

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, CHENNAI.**

Original Application No.32 of 2022

M/s. Fomra Housing and Infrastructure Pvt. Ltd.,
Rep by its Managing Director Mr. Sharad Fomra,
No18, AA Block, 3rd Street,
Anna Nagr, Chennai- 600 040.

...Applicant

Vs

The Chairman,
Tamil Nadu Pollution Control Board
No.76, Mount Salai
Guindy, Chennai-600 032 & 2 others.

...Respondents

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**Filed by
Thiru.S. Sai Sathya Jith,
Advocate, Chennai.**

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

Original Application No.32 of 2022 (SZ)

M/s Fomra Housing and Infrastructure Pvt. Ltd.
Chennai

...Applicant

Vs

The Chairman
Tamil Nadu Pollution Control Board and Ors.

...Respondents

**ADDITIONAL REPORT FILED ON BEHALF OF THE 1ST AND 2ND
RESPONDENTS - TAMIL NADU POLLUTION CONTROL BOARD.**

I, R. Rajamanickam, S/o. P.M.Ramasamy, Hindu, aged about 58 years, having my office at 76, Mount Salai, Guindy, Chennai-600032, do hereby solemnly affirm and sincerely state as follows:-

1. I am the Additional Chief Environmental Engineer, Tamil Nadu Pollution Control Board (TNPCB), Chennai -600 032, and filing this Additional Report on behalf of the Respondents Tamil Nadu Pollution Control Board (TNPCB) and as such I am well acquainted with the facts of the case from the records.
2. It is respectfully submitted that on the hearing dated 14.02.2023, this Hon'ble Tribunal directed the answering respondent as under:

"1. The learned counsel appearing for the applicant would state that the State Pollution Control Board is the authority as per


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Rule 6 of the Manufacture, Storage and Import of Hazardous Chemicals Rules, 1989.

2. As per the above Rules, the Tamil Nadu Pollution Control Board is the authority to grant any kind of approval for storage, handling and trading the hazardous chemicals which are listed in the Part II of Schedule - I and also the quantity prescribed in Schedule - II.

3. The Tamil Nadu Pollution Control Board has filed its report based on the information given by the 3rd respondent that they are stocking more than 7,000 Kgs of various chemicals in their godown.

4. Admittedly, the Tamil Nadu Pollution Control Board has not given the approval for the above referred trading. Hence, the Tamil Nadu Pollution Control Board is directed to file a detailed report in consonance with the Manufacture, Storage and Import of Hazardous Chemicals Rules, 1989."

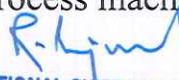
3. It is respectfully submitted that the applicant had also filed its objections dated 13.02.2023 to the report filed by the answering respondent.
4. It is respectfully submitted that this report is filed in response to the directions of this Hon'ble Tribunal in its order dated 14.02.2023 and the objections dated 13.02.2023 filed by the applicant.
5. It is respectfully submitted that the unit of the 3rd Respondent was once again inspected by the officials of the answering respondent on 22.02.2023. The unit of the 3rd Respondent is located in an area of 4600 sq.ft. and has one rubber lines tanker to store HCL and various sizes of empty storage cans, barrels to store acids. The 3rd Respondent informed that they are suppliers and traders of acids to the industries. They are dealing with Hydrochloric Acid, Nitric Acid, Sulphuric acid and phosphoric acid. In that, the 3rd Respondent is storing only three Acids

R. Jeyaraj
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namely Hydrochloric Acid, Nitric Acid and Sulphuric acid in the said site. Other than that, the 3rd Respondent is having two to four sacks of Caustic soda, Lime, Urea at the premises during inspection. There were no Machineries at the site. No power supply is needed for their operation. It is respectfully submitted it is ensured that the 3rd Respondent is carrying out refilling of acids in the containers and doing trading activity of Acids and Chemicals.

6. It is respectfully submitted that paragraphs 1 to 4 of the objections filed by the applicant are matters of record and does not require any response from the answering respondent.
7. It is respectfully submitted that the answering Respondent vehemently denies the allegation in paragraph 5 that its inspection was incomplete and that it overlooked various key factors that ought to have been inspected and submitted before this Hon'ble Tribunal. It is respectfully submitted that it is the applicant who is citing irrelevant and inapplicable provisions and making false allegations against the answering Respondent.
8. It is respectfully submitted that in response to paragraphs 6 & 7 of the objections filed by the applicant, the report filed by the answering respondent sufficiently deals with the activities carried on by the 3rd Respondent. In fact, out of abundant caution, a fresh inspection was also conducted on 22.02.2023 and the details of the activity carried on by the 3rd Respondent are explained elaborately in paragraph 5 of this Report.
9. It is respectfully submitted that the allegations of the applicant in paragraphs 8 & 9 other than what was observed by the answering respondent in paragraph 5 of this report, are mere imagination of the applicant.
10. It is respectfully submitted that in response to paragraph 10 of the objections filed by the applicant, the unit is carrying out only refilling of acids in the containers by gravity and there is no process machineries


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to carry out in an industrial installation referred in Schedule 4 of the Manufacturing, Storage of Hazardous Chemicals Rules, 1989, as amended, no trade effluent generation, no process emission and the unit is doing only trading activity of Acids and Chemicals and hence it is not coming under the definition of industrial activity.

11. It is respectfully submitted that in response to paragraphs 11 to 15 of the objections filed by the applicant, the applicant is trying to mislead the Hon'ble Tribunal by citing the Revised Categorisation of Industries dated 02.08.2016 issued by the answering respondent. It is respectfully submitted that the activity classified as "Red category Industry" is only that isolated storage of hazardous chemicals that fall within Schedule 2 of the Manufacturing, Storage of Hazardous Chemicals Rules, 1989. It is respectfully submitted that, in the present case, the chemicals stored by the 3rd Respondent do not fall within the list given in Schedule 2 of the 1989 Rules but only under Schedule 1, hence does not fall within the purview of the answering Respondent. With regard to the unit of the 3rd Respondent located in "Primary Residential Zone", it is submitted that it comes under the purview of the Greater Chennai Corporation and accordingly the complaint received in that regard is forwarded to the Zonal Office, Zone XI for needful action under the Chennai City Municipal Corporation Act, 1919 and Public Health Act, 1939.
12. It is respectfully submitted that in response to paragraphs 16 to 18 of the objections filed by the applicant, it is once again reiterated by the answering Respondent that, as stated by the applicant itself, "isolated 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", and it is submitted that the chemicals stored in the 3rd Respondent unit do not fall under Schedule 2 of the 1989 Rules.
13. It is respectfully submitted that in response to paragraphs 19 and 20 of the objections filed by the applicant, it is not denied that the answering Respondent is notified as the authority under Schedule 5 but the role of


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the answering Respondent will be attracted only in cases of Industrial Activity and in the present case, it is only a “trading activity” and there is no industrial activity whatsoever carried out by the 3rd Respondent.

It is respectfully submitted that, the relevant extract of Schedule 5 is given hereunder:

SCHEDULE – 5
(See Rules, 2(b) and 3)

Sl.No.	Authority(ies) with legal backing	Duties and corresponding rule	Remarks of the answering Respondent
(1)	(2)	(3)	
3.	Central Pollution Control Board or State Pollution Control Board [or Committee] under Environment (Protection) Act, 1986 as the case may be.	<p>(1) Enforcement of directions and procedures in respect of isolated storage of hazardous chemicals, regarding-</p> <p>i. Notification of major accidents as per Rules 5(1) and 5(2)</p> <p>ii. Notification of sites as per Rules 7 to 9.</p> <p>iii. Safety reports in respect of isolated storages as per Rule 10 to 12.</p> <p>iv. Preparation of on-site emergency plans as per Rule 13.</p>	<p>The column (3) in S.No.3 point (1) (iii) mentions about “Safety reports in respect of isolated storages as per Rule 10 to 12.</p> <p>All the sub-rules to Rule 10 deal with industrial activity and hence do not attract the present trading activity.</p> <p>Likewise, Rules 11 and 12 also use the term industrial activity.</p> <p>The activity of the 3rd Respondent does not fall within industrial activity.</p>


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14. It is respectfully submitted that in response to paragraphs 21 to 25 of the objections filed by the applicant, the allegations against the answering respondent are unwarranted and uncalled for. It is not the submission of the answering Respondent that the 3rd Respondent unit has not violated any rule or regulation, but only that the concerned authority to deal with the same is Greater Chennai Corporation which has already taken steps by issuing notice dated 19.05.2022 directing the 3rd Respondent to vacate the premises for violating the provisions of the Tamil Nadu Public Health Act, 1939.
15. It is respectfully submitted that in response to the question raised by this Hon'ble Tribunal in order dated 16.03.2022 in paragraph 9, regarding the applicability of Rule 6 of the Hazardous and Other Waste (Management and Transboundary Movement) Rules, 2016, Rule 6 will not be attracted in the present case since no hazardous waste is generated in the trading activity carried out by the 3rd Respondent.

Under the above circumstances, it is humbly prayed that this Hon'ble National Green Tribunal may be pleased to pass such further or other orders as this Hon'ble Tribunal may deem fit and proper in the facts and circumstance of this case and thus render justice.


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BEFORE ME

VERIFICATION

I, R. Rajamanickam, S/o. P.M.Ramasamy, working as Additional Chief Environmental Engineer, having office at No. 76, Anna Salai, Guindy, Chennai – 32, do hereby submit that the above contents are true to the best of my knowledge and belief through records.


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BOARD.**

**Advocate for Respondent: TNPCB
Thiru.S. Sai Sathya Jith,
Advocate, Chennai.**

Date: 27.02.2023.

Date of hearing on:28.02.2023.