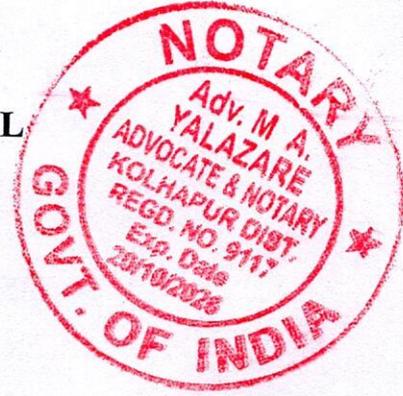


BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE AT PUNE
INTERIM APPLICATION NO. 815 OF 2025
(FOR DELAY CONDONATION)

IN

APPEAL NO. 431 OF 2025



M/s. SS Services

...Applicant

Versus

Central Pollution Control Board & Ors.

...Respondents

AFFIDAVIT IN REPLY ON BEHALF OF THE RESPONDENT NO. 4

I, Mr. Niranjana C Shah, aged 68 years, working as Director Arogyam Waste Management Private Ltd, having its registered office at 1169, Sykes Extension, Kolhapur, Maharashtra-416008, the respondent no. 4 in the present appeal do hereby on solemn affirmation states as under:

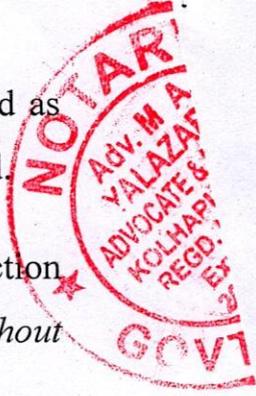
1. I say that I am well conversant with the facts of the present case. I am authorized and competent to file this Affidavit in Reply to the present interim application seeking condonation of delay in filing the present appeal. I further say that I have perused a copy of the interim application filed by the present applicant along with the annexures thereto.
2. I say that I crave leave of this Hon'ble Tribunal to file additional affidavit, if so required. I specifically deny each and every contention in the present application unless and until specifically admitted by me.
3. Any omission on my part in dealing with and / or denying any allegation, contention and averment specifically and singly, should not

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be deemed to have been admitted by me and the same be treated as denied. I, also, crave leave to file a detailed affidavit, if so required.

4. I say that the Petitioner cannot avail the benefit of Section 14 (*Exclusion of time of proceeding bona fide in Court without jurisdiction*) of the Limitation Act in the facts of the present case.
5. I say that the Consent to Establish dated 30 June 2023 was granted under Section 25 of the Water (P&CP) Act, 1974, Section 21 of the Air (P&CP) Act, 1981 and Bio-Waste Management Rules, 2016 respectively under Environment (Protection) Act, 1986 in favor of respondent no. 4.
6. Originally, the Consent to Establish dated 30 June 2023 was challenged by the applicant by filing a representation dated 19 July 2023 before the respondent No. 3 MPCB.
7. I say that there is no provision in the applicable statutes for such representation challenging the Consent to Establish granted by the MPCB. Despite this position, the applicant made the representation. It is pertinent to note that there was no formal challenge mounted to the said consent to establish, despite availability of such a remedy.
8. I say that the applicant knowing fully well that such representation is not maintainable, filed Writ of *Mandamus* bearing WP No. 10808 of 2023 seeking direction to decide the representation dated 19 July 2023. The Hon'ble High Court by Order dated 12 January 2024 issued Writ of *Mandamus* against the authority to decide his representation. The Hon'ble Court in paragraph 4(v) of the said Order categorically mentioned:



"4 (v) In case any party is aggrieved by the decision taken on the representation, such party is free to take appropriate legal recourse."

9. I say that it was specifically submitted by the respondent no. 3 in the above-mentioned Writ Petition that there exists alternate remedy under Water (Prevention and Control of Pollution) Act, 1974. Despite the same, no such proceedings were filed by the applicant.
10. I say that in pursuance of the directions of the Hon'ble High Court in Order dated 12 January 2024, the respondent No. 3 decided the representation of the applicant and rejected the objections as raised by the applicant *vide* its Order its dated 27 February 2024.
11. Again, the applicant did not resort to any remedy under the Water (Prevention and Control of Pollution) Act, 1974.
12. I say that, the said rejection of the representation dated 19 July 2023 by Order dated 27 February 2024 passed by respondent No. 3 forms the basis of a new Writ Petition No. 5283 of 2024. The Hon'ble High Court, Bombay by its Order dated 16 June 2025 disposed of the writ petition with liberty to adopt the alternate remedy available under Section 16 (*Tribunal to have appellate jurisdiction*) of the National Green Tribunal Act, 2010.
13. I say that it is of importance to note that during disposal of the said Writ Petition No. 5283 of 2024 the Hon'ble High Court granted benefit of section 14 of the Limitation Act only *qua* the period spent in the prosecution of the Writ Petition No. 5283 of 2024.

The relevant paragraph no. 6 is reiterated below-

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“6. All contentions of parties on merits are expressly kept open to be decided by the Tribunal. Period spent in prosecuting the Petition shall be considered under the provisions of Section 14 of the Limitations Act, 1963.”



14.I say that the timeline of the proceedings is as follows:

- a) Date of Consent to Establish: 30.06.2023
- b) Date of Representation: 19.07.2023
- c) Date of decision on the first WP No. 10808/23: 12.01.2024
- d) Date of decision of MPCB on the representation: 27.02.2024
- e) Date of filing of the second WP No. 5283/24: 22.03.2024
- f) Date of decision on the second WP No. 5283/24: 16.06.2025
- g) Date of registration of the present Appeal: 29.08.2025

15.I say that bare perusal of the above timeline will indicate that exclusion given by the Hon'ble High Court in the second round (WP No. 5283/2024) would not be of any avail to the petitioner since what is to be justified is the delay occurred from the date of grant of Consent to Establish i.e., 30 June 2023. Such a huge delay amounts to latches.

16.I say that the applicants have failed to provide any explanation whatsoever in justifying the delay in challenging the consent to Establish dated 30 June 2023.

17.I say that the proceedings conducted before the Hon'ble High Court cannot be called as a bona fide since the respondents on the very first available occasion (WP No. 10808/20243) had pointed out the existence of an alternate remedy. Despite this, the petitioner chooses not to avail it.

18. Secondly, the Hon'ble High Court cannot be called as a Court without jurisdiction under Section 14 of the Limitation Act. The Hon'ble High Court exercises inherent jurisdiction under Article 226 and Article 227 of the Constitution of India.

19. There is no justification whatsoever for the delay caused in filing of the present appeal.

20. In the present case, the delay has vested valuable right in the respondent in the form of Consent to Operate dated 26 August 2025 and the same can not be negated by condonation of delay.

21. In fact, acting in pursuance of the said Consent to Operate, the facilities are fully set up and is being run to the hilt.

22. I say that, if the present application is allowed grave injustice in terms of financial investment and prejudice would be caused to the present respondent.

23. Therefore, I pray that the present application be dismissed with exemplary costs.

Solemnly affirmed at ^{ms-maj} ~~Mumbai~~ ^{kolhapur}, this th 27 day of November, 2025.

Yuvraj P. Narvankar

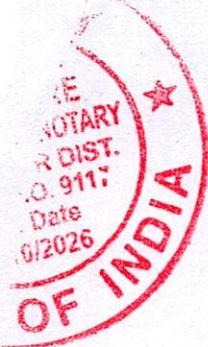
Advocate for the Respondent No. 4

Respondent No. 4

VERIFICATION

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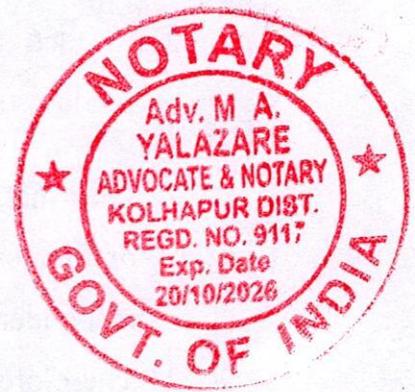
Faint red and blue stamps and handwritten notes on the left margin.

I, Miranjan C. Shah, aged 68 years, residing at 61/maabru/Shingji Key Soc/Agrempus being the authorized representative of the Respondent no. 4 herein above, verifies that the contents of the above affidavit are true to my personal knowledge, no part of it is false and nothing material has been concealed therefrom. I further verify that the content of the affidavit is true and nothing material has been concealed and I believe the same to be true.

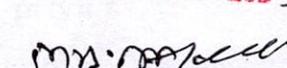
Solemnly declared at ^{ms.m} Kolhapur ~~Mumbai~~,]
This th 27 day of November, 2025]


DEPONENT

Identified by me,



SOLEMNLY affirmed before me
by Miranjan C. Shah
Who is identified before me
by Aadhar 866319770752
Whom I personally know
This 27th day of Nov 2025


M. A. YALAZARE
Advocate & Notary
1182, 'E', P.W.D. HSG.,
Takala, KOLHAPUR.
Mo. 9284624612



Notary Regl. Sr. No. 1030
2025

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