

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL  
(WESTERN ZONE BENCH) AT PUNE  
INTERIM APPLICATION NO. 181 OF 2024  
IN  
APPEAL NO. 119 OF 2024**

Sayyed Mohammed Sabir Usman ... Applicant/ Appellant

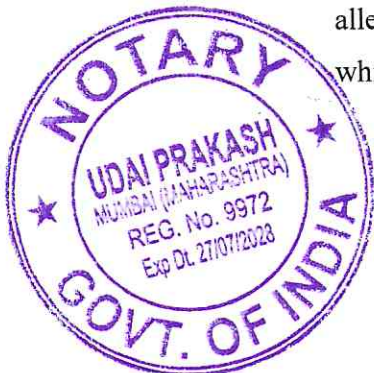
Versus

Union of India through secretary MOEFCC & Ors. ... Respondents

**AFFIDVAIT IN REPLY ON BEHALF OF RESPONDENT NO.4 TO THE  
INTERIM APPLICATION OF APPELLANT SEEKING CONDONATION OF  
DELAY**

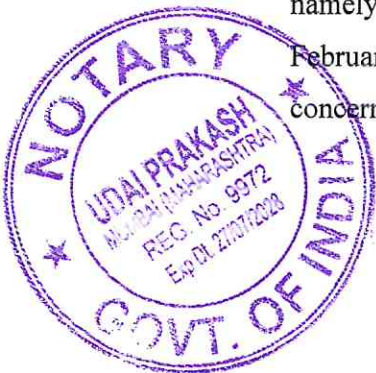
I, Yojeshkumar Thakor, an adult, Indian inhabitant, being the Authorized Signatory of Respondent No.4 abovenamed, having my office at 702, Natraj, 7<sup>th</sup> Floor, M. V. Road Junction, Western Express Highway, Andheri-East, Mumbai- 400 069 do hereby solemnly state as under –

1. I am the Authorised Signatory of Respondent No. 4 abovenamed. I am aware of the facts involved in the present matter on the basis of the records maintained by Respondent No. 4 in its ordinary course of business. I am, therefore, competent to depose to the statements in the present Affidavit. I have perused the contents of the captioned Interim Application No. 181 of 2024 seeking condonation of delay ("**Application**") and Appeal and I am filing the present Affidavit in reply thereto on behalf of Respondent No. 4, which has duly authorized me in this regard.
2. At the outset, Respondent No.4 denies each and every statement, contention, allegation, submission and/or insinuation in the present Application or in the Appeal, which is contrary to and/or inconsistent with what is stated in the present Affidavit



in Reply. Nothing contained in the present Application, or the Appeal shall be deemed to be admitted by the Respondent No.4 for want of traverse.

3. At the further outset, it is submitted that the under the provisions of section 16 of the National Green Tribunal Act, 2010 ("**the Act**"), an Appeal can be admitted after the prescribed period, only if the Appellant satisfies the Hon'ble Tribunal that he/she was prevented by sufficient cause from filing such Appeal within such period and allow it to be filed within a further period not exceeding 60 days.
4. The Appellant has filed the captioned Appeal against an Order for Environment Clearance (Order No. EC24B039MH193447 dated 08.02.2024) signed by Respondent No. 3, the then Member Secretary of SEIAA on behalf of SEIAA in favour of the Respondent No. 4 in respect of the Respondent No. 4's Proposed Residential cum Commercial Development on Plot bearing survey no. 26 (Hissa no. 2/2, 2/3) & 27/1(A,B,C), Shal Village, Taluka Ambernath, District -Thane, Maharashtra State (**said Project**).
5. The Appellant stated in the Appeal that the Appeal has been filed by the Appellant on 5<sup>th</sup> May 2024 after a delay of 58 days. Further, the Appellant has filed Application u/s 14 (3) of the Act, stating that the delay of 58 days may be condoned stating the reasons as mentioned in the Appeal for such delay.
6. At the further outset, Respondent No. 4 categorically denies all the allegations made by the Appellant in the Application of condonation of delay and the Appeal, being malicious, slanderous and being without any iota or documentary evidence in support thereof.
4. Respondent No. 4 submits that the Environmental Clearance Certificate ("**EC**") was granted on 8<sup>th</sup> February 2024 and the same was also published on the website of Ministry of Environment, Forest and Climate Change ("**MOEFCC**"). The Respondent No. 4 also published notices in Marathi as well as English newspapers namely "Navshakti" and "The Free Press Journal" on 14th February 2024 and 15<sup>th</sup> February 2024 respectively informing public at large about issuance of EC by the concerned Authority for the said Project.



5. As is evident from a perusal of the captioned Application, the Applicant has failed to set out any sufficient cause to justify condonation of delay in filing the Appeal. It is trite law that sufficient cause is a sine qua non for exercising power of condonation of delay. It is also well settled that the explanation of the cause must be that of the Appellant/Applicant and not of its Advocates. The Appellant has merely cited reasons such as personal difficulty, health issues, family priorities of the Advocate of the Appellant, which does not constitute sufficient cause for condonation of delay. Further, the purported issue of the website server of this Hon'ble Tribunal, as claimed by the Applicant is baseless and unsubstantiated. The Appellant has failed to bring on record a single document to support its aforesaid contentions for seeking delay condonation. It is settled law that in the event condonation of delay is sought, the party seeking such delay must explain each day's delay, which has clearly not been done in the present case. The Appellant has made broad sweeping references without providing any cogent or plausible reasons with supporting documents for the delay. On this ground, it is submitted that the present Application and the Appeal be dismissed with costs.
6. Respondent No.4 submits that the Appellant has failed to satisfy the Hon'ble Tribunal as to how he was prevented by any sufficient cause from prosecuting his case and the Hon'ble Tribunal has to examine whether the mistake is bonafide or is merely a device to cover the ulterior purpose. It is submitted that the Appellant apart from citing general reasons for condonation of delay has failed to point out sufficient cause for delay and the said Application which was filed in May 2024 is clearly an attempt to cover the delay in order to pursue the Appeal with ulterior motives. The Hon'ble Tribunal should not allow the said Application since the Appellant has failed to give satisfactory explanation to justify the delay.
7. Respondent No. 4 submits that Appellant has relied on an incorrect computation of the number of days of delay so as to mislead this Hon'ble Tribunal and get the frivolous and baseless appeal admitted. It is stated by the Appellant in the Application that the Appeal has been filed after a delay of 58 days. In this regard, the computation of the number of days of delay by the Appellant is a pertinent aspect. This computation can be made only after one understands how the Environmental



Clearance (EC) is granted or rejected by the STATE LEVEL ENVIRONMENT IMPACT ASSESSMENT AUTHORITY- MAHARASHTRA (SEIAA) the Respondent No.2 herein.

8. Respondent No. 4 further submits that the application filing, application review, application processing and application tracking is entirely online/electronic mode through the Government of India, **Ministry of Environment, Forests & Climate Change (MOEFCC)**'s **PARIVESH (Pro-Active and Responsive Facilitation by Interactive and Virtuous Environment Single-Window Hub Portal**. It is respectfully submitted that the MOEFCC has also published a User Manual titled "**ONLINE SUBMISSION AND MONITORING OF ENVIRONMENTAL CLEARANCES (OSMEC)**" in the year 2015 on ([https://environmentclearance.nic.in/writereaddata/user\\_manual\\_b.pdf](https://environmentclearance.nic.in/writereaddata/user_manual_b.pdf)) wherein step-by-step guidance is provided in respect of filing of the application for EC on PARIVESH Portal and the next steps to be undertaken by the respective stakeholders, namely - the SEIAA and the State Environment Appraisal Committee (SEAC) for processing the application and eventually granting or rejecting the EC for the project. It is respectfully submitted that the entire process of grant of EC being conducted and tracked online on the PARIVESH portal, it concludes automatically as soon as the SEIAA uploads the minutes of its meeting in which the final decision on the application was taken and an e-mail gets generated simultaneously with the upload of the minutes. In the instant case, it has been admitted by the Appellant itself in the Appeal (at Paras 4.6, 4.7 and 4.8) that :

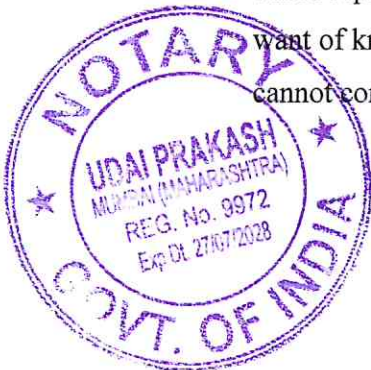
- a) The Respondent No. 4 applied for the EC before SEIAA Maharashtra on the PARIVESH Portal on 14.10.2023 (Para 4.6);
- b) The SEAC - II considered Resp. No. 4's proposal for appraisal in its 219<sup>th</sup> meeting and recommended the proposal for grant of the EC (Para 4.7); and
- c) The SEIAA then decided unanimously to grant the EC to Resp. No. 4's proposal/application in its 272<sup>nd</sup> meeting held on 28.12.23 subject to the compliance of conditions imposed in minutes of meeting (Para 4.8)



9. Thus, Appellant has not disputed that the entire process/workflow of the application filed by the Respondent No. 4 was completed by 28.12.23. In fact, he has very much admitted the above facts in the Appeal. It is therefore respectfully submitted that when the entire application processing leading upto the grant of the EC has been recorded on the PARIVESH portal itself, and this reveals that the SEIAA meeting in which the decision to grant the EC was made before the expiry of SEIAA's term, it would be bad in law and incorrect to allege that SEIAA granted the EC to Respondent No. 4's said Project after expiry of its term. Respondent No. 4 states that the NGT Act itself doesn't permit us to do so. Hence, the Appeal is liable to be dismissed in-limine on the ground of laches.
10. It is further respectfully submitted that for this Hon'ble Tribunal to take cognizance of the matter on the generalized submissions made by the Appellant in the Appeal which do not even make a prima facie satisfaction of the Tribunal, is nothing but an abuse of the process of this Hon'ble Tribunal. The nondisclosure of evidence by the Appellant in support of his allegation and his past attempts at filing similar appeals against many other Project Proponents with prayer for similar reliefs further falsify the Appeal. Admitting such a frivolous appeal would be nothing but an abuse of the due process of law. Hence, the delay in filing the appeal is not liable to be condoned and the Appeal is resultantly liable to be dismissed in-limine.
11. Respondent No. 4 states that in para no. 4.7 of the Appeal, the Appellant vaguely and without checking correct facts stated that the Respondent No. 4 has not complied with the conditions.
12. Without prejudice to the above, I shall now deal with the Application paragraph wise:
- i) With reference to paragraph no. 1 and 2, I say that the contents of the said paragraph do not warrant any reply from this Respondent No.4 as it is a formal paragraph.
- ii) With reference to paragraph no. 3, the contents thereof are denied, and the Respondent No. 4 reserves its right to deal with the same as and when the same is referred to and relied upon by the Appellant.



- iii) With reference to paragraph no. 4.1, the contents thereof are denied in toto. I repeat and reiterate all that is stated in the present Affidavit and deny everything that is contrary to or inconsistent to what is stated herein. I am not aware and do not admit that the Appellant tried to upload/file the Appeal from 6th March 2024 to 9th March 2024 or that the same could not be filed due to technical problem as alleged or at all. I am not aware and do not admit that the Appellant issued an email to the registry of Hon'ble Tribunal, as alleged in the paragraph under reply. The Appellant has failed to produce a copy of such purported email communication.
- iv) With reference to paragraph no. 4.2, the contents thereof are denied. I repeat and reiterate all that is stated in the present Affidavit and deny everything that is contrary to or inconsistent to what is stated therein. I am not aware that the Appellant was only able to upload the EC and not the complete Appeal as stated in the paragraph under reply. It is unbelievable that a party can upload one document but not upload any other document using the same platform.
- v) With reference to paragraph no. 4.3 and 5.1, I deny that the delay in filing the Appeal is unintentional, as alleged or at all. I deny that the delay ought to be condoned as alleged or at all. I repeat and reiterate all that is stated in the present Affidavit and deny everything that is contrary to or inconsistent to what is stated therein.
- vi) With reference to paragraph nos. 5.2 and 5.3, the contents thereof are denied. I deny that the Appeal challenging the impugned EC was filed on 8<sup>th</sup> March 2024. I am not aware and do not admit that the registry of this Hon'ble Tribunal marked defects on 13<sup>th</sup> March 2024 to 18<sup>th</sup> March 2024 through online system. I am not aware and do not admit the statements in respect of the Appellant's Advocate, as set out in the paragraph under reply. In any event, sufficient cause must be in respect of the litigant and not its Advocates. Thus, even on demurrer, the contentions set out in the paragraph under reply cannot constitute sufficient cause, as alleged or at all. In any event, the Appellant has failed to bring on record a single document to support its contentions in the paragraph under reply. Further, the contention in the paragraph under reply in respect of the Appeal being part of 105 Appeals is firstly denied for want of knowledge and is, in any event, not germane to the present Application and cannot constitute sufficient cause.



- vii) With reference to paragraph no. 5.4, the contents thereof are denied, save and except the fact that period of limitation for filing the Appeal is 30 days from date of communication of EC. It is denied that uploading the EC on website cannot be said to be communication. Be that as it may, it is further submitted that the Respondent No. 4 also published notices in Marathi as well as English newspapers on 14th February 2024 and 15<sup>th</sup> February 2024 respectively informing public at large about issuance of Environmental Clearance for the said Project. The remaining contents of the paragraph under reply are denied for want of knowledge. The reasons given by the Appellant in the paragraph under reply for seeking delay condonation are insufficient and without any supporting documents to prove the same.
- viii) With reference to paragraph no. 5.5, the contents thereof are denied. The submission in the paragraph under reply is on merits and cannot be adjudicated in the present Application for condonation of delay. In any event, it is submitted that the present proceedings are entirely devoid of merit and nothing but an malafide attempt to extort monies from Respondent No. 4 and is a gross abuse of the process.
- ix) With reference to paragraph no. 5.6, it is denied that the default/delay caused in this case is genuine, as alleged or at all. It is further vehemently denied that there is no intentional disobedience or ignorance, as alleged or at all.
- x) With reference to paragraph no. 5.7, it is denied that the delay in filing the present Appeal ought to be condoned in the interests of natural justice or even otherwise, as alleged or at all. It is denied that the Appellant has filed the present Application with the Appeal as pleaded in the paragraph under reply. The said Application was filed in May 2024 and admittedly the Appeal was filed on 5<sup>th</sup> May 2024.
- xi) With reference to paragraph no. 5.8, the contents thereof are denied. it is denied that in the larger interest of environmental justice, delay should be condoned, as the Appellant has failed to make out a case for delay condonation.
- xii) With reference to paragraph no. 6A and 6B, in view of what is set out hereinabove, the Appellant is not entitled to any relief, as there is no sufficient cause for



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condonation of delay in filing the Appeal. The present Application is baseless, misconceived and devoid of merit. It is further submitted that the Appellant has approached this Hon'ble Tribunal with unclean hands. In view thereof, this Hon'ble Tribunal be pleased to dismiss the captioned Appeal with exemplary cost.

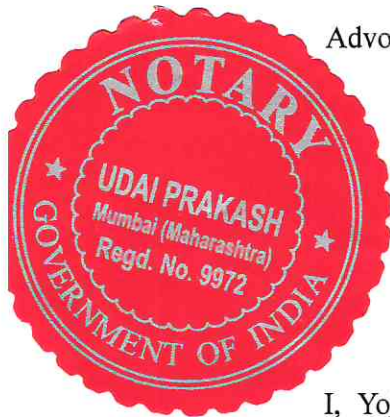
- 13. For the reasons stated hereinabove, I submit that the said Application be dismissed with costs.

*Spyan*

Advocate for Respondent No.4

*[Signature]*

Respondent No.4



**VERIFICATION**

I, Yojeshkumar Thakor, Indian inhabitant, being the Authorized Signatory of Respondent No.4 abovenamed, having my office at 702 Natraj, M.V. Road junction, Western Express Highway, Andheri East, Mumbai -400069 do hereby solemnly affirm and state that what is stated in the foregoing paragraphs is based on information and record which I believe the same to be true and nothing material has been concealed thereof.

Solemnly affirmed at Mumbai )

On this \_\_\_ day of September 2024 )

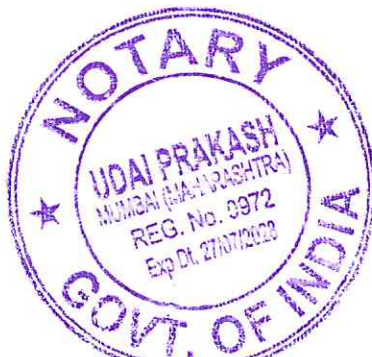


**BEFORE ME**

*Spyan*

Advocate for Respondent No.4

*U.P. Thakor*  
*13/9/24*  
**UDAI PRAKASH (M.A.L.L.B.,)**  
ADVOCATE & NOTARY GOVT. OF INDIA  
MUMBAI (MAHARASHTRA)  
REG. NO. 9972  
Room No. 10, S. No. 94, Inshwadi, Kharodi Village  
Marve Road, Malad (W), Mumbai - 400 069



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# KEYBLUE REALTORS PRIVATE LIMITED

Reg. Off.: 702, Natraj, M V Road Junction, Western Express Highway, Andheri East, Mumbai 400069  
Tel.: +91-22-667 66 888, Fax: +91-22-667 66 999,  
CIN: U70109MH2022PTC376422

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CERTIFIED TRUE COPY OF THE BOARD RESOLUTION PASSED BY THE BOARD OF DIRECTORS OF THE COMPANY AT THEIR MEETING HELD ON AUGUST 08, 2024 AT THE REGISTERED OFFICE OF THE COMPANY SITUATED AT 702, NATRAJ, M V ROAD JUNCTION, WESTERN EXPRESS HIGHWAY, ANDHERI (EAST), MUMBAI - 400069

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## AUTHORITY FOR LEGAL MATTER

"RESOLVED THAT in supersession with earlier resolution passed by the Board of Directors of the Company at its meeting held on March 1, 2022 with respect to authority for legal matter, the Mr. Yojeshkumar Thakor (DIN: 05316442) and Mr. Manish Randev (DIN: 00907033), Directors and Mr. Boman Irani, Mr. Chandresh Mehta, Mr. Percy Chowdhry, Mr. Manish Savant and Mr. Shovir Irani, Authorised Signatories of the Company be and are hereby severally authorized to represent the Company for Company's project situated at Dombivli, Thane, before all Hon'ble Courts including but not limited to Supreme Court of India, any High Court in India, City Civil & Sessions Courts, District Courts, Small Causes Courts, Co-operative Courts, Metropolitan Magistrate Courts / Additional Metropolitan Magistrate Courts and / or other civil and criminal courts, and/or Tribunals including but not limited to Maharashtra Revenue Tribunal, Debt Recovery Tribunal, National Green Tribunal, National Company Law Tribunal or any other Tribunals and/or Various Forums including but not limited to Consumer Forum (District, State and National Forum) and/or Revenue Authorities including but not limited to the offices of the Collector, Sub-Divisional Officer, Tahsildar, Talathi, Real Estate Regulation Authority and / or such other judicial, quasi judicial authorities as may be required in all proceedings such as Suit, Summary Suit, Writ Petition, Criminal Writ Petition, Winding Up Petition, Arbitration Petition, Contempt Petition, Company Petition, Company Scheme Petition and / or any other Petition, Appeal/s, First Appeal, Second Appeal, Arbitration Appeal, Appeal from Order, Civil Application, Civil Reference, Civil Revision Application, Miscellaneous Civil Application, Criminal Complaint including but not limited to Complaint under section 138 of the Negotiable Instrument Act, 1881, Criminal Application, Criminal Reference, Criminal Revision Application, Miscellaneous Criminal Application, Intervention Application and to sign and execute all Plaints, Notice of Motion, Chamber Summons, Applications, Written Statement, Replies, Rejoinder, Affidavit, Consent Terms, Caveats, Petitions, Appeals and such other writings as may be required and to file Vakalatnama and to lead evidence in proceedings filed against the Company or to be filed on behalf of the Company against any person / persons / Private Limited Companies, Limited Companies, Partnership





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# KEYBLUE REALTORS PRIVATE LIMITED

Reg. Off.: 702, Natraj, M.V. Road Junction, Western Express Highway, Andheri East, Mumbai 400069  
Tel.: +91-22-667 66 888, Fax: +91-22-667 66 999,  
CIN: U70109MH2022PTC376422

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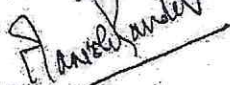
Firms, Limited Liability Partnership, Proprietary Concern, Financial Institutions, Non-Banking Financial Institutions Trust (Private or Public) or any other Institutions or Organizations and to do all such acts, deeds and things as may be required to carry out the above stated object;

**RESOLVED FURTHER THAT** all the Directors and Authorised Signatories named herein above be and are hereby severally authorized to enter into compromise terms/settlement with the Defendants or other parties and/or withdrawing the proceedings already filed or pending and represent the Company in that regard with regard to Company's project situated at Dombivli, Thane;

**RESOLVED FURTHER THAT** all the Directors of the Company be and are hereby severally authorized to issue certified true copy of the board resolution to the concerned authorities."

//Certified True Copy//

For Keyblue Realtors Private Limited



Manish Randev  
Director  
DIN: 00907033



**BEFORE THE HON'BLE NATIONAL  
GREEN TRIBUNAL  
(WESTERN ZONE BENCH) AT PUNE  
Interim Application No. 181 of 2024  
IN  
Appeal No. 119 of 2024**

Sayyed Mohammed Sabir Usman  
... Applicant/ Appellant

Versus

Union of India through secretary  
MOEFCC & Ors. ... Respondents

Affidavit in Reply of Respondent  
No.4 to the Interim Application

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Dated : 13<sup>th</sup> day of September 2024

Sujata Pujare / Sonali Salaskar  
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