

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,  
PRINCIPAL BENCH, NEW DELHI

APPEAL NO. 29 OF 2022

[OLD APPEAL NO.11 OF 2022 (CZ)]

WITH

APPEAL NO. 28 of 2022

[OLD APPEAL NO. 04 OF 2022 (CZ)]

IN THE MATTER OF:

Rathi Special Steels Ltd. & Ors. ....Appellant

Versus

Commission for Air Quality Management

in National Capital Region and Adjoining

Areas & Ors.

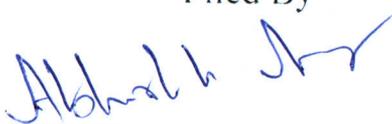
.....Respondents

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New Delhi  
Dated: 27.07.2022

  
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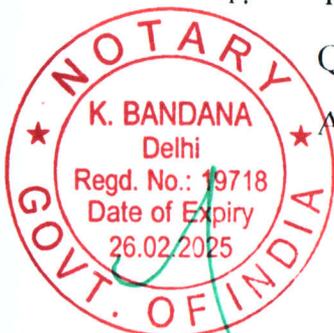
Versus

Commission for Air Quality Management  
in National Capital Region and Adjoining  
Areas & Ors. ....Respondents

AFFIDAVIT ON BEHALF OF RESPONDENT NO.1  
COMMISSION FOR AIR QUALITY MANAGEMENT IN  
NATIONAL CAPITAL REGION AND ADJOINING AREAS

I, Rajesh Kumar aged about 58 years, S/o Shri S. K. Prasad, working as Director in the Commission for Air Quality Management in National Capital Region and Adjoining Areas, New Delhi (hereinafter referred to as 'Commission') having office at 17<sup>th</sup> Floor, Jawahar Vyapar Bhawan, STC Building, Tolstoy Marg, New Delhi – 110001, do hereby, in my official capacity, solemnly affirm and state as under:

1. That I, in the capacity of Director of the Commission for Air Quality Management in National Capital Region and Adjoining Areas, am fully conversant with the facts of the



Rajesh Kumar / Rajesh Kumar  
निदेशक / Director  
राष्ट्रीय राजधानी क्षेत्र और निकटवर्ती क्षेत्रों में वायु गुणवत्ता प्रबंधन आयोग  
Commission for Air Quality Management in NCR & Adjoining Areas  
भारत सरकार / Government of India  
17वीं मंजिल, जवाहर व्यापार भवन (एस.टी.सी. बिल्डिंग), टॉलस्टॉय मार्ग,  
17th Floor, Jawahar Vyapar Bhawan (STC Building), Tolstoy Marg,  
नई दिल्ली-110001 / New Delhi-110001

- case and competent to swear this affidavit on behalf of respondent no.1.
2. That the replying respondent is filing the present affidavit with a view to enable this Hon'ble Tribunal to appreciate the correct perspective of the Ministry of Environment, Forest and Climate Change Notification dated 20.07.2022.
  3. That it is respectfully submitted that closure direction dated 21.01.2021 was issued on the ground that unit of the Appellant was operating without a valid Consent to Operate (CTO), from Rajasthan State Pollution Control Board (CTO expired on 31.07.2021) besides being operated on the days when it was not supposed to operate in terms of Direction dated 15.12.2021 issued by the Commission to combat high level of Air pollution in the region particularly during the winter season.
  4. That in compliance of order dated 29.03.2022 of the Hon'ble NGT(CZ), Bhopal, answering respondent, after providing opportunities to the appellant for being heard, issued order dated 05.05.2022 in view of no provision under the extant environment laws permitting the unit of appellant to run with an expired CTO and/or in absence of an environmental clearance.
  5. That the Notification dated 20.07.2022 issued by the Ministry of Environment, Forest and Climate Change *inter alia* states as under:

“...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



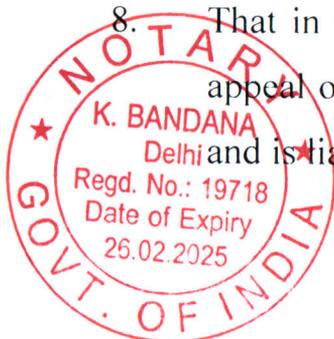
Rajesh Kumar / Rajesh Kumar  
 Director  
 Commission for Air Quality Management in NCR & Adjoining Areas  
 भारत सरकार / Government of India  
 17वीं मंजिल, जवाहर व्यापार भवन (एच.टी.सी. बिल्डिंग), टॉलस्टॉय मार्ग,  
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 नई दिल्ली-110001 / New Delhi-110001

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*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... ”*

A true copy of the Ministry of Environment, Forest and Climate Change's Notification dated 20.07.2022 is annexed herewith and marked as Annexure R-1 (Page ..... to .....).

6. It is most respectfully submitted that the Notification of the Ministry of Environment, Forest and Climate Change is applicable to only those units which are operating with a valid Consent to Establish (CTE) and Consent to Operate (CTO) from the concerned State Pollution Control Board.
7. That it is already established that the appellant was operating the unit without a valid Consent to Operate from the Rajasthan State Pollution Control Board at the time of inspection and the last Consent to Operate issued to the appellant's unit expired and hence the referred Notification of the Ministry of Environment, Forest and Climate Change would not apply in the present case.
8. That in view of the aforesaid facts and circumstances the appeal of the appellant does not sustain in the eyes of law and is liable to be dismissed.



Lat

राजेश कुमार / Rajesh Kumar  
निदेशक / Director  
राष्ट्रीय राजधानी क्षेत्र और निकटवर्ती क्षेत्रों में वायु गुणवत्ता प्रबंधन आयोग  
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9. That it is therefore most respectfully prayed that this Hon'ble Tribunal may kindly be pleased to dismiss the appeal of the appellant with exemplary cost.

*Rajesh*

**DEPONENT**

राजेश कुमार / Rajesh Kumar  
निदेशक / Director  
राष्ट्रीय राजधानी क्षेत्र और निकटवर्ती क्षेत्रों में वायु गुणवत्ता प्रबंधन आयोग  
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**VERIFICATION**

Verified at New Delhi on this 27<sup>th</sup> day of July, 2022 that the contents of the above affidavit are true and correct to my knowledge and as per official records maintained in the routine course of business. No part of the above affidavit is false and nothing material has been concealed there from.

*ABL*  
**IDENTIFIED**

27 JUL 2022



*Rajesh*

**DEPONENT**

राजेश कुमार / Rajesh Kumar  
निदेशक / Director  
राष्ट्रीय राजधानी क्षेत्र और निकटवर्ती क्षेत्रों में वायु गुणवत्ता प्रबंधन आयोग  
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**ATTESTED**

**NOTARY PUBLIC, DELHI  
GOVT. OF INDIA**



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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), (गजूबा जेसर जडेजा बनाम भारत संघ और अन्य) में अपने तारीख 12 फरवरी, 2020 के आदेश द्वारा अन्य बातों के साथ यह प्रेक्षित किया था कि कोल्ड रोलड स्टेनलेस स्टील विनिर्माण उद्योगों के लिए पूर्व पर्यावरण अनुमति अपेक्षित होती है लेकिन इस तथ्य को ध्यान में रखते हुए कि स्थापना की महमति (सीटीई) और प्रचालन की महमति (सीटीओ) के आधार पर बृहद 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 कारिण प्रभाव को ध्यान में रखते हुए, माननीय राष्ट्रीय हरित प्राधिकरण के पूर्वोक्त उक्त आदेश के अनुरूप विचार विमर्श करके विनिश्चय किया है, जिसमें 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 अनुमूची में (जिसे इसमें इसके पश्चात् उक्त अधिमूचना कहा गया है) जिसमें प्रवर्ग ख के अधीन आने वाली 5,000 टन/एनम (टीपीए) से अधिक क्षमता वाली सभी गैर त्रिपैली द्वीतीय धातुकर्म प्रसंस्करण इकाइयां हैं, समाविष्ट परियोजनाओं के लिए पूर्व पर्यावरण अनुमति की अपेक्षा को आजापक 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 स्टीड अलोन गी-रोलिंग इकाइयां कोल्ड रोलिंग इकाइयां, जो इस अधिमूचना की तारीख को यथास्थिति, संबद्ध राज्य प्रदूषण नियंत्रण बोर्ड या संघ राज्य क्षेत्र प्रदूषण नियंत्रण समिति से स्थापन की विधिमान्य महमति (सीटीई) और प्रचालन की विधिमान्य महमति (सीटीओ) के साथ इस अधिमूचना 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 अधिमूचना की मद 3(क) के अनुसार मानक निर्देश निबंधन अनुदत्त किए जाएंगे और उन्हें लोक परामर्श की अपेक्षा से छूट प्राप्त होगी:

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

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

[फा. सं. आईए-जे-11013/8/2019-आईए. II(1)]

डॉ. सुजीत कुमार बाजपेयी, 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 12<sup>th</sup> 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 14<sup>th</sup> 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(1)]

Dr. SUJIT KUMAR BAJPAYEE, Jt. Secy.

"True Copy"