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

SERIAL No. 3698 /2025

ASHWIN V. MODI
NOTARY
GOVT. OF GUJARAT (INDIA)

26 MAR 2025

INTERLOCUTORY APPLICATION No.55 of 2025 (WZ)
IN
APPEAL No. 55 OF 2025 (WZ)

JAYDIP ANJUBHAI DHAKDA ...APPLICANT

V/s

MINISTRY OF ENVIRONMENT
FOREST AND CLIMATE CHANGE
& OTHERS ...RESPONDENTS

AFFIDAVIT ON BEHALF OF THE RESPONDENT NO.5 M/S. INDO ASIA COPPER LTD. TO THE INTERLOCUTORY APPLICATION NO.55 OF 2025 IN APPEAL NO.17 of 2025 (WZ).

MAY IT PLEASE THE HON'BLE TRIBUNAL

I, Dr. Sanjay Sarkar, adult, having office at 7th Floor, Hasubhai Chamber, Opp. Town Hall, Ellis Bridge, Ahmedabad-380006, Gujarat, do hereby state on solemn affirmation as under: -

1. I say that I am working as CEO & Executive Director of the Respondent No.5 and am handling the day to day affairs of the Respondent No.5. I am well versed with the facts and circumstances of the present case and hence I am able to depose the same on oath.

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2. I have read a copy of the captioned Appeal as well as its annexures and other relevant documents relating to the subject matter. Accordingly, I am conversant with the facts and

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circumstances of the present case and am also competent to make the present affidavit.

3. I am making the present affidavit only for the limited purpose of opposing granting of any relief/s, including relief, as prayed for by the applicant or even otherwise. In view of the limited purpose of present affidavit, I would not deal with each and every averments and allegations, either in seriatim or in detail at this stage. I, however, reserve my right to make a further and detailed affidavit if and when it becomes necessary.

4. I deny all the averments, allegations and submissions made in subject application which are contrary to and inconsistent with the record of the Respondent No.5 and/or what is stated in present reply affidavit, as if they all are individually and specifically dealt with and traversed, save and except those which may be expressly admitted herein below. I humbly submit that none of the allegations and/or averments and/or contentions in the application may be presumed as admitted merely because any of them is not expressly dealt with or replied.

5. That the applicant has preferred the subject application under Section 16 of the National Green Tribunal Act, 2010 ("**NGT Act**" for short) r/w Rule 24 of the National Green Tribunal (Practice

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and Procedure) Rules, 2011 ("**the Rules**" for short) praying for condoning the delay of 28 days and 25 days respectively which have occurred in filing of the Appeal No.17 of 2025 which appeal has been preferred by the Applicant under Section 18 r/w 16 of the NGT Act praying for quashing of Environmental Clearance ('EC-1') bearing No. EC24A1004GJ5330471N (File No. IA-J-11011/172/2023-IA-II(IND-I)) dated 01.11.2024 and Environmental Clearance ('EC-2') bearing No. EC24A1901GJ5674617N (File No. IA-J-11011/329/2023-IA-II(I)) dated 04.11.2024.

6. That the Applicant has challenged two separate environmental clearances by way of one consolidated appeal which in the submission of the Respondent No.5, is not maintainable. Further, one interlocutory application being IA No.55 of 2025 (WZ) has been preferred wherein the delay in challenging two separate environmental clearances having separate cause of action and separate quantum of delays has been consolidated and clubbed together for the purpose of seeking condonation of delay in preferring the subject appeal. In the humble submissions of the Respondent, the Interlocutory Application preferred same is required to be rejected without going into the merits of the matter as the Interlocutory Application is itself defective.

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7. Without prejudice to the aforesaid submission, it is respectfully submitted that on a perusal of the Interlocutory Application seeking condonation of delay, it transpires that there are no substantial or justifiable grounds for consideration which have been put forth by the Applicant in support of the condonation of delay of 28 days and 25 days in preferring the captioned appeal.

8. That the environmental clearances were uploaded on the website of the Respondent No.1 on the very same day when the same were issued i.e. on 01.11.2024 and 04.11.2024.

9. That the Environmental Clearances dated 01.11.2024 and 04.11.2024 were uploaded on the website of the Respondent No.5. Annexed hereto and marked as **ANNEXURE-R1** is a copy of the screen shot of the webpage.

10. That the Respondent No.5 was required to publish the grant of environmental clearance in the local newspapers, one vernacular and one English within a period of seven days from the issuance of Environmental Clearances. In this regard, the Environmental Clearance dated 01.11.2024 was published in the two newspapers on 07.11.2024 and the Environmental Clearance dated 04.11.2024 was published in the two newspapers on 11.11.2024. Annexed hereto and marked as

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ANNEXURE-R2 (COLLY.) are copies of the newspaper clippings evidencing publication of Environmental Clearances.

11. It is respectfully submitted that the ground raised in Paragraph 2 of the application, wherein the Applicant claims unawareness of the issuance of Environmental Clearance in favor of Respondent No. 5, does not constitute a valid ground for the condonation of delay. Furthermore, the exact date on which the Appellant became aware of the said clearance has not been specified in the application, thereby rendering the application vague and unsubstantiated. In the absence of a clear timeline or cogent justification, the request for condonation remains untenable.

12. That the ground regarding the marriage of the Applicant on 06.12.2024 and 07.12.2024 and that the Applicant was busy with the marriage preparation and after marriage ceremonies as stated in para 3 cannot be considered as a justification for condonation of delay in favour of the Applicant and the same are denied and not admitted.

13. The contents of Paragraph 4 are categorically denied and not admitted. The Applicant has merely made a vague and unsubstantiated assertion that efforts were made to collect funds from the community for filing the appeal. However, the

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application fails to specify any details regarding when, how, and in what manner such efforts were undertaken. In the absence of any supporting evidence, this claim remains conjectural and lacks merit for consideration.

14. That the contents of para 5 are denied and not admitted. It is the mandatory requirement of the provisions of law as provided in the NGT Act which requires that the appeal challenging the Environmental Clearances are required to be filed within a period of 30 days.

15. That no sufficient cause has been shown by the Applicant in the captioned application and casually averments have been made to justify condonation of delay without providing the required details. The Applicant was well aware and was deemed to have knowledge about the Environmental Clearances when the Environmental Clearances were uploaded on the website of the Respondent No.1 on 01.11.2024 and 04.11.2024 and the contention that the Applicant was not aware about the same cannot be accepted as a ground for condoning the delay that has occurred. The reasons sited by the Applicant are insufficient to condone the delay and further, the Applicant has not produced substantial material or compelling evidence to justify as to why the appeal could not be filed within the stipulated time period.

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16. That the Applicant cannot be permitted to override mandatory provisions by filing an application for condonation of delay and that too without giving substantial justification for the delay which has been caused while preferring the subject appeal. The Applicant has failed to demonstrate sufficient caused for the delay as required under law and has failed to show that the Applicant was diligently and faithfully pursuing the remedy under law. The present IA is not a case for condonation of delay under Section 16 or for exercise of powers under Rule 24 of the Rules.

17. In the humble submission of the Respondent No.5, the Interlocutory Application seeking condonation of delay is required to be rejected.

What is stated hereinabove is true to the best of my knowledge, information and belief and I believe the same to be true.

Solemnly affirmed at Ahmedabad on 26th day of March, 2025.

For, INDO ASIA COPPER LIMITED

DIRECTOR

DEPONENT

SOLEMNLY AFFIRMED
BEFORE ME

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NOTARY
GOVT. OF GUJARAT

26 MAR 2025

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