

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

**Under Sec.18(1) read with Section 16 the of National Green  
Tribunal Act, 2010)**

**Appeal Nos73 & 74 of 2021**

Rajshree Sugars & Chemicals Limited,  
Rep by its Depy. General Manager,  
Mr.M.Thangathiruppathi,  
having office at  
Unit-1, Varadaraj Nagar,  
Periyakulam Taluk,  
Theni District 625 562  
Email Id-thangathiruppathim@rajshreesugars.com  
Mob:-9865240100

... Appellant

Versus

1. M/s. GKN Food Products,  
A Partnership Firm,  
Rep. by its Managing Partner,  
Mr. Sivamurugeswara Pandian.N.  
S.F.No.892/3A, Sadayalpatti,  
Kodankipatti Village, Bodi Taluk,  
Theni District  
Pin 625 534  
Email Id-gknsiva@gmail.com  
Mob:-8939911011
2. The Tamil Nadu Pollution Control Board  
Rep. by its Chairman,  
100, Anna Salai, Guindy  
Chennai 600 0032  
Email Id-tnpcb-chn@gov.in  
Mob:-044-22353134
3. The District Environmental Engineer  
Tamil Nadu Pollution Control Board  
Door NO.151/14, 12A/3, SAR Complex,  
Boothipuram Road,  
Theni District 625 531  
Email Id-tnpcbtheni@gmail.com  
Mob:-04546-264426

... Respondents

For RAJSHREE SUGARS & CHEMICALS LTD.



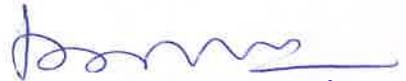
M. THANGA THIRUPPATHI  
Dy. General Manager - IR

**REJOINDER FILED BY THE APPELLANT IN RESPONSE TO  
COUNTER AFFIDAVIT FILED BY THE FIRST RESPONDENT**

I, M.Thangathiruppathi, S/o. T. Mookiah, Hindu, aged about 55 years, Working as Depy. General Manager - Corporate IR, M/s. Rajshree Sugars & Chemicals Limited, having office at Unit-1, Varadaraj Nagar, Periyakulam Taluk, Theni District 625 562, do hereby solemnly affirm and sincerely state as follows:

1. I am the Appellant herein and well acquainted with the facts of the case.
2. I have read the Counter Affidavit filed by the First Respondent in the above appeals and I deny the allegations made against the Appellants therein. I am filing the present Rejoinder Affidavit only to clarify this aspects that are not covered in the detailed Memorandum of Appeal filed.
3. The First Respondent has continued to deny that the unit of the First Respondent falls under the reserved area allotted to the Appellant by the Commissioner of Sugars under the provisions of Sugarcane (Control) Order 1966. This stand taken by the First Respondent is unsubstantiated and unsupported by any evidence on record. So long as the reserved area allotted to the Appellant has not been de-reserved or granted in favour of any Third Party by any specific orders of the Central Government or the Commissioner of Sugars, it is not open to the First Respondent to contend that their unit is not situated in the reserved area of the Appellant.

For RAJSHREE SUGARS & CHEMICALS LTD.

  
M. THANGA THIRUPPATHI  
Dy. General Manager - IR

4. The repeated contentions raised in paras 6 to 8 of the Counter Affidavit that by virtue of the amendment introduced on 31.07.2007 to the Sugarcane (Control) Order 1966, the First Respondent is entitled to operate in the reserved area are incorrect. The amendment only states the legal position that manufacture of Jaggery is exempted from the applicability of the Sugarcane (Control) Order. Therefore, unless and until the First Respondent is able to establish before the Commissioner of Sugars or the Central Government that the proposed project is only for the purpose of manufacturing jaggery and not those items otherwise covered under the Original Sugarcane Control Order 1966, the First Respondent cannot seek for any consent from the TNPCB to establish their factory in the reserved area. The averment of First Respondent in para 7 of the counter that the term "reserved area" in clause 6 of the sugar Cane control order 1966 was also omitted is factually incorrect and misleading. In fact clause 6 with sub clauses (a) to (f) of the order empowers the central Government/Commissioner of Sugar to earmark any area as reserved area for drawing sugarcane to a factory having regard to the crushing capacity, availability of sugarcane etc., and restrict its movement.

5. It is submitted that if the amendment was automatically applicable to the First Respondent, there was no necessity for the First Respondent to make a representation to the Commissioner of Sugar on 28.06.2021 and 23.07.2021 seeking orders to the effect that the Petitioner unit is exempted from the Sugarcane (Control) Order 1966. Likewise, the First Respondent in filing W.P.No.14415 of 2021 before the Madurai Bench of the Hon'ble High Court of Madras has conceded the

For RAJSHREE SUGARS & CHEMICALS LTD.

  
M. THANGA THIRUPATHI  
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factual position that unless and until the Commissioner of Sugar issues a clarification on the applicability of the exemption to the First Respondent unit, they cannot automatically avail the same. In addition the Madurai Bench of the Hon'ble High Court of Madras has also passed an order on 16.08.2021 in W.P.No.14415 of 2021 directing the Commissioner of Sugar to consider the representation of the Petitioner dated 28.06.2021 and 23.07.2021 and dispose of the same by a reasoned order after taking into account the Sugarcane (Control) Amendment Order 2007. The Hon'ble High Court, considering the fact that the First Respondent has mentioned the Appellants objections in the matter, has directed the Commissioner of Sugar to provide reasonable opportunity to the First Respondent herein as well as any other person who would be affected by such order.

6. It is submitted that a considered order is still awaited from the Commissioner of Sugar who is the competent authority. After the order of the Hon'ble High Court, the Commissioner of sugar has only issued a communication dated 01.09.2021 that the District Collector, Theni has been informed about the provisions of the Sugarcane (Control) Order 2007. The Commissioner of Sugar is yet to hold an enquiry about the applicability of the exemption to the First Respondent in the light of the objections raised by the Appellant herein by affording opportunity to the Appellant as directed by the Hon'ble High Court by its order dated 16.08.2021. Therefore, the issue is still pending before the concerned authorities and the First Respondent cannot assume that it is automatically entitled to exemption on his purported claim that he is manufacturing only Jaggery.

For RAJSHREE SUGARS & CHEMICALS LTD.

  
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7. The Appellant states that the Application and process diagram of the First Respondent indicate installation and use of a vacuum concentrator which is nothing but a vacuum pan use in sugar/kandasari/chakkar manufacturing. If that is so, what is produced is not jaggery but only sugar/kandasari/chakkar which is not exempt.

8. The Appellant has also made a further representation on 04.10.2021 in response to the communication dated 01.09.2021 issued by the Commissioner of Sugar asking for an opportunity before deciding the issue finally as directed by the orders of the Hon'ble High Court in W.P.No.14415 of 2021 and the reply is still awaited.

9. The averments made in para 11 that G.O.Ms.No.79 dated 04.05.2017 is not applicable to the First Respondent is totally incorrect. The First Respondent on its own has applied for conversion of the land in a non-plan area and has made an application for the same as per the guidelines contained in G.O.Ms.No.79 dated 04.05.2017. Under such circumstances, based on revenue records obtained subsequently the First Respondent cannot claim that the said G.O. is not applicable to them. In other words, the First Respondent cannot approbate and reprobate.

10. The averments in para 18 regarding bifurcation orders to be obtained it is submitted that after the bifurcation that was effected in the year 1997, the Appellant has been continuing to operate in the same reserved area for the last 24 years. As stated in the Appeal Memorandum already separate orders for bifurcated areas are not required. Any bifurcation

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orders obtained by the Appellant in case of other areas are purely based on administrative convenience and not because of any legal necessity.

11. The First Respondent, even before applying for CTE and after rejection of consent and during the pendency of the appeal proceedings has completed the construction of its factory by spending several crores. The very fact that the investment is running to crores of rupees would establish the factory is not a jaggery manufacturing unit since jaggery manufacturing is a low investment cottage industry. It is only for the purpose of encouraging such cottage industries exemption for jaggery was granted under the Sugarcane Control Order. The First Respondent is attempting to misuse and abuse the exemption provision in order to escape the clutches of the Sugarcane (Control) Order Sugarcane is a highly regulated commodity and quite scarce. The Appellant is already facing shortage of sugarcane even to run their own factory in the present reserved area. Under such circumstances, proposal of the First Respondent that he should be permitted to purchase sugarcane from the sugarcane growers directly is neither practicable nor permissible.

12. In the foregoing circumstances, the claim of the First Respondent is totally unfounded. The First Respondent wants a consent to be issued even before he has complied with the necessary legal and basic requirements. It is well known that no consent can be granted unless basic conditions are satisfied by the First Respondent and consent orders cannot be issued on the basis of undertaking that may be given by the project proponent that they will comply with the essential conditions at

For RAJSHREE SUGARS & CHEMICALS LTD.

  
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Dy. General Manager - IR

a later point of time. Unless and until the First Respondent complies with all legal requirements, he is not entitled to obtain a CTE.

It is therefore prayed that this Hon'ble Tribunal may be pleased to allow the Appeal Nos. 73 & 74 of 2021 and pass appropriate orders and thus render justice.

For RAJSHREE SUGARS & CHEMICALS LTD.

  
M. THANGA THIRUPATHI  
Dy. General Manager - IR

Solemnly affirmed at Chennai on  
this the 1<sup>st</sup> day of December, 2021  
and signed his name in my  
presence.

BEFORE ME

*V. Archan*  
*2022/08*  
ADVOCATE: CHENNAI

*No. 70 Law  
Chennai.*

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

**MEMORANDUM OF APPEAL**

**Under Sec.18(1) read with Section 16 the of National Green  
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**Appeal Nos73 & 74 of 2021**

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Theni District & 2 others

... Respondents

**REJOINDER FILED BY THE APPELLANT IN RESPONSE TO**  
**COUNTER AFFIDAVIT FILED BY THE FIRST RESPONDENT**

THROUGH

**M/S. K.S.VISWANATHAN, T. HEMALATHA & S. RATHI**

**ADVOCATES FOR APPELLANT**

**PLACE: CHENNAI**

**DATE: 02.12.2021**