scientist- D, CPCB, Kolkata.
 c) Dr. Pradeept Kumar Nayak, Environmental Scientist (SEIAA), Odisha.
 d) Er. Deepak Kumar Sahoo, RO, SPCB, Berhampur

Apart from the constituted committee the following officials were also present:

- a) Sri Baladev Behera, Tahasildar, Chikiti.
 b) Sri Biplab Kumar Sahoo, AES, SPC Board, Berhampur
 c) Sri Biswanath Behera, Revenue Supervisor, Chikiti Tahasil
 d) Sri Debaraj Nayak, Revenue Inspector, RI Circle Nuapada

During the inspection the committee members observed the following points:

- a) On the day of inspection, there were no mining activities at the alleged site. Any type of mining machinery like: Hyva, JCB, Payloader, Dumpers, Tractors etc. were also not found in and around the alleged mining site.
- b) The Revenue Inspector of RI Circle Nuapada was present and identified the Siripur Sand Quarry which is located over Plot Nos. 130/830, 134/831, 192/832 under Khata No. 115 over an area of 12.355 out of 27.132 Acres.

TRUE COPY

Collector, Ganjam
 Chairabur
 D. B. J. Panigrahi

- c) During visit, the committee members also interacted with the local villagers of Siripur. As informed by them there was no mining activity in the alleged Siripur Sand Quarry since last one year (approximate).
- d) The water flow of the River Bahuda at Siripur region was found in lean condition. Sand was found to be extracted from the Siripur Sand Quarry considered to be illegal mining as no lease agreement has been executed till now.
- e) At the Site, Tahasildar, Chikiti has informed that regular enforcement activity is being conducted in that area to prohibit the illegal sand mining and its transportation. Under the enforcement activity, they have collected penalty from the vehicles engaged in illegal sand transportation. Details of penalty collected as furnished by the Tahasildar, Chikiti year wise from 2021-22, 2022-23 and 2023-24 is enclosed as **Annexure- V**).
- f) The committee also observed that another sand quarry namely, Sundarada Birachaitanyapur River Sand Bed, over an area of 12.355 Acres or 5.0 Ha bearing Khata No. 223, Plot No. 1059 in village Sundarada Birachaitanyapur, Tahasil, Chikiti, Dist- Ganjam (Sri Santosh Kumar Behera, Lessee) is located downstream of Siripur Sand Quarry. The lessee has obtained necessary statutory clearance (Mining Plan, EC, Lease Agreement, and CTE & CTO) for operation of this source.
- g) Environmental Clearance was granted by SEIAA, Odisha vide EC Identification No. EC22B001OR124364 dtd. 30.07.2022 in favour of Tahasildar, Chikiti for Sundarada Birachaitanyapur River Sand Bed over an area of 5.0 Ha. having Khata No. 223 over Plot No. 1059 in village Sundarada Birachaitanyapur, Tahasil Chikiti in District Ganjam for mining of Sand @ 7000 Cum in the 1st Year pending submission of Annual Rate of Replenishment Study of the Sand. Subsequently, EC was transferred in favour of Sri Santosh Kumar Behera on dtd. 19.08.2022 (**copy of EC and Transferred EC are enclosed as annexure-VI**).
- h) Lease agreement was executed with the lessee Sri Santosh Kumar Behera by the Tahasildar, Chikiti for Sundarada Birachaitanyapur River Sand Bed on 03.09.2022 for the period of 5 years i.e. from August, 2022 to August, 2027 (**copy of lease agreement is enclosed as Annexure- VII**).
- i) Consent to Establish was issued in favour of Sundarada Birachaitanyapur River Sand Bed vide Board's letter no. 2686 dtd. 08.09.2022 & Consent to Operate was issued in favour of Sundarada Birachaitanyapur River Sand Bed vide Board's letter no. 2688 dtd. 08.09.2022 upto 30.11.2023 for mining of Sand @ 7000 Cum (**copies of CTE and CTO orders are enclosed as Annexure- VIII**).
- j) It is also observed that excess mining might have been carried out from the lease area of Sundarada Birachaitanyapur River Sand Bed as it appears during field verification.

TRUE COPY

Collection Ganjam
Chirapur
Dipak
Sri Santosh Kumar Behera

- k) The villagers informed the committee members that DD Builders and ARSS Companies along with Sri Santosh Kumar Behera, Lessee of Sundarada Birachaitanyapur River Sand Bed were involved in illegal mining from both Siripur Sand Quarry and Sundarada Birachaitanyapur River Sand Bed. That was also reflected in the enforcement report of Tahasildar, Chikiti submitted vide letter no. 6740 dtd. 29.11.2023 (copy attached as Annexure- V).
- l) The photographs during the Joint inspection of the alleged site on dtd. 30.11.2023 are attached as below :




TRUE COPY


Collector, Ganjam
 Chitradpur
Dibyansu Jyoti Panda


Conclusion and Recommendation:

- a) The 2nd meeting of the Committee was held on 26th Dec 2023 to discuss the various issues aroused during inspection and individual's submission.
- b) The committee members observed that some illegal sand mining have been carried out from the alleged site of Siripur Sand Quarry and illegal excess sand mining from Sundarada Birachaitanyapur River Sand Bed lease area located downstream of Siripur Sand Quarry. Hence, in order to arrive at a conclusion on exact quantification of sand illegally extracted from both the sources, the Committee members unanimously decided to seek the help of Experts from Dept. of Steel & Mines for calculation of quantity of sand illegally extracted from both the sources. Accordingly, the Committee members requested RO, SPCB, Berhampur to move to the Deputy Director of Mines, Berhampur, Ganjam with a request to assess the quantity of illegal sand mining at the alleged site of Siripur Sand Quarry and Sundarada Birachaitanyapur River Sand Bed lease area for calculation of environmental compensation with the help of geologist.
- c) Environmental compensation will be calculated based on the report of Deputy Director of Mines, Berhampur, Ganjam.
- d) No further illegal sand mining from the alleged site of Siripur Sand Quarry and from Sundarada Birachaitanyapur River Sand Bed shall be allowed. Tahasildar, Chikiti, Ganjam and Deputy Director of Mines, Berhampur, Ganjam shall ensure this by regular enforcement and surveillance.
- e) Final report will be submitted by the committee after quantification of sand illegally extracted along with compensation amount as necessary compliance.


30/12/2023
(Er. Deepak Kumar Sahoo)
RO, OSPCB, Berhampur


30/12/2023
(Dr. Pradeept Kumar Nayak)
Environmental Scientist (SEIAA), Odisha


(Sri Sandeep Roy)
Scientist- D, CPCB, Kolkata


30.11.23
(Sri Debabrata Sahoo)
ADM, Ganjam, Chatrapur

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Page 5 of 5

Collector, Ganjam
Chatrapur


ANNEXURE B/11 (COLLY)

18

Annexure - A/4

NUAPADA CIRCLE ENFORCEMENT (2021-22)								
Date	Mouza	RR No.	Vehicle No.	Monor Mineral	Royalty	Penalty	Total	Owner name
12-04-2021	Nuapada	P 2603931		sand	105	9895	10000	Krushna chandra pradhan
20-05-2021	Dabhar	AAA 3809445	OD 07 S 5126	sand	105	9895	10000	Narasingha Sahu
09-06-2021	chadhiapada	AAA 3809484	OD 07 L 6340	sand	105	10000	10105	Durga kanta Tripathy
23-06-2021	Siripur	AAA 3809499	OD 07 L 6340	sand	105	10000	10105	Durga kanta Tripathy
25-06-2021	Siripur	AAA 3809502	OD 07 AE 8674	sand	105	19895	20000	Pradeep pradhan
25-06-2021	Siripur	AAA 3809504	New vehicle	sand	105	9895	10000	Kunja Bihari Sahu
25-06-2021	Siripur	AAA 3809503	New vehicle	sand	105	19895	20000	Srinivas Sahu
20-07-2021	Sundarada	AAA 3809601	OD 07 L 6340	sand	105	10000	10105	Raghunath Sahu
24-07-2021	Siripur	AAA 3809620	OD 07 L 6340	sand	105	15000	15105	Durga kanta Tripathy
06-08-2021	Siripur	AAA 3809673	OD 07 AH 8882	sand	105	12000	12105	Sudam pradhan
09-08-2021	Baliarsinghpalli	AAA 3811583	OD 07 X 8063	Sand	105	12000	12105	Udaya Nayak
09-08-2021	Baliarsinghpalli	AAA 3811581	OD 07 X 0028	Sand	105	10000	10105	Anil kumar Kabi
19-09-2021	Dabhar	AAA 3809774	OD 07 P 8461	sand	105	5000	5105	Pitambar Behera
29-10-2021	BADAKELAJHURI	AAA 3809851	OD 07 AJ 8186	sand	105	6000	6105	Banika pradhan
29-10-2021	BADAKELAJHURI	AAA 3809852	OD 07 G 9539	sand	105	6000	6105	Barika pradhan
08-11-2021	sundarada	AAA 3809863	OD 07 AC 9677	sand	105	10000	10105	Dasa Pradhan
11-12-2021	Badakelajhuri	AAA 3813533	OD 07 M 1147	sand	105	10000	10105	Krushna chandra sahu
18-12-2021	Badakelajhuri	AAA 3813570	OD 07 Z 4024	sand	105	10000	10105	Bulu patra
06-01-2022	Badakelajhuri	AAA 3813751	OD 07 AJ 2311	sand	105	10000	10105	P. Srinu
06-01-2022	Badakelajhuri	AAA 3813705	OD 07 AD 6291	Sand	105	10000	10105	Krushna sahu
06-01-2022	Badakelajhuri	AAA 3813704	OD 07 M 3493	sand	105	10000	10105	Sankar Sethi
08-01-2022	Badakelajhuri	AAA 3813752	OD 07 AJ 9172	sand	105	10000	10105	Arun kumar pradhan
12-01-2022	Chadhiapada	AAA 3813762	OD 07 L 6340	sand	105	10000	10105	Durgakanta Tripathy
25-01-2022	Sundarada	AAA 3813918	OD 07 Z 4024	sand	105	10000	10105	Bulu patra
10-02-2022	Badakelajhuri	AAA 6736222	OD 07 M 3493	sand	105	10000	10105	Sankar Sethi
14-02-2022	Lalmenta	AAA 6736200	OD 07 F 2519	Sand	105	10000	10105	Rajendra Kumar Pati
12-03-2022	Badakelajhuri	AAA 6736809	OD 07 AJ 9172	Sand	105	15000	15105	Kanhu Charan pradhan
				Total	2835	290475	293310	

TAHASEL
CHIKITI

1 of 4

Annexure A/4

Details of Fine such as Royalty, Penalty, etc. during the Enforcement Activities of Minor Mineral Collected and Deposited relating to OA Case No. 153/2023-EZ before the Hon'ble NGT, Kolkata for the Year 2022-23

Sl No.	Name of R.I Circle	Name of Mouza	No. of vehicle Seized	Type of Minor Mineral	RR Receipt No.	Date	Penalty Collected	Misc. Case No.	Owner name
1	Nuapada	Siripur	1	Sand	AAA6748270	27.04.2022	25000	18/2022-23	DD Builders Ltd
2	Nuapada	Siripur	1	Sand	AAA6748269	27.04.2022	25000	19/2022-23	DD Builders Ltd
3	Nuapada	Siripur	1	Sand	AAA6748288	07.05.2022	25000	27/2022-23	DD Builders Ltd
4	Nuapada	Siripur	1	Sand	AAA6748287	07.05.2022	25000	28/2022-23	DD Builders Ltd
5	Nuapada	Siripur	1	Sand	AAA6748286	07.05.2022	25000	29/2022-23	DD Builders Ltd
6	Nuapada	Siripur	1	Sand	AAA6748285	07.05.2022	25000	30/2022-23	DD Builders Ltd
7	Nuapada	SB Chaitnappur	1	Sand	AAA6748301	04.06.2022	10105	70/2022-23	K. Jayaram
8	Nuapada	SB Chaitnappur	1	Sand	AAA6748305	08.06.2022	15105	73/2022-24	Sankar Pradhan
9	Nuapada	SB Chaitnappur	1	Sand	AAA6748304	08.06.2022	10105	74/2022-23	Subash Chandra pradhan
10	Nuapada	Bada Kelajhari	1	Sand	AAA6748311	23.06.2022	10105	83/2022-23	Bisikesan Gouda
11	Nuapada	Bada Kelajhari	1	Sand	AAA6748312	23.06.2022	15105	84/2022-23	Jitu Nayak
12	Nuapada	Bada Kelajhari	1	Sand	AAA6748313	30.06.2022	10105	89/2022-23	Prasant Kunda
13	Nuapada	Bada Kelajhari	1	Sand	AAA6748329	12.07.2022	15105	101/2022-23	Barika pradhan
14	Nuapada	Bada Kelajhari	1	Sand	AAA6748330	12.07.2022	15105	102/2022-23	Barika pradhan
15	Nuapada	Bada Kelajhari	1	Sand	AAA6748333	19.07.2022	10105	108/2022-23	Durgakanta Tripathy
16	Nuapada	Bada Kelajhari	1	Sand	AAA6748339	21.07.2022	15105	110/2022-23	Sankar Sethi
17	Nuapada	Bada Kelajhari	1	Sand	AAA6748401	18.08.2022	10105	137/2022-23	krushna ch sahu
18	Nuapada	Bada Kelajhari	1	Sand	AAA6748436	25.08.2022	10105	138/2022-23	Sarathi reddy
19	Nuapada	Nuapada	1	Sand	AAA6748439	30.08.2022	10105	143/2022-23	barika pradhan
20	Nuapada	Bada Kelajhari	1	Sand	AAA6748438	30.08.2022	15105	144/2022-23	barika pradhan
21	Nuapada	Bada Kelajhari	1	Sand	AAA6748601	08.09.2022	15105	151/2022-23	Krushan Ch.Sahu
22	Nuapada	B. Nuapada	1	Sand	AAA6748604	09.09.2022	10105	152/2022-23	Bishikeshan Pradhan
23	Nuapada	Bada Kelajhari	1	Sand	AAA6748609	16.09.2022	10105	155/2022-23	Biswanath Kanyari
24	Nuapada	Bada Kelajhari	1	Sand	AAA6748610	19.09.2022	15105	156/2022-23	Rabi Rana
25	Nuapada	Bada Kelajhari	1	Sand	AAA6748613	20.09.2022	15105	157/2022-23	Sarathi Reddy
26	Nuapada	Bada Kelajhari	1	Sand	AAA6748633	02.10.200	15105	181/2022-23	Rabindra Ku.Sahu
27	Nuapada	Bada Kelajhari	1	Sand	AAA6748634	02.10.2022	15105	182/2022-23	Rabindra Ku.Sahu
28	Nuapada	Bada Kelajhari	1	Sand	AAA6748642	15.10.2022	15105	189/2022-23	Arun Ku.Pradhan
29	Nuapada	Bada Kelajhari	1	Sand	AAA6748643	20.10.2022	15105	196/2022-23	Sarathi Reddy
30	Nuapada	Bada Kelajhari	1	Sand	AAA6748644	28.10.2022	10105	204/2022-23	P.Srinivas

2 of 4

Annexure - A/4

Nuapada	Bada Kelajhari	1	Sand	AAA6748660	22.11.2022	15105	219/2022-23	Rabi Pradhan
Nuapada	SB Chaitnayspur	1	Sand	AAA6748670	14.12.2022	50000	228/2022-23	Santosh Behera
Nuapada	SB Chaitnayspur	1	Sand	AAA6748674	22.12.2022	10105	237/2022-23	Raghunath Sahu
Nuapada	SB Chaitnayspur	1	Sand	AAA6748693	07.01.2023	15105	244/2022-23	Santosh Behera
Nuapada	SB Chaitnayspur	1	Sand	AAA6756137	15.02.2023	50000	285/2022-23	Santosh kumar Behera
Nuapada	Sana Kelajhari	1	Sand	AAA6756530	06.03.2023	25000	309/2022-23	Sibasankar Gouda
Nuapada	Chadiapada	1	Sand	AAB1485856	18.03.2023	15000	335/2022-23	Dairagi Pradhan
Nuapada	Chadiapada	1	Sand	AAB1485860	18.03.2023	15000	339/2022-23	Santosh Behera
	Total	38			Total	652835		

TAHASEER
CHIKITI (GANJAM)

Enforcement Details of Nuapada for the Year 2023-24

S	Mouza	RR No	Vehicle no	Type of Minor Mineral	Quantity	Royalty	Add. Charge	Penalty	Total	EC	EMF	DMF	IT	Total	Name of the owner
5.2023	Sundarda	AAB1486134	OD32H4876	Sand	0	0	0	25000	25000	0	0	0	0	25000	Sunil Sethy
6.2023	Sundarada	AAB1486188	OD22E4142	Sand	0	0	0	50000	50000	0	0	0	0	50000	Santosh Behera
7.2023	Badakela/jhari	AAB1486197	OD07AK6983	Sand	0	0	0	15000	15000	0	0	0	0	15000	Kanhu Pradhan
7.2023	Lalmenta	AAB1486206	OD07H0925	Sand	3	105	0	10000	10105	0	0	0	0	10105	K.Bijuli
7.2023	Sundarada	AAB1486212	OD07AK6926	Sand	0	0	0	15000	15000	0	0	0	0	15000	Radhakrushan Sahu
7.2023	Sanakela/jhari	AAB1486214	OD07AJ4386	Sand	3	105	0	10000	10105	0	0	0	0	10105	Gobardhan Sahu
7.2023	Siripur	AAB1486217	New vehicle	Sand	0	0	0	10000	10000	0	0	0	0	10000	Hari krushan Pattanalk
7.2023	Badakela/jhari	AAB1486223	OD07AM9375	Sand	0	0	0	10000	10000	0	0	0	0	10000	Narayan Patra
8.2023	Sundarada	AAB1486260	OD07B0089	Sand	0	0	0	10000	10000	0	0	0	0	10000	Muna Pradhan
8.2023	Sundarada	AAB1486263	New Vehicle	Sand	0	0	0	10000	10000	0	0	0	0	10000	Sedanand Pradhan
9.2023	Badakela/jhari	AAB1486266	OD07AM6655	Sand	0	0	0	10000	10000	0	0	0	0	10000	P. Srinu
9.2023	Sundarada	AAB1486273	OD07Y6702	Sand	0	0	0	10000	10000	0	0	0	0	10000	Bulu Kanyari
0.2023	Chandapur	AAB1486282	OD07AF4225	Sand	3	105	0	10000	10105	0	0	0	0	10105	Sankar Pradhan
0.2023	Badakela/jhari	AAB1486285	New Vehicle	Sand	0	0	0	10000	10000	0	0	0	0	10000	Basanta Kumar Pradhan
				Total	9	315	0	205000	205315	0	0	0	0	205315	

TAHASKHAR
CHIKITI (GANJAM)



GOVERNMENT OF ODISHA
OFFICE OF THE JOINT DIRECTOR GEOLOGY

SOUTH ZONE, BERHAMPUR
Engineering School Square, Berhampur- 760010
PHONE: +91 680 2291878, Email: jdg_szbam@yahoo.com

Letter No. XI-02/2022/209 /SZ, Berhampur

Date: 16.02.2024

From

Deputy Director Geology
O/o - The Joint Director Geology
South Zone, Berhampur

To

The Deputy Director Mines
Ganjam Circle, Berhampur
Email: ddm.berhampur@orissaminerals.gov.in

Sub: Report on field visit of Siripur and Sundarada Birachaitanyapur River sand bed under Chikiti Tahasil of Ganjam District.

Ref: Your Memo No. 78/Mines dated 16.01.2024.

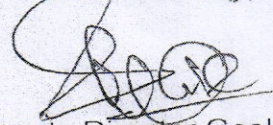
Sir,

With reference to the subject & Memo No. cited above, this is to inform you that Sri Sourava Pradhan, Geologist has visited the alleged site of Siripur River Sand Bed and Sundarada Birachaitanyapur River Sand Bed today i.e. on 16.02.2024.

The field visit report submitted by Sri Pradhan, Geologist is enclosed herewith for your information and necessary action.

Encl: As Above.

Yours faithfully,

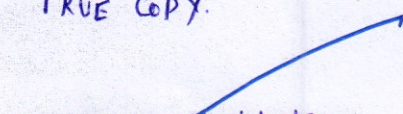

16/2/24
Deputy Director Geology
O/o - The Joint Director Geology
South Zone, Berhampur

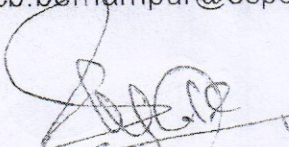
Memo No. 210 /SZ, Berhampur

Date: 16.02.2024

Copy forwarded to the Regional Officer, Regional Office of The State Pollution Control Board, Berhampur Division, Odisha, Email: rospcb.berhampur@ospboard.org for kind information.

TRUE COPY.


Collector & District Magistrate
Ganjam, Chatrapur


16/2/24
Deputy Director Geology
O/o - The Joint Director Geology
South Zone, Berhampur

- 7 -

REPORT ON FIELD VISIT OF SIRIPUR RIVER SAND BED AND SUNDARADA
BIRACHAITANYAPUR RIVER SAND BED UNDER CHIKITI TAHASIL OF
GANJAM DISTRICT

As per letter no-192/SZ, Berhampur dated 09.02.2024 of Joint Director Geology, SZ, Berhampur the joint field visit has been conducted on 16.02.2024 for calculating the quantity of sand extracted from the alleged site of Siripur Sand Quarry and Sundarada Birachaitanyapur Sand Quarry area.

The following members were present during the field visit

1. Additional District Magistrate (revenue), Ganjam
2. Tahasildar Chikiti
3. Dr Pradeept Kumar Nayak, Environmental Scientist (SEIAA), Odisha, Bhubaneswar
4. Representative of RO SPCB, Odisha, Berhampur division
5. Mining Officer Ganjam Circle, Berhampur
6. Sourava Pradhan, Geologist Representative of JDG, SZ, Berhampur

The concerned RIs were present during the field visit and identified the sources as per the revenue map. Volumetric method is used for the calculation of extracted quantity of sand with the help of hand-held GPS (Garmin GPSmap 60CSx) and measuring tape and with the help of Google Earth software.

As the river sand bed are replenished every year after the monsoon hence the extracted quantity of sand before the monsoon cannot be measured.

Quantity of sand extracted from Siripur Sand Quarry:

Area of extracted sand (in M²) = 4585

Average depth of sand bed (in M) = 0.6

Volume of sand extracted (in M³) = 2751 (Area × average depth of sand bed)

Quantity of sand extracted from Sundarada Birachaitanyapur Sand Quarry:

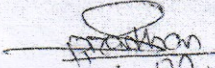
Area of extracted sand (in M²) = 3961

Average depth of sand bed (in M) = 0.8

Volume of sand extracted (in M³) = 3167 (Area × average depth of sand bed)

TRUE COPY

Collector & District Magistrate
Ganjam, Chatrapur


16.02.24
Geologist
O/O Joint Director, Geology
(S.Z.) Berhampur



Annexure PL/24

OFFICE OF THE EXECUTIVE MAGISTRATE-CUM-TAHASILDAR, CHIKITI

Letter No. 1095

Date 16.03.2024

To

M/s D.D Builders Ltd.
Plot No. 33-F,
BJB Nagar, First Floor
Bhubaneswar- PIN- 761014

Sub: - Illegal extraction of Sand from the Siripur Sand Bed under Chikiti Tahasil of Ganjam District.

Ref: - Order of the Hon'ble NGT in O.A Case No. 153/23/EZ, Kolkata

This is to inform you that, the compliance to the Order of the NGT, a Committee has visited the Sand site to access the quantum of extraction of Sand from the aforesaid Sand Bed.

During the course of enquiry, the local people has alleged that the illegal lifting of Sand has made by you and it is also evident from record available in this Office, that you have been penalised for illegal lifting of Sand from the said Source on different occasions.

Further this is to intimate that, authorised persons has calculated the illegal extraction of Sand to a tune of **2751 Cum**.

As you had involved in illegal lifting of Sand from the said Source and as admitted by you through depositing the penalty and Royalty in different dates, you have liable to deposit the Royalty, Penalty and Additional Charges for the aforementioned quantum of Sand as calculated below before the undersigned at an early date. Failing which action as deemed proper shall be initiated against you for realisation of the amount.

Received by
For D.D. Builders.
(Accountant)
Raxef
13/04/24

Tahasildar, Chikiti
16/03/24
**TAHASILDAR
CHIKITI (GANJAM)**

TRUE COPY

Collector & Executive Magistrate
Ganjam, Siripur

ANNEXURE D/11

Annexure - B/25



MINING OFFICER, GANJAM
STEEL AND MINES DEPARTMENT, GOVT. OF ODISHA
BERHAMPUR - 760011
Email: mo.ganjam@gmail.com

No. 976 / Mines

Dt. 24-06-24

From

The Mining Officer,
Berhampur Circle, Ganjam

To

The Tahasildar Chikiti.

Sub: Calculation of Royalty, Penalty, Addl. Charges & etc. towards illegal extraction of sand from Siripur Sand Bed under Chikiti Tahasil.

Ref: Letter No. 2012/Rev Dt- 21-06-2024.

Sir,

Under reference to your letter and in accordance with the OMMC Rule 2023, The following calculation has been made for the quantity of 2751 CuM of extracted sand.

Royalty (@35/- Per CuM) = $35 \times 2751 = 96,285$ /-
Additional Charge (120/- Per Cum) = $120 \times 2751 = 3,30,120$ /- {As per Rule 27(15) of OMMC 2023}
Penalty = 5,00,000 /- {As per Rule 51 of OMMC 2023}
DMF (@ 10 % of Royalty) = 9,628.5 /-
EMF (@ 5 % of Royalty) = 4,814.25 /-
Compensatory (@ 5 % of Royalty + Addl.) = 21,320.25 /-
IT (2 % of Royalty + Addl.) = 8,528.1 /-
TOTAL = 9,70,696.1 /-

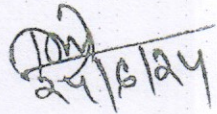
Therefore, on amount of **Rs. 9,70,696.1/-** May be realized from M/s D.D Builders towards the above quantum of sand.

This is for favour of kind information and necessary action.

TRUE COPY

Your faithfully


COLLECTOR & DIST. MAGISTRATE
GANJAM, CHATRAPUR


24/6/24
Mining Officer, Ganjam

Memo No: 977

Date: 24-06-24

Copy Submitted to The Collector, Ganjam, Chhatrapur / Sub-Collector, Berhampur for information.


24/6/24

Mining Officer, Ganjam

ANNEXURE E/11 (COLLY)

Annexure 27/14



OFFICE OF THE EXECUTIVE MAGISTRATE-CUM-TAHASILDAR, CHIKITI

Email: tah_chikiti@yahoo.in

Letter No: - 2057/1

Date:- 26.06.2024

To

M/s D.D Builders Ltd.
Plot No. 33-F,
BJB Nagar, First Floor
Bhubaneswar- PIN- 761014

Sub: - Illegal extraction of Sand from the Siripur Sand Bed under Chikiti Tahasil of Ganjam District.

Ref: 1. Order of the Hon'ble NGT in O.A Case No. 153/23/EZ, Kolkata

This is to inform you that, in compliance to the Order of the NGT, a Committee has visited the Sand site to assess the quantum of extraction of Sand from the aforesaid Sand Bed.

During the course of enquiry, the local people has alleged that the illegal lifting of Sand has made by you and it is also evident from record available in this Office, that you have been penalised for illegal lifting of Sand from the above said Source in different occasions.

Further this is to intimate that, authorised persons has calculated the illegal extraction of Sand to a tune of **2751 Cum**.

As you had involved in illegal lifting of Sand from the said Source and as admitted by you through depositing the penalty and Royalty in different dates, you have liable to deposit the Royalty, Additional Charges, Penalty, DMF, EMF, Compensatory Aforestation & IT as calculated by the Mining Officer, Ganjam, Berhampur, Steel & Mines Department, Govt. of Odisha, Berhampur- 760011 vide his Letter No. 976/Mines Dated. 24.06.2024 for the aforementioned quantum of Sand as calculated below and deposit before the undersigned immediately. Failing which action as deemed proper shall be initiated against you for realisation of the amount.

TRUE COPY

1. Royalty (@ 35/- per CuM) = Rs. 96, 285/-
2. Addl. Charges (120/- per CuM) = Rs. 3, 30, 120/-
3. Penalty = Rs. 5, 00, 000/-
4. DMF (@ 10 % of Royalty) = Rs. 9, 629/-
5. EMF (@ 5 % of Royalty) = Rs. 4, 814/-
6. Compensatory (@ 5 % of Royalty + Addl.) = Rs. 21, 320/-
7. IT (2 % of Royalty + Addl.) = Rs. 8, 528/-

Total = Rs. 9, 70, 696/- (Rupees Nine Lakh Seventy Thousand Six Hundred Ninety Six) only.

COLLECTOR & DIST. MAGISTRATE
GANJAM, CHATRAPUR

Received by
Accountant - Rakshit
01/07/24
249594639

Tahasildar, Chikiti

26/6/24
TAHASILDAR
CHIKITI (GANJAM)

Memo No: 2058

Date: 26.06.2024

Copy submitted to the Collector, Ganjam, Chatrapur/Sub-Collector, Berhampur for favour of kind information.

Tahasildar, Chikiti

[Handwritten signature]
26/6/24

TAHASILDAR
CHIKITI (GANJAM)



Annexure - C/S

OFFICE OF THE EXECUTIVE MAGISTRATE-CUM-TAHASILDAR, CHIKITI

Letter No. 2051

Date 26.06.2024

To

M/s ARSS Infrastructure Projects Limited.
Plot No. 38, Sector-A, Zone-D
Mancheswar Industrial Estate
Bhubaneswar- PIN- 751010

Sub: - Illegal extraction of Sand from the Siripur Sand Bed under Chikiti Tahasil of Ganjam District.

Ref: - Order of the Hon'ble NGT in O.A Case No. 153/23/EZ, Kolkata

This is to inform you that, in compliance to the Order of the NGT, a Committee has visited the Sand site on Dtd. 30.11.2023 to assess the quantum of extraction of Sand from the aforesaid Sand Bed.

During the course of enquiry, the local people has alleged that, the illegal lifting of Sand has made by you and in pursuant to the observation of Hon'ble Tribunal in their Order dated 22.04.2024 and assessment made by the Geologist on illegal sand mining that, you have been penalised for illegal lifting of Sand from the above said Source in different occasions.

Further this is to intimate that, authorised persons has calculated the illegal extraction of Sand to a tune of **2751 Cum.**

Hence you have liable to deposit the Royalty, Additional Charges, Penalty, DMF, EMF, Compensatory Aforestation & IT as calculated by the Mining Officer, Ganjam, Berhampur, Steel & Mines Department, Govt. of Odisha, Berhampur- 760011 vide his Letter No. 976/Mines Dated. 24.06.2024 for the aforementioned quantum of Sand as calculated below and deposit before the undersigned immediately. Failing which action as deemed proper shall be initiated against you for realisation of the amount.

- 1. Royalty (@ 35/- per CuM) = Rs. 96, 285/-
- 2. Addl. Charges (120/- per CuM) = Rs. 3, 30, 120/-
- 3. Penalty = Rs. 5, 00, 000/-
- 4. DMF (@ 10 % of Royalty) = Rs. 9, 629/-
- 5. EMF (@ 5 % of Royalty) = Rs. 4, 814/-
- 6. Compensatory (@ 5 % of Royalty + Addl.) = Rs. 21, 320/-
- 7. IT (2 % of Royalty + Addl.) = Rs. 8, 528/-

Total = Rs. 9, 70, 696/- (Rupees Nine Lakh Seventy Thousand Six Hundred Ninety Six) only.

TRUE COPY

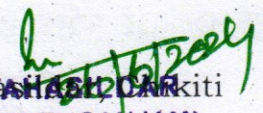
COLLECTOR & DIST. MAGISTRATE
GANJAM, CHATRAPUR

Tahasildar Chikiti
TAHASILDAR
CHIKITI (GANJAM)

Memo No: 2052

Date: 26.06.2024

Copy submitted to the Collector, Ganjam, Chatrapur/Sub-Collector, Berhampur for favour of kind information.


Tahsildar
CHIKITI (GANJAM)



Annexure - C/6

OFFICE OF THE EXECUTIVE MAGISTRATE-CUM-TAHASILDAR, CHIKITI

Letter No. **2053**

Date **26.06.2024**

To

M/S ARSS Developers Limited.
Plot No. 38, Sector-A, Zone-D
Mancheswar Industrial Estate
Bhubaneswar- PIN- 751010

Sub: - Illegal extraction of Sand from the Siripur Sand Bed under Chikiti Tahasil of Ganjam District.

Ref: - Order of the Hon'ble NGT in O.A Case No. 153/23/EZ, Kolkata

This is to inform you that, in compliance to the Order of the NGT, a Committee has visited the Sand site on Dtd. 30.11.2023 to access the quantum of extraction of Sand from the aforesaid Sand Bed.

During the course of enquiry, the local people has alleged that, the illegal lifting of Sand has made by you and in pursuant to the observation of Hon'ble Tribunal in their Order dated 22.04.2024 and assessment made by the Geologist on illegal sand mining that, you have been penalised for illegal lifting of Sand from the above said Source in different occasions.

Further this is to intimate that, authorised persons has calculated the illegal extraction of Sand to a tune of **2751 Cum.**

Hence you have liable to deposit the Royalty, Additional Charges, Penalty, DMF, EMF, Compensatory Aforestation & IT as calculated by the Mining Officer, Ganjam, Berhampur, Steel & Mines Department, Govt. of Odisha, Berhampur- 760011 vide his Letter No. 976/Mines Dated. 24.06.2024 for the aforementioned quantum of Sand as calculated below and deposit before the undersigned immediately. Failing which action as deemed proper shall be initiated against you for realisation of the amount.

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2. Addl. Charges (120/- per CuM) = Rs. 3, 30, 120/-
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7. IT (2 % of Royalty + Addl.) = Rs. 8, 528/-

Total = Rs. 9, 70, 696/- (Rupees Nine Lakh Seventy Thousand Six Hundred Ninety Six) only.

TRUE COPY

COLLECTOR / DIST. MAGISTRATE
GANJAM, CHATRAPUR

Tahasildar Chikiti
TAHASILDAR
CHIKITI (GANJAM)

Memo No: 2054

Date: 26.06.2024

Copy submitted to the Collector, Ganjam, Chatrapur/Sub-Collector, Berhampur for favour of kind information.

Tahasildar, Chikiti
TAHASILDAR
CHIKITI (GANJAM)

[Handwritten signature]

IN THE NATIONAL COMPANY LAW TRIBUNAL
CUTTACK BENCH
CUTTACK

CP (IB) No. 34/CB/2021

In the matter of:

An application under section 7 of the Insolvency & Bankruptcy Code, 2016 read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016;

And

In the matter of:

STATE BANK OF INDIA, a banking company and a body corporate constituted under the State Bank of India Act, 1955, having its Head Office at State Bank Bhavan, Nariman Point, Madame Cama Road, Mumbai 400021 and one of its branches at SAMB-II, Kolkata, at 1, Middleton Street, Kolkata- 700071;

...Financial Creditor

Versus

ARSS Infrastructure Projects Limited, having [CIN: L14103OR2000PLC006230], a company incorporated under the provisions of Companies Act, 1956, and a company within the meaning of the Companies Act, 2013 having its Registered Office at Plot No. 38, Sector A Zone-A, Mancheswar Industrial Estate, Bhubaneswar- 751010, Odisha.

...Corporate Debtor

Coram:

Shri P. Mohan Raj : Member (Judicial)

Shri Satya Ranjan Prasad : Member (Technical)

Appearances (through video conferencing)

For the Applicant : Mr. Subrat Mishra, Adv.

For the Respondent : Mr. Ratnanko Banerji, Sr. Adv.
Mr. Saswat K. Acharya, Adv.
Mr. S. Pholgu, Adv.
Mr. S. Dash, Adv.
Mr. A Agarwal, Adv.
Mr. J. Sahoo, Adv.

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Mr. S. Agarwal, Adv.

Order reserved on: 23.11.2021

Order pronounced on: 30.11.2021

ORDER

Per: Satya Ranjan Prasad, Member (Technical)

1. The Court convened via video conference on 23.11.2021.
2. This application under section 7 of Insolvency and Bankruptcy Code, 2016 read with rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, has been filed by State Bank of India, through its Authorised Officer and Constituted Attorney vide Power of Attorney dated 11.08.2021, thereby seeking initiation of Corporate Insolvency Resolution Process (*CIRP*) in respect of **ARSS Infrastructure Projects Limited** [CIN: L14103OR2000PLC0062302], a company having its Registered Office at Plot No. 38, Sector A Zone-A, Mancheswar Industrial Estate, Bhubaneswar- 751010, Odisha (*hereinafter referred as the Corporate Debtor*).
3. It is submitted in the Petition that the Corporate Debtor has been banking with the Financial Creditor and has been enjoying various credit facilities since the year 2000 and from time-to-time various credit facilities were sanctioned to the Corporate Borrower. In the process at the request of the Corporate Debtor the credit limits were enhanced/reviewed/renewed from time to time on various dates and subsequently on 03.12.2017 at the request of the Corporate Debtor, the Financial Creditor enhanced the credit facilities of the Corporate Debtor aggregating to ₹ 314.68 crores the break-up whereof is as follows:
 - a) Working Capital limits for ₹ 263.00 crore;

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- b) Term Lona-I for ₹ 1.68 crore;
- c) Term Loan-II for ₹ 50.00 crore

The said credit facilities had been sanctioned on certain terms and conditions as envisaged in the said sanction letter dated 03.12.2007. In this connection, that the Corporate Debtor pursuant to its application for enhancement of limits and subsequent discussion with the applicant bank in anticipation of said enhancement passed a Board Resolution in its board meeting held on 27.11.2007 to avail the said credit facilities/enhanced credit facilities to be sanctioned by the Financial Creditor and to accept the terms & conditions thereof and thereby also authorized its director(s) to execute the necessary loan/banking documents to avail the said credit facilities from the Financial Creditor. In order to secure the said credit facilities, the Corporate Debtor and its directors and others executed necessary loan documents in favour of the Financial Creditor. The Corporate Debtor and its directors and guarantors executed the following document on 05.12.2007 *inter alia* for securing repayment of the credit facilities aggregating to Rs. 314.68 crores together with interest thereon at the contractual rates in favour of the Financial Creditor:

- a) The arrangement/sanction letter dated 03.12.2007 duly acknowledged by the Corporate Debtor and its directors thereby accepting the terms and conditions of sanction where in the existing facility of ₹ 100.18 crore was enhanced to ₹ 314.68 crore.
- b) Board Resolution of the Corporate Debtor dated 27.11.2007
- c) C.1-Agreement for loan for overall limit executed on 05.12.2007 by Corporate Debtor
- d) C.2-Agreement of hypothecation of Goods & Assets executed on 05.12.2007 by Corporate Debtor where by the Corporate Debtor hypothecated the movable assets as security.

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- e) C.4 Deed of Guarantee for overall limit executed on 05.12.2007 by Corporate Debtor guaranteed due repayment of the credit facilities sanctioned in favour of the Corporate Debtor.
- f) C.5-Letter regarding the grant of individual limits within overall limits executed/accepted on 05.12.207 by. Corporate Debtor.
- g) Omnibus Counter Guarantee executed on 05.12.2007 by Corporate Debtor counter thereby guaranteeing their payment of the liability of Financial Creditor under the bank guarantees to be issued by Financial Creditor within the Bank Guarantee limit of ₹ 235.00 crores.
- h) The Board Resolution of Corporate Debtor dated 27.11.2007.
4. It is stated that the erstwhile State Bank of Bikaner and Jaipur (hereafter SBBJ), which subsequently got amalgamated and merged into the Financial Creditor as sated hereinabove, had also granted Credit Facilities aggregating to ₹ 40.00 crores to the Corporate Debtor initially on 20.08.2010. A break -up of the said credit facilities is as follows:
- a. Working capital limits for ₹ 20.00 crores
- b. Term Loan for ₹ 20.00 crores.
5. It is stated in the petition that in order to avail the said Credit facilities and to secure repayment thereof with interest at the contractual rates, the Corporate Debtor has attended several Board Meetings on different dates and passed and adopted the necessary resolution and the Corporate Debtor and its directors executed the required documents on different dates of meetings in order to secure repayment of the credit limits aggregating to different loan amount. In the meantime, the Financial Creditor submits, that at the request of the Corporate Debtor vide Letter dated 03.05.2010 to the Financial Creditor for formation of a consortium, a consortium was constituted comprising State Bank of India (i.e., the Financial Creditor herein as the lead Banker), erstwhile State Bank of Bikaner and Jaipur (which subsequently, got amalgamated

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and merged into the Financial Creditor as stated hereinabove) IDBI Bank Ltd. (IDBI), Punjab National Bank (PNB), ICICI Bank Ltd. (ICICI) & Bank of India (BOI). The said consortium was named as SBI Consortium. Upon formation of the SBI Consortium, joint documentation was done on 10th December 2010 whereby *inter alia* the terms and conditions of sanction of the credit facilities by the member banks was recorded.

6. It is stated that the Corporate Debtor has defaulted in repayment of its financial debt and is unable to pay its financial debts as defined under Section 3(6) of the IBC Code, 2016 is clear and evident from the facts stated hereinabove and the documents annexed hereto. The Corporate Debtor has committed default as defined under Section 3(12) of the IBC Code, 2016 with regard to the financial debt owed by it to the Financial Creditor with is in excess of ₹1 core and amounting to ₹2273,12,44,726.92 (Rupees Two Thousand Two Hundred Seventy-Three Crore Twelve Lakh Forty-Four Thousand Seven Hundred Twenty-Six Paise Ninety-Two only) calculated up to 31.07.2021 including principal and interest amount as on 06.03.2020. Loan sanctioned/renewed as per the last sanction letter, present outstanding, date of default, interest, etc are given in the Annexure-98 of the petition.
7. The Financial Creditor has stated that he has filed this petition since company has a scope of revival by increasing its operations to full capacity and the Financial Creditor is of the view that if the Corporate Debtor is managed through expert person and under the guidance of the Committee of Creditors, there will be a very good chance for revival of the Company through the Resolution Plan as well be approved by the CoC and the same will lead to revival of the Corporate Debtor and also ultimately lead to speedy realization of the dues of the Financial Creditor and other lenders if the Corporate Debtor starts earning more profits under the guidance of the Insolvency Resolution Professional.

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8. It is stated in the petition that the Corporate Debtor failed to maintain financial discipline and committed default in repayment of the credit facilities availed of. Financial Creditor has stated that in spite of several oral and written reminders, the Corporate Debtor failed and neglected to fulfil the contractual terms and neglected to pay the outstanding dues towards the said Credit Facilities availed from the Financial Creditor, due to which the account of the Corporate Debtor was classified as NPA on 10.02.2012. It is further stated that Financial Creditor also issued a notice dated 28.03.2017 under section 13(2) of the SARFAESI Act, 2002. The Corporate Debtor is in default with regards to financial debt owed by it to the Financial Creditor amounting to ₹2273,12,44,726.92/- including principal and interest amount as on 31.07.2021.
9. It is stated in the petition that the Corporate Debtor had written a letter dated 15.01.2021 to the Financial Creditor thereby, admitting default in payment of interest and instalments and also admitting their liability as well as classification of the accounts as NPA. The instant application is, therefore, well within the prescribed period of limitation as the cause of action thereof is continuing.
10. The Corporate Debtor was duly served with notice and was afforded opportunity to file reply, but they failed to do so and learned counsel appearing for the respondent has admitted the default made by respondent.
11. We have also gone through the contents of the Petition the pleadings filed by the Financial Creditor along with Annexures, and the reply of the Corporate Debtor. We are convinced that the loan amount was duly disbursed to the Corporate Debtor. The requisites of an application under section 7 of IBC are available on record and duly proved.

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12. The Financial Creditor has taken consent from **Mr. Uday Narayan Mitra** an Insolvency Professional to become Interim Resolution Professional (IRP) of the Corporate Debtor in Form-2 and that no disciplinary proceedings are pending against him with the Board or IIPICAI
13. We, therefore, consider it a fit case for admitting the petition, and for initiation of Corporate Insolvency Resolution Process in respect of the Corporate Debtor.
14. In view of the aforesaid observations, we hereby admit the petition and pass the following Orders: -

ORDERS

- a. The Petition bearing CP (IB) No. 34/CTB/2021 filed by State Bank of India the Financial Creditor, under section 7 of the Code read with rule 4(1) of the Insolvency & Bankruptcy (Petition to Adjudicating Authority) Rules, 2016 for initiating CIRP against **ARSS Infrastructure Projects Limited** [CIN: L14103OR2000PLC0062302], the Corporate Debtor, is **admitted**.
- b. There shall be a moratorium under section 14 of the Code.
- c. The moratorium shall have effect from the date of this order till the completion of the CIRP or until this Adjudicating Authority approves the resolution plan under sub-section (1) of section 31 of the IBC or passes an order for liquidation of Corporate Debtor under section 33 of the Code, as the case may be.
- d. Public announcement of the CIRP shall be made immediately as specified under section 13 of the Code read with regulation 6 of the Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

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- e. **Mr. Uday Narayan Mitra (Reg. No. IBBI/IPA001/IP-P00793/2017-18/11360)** having address at 72/1, Dawnagazi Road, Bally, Kolkata, West Bengal, 711201 [email id: udaynarayanmitra@yahoo.co.uk] is hereby appointed as Interim Resolution Professional (IRP) of the Corporate Debtor to carry out the functions as per the Code, subject to his possessing a valid Authorisation for Assignment (AFA) in terms of 7A of the Insolvency and Bankruptcy Board of India (Insolvency Professional) Regulations, 2016. The fee payable to IRP or, as the case may be, the RP shall be compliant with such Regulations, Circulars and Directions as may be issued by the Insolvency & Bankruptcy Board of India (IBBI). The IRP shall carry out his functions as contemplated by sections 15, 17, 18, 19, 20 and 21 of the Code.
- f. During the CIRP period, the management of the Corporate Debtor shall vest in the IRP or, as the case may be, the RP in terms of section 17 of the IBC. The officers and managers of the Corporate Debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP within one week from the date of receipt of this Order, in default of which coercive steps will follow.
- g. The IRP/RP shall submit to this Adjudicating Authority periodical reports concerning the progress of the CIRP in respect of the Corporate Debtor.
- h. The Financial Creditor shall deposit a sum of ₹3,00,000 (Rupees three lakh only) with the IRP to meet the expenses arising out of issuing public notice and inviting claims. These expenses are subject to approval by the Committee of Creditors (CoC).
- i. In terms of section 7(5)(a) of the Code, the Registry is hereby directed to communicate a copy of this Order to the Financial Creditor, the

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IN THE NATIONAL COMPANY LAW TRIBUNAL
CUTTACK BENCH

CP (IB) No.34/CB/2021

In re: State Bank of India Vs. ARSS Infrastructure Projects Limited

Corporate Debtor and the IRP by Speed Post, e-mail or WhatsApp immediately, and in any case, not later than two days from the date of this Order.

- j. Additionally, the Financial Creditor shall serve a copy of this Order on the IRP and on the Registrar of Companies, Odisha, Cuttack by all available means for updating the Master Data of the Corporate Debtor. The said Registrar of Companies shall send a compliance report in this regard to the Registry of this Court within seven days from the date of receipt of a copy of this order.
15. **CP (IB) No. 34/CB/2021** to come up on 05.01.2022 for progress report.
16. Certified copy of the order may be issued to all the concerned parties, if applied for, upon compliance with all requisite formalities.

Sd

Satya Ranjan Prasad
Member (Technical)

Sd

P. Mohan Raj
Member (Judicial)

Signed this 30th day of November, 2021.

Ravijeet _P.S.



Gautam Barnwal <gautam.barnwal.adv@gmail.com>

Service of Affidavit on behalf of Respondent No. 11 in "Kabiraj Mahapatra v. UOI [O.A. No. 153/2023/EZ]"

1 message

Gautam Barnwal <gautam.barnwal.adv@gmail.com>

6 September 2024 at 19:50

To: Debabrata Ganguly <debabrataga@gmail.com>, "advocatedebaleenagangulysoffic@gmail.com" <advocatedebaleenagangulysoffic@gmail.com>, apurba ghosh <apu7law@gmail.com>, Dipanjan Ghosh <dpnjnghsh0@gmail.com>

Cc: Gaurav Khanna <gaurav@gauravkhanna.in>

Sir/ Ma'am,

Please find the attached affidavit on behalf of Respondent No. 11 in the subject case.

Kindly acknowledge receipt of the same.

--

Gautam Barnwal
Advocate, Supreme Court of India.
Contact: +91 8969011590

Chambers of Shri Gaurav Khanna
AOR, Supreme Court of India.
Office address: A-1/246, LGF, Safdarjung Enclave, New Delhi- 110029

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