

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

Appeal No.37 of 2023 (SZ)

M/s. Ebmpapst India Pvt. Ltd.,
725/1, 200 Feet Inner Ring Road,
Madhavaram & Post, Chennai- 600 110.
Rep. by its Managing Director.

..Appellant

Vs

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

...Respondents

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Filed by

Thiru.S. Sai Sathya Jith,

Advocate, Chennai.

**BEFORE THE NATIONAL GREEN TRIBUNAL,
SOUTHERN ZONE AT CHENNAI**

APPEAL No. 37 of 2023

M/s.Ebmpapst India
Private Ltd., 725/1, 200
Feet Inner Ring Road,
Madhavaram & Post,
Chennai 600 110.
Rep. by its Managing
Director

....APPELLANT

VERSUS

1. The Chairman, Tamil Nadu Pollution Control Board, No.76, Mount Salai, Guindy, Chennai - 600 032.
2. The Joint Chief Environment Engineer (M), A/C), Tamil Nadu Pollution Control Board, Chennai Zone, No.950/1, 1st Floor, Poonamallee High Road, Arumbakkam, Chennai - 600 106.
3. The District Environment Engineer, Tamil Nadu Pollution Control Board, 77-A, South Avenue Road, Ambattur Industrial Estate, Chennai - 600 058.

.....Respondents

REPORT FILED ON BEHALF OF THE 1ST TO 3RD RESPONDENTS
TAMIL NADU POLLUTION CONTROL BOARD

I, S.Ragupathi, Son of Thiru.R.Sanganan, aged about 59 years having office at No.76, Mount Salai, Guindy, Chennai 600 032 do hereby solemnly affirm and sincerely state as follows:

1. I am the Joint Chief Environmental Engineer, Tamil Nadu Pollution Control Board, Chennai and I am filing this report on behalf of the respondents and as such I am well acquainted with the


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facts of the case from the records and authorized to file this report on behalf of the respondents.

2. It is respectively submitted that the Appellant has filed against the letter dt.28.08.2023 passed by the JCEE(M),TNPC Board ,Chennai for levying Financial penalty Environmental Compensation of Rs.9Lakh (Rupees Nine Lakh Only) as per Rule 23 (2) of the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 under Section 5 of the Environment (Protection) Act 1986 under Section 5 of E (P) Act 1986 for the operating the unit without obtaining valid Hazardous Waste Authorization under the HOWM Rules 2016 by the unit of M/s. EBM-PAPST India Private Limited, S.F.No. 725-1,2B,727-2,737-1,2B, Madhavaram village, Madhavaram Taluk and Chennai District.
3. It is respectfully submitted that the unit of M/s. EBM-PAPST India Private Limited, located at S.F.No.725-1,2B,727-2,737-1,2B, Madhavaram village, Madhavaram Taluk and Chennai District has obtained Consent to Establish on 25.03.2009 vide Board Proceedings No: T16/TNPCB/6810/TLR/A&W/2009 dated 25.03.2009 and further renewal issued up to 31.03.2026 for the following activities:

Products: Axial Type Fans – 350000 Nos/Annum

- a. Radial and Centrifugal Type Fans–150000 Lakhs/Month

Discharge of sewage:

Sewage – 7 KLD and disposal on land for gardening

Discharge of Effluent:

- a. Trade Effluent – 3.2 KLD and recycled to process
- b. Trade Effluent – 0.8 KLD and disposal through Evaporator

Point Source Emissions:

- a. Degreasing & iron Phosphating section attached to stack 12 m above GL


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- b. Hot Water Generator attached to stack 12 m above GL
 - c. Water Dry Off Oven attached to stack 12 m above GL
 - d. Cooling Zone I Outtake Duct attached to stack 12 m above GL
 - e. Cooling Zone 2 out take duct attached to stack 12 m above GL
 - f. DG Set 370 KVA-3 Nos. attached to Acoustic enclosures with stack 8 m above GL.
4. It is respectfully submitted that the unit was inspected by the DEE, TNPCB, Ambattur on 19.01.2024 and the observations are as follows:

- a) The unit was under operation with valid consent of the Board.
- b) The unit generates 7 KLD of sewage. The treated water is utilized on land for gardening.
- c) The unit generates 4 KLD of effluent from the process. The effluent is treated in ETP and 3.2 KLD is recycled to process and 0.8 KLD is disposed through evaporator.
- d) The unit was in operation without Hazardous Waste Authorization under the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 as amended for the past 8 years.
- e) The unit has stored the below hazardous waste inside the premises in a closed shed:
 - i. 0.16 Ton of 34.3. Chemical sludge from waste water treatment
 - ii. 0.27 Ton of 21.1. Wastes and residues - 0.27 Ton
- f) It is also submitted that the Board was already issued Hazardous Waste Authorization to the unit vide Board's Proceedings No.34064/2010/T16/ORANGE/HWM/TNPCB/2010 dated 04.01.2011 with validity upto 03.01.2016 for Collection, Storage, Transport and Disposal of CHWTSDF for incineration for below Hazardous waste under Orange category:


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- a) 5.2 Waste/residue containing oil – 0.04 T/Yr
 - b) 21.1 Process Wastes, residues and sludge – 0.103 T/Yr
 - c) 34.3 Chemical sludge from waste water treatment – 0.03 T/Yr and the same was expired.
5. It is respectfully submitted that as per HOWM(M&TM) Rules,2016 the unit has to obtain Hazardous Waste Authorization from the Board to handle, Generate, Collect, Storage, Transport and dispose Hazardous waste to TNPCB authorized facilitators without accumulating the Hazardous waste more than 90 days.
6. The unit has to possess valid agreement with TNPCB authorized facilitators to handle the hazardous waste.
7. It is respectfully submitted that the unit has applied for authorization vide TNOCMMS portal on 30.07.2016, under the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 as amended for the following categories
- a) 5.1 – used or spent oil,
 - b) 5.2, Wastes or residues containing oil,
 - c) 21.1.Process Wastes, residues and sludges,
 - d) 35.3. Chemical sludge fromwaste water treatment
8. It is respectfully submitted that the unit's application was returned for the required details from the DEE,TNPC Board, Ambattur and Corporate office on 18.08.2016, 09.04.2018, 24.11.2018, 10.11.2019, 21.07.2020, 19.12.2020, 29.04.2021, 01.02.2022, 12.12.2022, 19.05.2023 and 08.09.2023 and the unit repeatedly resubmitted the application without addressing the required details in complete shape for the issue of Hazardous Waste Authorization of the Board.
9. It is respectfully submitted that the Board has calculated the Financial Penalty from the unit, since operating without Hazardous waste authorization under the Hazardous and other wastes (Management & Transboundary Movement) Rules 2016, as the


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existing Hazardous waste Authorization issued on 04.11.2011 and its validity was expired on 03.01.2016.

10. It is respectfully submitted that the District Environmental Engineer, TNPC Board, Ambattur in its letter dt.26.04.2023 has recommended to the Board to levy financial penalty Environmental Compensation of Rs. 9 lakhs (Rs.Nine Lakhs only) against the unit for operating the unit without Hazardous Waste Authorization under the Hazardous and Other Waste Management and Transboundary Movement) Rules 2016 as amended.
11. It is respectfully submitted that the District Environmental Engineer, TNPC Board, Ambattur in its letter dt.26.04.2023 has recommended to the Board financial penalty of Rs. 9 lakhs (Rs.Nine Lakhs only) should not be levied as per Rule 23(2) of Hazardous and Other Waste Management and Transboundary Movement) Rules 2016 under Section 5 of the Environment (Protection) Act 1986 for the violations mentioned therein vide Bd.Proc.No.T5/TNPCB/F.00293/AMB/2023, Dated:22.05.2023 for the following violations:

The Central Pollution Control Board has formulated "Guidelines on Implementing Liabilities for Environmental Damages due to Handling & Disposal of Hazardous Waste and Penalty" in accordance with the provisions of Rule 23(2) of the Hazardous and Other Wastes (Management & Transboundary Movement Rules, 2016 and Section 15 of the Environment (Protection) Act, 1986 as amended stipulate that financial penalty to be levied by the concerned SPCB/PCC for any violation may be limited to maximum of one lakh rupees per provision violated so as to ensure that levying of financial penalty remain within the brief of the Environment (Protection) Act, 1986, since the said Rules have been notified under the Environment (Protection) Act, 1986. However, non-compliance may attract violation of one or several provisions


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of the said Rules and thus the total financial penalty amount may be arrived by adding up number of provisions violated. Further, additional fine up to Rupees Five Thousand for every day may also be imposed in case of failure continues by the responsible party beyond period by which remedial/corrective measures would have been implemented as suggested by the SPCB/PCC. Therefore, financial penalty requires to be imposed and collected from the violators as maximum of Rs. 1 lakh for violation of each provision stipulated under the HOWM Rules, 2016 (in addition to the environmental compensation which has been discussed in section B below). List of various violations vis-à-vis provisions of HOWM Rules, 2016 is given at Appendix A.

Whereas, the unit has violated following vis-à-vis provisions of the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 as stated in the appendix stated above.

B. Authorization 6) (A) Occupier (requiring Consent to establish or operate under the Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981) operating facility without making application for authorisation or without obtaining authorisation or operating with the suspended /cancelled authorisation or refused for each of the following activities pertaining to hazardous and other wastes, as applicable:

- (i) Handling;
- (ii) Generation;
- (iii) Collection;
- (iv) Storage;
- (v) Packaging;
- (vi) Transportation;
- (vii) Offering for sale, transfer or disposal.


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Financial penalty requires be imposing and collecting from the violators as maximum of Rs. 1 lakh for violation of each provision stipulated under HOWM Rules, 2016.

7 Nos of Violation = Rs. 7 lakhs

Occupier storing the hazardous and other wastes for more than 90 days (or other periods specified in case specified by SPCB/PCC, as applicable) or not maintaining record of sale, transfer, storage, recycling, recovery, pre-processing, co-processing and utilisation of such wastes or making these records available for inspection.

The unit has not furnished the aforesaid details at the time of inspection.

1 No of Violation = Rs. 1 lakh

The occupier handling hazardous and other wastes and operator of disposal facility not submitted annual returns to SPCB in Form 4.

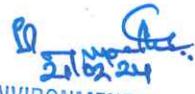
The unit has not submitted the annual returns for the years 2016–2017, 2020–2021, and 2021–2022.

1 No of Violation = Rs. 1 lakh

Therefore, 9 violations Financial penalty = Rs. 9 lakhs (Rupees Nine Lakhs Only).

12. It is respectfully submitted that the unit has submitted reply dated:06.06.2023 on the issue of show cause notice and requested the Board to arrange for a personal hearing meeting to explain their facts.

13. It is respectfully submitted that the Board has requested JCEE(M), TNPCB, Chennai to conduct personal hearing with M/s.EBM - Papst India Private Limited by enclosing unit's letter dated 06.06.2023 and to submit report along with specific remarks and recommendations to the Board within twenty days vide Bd.Memo.No.T5/TNPCB/F.00293/AMB/2023, Dated:19.06.2023.


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14. It is respectfully submitted that the JCEE(M), TNPCB, Chennai has conducted personal hearing on 07.07.2023 with unit's representatives recommended to Board to consider the request of the unit for waiver of environmental compensation and to drop the levy of Environmental compensation financial penalty of Rs.9 Lakhs (Rupees Nine Lakhs) vide Lr.No.F.73-1/JCEE(M)/TNPCB/Personal Hearing/2023, dt:01.08.2023.
15. It is respectfully submitted that the Board vide Memo No.T5/TNPCB/F.00293/AMB/RL/2022, dated :17.08.2023, decided to set aside the recommendations of JCEE (M), TNPCB, Chennai, since the unit is operating without valid authorization for 8 years, EC imposed for Rs.9 lakhs cannot be waived and directed that the unit shall remit financial penalty of Rs.9 lakhs (Rupees Nine lakhs) under section 5 of E(P) Act 1986, levied for operating without valid authorization for 8 years. Therefore, JCEE (M), TNPCB, Chennai vide Lr.No.JCEE(M)/CHZ/F.73- 1/AMB/PH/2023, dated: 28.08.2023 has directed the unit to remit the Environmental compensation of Rs.9 lakhs within 10 days.
16. It is respectfully submitted that the unit vide its letter dated 24.10.2023 has furnished reply stating that an appeal has been filed before the Hon'ble National Green Tribunal, South at Chennai and numbered as 37 of 2023.
17. It is respectfully submitted that in continuation with the above, the Hon'ble National Green Tribunal(Southern Zone) in its order dated 30.11.2023 has stated that

“There will be an order of interim stay on condition that the appellant shall deposit 50% of amount levied on them within a period of 2 (two) weeks with the Tamil Nadu Pollution Control Board, failing which, the stay granted will be automatically vacated without further reference to this Tribunal”.


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18. The unit has remitted Rs. 4.5 Lakhs (Rupees Four Lakhs and Fifty Thousands Only) on 14.12.2023 to the TNPC Board, thus complied the Hon'ble NGT order out of Rs.9 lakhs levied by the Board.

For the above said reasons and violations committed by the unit of M/s. EBM-PAPST India Private Limited, S.F.No. 725-1,2B,727-2,737-1,2B, Madhavaram village, Madhavaram Taluk and Chennai District as stated above as per Rule 23 (2) of the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 under Section 5 of the Environment (Protection) Act 1986,

I humbly prayed that this Hon'ble Tribunal may be pleased to pass orders or such further orders as this Hon'ble Tribunal may deem fit and necessary in the circumstances of the case and thus render justice.


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VERIFICATION

I, S.Ragupathi, Son of Thiru.R.Sanganan, aged about 59 years having office at No.76, Mount Salai, Guindy, Chennai 600 032 do hereby verify that the contents of above report are true to the best of my knowledge through records.


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**REPORT FILED ON BEHALF OF THE 1ST
TO 3RD RESPONDENTS - TAMIL NADU
POLLUTION CONTROL BOARD.**

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

Date:21.02.2024.

Date of hearing on:22.02.2024.

