

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

APPEAL NO. 25 of 2024.

M/s KLJ PETROPLAST LTD

Applicant

Versus

GUJARAT POLLUTION CONTROL BOARD

Respondent

AFFIDAVIT IN REPLY ON BEHALF OF THE RESPONDENT - GPCB.

I, Arun G. Patel Adult, Environment Engineer, Gujarat Pollution Control Board, the authorized signatory of the Respondent, do hereby state on solemn Affirmation and make this Affidavit, as under:



1. At the outset, I say that the Appeal, as filed by the Appellant is not maintainable and deserves to be dismissed with cause.

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2. The Appellant in the memo of appeal has suppressed material facts from this Hon'ble Tribunal and on account of such suppression also, the appeal deserves to be dismissed.
3. The Appellant has already complied with the Impugned Order passed by the Respondent Board and there is no genuine or bonafide cause or reason surviving in favour of the Appellant to file this or any such appeal and thus, the appeal is required to be dismissed with costs.
4. Before advertng to the contents of the Appeal parawise, there are certain facts which the Respondent Board would like to bring to the notice of this Hon'ble Tribunal, as under:
 - a. The Appellant unit, M/s KLJ Petroplast LTD (PCB ID: 74478) was inspected on 09.06.2023, on account of an accident occurred in Pre-treatment vessel V-541 C of Phthalic Anhydride wherein 3 workers fell down as they got unconscious. As per primary information received from concerned contact person during the inspection, all the three workers were taken out of the vessel in an unconscious state, out of which, one worker (Shri. Pravinbhai Machhi) died while being taken to Seva Rural Hospital at Jhagadia and the other



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submitted DISH report while applying for appeal. DISH report is of date 14/07/2023, which was not submitted by the Unit even after several reminders.

d. Subsequently, considering all the details and document reports submitted by the unit, Regional office recommendation, and considering death of one person due to this incident, the unit was issued Direction under section 31-A of the Air Act - 1981 on 20/09/2023 and interim Environment compensation of Rs. 1, 00, 00,000/-was imposed considering clause no. 4(2) of prevailing Environment Damage Compensation policy. The reports that have been prepared by the concerned Authorities clearly indicate the lapses on part of the Appellant on account of which the accident in question has occurred.

e. It is most respectfully submitted that the accident which took place and the conduct of the Appellant unit, on the face of it exhibits its non-compliance to follow safety norms while dealing with the hazardous chemicals, in spite of there being statutorily prescribed norms under the [MSIHC Rules, 1989] and Chemical Accidents (Emergency Planning, Preparedness and Response) Rules, 1996 [CAEPPR Rules, 1996] due to



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which death of one person has occurred. As per DISH report, the death has occurred due to lack of oxygen in vessel (Here vessel is considered by DISH as a closed confined place where oxygen supply is necessary) which is clear and blatant violation of Safety norms. The Appellant unit is responsible for taking appropriate measures regarding safety and environment and to comply with CCA conditions and all prevailing rules. The report of DISH clearly records the fact that there were lapses on part of the Appellant which lead to suffocation and further lead to unconsciousness of the workers out of whom one of the workmen died.

- f. Moreover, the EDC policy of this Board states in case of industrial accident if accident is having causality, it shall be considered as severe/emergency. On the basis of this prevailing guideline, this Board has imposed Interim Environment Damage Compensation of Rs. 1 Crore along with directions on 20/09/2023.

5. Without prejudice to the aforesaid contentions which are without prejudice to each other, from the contents of the Appeal, save and except what is specifically admitted by me hereunder is



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upon the relevant records and documents for its true and correct interpretation at the time of hearing.

10. With reference to the contents of para 7 of the Appeal, the same refer to the communication dt. 07.10.2023, given by the Appellant and the same is a matter of records. However, it is stated that such response of the Appellant was not and is not satisfactory in the opinion of the Respondent Board.

11. The contents of para 8 are a matter of records and the same do not warrant any comments.

12. The contents of para 9 are also a matter of records and the same does not warrant any comments.

13. With reference to the contents of para 10, it is not in dispute that the accident occurred on 08.06.2024, however, the reasons for the same, are a matter of records and I crave leave of this Hon'ble Tribunal to refer to and rely upon the relevant records for its true and correct interpretation at the time of hearing.

14. The contents of para 11 are false and the same are denied.

It is not true and is denied on the basis of mere occurrence of an



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accident without following principals of natural justice, the impugned direction was issued by the GPCB, as alleged or otherwise. I say that a detailed and reasoned order has been passed considering and appreciating all the documents and records and it is not so that the impugned order has been passed merely based on the occurrence of the accident, as sought to be alleged.

15. The contents of para 12 are not true and are denied. The unilaterally and convenient interpretation of the impugned order passed by the Respondent being made by the Appellant is not admitted and the same is denied and I crave leave and liberty of this Hon'ble Tribunal to refer to the impugned order as also the other necessary and relevant documents for its true and correct interpretation at the time of hearing. It is false and is denied that there is no iota of evidence to show that the death of the worker was the result of any non compliance and/or violation of the environmental norms/law as alleged. On the face of it, the death as also the accident has taken place on account of the casual approach of the appellant and for which, the appellant is liable to be saddled with the penalty. It is false and is denied that the EDC has been imposed based on hearsay evidence without applying



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its mind and that the Respondent Board has not even specified any non compliance and/or violation of the environmental law to be the basis for assessment of the interim EDC, as alleged.

16. With reference to the contents of para 13, I say that the suitable and convenient interpretation of the postmortem report and panchnama is also not admitted by me and I crave leave of this Hon'ble Tribunal to refer to and rely upon the same for its true and correct interpretation at the time of hearing. However, it is not true that from such documents, it is clear that the death of deceased was due to fall from height while removing the scaffolding from the vessel, as alleged or otherwise or at all.

17. With reference to the contents of para 14, I say that I crave leave of this Hon'ble Tribunal to refer to and rely upon the report of DISH for its true and correct interpretation at the time of hearing.

18. The contents of para 15 are not admitted and the same are denied. The attempt made by the Appellant in the para under reference in order to contented that the Appellant was at no fault at all in the accident, is false and the same is denied. The



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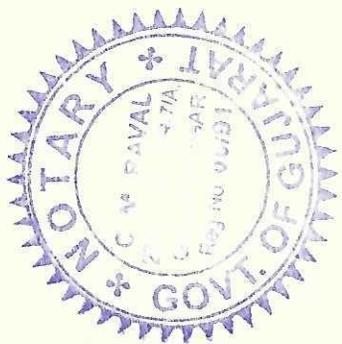
documents which for a part of the present proceedings clearly indicate that the Appellant was at fault and on account of which, the Appellant is liable to pay the EDC amount as has been imposed by the Respondent Board.

19. The contents of para 16 are not true and the same are denied. The so called explanation as sought to be given by the Appellant in the para under reference is not true and is denied by me. I crave leave of this Hon'ble Tribunal to refer to the relevant documents for its true and correct interpretation at the time of hearing which will indicate the correct scenario.

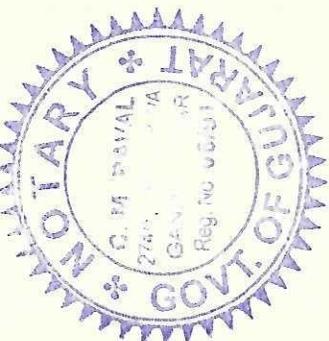
20. The contents of para 17 of the Appeal are false and the same are emphatically denied. The same are also repetitive in nature and thus, do not warrant any detailed comments also. The interpretation of the documents, as sought to be made in the para under reference is denied by me and I shall refer to and rely upon the same for its true and correct interpretation at the time of hearing.

21. The contents of para 18 are repetitive in nature and the same are false and are emphatically denied by me.

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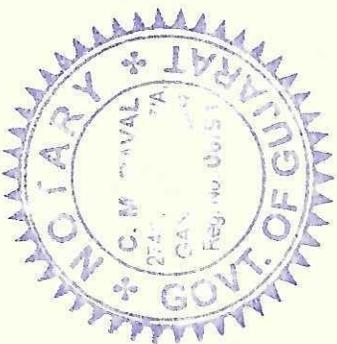
22. The contents of para 19 are not true and are denied. The Appellant be put to strict proof thereof.
23. With reference to the contents of para 20, I say that the same is a matter of records and interpretation and the same does not warrant any comments at this juncture.
24. The contents of para 21 are not disputed so far as the same are not contrary to the records and the relevant documents. However, the same in no way absolves the Appellant from the penalty which has been imposed by the Respondent Board.
25. The contents of para 22 are also not disputed so far as the same are a matter of records. However, the same also in no way absolves the Appellant from the penalty which has been imposed by the Respondent Board. Moreover, such order and the observations in the said Order passed by the DISH have not been challenged by the Appellant and the same have attained finality and I crave leave of this Hon'ble Tribunal to refer to and rely upon the same for its true and correct interpretation at the time of hearing.



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26. The contents of para 23 are also not disputed so far as the same are not contrary to the actual records and documents. However, as stated above, the same also in no manner absolves the Appellant from the penalty which has been imposed by the Respondent Board. The bonafide gestures of the Appellant cannot be considered as a sympathetic ground to remove the EDC imposed on it by the Respondent Board.

27. The so called grounds, as raised by the Appellant in the present appeal are not legally tenable grounds on which the impugned Order imposing EDC can be set aside or disturbed. I deny all the grounds that have been raised in the present appeal in its totality. My non dealing with any ground specifically, may not be termed or interpreted as any admission of such ground in any manner. It is not true and is denied that GPCB has issued the impugned directions without following the process of law and without following the principles of natural justice and without applying mind, as alleged. It is further not true that the Respondent Board has not assigned any reasons with respect to the violations and has passed the impugned directions merely on the occurrence of the accident, as alleged. It is further false that the Respondent No. 1 has failed to establish any nexus between

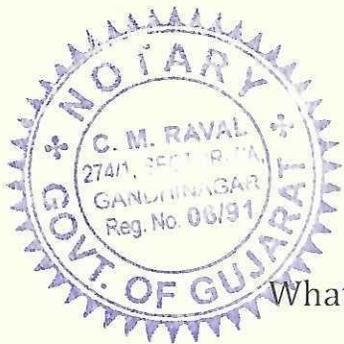


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the death and injury of the workers and environmental reasons, as alleged.

28. With reference to the contents of para 24, it is not true that the present appeal is within limitation, as contended in the para under reference and the appellant ought to file an application for condoning the delay caused in filing the Appeal.

29. No reliefs, as prayed for in the appeal deserve to be granted.



What is stated hereinabove is true and correct.

Solemnly affirmed at Ahmedabad on this 27th day of June, 2024.



Solemnly Affirmed Before Me *alv...* Deponent.
(C. M. RAVAL)
NOTARY
Govt of Gujarat
27 JUN 2024

Entered in Notary Register at
Serial No. 356 Vol. No. I
C. M. RAVAL, Advocate & Notary
GANDHINAGAR.
27 JUN 2024