

BEFORE THE HONOURABLE NATIONAL
GREEN TRIBUNAL
SOUTH ZONE, CHENNAI

Original Application No.262 of 2017 (SZ) &
M. A No. 215 of 2017 (SZ)

Applicant : K.K. Muhammed Iqbal

Vs

Respondents : The Kerala State Pollution Control Board &
Others

REPORT FILED BY THE CHIEF ENVIRONMENTAL ENGINEER
FOR AND ON BEHALF OF THE KERALA STATE POLLUTION
CONTROL BOARD



Standing counsel for the 1st respondent

Rema Smrithi. V. K., Advocate
Additional Standing Counsel, National
Green Tribunal, (SZ), CHENNAI

BEFORE THE HONOURABLE NATIONAL GREEN
TRIBUNAL
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Dated this the 18th day of January, 2024.

Rema Smrithi. V. K., Advocate

Standing Counsel for the 1st Respondent

BEFORE THE HONOURABLE NATIONAL GREEN
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REPORT FILED BY THE CHIEF ENVIRONMENTAL ENGINEER
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CONTROL BOARD

I, Baburajan P K, aged 53 years, working as Chief Environmental Engineer, Regional Office, Kerala State Pollution Control Board, Ernakulam. I am competent to and duly authorized to represent the 1st Respondent in the above application. I know the facts and circumstances of the case. The factual submissions made here under are true and correct to the best of my knowledge, information and belief. In these circumstances, it is just and necessary that this Hon'ble Tribunal may be pleased to accept the accompanying information on file and it is so humbly prayed in the interests of justice in this case.

1. It is respectfully submitted that the Hon'ble National Green Tribunal (SZ) issued the following major directions while disposing the OA 262/2017.




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Chief Environmental Engineer

- i. The contention of the 4th respondent that they are not highly polluting industry and they are not liable to pay compensation, as no damage has been caused to the environment on account of their activities is rejected and the 4th respondent is liable to pay compensation for the damage caused to the environment, but the quantum of compensation can be quantified after giving opportunity to the 4th respondent.
- ii. The Kerala State Pollution Control Board is directed to issue a show cause notice under Section 5 of the Environment (Protection) Act, 1986, giving an opportunity to the 4th respondent to show cause as to why the quantum of compensation assessed by the Joint Committee appointed by this Tribunal should not be imposed and after giving them an opportunity for filing their objections, the Kerala State Pollution Control Board is directed to pass final order against the 4th respondent on the quantum of compensation and action in this regard has to be completed within a period of four months.
- iii. The right of the 4th respondent to challenge the quantum of compensation imposed, based on the final orders to be passed by the Kerala State Pollution Control Board as directed by this Tribunal before the appropriate forum under Section 5 A of the Environment (Protection) Act, 1986 r/w Section 16 of the National Green Tribunal Act, 2010 is left open. If any amount has been spent by the 6th Respondent for removing the plastic waste dumped in their premises and the amount of Bank Guarantee furnished and forfeited, the State Pollution Control Board is also directed to adjust towards the compensation payable by the 4th Respondent and this will have to be considered by the Board while assessing the environmental compensation payable by the 4th Respondent.
- iv. The Central Pollution Control Board and the State Pollution Control Board are directed to conduct a study regarding the process of remediation to be done to make the site contamination free and the expenses for conducting such study has to be met from the environmental compensation recovered from the 4th Respondent and the nature of remediation process has to be carried out by the 4th respondent under the supervision of the Kerala State Pollution Control Board and the Central Pollution Control Board by using the amount of compensation recovered from the 4th respondent as directed above. If that amount is not sufficient, then the excess amount has to be recovered from the 4th respondent by the Kerala State Pollution Control Board in accordance with law.




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- v. The 4th respondent is directed to abide by the directions issued by the Tribunal in co-operation with the Kerala State Pollution Control Board and the Central Pollution Control Board in carving out the remediation process based on the further study (if any) to be conducted as directed by this Tribunal.
- vi. If any further waste to be removed from the premises, the same has to be removed by the 4th Respondent within 3 (Three) months as directed by the State Pollution Control Board and if it is not done by the 4th Respondent, the same is directed to be removed by the State Pollution Control Board and the amount incurred for the same can be recovered from the 4th Respondent.

2. It is respectfully submitted that as per the direction number (ii) of the Hon'ble NGT the Board issued a show cause notice to the 4th respondent, M/s. SreeSakthi Paper Mills Ltd on 26/07/2022 directing to show cause within 15 days why the environmental compensation of Rs. 1, 42, 56,000/- and environmental damage of Rs.72, 85,486.96/- assessed by the joint committee appointed by the Hon'ble NGT should not be imposed. A hearing was also conducted in compliance to the order dated 07/07/2022 of the Hon'ble NGT. In response to the above show cause notice, M/S Cella Space Limited (formerly Sree Sakthi Paper Mills Limited) has submitted a reply during the hearing on 12/09/2022.

3. It is respectfully submitted that during the hearing conducted by the Board the 4th respondent filed the following major objections towards imposing environmental compensation.

- i. Quantum of damages to be levied is to be determined on actual assessment of environmental damage if any caused by the company. Since there is no evidence for damage caused by Sree Sakthi Paper Mills, damages assessed by committee are not liable to be relied on.
- ii. Sree Sakthi Paper Mills was engaged in recycling which was a green activity contributed to eco- friendly living. The company had collected waste paper that was already trashed by some other people and subjected to recycling. Only the plastic stickers/ fasteners which came along with such trash was segregated and collected. This green activity should be taken into consideration while deciding compensation to be imposed.
- iii. No testing of river water is conducted. Also there has been no allegation regarding plastic in river.




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- iv. The surveillance camera of Kerala State Pollution Control Board near the site never detected floating plastic in the river. Also there were no reports of plastic disposal in river Periyar.
- v. Since the notice issued to Sree Sakthi Paper Mills Limited in the year 2017, has not stipulated any time frame for removal of plastic, reckoning the date of notice as the date of commencement of violation is incorrect.
- vi. After closing the company on June 2016, they had spent Rs 1.66 crore for removal of plastic waste, Rs. 32.68 lakhs for putting earth, GSB and P sand on the site and levelling the same as per the direction of CEE, Ernakulum. Rs 7.19 lakhs was used to convert it to parking space. Thus a total of Rs 2.06 crores was spent for complete removal of plastic waste and cleaning of the site. The Hon'ble NGT has already ordered that the amount spent for removal of plastic waste should be considered while assessing damages.
- vii. Damages have been computed based on standards prescribed in US for environmental restoration. Document relied on is unconnected to the matter.
- viii. The no of days of violation taken for easy calculation is not correct. The order of the NGT that board should remove plastic waste resulted in increase in the number of days of violation
- ix. Since they had completed levelling and renovation of site as instructed by Chief Environmental Engineer, any type of additional excavation may result in huge loss of money and manpower.
- x. Company has stopped operation long back and imposing any further amount as damages will be unjust and unfair.

4. It is respectfully submitted that during the hearing, it was decided that Chief Environmental Engineer Regional office, Ernakulum would conduct an inspection in the site on 22/09/2022. Accordingly the inspection was conducted on 22/09/2022. The Company M/S SreeSakthi Paper Mill Limited already has closed down the unit in compliance with the closure direction issued by the Board. Now in place of M/S SreeSakthi Paper Mill Limited, a new company namely M/S Cella Space Limited established as industry / warehouse / logistic purpose for which consent to operate was issued with validity up to 31/10/2025. During the inspection it was noticed that they had removed the complete plastic waste which had been heaped at the site and had compacted the yard with earth, GSB and P sand on the site and levelled the same. It was reported that this area was proposed to be used as a parking ground for vehicles. There is a land strip adjacent to this ground and Periyar river on




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Chief Environmental Engineer

the other side which comes around 10-15 cents. This land strip is reported to be Puramboke. The second phase sampling by the Joint Committee was carried out from this piece of land. At present this area is covered with thickly grown grass and bushes and is not easily accessible. They have demarcated their plot with green net.

5. It is respectfully submitted that the Joint Committee has reported that the estimated environmental damage cost of plastic pollution was limited to the phase after the removal of plastic waste from the site. The environmental damage cost of historic plastic pollution due to waste plastic dump in the site and the river is not considered as relevant as data on the quantity of waste dumped and the quantity of plastic reached the river and adjacent estuary is not available. They have also mentioned that in most of the cases the baseline indices and markers required to envisage the extent of environmental/ecological/social cost are not available for the accurate assessment of environmental damages and after the assessment has to be done on "notional" basis under the ambit of polluter pays principle.

6. It is respectfully submitted that the reclaimed land is reported to be used as a parking ground for the company. The ground is strengthened by filled with earth, rubble, GSB and P sand. The complete plastic waste previously heaped at the site has been removed by the company. Since the land is located in an industrial area and in no way it can't be used for any other purpose other than industrial or commercial purpose, it is just and fair that the complete removal of plastic waste and the earth works done by filling the ground with earth and rubble can be considered as a remediation work.

7. It is respectfully submitted that regarding the Environmental Compensation, under direction no. (iii), the Hon'ble Tribunal has made it clear that if any amount has been spent by the 4th respondent for removing the plastic waste dumped in their premises and the amount of bank guarantee furnished and forfeited, the State Pollution Control Board can adjust towards the compensation payable by the 4th Respondent and this will have to be considered by the Board while assessing the environmental compensation payable by the 4th Respondent. The Hon'ble Tribunal itself has given the liberty to State Pollution Control Board to adjust the amount which has been spent for removal of the plastic waste dumped in their premises towards the compensation payable by the 4th respondent company. Hence in tune with the above directions, it was decided to waive off the penalty imposed on M/s. Sree Sakthi Paper Mills after verification of the documents related to amount spent by the company for the removal of plastic waste to Kerala Enviro Infrastructure Limited including the payment to KEIL, JCB, Hitachi and labour charges. The Environmental Compensation assessed by the Joint Committee is Rs. 1,42,56,000/- and the environmental damage is




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Chief Environmental Engineer

assessed as Rs. 72,82,486.96/-. This makes a total of Rs. 2,15,38,486.96/-. Documents submitted by M/s. Cella Space Limited were verified and it was found that the total amount spent by the company towards the removal of plastic waste, levelling the site and renovating the site to a parking yard in connection with remediating the site is Rs.2,06,28,353/-. It was seen that there was a shortage of Rs. 9,10,134/- and the board instructed M/s. Sree Sakthi Paper Mills to remit the balance amount to Board's Environmental Protection Fund. The letter from Chairman to M/s. Sree Sakthi Paper Mills directing the company to pay the balance amount is attached as **Annexure 1**. M/s. Sree Sakthi Paper Mills had remitted the balance amount to the Kerala State Pollution Control Board on 27.12.2022. The letter from M/s. Sree Sakthi Paper Mills and payment invoice is attached as **Annexure 2**. Since all the plastic waste has been removed and the site is remediated, no further action is found to be required in this matter.

All that is stated above are true to the best of my knowledge information and belief.

Dated this the 18th day of January, 2024.




BABURAJAN P.K.
Chief Environmental Engineer

Chief Environmental Engineer

BEFORE THE HONOURABLE NATIONAL GREEN
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Applicant : K.K. Muhammed Iqbal

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VOLUME – II

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Dated this the 18th day of January, 2024.

Rema Smrithi. V. K., Advocate

Standing Counsel for the 1st Respondent



KERALA STATE POLLUTION CONTROL BOARD

കേരള സംസ്ഥാന മലിനീകരണ നിയന്ത്രണ ബോർഡ്

Pattom P.O., Thiruvananthapuram - 695 004
പട്ടം പി.ഒ., തിരുവനന്തപുരം - 695 004

ANNEXURE 1

PCB/HO/EKM/CE/91/2006

Date: 17/12/2022

From

The Chairman

To

✓ The General Manager (Administration)
Sree Sakthi Paper Mill Limited
Sree Kailas, CC-60/3976-77
Paliyam Road,
Ernakulam, Kochi-682016

Sub:- Original Application no. 262/2017 before the Hon'ble NGT(SZ) in connection with plastic removal from M/s. Sree Sakthi Paper Mills Ltd -reg.

Ref:-1) Hearing held on 12/09/2022

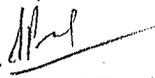
2) Letter No. PCB/RO-EKM/GEN-142/16 dated 01/12/2022.

Sir,

As decided in the hearing cited (1) above, and in compliance with the order of Hon'ble NGT dated 07/07/2022 in OA 262/2017, Chief Environmental Engineer, Regional Office, Ernakulam was entrusted, to verify the documents in proof of amount spent by you, towards the removal of plastic waste dumped in your premises. Vide letter cited (2), Chief Environmental Engineer, Regional Office has reported that the total amount of spent by the company towards the removal of plastic waste, levelling the site and renovating the site to a parking yard Rs. 2,06,28,353/- . The Environmental Compensation assessed by the joint committee in OA 262/2017 is Rs.1,42,56,000 and the environment damage is assessed Rs.72,82,486.96/- This makes a total of Rs. 2,15,38,486.96/- .As per the order of the Hon'ble NGT the amount spent for the removal of plastic waste is hereby adjusted towards the Compensation payable. It is seen that there is a shortage of Rs. 9,10,134/- (Rupees: Nine Lakhs Ten Thousand One Hundred

and Thirty four only) between the total amount spent by you and the total amount assessed by the Joint Committee. You are hereby directed to remit the amount to Board's Environmental Protection Fund. [Account No. 67366954329 at SBI, Pattom LIC Junction Branch (IFSC SBIN0070212)] within 7 days of receipt of this letter under intimation to Chief Environmental Engineer, Regional Office, Ernakulam.

Yours faithfully,


CHAIRMAN

Copy to:

1. Chief Environmental Engineer
Regional Office, Ernakulam
2. Senior Environmental Engineer
ESC, Eloor, Ernakulam.
3. Senior Environmental Engineer -1
Head Office..



CELLA SPACE LIMITED

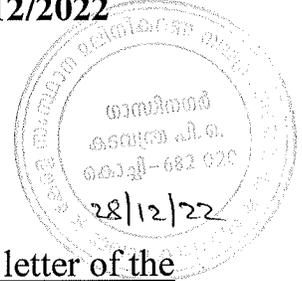
(Formerly Sree Sakthi Paper Mills Limited)

ANNEXURE 2

Regd Office : "SREE KAILAS", 57/2993, PALIAM ROAD, ERNAKULAM,
COCHIN- 682 016 Phone: (0484)3002000, E-mail: secretary@sreekailas.com

To
The Chief Enviromental Engineer
Kerala State Pollution Control Board
Ernakulam.

27 /12/2022



Sir

Sub: - Payment of Balance amount payable as per letter of the Chairman Pollution Control Board.

- Ref :-** 1) Letter No PCB/HO/EKM/CE/91/2006 dt 17/12/2022
Received on 21/12/2022 at our Registered Office, Ernakulum.
- 2) Original Application No 262/2017 before NGT (SZ) in Connection with Plastic removal.
 - 3) Hearing held on 12/09/2022.
 - 4) Letter No.PCB/RO-EKM/GEN-142/16 dt 01/12/2022.

As per the above mentioned Letter from the Chairman Pollution Control Board we have remitted Rs 9, 10,134/- (Rupees Nine Lakh Ten Thousand one Hundred Thirty Four) towards the compliance of the order from the Hon'ble NGT dated 070702022. We maintain our Objection that the amount quantified as penalties by the committee as also accepted in the order is not properly fixed and we are seriously aggrieved that the various contentions raised by us in the proceedings is not considered at all, however we are making this payment under protest so that there is an end and conclusion to the issue totally. The Payment is made as full and final settlement of the case pending with the NGT. We request you to please accept the same and give an acknowledgement .

26/12/22
ABB

5292
28/12/22

Thanking You
Yours faithfully

Vinod (General Manager)



CELLA SPACE LTD
8 GOPALAKRISHNA ROAD
VEEKAY MANOR FLAT NO 15 3RD FLOOR
T NAGAR
CHENNAI, TAMIL NADU. Pin : 600017

PAYMENT ADVICE

Transaction Date	:	27/12/2022
Remitter Name	:	CELLA SPACE LTD
Remitter's Account No	:	67500000726812
Beneficiary Code	:	
Beneficiary Name	:	KERALA STATE POLLUTION CONTROL BOARD ENVIRONMENTAL PROTECTION FL
Beneficiary Account No	:	67366954329
Transaction Remarks	:	RTGS - SBIN0070212 - C79406271222123831 - - 67366954329 - KERALA STATE POL
Reference No	:	299545113
Payment mode	:	RTGS
UTR / RRN No	:	HDFCR52022122770688835
Amount	:	910134.00
Amount in Words	:	Nine Lakh Ten Thousand One Hundred Thirty Four Rupees

Dear Sir / Madam

We have initiated your payment for an amount of Rs. 910134.00 for the services rendered / to be rendered against the below mentioned details

Payment Details 1 :
Payment Details 2 :
Payment Details 3 :

This is Computer generated advice. Does not require any signature.