



Rajiv Bajaj <rajivbajajlaw@gmail.com>

Advance Service of Rejoinder on Behalf of the Appellant M/S KK INDUSTRIES IN APPEAL 32/2023 NGT SZ

1 message

Rajiv Bajaj <rajivbajajlaw@gmail.com>

Fri, Feb 16, 2024 at 2:51 PM

To: "darpan.advocate@gmail.com" <darpan.advocate@gmail.com>, mrgk@krslegal.com, Rajat Shaw <rajatshaw178@gmail.com>, vidurmarwahlaw@gmail.com, bhandari.k@gmail.com

Dear Sirs/Madams.

Kindly find the rejoinder filed on behalf of the Appellant M/S KK INDUSTRIES in Appeal 32/2023 NGT SZ attached herewith.

Thanks and Regards

Rajiv Bajaj
Advocate14, Mathura Road, CISRS House (Opp. Hotel Rajdoot),
Jangpura B, New Delhi
Mobile:- 9810806329

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 **Rejoinder NGT.pdf**
11373K

**BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTH ZONE, CHENNAI (SZ)
APPEAL NO 32/2023**

M/S KK INDUSTRIES

...APPELLANT

Versus

1. KARNATAKA STATE POLLUTION
CONTROL BOARD.

..RESPONDENT NO 1

2. STATE OF KARNATAKA

...RESPONDENT NO 2

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THROUGH COUNSEL:



RAJIV BAJAJ & VIDUR MARWAH

Advocates for the Petitioner
14, Mathura Road, CISRS House,
Jangpura-B, Opp. Hotel Rajdoot
New Delhi-110005
rajivbajajlaw@gmail.com
+91 9810806329/8826502108

NEW DELHI

DATED: 31.01.2024

NOTE : ADVANCE SERVICE HAS BEEN DONE TO THE RESPONDENTS AND PROOF OF SERVICE IS ATTACHED WITH THE REJOINDER

BEFORE THE NATIONAL GREEN TRIBUNAL**SOUTH ZONE, CHENNAI (SZ)****APPEAL NO 32/2023**

M/S KK INDUSTRIES

...APPELLANT

Versus

1. KARNATAKA STATE POLLUTION
CONTROL BOARD.

..RESPONDENT NO 1

2. STATE OF KARNATAKA

...RESPONDENT NO 2

**REJOINDER ON BEHALF OF THE PLAINTIFF TO THE REPLY
FILED BY RESPONDENT NO 1**MOST RESPECTFULLY SHOWETH:PRELIMINARY SUBMISSIONS/OBJECTIONS:

1. It is most respectfully submitted that the contents of the Reply filed by the Respondent No 1 are wrong and denied as a whole, except for and to the extent any part thereof is expressly admitted herein in the Appeal. It is submitted that the reply filed by the respondent is a deliberate attempt to mislead this Hon'ble Tribunal by concealing material facts.
2. It is Denied that the Appellant was operating without the CFO (Consent for Operation) when the inspection was carried out on 03.09.2015 and the same is clearly mentioned in the Annex-A1 that the Consent for operation is valid from 01.07.2015 to 30.06.2020.
3. The amount of Environmental compensation imposed in the order and further in their reply is absurd and calculated erroneously as according to the compensation- it should be levied from the date of observation which was 17/09/2019, however the compensation is calculated

from 03.09.2015 which is illegal and unjust.

4. It is denied that the appellant was in non-compliance and made no corrections upon notice. The following notice sent to the appellant for non-compliance was sent on 09th December 2019 and upon which a reply was sent on 16th December 2019 for seeking some time to make the following corrections and compliance for the same.
5. On 20th January 2020, a detailed point wise compliance was served by the appellant on all the issues raised along with photographs as proof for the same. However, there was no reply or acknowledgement given for the same by the Respondent No 1 and further they imposed a Environmental Compensation of Rs 25,00,000 on the Appellant on 31.01.2020 without any weight to the fact that the Appellant has complied with the minor deviations that were found in the inspection before such compensation is being levied and that it was against the principles of natural justice and arbitrary in nature.
6. In response to the notice seeking interim environmental compensation, the appellant filed a reply to the Environmental Officer of KSPCB dated 19.02.2020 giving the submissions and clarifications for the same and pointing out that the compliances were done prior to such order for compensation to which they further conducted inspections and issued a Fresh Combined Consent for operation by Respondent No 1 for the period from 24.08.2020 to 30.09.2029, stating that no non compliance was present after inspection done on 19.08.2020. And on the contrary, the appellant was moved from a Red industry colour to Orange industry colour as per the categorization done by The Ministry of Environment, Forest and Climate Change in consultation with Central Pollution Control Board which states-
 - Industrial Sectors having Pollution Index score of 60 and above – Red

category

- Industrial Sectors having Pollution Index score of 41 to 59 – Orange category

- Industrial Sectors having Pollution Index score of 21 to 40 – Green category

10

- Industrial Sectors having Pollution Index score incl & up to 20 – White category

7. After receiving such order and sending a detailed reply to the authority once again about the said compliances and corrections, the appellant was undergoing the renewal process in 2019 and made a transition from using furnace oil and electricity to Natural Gas (Supplied by GAIL), it was implied that the previous environmental compensation was quashed because after the reply and making the following changes during the renewal process,
8. The consent was renewed along with proper documents under Combined Consent Order No. AW-31980 PCB ID: 87435 dated 28.02.2020 giving a renewal to undertake the following industry activities until 30.09.2029 and the appellant was moved from Red Industry Category to Orange Industry Category upon inspection.
9. Even after obtaining a renewed combined consent, an illegal and unjust notice PCB/EC/2023-24/ 516 from KSPCB was given to the appellant dated 12.07.2023 which imposed an Environmental compensation of Rs 2,44,50,000/- (Rupees Two Crores, Forty Four Lakhs and Fifty Thousand only). It was passed upon the directions of Honourable National Green Tribunal Principal Bench order on 10.07.2019 to recover interim compensation and the amount of the environmental compensation was decided in the Proceedings of the meeting Chaired by Chief Secretary,

GOK in respect of NGT -Principal Bench Suo moto case OA No. 324 of 2021, GOK has taken decision to impose environmental compensation for the polluting industries for past violations vide letter cited at ref (10). Accordingly final order imposing EC for defaulting industries has been calculated as below using formula derived by CPCB (as per the order in the matter of O.A 593/2017).

$$EC = Pi \times N \times$$

EC = Environmental compensation (in Rs)

PI = Pollution Index of industrial sector

N = Number of days of violation took place

R = A factor in Rupees for Environmental compensation

S = Factor for scale of operation

LF = Location factor

The number of days is taken as 1630 from 03.09.2015 to 19.02.2020,

Therefore, the EC = 80 x 1630 x Rs. 250 x 0.5 x 1.5 (Critically polluted area) = Rs. 2,44,50,000/-

10. However as stated previously, the appellant had valid consent to operate and undertake activities on 03.09.2015 unlike what is claimed by KPCSB and the first notice for non-compliance following the inspection was received on 09.12.2019, making this order illegal and unjust and against the Principles of Natural Justice.
11. The following was observed and stated in the Judgement by the Honorable National Green Tribunal Southern Zone, Chennai in Appeal No. 09 of 2020 (SZ)- *Since, compensation being a monetary liability, before fixing the same, an opportunity ought to have been given by the Pollution Control Board to the appellant unit which is the basic principle of The following was observed and stated in the Judgement by the Honorable National Green Tribunal Southern Zone, Chennai in Appeal No. 09 of*

2020 (SZ)- Since, compensation being a monetary liability, before fixing the same, an opportunity ought to have been given by the Pollution Control Board to the appellant unit which is the basic principle of following the principles of natural justice of being heard before final orders are being passed. But, that has not been done in this case. When similar issues have come before this Tribunal in Appeal No. 01 of 2020 (M/s. Indo shell Cast Private Limited Vs. Tamil Nadu Pollution Control Board & Ors.) this Tribunal had set aside the order of compensation imposed straight away without giving an opportunity to the appellant in that case and directed to treat that order as regards imposition of compensation as show cause notice and after giving an opportunity to the appellant in that case to pass appropriate orders in accordance with law.

12. The following was observed and stated in the Judgement by the Honorable National Green Tribunal Principal Bench, Delhi in Appeal No. 40 of 2020-
Contentions in appeal are that variation in norms was marginal. The sample was taken on 24.01.2020 but the result was given only on 12.06.2020. Due procedure for taking sample was not followed. The amount of compensation is disproportionate to the violation alleged. We have considered the matter. We are of the view that having regard to the fact that the unit is a small one and violation was marginal which was later rectified to the satisfaction of the DPCC, we are of the view that compensation assessed is disproportionate. We indicated to the learned counsel for the appellant that having practical view of the matter, the appeal can be disposed of summarily by closing the matter by reducing the compensation to a token amount, instead of going into any other questions. We find this course will serve the interest of justice and hardship to the appellant.

13. In light of the above, it is prayed that the Appeal of the Appellant may be allowed.

14. The Contents of the Reply filed by Respondent No 1. are denied in toto/-

15. All contents of the reply filed by Respondent No 1. are vehemently denied and nothing specific not denied shall be taken as an admission by the claimant

THROUGH COUNSEL:


(KAMAL CHAUDHARY)

NEW DELHI
DATE: 31.01.2024

APPELLANT

RAJIV BAJAJ & VIDUR MARWAH

Advocates for the Claimants
CISRS House, 14 Mathura Road,
Jangpura-B, Opp. Hotel Rajdoot
New Delhi-110014

rajivbajajlaw@gmail.com
+91 9810806329/9811809373

BEFORE THE NATIONAL GREEN TRIBUNAL (SZ) CHENNAI

Appeal No. 32of 2023

IN THE MATTER OF:

M/S KK INDUSTRIES

Through its partners

KAMAL BHANDARI

...APPELLANT

VERSUS

KARNATAKA STATE POLLUTION

CONTROL BOARD

...RESPONDENT

AFFIDAVIT

I, Kamal Bhandari, S/o Sh. Kewal Raj Bhandari, aged about 59 years, R/o 20, Berlie Street Langford Town, Bangalore-560025 do hereby solemnly affirm, and declare as under, do hereby solemnly swear and affirm as under:

1. That I am the Partner of the Appellant in the above-captioned matter and the accompanying Rejoinder has been drafted under my instructions and I have perused the contents thereof and the contents of the Appeal are not repeated herein for the sake of brevity and the same may be read as part and parcel of the present affidavit.
2. That the contents of accompanying Rejoinder are true to my knowledge and belief, and the same has been drafted as per the legal advice and no part of the same is false and nothing material has been concealed therefrom. The contents of the present Affidavit have been explained to me in vernacular and I have understood the same.



ADMITTED BEFORE ME

JAIN SWARNAMALA
ADVOCATE AND NOTARY
GOVT. OF INDIA Mobile:9448239328
7. Ganesha Temple Building,
Near Bommanahalli BBMP,
Bejur Road, Bangalore - 560 068

12/02/2024


DEPONENT
(KAMAL BHANDARI)

VERIFICATION:

Verified at Chennai on this 12th February 2024 that the contents of the paras of the above affidavit are true to my knowledge and belief, no part of it is false and nothing material has been concealed therefrom.



DEPONENT

KAMAL BHANDARI.

ಫ್ಯಾಕ್ಸ್ / Fax : 080-25586321

ಈಮೇಲ್ / E-mail : ho@kspcb.gov.in

ವೆಬ್‌ಸೈಟ್ / Website : http://kspcb.gov.in



25581383, 25589112

25588151, 25588270

25588142, 25586520

ಕರ್ನಾಟಕ ರಾಜ್ಯ ಮಾಲಿನ್ಯ ನಿಯಂತ್ರಣ ಮಂಡಳಿ
Karnataka State Pollution Control Board

"ಪರಿಸರಭವನ", 1 ರಿಂದ 5ನೇ ಮಹಡಿಗಳು, ನಂ.49, ಚರ್ಚ್‌ಸ್ಟ್ರೀಟ್, ಬೆಂಗಳೂರು - 560 001, ಕರ್ನಾಟಕ, ಭಾರತ

"Parisara Bhavana", 1st to 5th Floor, # 49, Church Street, Bengaluru - 560 001, Karnataka, INDIA

//BY REGD.POST WITH ACK.DUE//

(This document contains 6 pages including annexure)

Combined Consent order No. PCB/CEO/Non-EIA/K K /2015-16/

Dated:

15 DEC 2015

H1183

Consent for discharge of effluents under the Water (Prevention and Control of Pollution) Act 1974 and emissions under the Air (Prevention and Control of Pollution) Act 1981.

Ref: 1. Your consent applications under Water & Air Acts received on 14.09.2015.

2. Inspection of RO, Anekal on 11.09.2015 & 15.09.2015 and the inspection report: 8046, Dated : 22.09.2015.

3. The Proceeding of the consent committee meeting held on 03.11.2015.

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The Consent is hereby granted under section 25/26 of Water (Prevention and Control of Pollution) Act 1974 and under Section 21 of Air (Prevention and Control of Pollution) Act 1981 (herein after referred as the Water Act and the Air Act respectively) and the Rules and Orders made there under and subject to the terms and conditions as detailed in the schedule annexed to this order.

This Consent is granted to **The Partner, M/s. K.K Industries, Plot No. 162/A, Bommasandra Jigani Link Road, 4th Phase, Bommasandra Industrial Area, Rajapura Village, Jigani Hobli, Anekal Taluk, Bangalore Urban District**, authorizing him to operate their industrial plant and to make discharge of effluents and emissions from the above premises.

I.DISCHARGE OF EFFLUENTS UNDER WATER ACT:

Sl.No.	Particulars	Waste water discharge	Mode of Disposal
1	Domestic	1.8 KLD	The domestic sewage shall be disposed to Septic tank & Soak pit.
2	Industrial (cooling)	-----	There shall not be any generation of trade effluent from the process, but water used for cooling purpose shall be completely recycled back into the process. .

CHIEF ENVIRONMENTAL OFFICER

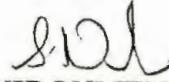
II. DISCHARGE OF AIR EMISSIONS UNDER AIR ACT.

Sl. No.	Description of chimney/outlet	Limits specified refer schedule
1.	125 KVA DG Set	Annexure-I
2.	Tilting Oil furnace of capacity – 250 Kg	
3.	Melting Electrical furnace of capacity- 250 Kg	
4.	Electrical furnace of capacity 400 Kg	

This consent is granted for the manufacture of Casting of Copper, Tin, Zinc, Nickle Ingots Phosphorized Brange, Tin Branze, Tin Leaded Branze, High Tensile Brass components of capacity 7.5 MT/Month.

This Consent is valid for the period from 01.07.2015 to 30.06.2020.

For and on behalf of the KSPCB



CHIEF ENVIRONMENTAL OFFICER

To,
The Partner,
M/s. K.K Industries,
Plot No. 162/A, Bommasandra Jigani Link Road,
4th Phase, Bommasandra Industrial Area,
Rajapura Village, Jigani Hobli, Anekal Taluk,
Bangalore Urban District.

TRUE COPY
Rajiv Barai

**KK INDUSTRIES**
An ISO 9001 :2015 Certified Company

162-A, Bommasandra - Jigani Link Road, Bangalore - 560 105.
Phone : 080-2783 9610, 2783 9661, Fax : 080-2783 9623
E-mail: bhandari.k@gmail.com, kunal@kkindustries.org, bhandarikunal1990@gmail.com

To,
The Senior Environmental Officer,
KSPCB, Bangalore South Zonal office,
3rd Floor, Nisarga Bhavan, Shivanagar, Bangalore.

Date: 16/12/2019

Dear Sir,
Subject: Reply to the Notice of proposed Direction/ Compliance under the provision of water & Air Act.

Reference:

1. Your office NPD reference No. 254/PCB/SEO/BNG-South/NPD/2019-20/564 dated 09/12/2019.

With Reference to the above subject and reference we acknowledged your office NPD Letter. We will submit the detailed reply to your office within 20 days from the date of this letter. Kindly grant us 20 days to submit the reply in detail.

We kindly request you to consider and don't take any further action against our industry, we are complying to all the norms of KSPCB.

Thanking you,

For **KK INDUSTRIES**

(Kamal Bhandari)
Managing Partner

Copy to :

The Regional Environmental Officer,
Anekal Region, 3rd Floor, Nisarga Bhavan,
Shivanagar, Bangalore – 560 010.



TRUE COPY
Rajiv Bhandari



KK INDUSTRIES
An ISO 9001 :2015 Certified Company



162-A, Bommasandra - Jigani Link Road, Bangalore - 560 105.
Phone : 080-2783 9610, 2783 9661, Fax : 080-2783 9623
E-mail: bhandari.k@gmail.com, kunal@kkindustries.org, bhandarikunal1990@gmail.com

To,
The Senior Environmental Officer,
KSPCB, Bangalore South Zonal office,
3rd Floor, Nisarga Bhavan, Shivanagar, Bangalore.

Date: 20/01/2020

Dear Sir,

Subject: Reply to the Notice of proposed Direction/ Compliance under the provision of water & Air Act.



Reference:

1. Your office NPD reference No. 254/PCB/SEO/BNG-South/NPD/2019-20/564 dated 09/12/2019.
2. Our Letter Dated : 16/12/2019.

With Reference to the above subject and reference and further our letter dated 16/12/2019 we are submitting herewith following point wise compliances.

Sl.No.	Non Compliances as per your office letter	Compliances made from outside/time bound action plan.
1.	The air pollution control measures provided for the furnace are not under operation.	Scrubber provided for the furnace is operational, There is some issue with the scrubber we rectified and corrected the scrubber, it is in operational, photographs of the same is enclosed for your reference.
2.	Not provided the porthole and platform to the chimney provided to the scrubber.	The work in progress to provide the porthole and platform to the scrubber we will complete this within 10 days and submit the photographs to your office.
3.	Process fumes emissions was observed	Now the scrubber is functioning properly, There are no fumes in the process area.
4.	Not conducted the source emission monitoring	We will submit the source emission monitoring reports within 10 days from the date of this letter.

AS-1
Jan 19
24/1/20



KK INDUSTRIES
An ISO 9001 :2015 Certified Company



162-A, Bommasandra - Jigani Link Road, Bangalore - 560 105.

Phone : 080-2783 9610, 2783 9661, Fax : 080-2783 9623

E-mail: bhandari.k@gmail.com, kunal@kkindustries.org, bhandarikunal1990@gmail.com

5.	The validity of an authorization under HWM Rule has been expired on 31/12/2014 and till date they have not submitted appln under HWM Rule,2016.	We are not generating any hazardous waste in our industry, earlier we are using LDO for furnace which used to be burnt up. Now we changed the fuel for furnace (Gail Gas). Hence we are not generating any Hazardous waste in our industry. We generate used oil around 15 Lts/A from DG Set, the generated waste is stored and it will be disposed to authorized recyclers.
6.	Not provided the separate HW Storage Area.	We are not generating any Hazardous waste from process and except that DG used Oil. Qty is very minimal.
7.	Kept Barrel outside in an open space within the industry premises, which is filled with used oil without covering the top lid and spillage of oil found on the floor.	The used oil, coming out of the generator (15L Approx) is still lying at our end and waiting to be disposed (Photo Enclosed) We will arrange to dispose this used oil of 15L to authorized recyclers only. We have made the arrangement to clean up the area around the generator and ensure no spillage.
8.	Not provided the Display Board	Display Board provided, photographs of the same are enclosed.
9.	Not Submitted form-5	Form-5 Submitted acknowledgment is enclosed.

We kindly request you to consider and don't take any further action against our industry, we are comply all the norms of KSPCB.

Thanking you,

For **KK INDUSTRIES**

(KAMAL BHANDARI)
Managing Partner

Copy to:

The Regional Environmental Officer,
Anekal Region, 3rd Floor, Nisraga Bhavan,
Shivanagar, Bangalore – 560 010.

TRUE COPY
Rajiv Bhatnagar

ANNEXURE I



Fig. 1: New Chimney Unit Installed (Outdoor)



Fig. 2: Front View of Chimney Unit (Outdoor) with Water Collection Pit (Under completion)



Fig. 3: Scrubber Unit (with internal FRP Lining)



Fig. 4: Blower Unit



Fig. 5: Purification Unit



Fig. 6: Indoor Chimney routing + Hood collection units

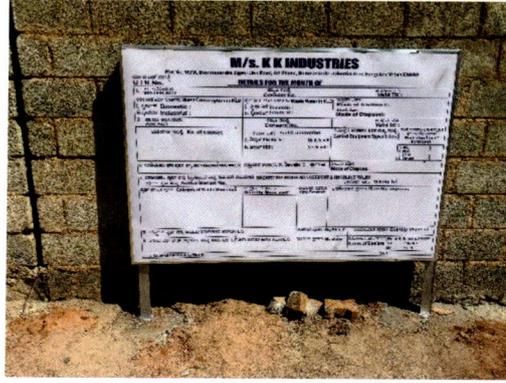


Fig. 7: Display Board



Fig. 8: Used DG Oil

TRUE COPY
Rajiv Bhatnagar

Regional Office: Bangalore –Anekal
2nd Floor "NISARGA BHAVAN"
7th 'D' Cross, Thimmaiah Road,
Sanegoravanahalli, Shivanagar
Bangaluru -560 010
Tel/Fax: 080 -23229538

ಪ್ರಾದೇಶಿಕ ಕಛೇರಿ: ಬೆಂಗಳೂರು - ಅನೇಕಲ್
೨ನೇ ಮಹಡಿ, "ನಿಸರ್ಗ ಭವನ",
7ನೇ 'ಡಿ' ಅಡ್ಡ ರಸ್ತೆ, ತಿಮ್ಮಯ್ಯ ರಸ್ತೆ,
ಸಾಣೆಗೊರವನಹಳ್ಳಿ, ಶಿವನಗರ,
ಬೆಂಗಳೂರು - 560 010
ದೂರವಾಣಿ: 080- 23229538



towards a cleaner Karnataka

//RPAD//
DEMAND NOTICE

NO. KSPCB/RO-ANEKAL/CEPI/Env. Compensation/2019-20/730

Date: 31 JAN 2020

To,
The Occupier,
M/s K. K. Industries,
Plot No. 162/A, Bommasandra Jigani Link Raod,
4th Phase, Bommasandra Industrial Area,
Jigani Hobli, Anekal Taluk,
Bangalore-560 105.

DESPATCHED

Sir,

Sub: Imposing Environmental Compensation (EC) for the non-compliances under the provision of Water (Prevention and Control of Pollution) Act, 1974, Air (Prevention and Control of Pollution) Act, 1981 and Environment(Protection) Act, 1986.

- Ref: 1. Combined consent order No. PCB/CEO/Non-EIA/K K/2015-16/H1183, dated: 15.12.2015.
2. Notice issued vide no. PCB/RO Anekal/DEO-1/2015-16/7669, dated: 11/09/2015.
3. Notice of Proposed Direction issued vide no.254/PCB/SEO/BNG-South/NPD/2019-20/564, dated: 09/12/2019.
4. Directions of Hon'ble NGT in the matter of OA No 1038/2018 dated 10.07.2019 & 14.11.2019 (corrected on 19.11.2019).
5. Board Office Memo vide no. KSPCB/CEO-2(NEIA-BNG)/CEPI/Env. Compensation/2019-20/5749, dated: 31/01/2020.

The Central Pollution Control Board (CPCB) in exercise of its statutory functions under Water (Prevention & Control of Pollution) Act, 1974, Air (Prevention & Control of Pollution) Act, 1981 and Environment (Protection) Act, 1986 has carried out the physical study of the industrial clusters in the country with reference to the Comprehensive Environmental Pollution Index (CEPI). On the basis of the study and based on CEPI -2016 criteria, CPCB has identified 100 polluted industrial clusters. Wherein, KIADB Industrial Area, Jigani, Anekal, Bangalore; Peenya are identified as Critically Polluted Industrial Area (CPA) with a CEPI score of 70.99 and 78.12 respectively and identified Bidar as Severely Polluted Industrial Area (SPA) with a CEPI score of 65.64.

The Hon'ble NGT, Principle Bench, New Delhi, in its order dated: 10.7.2019 in Original Application No. 1038/2018, has directed that the Central Pollution Control Board (CPCB) in coordination with all the State Pollution Control Boards (SPCBs) to take steps by exercising statutory powers under the Water (Prevention and Control of Pollution) Act, 1974, Air(Prevention & Control of Pollution) Act, 1981 and Environment(Protection) Act, 1986 or any other law to prohibit operation of polluting activities in the said Critically Polluted Areas and Severely Polluted Area within three months and to furnish compliance report.

A

o/c

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Hon'ble NGT, further, directed to make assessment of compensation to be recovered from the said polluting units for the period of last 5 years taking into account the cost of restoration and cost of damage to the public health and environment and the deterrence element. The scale of deterrence may be related to the period and the frequency of defaults and such other factors as may be found relevant may also be taken into account. The Tribunal has directed that Pending assessment of compensation, **interim compensation** be recovered at the scale adopted by the Tribunal in case of Vapi Industrial Area(in case of Aryavart Foundation Vs. M/s. Vapi Green Enviro Ltd. & Ors.) as mentioned below:

1. Large Industries - Rs. 1 Crore each industry
2. Medium Industries - Rs. 50 Lakhs each industry
3. Small Industries - Rs. 25 Lakhs each industry

Subsequently, the Tribunal in its Order dated 14.11.2019 (corrected on 19.11.2019) in the matter of OA No.1038/2018, has stated that, while remedial action may certainly be planned, current violation of law could not be ignored and was actionable by way of stopping polluting activities, initiating prosecution and recovering compensation on 'Polluter Pays' principle. The statutory authority are accountable and hence has directed that meaningful action has to be taken by the State PCB's/PCC's as already directed against the polluters in the Critically Polluted Industrial (CPA) area.

Your industry is located in Critically Polluted Area and the industry was inspected by the Officers of the Board viz., SEO/EO/DEO/AEO on several occasions and observed the following violations in the last 5 years as below;

Sl No	Date of Inspection	Violations Observed
1	03/09/2015	➤ The industry was inspected on 03/09/2015 on routine basis and observed that, the industry has commissioned and operating the unit without prior Consent for Operation.
2	17/09/2019	➤ The Air Pollution Control Measures provided for the Furnaces are not under operation. ➤ Not provided the port hole and platform to the chimney provided to the Scrubber. ➤ Process Fumes emission was observed. ➤ Not conducted the source emission monitoring. ➤ The validity of an Authorization under HWM Rules has been expired on 31/12/2014 and till date, they have not submitted application under HWM Rules, 2016. ➤ Not provided the separate HW storage area. ➤ Kept barrel outside in an open space within the industry premises, which is filled with used oil without covering the top lid and spillage of oil was found on the floor. ➤ Not provided the display Board. ➤ Not submitted Form-5.

The above observations noticed from last 5 years are the violations under the provisions of the Water (Prevention & Control of Pollution) Act, 1974, Air (Prevention & Control of Pollution) Act, 1981 and Rules framed under Environment(Protection) Act, 1986 and contributing to the pollution of the surrounding environment viz. Water, Air, Soil.

Bul

In view of the above facts, you are hereby liable to pay interim Environmental Compensation of Rs. 25,00,000/- (Rupees Twenty Five Lakhs Only) as your industry falls under L/M/S/R/O category as per Hon'ble NGT order cited at ref (4), in the form of demand draft (DD) drawn in favor of Member Secretary, KSPCB, Bengaluru within 15 days from the date of service of this notice, failing which action as deemed fit under the provision of Law, will be initiated.

The receipt of this notice may please be acknowledged.

Yours faithfully,
Sd/-
Environmental Officer

Copy To:

- 1. The Member Secretary, KSPCB for kind information.
- 2. The Zonal SEO, Bangalore South for kind information.

[Signature]
Environmental Officer

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Rajiv Bhat



ANNEXURE A-5

KK INDUSTRIES
An ISO 9001 :2015 Certified Company



162-A, Bommasandra - Jigani Link Road, Bangalore - 560 105.

Phone : 080-2783 9610, 2783 9661, Fax : 080-2783 9623

E-mail: bhandari.k@gmail.com, kunal@kkindustries.org, bhandarikunal1990@gmail.com

To,
The Environmental Officer,
KSPCB, Anekal Regional Office,
3rd Floor, Nisarga Bhavan, Shivanagar, Bangalore.

Date: 19/02/2020

Dear Sir,

Subject: Reply to the Notice Received for Environmental Compensation.

Reference:

1. Your office letter No. KSPCB/ RO- Anekal /CEPI/ENV Compensation/2019-20/730 Dated 31/01/2020

With Reference to the above subject and reference we are submitting herewith following compliances/clarifications.

Sl.No.	Violations as per letter	Compliances made from our side.
1.	The industry was inspected on 03/09/2015 on routine basis and observed that the industry has commissioned and operating the unit without prior consent for operation.	We have obtained the CFE in 2013 and a copy of the same has been submitted, from the Board for setting up of the industry. Once completion of installation of machinery. We obtained the consent under air & water Act.
2.	The Air pollution control measures provided for the furnaces are not under operation.	The earlier scrubber was some issues; we changed the scrubber and installed the new scrubber. It is extracting all suspended particles now – we have also added a recycle pit so that all waste water will be collected in the same
3.	Not provided the port hole and platform to the chimney provided to the scrubber.	Port hole and platform already provided and submitted the photographs also. A test with the monitors were also conducted and reports submitted
4.	Process Fumes Emission was observed.	We used the PNG for firing the furnace and the heat and fumes generated from this is very low – the surrounding ambient temperature has also reduced (values recorded)
5.	Not conducted the source emission monitoring.	We already conducted the source emission and submitted the report to your office. The actual values obtained during peak performance is within the prescribed limits





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6.	The validity of an Authorization under HWM rules has been expired on 31/12/2014 and till Date they have not submitted application under HWM Rules-2016.	We are not generating any hazardous waste in our industry and hazardous waste authorization is not required for our industry.
7.	Not provided the separate HW storage area.	We don't generate any hazardous waste, hence hazardous waste storage area also not required.
8.	Kept barrel outside in an open space within the industry premises which is filled with used oil without covering the top lid and spillage of oil was found on the floor.	The qty is very minimal and backlog qty, stored in designated storage area and it will dispose to authorized recyclers. This was a very minimal qty of waste oil from service of genset
9	Not provided the display Board.	Display Board provided and photographs already submitted
10	Not submitted by Form-5.	Already submitted and got the acknowledgment.

We have complied with all the points as per your observations and our industry is small scale and still in the growth process. Today the survival of the industry is very difficult due to lack of orders and industry slump, in this situation we cannot able to pay the environmental compensation of Rs.2500000/- (Twenty Five Lakhs). Industry is not in position to pay such huge amount, we are struggling to pay the monthly salary to our employees due to lack of orders, recession and global economy. We kindly request you to drop that environmental compensation for our type of small sick industries and we are ready to comply the norms of KSPCB for sake of environment.

This is for our kind request and oblige. We also request your kind office don't take any further action against our industry we are and will adhere to all rules and obligations as per the norms set by the Karnataka State Pollution Control Board. We will update you with all records indicating the results of observations as per the norms on a time to time basis.

Further, we enclosed herewith the Photographic of modifications done at our Industry, for your kind reference.

Thanking you,

For **KK INDUSTRIES**

Managing Partner

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Rajiv Bhatnagar

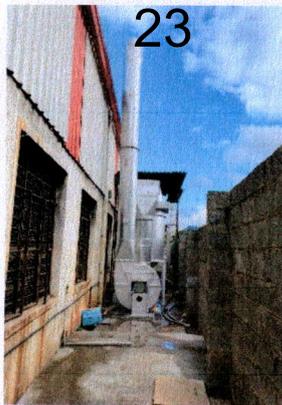


Fig. 1: New Chimney Unit Installed (Outdoor)



Fig. 2: Front View of Chimney Unit (Outdoor) with Water Collection Pit (Under completion)



Fig. 3: Scrubber Unit (with internal FRP Lining)



Fig. 4: Blower Unit



Fig. 5: Purification Unit

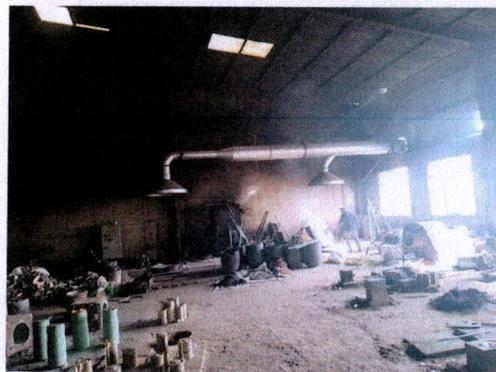


Fig. 6: Indoor Chimney routing + Hood collection units

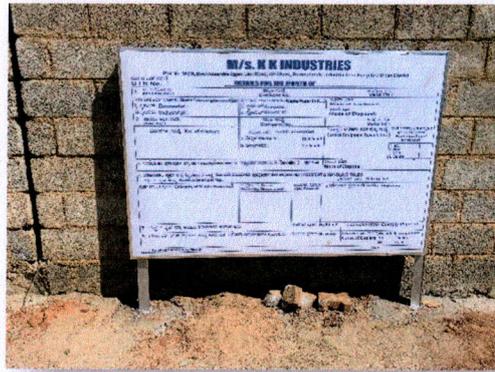


Fig. 7: Display Board

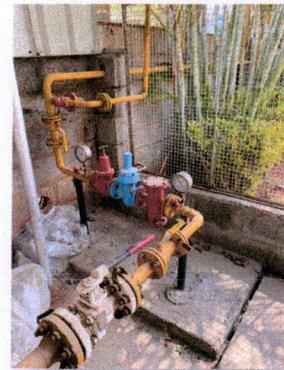
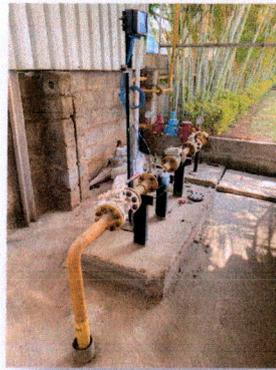


Fig. 8: Piped Natural Gas (PNG) by GAIL – Image shows Meter Reading System (MRS), Drive Train and Pipeline with our premises



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Rajiv Barai

Fig 9.: Chimney outlet spout at 35 feet from ground level (10 feet above roof point)



towards a cleaner Karnataka

No. PCB/ EC/2023-24/516

//RPAD//

Recd On 20/7/22

Date: 12 JUL 2023

To,

The Occupier,
M/s K. K. Industries,
Plot No. 162/A, Bommasandra Jigani Link Raod,
4th Phase, Bommasandra Industrial Area,
Jigani Hobli, Anekal Taluk,
Bangalore-560 105.

ANNEXURE A-6

Sir,

Sub: Imposing Environmental Compensation (EC) for the non-compliances under the provision of Water (Prevention and Control of Pollution) Act, 1974, Air (Prevention and Control of Pollution) Act, 1981 and Environment (Protection) Act, 1986-reg.

- Ref: 1. Inspection of the industry by this office on 03.09.2015.
2. Notice issued vide no. PCB/RO Anekal/DEO-1/2015-16/7669, dated: 11/09/2015.
3. Combined consent order No. PCB/CEO/Non-EIA/K K/2015-16/ H1183, dated:15.12.2015 valid for the period upto 30.06.2020.
4. inspection of the industry by this office on 17.09.2019.
5. Notice of Proposed Direction issued vide no.254/PCB/SEO/BNG-South/NPD/2019-20/564, dated: 09/12/2019.
6. Directions of Hon'ble NGT in the matter of OA No 1038/2018 dated 10.07.2019 &14.11.2019 (corrected on 19.11.2019).
7. Board Office Memo vide no. KSPCB/CEO-2(NEIA-BNG)/CEPI/Env. Compensation/2019-20/5749, dated: 31/01/2020.
8. Interim EC order Dated:-31.01.2020.
9. Industry reply letter dated: 19.02.2020.
10. Hon'ble NGT order dated 29-03-2022 in respect of OA No.324/2021.
11. Hon'ble NGT-Principal Bench, New Delhi dated: 29.08.2022 in OA no.1038/2018.
12. Proceedings of the meeting in respect of OA No. 324 of 2021 of Hon'bleNGT chaired by Chief Secretary, GOK along with Board officials.

With reference to the above subject, it is bring to your notice that, Board has imposed an interim Environmental Compensation of Rs.25,00,000/- based on non-conformity of treated sewage water collected during inspection on 06.06.2019 as per board office memo no 5749 dated 31.01.2020 to your industry vide ref(8).

Hon'ble NGT Principal Bench in O.A no. 1038/2018 has passed the order as cited above in ref (11) and directed the SPCB's to implement this order. The extract of he said order is reproduced as below;

"230. IA 198/2022 and IA 199/2022: Before departing, we may also notice at this stage that after hearing concluded and order was reserved on 15.07.2022, two IAs i.e., 198/2022 and 199/2022 have been filed by M/s. Healthium Meditech Ltd. through its authorized signatory Peenya Industrial Area, Phase-IA, Bengaluru.

231. Vide IA 198/2022, applicant has sought permission to intervene in the OA I and vide IA 199/2022, it has challenged the Demand Notice dated 30.01.2020, issued by Karnataka SPCB and prayed that the same be set aside. The above Demand Notice showed that it is in reference to Tribunal's order dated 10.07.2019 mentioning that pending final assessment of compensation, interim compensation may be recovered at the scale adopted by Tribunal in the order passed in **Aryavart Foundation vs. M/s. Vapi Green Enviro Ltd. & Ors., OA 95/2018**. The Demand Notice is only in furtherance of final process of determination of environmental compensation by Karnataka SPCB in exercise of its Statutory powers under Water Act, 1974, Air Act, 1981 and EP Act, 1986. When final compensation is determined, such order is also appealable. In these circumstances, we do not find that Demand Notice, in question, can be allowed to be challenged, by means of IA in question, since applicant has statutory remedy".

Further, in the Proceedings of the meeting Chaired by Chief Secretary, GOK in respect of NGT –Principal Bench Suomoto case OA No. 324 of 2021, GOK has taken decision to impose environmental compensation for the polluting industries for past violations vide letter cited at ref (10). Accordingly final order imposing EC for defaulting industries has been calculated as below using formula derived by CPCB (as per the order in the matter of O.A 593/2017).

$$EC = PI \times N \times R \times S \times LF$$

EC = Environmental compensation (in Rs)

PI = Pollution Index of industrial sector

N = Number of days of violation took place

R = A factor in Rupees for Environmental compensation

S = Factor for scale of operation

LF = Location factor

Note:

- PI Shall be calculated, based on the prescribed scoring methodology given in CPCB document, wherever the PI score is not available. It was suggested that, the average pollution index of 80, 50 and 30 may be taken for calculating the environmental compensation for Red, Orange and Green categories of industries respectively.
- N = 1630 days (from the date 03.09.2015 to submission of reply by industry on 19.02.2020).
- R is a factor in Rupees, which may be a minimum of 100 and maximum of 500. It is suggested to consider R as 250, as the environmental compensation in cases of violation.
- S could be based on small/medium/large industry categorization or volume of effluent discharge per day / fuel consumed per day with variable weight age shall be 0.5 for micro or SSI units, 1.0 for medium and 1.5 for large units.
- LF could be 1.5 for the units located in critically polluted areas/ecologically sensitive areas/proximity to large habitations. The scope if LF will be examined further for listing ecologically sensitive areas and proximity to large habitations.

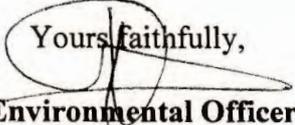
The number days taken as 1630 days from 03.09.2015 to 19.02.2020 (date of Reply submitted by industry).

Therefore, the EC = $80 \times 1630 \times \text{Rs. } 250 \times 0.5 \times 1.5$ (Critically polluted area) = **Rs. 2,44,50,000/-**

Hence, in view of the above, you are hereby liable to pay Environmental Compensation of **Rs. 2,44,50,000/- (Rupees Two Cores Forty Four Lakhs Fifty Thousand only)** as your industry falls under **Small Orange** category in the form of demand draft (DD) drawn in favor of Member

Secretary, KSPCB, Bengaluru **within 15 days from the date of service of this notice**, failing which action as deemed fit under the provision of Law, will be initiated.

The receipt of this notice may please be acknowledged.

Yours faithfully,

Environmental Officer
R.O.-Anekal

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Rajiv Barui