

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
WESTERN ZONE AT PUNE**

IN
Original Application No. 107 of 2020

IN THE MATTER OF:

Goa Foundation ... APPLICANT

VERSUS

Department of Mines and Geology & Ors. ...

RESPONDENT

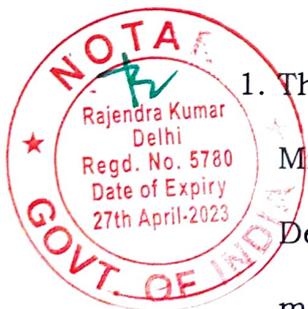
**ADDITIONAL AFFIDAVIT ON BEHALF OF THE
RESPONDENT NO.5 i.e. MINISTRY OF ENVIRONMENT,
FOREST AND CLIMATE CHANGE**

MOST RESPECTFULLY SHOWETH

I, Pankaj Verma S/o Shri Ram Sagar Verma aged about 43 years and currently working as Scientist 'E' at Ministry of Environment, Forest and Climate Change (MoEFCC), New Delhi, do hereby solemnly affirm and state as under: -

1. That I, in my official capacity as Scientist 'E' in the Ministry Environment, Forest and Climate Change, New Delhi i.e. Respondent No. 1 in the above mentioned matter, am conversant with the facts and circumstances of the case on the basis of official records, and as such authorized and competent to swear this affidavit.

2. That the applicant has contended that the commencement of operation of beneficiation plant by



Pankaj Verma

Respondent No. 4 i.e. Vedanta Ltd. (formerly known as Sesa Sterlite Limited/Sesa Goa Limited) on the basis of Consent to Operate ("CTO") issued by the State Pollution Control Board and without obtaining Environment Clearance ("EC") is in violation of the Hon'ble Apex Court's judgment dated 7th February, 2018 in Special Leave to Appeal (Civil) No. 32138 of 2015, titled as "The Goa Foundation Vs. M/s. Sesa Sterlite Limited and others" and further in violation of the provisions of Environment Impact Assessment ("EIA") Notification, 2006.

3. It is most respectfully submitted that the present additional affidavit has been filed by the answering respondent in respect to the specific opinion sought by the Hon'ble Tribunal vide order dated 03.11.2020. The relevant portion of the order dated 03.11.2020 is reproduce herein below for ready reference :-



9. We do not find any merit in the preliminary objection of limitation as the grievance of current functioning of the plant in violation of EC, if required, cannot be a stale matter so as to hold the application to be barred by limitation prescribed under section 14 of the NGT Act, 2010. Present application filed in December 2019 is against recommencement of operations of the project, after quashing of mining leases and EC earlier as is undisputed in view of stand of the MoEF quoted earlier. Thus, only question is whether dismantling of the old plant and setting up of the plant in the same premises, by shifting, will require EC. As stated by the MoEF, earlier mining

Lawyer's name

lease and EC were cancelled. Recommencement was in 2019.

10. Defence pleaded by the project proponent by referring to the provisions of the Mine and Mineral Act is that once mining plan has been approved, no further approval is required. However, the interpretation of 2006 Notification is not controlled by the said provisions but depends on whether appraisal of impact of environment is required. Appraisal has to be required if there are changes affecting the environment in the process. From this point of view, even though the MoEF&CC has in its reply quoted above mentioned that expansion of plant no. 3 will require EC and that after the Hon'ble Supreme Court judgment EC granted to 88 mine lessees, including predecessor of the present project proponents were cancelled, has not given a specific opinion whether requirement of prior EC is attracted to the functioning of the project in question. Though prima facie, such requirement appears to be patent, it is desirable to have specific stand of the MoEF in this regard.

4. It is most respectfully submitted that inspection report submitted by the Goa State Pollution Control Board in compliance of the order passed by this Hon'ble Tribunal vide order dated 09.01.2020 mentions that Beneficiation plant operations started on 1st December 2019. The relevant part of the inspection report is reproduced herein below for ready reference:-

- As per records, Beneficiation plant operations started on 1st December 2019. Total e auctioned ore processed from 1st December 2019-20 January 2020 (Plant 4A/2A) is 287802Tons.

5. That it is humbly submitted that the Respondent Ministry vide letter No. J-11015/1133/2017-IA.II(M) dated 29thDecember, 2008 had granted EC to M/s Sesa



Rajendra Kumar

Goa Limited for expansion of Codli IronOre Mines(Total ML area 299.55 ha) from 4.0 to 7.0 MTPA and Expansion of Ore Beneficiation Plant No. 3 from 1.20 to 5.0 MTPA capacity, at village Codli, in Sanguem Taluk, in South Goa District.

6. That it is further submitted that in compliance of Hon'ble Apex Court judgment dated 7th February, 2018 in SLP No. 32138 of 2015, titled as "The Goa Foundation Vs. M/s Sesa Sterlite Limited and others", the Respondent Ministry vide letter no. L-11011/211/2017-IA.II(M) dated 23rdApril, 2018 issued a letter addressed to Principal Secretary, Environment, Govt. of Goa with copy marked to eighty-eight(88) mine lease holders, referring to the cancellation of the EC(s) granted to 88 mine leases in the State of Goa in view of the Hon'ble Supreme Court judgment dated 7thFebruary, 2018. It is further submitted that the list also includes the EC granted to M/s Sesa Goa Limited vide letter no. J-11015/1133/2017-I.A.II (M) dated 29thDecember, 2008 listed at serial No. 21 bearing lease No. 126/53. A copy of letter dated 23rdApril, 2018 is produced herewith and marked as Exhibit R-5(b)."

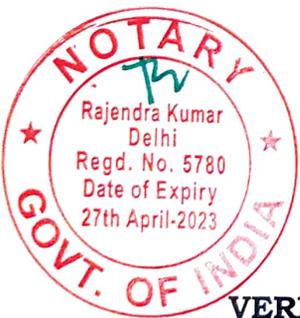
7. That it is humbly submitted that cancellation of EC dated 29th December 2008 will inter-alia also cancel the EC



Rajendra Kumar

granted for Expansion of Ore Beneficiation Plant No. 3 from 1.20 to 5.0 MTPA capacity, at village Codli, in Sanguem Taluk, in South Goa District as part of the said EC.

8. That it is humbly submitted that the Beneficiation plant of the respondent No.4 shall be governed in accordance to the provision mentioned under EIA Notifications, 2006.
9. That in view of the above, the respondent No.4 i.e. Vedanta Ltd. (formerly known as Sesa Sterlite Limited/Sesa Goa Limited) required prior approval of the Ministry under the provisions mentioned under EIA Notification 2006.
10. That in view of the aforementioned facts and circumstances, this Hon'ble Court may kindly be pleased to pass appropriate order(s). Further, it is stated that the present affidavit be read as a part and parcel of the Counter affidavit filed by the answering respondent.



VERIFICATION

Pankaj Verma

DEPONENT

(पंकज वर्मा)

(PANKAJ VERMA)

वैज्ञानिक 'ई' / Scientist 'E'

पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय
Min. of Environment, Forest and Climate Change
भारत सरकार, नई दिल्ली
Govt. of India, New Delhi

Verified at New Delhi on this 6th day of January, 2021 that the contents of this affidavit based on official record(s) maintained

and information available in the office are true and correct, no part of it is false and nothing has been concealed there from.

Pankaj Verma

DEPONENT

(पंकज वर्मा)
(PANKAJ VERMA)
वैज्ञानिक 'ई' / Scientist 'E'
पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय
Min. of Environment, Forest and Climate Change
भारत सरकार, नई दिल्ली
Govt. of India, New Delhi

Rajendra

BEFORE ME
RAJENDRA KUMAR
NOTARY, DELHI-R-5780
GOVERNMENT OF INDIA
SUPREME COURT OF INDIA
COMPOUND, NEW DELHI
Register Pg./Sl. No. 118
Mobile No.: 9899446209

06 JAN 2021

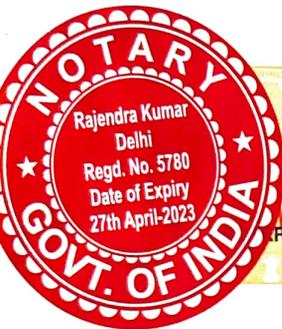
CERTIFIED THAT THE CONTENTS EXPLAINED TO THE DEPONENT EXECUTIVE WHO IS SEEMED PERFECT TO UNDERSTAND & AFFIRMED DEPOSED BEFORE ME AT DELHI ON..... IDENTIFIED BY

06 JAN 2021

IDENTIFY THE EXECUTIVE / DEPONENT WHO HAS SIGNED IN MY PRESENCE

R.K. Sharma
9-788789

IDENTIFIED



RAJENDRA KUMAR, NOTARY, Reg. No. 5780
F No.-5(486)
EMPOWERED TO ADMINISTER THE OATH
SECTION 139 OF CPC 1908
SECTION 297 OF CRPC 1973
DELHI HIGH COURT RULES 1967
PART-6, CHAPTER XVIII-227
EVIDENCE BY AFFIDAVIT BEFORE NOTARY
SUPREME COURT RULES, 2013
ORDER IX-7

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