BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,

(WESTERN ZONE) BENCH AT PUNE

I.A. NO. 207 OF 2025 (WZ)
IN
APPEAL NO. 138 OF 2025 (WZ)

BETWEEN

ALCHEMIST ASSET RECONSTRUCTION CO. LTD.

...APPELLANT

VERSUS

GOA COASTAL ZONE MANAGEMENT AUTHORITY & ANR.

...RESPONDENTS

AFFIDAVIT IN REJOINDER ON BEHALF OF THE APPLICANT / APPELLANT TO THE REPLY FILED BY RESPONDENT NO. 2 TO APPLICATION FOR CONDONATION OF DELAY

MOST RESPECTFULLY SHEWETH:

I, Akshat Sharma, S/o Shri S K Sharma, aged about 36 years, working for gain, at A-270, 1st and 2nd Floor, Defence Colony, New Delhi – 110 024, the authorised representative of the Applicant / Appellant herein above named, do hereby solemnly affirm and state as under:

PRELIMINARY SUBMISSIONS AND OBJECTIONS:

A. I say that the instant Affidavit in Rejoinder is being filed on behalf of the Appellant / Applicant to the Affidavit in Reply filed by the Respondent No. 2 to the Application for Condonation of Delay filed by the Appellant / Applicant in the captioned Appeal challenging the Permission / Approval of Extension dated 09.10.2024 issued by Respondent No. 1 (hereinafter referred to as "**Impugned Permission**") read with an earlier Permission / Approval dated 06.01.2020, wherein Respondent No. 1 granted permission to Respondent No. 2 for the construction of temporary huts having total built-up area admeasuring 111.63 square metres, made of wood and / or natural / biodegradable material on the property bearing Survey No. 101/4, Agonda

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Village, Canacona Taluka, Goa (hereinafter referred to as "**subject property**")

B. At the outset, the Appellant / Applicant denies all the averments, statements and contentions raised by the Respondent No. 2 in its Affidavit in Reply to the Application for Condonation of Delay, save and except what the Applicant specifically admits hereinafter. No averment, statement or contention raised in the Affidavit in Reply shall be treated as being admitted by the Applicant merely because the same has not been dealt with specifically herein or denied in seriatim.

C. At the outset I say that on a bare reading of the Affidavit in Reply filed by Respondent No. 2, it appears as if the said Respondent is trying to divert from the issues under consideration / adjudication by agitating unrelated issues.

D. That, the Applicant herein submits the following preliminary responses to the submissions raised by the Respondent No. 2 in its Affidavit in Reply to the Application for Condonation of Delay.

IMPUGNED PERMISSION DATED 09.10.2024 CONSTITUTES AN INDEPENDENT CAUSE OF ACTION

E. I say that the Appellant came to know about the Permission dated 06.01.2020 only on 20.03.2025. I say that the illegalities and irregularities underlying the rationale for the grant of the Impugned Permission dated 09.10.2024 and its challenge thereto by the Appellant herein are equally applicable to the Permission dated 06.01.2020. No permission (neither on 09.10.2024, nor on 06.01.2020) could have been issued by the Respondent No. 1 after 03.01.2017, the date on which it resolved to accept the BCCR in *toto*. Additionally, the fact that Clause 8(i) V 3 (iii) of the CRZ, 2011 had become inapplicable to Agonda Beach after 03.01.2017, is applicable to both the Impugned Permission dated 09.10.2024 as also the Permission dated 06.01.2020. This, coupled with the fact that Respondent No. 2 has evidently raised constructions not only in Survey No. 101/4 but also illegally and

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unlawfully extended those to Survey No. 101/6 (being land fully belonging to DPDCL and mortgaged to the Applicant), Survey Nos. 102/1 and 102/3 (being land partially belonging to DPDCL and mortgaged to the Appellant), and Survey Nos. 101/5 for which no permission exists and 102/2 (being Government Land), demonstrates that the violations, improprieties and irregularities are continuing in nature, which, even otherwise, could have been independently challenged by the Appellant as a person aggrieved as per Section 16 of the NGT Act. It is also submitted that the Impugned Permission dated 09.10.2024 was granted only for 111.63 sq. mtrs. in Survey No. 101/4 alone. However, the encroachments and structures extend to more than 1058 sq. mtrs. (this information emerged in a private survey conducted by the Appellant in May, 2024, and is corroborated by the Show Cause Notice issued by the Respondent No. 1 itself), which is almost 10 times the permissible area.

F. I say that without prejudice, with the issuance of the Impugned Permission dated 09.10.2024 extending the operation of Permission dated 06.01.2020 till 06.01.2027, the Impugned Permission assumed the character of the Principal Approval with the same terms and conditions as contained in the original Permission dated 06.01.2020, thus the contents of the Permission dated 06.01.2020 are subsumed in the later Permission dated 09.10.2024. Moreover, on the date of filing of the captioned Appeal No. 138 of 2025 (WZ) (i.e., on 22.04.2025), the Original Permission dated 06.01.2020 had already expired and what was in existence was only the Impugned Approval.

G. It is submitted that a renewal of permission constitutes an independent cause of action, in view of the settled legal position that grant of renewal is a fresh grant, forming an independent cause of action if granted against provisions of law. In view thereof, since the Impugned Permission dated 09.10.2024 could not have been issued by the Respondent No. 1 in the first place, and since the Respondent No. 2 violated the stipulations of the Impugned Permission read with the Permission dated 06.01.2020 by raising, *inter alia*, concrete structures abutting the beach as brought out categorically in the

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Show Cause Notice dated 17.01.2025 issued by the Respondent No. 1 to the Respondent No. 2, who cannot now seek to escape the consequences of its wrong doings and ill-actions by resorting to hyper-technical objections. The Hon'ble Supreme Court, in ***M.C. Mehta v. Union of India,* (2004) 12 SCC 118**, has held thus: -

> *"76. ...It is settled law that the grant of renewal is a fresh grant and must be consistent with law."*
>
> *(emphasis supplied)*

H. I say that it is no more *res integra* that grant of any renewal is to considered to be a fresh grant and is open to be challenged independently, as any grant of a renewal breathes life into the operation of the previous lease or license granted under any law being in force. The Hon'ble Supreme Court, in ***Gajraj Singh v. STAT*, (1997) 1 SCC 650** has held as under: -

> *"38. It is settled law that grant of renewal is a fresh grant though it breathes life into the operation of the previous lease or licence granted as per existing appropriate provisions of the Act, rules or orders or acts intra vires or as per the law in operation as on the date of renewal. The right to get renewal of a permit under the Act is not a vested right but a privilege subject to fulfilment of the conditions precedent enumerated under the Act..."*
>
> *(emphasis supplied)*

I. Therefore, I say that the Applicant / Appellant was well within its rights to challenge the Impugned Permission dated 09.10.2024 as the same constitutes an independent cause of action, having been issued against the existing rules and stipulations in the Impugned Permission read with the Permission dated 06.01.2020 itself, more particularly delineated hereinabove.

J. It is expressly and categorically reiterated that the impugned permission dated 09.10.2024 issued by the Respondent No.1 (GCZMA) was never put in public domain, though, the Respondent No.1 was required to do so in terms of Regulation 4.2 (vi) of the CRZ Notification, and under the orders of this Hon'ble Tribunal. The scheme and spirit of the NGT Act also required the said Respondent to bring all approvals / permissions issued by it in public domain.

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K. I, to *perforce* reiterate, say that the Appellant had no prior occasion to gain knowledge of/about the impugned permission dated 09.10.2024 on or before 20.03.2025, i.e., the date on which the impugned permission came to the notice and knowledge of the Appellant for the first time. Thus, for all intents and purposes, the limitation period for filing an Appeal against the impugned permission dated 09.10.2024 began to run in favour of the Appellant only from 20.03.2025 i.e. the date of communication of the order in terms of provisions of Section 16 of the NGT Act.

PRESENT ONE IS NOT A CASE OF NON-JOINDER OF NECESSARY PARTY

L. I say that it is specifically denied that Dr. Chandrakant Kari Gaunkar and his wife, are the owners of the property, or are necessary or proper parties for adjudication of the instant Appeal.

M. I say that the present *lis* pertains to an appeal under Section 16(g) of the NGT Act, 2010, where the Appellant has challenged an order / decision of a statutory authority (Respondent No. 1 herein), with the core issue being the legality of the Impugned Permission dated 09.10.2024 issued by Respondent No. 1 in favour of the Respondent No. 2. Hence, the Appellant is aggrieved by a regulatory / administrative decision by the Respondent No. 1 in extending such permission to the Respondent No. 2 having a significant impact on coastal ecology and pertaining to compliance with CRZ Notification, 2011. It is reiterated that the present proceedings are not civil in nature such that the Appellant was not required to implead the owner of the land for which the Impugned Permission was granted.

N. I say that Section 16 of the NGT Act, 2010 stipulates that any person aggrieved can prefer an appeal against, *inter alia*, any environmental clearance, consent to operate or orders under the various environmental laws likes the Water (prevention and Control of Pollution) Act, 1974, Forest (Conservation) Act, 1980, or the Air (Prevention and Control of Pollution) Act, 1981. Section 16 of the NGT Act, 2010, is reproduced hereunder: -

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"16. Tribunal to have appellate jurisdiction.

Any person aggrieved by,--

(a) an order or decision, made, on or after the commencement of the National Green Tribunal Act, 2010, by the appellate authority under section 28 of the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974);

(b) an order passed, on or after the commencement of the National Green Tribunal Act, 2010, by the State Government under section 29 of the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974);

(c) directions issued, on or after the commencement of the National Green Tribunal Act, 2010, by a Board, under section 33A of the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974);

(d) an order or decision made, on or after the commencement of the National Green Tribunal Act, 2010, by the appellate authority under section 13 of the Water (Prevention and Control of Pollution) Cess Act, 1977 (36 of 1977);

(e) an order or decision made, on or after the commencement of the National Green Tribunal Act, 2010, by the State Government or other authority under section 2 of the Forest (Conservation) Act, 1980 (69 of 1980);

(f) an order or decision, made, on or after the commencement of the National Green Tribunal Act, 2010, by the Appellate Authority under section 31 of the Air (Prevention and Control of Pollution) Act, 1981 (14 of 1981);

(g) any direction issued, on or after the commencement of the National Green Tribunal Act, 2010, under section 5 of the Environment (Protection) Act, 1986 (29 of 1986);

(h) an order made, on or after the commencement of the National Green Tribunal Act, 2010, granting environmental clearance in the area in which any industries, operations or processes or class of industries, operations and processes shall not be carried out or shall be carried out subject to certain safeguards under the Environment (Protection) Act, 1986 (29 of 1986);

(i) an order made, on or after the commencement of the National Green Tribunal Act, 2010, refusing to grant environmental clearance for carrying out any activity or operation or process under the Environment (Protection) Act, 1986 (29 of 1986);

(j) any determination of benefit sharing or order made, on or after the commencement of the National Green Tribunal Act, 2010, by the National Biodiversity Authority or a State Biodiversity Board under the provisions of the Biological Diversity Act, 2002 (18 of 2003), may, within a period of thirty days from the date on which the order or decision or direction or determination is communicated to him, prefer an appeal to the Tribunal:

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Provided that the Tribunal may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed under this section within a further period not exceeding sixty days."

(emphasis supplied)

O. A bare perusal of Section 16, as extracted above, demonstrates that Section 16 does not stipulate that third parties like Dr. Chandrakant Kari Gaunkar and his wife, as alleged owners of the property, are necessary or proper parties for adjudication of the instant Appeal, more so in view of the fact that the ownership, rights, title and interest etc. of Dr. Chandrakant Kari Gaunkar and his wife over the property are not in issue here. It is pertinent to reiterate herein that the Appellant has challenged the Impugned Permission dated 09.10.2024, which has been issued to the Respondent No. 2 herein and not Dr. Chandrakant Kari Gaunkar and his wife.

P. I say that it has been provided under Section 19(1) of the NGT Act, 2010 that this Hon'ble Tribunal shall not be bound by procedure laid down under the Code of Civil Procedure, 1908, but instead by the principles of natural justice. Consequently, the provisions of Order I Rule 10 of the Code of Civil Procedure, 1908 do not strictly apply to an Appeal under Section 16 of the NGT Act. Section 19(1) of the NGT Act, 2010 is reproduced as under: -

"19(1). The Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908, but shall be guided by the principles of natural justice."

Q. I say that, such an objection raised by the Respondent No. 2 is misconceived in law because the present *lis* does not involve any *inter se* private disputes between the Appellant and the owners of the Shack / Huts but rather, concerns the validity, legality and environmental sustainability of a regulatory / administrative order issued by a public authority tasked with taking measures to protect and improve the quality of the coastal environment and prevent, abate and control environmental pollution in areas in the State of Goa. It is submitted that Respondent No. 2 is only the alleged owner of Survey No. 101/4. However, the encroachments and constructions have been raised on survey numbers belonging to other persons illegally by

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the Respondent No. 2. *Arguendo*, if the contention of the Respondent No. 2 that all owners of survey numbers on which Respondent No. 2 has raised its structures illegally are required to be impleaded is to be taken at face value, the Appellant would be required to ascertain the details of owners of all survey numbers (101/5, 101/6, 102/1, 102/3 & 102/2) on which encroachments were illegally raised by the Respondent No. 2, and implead all of them as a party, which would become a never ending exercise in view of the extent and scale of encroachments by the Respondent No. 2, as the illegal and commercial structures so raised occupy an area 10 times larger than that permitted by Respondent No. 1.

R. I say that, in such a view of the matter, the only necessary parties required for effective adjudication of the present appeal are the Respondent No. 1 – Authority which granted the Impugned Permission and the Respondent No. 2, the grantee in whose favour the Impugned Permission was granted. Therefore, the absence of any private party does not, by itself, render the appeal non-maintainable, particularly where no prejudice is shown to be caused, and the issue relates to public interest and environmental compliance, not adjudication of civil disputes *inter se* the private parties.

APPELLANT IS A PERSON AGGRIEVED AS PER SECTION 16 OF THE NGT ACT, 2010

S. The contention of the Respondent No. 2 that Appellant is not a person aggrieved because the Appellant is neither the owner of the property nor in possession is strenuously denied as being misleading and disingenuous. In fact, the Appellant / Applicant is directly aggrieved by the environmental violations committed by the Respondent No. 2 by, *inter alia*, raising constructions merely 4.07 mtrs from the High Tide Line, being dangerously close to the turtle nesting site; extending the illegal construction by unauthorizedly encroaching upon not only land mortgaged to the Appellant, but also land owned by the Government for which neither any permission was given nor could have been given by the Respondent No. 1; and raising

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construction on 1058 sq. mtrs when the Impugned Permission was granted only for 111.63 sq. mtrs. while also raising concrete structures, in violation of terms of the Impugned Permission.

T. I say that as per Section 16(g) of the NGT Act, 2010 any person aggrieved by any order / direction under Section 5 of the Environment (Protection) Act, 1986 may prefer an appeal before this Hon'ble Tribunal. Person has been defined to include, under Section 2(j) of the NGT Act, 2010, as under:

> *"Section 2 (j) :*
> *"person" includes—*
> *i) an individual;*
> *ii) a Hindu undivided family;*
> *iii) a company;*
> *iv) a firm;*
> *v) an association of persons or a body of individuals, whether incorporated or not;*
> *vi) trustee of a trust;*
> *vii) a local authority; and*
> *viii) every artificial juridical person, not falling within any of the preceding sub-clauses."*

U. I say that a bare reading of Section 2(j) (i) to (viii) would reveal that any individual, Hindu undivided family, Company, Firm, an association of persons or a body of individuals whether incorporated or not, trustees of a trust, a local authority and every artificial juridical person not falling within any of the preceding sub-clauses, would indicate "person" (including juristic persons) who can maintain an appeal under the NGT Act.

V. I say that the Preamble of the NGT Act, 2010 is reproduced hereunder: -

> *"Preamble of NGT Act 2010 – "An Act to provide for the establishment of a National Green Tribunal for the effective and expeditious disposal of cases relating to environmental protection and conservation of forests and other natural resources including enforcement of any legal right relating to environment and giving relief and compensation for damages to persons and property and for matters connected therewith or incidental thereto."*

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W. I say that a combined reading of the Preamble of the NGT Act, 2010, read with Section 2(j) and Section 16 thereof would reveal that this Hon'ble Tribunal has been vested with vast jurisdiction to decide environmental disputes such as enforcement of legal rights relating to environment, compensation, damages to persons and property, and matters connected therewith and incidental thereto including conservation of pristine beaches in the State of Goa which have been designated as nesting sites of the endangered Olive Ridley Turtle, as in the instant case.

X. I say that Section 16 of the NGT Act, 2010, has been interpreted widely by this Hon'ble Tribunal in a catena of judgments. The Principal Bench of this Hon'ble Tribunal in ***Vimal Bhai & Ors. v. Ministry of Environment & Forests & Ors.***, Appeal No. 5 of 2011 decided on 14.12.2011, while dealing with a question involving who is a person aggrieved under the NGT Act, 2010, held as under: -

> *"Then the question arises whether in the environmental matters, a person who is really aggrieved/ injured shall alone be permitted to approach this Tribunal. A combined reading of the above sections, would indicate, that any person whether he is a resident of that particular area or not whether he is aggrieved and/or injured or not, can approach this Tribunal...*
>
> *The person injured per-se as occurred in Section 18 (2) of the NGT Act is only for the purpose of claiming relief, compensation or settlement of disputes, is altogether different from the person aggrieved as available in Section 16. Person aggrieved and person injured are two different words which connote different meaning. Under Section 16, any person aggrieved can approach this Tribunal by way of filing an appeal, whereas, under Section 18 (2), the person injured per-se, whether it is an individual or a body of individual or a social organization or a Hindu joint family, etc.*
>
> *Further, under Section 14 and 16 any person can approach this Tribunal for appropriate relief including the relief under Section 18."*
>
> *(emphasis supplied)*

Y. Thus, it is no more *res integra* that under Section 16 of the NGT Act, 2010, any person aggrieved may approach this Hon'ble Tribunal by filing an appeal against any direction issued under Section 5 of the Environment (Protection) Act, 1986. In the instant case, the Appellant has been directly aggrieved by the illegal actions of the Respondent No. 2, in evidently raising

permanent structures on not only land in Survey No. 101/4 but also illegally and unlawfully extending the structures to Survey No. 101/6 (being land fully belonging to DPDCL and mortgaged to the Applicant), Survey Nos. 102/1 and 102/3 (being land partially belonging to DPDCL and mortgaged to the Appellant), and Survey Nos. 101/5 and 102/2 (being Government Land) for which no permission exists. Such ill-actions on part of the Respondent No. 2 demonstrates that the violations, improprieties and irregularities are continuing in nature, which, even otherwise, could have been independently challenged by the Appellant as a person aggrieved as per Section 16 of the NGT Act. It is pertinent to note that it is not the case of the Appellant that it is the owner of, or in possession of land forming part of Survey No. 101/4, but rather the present appeal lies against the actions of the Respondent No. 2 in raising constructions merely 4.07 mtrs from the High Tide Line, being dangerously close to the turtle nesting site; extending the illegal construction by unauthorizedly encroaching upon not only land mortgaged to the Appellant, but also land owned by the Government for which neither any permission was given nor could have been given by the Respondent No. 1; and raising construction on 1058 sq. mtrs when the Impugned Permission was granted only for 111.63 sq. mtrs. while also raising concrete structures, in violation of terms of the Impugned Permission.

Z. In fact, it may be pointed out that at no point has the Respondent No. 2 made any averments or even offered even a simple denial of the contentions of the Appellant that Respondent No. 2 has been found to be in illegal possession of government land, or that permanent constructions have been raised by it. Instead, the Respondent No. 2 has been raising hyper technical grounds in an effort to scuttle the proceedings initiated by the Appellant and frustrate the process of law.

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PARAGRAPH WISE REPLY ON MERITS

1. I say that the contents of Paragraph No. 1 are strenuously denied as being wholly incorrect and against settled principles of law. The contents of the

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preceding paragraphs are reiterated herein for the sake of brevity. It is submitted that the Applicant / Appellant was well within its rights to challenge the Impugned Permission dated 09.10.2024 as the same constitutes an independent cause of action, having been issued against the existing rules and stipulations in the Impugned Permission itself, more particularly delineated hereinabove. Additionally, it is submitted that on the date of filing of the captioned Appeal No. 138 of 2025 (WZ) (i.e., on 22.04.2025), the Original Permission dated 06.01.2020 had already expired and what was in existence was only the Impugned Approval.

2. I say that the contents of Paragraph No. 2 are denied as being misleading and inaccurate. It is specifically denied that Dr. Chandrakant Kari Gaunkar and his wife, are owners of the property, or are necessary or proper parties for adjudication of the instant Appeal. The absence of any private party does not, by itself, render the appeal non-maintainable, particularly where no prejudice is shown to be caused, and where the issue relates to public interest and environmental compliance, not adjudication of civil disputes *inter se* the private parties. Applicant / Appellant was well within its rights to challenge the Impugned Permission dated 09.10.2024 as the same constitutes an independent cause of action, having been issued against the existing rules and stipulations in the Impugned Permission itself, more particularly delineated hereinabove.

3. I say that the contents of Paragraph No. 3 are denied as based on an incorrect interpretation of law and therefore, erroneous. It is *perforce* reiterated that renewal of permission forms an independent cause of action, which could have been and was rightly challenged by the Appellant. The contents of preceding paragraphs are reiterated herein for the sake of brevity.

4. I say that the contents of Paragraph No. 4 are denied as being wholly incorrect, deceptive and ambiguous. I say that the Respondent No. 2 is under a misconception, and it is submitted that the present proceedings are not civil in nature. It is reiterated that it is no more *res integra* that under Section 16

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of the NGT Act, 2010, any person aggrieved against, *inter alia*, an Order / Direction issued under Section 5 of the Environment (Protection) Act, 1986 may approach this Hon'ble Tribunal by filing an appeal. In the instant case, the Appellant has been directly aggrieved by the illegal actions of the Respondent No. 1 in issuing the Impugned Permission, and the Respondent No. 2 in raising permanent structures on not only land in Survey No. 101/4 but also illegally and unlawfully extending the same to Survey No. 101/5, Survey No. 101/6 (being land fully belonging to DPDCL and mortgaged to the Applicant); Survey Nos. 102/1 and 102/3 (being land partially belonging to DPDCL and mortgaged to the Appellant) for which no permission exists; and Survey No. 102/2 which is Government land for which no permission has been or could have been given by the Respondent No. 1. It demonstrates that the violations, improprieties and irregularities are continuing in nature, which, even otherwise, could have been independently challenged by the Appellant as a person aggrieved as per Section 16 of the NGT Act, 2010. The contents of the preceding paragraphs are reiterated herein for the sake of brevity.

5. I say that the contents of Paragraph No. 5 are denied *in toto*, and it is specifically and expressly denied that the Application has suppressed the correct facts. In fact, it is submitted that it is the Respondent No. 2 which is guilty of *suppressio veri* and *suggestio falsi*.

6-9. I say that the contents of Paragraph Nos. 6 to 9 are not admitted for want of knowledge and are therefore denied. The Appellant craves leave to respond more fully if required.

10. I say that the contents of Paragraph No. 10 are denied for want of knowledge. However, it is reiterated that in the present *lis*, it is not the case of the Appellant that it is the owner of, or in possession of land forming part of Survey No. 101/4, but rather the present appeal lies against the illegal actions of the Respondent No. 1 in issuing the Impugned Permission and the Respondent No. 2 in encroaching on land mortgaged to the Appellant and

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raising permanent constructions thereon, in violation of the CRZ Notification, 2011 and the GCZMA in failing to perform its statutory duty to protect the pristine beach and allowing the Respondent No. 2 to create encroachment and build structures for commercial gain on survey numbers for which no permission is given by the Respondent No. 1.

11. I say that the contents of Paragraph No. 11 are not admitted for want of knowledge and are therefore denied. The Appellant craves leave to respond more fully if required.

12. I say that the contents of Paragraph No. 12 are not admitted for want of knowledge and are therefore denied. The Appellant craves leave to respond more fully if required.

13. I say that the contents of Paragraph No. 13 are admitted to the extent that they are a matter of record. However, it is reiterated that the Respondent No. 2 herein has violated the terms and conditions of the grant of the Permission dated 06.01.2020, which fact has been corroborated and strengthened by the Site Inspection Report of the Respondent No. 1 itself, whereby large scale encroachments and violations have been observed in the resort belonging to the Respondent No. 2.

14. I say that the contents of Paragraph No. 14 are denied except to the extent they are borne out by the official records. The Appellant denies the interpretation placed upon the said record by the Respondent No. 2.

15. I say that the contents of Paragraph No. 15 are admitted to the extent that they are a matter of record. However, it is reiterated that the Impugned Permission dated 09.10.2024 could not have been issued by the Respondent No. 1 to Respondent No. 2 after 03.01.2017, the date on which the Respondent No. 1 resolved to accept the BCCR *in toto*.

16. I say that the contents of Paragraph No. 16 are denied except to the extent they are borne out by the official records.

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17. I say that the contents of Paragraph No. 17 are denied except to the extent they are borne out by the official records. However, it is pertinent to point out that the License granted by the Village Panchayat pertained to erection of seasonal / temporary huts only in Survey No. 101/4. Respondent No. 2 did not have permission from the Village Panchayat for erection of a Shack or Shacks.

18. I say that the contents of Paragraph No. 18 are denied except to the extent they are borne out by the official records.

19. I say that the contents of Paragraph No. 19 are denied except to the extent they are borne out by the official records. The Appellant strenuously denies the interpretation placed upon the said record by the Respondent No. 2. It is expressly and unequivocally denied that the Appellant was aware that illegal activities were being conducted by the Respondent No. 2 from the year 2020 onwards. While it may have been public knowledge that commercial activities were being undertaken on Agonda beach, the person / entity indulging in such activity was not known. The Applicant preferred various complaints to the Respondent No. 1 (including Letters / Complaints dated 07.02.2024 and 21.06.2024) about ongoing commercial activities on the Agonda beach. However, despite best efforts by the Applicant, neither any action was taken by the Respondent No. 1 against the said illegal commercial activities nor did the Respondent No. 1 furnish any information to the Appellant about the Permissions / Approvals by it including about the Permission dated 06.01.2020. It is submitted that the Respondent No. 2 is raising false and frivolous grounds in an attempt to cloak and continue its ecologically damaging enterprise, in express, abject and *ex-facie* violations of the CRZ Notification, 2011 read with the terms and conditions of the Impugned Permission dated 09.10.2024, which fact has been noted by the Respondent No. 1 Authority in its Site Inspection Report as well.

20. I say that the contents of Paragraph No. 20 are denied as being wholly misleading and based on an erroneous understanding of law. The contents of

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the preceding paragraphs are reiterated for the sake of brevity. It is specifically reiterated that the Appellant herein is a directly affected party as the Respondent No. 2 has blatantly encroached upon the land mortgaged with the Appellant. It is reiterated that the Appellant is not claiming right, title or ownership over the land forming part of Survey No. 101/4, but the act of Respondent No. 2 in illegally and unlawfully extending permanent and semi-permanent constructions on not only land in Survey No. 101/4 but also illegally and unlawfully extending the same to Survey No. 101/5, Survey No. 101/6 (being land fully belonging to DPDCL and mortgaged to the Applicant); Survey Nos. 102/1 and 102/3 (being land partially belonging to DPDCL and mortgaged to the Appellant) for which no permission exists; and Survey No. 102/2 which is Government land for which no permission has been or could have been given, which demonstrates that the violations, improprieties and irregularities are continuing in nature. Such violations, even otherwise, could have been independently challenged by the Appellant as a person aggrieved as per Section 16 of the NGT Act. It is reiterated that the present *lis* does not pertain to ownership of Survey No. 101/4, but about the illegality of the Impugned Approval, issued in the teeth of Respondent No. 1's own policy framework as well as illegalities being committed by the Respondent No. 2 under the garb of the Impugned Approval.

21. I say that the contents of Paragraph No. 21 are denied *in toto* as being false, incorrect, and misleading. It is specifically denied that the period of limitation would start from 06.01.2020 and not 20.03.2025. The Appellant reserves the right to respond to each averment if required. The Appellant disputes all assertions contained therein and calls upon the respondent to strictly prove the same. The contents of the preceding paragraphs are reiterated herein for the sake of brevity. It is reiterated that Impugned Permission constitutes an independent cause of action, and that the Appellant herein was not required to independently challenge the Permission dated 06.01.2020. Additionally, it is reiterated that on the date of filing of the captioned Appeal No. 138 of 2025 (WZ) (i.e., on 22.04.2025), the Original

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Permission dated 06.01.2020 had already expired and what was in existence was only the Impugned Approval. It has been held in by the Hon'ble Supreme Court in ***M.C. Mehta v. Union of India*** (supra) that renewal of permission constitutes an independent cause of action, in view of the settled legal position that grant of renewal is a fresh grant, forming an independent cause of action if granted against provisions of law. In view thereof, since the Impugned Permission dated 09.10.2024 could not have been issued by the Respondent No. 1 in the first place, and since the Respondent No. 2 violated the stipulations of the Impugned Permission read with the Permission dated 06.01.2020 by raising, *inter alia*, concrete structures abutting the beach, the Respondent No. 2 cannot now seek to escape the consequences of its wrong doings and ill-actions by resorting to hyper-technical objections It is reiterated that the Appellant had no prior occasion to gain knowledge of / about the impugned permission before 20.03.2025, i.e., the date on which the impugned permission came to the notice and knowledge of the Appellant for the first time. Thus, for all intents and purposes, the limitation period for filing an Appeal against the impugned permission dated 09.10.2024 began to run in favour of the Appellant only from 20.03.2025 i.e. the date of communication of the order in terms of provisions of Section 16 of the NGT Act. *[Save Mon Region Federation v. Union of India, Order dated 14.03.2013 in M.A. No. 104 of 2012 in Appeal No. 39 of 2012]*

22. I say that the contents of Paragraph No. 22 are denied as being vague, ambiguous, and devoid of material particulars.

23. I say that the statements made in Paragraph No. 23 are not admitted and are specifically denied as being inaccurate and contrary to facts. The same are denied *in toto*. It is specifically denied that the Appellant was required to independently challenge the Sale Deed dated 21.06.1995 or the mutation carried out. For want of knowledge, it is strenuously denied that the Respondent No. 2 was conducting activities from 2020, and that the Appellant could not challenge the Impugned Permission dated 09.10.2024

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without challenging the Permission dated 06.01.2020. It is submitted that Respondent No. 2 is attempting to deflect attention from its own unlawful conduct by raising false, frivolous, and untenable grounds. These objections are nothing but a smokescreen intended to obscure the Respondent's blatant encroachment upon government land as well as land lawfully mortgaged to the Appellant. The Respondent's actions are not only in violation of statutory provisions but also amount to a wilful abuse of process and disregard for property and environmental laws. Such actions by Respondent No. 2 are in clear breach of the applicable land laws, and violate the proprietary and legal rights of the Appellant, besides constituting unauthorized use of public property.

24. I say that the contents of Paragraph No. 24 are denied as being vague, ambiguous, and devoid of material particulars. The averments made therein are baseless and are denied *in toto*. It is reiterated that failure on part of Respondent No. 1 in bringing permissions / approvals issued by it in the public domain is a continuing one. It is also reiterated that the Appellant cannot be held accountable for the failure of Respondent No. 1 in communicating to the public at large the approvals / permissions issued by it. It is also reiterated that the period of limitation commences from the date of communication of the order to the public at large, as was held by this Hon'ble Tribunal in ***Save Mon Region Federation v. Union of India***, Order dated 14.03.2013 in M.A. No. 104 of 2012 in Appeal No. 39 of 2012, at paragraphs 17 to 19.

25. I say that the statements made in Paragraph No. 25 are not admitted and are specifically denied as being inaccurate and contrary to facts. The same are denied *in toto*. It is submitted that the Respondent No. 2 cannot be allowed to claim the benefit of its continuing illegalities from the year 2020. Without prejudice, it is submitted that the admission by Respondent No. 2 regarding the open and continuous conduct of its activities over the last five years serves to expose the prolonged and unjustifiable inaction of Respondent No. 1, especially when coupled with the scale and extent of encroachments and

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violations by the Respondent No. 2, as noted by the Respondent No. 1 in its own Site Inspection Report. This omission reflects a clear dereliction of duty and tacit approval of ongoing violations, which ought to have been prevented or addressed through timely regulatory intervention.

26. I say that the contents of Paragraph No. 26 are denied as far as the submission of Respondent No. 2 regarding 20.03.2025 not being the date of communication is concerned. It is submitted that the contents of the preceding paragraphs are reiterated herein for the sake of brevity. It is expressly and categorically reiterated that the impugned permission dated 09.10.2024 issued by the Respondent No. 1 was never put in public domain, though, the Respondent No. 1 was required to do so in terms of Regulation 4.2 (vi) of the CRZ Notification, and under the orders of this Hon'ble Tribunal. The scheme and spirit of the NGT Act also require the said Respondent to bring all approvals / permissions issued by it in public domain. It is specifically reiterated that during the hearing on 20.03.2025, Respondent No. 2 submitted its reply to the Show Cause Notice and provided a copy of the same to the Appellant. Upon perusal of this reply, the Appellant discovered, for the first time, that the Impugned Permission had been issued by Respondent No. 1 to Respondent No. 2. Thus, it was only on 20.03.2025 that the Appellant became aware of the Impugned Permission dated 15.01.2024.

27. I say that the statements made in Paragraph No. 27 are not admitted and are specifically denied as being inaccurate and contrary to facts. The contents of the foregoing paragraphs are reiterated and relied upon as if fully set out herein, for the sake of brevity and to avoid repetition. It is reiterated that the period of limitation ought to be considered only from 20.03.2025; that the Appellant is a person aggrieved; and that the judgments cited by the Appellant are squarely applicable to the facts of the instant case.

28. I say that the contents of Paragraph No. 28 are denied as being false, misleading, and contrary to the record. It is reiterated that the said Impugned

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Permission was neither served upon the Appellant nor published in any manner as required under law, thereby depriving the Appellant of an opportunity to raise timely objections. It is important to note in this context that the Appellant was continuously engaged with the Respondent No. 1 regarding illegal constructions and commercial activities on the Agonda beach. It is further reiterated that the factum and extent of the unauthorized and illegal constructions carried out by Respondent No. 2 have been categorically recorded in the Site Inspection Report conducted by Respondent No. 1. In view of the above, the vague and bald denial by Respondent No. 2 regarding its encroachments and illegal constructions is devoid of merit and, in the absence of any cogent rebuttal to the findings in the official Site Inspection Report, such a denial ought to be treated as a tacit admission of the illegalities committed by it.

29. I say that the contents of Paragraph No. 29 are vague, imprecise, and not supported by any cogent material. The same are denied, and the Respondent No. 2 is put to strict proof thereof. It is specifically reiterated that there was wilful and deliberate non-compliance of statutory rights in non-communication of the order. The Appellant repeats, reiterates, and adopts the contents of the foregoing paragraphs as part of this paragraph, to avoid prolixity.

30. I say that the contents of Paragraph No. 30, being vague and perfunctory, are denied *in toto*. It is submitted that the bald denial by Respondent No. 2 regarding the applicability of the judgment cited by the Appellant is wholly untenable and legally unsustainable. It is a settled principle of law that if a party seeks to claim that a binding precedent is inapplicable, it must make a reasoned attempt to distinguish the same on facts or legal principle. In the present case, Respondent No. 2 has neither demonstrated how the facts of the cited case differ from the instant matter, nor identified any legal distinction that would render the judgment inapplicable. In the absence of any such attempt, the bare assertion of non-applicability is nothing more than a self-serving and unsubstantiated averment, which deserves to be rejected

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outright. The judgment in question, being squarely applicable to the facts and issues arising in the present matter, continues to bind the parties and this Hon'ble Tribunal.

31. I say that the contents of Paragraph No. 31 are not admitted and are specifically denied as being ambiguous. It is reiterated that non-compliance of requirement of communication of its orders or directions by the Respondent No. 1, has already been taken note of by this Hon'ble Tribunal in the case of ***Chandan Suryakant Khorjuvekar v. Goa Coastal Zone Management Authority and Others***, Judgment dated 26.07.2023 in Original Application No. 70 of 2022 (WZ), wherein whilst relying on Regulation 4.2 (vi) of CRZ Notification, this Tribunal directed Respondent No. 1 to develop a portal for the purpose of uploading such orders and directions. It is submitted that Respondent No. 2 cannot wish away binding judicial pronouncements on flimsy averments and bald denials.

32. I say that the contents of Paragraph No. 32 are denied as being vague and perfunctory. It is reiterated that in utter disregard of the aforesaid direction of this Hon'ble Tribunal in ***Chandan Suryakant Khorjuvekar*** (supra), the Respondent No. 1 has failed to make arrangements for uploading of its orders, a fact which is admitted and evident from order dated 13.03.2024 passed subsequently in Execution Application No. 20 of 2023 (WZ) of the aforementioned case.

33. I say that the contents of Paragraph No. 33 are denied as being vague, false, misleading, and contrary to the record. It is submitted that the Respondent No. 2 has resorted to bald and unsubstantiated denials, and the same ought to be held against the Respondent No. 2. The Appellant repeats, reiterates, and adopts the contents of the foregoing paragraphs as part of this paragraph, to avoid prolixity.

34. I say that the contents of Paragraph No. 34 are denied as being misconceived, not borne out from the record, and based on an erroneous and selective reading of the present Appeal. It is specifically reiterated that the Appellant

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has never claimed any right, title, or interest over the property forming part of Survey No. 101/4. The Respondent No. 2 has evidently misconstrued the scope and nature of the present proceedings, which are limited to environmental and statutory violations, and has incorrectly sought to equate them with issues typically arising in civil litigation. Such a mischaracterization of the Appellant's case is misleading and appears to be a deliberate attempt to distract from the real issues under consideration in the instant matter.

35. I say that the contents of Paragraph No. 35 are strenuously denied as being blatantly false, misleading and incorrect. It is specifically denied that the Respondent No. 1 could have granted the Impugned Permission after 2017. It is denied that the Appellant came to know about the Impugned Permission on any date before 20.03.2025. It is submitted that the Applicant became aware of the PIL W.P. No. 36 of 2025 (F) having been filed before the Hon'ble Bombay High Court at Goa pending the receipt of site inspection report from the Respondent No. 1 and all allegations regarding any kind of nexus between the PIL Petitioner and the Appellant / Applicant are vehemently denied. It is reiterated that despite its best efforts, the Appellant could not obtain any information about the Original Permission dated 06.01.2020 from the Respondent No. 1. The Appellant repeats, reiterates, and adopts the contents of the foregoing paragraphs as part of this paragraph, to avoid prolixity.

36. I say that the contents of Paragraph No. 36, insofar as they relate to the period of delay, are denied *in toto* as being false, incorrect and misleading. The Appellant repeats, reiterates, and adopts the contents of the foregoing paragraphs as part of this paragraph, to avoid prolixity.

37. I say that the contents of Paragraph No. 37 are denied *in toto* as being wholly incorrect and blatantly false. The contents of the preceding paragraphs are reiterated herein. It is reiterated that the present *lis* does not concern rights, title, or interest of the Appellant in the property forming part of Survey No.

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101/4. It is submitted that the Appellant herein is taking all measures to safeguard its rights, and where necessary, proceedings before the competent civil courts have also been initiated by the Appellant.

38. I say that the contents of Paragraph No. 38 are denied as false. It is submitted that the Appellant has sufficiently established its grounds for condonation of the small delay of 4 days in preferring the instant Appeal. The contents of preceding paragraphs are reiterated. I say that this Hon'ble Tribunal, as well as, the Hon'ble Supreme Court, in a catena of judgments has held that rules of procedure are handmaiden of justice, which should promote justice and prevent miscarriage being caused to a party who has diligently followed such procedure to approach the concerned forum for justice.

39. I say that contents of Paragraph No. 39 require no reply.

AA. I say that the contents of Paras A(P), B-D, E(P), J, K, L, Q(P), Z to 2, 5-12, 13(P), 14, 16-18, 22, 23(P), 26(P), 29, 36, 37 and 39, are true to my knowledge, and the contents of Paras A(P), E(P), F-I, M-P, Q(P), R-Y to 1, 3, 4, 13(P), 15, 19, 20, 21, 23(P), 24, 25, 26(P), 27, 28, 30-35 and 38 are based on legal submissions which I believe to be true. The Exhibits annexed are true copies of the original.

PLACE: New Delhi

DATE: 17.09.2025

17 SEP 2025

Alchemist Asset Reconstruction Company Limited (F.F. 1270, 1st Floor, Defence Colony, New Delhi)

Appellant

NOTARY Minati Rani Mohapatra Delhi Regd. No.16971 SL.No.: GOVT. OF INDIA

Advocate for the Appellant

17 SEP 2025

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MINATI RANI MOHAPATRA
ADVOCATE (NOTARY)
Mob. No.: 8130128457

ATTESTED
MINATI RANI MOHAPATRA
NOTARY DELHI-R-16971
GOVERNMENT OF INDIA
SUPREME COURT OF INDIA
COMPOUND NEW DELHI
REGISTER Pg./Sl. No.

848

Re: Affidavit in reply on behalf of respondent no. 2 to application for condonation of delay

From: Karan Batura (karanbatura@yahoo.in)

To: pronoykamatassociates@gmail.com

Cc: ngt-pune@gov.in

Date: Wednesday, September 17, 2025 at 07:42 PM GMT+5:30

Dear Sir,

PFA the rejoinder to condonation of delay application for your perusal.

Regards,

Karan Batura
Advocate for the Appellant

> On Wednesday, September 3, 2025 at 10:44:03 AM GMT+5:30, Pronoy Kamat <pronoykamatassociates@gmail.com> wrote:
>
> Affidavit in reply.pdf

Rejoinder-Appeal 138 of 2025.pdf
18.3 MB