

BEFORE THE NATIONAL GREEN TRIBUNAL,  
SOUTHERN ZONE AT CHENNAI

APPEAL No.37of 2023

M/s. EBM –Papst India Private Ltd.,  
725/1, 200 Feet Inner Ring Road,  
Madhavaram & Post  
Chennai 600 110  
Rep. by its Managing Director.

... Appellant

-VS-

1. VERSUS The Chairman , Tamil Nadu Pollution Control Board,  
No.76, Mount Salai,  
Guindy, Chennai – 600 032.
2. The Joint Chief Environment Engineer (M), (A/c),  
Tamil Nadu Pollution Control Board, Chennai Zone,  
No.950/1, 1<sup>st</sup> Floor, Poonamallee High Road,  
Arumbakkam, Chennai 600 106
3. The District Environment Engineer,  
Tamil Nadu Pollution Control Board  
77-A, South Avenue Road,  
Ambattur Industrial Estate, Chennai 600 058

... Respondents

**COUNTER AFFIDAVIT FILED BY THE APPELLANT (G. SHANTHA KUMAR)**  
IN THE RESPONSE TO ADDITIONAL REPORT FILED BY RESPONDENTS DT: 03-06-2025.  
I, G. Shanthakumar son of Mr.P.Ganesan, aged about 50 years, working as  
Associate General Manager-QA in the applicant office, having office at  
725/1, 200 Feet Inner Ring Road, Madhavaram & Post Chennai 600 110,  
do hereby solemnly affirm and sincerely state as follows.

1. I am working as Associate General Manager-QA in the office of the  
applicant and as such I am acquainted with the facts and circumstances  
of the case on perusal of the case papers available to me. I am the  
competent and authorized to sworn into this counter affidavit on behalf  
of the applicant herein.



G. Shantha Kumar

2. I have read the additional report filed on behalf of the respondents herein and deny each and every averment made therein as they are false, frivolous and untrue except those that are specifically admitted herein.
3. I submit that it is true that the applicant herein has filed the above appeal aggrieved of the impugned order of imposing and ought to remit the Environmental compensation to the tune of Rs.9/- lakh.
4. I submit that it is true that the applicant establishment is private limited located in S.F.No.725-1, 2B, 727-2, 737-1, 2B Madhavaram Village and Taluk, Chennai District and running its business after obtaining the order for consent to Establish on 25-03-2009 and as stated by respondent by their Board Proceedings No.T16/TNPCB/6810/TLR/A&W/2009 dated 25-03-2009 and which was renewed further by proceeding No.T5/TNPCB/F.0293AMB/RL/AMB/A/2022 dated 02-11-2022 which is valid upto 31-03-2026 for the activities stated by the respondents in their additional report and there can be no dispute thereon.
5. I respectfully state that the respondent had granted authorization for the applicant, vide their authorization No.3955 dated 04-01-2011 in proceedings No.34064/2010/T16/ORANGE/HWM/TNPCB/2010 dated 04-1-2011 which valid upto 03-01-2016 and the same is under old Rules. The applicant has complied with all statutory obligations all along with unblemished records, which cannot be denied by the respondents.
6. I state that while being so, a new Rule was brought in under the Act, called as The Hazardous and other Waste (Management and Transboundary Movement) Rules 2016 which as per notification came into effect only on 04-04-2016. I state that in view of the proposal of the above new rules, there was some delay on the part of the applicant and



*G. Shantha*

they made their application seeking for an order of Authorization for Hazardous Waste on 28-07-2016. The above said application was returned by respondent with certain remarks to comply and after compliance it was represented on 18-08-2016. The respondents periodically returned the above application for one or other reasons without specifying and pointing out all compliances required to be complied with by the applicant. The said process is gone on from 2016 till 28-02-2023. However, during pending process for an order of Authorization being issued by the respondents the applicant is all along obliged to comply with all statutory obligations and there is no violation on the part of the applicant, which well evinced from the records produced by the applicant.

7. I respectfully submit that it is true that while admitting the above appeal by an order dated 30-11-2023 there a conditional order to pay 50% of the impugned penalty and the same has been obliged and complied with by the applicant.
8. I most respectfully submitted that while hearing the above appeal it was suggested to give an under taking not to claim back the 50% of the payment made in compliance of the conditional order passed by the this Hon'ble Forum and to give an application for waiver of the balance imputned penalty. The applicant has submitted such letter for waiver on 03-06-2024 and the applicant called for personal hearing. The applicant again submitted their letter for waiver on 05-11-2024 besides on 07-11-2024 resubmitting the application for authorization. The application resubmitted the applicant is duly considered and an Authorization was granted by the respondent in pending the above appeal in Authorization No.25HFC6303222 dated 21-05-2025 in their



*G. Shanthappa*

proceeding No.T1/TNPCB/F.0293AMB/HWA/RL/AMB/2025 dated 21-05-2025 which valid till 31-03-2030.

9. However, the reasons assigned by the respondents in their additional report is nothing but circumventing to sustain even their own mistake solely attributing as if entire delay is only on the part of the applicant in making and representing the application for authorization in their part which is unsustainable. I am advised to state that though new Rule 2016 was brought in the procedure was not described initially. Further, the respondent resorted to find some reasons much less new reasons on each time returning the application for compliance instead of pointing out all remarks at the first return itself. The respondents pointed out all remarks fully at first return itself the applicant would have complied with all. Further I submit that the applicant while keeping the application for Authorization is pending for prolonged more than 7 years resorted to impose fine as if the applicant has committed some violation which challenged in the above appeal. I humbly submit that one of the head fine is that the applicant has not filed their annual return for the years 2016-2017, 2020-2021 and 2021-2022 which were utter false and against the records produced by the applicant. The other heads of fine, as if the applicant is operating without authorization is unacceptable because the applicant is not a new establishment and is existing one in law and the application for renewal was unnecessarily keep pending for almost 7 years for one other reasons till filing the above appeal.
10. I deny the reasons attributed and assigned by the respondents in para 10 to 13 as unreasonable and unsustainable.



*C. Shanthappa*

11. I am at most respectfully advised to state that if the respondents are unnecessary blaming the applicant as if delay is only on their part in making and processing the application for Authorization and failed to duly consider the waiver application submitted by the applicant with them. The applicant left with no other option except to withdraw the undertaking given not to claim back the payment of Rs.4.5 Lakh made in compliance of the conditional order dated 30-11-2023 and make the submission in law on merits in the above appeal. I am advised to state that it is unfair on the part of the respondents expecting the applicant to give an undertaking not to claim back the payment made in compliance of the conditional order the remaining impugned penalty is waived and turn around now. Absolutely there is no merit and substance for the consideration of the additional report filed by the respondents.

For the well reasons and circumstances said above, it is humbly prayed that this Hon'ble Court may be pleased to consider the above appeal on merits based on the submission made and records placed before this Hon'ble Forum and pass such other order or orders as this Hon'ble Forum may deem fit and proper in the circumstances of the case and thus render justice.

Solemnly affirmed at Chennai on this )  
 The 13th day of March 2026 and the deponent )  
 Signed his name in my presence. )



Before me Advocate Chennai

By M. S. S. / 08  
 No. 8/266 "C" TYP  
 3rd Street, Adalw Nagar  
 Villivakkam,  
 Ch-49

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APPELLANT (G.SHANTHA KUMAR) IN  
THE RESPONSE TO ADDITIONAL  
REPORT FILED BY RESPONDENTS  
DATED 03-06-2025**

M/s. A. Arumugam  
R. Raghavendran &  
P.A. Manikandan

Counsel for Appellant