

IN THE HON'BLE NATIONAL GREEN TRIBUNAL,
AT PUNE

Execution Application No.1/2023

In

OA No.16/2016

Salu D' Souza

... Applicant

V/s

GCZMA and Ors.

... Respondents



AFFIDAVIT ON BEHALF OF GOA STATE

POLLUTION CONTROL BOARD,

RESPONDENT NO.3

MAY IT PLEASE YOUR LORDSHIP:

I, Dr. Shamila Monteiro, daughter of Late Shri. Augusto Monteiro, major of age, Indian National, residing at House

[Handwritten signature]

No. 5, Uttam Darshan, Opp. Sai Baba Temple, Kadamba Plateau, Chimbhel, Tiswadi –Goa, do hereby solemn affirmation, state and submit as under:

1. I am presently working as the Member Secretary, Goa State Pollution Control Board, and the Respondent No. 3 herein. I have been authorised to file the present Affidavit on behalf of the Respondent No.3.
2. I say that Vide Order dated 06/04/2023, this Hon'ble Court was pleased to direct the Respondent No.3 Goa State Pollution Control Board to file Reply Affidavit in the present matter.
3. I say that Vide the present Application the applicant has prayed amongst others that the Respondent Board be directed to compute and impose Environmental Compensation to be paid by the respondent Companies



✓

in terms of the Order dated 11/05/2022 passed by this Hon'ble Tribunal in OA No.16/2016.

4. I states that in this regards the Board has vide Notices dated 05/07/2023 directed the Respondent Companies to remain present before the present deponent in order to submit their say on the issue of imposition of environmental compensation as aforestated.

Annexed herewith as '**Annexure A Colly**' are the Copies of the Notices dated 5/7/2023.

5. I say that accordingly the Respondent companies remained present for the above hearing on 19/07/2023 through their authorized representative and have submitted for opportunity to place on record certain documents relevant to the Matter.

Annexed herewith as '**Annexure B**' is the copy of the Minutes of the Personal Hearing held on 19/07/2023.



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6. I say that thereafter the Respondent Companies have not submitted any documents to the Respondent Board till date as such I say that the Board has proceeded to calculate the Environmental Compensation to be paid by the Respondent Companies as per the Polluter Pays Principal in terms of the Order dated 11/05/2022 passed by this Hon'ble Tribunal in OA/16/2016.



7. I say that accordingly the Respondent No.3 have issued Show cause Notices to the Respondent Companies directing them to show cause as to why the Environmental Compensation should not be paid by them. I state that the Respondent Board has also issued letter dated 06/09/2023 to the GCZMA enclosing the calculation for the Environmental Compensation to be levied for the violation of the CRZ violation of the CRZ Notification upon the violating Respondents.

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Annexed herewith as 'Annexure C Colly' are the Copies of the Show Cause Notices dated 06/09/2023 and the letter dated 06/09/2023..

8. I say that the Board shall finally decide the aforesaid Notices/Proceedings expeditiously.

9. I say that whatever has been stated herein above are based on the records available in the office of this Respondent to which I have accesses and the legal submission are based on legal advice received which I believe the same to be true.



Solemnly affirm at Panaji-Goa.

On this 6th day of September, 2023.

SOLEMNLY AFFIRMED AND SIGNED BY
M. Shamila Monteiro
WHO IS IDENTIFIED BEFORE ME
BY ADV. Personally known
WHOM I KNOW Personally known
SERIAL NO. 110030 DATED 06/09/2023
VALID UPTO 19-05-2024
JOAQUIM GODINHO-NOTARY-PANAJI-GOA


Deponent

JOAQUIM GODINHO
B Com., LL.B
Advocate High Court
& Notary
Navekar Trade Centre
C/S-3, 2nd Floor, M.G. Road,
Panjim-Goa. Ph.: 2422113

J. Godinho
06/09/2023



GOA STATE POLLUTION CONTROL BOARD**गोंय राज्य प्रदूषण नियंत्रण मंडळ****(An ISO 9001:2015, ISO 14001:2015, ISO 45001:2018 Certified Board)**Phone Nos : 0832- 2407700,
2407701, 2407703Email Ids:
Chairman, GSPCB: chairman-gspcb.goa@nic.in
Member Secretary, GSPCB: ms-gspcb.goa@nic.in
Office: mail.gspcb@gov.in*By Regd. A.D/ By Email*

No. 2022/GSPCB/Other/8858/Leg/7960

Date: 5/07/2023

To,
M/s Vipul Shipping Engineering Works
Survey No. 43/3
Maddant- Thana,
Cortalim, Mormugao Goa
Email: vipulshipyard@gmail.com

- Ref: 1. NGT order Original Application No. 16/2016 (WZ)**
2. Show Cause Notice No. 1/25/2020-PCB/Leg/16444 dated 16/12/2020
3. Discharge of Show Cause Notice No. 2022/GSPCB/Other/8858/Leg/14174 dated 03/11/2021

Sir,

The Hon'ble NGT (WZ) in Executive Appl. No. 01/2023 in OA No. 16/2016- Salu D'Souza & Anr. V/s GCZMA & Ors., dated 15/02/2023, has directed to assess the environmental compensation to be paid by the private respondents in line with polluter pay principle, In view of the same, GSPCB has decided to assess any environmental compensation to be paid by the private parties/units. Hence, you are required to remain present before the undersigned on **19/07/2023** at **4.30 p.m.** at the office of the Goa State Pollution Control Board, Saligao, in order to submit your say on the same, so that the Board can process and initiate appropriate action in the matter.


Dr. Shamila Monteiro
(Member Secretary)

For Goa State Pollution Control Board

Copy to:-

- 1) Mr. Sanjeev Joglekar, Senior Environmental Engineer, Goa State Pollution Control Board..... *to remain present for the said hearing.*
- 2) Legal Officer, GSPCB..... *to remain present for the said hearing.*
- 3) Shri. Keshav Fadke, Assistant Environmental Engineer, Goa State Pollution Control Board..... *to remain present for the said hearing.*
- 4) Shri. Vijay Kansekar, GSPCB. *to remain present for the said hearing*
- 5) Miss. Priyanka Naik, Jr. Steno..... *to note down minutes of the hearing*
- 6) Office copy.
- 7) Guard file.

GOA STATE POLLUTION CONTROL BOARD**गोंय राज्य प्रदूषण नियंत्रण मंडळ****(An ISO 9001:2015, ISO 14001:2015, ISO 45001:2018 Certified Board)**Phone Nos : 0832- 2407700,
2407701, 2407703Email Ids:
Chairman, GSPCB: chairman-gspcb.goa@nic.in
Member Secretary, GSPCB: ms-gspcb.goa@nic.in
Office: mail.gspcb@gov.in*By Regd. A.D/ By Email*

No. 2022/GSPCB/Other/8858/Leg | 7958

Date: 5/07/2023

To,
M/s A. V Salgaonkar (Cortalim Shipyard and Engineers Pvt. Ltd)
Plot No. 28/1
Maddant- Thana,
Cortalim, Mormugao Goa
Email: info@smilindia.com

- Ref: 1. NGT order Original Application No. 16/2016 (WZ)**
2. Show Cause Notice No. 1/25/2020-PCB/Leg/16457 dated 16/12/2020
3. Discharge of Show Cause Notice No. 2022/GSPCB/Other/8858/Leg/14172 dated 03/11/2021

Sir,

The Hon'ble NGT (WZ) in Executive Appl. No. 01/2023 in OA No. 16/2016- Salu D'Souza & Anr. V/s GCZMA & Ors., dated 15/02/2023, has directed to assess the environmental compensation to be paid by the private respondents in line with polluter pay principle, In view of the same, GSPCB has decided to assess any environmental compensation to be paid by the private parties/units. Hence, you are required to remain present before the undersigned on **19/07/2023 at 4.15 p.m.** at the office of the Goa State Pollution Control Board, Saligao, in order to submit your say on the same, so that the Board can process and initiate appropriate action in the matter.

Dr. Shamila Monteiro
(Member Secretary)

For Goa State Pollution Control Board

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- 2) Legal Officer, GSPCB..... *to remain present for the said hearing.*
- 3) Shri. Keshav Fadke, Assistant Environmental Engineer, Goa State Pollution Control Board..... *to remain present for the said hearing.*
- 4) Shri. Vijay Kansekar, GSPCB. *to remain present for the said hearing*
- 5) Miss. Priyanka Naik, Jr. Steno..... *to note down minutes of the hearing*
- 6) Office copy.
- 7) Guard file.

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Member Secretary, GSPCB: ms-gspeb.goa@nic.in
Office: mail.gspeb@gov.in

By Regd. A.D/ By Email

No. 2022/GSPCB/Other/8858/Leg | 7956

Date: 5/07/2023

To,
M/s Desa Engineering Works,
Survey No. 30/8, Maddant- Thana,
Cortalim, Mormugao Goa
Email: desaengineeringworks@gmail.com

- Ref: 1. NGT order Original Application No. 16/2016 (WZ)
2. Show Cause Notice No. 1/25/2020-PCB/Leg/16448 dated 16/12/2020
3. Discharge of Show Cause Notice No. 2022/GSPCB/Other/8858/Leg/14295 dated 08/11/2021

Sir,

The Hon'ble NGT (WZ) in Executive Appl. No. 01/2023 in OA No. 16/2016- Salu D'Souza & Anr. V/s GCZMA & Ors., dated 15/02/2023, has directed to assess the environmental compensation to be paid by the private respondents in line with polluter pay principle, In view of the same, GSPCB has decided to assess any environmental compensation to be paid by the private parties/units. Hence, you are required to remain present before the undersigned on 19/07/2023 at 4.00 p.m. at the office of the Goa State Pollution Control Board, Saligao, in order to submit your say on the same, so that the Board can process and initiate appropriate action in the matter.

Dr. Shamila Monteiro
(Member Secretary)

For Goa State Pollution Control Board

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- 3) Shri. Keshav Fadke, Assistant Environmental Engineer, Goa State Pollution Control Board..... *to remain present for the said hearing.*
- 4) Shri. Vijay Kansekar, GSPCB. *to remain present for the said hearing*
- 5) Miss. Priyanka Naik, Jr. Steno..... *to note down minutes of the hearing*
- 6) Office copy.
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GOA STATE POLLUTION CONTROL BOARD**गोंय राज्य प्रदूषण नियंत्रण मंडळ****(An ISO 9001-2015, ISO 14001:2015, ISO 45001:2018 Certified Board)**Phone Nos : 0832- 2407700,
2407701, 2407703Email Ids:
Chairman, GSPCB: chairman-gspcb.goa@nic.in
Member Secretary, GSPCB: ms-gspcb.goa@nic.in
Office: mail.gspcb@gov.inNo. 2022/GSPCB/Other/8858/Leg/7955
By Regd. A.D/ By Email

Date: 5/07/2023

To,
M/s Shaparia Dock & Steel Pvt. Ltd,
Plot No. 10, 11, & 12,
Maddant- Thana,
Cortalim, Mormugao Goa
Email: shaparia_shipping@yahoo.co.in

- Ref: 1. NGT order Original Application No. 16/2016 (WZ)
2. Show Cause Notice No. 1/25/2020-PCB/Leg/16448 dated 16/12/2020
3. Discharge of Show Cause Notice No. 2022/GSPCB/Other/8858/Leg/14171 dated 03/11/2021

Sir,

The Hon'ble NGT (WZ) in Executive Appl. No. 01/2023 in OA No. 16/2016- Salu D'Souza & Anr. V/s GCZMA & Ors., dated 15/02/2023, has directed to assess the environmental compensation to be paid by the private respondents in line with polluter pay principle, In view of the same, GSPCB has decided to assess any environmental compensation to be paid by the private parties/units. Hence, you are required to remain present before the undersigned on 19/07/2023 at 3.45 p.m. at the office of the Goa State Pollution Control Board, Saligao, in order to submit your say on the same, so that the Board can process and initiate appropriate action in the matter.

Dr. Shamila Monteiro
(Member Secretary)

For Goa State Pollution Control Board

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- 3) Shri. Keshav Fadke, Assistant Environmental Engineer, Goa State Pollution Control Board..... *to remain present for the said hearing.*
- 4) Shri. Vijay Kansekar, GSPCB. *to remain present for the said hearing*
- 5) Miss. Priyanka Naik, Jr. Steno..... *to note down minutes of the hearing*
- 6) Office copy.
- 7) Guard file.

GOA STATE POLLUTION CONTROL BOARD

गोंय राज्य प्रदूषण नियंत्रण मंडळ

(An ISO 9001-2015, ISO 14001:2015, ISO 45001:2018 Certified Board)

Phone Nos : 0832- 2407700,
2407701, 2407703Email Ids:
Chairman, GSPCB: chairman-gspcb.goa@nic.in
Member Secretary, GSPCB: ms-gspcb.goa@nic.in
Office: mail.gspcb@gov.in

No. 2022/GSPCB/Other/8858/Leg/7963

By Regd. A.D/ By Email


Date: 5/07/2023

To,
M/s Sardessai Engineering Works,
Survey No. 30/1, Maddant- Thane,
Cortalim, Mormugao Goa
Email: gvrish-sardessai@rediffmail.com

- Ref: 1. NGT order Original Application No. 16/2016 (WZ)
2. Show Cause Notice No. 1/25/2020-PCB/Leg/16441 dated 16/12/2020
3. Discharge of Show Cause Notice No. 2022/GSPCB/Other/8858/Leg/14173 dated 03/11/2021

Sir,

The Hon'ble NGT (WZ) in Executive Appl. No. 01/2023 in OA No. 16/2016- Salu D'Souza & Anr. V/s GCZMA & Ors., dated 15/02/2023, has directed to assess the environmental compensation to be paid by the private respondents in line with polluter pay principle. In view of the same, GSPCB has decided to assess any environmental compensation to be paid by the private parties/units. Hence, you are required to remain present before the undersigned on 19/07/2023 at 3.30 p.m. at the office of the Goa State Pollution Control Board, Saligao, in order to submit your say on the same, so that the Board can process and initiate appropriate action in the matter.


Dr. Shamila Monteiro
(Member Secretary)

For Goa State Pollution Control Board

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Member Secretary, GSPCB: ms-gspcb.goa@nic.in
Office: mail.gspcb@gov.in*By Regd. A.D/ By Email*

No. 2022/GSPCB/Other/8858/Leg/7962

Date: 5/07/2023

To,
M/s Sachida Engineering Works,
Survey No. 43/1, Bondir- Cortalim,
Mormugao Goa
Email: sachida.enr@gnail.com

- Ref: 1. NGT order Original Application No. 16/2016 (WZ)
2. Show Cause Notice No. 1/25/2020-PCB/Leg/16443 dated 16/12/2020
3. Show Cause Notice No. 2022/GSPCB/Other/8858/Leg/14420
dated 09/11/2021

Sir,

The Hon'ble NGT (WZ) in Executive Appl. No. 01/2023 in OA No. 16/2016- Salu D'Souza & Anr. V/s GCZMA & Ors., dated 15/02/2023, has directed to assess the environmental compensation to be paid by the private respondents in line with polluter pay principle. In view of the same, GSPCB has decided to assess any environmental compensation to be paid by the private parties/units. Hence, you are required to remain present before the undersigned on 19/07/2023 at 3.15 p.m. at the office of the Goa State Pollution Control Board, Saligao, in order to submit your say on the same, so that the Board can process and initiate appropriate action in the matter.

Dr. Shamila Monteiro
(Member Secretary)

For Goa State Pollution Control Board

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Member Secretary, GSPCB: ms-gspcb.goa@nic.in
Office: mail.gspcb@gov.in

By Regd. A.D/ By Email

No. 2022/GSPCB/Other/8858/Leg/7961

Date: 5/07/2023

To,
M/s Ferromar Shipping Pvt. Ltd,
Survey No. 43/1705, Chovte- Cortalim,
Mormugao Goa
Email: info@agrawalgroupgoa.com

- Ref: 1. NGT order Original Application No. 16/2016 (WZ)
 2. Show Cause Notice No. 1/25/2020-PCB/Leg/16446 dated 16/12/2020
 3. Show Cause Notice No. 2022/GSPCB/Other/8858/Leg/14419
 dated 09/11/2021

Sir,

The Hon'ble NGT (WZ) in Executive Appl. No. 01/2023 in OA No. 16/2016- Salu D'Souza & Anr. V/s GCZMA & Ors., dated 15/02/2023, has directed to assess the environmental compensation to be paid by the private respondents in line with polluter pay principle. In view of the same, GSPCB has decided to assess any environmental compensation to be paid by the private parties/units. Hence, you are required to remain present before the undersigned on **19/07/2023 at 3.00 p.m.** at the office of the Goa State Pollution Control Board, Saligao, in order to submit your say on the same, so that the Board can process and initiate appropriate action in the matter.

Dr. Shamila Monteiro
(Member Secretary)

For Goa State Pollution Control Board

Copy to:-

- 1) Mr. Sanjeev Joglekar, Senior Environmental Engineer, Goa State Pollution Control Board..... *to remain present for the said hearing.*
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- 4) Shri. Vijay Kansekar, GSPCB. *to remain present for the said hearing*
- 5) Miss. Priyanka Naik, Jr. Steno..... *to note down minutes of the hearing*
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Minutes of Personal Hearing Held on 19/07/2023 of M/s Ferromar Shipping Pvt. Ltd.Background Facts

1. In the matter of Salu D'Souza & Anrs. V/s GCZMA & Ors before the NGT Application No. 16/2016 order dated 22/09/2020, Goa State Pollution Control Board was asked to calculate the environmental compensation.
2. In view of the said order, inspection was conducted on 10/09/2020 to verify current status of the unit under NGT Application No. 16/2016 in the matter of Salu D'Souza & Anrs. V/s GCZMA & Ors along the bank of River Zuari at Cortalim, Mormugao Goa.
3. A show cause notice was issued vide no. 1/25/20-PCB/Leg/16446 dated 16/12/2020 to the unit asking to show cause within 7 days of the receipt of this notice as to why Polluters Pay Penalty should not be levied against the unit for operating in violation of the Water Act and Air Act and submit compliance report to the Board office.
4. Inspection was conducted on 02/01/2021 for verification of the factual position of the extensions in the water body in the form of concrete jetty and earth filling.
5. Subsequent to the inspection dated 02/01/2021, a show cause notice was issued vide no. 1/25/21-PCB/Leg/17866 dated 07/01/2021 to the unit for encroachment beyond the permitted area.
6. A reply was received from the unit dated 19/01/2021, towards the Showcause Notice dated 16/12/2020 enclosing photographs of the signboard installed at the entrance of the yard at Cortalim and requesting to withdraw the said show cause notice.
7. The unit replied to the show cause notice dated 07/01/2021 denying the violations and urged to convene a personal hearing with regards to same.
8. The unit M/s Ferromar Shipping Pvt. Ltd. was called for the personal hearing on 08/04/2021 with regards to the show cause notice issued by the Board.
9. The unit M/s Ferromar Shipping Pvt. Ltd along with other 6 units and the Captain of Ports and Directorate of Settlement & Land Revenue was called for the personal hearing on 21/09/2021.
10. The personal hearing dated 21/09/2021 was rescheduled on 27/09/2021 as the Advocate representing the unit requested for additional time to respond to the communication received from Captain of Ports dated 02/09/2021.
11. On 09/11/2021, Board issued SCN's to M/s Ferromar Shipping Pvt. Ltd no. 2022/GSPCB/Other/8858/Leg/14419 stating as to why a penalty of Rs. 41,53,716/- should not be paid by the unit under the PPP to the Board for encroachment in river and for causing Environmental damage.
12. M/s Ferromar Shipping Pvt. Ltd replied to the showcause notice dated 09/11/2021 on 19/11/2021 denying the contents of the show cause notice and stated that the issue pertaining to the said notice will be addressed before the NGT on 23/12/2021.
13. On 31/01/2023, Directions were issued to the unit vide no. 2022/GSPCB/Letter/15016/Tech/21225 directing to pay a penalty of Rs. 41,53,716/- for encroachment in river and for causing Environmental damage and to suspend operation of the unit with immediate effect and submit compliance report to the Board office within 15 days from the date of receipt of the said direction.
14. M/s Ferromar Shipping Pvt. Ltd replied to the directions dated 31/01/2023 on 14/02/2023, denying the contents in the said directions and urged to provide details and enable hearing w.r.t. same.

15. On 15/03/2023, this Board issued letter to M/s Ferromar Shipping Pvt. Ltd forwarding detailed calculation of penalty fees for encroachment in river and for causing environmental damage. 20/11
16. M/s Ferromar Shipping Pvt. Ltd., replied to the letter dated 15/03/2023 on 27/03/2023 denying the claim envisaged in the letter and not to impress any adverse action. 30/12
17. On 05/07/2023, Board issued letter to M/s Ferromar Shipping Pvt. Ltd, inviting for personal hearing on 19/07/2023 (refer pg.101/c).

Advocate B.P. Sardesai Represented all units except M/s. A.V. Salgaonkar requested one opportunity to place on record detail replies w.r.t all units regarding permission obtained by them alongwith the flow chart of their operative periods so the Authority/ Board can take informed decision with respect of each units.

Secondly NGT vide order dated 11/05/2022 has constituted a committee where in GSPCB is one of the member .meeting was held by the committee and next meeting is yet to be held. If the decision taken by the committee is contrary based on documents / Permissions already placed on record it will create conflict. Hence requested that Board to await the decision taken by committee.

19/07/2023
 (Dr. Shamila Monteiro)
 Member Secretary
 Goa State Pollution Control Board

19/7/23
 Adv. B. P. Sardesai

Sechi da engg works
DESA ENGG WORKS

FERROMAR SHIPPING PVT LTD

[Handwritten signatures and initials]

GOA STATE POLLUTION CONTROL BOARD**गोंय राज्य प्रदूषण नियंत्रण मंडळ****(An ISO 9001-2015, ISO 14001:2015, ISO 45001:2018 Certified Board)**Phone Nos : 0832- 2407700,
2407701, 2407703

Email Ids:

Chairman, GSPCB: chairman-gspcb.goa@nic.in

Member Secretary, GSPCB: ms-gspcb.goa@nic.in

Office: mail.gspcb@gov.in

By Regd.A.D

No.1/25/23-PCB/ Tech/12745

Dated: 6/09/2023

SHOW CAUSE NOTICE

WHEREAS, vide order dated 11/05/2022 passed in OA no. 16/2016 (Salu D'Souza & 2 ors. V/s GCZMA & ors) the Hon. National Green Tribunal (Special bench NGT) was pleased to decide as follows;

"Accordingly, dropping of proceedings against the private respondents by CZMA on the ground of pendency of clearances before SELAA is not justified. Mere pendency of application for CRZ Clearance cannot be treated as permission to continue such activities. The said activities which are not permissible without CRZ clearance are thus directed to be discontinued within three months from today.

Private respondents are also liable to pay compensation for past violations on polluter pays principle to be assessed by the GPCB as per law."

Copy of order dated 11/05/2022 passed in OA no. 16/2016 (Salu D'Souza & 2 ors. V/s GCZMA & ors) is enclosed.


WHEREAS, the Board has vide letter dated 05/07/2023 has directed your Unit namely **M/s Sachida Engineering Works located at Survey No. 43/1, Bondir, Thana, Cortalim, Mormugao Goa** to remain present before the Member Secretary of the Board on 19/07/2023 in order to submit your say in the matter of the directions of the NGT to the GSPCB in OA no. 16/2016, vide order dated 15/02/2023; to asses Environmental Compensation to be paid by the unit in line with the Polluter Pays Principle.

WHEREAS, on considering the submissions made by you at the Personal Hearing and the material available before it, the Board has decided to direct your unit to Show Cause as to why environmental compensation amounting to **Rs. 8,15,39,062.50/-(Rs. Eight Crores, Fifteen Lakhs, Thirty Nine Thousand, Sixty Two Rupees and Fifty Only)** should not be paid by you to the Board under the Polluter Pays Principle for operating without Consent of the Board and past violation, in terms of the directions of the NGT as contained in order dated 11/05/2022.

NOW THEREFORE in light of the above and in exercise of the powers vested with this Board under section 33(A) of the Water (Prevention and Control of Pollution) Act, 1974 and under section 31 (A) of the Air (Prevention and Control of Pollution) Act, 1981, the management of your unit namely, **M/s Sachida Engineering Works located at Survey No. 43/1, Bondir, Thana, Cortalim, Mormugao Goa** is hereby directed to **SHOW CAUSE** within a period of 7 days from the date of receipt of this notice as to why you should not pay environmental compensation amounting to **Rs. 8,15,39,062.50/-(Rs. Eight Crores, Fifteen Lakhs, Thirty Nine Thousand, Sixty Two Rupees and Fifty Only)** to the Board under the Polluter Pays Principle for operating without Consent of the Board and past violation.

TAKE NOTE, that failure to satisfactorily comply with the aforesaid notice within the stipulated time period will compel the Board to initiate stringent legal action against you under the provisions of the Water (Prevention and Control of Pollution) Act, 1974, and Air (Prevention and Control of Pollution) Act, 1981 without any further notice.

Issued on this 6 day of September, 2023.


Dr. Shamila Monteiro
(Member Secretary)
For Goa State Pollution Control Board

To,
M/s Sachida Engineering Works
Survey No. 43/1, Bondir,
Thana, Cortalim, Mormugao Goa

Enclosed as above;

Copy to,

1. Guard File.
2. Office Copy

PPP Calculation Sheet of M/s Sachida Engineering Works

The Environmental Compensation shall be based on the following formula:

$$EC = PI \times N \times R \times S \times LF$$

Where, EC is Environmental Compensation in ₹

PI = Pollution Index of industrial sector

N = Number of days of violation took place

R = A factor in Rupees (₹) for EC

S = Factor for scale of operation

LF = Location factor

The formula incorporates the anticipated severity of environmental pollution in terms of Pollution Index, duration of violation in terms of number of days, scale of operation in terms of micro & small/ medium/ large industry and location in terms of proximity to the large habitations.

Note:

f. The industrial sectors have been categorized into Red, Orange and Green, based on their Pollution Index in the range of 60 to 100, 41 to 59 and 21 to 40, respectively. It was suggested that the average pollution index of 80, 50 and 30 may be taken for calculating the Environmental Compensation for Red, Orange and Green categories of industries, respectively.

g. N, number of days for which violation took place is the period between the day of violation observed/due date of direction's compliance and the day of compliance verified by CPCB/SPCB/PCC.

h. R is a factor in Rupees, which may be a minimum of 100 and maximum of 500. It is suggested to consider R as 250, as the Environmental Compensation in cases of violation.

i. S could be based on small/medium/large industry categorization, which may be 0.5 for micro or small, 1.0 for medium and 1.5 for large units.

j. LF, could be based on population of the city/town and location of the industrial unit. For the industrial unit located within municipal boundary or up to 10 km distance from the municipal boundary of the city/town, following factors (LF) may be used: Table No. 1.1: Location Factor Values

S. No.	Population* (million)	Location Factor# (LF)
1	1 to <5	1.25
2	5 to <10	1.5
3	10 and above	2.0

*population of the city/town as per the latest Census of India

#LF will be 1.0 in case unit is located >10km from municipal boundary

LF is presumed as 1 for city/town having population less than one million.

Environmental Compensation is calculated since formation of the Goa State Pollution Control Board dated 01/07/1988 as per the NGT order in Original Application No. 16 of 2016 (WZ) dated on 11/05/2022 in the Para 17 where it stated Private Respondents are also liable to pay compensation for past violations.

The Environmental Compensation is based on the following formula:

$$EC = PI \times N \times R \times S \times LF$$

PI = Average Pollution Index for Orange Category = 50

N = Based on the details with the application, the date of commencement of operation of the unit is 16/04/1981, which is prior to the formation of the Goa State Pollution Control Board dated 01/07/1988. Hence, PPP is calculated from 01/07/1988 upto the date of inspection of the monitoring committee i.e. 10/07/2023. First consent issued on 03/06/2015 valid till 11/11/2021.

R = 250 since the Environmental Compensation is for violation.

S = 0.5 for small scale industry

LF = location factor value of population between 1 to 5 million

$$EC = 50 \times 10,437 \times 250 \times 0.5 \times 1.25$$

$$EC = 8,15,39,062.50/-$$

(Rs. Eight Crores, Fifteen Lakhs, Thirty Nine Thousand, Sixty Two Rupees and Fifty Only)

OR

Minimum Compensation = 5000 X Number of Days

$$= 5000 \times 10,437$$

$$= 5,21,85,000/-$$

(Rs. Five Crores, Twenty One Lakhs and Eighty Five Thousand Only)



VIJAY KANSEKAR

JEE-GSPCB

Item No. 01

(Court No. 1)

**BEFORE THE NATIONAL GREEN TRIBUNAL
SPECIAL BENCH**

(By Video Conferencing)

Org. Application No. 16/2016(WZ)
(I.A. No. 133/2020)

Mr. Salu D'Souza & 2 Anr.

Applicant(s)

Versus

Goa Coastal Zone Management Authority through
its Member Secretary & Ors

Respondent(s)

Date of hearing: 11.05.2022

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE MR. JUSTICE DINESH KUMAR SINGH, JUDICIAL MEMBER
HON'BLE PROF. A. SENTHIL VEL, EXPERT MEMBER
HON'BLE DR. VIJAY KULKARNI, EXPERT MEMBER**

Applicant: Mr. Rahul Choudhary Advocate

Respondent: Ms. Ruchita Gupta Advocate for GCZMA
Mr. Pavithran AV, Advocate For PCB
Mr. A.D. Bhobe, Advocate for R-7
Mr. Balkrishna P. Sardessai, Advocats, R-9
Mr. Shivahankar Swaminathan, Advocate.

ORDER**The Issue raised**

1. This application has been filed under sections 14 and 15 of the NGT

Act with following prayers:-

- a. The Respondents companies (Resp. nos. 7 -13) be directed to remove their vessels which are parked in the river-sometimes in the middle of the river for months at times.

- b. The Respondents companies (Resp. nos. 7 -13) be directed to make arrangements to conduct repair works within the dockyard that have been assigned to them, if at all, by the authorities.
- c. Respondents companies (Resp. nos. 7 -13) be directed to remove all the mud, rust, metals and other foreign material which they have dumped in o the river as this is a violation of pollution laws as well as the CRZ notification.
- d. The GCZMA (Resp. No. 1) be directed to inspect this area and demarcate the encroachments which have been made by the respondent companies in the Cortalim creek and within time frame, these must be removed.
- e. The area of both sides of the Cortalim river be brought to its original condition, as existed, prior to the proliferation of these activities."

2. According to applicants, the Respondent Nos. 7 to 13, M/s A.V. Salgaonkar, M/s Saparia Dock Steel Pvt. Ltd., M/s Sardesaid Engg. Work, M/s Desa Engg. Works, M/s Vipul Engg. Works, M/s Sachita Engg. and M/s Ferromar Shipping Pvt. Ltd. at Meddant, Cortalim, Goa have set up shipyards in tidal creek known as Cortalim Creek in South Goa which flows into Zuari river upto Quellossim. The water channel is approximately 150 meters wide during high tide and reveal extensive mud flats at low tide. The channel is bordered by mangroves on both sides and has khazan land on one side. For these reasons the Cortalim creek is zoned as CRZ-I in the approved Coastal Zone Management Plan (CZMP) for Goa.

3. The channel in particular is the breeding, spawning and nesting site for several river fish species, clams, oysters, crab and shell fish. Years ago, one could also find the Windopane Oysters here (now and endangered

species). From earliest times, the villagers of Cortalim are dependent on the abundant fishery of this area for their own food as well as for earning a livelihood. They sell the catch in the nearby markets or along the highway which borders their villages. Approximately 7 companies (Resp. Nos. 7 to 13) have set up shipyards, one next to the other. On the opposite side i.e. the northern side, there lies an extensive stretch of riverine land which opens up into vast khazan lands, where paddy used to be cultivated and later, they are used as fish farms. The land is also suitable for commercial fish breeding. Being a tidal creek, fishing and farming activities are based on the ebb and flow of the Zuari river. During low tide, the riverine land dries up at which time the fisher folk cast their *Futanis* (large nets) which will trap the fish that comes in at high tide. During low tide, the fishermen and women also wade in the creek's waters, scouting for clams, crabs, Oysters and other shellfish, which once used to be found in abundance in this area, but have now declined owing to the activities of shipyards which spill out into the channel. Their business activities have created large scale damage to the Cortalim creek which, besides destroying the local ecology, has also severely hampered the livelihood of the fisher folk.

4. The applicants have described the damage caused by the private respondents as follows:-

"(i) Several barges and shipping vessels, large and small, lie parked in the channel, for years together, under guise of repairs to be carried out. There is no effort made to draw these vessels into the dockyard area for repairs, if there exists one and to dispatch them on their way after completion of repair works. In fact, the channel has become a sort of permanent parking area for these vessels. Official parking charges levied by Captain of Ports is a mere Rs. 3/ per day. As a result of such indiscriminate parking there is little or no free space in the creek where the villagers can carry out their traditional fishing activities. In fact, the trawlers, barges, ships and other sea vessels are encroaching in the same area where the fisher folk have been conducting their traditional fishing activities.

(ii) The metals and rust from the worn-out vessels, after chipping cleaning and repairing the barges is completed, simply fall into the creek's waters or are dumped there, since this is the easiest way to get rid of the industrial waste. The channel is thus silted and is also polluted from this waste. It is only the constant tidal action which has kept this creek still alive, although far from the good health it was in earlier.

(iii) The respondent companies have also reclaimed portions of the channel by dumping mud and debris into the waters, thereby securing additional portions of land for installing the various equipments required by them for the shipyard activities.

(iv) Shabby concrete structures have also been illegally built in the river, thus extending the area occupied by the barge repair Companies.

(v) The entire bank of the creek is lined with barges, trawlers, boats and other sea-going vessels, as the safe waters of the creek have become a cheap parking option for vessels when not in use. Landowners owning properties alongside the waters accept a pittance to permit the frontage of their properties to be used for anchoring the vessels.

(vi) Several barges are now half submerged in the waters, or stuck in the mud flats for years and such vessels can no longer be repaired and have to be broken up. Ship breaking and ship building are now freely carried out in this CRZ I area without any environmental safeguards.

11. In the same Google image, one can also see, on the opposite side, the vast khazan lands with mangroves fringing the entire area. There are sluice gates and bunds strategically located to facilitate the traditional form of agriculture in this ecologic fragile area. All these man-made bunds and sluice gates crafted out over the years can easily be rendered defunct if they are not attended to from time to time, which is only possible if the villagers can earn a living maintaining them.

12. At Exhibit B is a Google image of the same area dated around years earlier, i.e., 4 April, 2011. This image has been downloaded from the net, to illustrate how the activities of the companies are steadily increasing and encroaching further and further into the river Channel. A comparison of the two pictures will easily show that presently, there is little room in the channel for ingress and egress and none at all for casting the Futanis and Aris in the riverine area. The bunds are also breached and for this reason the villagers have abandoned the paddy cultivation and the fish ponds in the khazan land.

13. Applicants annex at Exhibit C a copy of Hydrographic Surveyor's map of the area. The location of M/s A.V. Salgaonkar Shipyard is marked on the map this is the first of the shipyards in this channel, others are all eastwards. However, even ahead of the Salgaonkar shipyard (i.e. towards the Zuari bridge) there are other minor repair yards, which are also carrying out repairs such as

chipping, painting etc. The map also indicates the mud flat area, the fishing net areas and other navigation features.

14. Besides these very obvious impediments to their traditional occupations, the fishing activities are severely affected as follows:

- (i) Movement of fish is disturbed. Fish cannot move freely in the channel. The catch has decreased considerably.
- (ii) The waste oil, rust, chemicals etc. used in chipping and cleaning the vessels, the paints and other materials used to refurbish the barges have polluted the river considerably and destroyed the breeding grounds of the clams, oysters, crabs and shell fish that were plentiful here, not so long ago. Presently, the fish catch is less than a fourth of what used to be available barely a decade ago. It may be mentioned that this channel, because of its unique features of having both Khazan lands and mangroves, was bountiful in shellfish. Fisherfolk could actually earn a decent livelihood merely by wading into the channel water and harvesting the fish catch. There are more than a hundred fisherfolk (not counting family members) who are dependent for their livelihood from fishing in this area. Several villagers have fishing licenses from the Directorate of Fisheries which are renewed annually. At Exhibit D colly are copies of some of the licences issued to the fisherfolk.
- (iii) The Artis (fishing stakes) are destroyed when ships move in and out of the channel. Similarly, the Futanis (nets) which are traditionally cast wide, can no longer be operated as the channel is blocked by the vessels and is no longer available to the fisherfolk or the nets get torn and damaged by the movement of the barges and trawlers.
- (iv) Due to the tidal water currents, the flow of water being 3.1 obstructed by the vessels in the channel, turns and pushes towards the sides of the creek, breaking the bunds and destroying the Khazan lands.
- (v) The turbulence in the water also makes navigation across the channel difficult, thereby causing hardship and danger, for the movement of the fisherfolk's small canoes.
- (vi) The embankment on both sides of the river is also collapsing in places and is shored up with cement concrete in some areas by the companies.
- (v) in addition there is a lot of sound pollution caused by sand/shot blasting while repairing vessels."

5. The applicants have suggested following questions for consideration:-

- (i) Whether these companies (Resp. Nos. 7 to 13) have all permissions to operate and conduct their business;
- (ii) Whether they have encroached into the creek by constructing structures or dumping mud, and whether these are obstructing the flow of the creek;

- (iii) The extent of the pollution in the creek caused by the ship repair works and the manner in which the pollutants can be removed, and estimated costs for the same.
- (iv) The manner in which the ship building and barge repair activity can be regulated, so that there is no longer any encroachment in the creek from such stationary vessels.

Procedural History - stand of the respondents

6. The application was filed on 14.01.2016 and came up for hearing on 04.02.2016 when the Tribunal issued notice to the Respondents, including the Project Proponents (PPs), State PCB, GCZMA and Captain of Ports who have filed their respective replies.

7. Reply of GCZMA is that the Bombay High Court at Goa vide judgment dated 30.07.2017 in PIL No.6/2013 held that GCZMA could not have granted permission for the barge repair activity and only MoEF&CC could grant such permission. The High Court directed that status quo may be maintained for six months to enable requisite permission after which the activity will not be allowed unless permission is granted. The time was extended upto 05.07.2018 and thereafter liberty was given to the parties to approach this Tribunal. The GCZMA gave show cause notices but the proceedings were finally dropped on 23.09.2021, in view of permission granted by the Captain of Ports and on the ground that the matter was pending before SEIAA, as revised CZMP had been not finalized as per 2011/2019 CRZ notifications. However, with regard to M/s Sachita Engg. Works and M/s Ferromar Shipping Pvt. Ltd. directions for restoration of the area were issued and compensation of Rs. 5 lakhs and 10 lakhs respectively was required to be paid. Relevant extracts from the status report filed by the GCZMA on 10.11.2021 are reproduced below:-

"4. That a show cause notice dated 21.09.2018 was issued to M/s Desa Engg. Works (Respondent No. 10) in reference to one complaint dated 11.07.2018 made by Mr. Probre Jesus Vaz regarding barge repair activity in the river Zuari. The said complainant has also filed PIL bearing No. 6/2013 before Hon'ble High Court of Bombay at Goa being aggrieved by the barge repair activity undertaken in the Zuari river which was taking place after permission dated 27/01/2010 and 01/02/2010 granted by GCZMA to M/s Desa Engineering works. Hon'ble High Court of Bombay at Goa vide judgment dated 31/07/2017 had disposed off the petitions (bearing no.6 & 10/2013 filed by Mr. Antonio Fernandes & Ors. and Voice of Villagers) by quashing the permissions granted by GCZMA with a view that the competent Authority to grant permission in this case is MoEF, Government of India. Further, M/s Desa Engineering was granted status quo for a period of 6 months to get the required permission from MoEF. After the expiry of this period of 6 months, M/s Desa Engineering has been seeking extension of the period of status quo from Hon'ble High Court of Bombay at Goa from time to time with last such extension granted expiring on 5th July 2018 wherein the court also directed M/s Desa Engineering to approach Hon'ble NGT for any further orders.

5. Based on the application filed before Hon'ble Tribunal, inspection report of the Expert Member of GCZMA and Survey report dated 30/06/2016 of the DSLR an illegal activity resulting in blatant and serious violation of CRZ Notification 2011 was noticed. Accordingly show cause notices dated 18/09/2020(6no's) were issued to M/s A. V. Salgoancar, Dock and Shipyard, Ship Building & repairing, Maddant Cortalim.(Respondent No. 7), M/s Sapania Dock Steel Pvt. Ltd., Ship building and repairing Maddant, Cortalim.(Respondent No. 8), M/s Sardesai Egg Works Dockyard ad ship building and repairing, Maddant, Cortalim,(Respondent No. 9), M/s Vipul Engg Works Dock, Slipway, ship building and repairing Maddant, Cortalim,(Respondent No. II), M/s Sanchita Engg Ship building and Repairing C/o Shirodkar Engg Chovoth, Cortalim (Respondent No. 12) and M/s Ferromar Shipping Pvt Ltd Ship building and Repairing, C/o Agarwal Shipyard Chovoth, Cortalim.(Respondent No. /3).The office of GCZMA was in receipt of replies from the Respondents on the show cause notices issued by Authority.

PROCEEDINGS BEFORE GCZMA:

A. Show Cause Notice dated 21.09.2018 issued to Respondent No. 10:

6. The GCZMA in its 194th meeting held on 15.03.2019 observed and held as under:

The authority heard the concerned parties in the matter. The authority noted that it had issued a show cause notice only to verify the question of whether the period of stay has been extended further by Hon'ble NGT to M/s. Desa Engineering. The authority noted that the respondent has sought several

extensions from the Hon'ble High Court of Bombay at Goa and also sought reliefs/clarifications from the Hon'ble National Green Tribunal and Supreme Court of India on various occasions. The authority noted that it had granted permission/N.O.C to the respondent for dry dock and repair work in the year. The permission/N.O.C granted by the GCZMA were set aside by the Hon'ble High Court of Bombay at Goa vide judgment order dated 31/07/2017 with a direction to the Respondent to approach the Competent Authority to take approval for construction of dry dock. The applicant had already completed construction of dry dock based on the earlier N.O.C permission from GCZMA when the order dated 31/7/2017 was passed by Hon'ble High Court. The authority noted that pursuant to orders of the Hon'ble High Court, the respondent has applied to State Environment Impact Assessment Authority (SEIAA) which is the competent authority to grant necessary permission for the said dry dock. The State Environment Impact Assessment Authority (SEIAA) has presently kept the application of the respondent in abeyance due to bar imposed by Hon'ble NGT for development Page 19 of 25 activity vide its order dated 22/11/2017 passed in the Mehdad & Anr. V/s Ministry of Environment, Forests & Climate Change &ors. The authority noted that the NGT order dated 19/09/2018 in MA no.1343/2018 in Mehdad v/s MoEF & CC Ors. has allowed the respondent to undertake barge repair work with a clarification that if the repair activity is found to be minor in nature not amounting to 'development activity', as it is not barred by its order dated 22/11/2017. The authority further took note of dated 20/12/2018, forwarding the view of Captain of ports pertaining to list of activities with pertain to repairs and not development. It is the case of the respondent that the activities at site are of minor nature and hence not covered under term 'Development'. It is the case of the Complainant/petitioner the said dry dock is now operating without any permission/NOC from competent authority. The authority observed that the orders of the Hon'ble High Court of Bombay at Goa in the year 2017 and the recent order of the Hon'ble NGT dated 19/09/2018 have not clarified the position about the existing dry dock. The present case has unique facts as the applicant who has already constructed the dry dock has been directed to obtain a permission/NOC from competent authority by the Hon'ble High Court of Bombay at Goa and the Goa State Environment Impact Assessment Authority (GSEIAA) is unable to consider the application on its merits. The authority after considering peculiar facts and circumstance noted that Goa State Environment Impact Assessment Authority (GSEIAA) is seized of the matter and is yet to take final decision in the matter. Considering the above the Authority resolved to discharge the Show Cause Notice issued to respondent.

The matter before Goa State Environment Impact Assessment Authority (GSEIAA) is pending as the CZMP for State of Goa has not been finalized.

A copy of the relevant pages of the GCZMA 194th meeting held on 15.03.2019 is annexed herewith as ANNEXURE A.

B. Show Cause Notices dated 18.09.2020 issued to Respondent No. 7, 8, 9, 11, 12 & 13:

7. During 231st GCZMA meeting held on 15/10/2020, the Counsel of the Respondents sought for time to argue the matter. The Authority decided to grant time by fixing the matter on 29/10/2020 at 3.30. pm.
8. The matter placed for hearing during 233rd GCZMA meeting held on 29/10/2020. Wherein Counsel of the Respondents, 8, 9, 11, 12, and 13 were present. The Notice addressed to A. V. Salgaonkar (Respondent no. 7) was returned back with a postal endorsement "Addressee expired Returned to Sender", the Authority directed the Complainants to place on record the names and addresses of the legal heirs. The Counsel for the respondents submitted as under:
 - a) that the activities carried out by them are foreshore which is permitted under the CRZ notification 2011 and that they were in existence prior to 1991.
 - b) Further the allegations that the respondents have done encroachment post 1991 are incorrect including the plan prepared by the DSLR which has not superimposed the correct picture.
 - c) the plan does not indicate the extent of area of encroachment done by the Respondent.

The Complainant were asked by the Authority as to whether they have got anything to substantiate to which they stated that they have nothing to say, however, the Authority deemed it fit to call upon both the parties to file written arguments by posting the matter on 19/11/2020 at 3.30 p.m. However none appeared on 19/11/2020. The Authority decided to issue fresh hearing notices to all the affected parties along with complainant.
9. On 10/12/2020 in 239th meeting the Complainant namely Antonio and Joaquim were present. The Ld. Adv. for the Respondents was also present and prayed for time. The Authority granted the time and adjourned the matter on 07/01/2021 at 3.30pm. However, the said meeting was postponed to 25/01/2021.
10. During 244th meeting held on 25/01/2021. The Complainants were present in person. Ld. Adv A Bhobewas present for Salgaonkar Shipyard. Ld and Adv Girish Sardesai was present for four Shipyards and argued the matter stating that the structures are very old and are shown in the survey plan and prayed for time to produce the copy of the affidavit filed by the Captain of Ports before the Hon'ble Supreme Court. The Authority decided to call the old cadastral plans and reports from the Captain of Ports and Goa State Pollution Control Board to focus on the issue involved in the present matter. The Matter was posted on 04/02/2021 at 3.30 pm.
11. During 246th GCZMA meeting held on 04/02/2021 Ld. Adv Ashwin Bhohe was present for Salgaonkar Shipyard and Adv

- appeared for other Respondents. The complainant remained present. A letter was received from the Directorate of Settlement and Land Records stating that no cadastral survey records are available with the Office. The Report from the Captain of Ports received was placed on record. Advocate Bhobe pointed out the reply and permissions for Salgaonkar shipyard. Further stated that it is the oldest jetty operating from 1968. The authority after hearing both the parties decided to call the official from the Captain of Ports Department to explain the map and posted the matter on 11/02/2021 at 3.30 pm.
12. During the 248th meeting held on 11/02/2021 official from the captain of ports remained present for hearing. Ld Adv Ashwin Bhobe remained present for respondent Salgaonkar Shipyard and Adv Lad appeared for respondent No. 8, 9, 11, 12 and 13. Authority after hearing the parties the matter was posted on /2021.
 13. During the 249th GCZMA meeting held on 18/02/2021, the officials from Captain of Ports were absent. Authority noted that officials from Captain of Ports didn't appear before Authority and the authority after hearing the parties the matter was posted for 25/02/2021. The Authority adjourned the matter on 25/02/2021 at 3.30pm and directed that captain of Ports may be asked to depute officials well conversant with matter along with the documents.
 14. During the 251st meeting held on 25/02/2021, the officials from Captain of Ports was present. The authority after hearing both the parties decide to superimpose the Cadastral map which are in possession of the Captain of Ports with the maps from DSLR. The matter was further posted for 02/03/2021.
 15. During the 252nd GCZMA meeting held on 02/03/2021. The Complainants were present in person and stated that the Dry dockyards which are available in private land is not shown in the plan. The officials from Captain of Ports Department were present and produced the area statement of the land leased by the Captain of Ports. Surveyor from DSLR was also present. The Authority after hearing the parties decided to write to Village Panchayat of Lotulin to furnish the copies of documents produced by the Respondents and the permission granted along with the documents. Further the Captain of Ports was directed to prepare the plan showing the area of land granted by them on lease to the Respondents and how much area can be granted under the Indian Port Act. The matter was posted on 11/03/2021 at 3.30pm.
 16. On 11/03/2021 the Authority postponed the said matter to 25/03/2021. However, Items as per Agenda from Case No. 1.1 to 1.23 (subject case) could not be taken up for discussion on 25/03/2021 as the Secretary Environment & CC and the Chairman CRZ was busy with administrative work and hence this agenda items from serial No. 1.1 to 1.23 stood adjourned and fixed for hearing on 30/03/2021 at 3.30 pm. On 30/03/2021 the matters were postponed and decided to issue fresh hearing notices. Fresh notices were issued to both the

parties for personal hearing scheduled on 01/07/2021 at 3.30 pm.

17. During 263rd meeting held on 01/07/2021 Adv. Balkrishna Sardesai who was appearing for Respondent No. 8, 9, 11, 12 and 13 communicated his adjournment application via Email stating his personal difficulty to attend the hearing. The Authority after considering the Email sent by the Respondent No. 8, 9, 11, 12 and 13 requesting for adjournment decided to grant the time in the matter and the matter was accordingly posted on 06/07/2021.
18. During 264th GCZMA meeting held on 06/07/2021, Adv. A. Bhoje was present for Salgaonkar Shipyard and Ld. Adv. Balkrishna Sardesai was present for four Shipyards being Respondent Nos. 8, 9, 11, 12 and 13. Representatives of Captain of Ports was present. However, the Complainant Mr. Salu D'Sauza was absent. The Authority noted that since the Complainant was absent and in the interest of natural justice matter was posted for hearing on 29/07/2021 at 3.30 p.m. However, the authority meeting could not be held on 29/07/2021 due to Legislative Assembly session.
19. During 268th meeting held on 19/08/2021, the Authority decided to furnish a copy of the plan and further posted the matter for arguments on 26/08/2021 at 3.30 p. m. The authority further directed Captain of Ports to identify the offending structures on the site which have appeared on survey plan and fix responsibility of constructing those on parties concerned at the ground by doing filed inspection and local enquiry. However, the meeting scheduled for 26/08/2021 was postponed to 02/09/2021 at 3.30 pm.
20. During 270th meeting held on 02/09/2021, the Authority after detailed discussion posted the matter on 23/09/2021 at 3.30 pm for final arguments with the opportunity to complainant to put up defence upon obtaining plan submitted by Captain of Ports.
21. The matter was placed in the 272nd MEETING held on 23/09/2021 for final hearing wherein the Authority decided as follows:

The Authority pursuant to mapping plan submitted by the office of DSLR, a show cause notice dated 18/09/2020 was issued by authority to the respondents. The respondents have filed their detailed replies to the respective show cause notice.

M/s A V Salgaonkar Ltd.- With regard this respondent the authority perused detailed reply dated 13/01/2021 filed by the respondent inter alia stating that the jetty was existing prior to 1991, produced permission from Captain of Port dated 09/06/1965 for construction of additional slipway adjoining the existing Cortalim Workshop, tax receipts imposed by Village Panchayat of Cortalim and rental charges paid to Captain of Ports. It is the case of the respondent that DSLR report is incorrect as there is basis for claiming that there are extensions in the water body.

The matter involves water front/forsshore usage and hence the authority has sought assistance from the officials of Captain of Ports to effectively decide the matter. The authority further had directed the parties to show further documents vis-a-vis the area possessed by them individually. The Captain of Ports DSLR were also requested to superimpose the plan prepared by DSLR depicting the area of land allotted granted on lease to respondents to the concerned docks.

A plan was submitted by the Captain of Ports vide letter dated 06/07/2021 showing extent of area covered under N.O.C. of Captain of Ports. The said letter dated 06/07/2021 along with plan was circulated to all the parties before the authority. The Complainant also filed their say vide representation dated 23/09/2021.

The Authority perused the DSLR plan earlier prepared in the year 2016, reply along with documents filed by the respondents, plan prepared by the Captain of Ports and also rejoinder filed by the Complainant in the matter. The Authority noted that M/s A V Salgaoncar Ltd has submitted relevant documents interalia depicting area under their possession and jetty prior to 1991. The Captain of Ports have also indicated in their plan that water frontage area of 7500 sq mtrs has been granted by them. The authority noted the permission for use water frontage was infact granted in the Captain of Ports in the year 1965. In view of the above permissions granted by Captain of Ports and other documents on record the authority decided to discharge show cause notice issued against M/s A V Salgaoncar Ltd.

M/s Saparia Dock Steel Pvt Ltd: With regard to this respondent Inquiry has revealed that there is permission issued by the Dy. Captain of Ports Mormugao for use of plot in the year 1964. Also the permission issued by Captain of Ports for utilization of river bank land in the year 1972 along with Registration certificate of establishment issued by office of labor inspector in the year 1984. The unit placed on record consent to operate issued by the GSPCB dated 11-04-2011. The unit has also placed on record order of regularization of existing old ship yard by GCZMA dated 09-02-2011.

Upon hearing the representative of the unit the concerned officials from the Captain of Ports department were required to clarify the extent of area for which permission was issued so as to analyse whether the activities undertaken by the unit M/s. Saparia Dock Steel Pvt. Ltd. amounted to encroachments in contravention of permissions granted.

The Captain of Ports have furnished their report along with map and indicated the area of permission that the unit was allotted way back prior to 1991 and in consideration

therewith it is advanced that the undertaken activities are within the permissions granted by the competent authority at the relevant time. The Captain of Ports have also indicated in their plan that water frontage area of 2880 sq mtrs has been granted by them.

After hearing the parties and officials at several hearings it has been concluded that the activities of the unit M/s. Saparia Dock Steel Pvt. Ltd is not in contravention of permissions granted, as such the unit Sardesai Engineering Works is discharged from the Show Cause Notice issued by this office.

The authority noted the permission for use water frontage was inflic granted in the Captain of Ports in the year 1972. In view of the above permissions granted by Captain of Ports and other documents on record the authority decided to discharge show cause notice issued against Saparia Dock Steel Pvt Ltd.

M/s Sardesai Engg. Works: With regard to this respondent Inquiry has revealed that there is permission issued by the Captain of Ports for conducting activity of dry dock and detailed permission was placed on record which was issued in the year 1971. Also the permission issued by Health Centre in the year 1968 to undertake barge repair and machine shop work at Cortalim along with Certificate of Registration issued by the Directorate of Industries in the year 1973. The unit placed on record consent to operate issued by the GSPCB dated 19-08-2015 so also permission issued by the GCZMA dated 12-03-2015 to the pre-existing unit. Upon hearing the representative of the unit the concerned officials from the Captain of Ports department were required to clarify the extent of area for which permission was issued so as to analyse whether the activities undertaken by the unit Sardesai Engineering Works amounted to encroachments in contravention of permission granted.

The Captain of Ports have furnished their report along with map and indicated the area of permission that the unit was allotted way back prior to 1991 and in consideration therewith it is advanced that the undertaken activities are within the permissions granted by the competent authority at the relevant time. The Captain of Ports have also indicated in their plan that water frontage area of 9000 sq mtrs has been granted by them.

After hearing the parties and officials at several hearings it has been concluded that the activities of the unit Sardesai Engineering Works is not in contravention of permissions granted, As such the unit Sardesai Engineering Works is discharged from the Show Cause Notice issued by this office.

The Authority decide to continue further hearing with respect of M/s Vipul Engg Works Dock, M/s Ferromar Shipping Pvt Ltd. and M/s. Sachinda Engg. The Authority further decided to initiate fresh proceedings against Inas Caetano D'Souza, Anthony Engg Works, Arcanjala D'Souza, Aspergeate. Desa and Lucy Alvares as per report of the Captain of Ports and copy of notice to be sent to Goa State Pollution Control Board(GSPCB). The next meeting is fixed on 07/10/2021 at 3.30 pm.

A copy of the relevant pages of the GCZMA 272nd MEETING held on 23/09/2021 is annexed herewith as ANNEXURE B.

22. In the 274th GCZMA meeting held on 07/10/2021. The Complainant Mr. Salu Dsouza was present in person. Adv. Balakrishna appeared for respondents filed following documents and argued the matter. In the said meeting it was decided as follows "The Authority after hearing both the parties decided to post the matter for further arguments on 21/10/2021 at 3.30 pm. Further fresh cases to be opened against 5 violators identified by the Captain of Ports after survey."

23. The matter was fixed for personal hearing in the 276th GCZMA meeting held on 21/10/2021 and 23/10/2021 wherein it was decided as follows:- "The Authority discussed and deliberated on the matter pertaining to M/s. Ferromar Shipping Pvt Ltd. and Vipul Engineering Works Dock. The Authority perused the documents filed by the respondent and submission made by the Complainant. The Authority noted that the Captain of Port has earlier already submitted a plan showing extent of area covered under N.O.C of Captain of Ports.

With regard to matter of Ferromar Shipping Pvt Ltd, the Authority noted that the said Respondent has been granted area of 336 sq mtrs and additional water frontage area of 1050 sq mtrs by Captain of Ports in the year 2004. The Authority observed that the Respondent has produced Certificate's dated 22/07/1972 and 27/01/2020 issued by Captain of Ports, Certificate of Registration of Small scale industries issued by Directorate of Industries and Mines dated 03/10/1968, N.O.O dated 05/08/1999 issued by Village Panchayat Cortalim, Form 1 & XIV of Survey no.43/1, 3, 4, 5 Cortalim village, Mormugao, Renewed NO.O from the Captain of Ports dated 26/02/2016 & 27/01./2020, House Tax and Trade Tax receipts issued by Village Panchayat of Cortalim dated 22/05/2020, Consent to Operate under Air and Water Act issued by Goa State Pollution Control Board dated 21/10/2015 and 22/09/2020. In view of permissions granted by Captain of Ports and other documents on record the authority decided to discharge show cause notice issued against Ferromar Shipping Pvt Ltd.

With regard to matter Vipul Engineering works, the Authority noted the inquiry has revealed that the Respondent has a NO.O dated 26/09/1974 issued by Captain of Ports for construction of dry dock, construction

licence of the year 1974-1975 issued by Village Panchayat of Cortalilm/Quelossim for dry dock and further IV.O.C's dated 06/01/2017 and 05/10/2020 issued by Captain of Ports. The Captain of Ports has further confirmed an total area 2472 permitted by them inclusive of water frontage. In view of the above permissions granted by Captain of Ports and other documents on record the authority decided to discharge show cause notice issued against Vipul Engineering works.

The Authority further decided to hear the matter of M/:s Sachida Engineering Works and posted the matter on 28/10/2021 at 2.30pm for final arguments by keeping in mind the directives of the Hon'ble NGT.

A copy of the relevant pages of the 276th GCZMA meeting held on 21/10/2021 and 23/10/2021 is annexed herewith as ANNEXURE C.

24. The matter was fixed in the 277th GCZMA meeting held on 02/11/2021 wherein it was decided as follows:- "The Authority noted that it had earlier discharged the M/s Ferromar Shipping Pvt Ltd for the areas allotted and verified by Captain of Ports as depicted in their plan. The Authority observed that there is area having 2177 sq mts with water logged portion and slip way. The Authority noted the M/s. Ferromar Shipping Pvt Ltd claims that said area belongs to them and utilised for foreshore activities. The Respondent M/s Ferromar Shipping Pvt Ltd has failed to produce on record any document depicting as which authority has given permission for the same. The Captain of Ports has clearly indicated that the said area of 2177 sq mts is without any permission from them. The Authority hence decided to direct Respondent M/s Ferromar Shipping Pvt Ltd to restore the said area to its original state at their own cost in 4 weeks failing which Captain of Ports and River Navigation Department will do the same at the cost of Respondent. The Authority further decided to impose cost of Rs. 10 Lakhs to be recovered from the Respondent M/s. Ferromar Shipping Pvt Ltd as compensation for Environmental damage to the area.
25. With Regard to M/s Sachida Engineering, the Authority noted that Captain of Ports has identified area of 1510 sq mts as permitted area. The remaining area of 572 sq mts abutting each slipways hence without any permission from any Authority. The Respondent M/s Ferromar Shipping Pvt Ltd has failed to produce on record any document depicting as which authority has given permission for the same. The Captain of Ports has clearly indicated that the said area of 572 sq mts is without any permission from them. The Authority hence decided to direct Respondent M/s Sachida Engineering to restore the said area to its original state at their own cost in 4 weeks failing which Captain of Ports and River Navigation Department will do the same at the cost of Respondent. The Authority further decided to impose cost of Rs. 5 Lakhs to be

recovered from the Respondent M/s Sachita Engineering as compensation for Environmental damage to the area."

A copy of the relevant pages of the 277th GCZMA meeting held on 02/11/2021 is annexed herewith as ANNEXURE D.

FINDINGS/FINAL ORDERS:

26. That based on the aforesaid, the GCZMA passed the following orders with respect to allegations made in the captioned matter against the Respondent Docks being Respondent Nos. 7-13:

- a) M/s A.V Salgaonkar (Respondent No. 7): Proceedings Discharged in terms of decision taken in the 272nd GCZMA Meeting vide Order dated 22/10/2021 which is annexed herewith as ANNEXURE E.
- b) M/s Saparia Dock Steel Pvt. Ltd. (Respondent No. 8): Proceedings Discharged in terms of decision taken in the 272nd GCZMA Meeting vide Order dated 22/10/2021 which is annexed herewith as ANNEXURE F.
- c) M/s Sardesai Engg. Works (Respondent No. 9): Proceedings Discharged in terms of decision taken in the 272nd GCZMA Meeting vide Order dated 22/10/2021 which is annexed herewith as ANNEXURE G.
- d) M/s Desa Engg. Works (Respondent No. 10): Proceedings Discharged in terms of decision taken in the 194th GCZMA Meeting vide Order dated 27/05/2019 which is annexed herewith as ANNEXURE H.

The matter before Goa State Environment Impact Assessment Authority (GSEIAA) is pending as the CZMP for State of Goa has not been finalized.

- e) M/s Vipul Engg. Works (Respondent No. 11): Proceedings Discharged in terms of decision taken in the 276th GCZMA Meeting vide Order dated 25/10/2021 which is annexed herewith as ANNEXURE I.

- f) M/s Sachita Engg. Works (Respondent No. 12): The Authority noted that Captain of Ports has identified area of 1510 sq mts as permitted area. The remaining area of 572 sq mts abutting each slipways are without any permission from any Authority, thus, the Authority in reference to GCZMA 277th meeting vide order dated 09/11/2021 directed Respondent No. 12 to restore the said area to its original state at their own cost. The Authority further imposed cost of Rs. 5 Lakhs to be recovered from the Respondent No. 12 as compensation for Environmental damage to the said area. A copy of Order dated 09/11/2021 is annexed herewith as ANNEXURE J.

g) *M/s Ferromar Shipping Pvt. Ltd. (Respondent No. 13): The Authority noted that it had discharged the M/s Ferromar Shipping Pvt Ltd for the areas allotted and verified by Captain of Ports as depicted in their plan being 336 sq mtrs and additional water frontage area of 1050 sq mtrs. The Authority observed that there is additional area of 2177 sq mts with water logged portion and slip way which Respondent No. 13 has failed to produce on record a document depicting as which authority has given permission for the same. Thus, in reference to GCZMA 277th meeting, the Authority vide order dated 09/11/2021 directed Respondent No. 13 to restore the said area to its original state at their own cost. The Authority further imposed cost of Rs. 10 Lakhs to be recovered from the Respondent No. 13 as compensation for Environmental damage to the area. A copy of Order dated 09/11/2021 is annexed herewith as ANNEXURE K"*

8. The stand of the State PCB is that violation of Air (Prevention and Control of Pollution Act, 1981 and the Water (Prevention and Control of Pollution Act, 1974 was found and direction was issued to the units in question to take remedial action. Relevant extracts from the said affidavits are as follows:-

"I state that a synopsis of the statutory directions issued by the Board to the Respondent units is tabulated as below:

Sr. No.	Name of the Unit	Action taken by GSPCB
1	M/s. Ferromar Shipping Pvt. Ltd.	Directions dated 20/4/2016 have been issued to the unit under section 31 (A) of the Air Act and under 33 (A) of the Water Act; a) To stop the activity of water blasting inside the river. b) The waste water generated by water blasting should be treuled seperately. c) The unit is directed to submit a compliance report to the Respondent Board failing which the Board will initiate stringent legal action as per the provision of the Water Act and the Air Act including issue of closure directions.
2	M/s. Desa Engineering Works	Directions dated 20/4/2016 has been issued to the units under section 31 (A) of the Air Act and under 33 (A) of the Water Act;

		<ul style="list-style-type: none"> • The amount of wastewater produced during pressure water-blasting operations is to be minimised by recycling and reusing the wastewater. • Spray drift of the cleaning solution and resultant wastewater is to be prevented from escaping from the immediate zone of the working surface. • Wastewater should be disposed of either to a sewer or to on-site storage in pressure a sealed container. • Solid residues produced as a result of the cleaning process are to be stored on site in a sealed container. • All stored liquid and solid wastes are to be collected by a licensed waste/transport business and taken to a licensed disposal, treatment or storage facility. • The unit is directed to submit a compliance report to the Respondent Board failing which the Board will initiate stringent legal action as per the provision of the Water Act and the Air Act including issue of closure directions.
3	M/s. Shaparia Dock and Steel Company Ltd.	<p>Directions dated 20/4/2016 has been issued to the units under section 31 (A) of the Air Act and under 33 (A) of the Water Act;</p> <p>a) to apply for the renewal of consent to operate.</p> <p>b) to stop the activity of water blasting inside the river. The waste water generated by water blasting should be treated separately.</p> <p>c) The unit is directed to submit a compliance report to the Respondent Board failing which the Board will initiate stringent legal action as per the provision of the Water Act and the Air Act including issue of closure directions.</p>
4	M/s. Vipul Shopping Engineering Works	<p>Directions dated 20/4/2016 has been issued to the units under section 31 (A) of the Air Act and under 33 (A) of the Water Act.</p> <ul style="list-style-type: none"> • To provide toilet facility and septic tank/soak pit for the unit. • The amount of wastewater produced during pressure water-blasting operations is to be minimised by recycling and reusing the wastewater. • Spray drift of the cleaning solution and resultant wastewater is to be

		<p>prevented from escaping from the immediate zone of the working surface.</p> <ul style="list-style-type: none"> • Wastewater should be disposed of either to a sewer or to on-site storage in a sealed container. • Solid residues produced as a result of the cleaning process are to be stored on site in a sealed container. • All stored liquid and solid wastes are to be collected by a licensed waste transport business and taken to a licensed disposal, treatment or storage facility. • The unit is directed to submit a Compliance report to the Respondent Board failing which the Board will initiate stringent legal action as per the provision of the Water Act and the Air Act including issue of closure directions.
5	M/s. Sardesai Engineering Works	<p>Directions dated 20/4/2016 has been issued to the units under section 31 (A) of the Air Act and under 33 (A) of the Water Act;</p> <ul style="list-style-type: none"> • The amount of wastewater produced during pressure water-blasting operations is to be minimised by recycling and reusing the wastewater. • Spray drift of the cleaning solution and resultant wastewater is to be prevented from escaping from the immediate zone of the working surface. • Wastewater should be disposed of either to a sewer or to on-site storage in a sealed container. Solid residues produced as a result of the cleaning process are to be stored on site in a sealed container. • All stored liquid and solid waste to be collected by a licensed waste transport business and taken to a licensed disposal, treatment or storage facility. • The unit is directed to submit a Compliance the Respondent Board failing which the Board will initiate stringent legal action as per the provision of the Water Act and the Air Act report to including of closure directions.
6	M/s. Sachida Engineering Works	<p>Directions dated 20/4/2016 has been issued to the units under section 31 (A) of the Air Act and under 33 (A) of the Water Act.</p> <p>a) to stop the activity of water blasting inside the river. The waste water generated by water blasting should be treated separately.</p>

		b) The unit is directed to submit a compliance report to the Respondent Board failing which the Board will initiate stringent legal action as per the provision of the Water Act and the Air Act including issue of closure directions.
7	M/s. A.V. Salgaonkar Works	Directions dated 20/4/2016 has been issued to the units under section 31 (A) of the Air Act and under 33 (A) of the Water Act; a) To apply for the Consent to operate. b) To stop the activity of water blasting inside the river. The waste water generated by water blasting should be treated separately. c) The unit is directed to submit a compliance report to the Respondent Board failing which the Board will initiate stringent legal action as per the provision of the Water Act and the Air Act including issue of closure directions.

A copy of the report of inspection conducted by the Board on 21/03/2016 and 28/1/2016 along with the directions dated 20/4/2016 issued to the Respondent units is annexed herewith and marked as 'Exhibit-A' Colly.

7. I state that on receipt of the compliance reports from the respondent units, the Board will initiate further appropriate action in terms of the provisions of the Water Act and the Air Act in order to ensure that the pollution in the vicinity caused due to the operation of the respondent units is prevented and controlled.

8. I state that the Board was also in receipt of a letter dated 30th December 2015 from Mr. Jose Lucas and Maria Santana Fernandes residents of Cortalim Goa seeking to withdraw their complaint dated 25/11/2015 filed by them with the Respondent Board as aforesaid.

Annexed herewith and marked as EXHIBIT -B colly is a copy of letter dated 30/12/2015 as aforesaid.

9. I state that the Respondent Board under the National Water Monitoring Programme (NWMP) monitors water (within its stretch from its upstream to downstream portion) four locations namely (a) Panchawadi, (b) Cortalim, (c) Madkal and (d) Borim. Under the said programme, physico-chemical parameters and microbial parameters are monitored on monthly basis while, metal concentration measured in mg/l (i.e. Iron- Fe, Chromium - Cr, Lead - Pb, Zinc -Zn, Nickel - Ni and Copper - Cu) is monitored on annual basis. I state that based on the data compilation and interpretation of metal concentrations

analyzed during the period from 2010/11 - 2014/15, it is observed that-

- a. Concentrations of all the metals analyzed are either Below Detection Limit (BDL) or well within the CPCB-prescribed limits if made applicable for waste-water discharge for paint industry.
- b. Fe is dominant metal present in Zuari coastal waters.
- c. Although specific trend (i.e. annual no in metal concentration is observed in river waters, certain locationspecific variation is noticed such as-
 - (i) At Panchwadi, Fe concentration shows relatively decreasing trend from 2011/12 (1.14 mg/l) to 2014/15 (0.144 mg/l). Further, Cr, Pb, Zn and Cu are reported to be Below Detection Limit (BDL).
 - (ii) At Cortalim, Fe is relatively higher during 2012/13 (1.63 mg/l) as compared to other years. Ni content shows slightly increasing trend from 2012/13 onwards.
 - (iii) At Borim, Fe concentration is relatively higher in 2014/15 (0.289 mg/l) than in year 2013/14 (0.156 mg/l). Other metal concentrations are either BDL or shows decreasing trend.
 - (iv) At Madkai, All the metal concentration shows decreasing trend from 2013/14 onwards except Fe which is relatively higher in 2014/15 (0.774 mg/l) than in year 2013/14 (0.273 mg/l).

A copy of the report of analysis of data compilation and interpretation of metal concentrations analyzed during the period from 2010/11 - 2014/15, as aforesaid is annexed herewith and marked as EXHIBIT C.

10. I state that the Respondent Board has taken cognizance of the complaint filed by the Applicants before it, which is also the subject matter of the present application. I state that the Respondent Board in this regard has also conducted site inspections and issued statutory directions under the provisions of the Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981 to the Respondent units. I state that the Respondent Board will ensure that pollution in the vicinity caused due to the operation of the respondent units is prevented and controlled."

9. The stand of the Captain of Ports is that NOC has been issued to all the private respondents except R-10 prior to CRZ Notification 199. R-10 has been given NOC in 2010. The validity of NOC has not been extended except R-10. The shipyard of R-7 bears disserted looks. Shipyards of R-9 is unused. Relevant extracts from the said replies are:-

"4. With reference to Paragraph Nos. 4 the contents thereof are denied to the extent that the same are contrary to and inconsistent to

what is stated herein. I state that it is true that Respondent No 4 has filed an affidavit disclosing that all the companies/respondents 7 to 13 have given permission to set up shipyard after scrutinizing all the documents and no objection certificates from the concerned authorities if found in order as per the rules inspecting the site and demarcating the area in the riverine land at Cortalim. I further state and submit that the contention stated by the applicant is true that the Respondent No.7-9 & 11- 13 has been issued NOC by this department prior only to CRZ Notification 1991, whereas Respondent No.10 was issued NOC after CRZ approval obtained in 2010. I state that the after expiring of the NOC's, the parties has not approached neither applied to extend the validity of the NOC due to the steep downfall in mining activities hence the department have not inspected the site. Only NOC of the Respondent No.10 have been extended after inspection and after obtaining NOC from Concerned Authorities. I state and submit that it is true that the shipyard belonging to Respondent No.7 bears a deserted look and the shipyard plot of Respondent No.9 also appears to be lying unused. In my respectful submission due to closure of mining activities the barges are not plying and the owners have stationed these barges close to the yard i.e. in the creek of Zuari River. I state that the Respondent No 4 have initiated the procedure and will carry out site inspection and will serve Notices to the owner of the vessels to remove the same from the creek of Cortalim, Zuari river, I further state that the channel creek of Cortalim is clear as the Barges go for repair at the dry dock of Respondent No. 10 without any navigational problem. In my respectful submission there are no such blockage in the channel as stated by the Applicant, however, this department will always ensure that the navigational channel remains a clear at all times."

10. Inspection report dated 14.06.2016 filed by the Captain of Ports is as follows:-

Nos.	Name of the Companies	Vessel berthed at water frontage	Activities	Remarks
1	M/s. A.V. Salgaonkar Works	09 nos. 1 no. grounded	Non operational	Detail of vessel is placed at page no. 145/C
2	M/s. Shaparia Dock and Steel Company Ltd.	1 nos. barges 3 nos. new vessel under construction	Operational	Detail of vessel is placed at page no. 145/C
3	M/s. Sardesai Engineering Works	Nil	Non operational	Nil

4	M/s. Desa Engineering Works	5 nos.	Operational	Detail of vessel is placed at page no. 145/C
5	M/s. Vipul Shopping Engineering Works	2 nos. new vessels	Operational	Detail of vessel is placed at page no. 145/C
6	M/s. Sachida Engineering Works	1 no. new vessel	Operational	Detail of vessel is placed at page no. 145/C
7	M/s. Ferromar Shipping Pvt. Ltd.	1 no. new vessel	Operational	Detail of vessel is placed at page no. 145/C

During the above said inspection, the physical verification carried out and observed that about 10 Nos. old/damage condition vessels/pontoon was parked in front of M/s. A.V. Salgaocar workshop out of which pontoon Balvan is grounded and causing water pollution and same is to be remove immediately. The other unused/damage vessels also to be removed to avoid further grounding and river frontage to be maintain in pristine condition."

11. Further affidavit filed on 08.11.2016 is as follows:-

"3. I am filing this affidavit to limited extend of bringing on records certain facts in terms of order dated 23/09/2016 the affidavit respondent his right to file such additional affidavit using the course of the proceeding if need.

Sr. No.	Name of the Companies	Area allotted as per NOC for water frontage/Riverine land	Authorized structure in water body Sq. Mtrs. apprx.	Unauthorized structure in water body in Sq. Mtrs. apprx.
1	M/s. A.V. Salgaonkar Works	7500 Water frontage		1800.00
2	M/s. Shaparia Dock and Steel Company Ltd.	2880 Water frontage		780.00
3	M/s. Sardesai Engineering Works	9000 Water frontage		3710.00

4	M/s. Desa Engineering Works	1947 Riverine land	1947.00	170.00
5	M/s. Vipul Shopping Engineering Works	2472 Water frontage/Riverine land	1304	-
6	M/s. Sachda Engineering Works	1510 Water frontage/Riverine land	946	833
7	M/s. Ferrumar Shipping Pvt. Ltd.	1050 Water frontage	336	2039.00

4. However, prima facie it appears that these protrusion which are called unauthorised structure in the water body appears to be old bund/banks created in the river frontage due to siltation and also presence of Mangroves/ other trees over the years.
5. I state that on inspection it was noticed that some vessels were repaired and moved from the Creek within stipulated period. However, due to cessation of mining activities during the monsoon season the barges are not plying and the owner's have stationed these barges close to the yard for repair/maintenance work.
6. Nonetheless, I respectfully state that the channel creek of Cortalim is clear & navigable as the barges go for repairs at dry docks of Respondent No. 10 without any navigation problem. I respectfully state submit that the assertion of applicant the creek and channel of the Zuari river are blocked is entirely untrue and misplaced in presence facts and circumstance. In my case I humbly state and submit that affiant respondent will take every action and report in terms of the Law to ensure that the creek and channel of the river Zuari remain unobstructed and navigable.
7. I state that notice to Respondent No.9 has also issued communication dated 10/10/2016 served to concerned Shipyard/Dock directing them to contact Goa State Pollution Control Board i.e. Respondent No.3 and make arrangement for access the collection and analysis of samples of water Exhibit "B". "

Consideration of the matter, Finding and Directions

12. We have heard learned counsel for the parties. Question for consideration is whether activities in question can be allowed without requisite CRZ clearance, in violation of CZMP 1996 merely because revised CZMP has not been prepared and clearances are pending with SEIAA. Further question is remedial action for violation of environmental norms.
13. Learned counsel for the applicant has submitted that encroachments by the private respondents are causing pollution and violation of CRZ Notification in berthing of vessels which is regulatory foreshore activity, permissible only with requisite CRZ Clearance. Further submission is pollution affecting the traditional fishing rights. In this regard, written submission has been filed as follows:-

"SUBMISSIONS:

11. *That the above facts make it clear that the Respondents No. 7 to 13 have encroached into the Cortalim Creek as well as caused severe pollution and damage to the Creek's ecology. Further, the illegal mooring/parking of barges on the creek has adversely affected the traditional fishing rights of the Applicants as well as similarly placed local fishing communities.*
12. *That it is submitted that the Authorities, especially the GCZMA as well as the Goa SPCB have completely failed to take any action despite there being such clear admission of the violations by the Respondents No. 7 to 13. Further, the Captain of Ports has granted permissions for the construction within the creek without any jurisdiction to grant such permissions. It may be noted that the area in question falls within CRZ 1A due to the presence of the abundant mangroves. This has also been admitted by the GCZMA in its inspection report dated 29 March, 2016. Only activities requiring foreshore activities is permissible in the said area and the Captain of Ports has no authority to grant any permissions under the CRZ Clearance.*
13. *That it may be noted that Para 8 of the CRZ Notification regulates the activities permissible within the CRZ. The relevant provision is extracted hereinbelow:-*

"(V) In CRZ-IV areas,-

The activities impugning on the sea and tidal influenced water bodies will be regulated except for traditional fishing

and related activities undertaken by local communities as follows:

(a) No untreated sewage, effluents, ballast water, ship washes, fly ash or solid waste from all activities including from aquaculture operations shall be let off or dumped. A comprehensive plan for treatment of sewage generating from the coastal towns and cities shall be formulated within a period of one year in consultation with stakeholders including traditional coastal communities traditional fisherfolk and implemented:

b) Pollution from oil and gas exploration and drilling, mining, boat house and shipping;

(c) There shall be no restriction on the traditional fishing and allied activities undertaken by local communities."

(Emphasis Added)

The encroachments as well as illegal discharge and dumping of waste into the creek as clearly noted by the GCZMA as well as the directions passed by the SPCB, are clearly in violation of the CRZ Notification.

14. That further, the CRZ Notification, 2011 had given special consideration to the CRZ areas of the State of Goa. As per Par 8 (V) (3), the following has been stipulated:-

"3. CRZ of Goa-

In view of the peculiar circumstances of the State Goa including past history and other developments, the specific activities shall be regulated and various measures shall be undertaken as follows:-

i) the Government of Goa shall notify the fishing villages wherein all foreshore facilities required for fishing and fishery allied activities such as traditional fish processing yards, boat building or repair yards, net mending yards, ice plants, ice storage, auction hall, jetties may be permitted by Grama Panchayat in the CRZ area;

...

(iv) the eco sensitive low lying areas which are influenced by tidal action known as khazan lands shall be mapped;

(v) the mangroves along such as khazan land shall be protected and a management plan for the khazan land prepared and no developmental activities shall be permitted in the khazan land;"

It is submitted that in the present case, the area in question has presence of both khazan lands as well as mangroves which are adversely affected by the illegal encroachments by the Respondent No. 7 to 13. Further, the traditional fishing rights of the local fishing communities are protected under the CRZ Notification which are being adversely impacted."

14. The stand of the Goa PCB, GCZMA and private respondents is that no damage to environment is caused as vessels are meant for transportation of Cargo and not for anchoring. They are anchored only for repairs during monsoon. Neither any encroachment is done nor any damage to the fishing, river or sea is caused.

15. On due consideration of rival contentions, we find that foreshore activities are involved in respect of vessels in question. Vessels are birthed not merely for repairs but have been there for years without requisite CRZ clearance. Permission granted by the Captain of Port for use of water frontage is not be a substitute for the CRZ Clearance, statutorily required as per CRZ Notification. Such clearance is not exempted even if the activities started prior to 1991. What is protected is the construction is already made prior to 1991 and not such foreshore activities for which CRZ Clearance is required. There is also mandate to protect mangroves and *khazan* land under para 8 of the CRZ Notification. The activities in question fall under para 4 (ii)(f) of the CRZ Notification, 2011 for which the CRZ Clearance is required. The Bombay High Court at Goa dealt with the matter vide order dated 31.07.2017 in *PL W.P. No. 6&10/2016, Mr. Antonio Fernandes & Ors. v. State of Goa & Ors.* and held:-

"14. We have considered the contentions of the learned Counsel appearing for the respective parties and with their assistance we have also proceeded to examine the relevant records. Considering the view we propose to take we shall deal with the first contention raised by the petitioners to the effect that the respondent no.2 GCZMA had no jurisdiction to grant the permission to the petitioners under the relevant CRZ notification. It is not disputed that the subject permission in the present case was granted by the GCZMA in terms of the CRZ notification 1991. The said CRZ notification 1991 which deals with the regulation of permissible activity inter alia provides at clause 3(2)(v) & 3(3)(ii) as under:

3(2)(v) - All other activities with investment of five crores rupees or more:

Provided that activities involving investment of less than five crores rupees shall be regulated by the concerned authorities at the State or Union territory level in accordance with the provisions of sub paragraph (2) of paragraph 6 of Annexure I of this Notification.

3(3)(ii) - Within the framework of such approved plans, all development and activities within the CRZ other than those covered in para 2 and para 3(2) above shall be regulated by the State Government, Union Territory Administration or the local authority as the case may be in accordance with the guidelines given in Annexures-I and II of the Notification.

19. In such circumstances, we find that the impugned permission granted by the respondent no.2 GCZMA dated 27/01/2010 and 01/02/2010 cannot be sustained and are liable to be quashed and set aside. The respondent no.9 is accordingly directed to approach the competent Authority to get the permissions in terms of the applicable CRZ regulations within 6 months from today. For such period of 6 months, there will be status quo with regard to the existing construction activity carried out by the respondent no.4. Needless to say, all the other statutory permissions obtained from the Captain of Ports, the Village Panchayat Town Planning Authorities would be subject to the permissions if at all granted by the competent authority under the Environment Protection Act. In case no permissions are granted, the concerned Authorities will have to proceed in accordance with law. Mr. S.S. Kantak, learned Senior Counsel appearing for the respondents no.8 & 9, upon instructions, states that the respondent no.9 shall not take any new contract with regard to the repairs of vessels other than the pending contracts which have already been taken by the private respondent no.9. Hence, status quo subject to the said statement of the learned Senior Counsel appearing for the private respondents no.8 & 9 which is accepted and shall automatically be vacated after a period of 6 months."

16. In view of the above, without CRZ clearance activities of the private respondents are not permissible. Mere fact that the CZMP has not been prepared cannot be a ground to continue the said activity as the matter will be governed by already finalized CZMP on 27.09.1996, according to which the area falls under CRZ-I (inter tidal area) calling for CRZ Clearance for regulated activities. As held in judgements of the Hon'ble Supreme Court inter alia in Indian Council for Enviro Legal Action, (1996) 5 SCC 281, Piedade Filomina (2004) 3 SCC 445, Vaamika Island (2013) 8 SCC 760 and Kerala State Coastal Zone Management Authority vs. State of

Kerala, Maradu Municipality (2019) 7 SCC 248 (Maradu case), CRZ notification has to be strictly followed. In *Piedade*, it was held that CRZ Notifications have to be strictly followed as they have issued for protection of environment and ecology of the coastal areas. Uncontrolled activities in such areas have disastrous effect and result in natural calamities. CZMP of the area is to be strictly followed. PCB has found continuing pollution by the activities.

Directions

17. [Accordingly, dropping of proceedings against the private respondents by CZMA on the ground of pendency of clearances before SEIAA is not justified. Mere pendency of application for CRZ Clearance cannot be treated as permission to continue such activities. The said activities which are not permissible without CRZ clearance are thus directed to be discontinued within three months from today] [Private respondents are also liable to pay compensation for past violations on polluter pays principle to be assessed by the GPCB as per law] [For remedial action for past violations and restoration, a restoration plan be prepared by a joint Committee comprising MoEF&CC, NCZMA, GCZMA, CPCB, State PCB and National Institute of Oceanography, (NIO) Goa. The GCZMA will be the nodal agency for coordination and compliance. The Committee may meet within one month and finalize its plan within two months thereafter, to be duly executed as per directions of the said Committee expeditiously. Removal of encroachment by vessels and restoration plan may be ensured through the concerned authorities, including Police. The Committee may function for four months to oversee execution and submit its action taken report to Chief Secretary, Goa. Any cost to be incurred in the process will be borne first by State PCB under the public trust doctrine,

to be recovered from the private respondents, as mentioned earlier on polluter pays principle.

The application stands disposed of accordingly.

A copy of this order be forwarded to the MoEF&CC, NCZMA, GCZMA, CPCB, State PCB, National Institute of Oceanography, (NIO) Goa, Chief Secretary Goa and DGP, Goa by e-mail for compliance.

I.A. No. 133/2020 also stands disposed of.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

Dinesh Kumar Singh, JM

Prof. A. Senthil Vel, EM

Dr. Vijay Kulkarni, EM

May 11, 2022
Org. Application No. 16/2016(WZ)

A

t.c.
Chintan

Annexure A-2

5

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 5335-5336 OF 2022M/S A.V. SALGAONCAR CORTALIM
SHIPYARD AND ENGINEERS PVT. LTD.

APPELLANT

VERSUS

GOA COASTAL ZONE MANAGEMENT AUTHORITY & ORS.

RESPONDENTS

ORDER

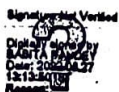
Noticing the directions which have been given in paragraph 17 of the judgment dated 11.05.2022, we do not find any good ground and reason to interfere with the impugned judgment. It will be open to the appellant to show the compliance(s), as directed, made by them.

Recording the aforesaid, the present appeals are dismissed. Pending application(s), if any, stand disposed of.

..... J.
(SANJIV KHANNA)

..... J.
(BELA M. TRIVEDI)

NEW DELHI;
AUGUST 26, 2022.



ITEM NO.20

COURT NO.12

SECTION XVII

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s), 5335-5336/2022

M/S A.V. SALGAONCAR CORTALIM
SHIPYARD AND ENGINEERS PVT. LTD.

Appellant(s)

VERSUS

GOA COASTAL ZONE MANAGEMENT AUTHORITY & ORS.

Respondent(s)

(IA No.116209/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENT and IA No.116211/2022-STAY APPLICATION)

Date : 26-08-2022 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MS. JUSTICE BELA M. TRIVEDI

For Appellant(s)

Mr. Dama Seshadri Naidu, Sr. Adv.
Mr. Ashwini Bhohe, Adv.
Mr. Sangramsingh R. Bhonsle, Adv.
Ms. Samridhi S. Jain, Adv.
Mr. Nrupal A. Dingankar, Adv.
Ms. Pushikara A. Bhonsle, Adv.
Mr. Pawarsheha Vijay, Adv.
Mr. Hitesh Singh, Adv.
Mr. Siddharth S. Chapalgaonkar, Adv.
Ms. Shivali Chaudhary, Adv.
Mr. Aman Varma, AOR

For Respondent(s)

UPON hearing the counsel, the Court made the following

O R D E R

The appeals are dismissed in terms of the signed order.

Pending application(s), if any, stand disposed of.

(BABITA PANDEY)
COURT MASTER (SH)

(DIPTI KHURANA)
ASSISTANT REGISTRAR

(Signed order is placed on the file)

t.c.

[Handwritten signature]

GOA STATE POLLUTION CONTROL BOARD**गोंय राज्य प्रदूषण नियंत्रण मंडळ****(An ISO 9001-2015, ISO 14001:2015, ISO 45001:2018 Certified Board)**Phone Nos : 0832- 2407700,
2407701, 2407703

Email Ids:

Chairman, GSPCB: chairman-gspcb.goa@nic.in

Member Secretary, GSPCB: ms-gspcb.goa@nic.in

Office: mail.gspcb@gov.in

By Regd.A.D

No.1/25/23-PCB/tech/12746

Dated: 6/09/2023

SHOW CAUSE NOTICE

WHEREAS, vide order dated 11/05/2022 passed in OA no. 16/2016 (Salu D'Souza & 2 ors. V/s GCZMA & ors) the Hon. National Green Tribunal (Special bench NGT) was pleased to decide as follows;

"Accordingly, dropping of proceedings against the private respondents by CZMA on the ground of pendency of clearances before SEIAA is not justified. Mere pendency of application for CRZ Clearance cannot be treated as permission to continue such activities. The said activities which are not permissible without CRZ clearance are thus directed to be discontinued within three months from today.

Private respondents are also liable to pay compensation for past violations on polluter pays principle to be assessed by the GPCB as per law."

Copy of order dated 11/05/2022 passed in OA no. 16/2016 (Salu D'Souza & 2 ors. V/s GCZMA & ors) is enclosed.

WHEREAS, the Board has vide letter dated 05/07/2023 has directed your Unit namely **M/s Vipul Shipping Engineering Works located at Survey No. 42/3, Thana, Cortalim, Mormugao Goa** to remain present before the Member Secretary of the Board on 19/07/2023 in order to submit your say in the matter of the directions of the NGT to the GSPCB in OA no. 16/2016, vide order dated 15/02/2023; to asses Environmental Compensation to be paid by the unit in line with the Polluter Pays Principle.


WHEREAS, on considering the submissions made by you at the Personal Hearing and the material available before it, the Board has decided to direct your unit to Show Cause as to why environmental compensation amounting to **Rs. 9,99,37,500/- (Rs. Nine Crores, Ninety Nine Lakhs, Thrity Seven Thousand and Five Hundred Only)** should not be paid by you to the Board under the Polluter Pays Principle for operating without Consent of the Board, in terms of the directions of the NGT as contained in order dated 11/05/2022.

NOW THEREFORE in light of the above and in exercise of the powers vested with this Board under section 33(A) of the Water (Prevention and Control of Pollution) Act, 1974 and under section 31 (A) of the Air (Prevention and Control of Pollution) Act, 1981, the management of your unit namely, **M/s Vipul Shipping Engineering Works located at Survey No. 42/3, Thana, Cortalim, Mormugao Goa** is hereby directed to **SHOW CAUSE** within a period of 7 days from the date of receipt of this notice as to why you should not pay environmental compensation amounting to **Rs. 9,99,37,500/- (Rs. Nine Crores, Ninety Nine Lakhs, Thrity Seven Thousand and Five Hundred Only)** to the Board under the Polluter Pays Principle for operating without Consent of the Board.

TAKE NOTE, that failure to satisfactorily comply with the aforesaid notice within the stipulated time period will compel the Board to initiate stringent legal action against you under

the provisions of the Water (Prevention and Control of Pollution) Act, 1974, and Air (Prevention and Control of Pollution) Act, 1981 without any further notice.

Issued on this 6 day of September, 2023.


Dr. Shamila Monteiro
(Member Secretary)
For Goa State Pollution Control Board

To,
M/s Vipul Shipping Engineering Works
Survey No. 42/3, Thana,
Cortalim, Mormugao Goa

Enclosed as above;

Copy to,

1. Guard File.
2. Office Copy

PPP Calculation Sheet of M/s Vipul Shipping Engineering Works

The Environmental Compensation shall be based on the following formula:

$$EC = PI \times N \times R \times S \times LF$$

Where, EC is Environmental Compensation in ₹

PI = Pollution Index of industrial sector

N = Number of days of violation took place

R = A factor in Rupees (₹) for EC

S = Factor for scale of operation

LF = Location factor

The formula incorporates the anticipated severity of environmental pollution in terms of Pollution Index, duration of violation in terms of number of days, scale of operation in terms of micro & small/ medium/ large industry and location in terms of proximity to the large habitations.

Note:

- a. The industrial sectors have been categorized into Red, Orange and Green, based on their Pollution Index in the range of 60 to 100, 41 to 59 and 21 to 40, respectively. It was suggested that the average pollution index of 80, 50 and 30 may be taken for calculating the Environmental Compensation for Red, Orange and Green categories of industries, respectively.
- b. N, number of days for which violation took place is the period between the day of violation observed/due date of direction's compliance and the day of compliance verified by CPCB/SPCB/PCC.
- c. R is a factor in Rupees, which may be a minimum of 100 and maximum of 500. It is suggested to consider R as 250, as the Environmental Compensation in cases of violation.
- d. S could be based on small/medium/large industry categorization, which may be 0.5 for micro or small, 1.0 for medium and 1.5 for large units.
- e. LF, could be based on population of the city/town and location of the industrial unit. For the industrial unit located within municipal boundary or up to 10 km distance from the municipal boundary of the city/town, following factors (LF) may be used: Table No. 1.1: Location Factor Values

S. No.	Population* (million)	Location Factor# (LF)
1	1 to <5	1.25
2	5 to <10	1.5
3	10 and above	2.0

*population of the city/town as per the latest Census of India

#LF will be 1.0 in case unit is located >10km from municipal boundary

LF is presumed as 1 for city/town having population less than one million

Environmental Compensation is calculated since formation of the Goa State Pollution Control Board dated 01/07/1988 as per the NGT order in Original Application No. 16 of 2016 (WZ) dated on 11/05/2022 in the Para 17 where it stated Private Respondents are also liable to pay compensation for past violations.

The Environmental Compensation is based on the following formula:

$$EC = PI \times N \times R \times S \times LF$$

PI = Average Pollution Index for Orange Category = 50

N = Based on the details with the application, the date of commencement of operation of the unit is 15/10/1977, which is prior to the formation of the Goa State Pollution Control Board dated 01/07/1988. Hence, PPP is calculated from 01/07/1988 upto the date of inspection of the monitoring committee i.e. 10/07/2023, excluding the consented period.

R = 250 since the Environmental Compensation is for violation.

S = 0.5 for small scale industry

LF = location factor value of population between 1 to 5 million

$$EC = 50 \times 12,792 \times 250 \times 0.5 \times 1.25$$

$$EC = 9,99,37,500/-$$

(Rs. Nine Crores, Ninety Nine Lakhs, Thrity Seven Thousand and Five Hundred Only)

OR

Minimum Compensation= 5000 X Number of Days

$$= 5000 \times 12,792$$

$$= 6,39,60,000/-$$

(Rs. Six Crores, Thirty Nine Lakhs and Sixty Thousand Only)



VIJAY KANSEKAR

JEE-GSPCB

GOA STATE POLLUTION CONTROL BOARD**गोंय राज्य प्रदूषण नियंत्रण मंडळ****(An ISO 9001:2015, ISO 14001:2015, ISO 45001:2018 Certified Board)**Phone Nos : 0832- 2407700,
2407701, 2407703

Email Ids:

Chairman, GSPCB: chairman-gspcb.goa@nic.in
Member Secretary, GSPCB: ms-gspcb.goa@nic.in
Office: mail.gspcb@gov.in**By Regd.A.D**

No.1/25/23-PCB/Tech/12747

Dated: 6/09/2023

SHOW CAUSE NOTICE

WHEREAS, vide order dated 11/05/2022 passed in OA no. 16/2016 (Salu D'Souza & 2 ors. V/s GCZMA & ors) the Hon. National Green Tribunal (Special bench NGT) was pleased to decide as follows;

"Accordingly, dropping of proceedings against the private respondents by CZMA on the ground of pendency of clearances before SEIAA is not justified. Mere pendency of application for CRZ Clearance cannot be treated as permission to continue such activities. The said activities which are not permissible without CRZ clearance are thus directed to be discontinued within three months from today.

Private respondents are also liable to pay compensation for past violations on polluter pays principle to be assessed by the GPCB as per law."

Copy of order dated 11/05/2022 passed in OA no. 16/2016 (Salu D'Souza & 2 ors. V/s GCZMA & ors) is enclosed.

WHEREAS, the Board has vide letter dated 05/07/2023 has directed your Unit namely **M/s Sardessai Engineering Works located at Survey No. 20/1, Cortalim, Mormugao Goa** to remain present before the Member Secretary of the Board on 19/07/2023 in order to submit your say in the matter of the directions of the NGT to the GSPCB in OA no. 16/2016, vide order dated 15/02/2023; to asses Environmental Compensation to be paid by the unit in line with the Polluter Pays Principle.

WHEREAS, on considering the submissions made by you at the Personal Hearing and the material available before it, the Board has decided to direct your unit to Show Cause as to why environmental compensation amounting to **Rs. 8,75,85,937.50/- (Rs. Eight Crores, Seventy Five Lakhs, Eighty Five Thousand, Nine Hundred Thirty Seven Rupees and Fifty Paise Only)** should not be paid by you to the Board under the Polluter Pays Principle for operating without Consent of the Board and past violation, in terms of the directions of the NGT as contained in order dated 11/05/2022.

NOW THEREFORE in light of the above and in exercise of the powers vested with this Board under section 33(A) of the Water (Prevention and Control of Pollution) Act, 1974 and under section 31 (A) of the Air (Prevention and Control of Pollution) Act, 1981, the management of your unit namely, **M/s Sardessai Engineering Works located at Survey No. 20/1, Cortalim, Mormugao Goa** is hereby directed to **SHOW CAUSE** within a period of 7 days from the date of receipt of this notice as to why you should not pay environmental compensation amounting to **Rs. 8,75,85,937.50/- (Rs. Eight Crores, Seventy Five Lakhs, Eighty Five Thousand, Nine Hundred Thirty Seven Rupees and Fifty Paise Only)** to the Board under the Polluter Pays Principle for operating without Consent of the Board and past violation.

TAKE NOTE, that failure to satisfactorily comply with the aforesaid notice within the stipulated time period will compel the Board to initiate stringent legal action against you under the provisions of the Water (Prevention and Control of Pollution) Act, 1974, and Air (Prevention and Control of Pollution) Act, 1981 without any further notice.

Issued on this day of September, 2023.


Dr. Shamila Monteiro
(Member Secretary)
For Goa State Pollution Control Board

To,
M/s Sardessai Engineering Works
Survey No. 20/1, Cortalim, Mormugao Goa

Enclosed as above;

Copy to,

1. Guard File.
2. Office Copy

PPP Calculation Sheet of M/s Sardessai Engineering Works

The Environmental Compensation shall be based on the following formula:

$$EC = PI \times N \times R \times S \times LF$$

Where, EC is Environmental Compensation in ₹

PI = Pollution Index of industrial sector

N = Number of days of violation took place

R = A factor in Rupees (₹) for EC

S = Factor for scale of operation

LF = Location factor

The formula incorporates the anticipated severity of environmental pollution in terms of Pollution Index, duration of violation in terms of number of days, scale of operation in terms of micro & small/ medium/ large industry and location in terms of proximity to the large habitations.

Note:

k. The industrial sectors have been categorized into Red, Orange and Green, based on their Pollution Index in the range of 60 to 100, 41 to 59 and 21 to 40, respectively. It was suggested that the average pollution index of 80, 50 and 30 may be taken for calculating the Environmental Compensation for Red, Orange and Green categories of industries, respectively.

l. N, number of days for which violation took place is the period between the day of violation observed/due date of direction's compliance and the day of compliance verified by CPCB/SPCB/PCC.

m. R is a factor in Rupees, which may be a minimum of 100 and maximum of 500. It is suggested to consider R as 250, as the Environmental Compensation in cases of violation.

n. S could be based on small/medium/large industry categorization, which may be 0.5 for micro or small, 1.0 for medium and 1.5 for large units.

o. LF, could be based on population of the city/town and location of the industrial unit. For the industrial unit located within municipal boundary or up to 10 km distance from the municipal boundary of the city/town, following factors (LF) may be used: Table No. 1.1: Location Factor Values

S. No.	Population* (million)	Location Factor# (LF)
1	1 to <5	1.25
2	5 to <10	1.5
3	10 and above	2.0

*population of the city/town as per the latest Census of India

#LF will be 1.0 in case unit is located >10km from municipal boundary

LF is presumed as 1 for city/town having population less than one million.

Environmental Compensation is calculated since formation of the Goa State Pollution Control Board dated 01/07/1988 as per the NGT order in Original Application No. 16 of 2016 (WZ) dated on 11/05/2022 in the Para 17 where it stated Private Respondents are also liable to pay compensation for past violations.

The Environmental Compensation is based on the following formula:

$$EC = PI \times N \times R \times S \times LF$$

PI = Average Pollution Index for Orange Category = 50

N = Based on the details with the application, the date of commencement of operation of the unit is 09/07/1971, which is prior to the formation of the Goa State Pollution Control Board dated 01/07/1988. Hence, PPP is calculated from 01/07/1988 upto the date of inspection of the monitoring committee i.e. 10/07/2023. First consent issued on 14/08/2015 valid till 10/12/2019.

R = 250 since the Environmental Compensation is for violation.

S = 0.5 for small scale industry

LF = location factor value of population between 1 to 5 million

$$EC = 50 \times 11,211 \times 250 \times 0.5 \times 1.25$$

$$EC = 8,75,85,937.50/-$$

(Rs. Eight Crores, Seventy Five Lakhs, Eighty Five Thousand, Nine Hundred Thirty Seven Rupees and Fifty Paise Only)

OR

Minimum Compensation= 5000 X Number of Days

$$= 5000 \times 11,211$$

$$= 5,60,55,000/-$$

(Rs. Five Crores, Sixty Lakhs and Fifty Five Thousand Only)



VIJAY KANSEKAR

JEE-GSPCB

GOA STATE POLLUTION CONTROL BOARD**गोंय राज्य प्रदूषण नियंत्रण मंडळ****(An ISO 9001-2015, ISO 14001:2015, ISO 45001:2018 Certified Board)**Phone Nos : 0832- 2407700,
2407701, 2407703Email Ids:
Chairman, GSPCB: chairman-gspcb.goa@nic.in
Member Secretary, GSPCB: ms-gspcb.goa@nic.in
Office: mail.gspcb@gov.in**By Regd.A.D**

No.1/25/23-PCB/Tech/12749

Dated: 6/09/2023

SHOW CAUSE NOTICE

WHEREAS, vide order dated 11/05/2022 passed in OA no. 16/2016 (Salu D'Souza & 2 ors. V/s GCZMA & ors) the Hon. National Green Tribunal (Special bench NGT) was pleased to decide as follows;

"Accordingly, dropping of proceedings against the private respondents by CZMA on the ground of pendency of clearances before SEIAA is not justified. Mere pendency of application for CRZ Clearance cannot be treated as permission to continue such activities. The said activities which are not permissible without CRZ clearance are thus directed to be discontinued within three months from today.

Private respondents are also liable to pay compensation for past violations on polluter pays principle to be assessed by the GPCB as per law."

Copy of order dated 11/05/2022 passed in OA no. 16/2016 (Salu D'Souza & 2 ors. V/s GCZMA & ors) is enclosed.

WHEREAS, the Board has vide letter dated 05/07/2023 has directed your Unit namely **M/s Shaparia Dock and Steel Company Private Limited located at Plot No. 10, 11, 12, Mada, Cortalim, Mormugao Goa** to remain present before the Member Secretary of the Board on 19/07/2023 in order to submit your say in the matter of the directions of the NGT to the GSPCB in OA no. 16/2016, vide order dated 15/02/2023; to asses Environmental Compensation to be paid by the unit in line with the Polluter Pays Principle.

WHEREAS, on considering the submissions made by you at the Personal Hearing and the material available before it, the Board has decided to direct your unit to Show Cause as to why environmental compensation amounting to **Rs. 9,41,32,812.50/- (Rs. Nine Crores, Forty One Lakhs, Thirty Two Thousand, Eight Hundred Twelve Rupees and Fifty Paisa Only)** should not be paid by you to the Board under the Polluter Pays Principle for past violation, in terms of the directions of the NGT as contained in order dated 11/05/2022.

NOW THEREFORE in light of the above and in exercise of the powers vested with this Board under section 33(A) of the Water (Prevention and Control of Pollution) Act, 1974 and under section 31 (A) of the Air (Prevention and Control of Pollution) Act, 1981, the management of your unit namely, **M/s Shaparia Dock and Steel Company Private Limited located at Plot No. 10, 11, 12, Mada, Cortalim, Mormugao Goa** is hereby directed to **SHOW CAUSE** within a period of 7 days from the date of receipt of this notice as to why you should not pay environmental compensation amounting to **Rs. 9,41,32,812.50/- (Rs. Nine Crores, Forty One Lakhs, Thirty Two Thousand, Eight Hundred Twelve Rupees and Fifty Paisa Only)** to the Board under the Polluter Pays Principle for past violation.

TAKE NOTE, that failure to satisfactorily comply with the aforesaid notice within the stipulated time period will compel the Board to initiate stringent legal action against you under the provisions of the Water (Prevention and Control of Pollution) Act, 1974, and Air (Prevention and Control of Pollution) Act, 1981 without any further notice.

Issued on this 6th day of September, 2023.


Dr. Shamila Monteiro
(Member Secretary)
For Goa State Pollution Control Board

To,
M/s Shaparia Dock and Steel Company Private Limited
Plot No. 10, 11, 12, Mada, Cortalim, Mormugao Goa

Enclosed as above;

Copy to,

1. Guard File.
2. Office Copy

**PPP Calculation Sheet of M/s Shaparia Dock and Steel Company
Private Limited**

The Environmental Compensation shall be based on the following formula:

$$EC = PI \times N \times R \times S \times LF$$

Where, EC is Environmental Compensation in ₹

PI = Pollution Index of industrial sector

N = Number of days of violation took place

R = A factor in Rupees (₹) for EC

S = Factor for scale of operation

LF = Location factor

The formula incorporates the anticipated severity of environmental pollution in terms of Pollution Index, duration of violation in terms of number of days, scale of operation in terms of micro & small/ medium/ large industry and location in terms of proximity to the large habitations.

Note:

p. The industrial sectors have been categorized into Red, Orange and Green, based on their Pollution Index in the range of 60 to 100, 41 to 59 and 21 to 40, respectively. It was suggested that the average pollution index of 80, 50 and 30 may be taken for calculating the Environmental Compensation for Red, Orange and Green categories of industries, respectively.

q. N, number of days for which violation took place is the period between the day of violation observed/due date of direction's compliance and the day of compliance verified by CPCB/SPCB/PCC.

r. R is a factor in Rupees, which may be a minimum of 100 and maximum of 500. It is suggested to consider R as 250, as the Environmental Compensation in cases of violation.

s. S could be based on small/medium/large industry categorization, which may be 0.5 for micro or small, 1.0 for medium and 1.5 for large units.

t. LF, could be based on population of the city/town and location of the industrial unit. For the industrial unit located within municipal boundary or up to 10 km distance from the municipal boundary of the city/town, following factors (LF) may be used: Table No. 1.1: Location Factor Values

S. No.	Population* (million)	Location Factor# (LF)
1	1 to <5	1.25
2	5 to <10	1.5
3	10 and above	2.0

*population of the city/town as per the latest Census of India

#LF will be 1.0 in case unit is located >10km from municipal boundary

LF is presumed as 1 for city/town having population less than one million.

Environmental Compensation is calculated since formation of the Goa State Pollution Control Board dated 01/07/1988 as per the NGT order in Original Application No. 16 of 2016 (WZ) dated on 11/05/2022 in the Para 17 where it stated Private Respondents are also liable to pay compensation for past violations.

The Environmental Compensation is based on the following formula:

$$EC = PI \times N \times R \times S \times LF$$

PI = Average Pollution Index for Orange Category = 50

N = Based on the details with the application, the date of commencement of operation of the unit is 09/07/1971, which is prior to the formation of the Goa State Pollution Control Board dated 01/07/1988. Hence, PPP is calculated from 01/07/1988 upto the date of inspection of the monitoring committee i.e. 10/07/2023. First consent issued on 11/04/2011 valid till 29/07/2012 and Second consent is granted on 18/10/2022 valid till 29/07/2026.

R = 250 since the Environmental Compensation is for violation.

S = 0.5 for small scale industry

LF = location factor value of population between 1 to 5 million

$$EC = 50 \times 12,049 \times 250 \times 0.5 \times 1.25$$

$$EC = 9,41,32,812.50/-$$

(Rs. Nine Crores, Forty One Lakhs, Thirty Two Thousand, Eight Hundred Twelve Rupees and Fifty Paise Only)

OR

Minimum Compensation = 5000 X Number of Days

$$= 5000 \times 12,049$$

$$= 6,02,45,000/-$$

(Rs. Six Crores, Two Lakhs and Forty Five Thousand Only)



VIJAY KANSEKAR

JEE-GSPCB

GOA STATE POLLUTION CONTROL BOARD**गोंय राज्य प्रदूषण नियंत्रण मंडळ****(An ISO 9001-2015, ISO 14001:2015, ISO 45001:2018 Certified Board)**Phone Nos : 0832- 2407700,
2407701, 2407703

Email Ids:

Chairman, GSPCB: chairman-gspcb.goa@nic.in

Member Secretary, GSPCB: ms-gspcb.goa@nic.in

Office: mail.gspcb@gov.in

By Regd.A.D

No.1/25/23-PCB/Tech/12750

Dated: 6/09/2023

SHOW CAUSE NOTICE

WHEREAS, vide order dated 11/05/2022 passed in OA no. 16/2016 (Salu D'Souza & 2 ors. V/s GCZMA & ors) the Hon. National Green Tribunal (Special bench NGT) was pleased to decide as follows;

"Accordingly, dropping of proceedings against the private respondents by CZMA on the ground of pendency of clearances before SELAA is not justified. Mere pendency of application for CRZ Clearance cannot be treated as permission to continue such activities. The said activities which are not permissible without CRZ clearance are thus directed to be discontinued within three months from today.

Private respondents are also liable to pay compensation for past violations on polluter pays principle to be assessed by the GPCB as per law."

Copy of order dated 11/05/2022 passed in OA no. 16/2016 (Salu D'Souza & 2 ors. V/s GCZMA & ors) is enclosed.

WHEREAS, the Board has vide letter dated 05/07/2023 has directed your Unit namely **M/s Cortalim Shipyard & Engineers Pvt. Ltd. located at Survey No. 28/1, Madant, Cortalim, Mormugao Goa** to remain present before the Member Secretary of the Board on 19/07/2023 in order to submit your say in the matter of the directions of the NGT to the GSPCB in OA no. 16/2016, vide order dated 15/02/2023; to asses Environmental Compensation to be paid by the unit in line with the Polluter Pays Principle.

WHEREAS, on considering the submissions made by you at the Personal Hearing and the material available before it, the Board has decided to direct your unit to Show Cause as to why environmental compensation amounting to **Rs. 9,15,70,312.50/- (Rs. Nine Crores, Fifteen Lakhs, Seventy Thousand, Three Hundred Twelve Rupees and Fifty Paise Only)** should not be paid by you to the Board under the Polluter Pays Principle for past violation, in terms of the directions of the NGT as contained in order dated 11/05/2022.

NOW THEREFORE in light of the above and in exercise of the powers vested with this Board under section 33(A) of the Water (Prevention and Control of Pollution) Act, 1974 and under section 31 (A) of the Air (Prevention and Control of Pollution) Act, 1981, the management of your unit namely, **M/s Cortalim Shipyard & Engineers Pvt. Ltd. located at Survey No. 28/1, Madant, Cortalim, Mormugao Goa** is hereby directed to **SHOW CAUSE** within a period of 7 days from the date of receipt of this notice as to why you should not pay environmental compensation amounting to **Rs. 9,15,70,312.50/- (Rs. Nine Crores, Fifteen Lakhs, Seventy Thousand, Three Hundred Twelve Rupees and Fifty Paise Only)** to the Board under the Polluter Pays Principle for past violation.

TAKE NOTE, that failure to satisfactorily comply with the aforesaid notice within the stipulated time period will compel the Board to initiate stringent legal action against you under the provisions of the Water (Prevention and Control of Pollution) Act, 1974, and Air (Prevention and Control of Pollution) Act, 1981 without any further notice.

Issued on this 6th day of September, 2023.



Dr. Shamila Monteiro
(Member Secretary)
For Goa State Pollution Control Board

To,
M/s Cortalim Shipyard & Engineers Pvt. Ltd.
Survey No. 28/1, Madant, Cortalim, Mormugao Goa

Enclosed as above;

Copy to,

1. Guard File.
2. Office Copy

**PPP Calculation Sheet of M/s Cortalim Shipyard & Engineers Pvt.
Ltd**

The Environmental Compensation shall be based on the following formula:

$$EC = PI \times N \times R \times S \times LF$$

Where, EC is Environmental Compensation in ₹

PI = Pollution Index of industrial sector

N = Number of days of violation took place

R = A factor in Rupees (₹) for EC

S = Factor for scale of operation

LF = Location factor

The formula incorporates the anticipated severity of environmental pollution in terms of Pollution Index, duration of violation in terms of number of days, scale of operation in terms of micro & small/ medium/ large industry and location in terms of proximity to the large habitations.

Note:

u. The industrial sectors have been categorized into Red, Orange and Green, based on their Pollution Index in the range of 60 to 100, 41 to 59 and 21 to 40, respectively. It was suggested that the average pollution index of 80, 50 and 30 may be taken for calculating the Environmental Compensation for Red, Orange and Green categories of industries, respectively.

v.N, number of days for which violation took place is the period between the day of violation observed/due date of direction's compliance and the day of compliance verified by CPCB/SPCB/PCC.

w. R is a factor in Rupees, which may be a minimum of 100 and maximum of 500. It is suggested to consider R as 250, as the Environmental Compensation in cases of violation.

x.S could be based on small/medium/large industry categorization, which may be 0.5 for micro or small, 1.0 for medium and 1.5 for large units.

y.LF, could be based on population of the city/town and location of the industrial unit. For the industrial unit located within municipal boundary or up to 10 km distance from the municipal boundary of the city/town, following factors (LF) may be used: Table No. 1.1: Location Factor Values

S. No.	Population* (million)	Location Factor# (LF)
1	1 to <5	1.25
2	5 to <10	1.5
3	10 and above	2.0

*population of the city/town as per the latest Census of India

#LF will be 1.0 in case unit is located >10km from municipal boundary

LF is presumed as 1 for city/town having population less than one million.

Environmental Compensation is calculated since formation of the Goa State Pollution Control Board dated 01/07/1988 as per the NGT order in Original Application No. 16 of 2016 (WZ) dated on 11/05/2022 in the Para 17 where it stated Private Respondents are also liable to pay compensation for past violations.

The Environmental Compensation is based on the following formula:

$$EC = PI \times N \times R \times S \times LF$$

PI = Average Pollution Index for Orange Category = 50

N = Based on the details with the application, the date of commencement of operation of the unit is 09/06/1965, which is prior to the formation of the Goa State Pollution Control Board dated 01/07/1988. Hence, PPP is calculated from 01/07/1988 upto the date of inspection of the monitoring committee i.e. 10/07/2023. First consent issued on 04/08/2020 valid till 20/05/2030.

R = 250 since the Environmental Compensation is for violation.

S = 0.5 for small scale industry

LF = location factor value of population between 1 to 5 million

$$EC = 50 \times 11,721 \times 250 \times 0.5 \times 1.25$$

$$EC = 9,15,70,312.50/-$$

(Rs. Nine Crores, Fifteen Lakhs, Seventy Thousand, Three Hundred Twelve

Rupees and Fifty Paise Only)


OR

Minimum Compensation= 5000 X Number of Days

$$= 5000 \times 11,721$$

$$= 5,86,05,000/-$$

(Rs. Five Crores, Eighty Six Lakhs and Five Thousand Only)



VIJAY KANSEKAR

JEE-GSPCB

225 Annexure C Colly-692
GOA STATE POLLUTION CONTROL BOARD

गोंय राज्य प्रदूषण नियंत्रण मंडळ

(An ISO 9001:2015, ISO 14001:2015, ISO 45001:2018 Certified Board)

Phone Nos : 0832- 2407700,
2407701, 2407703



Email Ids:
Chairman, GSPCB: chairman-gspcb.goa@nic.in
Member Secretary, GSPCB: ms-gspcb.goa@nic.in
Office: mail.gspcb@gov.in

By Regd.A.D

No.1/25/23-PCB/Tech/12753

Dated: 6/09/2023

SHOW CAUSE NOTICE

WHEREAS, vide order dated 11/05/2022 passed in OA no. 16/2016 (Salu D'Souza & 2 ors. V/s GCZMA & ors) the Hon. National Green Tribunal (Special bench NGT) was pleased to decide as follows;

"Accordingly, dropping of proceedings against the private respondents by CZMA on the ground of pendency of clearances before SEIAA is not justified. Mere pendency of application for CRZ Clearance cannot be treated as permission to continue such activities. The said activities which are not permissible without CRZ clearance are thus directed to be discontinued within three months from today.

Private respondents are also liable to pay compensation for past violations on polluter pays principle to be assessed by the GPCB as per law."

Copy of order dated 11/05/2022 passed in OA no. 16/2016 (Salu D'Souza & 2 ors. V/s GCZMA & ors) is enclosed.


WHEREAS, the Board has vide letter dated 05/07/2023 has directed your Unit namely **M/s Desa Engineering Works located at Survey No. 30/8, Maddant, Cortalim, Mormugao Goa** to remain present before the Member Secretary of the Board on 19/07/2023 in order to submit your say in the matter of the directions of the NGT to the GSPCB in OA no. 16/2016, vide order dated 15/02/2023; to asses Environmental Compensation to be paid by the unit in line with the Polluter Pays Principle.

WHEREAS, on considering the submissions made by you at the Personal Hearing and the material available before it, the Board has decided to direct your unit to Show Cause as to why environmental compensation amounting to **39,37,500/- (Rs. Thirty Nine Lakhs, Thirty Seven Thousand, Fifty Only)** should not be paid by you to the Board under the Polluter Pays Principle for past violation, in terms of the directions of the NGT as contained in order dated 11/05/2022.

NOW THEREFORE in light of the above and in exercise of the powers vested with this Board under section 33(A) of the Water (Prevention and Control of Pollution) Act, 1974 and under section 31 (A) of the Air (Prevention and Control of Pollution) Act, 1981, the management of your unit namely, **M/s Desa Engineering Works located at Survey No. 30/8, Maddant, Cortalim, Mormugao Goa** is hereby directed to **SHOW CAUSE** within a period of 7 days from the date of receipt of this notice as to why you should not pay environmental compensation amounting to **Rs. 39,37,500/- (Rs. Thirty Nine Lakhs, Thirty Seven Thousand, Fifty Only)** to the Board under the Polluter Pays Principle for past violation.

TAKE NOTE, that failure to satisfactorily comply with the aforesaid notice within the stipulated time period will compel the Board to initiate stringent legal action against you under the provisions of the Water (Prevention and Control of Pollution) Act, 1974, and Air (Prevention and Control of Pollution) Act, 1981 without any further notice.

Issued on this 6th day of September, 2023.


Dr. Shamila Monteiro
(Member Secretary)
For Goa State Pollution Control Board

To,
M/s Desa Engineering Works
Survey No. 30/8, Maddant, Cortalim, Mormugao Goa

Enclosed as above;

Copy to,

1. Guard File.
2. Office Copy

PPP Calculation Sheet of M/s Desa Engineering Works

The Environmental Compensation shall be based on the following formula:

$$EC = PI \times N \times R \times S \times LF$$

Where, EC is Environmental Compensation in ₹

PI = Pollution Index of industrial sector

N = Number of days of violation took place

R = A factor in Rupees (₹) for EC

S = Factor for scale of operation

LF = Location factor

The formula incorporates the anticipated severity of environmental pollution in terms of Pollution Index, duration of violation in terms of number of days, scale of operation in terms of micro & small/ medium/ large industry and location in terms of proximity to the large habitations.

Note:

ee. The industrial sectors have been categorized into Red, Orange and Green, based on their Pollution Index in the range of 60 to 100, 41 to 59 and 21 to 40, respectively. It was suggested that the average pollution index of 80, 50 and 30 may be taken for calculating the Environmental Compensation for Red, Orange and Green categories of industries, respectively.

ff. N, number of days for which violation took place is the period between the day of violation observed/due date of direction's compliance and the day of compliance verified by CPCB/SPCB/PCC.

gg. R is a factor in Rupees, which may be a minimum of 100 and maximum of 500. It is suggested to consider R as 250, as the Environmental Compensation in cases of violation.

hh. S could be based on small/medium/large industry categorization, which may be 0.5 for micro or small, 1.0 for medium and 1.5 for large units.

ii. LF, could be based on population of the city/town and location of the industrial unit. For the industrial unit located within municipal boundary or up to 10 km distance from the municipal boundary of the city/town, following factors (LF) may be used: Table No. 1.1: Location Factor Values

S. No.	Population* (million)	Location Factor# (LF)
1	1 to <5	1.25
2	5 to <10	1.5
3	10 and above	2.0

*population of the city/town as per the latest Census of India

#LF will be 1.0 in case unit is located >10km from municipal boundary

LF is presumed as 1 for city/town having population less than one million.

Environmental Compensation is calculated since formation of the Goa State Pollution Control Board dated 01/07/1988 as per the NGT order in Original Application No. 16 of 2016 (WZ) dated on 11/05/2022 in the Para 17 where it stated Private Respondents are also liable to pay compensation for past violations.

The Environmental Compensation is based on the following formula:

$$EC = PI \times N \times R \times S \times LF$$

PI = Average Pollution Index for Orange Category = 50

N = Based on the details with the application, the date of commencement of operation of the unit is 01/09/2008, which is after the formation of the Goa State Pollution Control Board dated 01/07/1988. Hence, PPP is calculated from 01/09/2008 upto the date of inspection of the monitoring committee i.e. 10/07/2023. First consent issued on 11/09/2009 valid till 09/06/2014, Second consent issued on 06/10/2014 valid till 09/06/2019, Third consent issued on 24/06/2019 valid till 09/06/2029.

R = 250 since the Environmental Compensation is for violation.

S = 0.5 for small scale industry

LF = location factor value of population between 1 to 5 million

$$EC = 50 \times 504 \times 250 \times 0.5 \times 1.25$$

$$EC = 39,37,500/-$$

(Rs. Thirty Nine Lakhs, Thirty Seven Thousand, Fifty Only)

OR

Minimum Compensation = 5000 X Number of Days

$$= 5000 \times 504$$

$$= 25,20,000/-$$

(Rs. Twenty Five Lakhs and Twenty Thousand Only)



VIJAY KANSEKAR

JEE-GSPCB

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Annexure C copy - 797

GOA STATE POLLUTION CONTROL BOARD

गोंय राज्य प्रदूषण नियंत्रण मंडळ

(An ISO 9001:2015, ISO 14001:2015, ISO 45001:2018 Certified Board)

Phone Nos : 0832- 2407700,
2407701, 2407703



Email Ids:

Chairman, GSPCB: chairman-gspcb.goa@nic.in

Member Secretary, GSPCB: ms-gspcb.goa@nic.in

Office: mail.gspcb@gov.in

By Regd.A.D

No.1/25/23-PCB/Tech/12751

Dated: 6/09/2023

SHOW CAUSE NOTICE

WHEREAS, vide order dated 11/05/2022 passed in OA no. 16/2016 (Salu D'Souza & 2 ors. V/s GCZMA & ors) the Hon. National Green Tribunal (Special bench NGT) was pleased to decide as follows;

"Accordingly, dropping of proceedings against the private respondents by CZMA on the ground of pendency of clearances before SELAA is not justified. Mere pendency of application for CRZ Clearance cannot be treated as permission to continue such activities. The said activities which are not permissible without CRZ clearance are thus directed to be discontinued within three months from today.

Private respondents are also liable to pay compensation for past violations on polluter pays principle to be assessed by the GPCB as per law."

Copy of order dated 11/05/2022 passed in OA no. 16/2016 (Salu D'Souza & 2 ors. V/s GCZMA & ors) is enclosed.

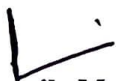
WHEREAS, the Board has vide letter dated 05/07/2023 has directed your Unit namely **M/s Ferromar Shipping Pvt. Ltd located at Survey No. 43/1075, Chovate, Cortalim, Mormugao Goa** to remain present before the Member Secretary of the Board on 19/07/2023 in order to submit your say in the matter of the directions of the NGT to the GSPCB in OA no. 16/2016, vide order dated 15/02/2023; to asses Environmental Compensation to be paid by the unit in line with the Polluter Pays Principle.

WHEREAS, on considering the submissions made by you at the Personal Hearing and the material available before it, the Board has decided to direct your unit to Show Cause as to why environmental compensation amounting to **Rs. 7,30,39,062.50/- (Rs. Seven Crores, Thirty Lakhs, Thirty Nine Thousand, Sixty Two Rupees and Fifty Paisa Only)** should not be paid by you to the Board under the Polluter Pays Principle for past violation, in terms of the directions of the NGT as contained in order dated 11/05/2022.

NOW THEREFORE in light of the above and in exercise of the powers vested with this Board under section 33(A) of the Water (Prevention and Control of Pollution) Act, 1974 and under section 31 (A) of the Air (Prevention and Control of Pollution) Act, 1981, the management of your unit namely, **M/s Ferromar Shipping Pvt. Ltd located at Survey No. 43/1075, Chovate, Cortalim, Mormugao Goa** is hereby directed to **SHOW CAUSE** within a period of 7 days from the date of receipt of this notice as to why you should not pay environmental compensation amounting to **Rs. 7,30,39,062.50/- (Rs. Seven Crores, Thirty Lakhs, Thirty Nine Thousand, Sixty Two Rupees and Fifty Paisa Only)** to the Board under the Polluter Pays Principle for past violation.

TAKE NOTE, that failure to satisfactorily comply with the aforesaid notice within the stipulated time period will compel the Board to initiate stringent legal action against you under the provisions of the Water (Prevention and Control of Pollution) Act, 1974, and Air (Prevention and Control of Pollution) Act, 1981 without any further notice.

Issued on this 6th day of September, 2023.


Dr. Shamila Monteiro
(Member Secretary)
For Goa State Pollution Control Board

To,
M/s Ferromar Shipping Pvt. Ltd
Survey No. 43/1075, Chovate, Cortalim, Mormugao Goa

Enclosed as above;

Copy to,

1. Guard File.
2. Office Copy

PPP Calculation Sheet of M/s Ferromar Shipping Pvt. Ltd

The Environmental Compensation shall be based on the following formula:

$$EC = PI \times N \times R \times S \times LF$$

Where, EC is Environmental Compensation in ₹

PI = Pollution Index of industrial sector

N = Number of days of violation took place

R = A factor in Rupees (₹) for EC

S = Factor for scale of operation

LF = Location factor

The formula incorporates the anticipated severity of environmental pollution in terms of Pollution Index, duration of violation in terms of number of days, scale of operation in terms of micro & small/ medium/ large industry and location in terms of proximity to the large habitations.

Note:

z. The industrial sectors have been categorized into Red, Orange and Green, based on their Pollution Index in the range of 60 to 100, 41 to 59 and 21 to 40, respectively. It was suggested that the average pollution index of 80, 50 and 30 may be taken for calculating the Environmental Compensation for Red, Orange and Green categories of industries, respectively.

aa. N, number of days for which violation took place is the period between the day of violation observed/due date of direction's compliance and the day of compliance verified by CPCB/SPCB/PCC.

bb. R is a factor in Rupees, which may be a minimum of 100 and maximum of 500. It is suggested to consider R as 250, as the Environmental Compensation in cases of violation.

cc. S could be based on small/medium/large industry categorization, which may be 0.5 for micro or small, 1.0 for medium and 1.5 for large units.

dd. LF, could be based on population of the city/town and location of the industrial unit. For the industrial unit located within municipal boundary or up to 10 km distance from the municipal boundary of the city/town, following factors (LF) may be used: Table No. 1.1: Location Factor Values

S. No.	Population* (million)	Location Factor# (LF)
1	1 to <5	1.25
2	5 to <10	1.5
3	10 and above	2.0

*population of the city/town as per the latest Census of India

#LF will be 1.0 in case unit is located >10km from municipal boundary

LF is presumed as 1 for city/town having population less than one million.

Environmental Compensation is calculated since formation of the Goa State Pollution Control Board dated 01/07/1988 as per the NGT order in Original Application No. 16 of 2016 (WZ) dated on 11/05/2022 in the Para 17 where it stated Private Respondents are also liable to pay compensation for past violations.

The Environmental Compensation is based on the following formula:

$$EC = PI \times N \times R \times S \times LF$$

PI = Average Pollution Index for Orange Category = 50

N = Based on the details with the application, the date of commencement of operation of the unit is 09/06/1965, which is prior to the formation of the Goa State Pollution Control Board dated 01/07/1988. Hence, PPP is calculated from 01/07/1988 upto the date of inspection of the monitoring committee i.e. 10/07/2023. First consent issued on 29/09/1999 valid till 25/08/2001, Second consent issued on 13/05/2008 valid till 01/08/2013, Third consent issued on 21/10/2015 valid till 25/08/2018 and Fourth consent issued on 02/04/2019 valid till 25/08/2020, and fifth consent issued on 22/09/2020 valid till 28/08/2030.

R = 250 since the Environmental Compensation is for violation.

S = 0.5 for small scale industry

LF = location factor value of population between 1 to 5 million

$$EC = 50 \times 9349 \times 250 \times 0.5 \times 1.25$$

$$EC = 7,30,39,062.50/-$$

(Rs. Seven Crores, Thirty Lakhs, Thirty Nine Thousand, Sixty Two Rupees and Fifty Paise Only)

OR

Minimum Compensation= 5000 X Number of Days

$$= 5000 \times 9349$$

$$= 4,67,45,000/-$$

(Rs. Four Crores, Sixty Seven Lakhs and Forty Five Thousand Only)



VIJAY KANSEKAR

JEE-GSPCB

GOA STATE POLLUTION CONTROL BOARD

गोंय राज्य प्रदूषण नियंत्रण मंडळ

(An ISO 9001:2015, ISO 14001:2015, ISO 45001:2018 Certified Board)

Phone Nos : 0832- 2407700,
2407701, 2407703



Email Ids:

Chairman, GSPCB: chairman-gspcb.goa@nic.in

Member Secretary, GSPCB: ms-gspcb.goa@nic.in

Office: mail.gspcb@gov.in

By Speed Post

No. 1/20/23-PCB/Tech/12768

Date: 6/09/2023

To,

The Member Secretary,
Goa Coastal Zone Management Authority
C/o Department of Environment,
Government of Goa
4th Floor, Dempo Tower
Patto Plaza, Panaji-Goa 403001

Sub: Polluters Pay Principle calculation for environmental compensation to be levied for violation of CRZ notification dated 01/02/1991 as per the NGT order dated 11/05/2022 past in OA 16 of 2016 (WZ)

Sir,

With respect to the above subject, please find enclosed herewith calculation data sheets which are calculated as per NGT order dated 11/05/2022. As decided in the committee meeting, PPP calculation for CRZ violations as per CRZ notification dated 01/02/1991.

Yours faithfully,

(Dr. Shamila Monteiro)

Member Secretary

Goa State Pollution Control Board

Enclosed as above;

c.c. to:

- 1) Office copy
- 2) Guard file

Polluters Pay Principle calculation for environmental compensation													
Sr.No	Name of the Unit	Address of the Unit	Unit Representative (Name & Contact Details)	Date of First Application	First date of Consent	Last date of Consent	Consent valid till	Operational date as per submission in application	PPP calculation dates from to....	No. of days of Violation	PPP Amount	Return	
1.	M/s Vipul Shipping Engineering Works	Survey No. 42/3, Thana, Cortalim, Mormugao-Goa	Shri. Sudesh Narayan Panicker	10/12/2014	-	-	Application Rejected on 16/09/2022	15/10/1977	01/02/1991 to 10/07/2023	11,848	Rs. 9,25,62,500/- OR Rs. 5,92,40,000/-		
2.	M/s Sachida Engineering Works	Survey No. 43/1, Bondir- Cortalim, Mormugao Goa	Shri. Samir Shashikant Shirodkar	11/11/2014	03/06/2015	03/06/2015	11/11/2021	16/04/1981	01/02/1991 to 10/07/2023	11,848	Rs. 9,25,62,500/- OR Rs. 5,92,40,000/-		
3.	M/s Sardessai Engineering Works	Survey No. 30/1, Maddant- Thane, Cortalim, Mormugao Goa	Shri. Vishvesh P. Sardessai	10/12/2014	19/08/2015	19/08/2015	10/12/2019	09/07/1971	01/02/1991 to 10/07/2023	11,848	Rs. 9,25,62,500/- OR Rs. 5,92,40,000/-		
4.	M/s Shaparia Dock and Steel Company Private Limited	Plot No. 10, 11, & 12, Maddant- Thana, Cortalim, Mormugao Goa	Shri. Mayur M. Shaparia	27/07/2010	11/04/2011	11/04/2011	29/07/2012	28/12/1972	01/02/1991 to 10/07/2023	11,848	Rs. 9,25,62,500/- OR Rs. 5,92,40,000/-		
5.	M/s Cortalim Shipyard & Engineers Pvt. Ltd	Plot No. 28/1 Maddant- Thana, Cortalim, Mormugao Goa	Mr. Jayant Gaonkar	20-05-2020	04/08/2020	04/08/2020	20-05-2030	07/05/2020	01/02/1991 to 10/07/2023	11,848	Rs. 9,25,62,500/- OR Rs. 5,92,40,000/-		
6.	M/s Ferrumar Shipping Pvt. Ltd	Survey No. 43/1705, Chovte- Cortalim, Mormugao Goa	Shri. Devidas S. Kudchadkar	14/02/2008	13/05/2008	22/09/2020	28/08/2030	13/05/2008	13/05/2008 to 10/07/2023	11,848	Rs. 9,25,62,500/- OR Rs. 5,92,40,000/-		
7.	M/s Desa Engineering Works	Survey No. 30/8, Maddant- Thana, Cortalim, Mormugao Goa	Shri. Raymond Desa	16/10/2006	02/06/2008	24/06/2019	09/06/2029	16/10/2006	01/09/2008 to 10/07/2023	5425	Rs. 4,23,82,812.50/- OR Rs. 2,71,25,000/-		