

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL  
SOUTHERN ZONE SITTING AT CHENNAI**

**APPLICATION No. 32 of 2022**

**BETWEEN**

**M/s. FOMRA HOUSING AND INFRASTRUCTURE PVT LTD.**

Rep by its Managing Director Mr. Sharad Fomra,  
No.18, AA Block,  
3<sup>rd</sup> Street,  
Anna Nagar,  
Chennai – 600 040.

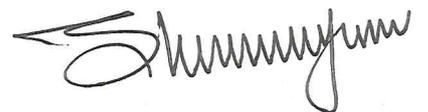
**AND**

1. The Chairman,  
Tamil Nadu Pollution Control Board,  
Guindy, Chennai
2. The District Environmental Engineer,  
Tamil Nadu Pollution Control Board,  
Chennai.
3. M/s. Gee Emm Arr Chemical,  
Rep. by its proprietor, Mr. G Munirathinam,  
No.1/4, Poonamallee High Road,  
Vanagaram, Chennai – 600 095.

**OBJECTIONS TO THE REPORT FILED BY TNPCB**

I, Sharad Fomra, S/o Natwarlal Fomra, aged about 47 years, having office at No. 18, AA Block, 3rd Street, Anna Nagar, Chennai 600 040, do hereby solemnly affirm and sincerely state as follows :

1. I am the Managing Director of the Applicant company and as such, I am well aware of the facts and circumstances of the present





3. I submit that this Hon'ble Tribunal vide order dated 16.03.2022 had directed as follows :

*"8. In the mean time, the District Environmental Engineer, Tamil Nadu Pollution Control Board, Chennai/2<sup>nd</sup> respondent is directed to inspect the unit in questions and submit a factual as well as action taken report, if there is any violation found.*

9. *They are directed to consider the question as to :*

- i) Whether it is a permissible activity within that area,*
- ii) Whether they had obtained necessary authorization from Tamil Nadu Pollution Control Board under Rule 6 of the Hazardous and Other Waste (Management and Transboundary Movement) Rules 2016, and if not, what is the nature of action taken against the 3<sup>rd</sup> respondent unit as a regulator."*

4. I submit that as per the direction of this Hon'ble Tribunal, the 2<sup>nd</sup> Respondent had inspected the unit and had filed his report before this Hon'ble Tribunal.

5. I submit that the report filed by the 2<sup>nd</sup> Respondent is incomplete and has overlooked various key factors that ought to have been inspected and submitted before this Hon'ble Tribunal.

### **INCOMPLETE INSPECTION**

6. I submit that the report simply states that the 3<sup>rd</sup> Respondent unit is a dealer of Acids and Chemicals and in existence for the past 14 years with all necessary licenses for trading cleaning products





10. I submit that the report, as mentioned above, has overlooked the actual factual activity of the unit and has oversimplified the same by stating that the unit is carrying out "trading activity" and therefore, does not come under "industrial activity" and any of the industrial categorization of Tamil Nadu Pollution Control Board.

11. I submit that, as stated above, the unit is not merely involved in "trading activity" but is also actively involved in "storing and handling the hazardous chemicals" within the premises. I submit that as per the Revised Categorization of Industries issued by the Tamil Nadu Pollution Control Board dated 02.08.2016 pursuant to the Letter issued by the Central Pollution Control Board dated 07.03.2016, the following activity has been classified as "**Red Category Industry**" -

*"Isolated storage of hazardous chemicals (as per schedule of Manufacturing, Storage of Hazardous Chemicals Rules, 1989, as amended)"*

12. I submit that as per the Schedule annexed to the Manufacturing, Storage of Hazardous Chemicals Rules, 1989, the following among other acids have been classified as Hazardous -

*"(313) Hydrochloric acid, (591) Sulphuric Acid, (423) Nitric Acid, (497) Phosphoric Acid, (571) Sodium Hydroxide (Caustic Soda)"*

13. I submit that as seen from the above, the 3rd Respondent unit, is storing and handling **7 TONNES** of the above hazardous acids and chemicals and therefore has been classified as a "**Red Category**" industry and therefore specifically come within the



**consent mechanism of TNPCB** and further cannot be permitted to operate in a zone earmarked for "Primary Residential Zone". I submit that report of the 2<sup>nd</sup> Respondent has failed to consider the above facts and has simply evaded any liability by terming the activity as "trading activity", which it ought not to have observed.

### **NON - PERMISSIBLE ACTIVITY IN AREA**

14. I submit that the report is silent as to the direction issued by this Hon'ble Tribunal as to whether the unit is carrying out permissible activity within that area.

15. I submit that the unit is operating in an area that is classified as "Primary Residential" as per the records of the Chennai Metropolitan Development Authority (CMDA), hence as per Rule 17 of the Tamil Nadu Combined Development & Building Rules, 2019 (Rules 2019), both "Primary Residential" or "Residential" and "Mixed Residential Use", shall be classified as "Residential" and only the residential uses and "Green Category" industries are permitted and as such, the 3<sup>rd</sup> Respondent's unit categorized as "Red Category industry" operating a unit handling hazardous chemicals cannot be permitted in an area earmarked for "Residential" uses and the said unit has to be established or shifted to an area earmarked as "Special and Hazardous Industrial Zone" as per Planning rules.

### **TNPCB and Manufacturing, Storage of Hazardous Chemicals Rules, 1989**

16. I submit that the observation in the report that the activity of the present unit comes under the regulation of the Manufacturing,



Storage of Hazardous Chemicals Rules, 1989 and outside purview of control of the TNPCB, is not sustainable.

17. I submit that the said rules, was enacted by the Central Government under Section 6, 8 and 5 of the Environment (Protection) Act, 1986 and as such, this Hon'ble Tribunal is empowered to regulate and ensure the enforcement of the provisions of the Act.

18. I submit that the following provisions in the said rule are relevant and extracted hereunder :

***(h) "industrial activity" means-***

*(i) an operation of process carried out in an industrial installation referred to in Schedule 4 involving or likely to involve one or more or hazardous chemicals and includes on-site storage or on-site transport which is associated with that operation or process, as the case may be; or*

***(ii) isolated storage; or***

*(iii) pipeline;*

***(i) "isolated storage" means storage of a hazardous chemical, other than storage associated with an installation on the same site specified in Schedule 4 where that storage involves atleast the quantities of that chemical set out in Schedule 2;***

19. I submit that as per Schedule 5 of the said Rules, the concerned State Pollution Control Board has been notified as the



concerned authority to regulate and enforce certain provisions of the rule including :

*" (iii) Safety reports in respect of isolated storages as per Rule 10 to 12."*

20. I submit that the said unit is involved in isolated storage of hazardous chemicals and also involved in an industrial activity where they have provided facilities for testing the chemicals at the site and therefore, the 1<sup>st</sup> and 2<sup>nd</sup> Respondent is empowered and is well within its jurisdiction to seek the enforcement of the said rules and the report is silent on this aspect.

#### **OTHER VIOLATIONS OF THE UNIT**

21. I submit that though the report of the 2<sup>nd</sup> Respondent has categorically stated that the unit has obtained the necessary Poison License and No Objection Certificate, it has failed to note the other violations of the unit.

22. I submit that the Greater Chennai Corporation vide notice dated 19.05.2022, based on the complaint by the Applicant, has directed the unit to vacate the premises for violating the provisions of the Tamil Nadu Public Health Act, 1939, for posing a danger to the nearby residents and public by handling hazardous chemicals without any safety mechanism or permission.

23. I further submit that, the Greater Chennai Corporation vide letter dated 02.12.2022 vide a complaint made to the Chief Minister's cell by nearby resident of the unit, has stated that no trading license has been issued to the unit.



24. I submit that the report of the 2<sup>nd</sup> Respondent is also absolutely silent as to what are the safety and precautionary measures taken by the said unit for handling, storing and transporting the hazardous chemicals, which could only imply that there is no such mechanism in place and the same needs to be seriously taken note of and considered by this Hon'ble Tribunal.

25. I submit that the 2<sup>nd</sup> Respondent has majorly overlooked and failed to take into consideration the above factors and the report has been oversimplified and made to portray the said unit being a normal trading activity whereas, it is in fact, a unit handling, storing and transporting, day and night, highly hazardous and dangerous chemicals in the center of a prime residential crowded neighborhood with houses and residents all around and where even a single explosive accident would entail disastrous consequences to the surrounding area, if the said unit is not shifted to the area specifically earmarked for its purpose.

Under such circumstances, it is humbly submitted that the above objections and facts and circumstances may be taken into consideration by this Hon'ble Tribunal and pass such orders as this Hon'ble Tribunal may deem fit and thus render justice.

**DATED AT CHENNAI ON THIS THE 13<sup>th</sup> DAY OF FEBRUARY 2023**



**COUNSEL FOR APPLICANT**



**APPLICANT**

## VERIFICATION

I, Sharad Fomra, S/o Natwarlal Fomra, aged about 47 years, having office at No. 18, AA Block, 3rd Street, Anna Nagar, Chennai 600 040 do hereby verify that the entire contents of the accompanying Application from Para (1) to (25) are true and correct to the best of my knowledge and no material fact has been concealed.

VERIFIED AT CHENNAI ON THIS THE 13<sup>th</sup> DAY OF FEBRUARY 2023



**APPLICANT**