

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
WESTERN ZONE BENCH, PUNE,
AT PUNE
ORIGINAL APPLICATION NO.7 OF 2018

Prakash Virsing Adhe and another

APPLICANTS

v/s

Kashmira Stone Crusher and others

RESPONDENTS

ADDITIONAL WRITTEN SUBMISSION FOR AND
ON BEHALF OF RESPONDENT NOS.1,2,3

MAY IT PLEASE THE HON'BLE TRIBUNAL:

Additional written submissions on behalf of Respondent Nos.1 to 3 in view of the subsequent developments is as under: -

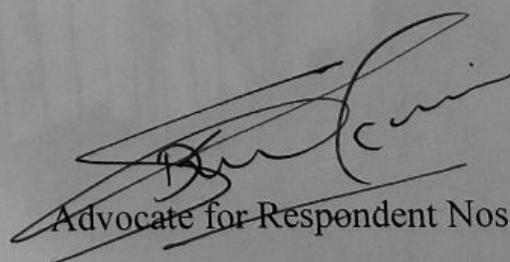
1. The Hon'ble Principal Bench in Appeal No.40 of 2020 and more specifically vide order dated 9th October 2020 was pleased to reduce the environmental compensation. The Hon'ble Tribunal was pleased to observe that the Authority had not followed the procedure in calculating the amount of compensation. Order dated 9th October 2020 is annexed herewith for ready reference of the Hon'ble Tribunal.
2. The case of the Respondent is also similar while considering the number of violation days as 150, which is incorrect, because the Respondent No.1 herein received the proposed directions on 30.07.2018 and the Respondent No.8 pointed out certain non-compliances on the part of Respondent No.1. The Respondent No.1 vide its reply dated 13.08.2018 had reported the compliance and the

same has been accepted by the Respondent No.8. Assuming that there was non-compliance on the part of Respondent No.1, so the non-compliances were complied within 13 days after receipt of the letter of the Respondent No. 8. The Respondent No.8 did not pay any heed to the reply submitted by the Respondent No.1 and caused a visit only on 30.11.2018. The Respondent No.1 cannot be faulted for the delayed visit of the Respondent No.8 as the Respondent No.1 had duly notified the compliance on 13.08.2018. The Affidavit in reply dated 10.10.2018 (**page No.199**) filed by the Respondent No.8 also states that the lab reports also demonstrates that there is no violation of consent conditions. The Respondent No.8 vide its further detailed affidavit dated 27th February 2019 has stated that all compliances are in place and it has also annexed the letters of District Health Officer and District Animal Husbandry officer (**Page No.249**) wherein it is stated that there is no harm to the crop or health of any resident living nearby.

It is thus prayed that considering the order of the Hon'ble Principal Bench and the factors stated herein the Hon'ble Tribunal would be pleased to remand the issue back to Respondent No.8 for reconsideration of compensation amount.

Pune

Date: 14th October 2020


Advocate for Respondent Nos.1 to 3

Item No. 03

Court No. 1

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

(By Video Conferencing)

Appeal No. 40/2020

Kee Diagnostics Pvt. Ltd.

Appellant

Versus

Delhi Pollution Control Committee

Respondent

Date of hearing: 09.10.2020

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE S. P. WANGDI, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

Appellant: Mr. Harpreet Singh Gupta, Advocate

ORDER

1. This Appeal has been preferred against order dated 10.07.2020 passed by the Delhi Pollution Control Committee (DPCC), requiring deposit of compensation of Rs. 3 lakhs for violation of provisions of the Water (Prevention and Control of Pollution) Act, 1974. Though by the said order, closure under Section 33 A of the Act was also passed, the same was later revoked on account of subsequent compliance.

2. Case of the appellant is that it is a MSME unit engaged in manufacturing of diagnostic Reagent Kits. The DPCC collected sample of waste water on 24.01.2020 from the unit of the appellant and the result of test showed minor deviation from prescribed standard. On that basis, impugned order was passed. The appellant complied with the norms and a new test was conducted on 20.07.2020 wherein compliance of norms

was established. On that basis, the direction for closure was revoked on 21.07.2020.

3. Contentions in appeal are that variation in norms was marginal. The sample was taken on 24.01.2020 but the result was given only on 12.06.2020. Due procedure for taking sample was not followed. The amount of compensation is disproportionate to the violation alleged.

4. We have considered the matter. We are of the view that having regard to the fact that the unit is a small one and violation was marginal which was later rectified to the satisfaction of the DPCC, we are of the view that compensation assessed is disproportionate. We indicated to the learned counsel for the appellant that having practical view of the matter, the appeal can be disposed of summarily by closing the matter by reducing the compensation to a token amount, instead of going into any other questions. We find this course will serve the interest of justice and hardship to the appellant.

5. Thus, having regard to the entirety of the matter, we reduced the compensation to Rs. 25,000/- and allow the appeal to that extent.

6. Since we have not issued notice to the DPCC, it will be open to the DPCC to approach the Tribunal if it is so aggrieved.

The Appeal is disposed of.

A copy of this order be forwarded to the DPCC by email.

Adarsh Kumar Goel, CP

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S. P. Wangdi, JM

Dr. Nagin Nanda, EM

October 09, 2020
Appeal No. 40/2020
AK