

**BEFORE HON'BLE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH AT NEW DELHI
APPEAL NO. 29 OF 2022**

IN THE MATTER OF:

Rathi Special Steels Limited

... Appellant

Versus

Commission for Air Quality Management
in NCR and Adjoining Area & Ors

... Respondents

I N D E X

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FILED BY:



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Date: 26/07/2022
Place: New Delhi

**BEFORE HON'BLE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH NEW DELHI
APPEAL NO. 29 OF 2022**

IN THE MATTER OF:

Rathi Special Steels Limited ... Appellant

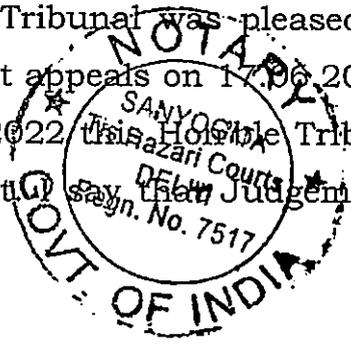
Versus

Commission for Air Quality Management
in NCR and Adjoining Area & Ors ... Respondents

ADDITIONAL AFFIDAVIT ON BEHALF OF APPELLANT

I, Anurag Rathi Son of Late Shri Kamlesh Kumar Rathi aged about 48 years, Resident of 6, Sadhna Enclave New Delhi presently at New Delhi do hereby solemnly affirm and state as under:

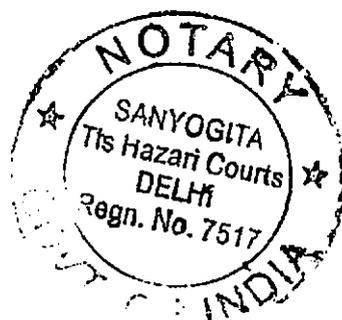
1. That I am the Director and Authorised Representative of the Appellant Company. I am conversant with the facts and circumstances of the case. As such I am competent to sign, swear and affirm this affidavit.
2. I say that Appeal No. 29 of 2022 challenges the Final Order dated 05.05.2022 passed by the Respondent No. 1 Commission *inter alia* directing closure of the unit of the Appellant. That another Appeal being Appeal No. 28 of 2022 was filed against the Original Closure Order dated 21.01.2022. Both the matters were tagged and heard jointly.
3. I say that this Hon'ble Tribunal was pleased to hear detailed arguments in the present appeals on 17.06.2022 and thereafter vide order dated 21.06.2022 this Hon'ble Tribunal was pleased to reserve the judgement. I say that judgement was originally



scheduled to be pronounced on or before 14.07.2022. This date was deferred to 25.07.2022. The date of pronouncement of judgement has been deferred for second time now and is to be pronounced on or before 01.08.2022.

4. I say that during the pendency of the present Appeals, the Ministry of Environment Forest and Climate Change has by way of a Gazette Notification dated 20.07.2022, allowed all standalone re-rolling units or cold rolling units (with valid consent to operate and Consent to Establish) a time period of one year from the date of the notification to apply for grant of Terms of Reference (ToR) followed by Environment Clearance. Relevant portion of the Notification dated 20.07.2022 is reproduced hereinbelow:

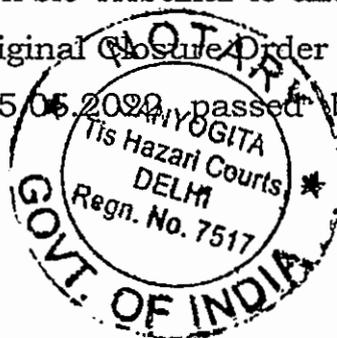
Now, therefore, in exercise of the powers conferred by section 3 of the Environment (Protection) Act, 1986 (29 of 1986), the Central Government hereby directs that all the standalone re-rolling units or cold rolling units, which are in existence and in operation as on the date of this notification, with valid Consent to Establish (CTE) and Consent to Operate (CTO) from the concerned State Pollution Control Board or the Union territory Pollution Control Committee, as the case may be, shall apply online for grant of Terms of Reference (ToR) followed by Environment Clearance and the said units shall be granted Standard Terms of Reference as per item 3(a) of the said notification and shall be exempted from the requirement of public consultation:



Provided that the application for the grant of ToR shall be made within a period of one year from the date of this notification.

True Copy of Notification dated 20.07.2022 issued by Ministry of Environment Forest and Climate Change is annexed herewith and marked as **Annexure – “A-1”**.

5. The present Gazette notification squarely covers the challenge pending before the Hon'ble Tribunal. It is submitted that in light of the present notification dated 20.07.2022, all the units have been allowed a time period of one year to apply for ToR followed by Environment clearance from 20.07.2022 the Impugned Orders dated 05.05.2022 and Original Closure Order dated 21.01.2022 have become infructuous.
6. The Appellant Company is a bonafide business entity and the closure of the same has made an adverse impact on the livelihood of more than 300 workers employed by the Appellant. The Appellant has made all due and necessary compliances and further has also applied for Environmental Clearance (EC) vide application dated 10.05.2022. Acknowledgement of complete application was received by Appellant on 10.06.2022. Further, Terms of Reference is likely to be issued to the Appellant very soon.
7. That in light of the aforementioned facts and the MoEF notification dated 20.07.2022 the Appellant most humbly requests the Hon'ble Tribunal to allow the present Appeals and set aside the Original Closure Order dated 21.01.2022 and Final Order dated 05.05.2022, passed by the Respondent No. 1 Commission.



8. The present Affidavit is filed for the limited purpose of placing on record the MoEF Notification dated 20.07.2022 before this Hon'ble Tribunal.
9. I say that I have read and understood the contents of the present affidavit. I say that the facts stated therein are true and correct to my knowledge derived from official records.
10. That the documents filed along with the present Additional Affidavit are the true copy of respective originals.

Omrag Rathi
DEPONENT

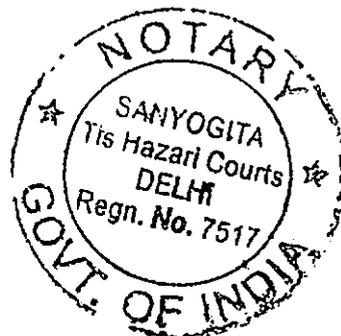
VERIFICATION:

I, the deponent abovenamed, do hereby verify that the contents of Para 1 to 10 of my above affidavit are true to the best of my knowledge based on official records, nothing material has been concealed therefrom.

Verified at New Delhi on this the 26 th day of JULY 2022.

*Identified by me
Adv. Anand Shankar Jha*

Omrag Rathi
DEPONENT



ATTESTED
[Signature]
NOTARY PUBLIC
DELHI (INDIA)

26 JUL 2022

ANNEXURE - A-1

रजिस्ट्री सं. डी.एल.- 33004/99

REGD. No. D. L.-33004/99



भारत का राजपत्र
The Gazette of India

सी.जी.-डी.एल.-अ.-20072022-237385
CG-DL-E-20072022-237385

असाधारण
EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं. 3090]
No. 3090]

नई दिल्ली, बुधवार, जुलाई 20, 2022/आषाढ़ 29, 1944
NEW DELHI, WEDNESDAY, JULY 20, 2022/ASHADHA 29, 1944

पर्यावरण, वन और जलवायु परिवर्तन मंत्रालय

अधिसूचना

नई दिल्ली, 20 जुलाई, 2022

का.आ. 3250(अ).—माननीय राष्ट्रीय हरित प्राधिकरण ने मूल आवेदन संख्या 55/2019 (डब्ल्यू जैड), (गजूवा जेसर जडेजा वनाम भारत संघ और अन्य) में अपने तारीख 12 फरवरी, 2020 के आदेश द्वारा अन्य बातों के साथ यह प्रेक्षित किया था कि कोल्ड रोल्ड स्टेनलेस स्टील विनिर्माण उद्योगों के लिए पूर्व पर्यावरण अनुमति अपेक्षित होती है लेकिन इस तथ्य को ध्यान में रखते हुए कि स्थापना की सहमति (सीटीई) और प्रचालन की सहमति (सीटीओ) के आधार पर वृहद संख्या में ऐसी मिलें संचालित की जा रही थीं, माननीय अधिकरण ने यह निर्णय दिया है कि ऐसी इकाइयों को पर्यावरण अनुमति व्यवस्था के भीतर आने के प्रयोजन के लिए कार्य करने हेतु कम से कम एक वर्ष प्रदान करके अवसर प्रदान किया जाना चाहिए;

और केन्द्रीय सरकार ने कोविड-19 महामारी के कारण कारित प्रभाव को ध्यान में रखते हुए, माननीय राष्ट्रीय हरित प्राधिकरण के पूर्वोक्त उक्त आदेश के अनुरूप विचार विमर्श करके विनिश्चय किया है, जिससे ऐसी री-रोलिंग या कोल्ड रोलिंग इकाइयों को पूर्व पर्यावरण अनुमति प्राप्त करने का अवसर प्रदान किया जा सके:

और केन्द्रीय सरकार का यह विचार है कि भारत के राजपत्र, असाधारण, भाग II, खंड 3, उपखंड (ii), में अधिसूचना संख्यांक का.आ. 1533(अ), तारीख 14 सितंबर, 2006 द्वारा प्रकाशित भारत सरकार के तत्कालीन पर्यावरण और वन मंत्रालय की अधिसूचना की अनुसूची के धातुकर्म उद्योग (लौह और अलौह) से संबंधित मद 3(क) के अनुसार द्वितीय धातु कर्म प्रसंस्करण उद्योग के परिक्षेत्र में आने वाले स्टील री-रोलिंग प्रचालन और अपेक्षित पर्यावरण अनुमति,

उसकी अनुसूची में (जिसे इसमें इसके पश्चात् उक्त अधिसूचना कहा गया है) जिसमें प्रवर्ग ख के अधीन आने वाली 5,000 टन/एनम (टीपीए) से अधिक क्षमता वाली सभी गैर विषैली द्वीतीय धातुकर्म प्रसंस्करण इकाइयां हैं, समाविष्ट परियोजनाओं के लिए पूर्व पर्यावरण अनुमति की अपेक्षा को आज्ञापक बनाती है;

अतः, अब, केन्द्रीय सरकार, पर्यावरण (संरक्षण) अधिनियम, 1986(1986 का 29) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह निर्देश देती है कि सभी स्टैंड अलोन री-रोलिंग इकाइयां कोल्ड रोलिंग इकाइयां, जो इस अधिसूचना की तारीख को यथास्थिति, संवद्ध राज्य प्रदूषण नियंत्रण बोर्ड या संघ राज्य क्षेत्र प्रदूषण नियंत्रण समिति से स्थापन की विधिमान्य सहमति (सीटीई) और प्रचालन की विधिमान्य सहमति (सीटीओ) के साथ इस अधिसूचना की तारीख को विद्यमान हैं और प्रचालन में हैं, पर्यावरण अनुमति के अनुसरण में निर्देश निबंधन (टीओआर) अनुदत्त करने के लिए ऑनलाइन आवेदन करेंगी और उक्त इकाइयों को उक्त अधिसूचना की मद 3(क) के अनुसार मानक निर्देश निबंधन अनुदत्त किए जाएंगे और उन्हें लोक परामर्श की अपेक्षा से छूट प्राप्त होगी:

परंतु टीओआर अनुदत्त करने के लिए आवेदन, इस अधिसूचना की तारीख से एक वर्ष की अवधि के भीतर किया जाएगा।

2. यह अधिसूचना इसके राजपत्र में प्रकाशन की तारीख से प्रवृत्त होगी।

[फा. सं. आईए-जे-11013/8/2019-आईए.II(I)]

डॉ. सुजीत कुमार वाजपेयी, संयुक्त सचिव

MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE

NOTIFICATION

New Delhi, the 20th July, 2022

S.O. 3250(E).—Whereas, the Hon'ble National Green Tribunal *vide* its order, dated the 12th February, 2020, in Original Application No. 55/2019 (WZ), (*Gajubha Jesar Jadeja vs Union of India & Ors.*), has *inter alia* observed that Cold Rolled Stainless Steel Manufacturing Industries require prior environment clearance but, having regard to the fact that there were a large number of such mills operating on the strength of Consent to Establish (CTE) and Consent to Operate (CTO), the Hon'ble Tribunal has held that opportunity should be provided to such units to fall within the Environment Clearance regime by granting a period of at least one year to operate for the purpose;

And whereas, the Central Government, keeping in view the impact caused due to the Covid19 pandemic has taken a considered decision in line with the above said order of the Hon'ble National Green Tribunal, so as to provide a window period for such re-rolling or cold rolling units to obtain prior Environmental Clearance;

And whereas, the Central Government is of the view that steel re-rolling operations fall under the purview of the secondary metallurgical processing industry and require Environment Clearance as per item 3(a), relating to Metallurgical Industries (Ferrous and Non-ferrous), of the Schedule to the notification of the Government of India in the *erstwhile* Ministry of Environment and Forest, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii), *vide* notification number S.O. 1533 (E), dated the 14th September, 2006, mandating the requirement of prior environmental clearance for the projects covered in its Schedule (hereinafter referred to as the said notification), wherein all non-toxic secondary metallurgical processing units with capacities greater than 5000 tonnes/annum (TPA) fall under category B;

Now, therefore, in exercise of the powers conferred by section 3 of the Environment (Protection) Act, 1986 (29 of 1986), the Central Government hereby directs that all the standalone re-rolling units or cold rolling units, which are in existence and in operation as on the date of this notification, with valid Consent to Establish (CTE) and Consent to Operate (CTO) from the concerned State Pollution Control Board or the Union territory Pollution Control Committee, as the case may be, shall apply online for grant

of Terms of Reference (ToR) followed by Environment Clearance and the said units shall be granted Standard Terms of Reference as per item 3(a) of the said notification and shall be exempted from the requirement of public consultation:

Provided that the application for the grant of ToR shall be made within a period of one year from the date of this notification.

2. This notification shall come in to force from the date of its publication in the Official Gazette.

[F. No. IA-J-11013/8/2019-IA.II(I)]

Dr. SUJIT KUMAR BAJPAYEE, Jt. Secy.

PROOF OF SERVICE

rediffmail

Mailbox of office@asjlegal.in

Subject: KIND ATTN: Rathi Special Steels Vs CAQM & Ors: Appeal No. 29 of 2022: National Green Tribunal

From: ASJ Legal <office@asjlegal.in> on Tue, 26 Jul 2022 15:44:43

To: "abhishekatrey@gmail.com" <abhishekatrey@gmail.com>, <RAJESH.K64@GOV.IN>, <KUTTYDM@NIC.IN>, <ACP.RPCB@RAJASTHAN.GOV.IN>, <ROBHINWADI@GMAIL.COM>

Cc: "anandjha " <anand.jha@asjlegal.in>

1 attachment(s) - Addl_Affidavit_Appeal_29_of_2022.pdf (733.49KB)

Dear Sir,

Please find attached Additional Affidavit being filed on behalf of Appellant in the captioned Appeal pending before the Hon'ble National Green Tribunal, Principal Bench, New Delhi.

Request you to kindly acknowledge the receipt of this email along with attachment.

Regards

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Advocates & Solicitors

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