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**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL**

**WESTERN ZONE BENCH, PUNE**

**IA No. 282 of 2024 (Condonation of Delay)**

**In**

**Appeal No. 209/2024**

M/s The Shakti Plastic Industries

..... Appellant

**Vs**

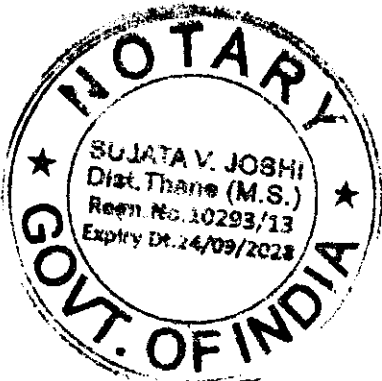
Maharashtra Pollution Control Board & Ors

..... Respondents

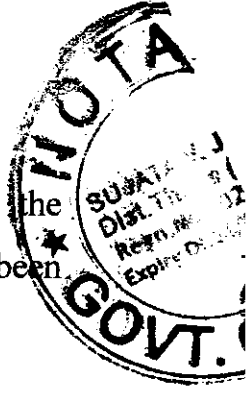
**AFFIDAVIT IN REPLY ON BEHALF OF RESPONDENT NO. 1,  
MAHARASHTRA POLLUTION CONTROL BOARD :-**

I, Kiran Hasabnis, Aged-Adult, Occupation-Service, the Regional Officer of the Maharashtra Pollution Control Board at Thane i.e. Respondent No. 1, having office at Plot No. P 30, 5<sup>th</sup> Floor, Office Complex Building, Wagle Industrial Estate, Mulund Check Naka, Thane (West) 400604, do hereby solemnly affirm and state as under :-

1. I say that I am the Regional Officer of Respondent No.1-MPCB and am authorised to affirm the present reply affidavit on its behalf. I have examined the relevant records available in my office in respect of the above matter and am affirming the present Reply Affidavit based on the same. Nothing in the present Reply Affidavit may be deemed to be an admission of any of the



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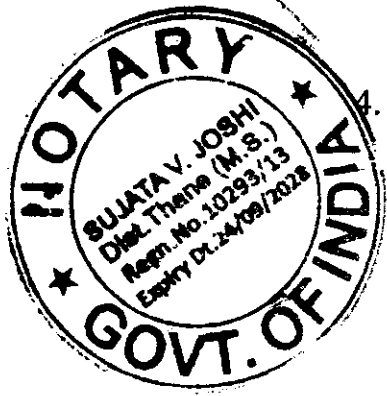


contents of the above-captioned Application. Nothing in the above-captioned Application may be deemed to have been admitted for mere want of specific denial.

2. At the outset, it is submitted that the present Appeal has been filed seeking setting aside of the orders dated 18/06/2024 and 21/09/2024 issued by the present Respondent against the Appellant and u/s 18 of the NGT Act 2010 r/w Sections 14, 15, 16 (c), 17, 19 & Section 5 of the Environment (Protection) Act, 1986.
3. The Appellant has filed the said Appeal after a delay of 120 days and is seeking condonation of delay. At the outset this Respondent states that this Respondent is opposing the delay as the said Application is filed upon untrue and fabricated grounds.

I say that the present Appeal is completely time barred as the Appellant is challenging the closure directions issued under the provisions of the Water Act 1974, Air Act 1981 r/w Hazardous & Other Wastes (Management and Trans Boundary) Rules 2016 and Plastic Wastes Management Rules 2016 and amendments thereto.

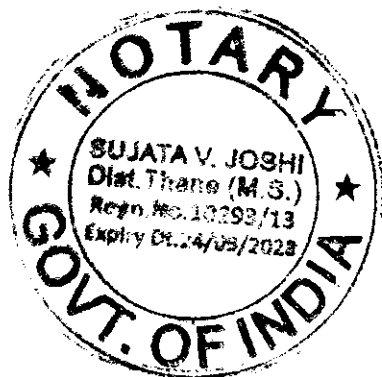
5. I say that the present Appeal has been filed by the Appellant on 15/10/2024. I say that the Appellants, under the garb of challenging the direction dated 21/09/2024 imposing the environmental compensation plus penalty i.e. total Rs.





137,00,42000/- . I say that the Appellants have failed to challenge the closure directions dated 18/06/2024, which is a proof enough to establish that filing of this Appeal challenging the Environmental Compensation which was directed to be paid on 21/09/2024 is purely afterthought to avoid making payment towards Environmental Compensation. Thus in the present case to challenge the closure order dated 18/06/2024 u/s 16 (c) , the Appellant should have preferred an Appeal within 30 days from the date on which the order or decision was communicated to him. I say that even if this Hon'ble Tribunal is empowered to allow Appeals to be filed within a further period of not exceeding 60 days, the present Appeal itself is beyond the statutory period of 90 (30 + 60) days. The said Appeal is challenging both the orders.

6. I say that during personal hearing granted to the Appellants on 14/05/2024, it was decided to issue closure directions and to levy EDC as per provisions of Plastic Waste Management Rules 2016 and amendments thereto on excess EPR credits generated than estimated plastic waste quantity processed. I say and submit that directions dated 21/09/2024 to levy EDC is the outcome of the personal hearing which was granted on 14/05/2024 and the directions dated 21/09/2024 cannot be seen in isolation. Therefore the limitation to challenge the direction dated 21/09/2024 also would commence from 18/06/2024.





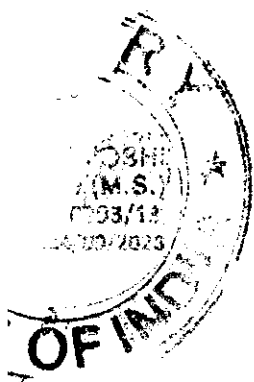
7. The reasons attributed to the delay as stated in paragraph Nos. 6 & 7 of the IA are insufficient as the Appellants have not mentioned as on what date they have filed the Appeal before the Delhi Bench. I say that the Appellants cannot plead ignorance of Law, about their Counsel being unaware of the Jurisdiction of the NGT. The present Respondent would like to say that the delay in filing this Appeal is inexplicable and cannot be attributed to the Counsel's as well as the Appellants ignorance of Law. It is denied that the Appellant has shown any sufficient cause and the present Appeal is filed with false reasons. I say that further, the grounds pleaded in the Application and overall conduct of the parties does not meet the criteria of "Sufficient Cause" enumerated in Section 16 of the NGT Act 2010.



In the case of Maniben Devraj Shah v/s Municipal Corporation of Brihanmumbai reported in 2012 5 SCC 157, the Hon'ble Supreme Court has observed as follows:

"What needs to be emphasised is that even though a liberal and justice oriented approach is required to be adopted in the exercise of power under Section 5 of the Limitation Act and other similar statutes, the Courts can neither become oblivious of the fact that the successful litigant has acquired certain rights on the basis of the judgment under challenge and a lot of time is consumed at various stages of litigation apart from the cost. What colour the expression sufficient cause would get in the factual matrix of a

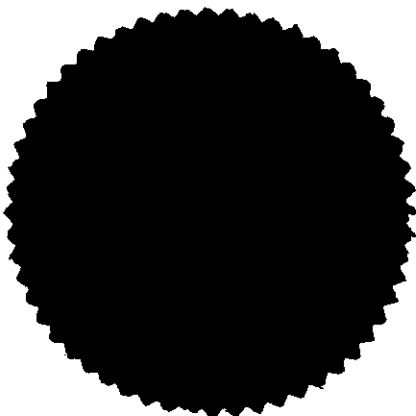




given case would largely depend on bonafide nature of the explanation. If the Court finds that there has been no negligence on the part of the applicant and the cause shown for the delay does not lack bona fides, then it may condone the delay. If, on the other hand, the explanation given by the applicant is found to be concocted or he is thoroughly negligent in prosecuting his cause, then it would be a legitimate exercise of discretion not to condone the delay.”

9. In light of the above facts and Law, this Hon'ble Tribunal may not condone the delay in the present case.

Solemnly affirmed on this 21<sup>st</sup> day of January, 2025 at Thane.



For and on behalf of Maharashtra Pollution Control Board,

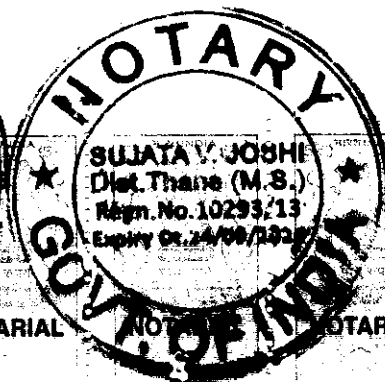
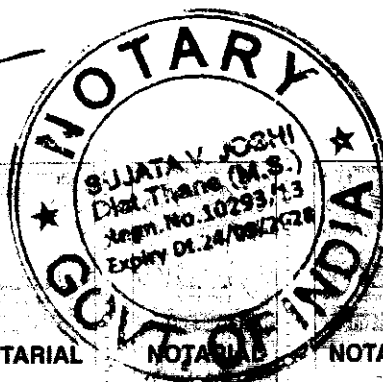
(Kiran Hasabnis)  
Regional Officer-Thane

BEFORE ME  
NOTARY

SUJATA V. JOSHI  
ADVOCATE & NOTARY  
101/102, Vishal Bldg., Station Road,  
Kalwa (W), Thane-400 605.

NOTED & REGISTERED  
Sr. No. 704/2025

21 JAN 2025



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