

**BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTH ZONE BENCH
AT CHENNAI**

Original Application No 19 of 2013 (SZ) (THC)

Meenavargal Membattu Sangam,
Represented By Its President,
Royapuram K.R. Selvaraj kumar
97/2, S N Chetty Street
Royapuram , Chennai – 600 013

... Applicant

Vs.

The Chief Secretary
Government of Tamil Nadu
& 5 Others

... Respondents 1 to 6

OA No 248 of 2016

Meenava Thanthai K.R.Selvaraj Kumar
Meenavar Nala Sangam

... Applicant

Vs.

The State of Tamil Nadu & 7 Others

... Respondents 1 to 7

And

OA No 224 of 2016

Meenava Thanthai K.R.Selvaraj Kumar
Meenavar Nala Sangam

... Applicant

Vs.

The Chief Secretary,
Government of Tamil Nadu

... Respondents 1 to 7

COMMON WRITTEN SUBMISSIONS FILED BY 6th RESPONDENT IN OA No 19
of 2013 VIZ. KOTHARI PETROCHEMICALS LIMITED
Date of Hearing Arguments-01.02.2022

The 6th Respondent Company respectfully submits as follows:

1. The 6th Respondent is a Public Limited Company and owns a Factory since 1991 at Manali, Chennai wherein it is inter alia engaged in the manufacture of Poly-Isobutylene. The manufacturing capacity of its factory is 24000 metric tonne per annum. The raw material required for manufacturing the finished product inter alia is Petroleum gases and other gaseous hydrocarbons (Poly butylene feed stock) supplied by Chennai Petroleum Corporation Limited and other sources. For the manufacturing process power is also generated by the 6th Respondent through a separate co-generation power Plant (herein after referred to as "CPP") which has been established in its factory at Manali. The 6th Respondent has obtained consent to operate under the provision of Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981 for its manufacturing plant and the co-generation power Plant to discharge trade effluent and sewages.
2. **It is also not out of place to submit that there are no allegations contained in the above 3 OA's filed by Applicant . The said fact was also fairly conceded by the Counsel for Applicant during the final hearing on 01.02.2022 before this Hon'ble Tribunal .** The 6th Respondent viz Kothari Petrochemical Limited (herein after referred as "KPL") was not a actual party in OA No. 19 of 2013 or other two OA's . This Respondent became a party to *lis* , based on the certain marginal exceedance findings stated in Final Report dt 28.10.2020 of the Joint Committee filed by Central Pollution Control Board.
3. Thereafter KPL filed Impleading Application IA No 123 of 2020 in OA No 19 of 2013. They were impleaded by Order dt.23.03.2021 passed by this hon'ble Tribunal in Impleading Application No.123 of 2020 filed by the 6th Respondent herein. This Hon'ble Tribunal was pleased to implead 6th Respondent herein in other connected OA No 248 of 2016 and OA No 224 of 2016 as 8th and 9th Respondents respectively. In the said Order this Hon'ble Tribunal has also directed this Respondent also to file their objections to Final Report dt 28.10.2020 of the Joint Committee filed by Central Pollution Control Board.

The 6th Respondent have also e-filed the objection on 24.04.2021 and hard copy was filed subsequently.

4. The 6th Respondent factory was inspected by a Joint Committee constituted by this Hon'ble Tribunal without no show cause notice on 06.03.2020. When 6th Respondent informed the Committee that they are not party in OA No.19 of 2013. The Joint Committee informed that pipeline to discharge the treated effluent from all three units namely Manali petrochemical Limited (herein after referred as "MPL"), TamilNadu Petroproducts Limited (herein after referred as "TPL") and Kothari Petrochemical Limited (herein after referred as "KPL") is one and the same and the said pipeline has been installed by MPL, the inspection is carried in respect of KPL also along with MPL and TPL. Joint Committee Report dt 28.10.2020 ["JC Report"] reveals that the Joint Committee has recommended an interim compensation of Rs 24 lakhs on KPL and KPL is aggrieved by such levy and filed their objections to JC Report.
5. The 6th Respondent submits that KPL's trade effluent are treated at its Effluent Treatment Plant [ETP] located inside their factory through the HRCC, Ultra Filtration and thereafter it is sent through three (3) stage Reverse Osmosis ["RO"] Process in its factory. The permeate water from the RO- 01, RO-2 and RO-3 is collected and recycled back to process plant and the Final RO-03 reject water called as "RO Reject" . The 6th Respondent discharges its treated effluent viz RO Reject into sea through a common marine pipeline established by MPL by virtue of an agreement title "Agreement for usage of treated effluent pipeline" dated 29th June 2011 between KPL and MPL. The said effluent treatment unit has been established by 6th Respondent at a cost of Rs. 2.5 Crore.
6. The 6th Respondent [KPL] is a very small unit and its production capacity per day is 2000 metric tone of Polybutene and discharges an average quantity of 30-40 KL of RO reject into the common marine pipeline per day and that too after treating the same, which is periodically tested by TNPCB and the discharge point and stacks are all connected with online monitoring system with data transfer to the servers established by CPCB, TNPCB and water care center with remote calibration facility.
7. Joint Committee on 06.03.2020 collected the sample of inlet and outlet of ETPs of all the four units and instant readings of the flow were noted. The JC Report has stated that all parameters in Inlet sample (effluent before

treatment) on 06.03.2020 is found to be normal and within the limits. However the Sulphate found in the Outlet sample (RO Reject/ After treatment) on 06.03.2020 is found to be in excess in marine disposal standards by 739 mg/L. Similarly the Ammonia as Nitrogen in Outlet sample on 06.03.2020 is found to be in excess in marine disposal standards by 41.1 mg/L. The JC Report Further states that after mixing with other industrial treated effluent, it reaches the standard norms before discharge into sea. The operative portion of the JC Report is extracted hereunder

“From the above analysis results, it shows that except sulphate and ammonical nitrogen, remaining parameters are meeting the prescribed standards. **But the sulphate and ammonical nitrogen is found within the limit after confluence of treated effluent from all other industry.** Since the unit is discharging RO reject, percent reduction could not be evaluated.

During the time of sample collection, flow was found to be 3.6 cubic meter/ hour. Hence, total amount of treated effluent discharged in to the sea will be 86.4 cubic meter/ day. Based on flow, overall **BOD load dumped in to the sea will be 0.8 kg/day.**”

The operative portion of above JC Report has been extracted and our reply has been stated in detail in our objections filed in the above matter. It is further submitted that Joint Committee in their report has mis-computed the total amount of treated effluent discharged into the sea based on the flow rate taken at the time of sample drawn and calculating it for 24 hours discharge for a day. As per pumping schedule instruction of MPL dated 28.10.2016, the Respondent is allowed to discharge only in three slots for total 10 hours in a day at flow rate of maximum of 6 cubic meter per hour with the existing facilities. If the total BOD load dumped into the sea is calculated at the maximum flow rate for three slots of total 10 hours in a day will not exceed 0.6 kg/day.

8. **It is submitted that all other main parameters like pH, TSS, COD, chromium, phenol etc are found to be well within the limit in the Inlet and Outlet of Effluent Treatment Plant of KPL. Especially BOD level is only 0.8 kg/ day which is very minimal.** However there seem to be a slight variation of certain milligrams in respect of Sulphate and Ammonia on that particular day i.e 06.03.2020 as alleged by the Joint Committee. In this regard it is submitted that said sampling results on a particular day cannot be taken as yardstick to conclude the same are not within the limits. The Inlet (effluent prior to treatment) led into the treatment plant is very much in the permissible limit even according to the Joint Committee viz Sulphate and

Ammonia are within the permitted limits in the Inlet of ETP of KPL . **Only in the process of treatment and that too in the particular day on 06.03.2020 the said two parameters in the outlet at the point of discharge into common pipeline, are allegedly found to be marginally in excess by the Joint Committee.** However the same after mixing with other industrial treated effluent in the common pipeline and it reaches the standard norms at the point of discharge into sea. **This point of discharge is sacrosanct for the purposes of this case and as such Ammonia and Sulphate are well within the parameters at the point of discharge into sea**

9. Apart from TNPCB, KPL also monitors the parameters through a third party accredited lab and the test report furnished by said accredited lab prior to 06.03.2020 and post 06.03.2020 are well within the prescribed limit and same available in page no.11 of objection filed by 6th Respondent. It is admitted in JC Report that w.e.f 15.5.2020, KPL is in compliance of said two parameter Sulphate and Ammonia. Even now the samplings are periodically tested by TNPCB and the same are found to be in order. Hence it is strictly submitted that based on sudden sampling done on 06.03.2020 it cannot be stated that Sulphate and Ammonia are in excess than the prescribed limits.

10. The Joint Committee is that Particulate Emission("PM") of CPP Boiler is marginally in excess of 1.8mg/Nm³. Even the said test has been conducted on the same day i.e 06.03.2020. For PM exceedance, JC Report has considered KPL's CPP plant as a thermal power plant category and calculated the PM with Oxygen content 6% as basis in the stack outlet. Usually, KPL won't check the oxygen in their stack emission. KPL is in the petrochemical category, and they have a combined stack for 20 Tonnes Per Hour ("TPH") Husk boiler (CPP), TP10 (TP means Thermopac, and 8 TPH Husk fire boiler, and the prescribed parameters have complied properly. The Reports pertaining to the same before 06.03.2020 and after 06.03.2020 are available in page no.16 of objection filed by 6th Respondent

11. The JC Report the sampling made by TNPCB on 15.05.2020 at KPL found to be in order and hence those above said 3 parameters are within the prescribed limit. Hence even according to Joint Committee there is no deviation or excess of those 3 parameters from 15.05.2020. The Joint Committee has also found that KPL factory was not in operation during the lockdown from 24.03.2020 to 23.04.2020 and **without testing on any day after 24.04.2020 the JC assuming that parameter which marginally exceeds on 06.03.2020 would continue even after**

the reopening of the factory from 24.04.2020 to 15.05.2020 is highly arbitrary and unjust and has no basis.

It is needless to state that after covid first lock down w.e.f 24.4.2020 to 15.5.2020 (22 days) Plant was operating on less than 30 % production with lock down guidelines in force . It is needless to state that the quantity of effluent discharge depends upon capacity of operation and production of the plant and labour present and raw materials available and so many other factors. Based on so called exceedance of limit on particular day, it cannot be found that such limits would have exceeded for other days also. Hence even on this score, levy of compensation for 40 days is highly arbitrary and unjust. In any event compensation levied in JC Report for the period 24.4.2020 to 15.5.2020 (22 days), after lock down re-opening with marginal production as per strict first covid guidelines is totally unfair and deserves to be set aside by this Hon'ble Tribunal

12. Further even assuming for a moment without admitting that said two parameters have exceeded at the discharge outlet of KPL into common pipe line as per JC Report, they seem to be in compliance after mixing with MPL's treated effluent and at the discharge point into Sea .Hence there cannot be any violation or excess in normal standards into Sea. The relevance is only at the point of discharge into Sea and not into common pipeline. Hence even on this score there cannot be any levy of compensation on KPL. Thus the 6th Respondent has strict in compliances of all applicable standards stipulated by TNPCB and they have not violated any of the pollution norms.
13. It is further submitted that pursuant to the directions of this Hon'ble Tribunal , CPCB has also filed a Status Report dt 18.3.2021 and the same states that all parameters are within the prescribed norms and this 6th Respondent has not exceeded any prescribed parameters . Hence w.e.f 15.5.2020 and even as on 18.3.2021 all parameters are within the prescribed norms in respect of this Respondent as per JC Report dt 28.10.2020 and Status Report dt 18.3.2021
14. The 6th Respondent provides employment for about 150-200 persons directly and indirectly, who are dependent on the 6th Respondent for their livelihood. The 6th Respondent has invested Rs 2.5 crore and put up its ETP plant at its unit considering the environment . This Respondent is a law abiding corporate citizen and always ensures surrounding environment is safe and clean by following environmental laws. It is in possession of all applicable licenses , permits and Consents under Water and Air Acts

15. This 6th Respondent has not violated any of the pollution norms and the Pollution Control Board periodically analyses the Ro Reject (treated trade effluent) of the 6th Respondent. This 6th Respondent has made out a strong case for dropping of the said proposed compensation and the balance of convenience also lies in their favour. The 6th Respondent would be put to irreparable loss and severe hardship if the said compensation is not waived. No prejudice would be caused to any of the Respondents if the compensation recommended is set aside by this Hon'ble Tribunal. In the light of the above, this 6th Respondent states that such proposed compensation is arbitrary and baseless as submitted supra and hence prays this Hon'ble Tribunal may be pleased to set aside the said proposed compensation

In the light of the above, the 6th Respondent prayed that this Hon'ble Tribunal may be pleased to set aside the said proposed compensation of Rs 24 lakhs, as recommended by the Joint Committee in its Final Report dt. 28.10.2020 and pass such orders as this Hon'ble Tribunal may be pleased in the facts and circumstances of the case and thereby render justice.

Dated at Chennai on this the 02 day of February 2022



Counsel for 6th Respondent

BEFORE THE HON'BLE NATIONAL
GREEN TRIBUNAL SOUTH ZONE
BENCH AT CHENNAI

O.A. NO.19 of 2013

Meenavargal Membattu Sangam

..... Applicant

-Vs-

The Chief Secretary
Government of Tamil Nadu
& 5 others

.....Respondents 1 to 6

WRITTEN SUBMISSION FILED BY
6th RESPONDENT

AR.RAMANATHAN
Counsel for 6th Respondent
Ph No.:9840232072