

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
SOUTHERN ZONE, CHENNAI**

APPEAL No.39 of 2024

M/s. KGISL Technologies and
Infrastructures Private Limited,
Rep. by its Authorised Signatory,
Mr. R.Maheswaran
365, KGISL Campus, Thudiyalur Road,
Saravanampatti,
Coimbatore - 641 035

...Appellant

-Vs-

1. State Level Environmental Impact
Assessment Authority (SEIAA),
Rep. by its Member Secretary,
3rd Floor, Panagal Maaligai,
No.1, Jeenis Road, Saidapet,
Chennai - 600 015
2. State Level Expert Appraisal Committee
(SEAC),
Rep. by its Chairman,
3rd Floor, Panagal Maaligai,
No.1, Jeenis Road, Saidapet,
Chennai - 600 015

...Respondents

**OBJECTIONS TO THE INSPECTION REPORT OF THE JOINT
COMMITTEE**

I, R.Maheswaran, son of Y. Rajagopal, Hindu, aged 60 years, having my
place of work at 365, KGISL Campus, Thudiyalur Road,

KGISL Technologies and Infrastructures Pvt. Ltd.

Vice President
(Finance & Infrastructure)

Saravanampatti, Coimbatore – 641 035, now temporarily come down to Chennai, do hereby solemnly affirm and sincerely state as follows:-

1. I am the Authorised Signatory of the Appellant herein and as such I am conversant with the facts and circumstances of the case. I state that I have gone through the inspection report of the Joint Committee and my objections in respect thereof are stated hereunder:-
2. I state that the above appeal has been filed before this Hon'ble Tribunal challenging the communication of the 1st Respondent dated 12.01.2024 calling upon the Appellant to issue Bank Guarantee for a sum of Rs.6,80,00,000/= (Rupees Six Crores Eighty Lakhs only) favouring the Tamil Nadu Pollution Control Board and submit acknowledgement to the same and the amount was directed to be utilised for the ecological damage remediation plan, natural resource augmentation plan and community resource augmentation plan. I state that the Bank Guarantee was directed to be furnished for the purpose of grant of Environmental Clearance in respect of the existing residential Apartment constructed by the Applicant herein at S.F.No.376/1B, 2B and 377/1 at Keeranatham Village, Coimbatore North Taluk, Coimbatore District comprising of 4 blocks with Stilt plus

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8 floors, two blocks with stilt floor plus 7 floors each and Lower Income Group (LIG) block with ground floor plus 3 floors for providing 435 dwelling units in a land area of 17,200.26 sq. Meters with total built up area of 41,914.55 sq. Meters.

3. It is submitted that the order under challenge before this Hon'ble Tribunal was consequent upon an order passed by this Hon'ble Tribunal in O.A.No.74 of 2017 filed by one V.Sankara Subramaniam who filed O.A.No.74 of 2017 before this Hon'ble Tribunal to take action against the Applicant herein for putting up residential apartment complex without obtaining Environmental Clearance. By the order dated 21.01.2020, this Hon'ble Tribunal directed the Appellant to remit a sum of Rs.8,00,00,000/= (Rupees Eight Crores only) to the Central Pollution Control Board by way of interim compensation. Aggrieved by the said order, Civil Appeal No.3891 of 2020 was filed before the Hon'ble Supreme Court of India and by the order dated 07.02.2024, the Hon'ble Apex Court while dismissing the Civil Appeal directed this Hon'ble Tribunal to initiate immediate action for compliance of the direction issued by this Hon'ble Tribunal vide its order dated 21.01.2020. Pursuant thereto, this Hon'ble Tribunal suto moto took M.A.No.4 of 2024 in O.A.No.74 of 2017 for implementing the order dated

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07.02.2024 passed by the Hon'ble Supreme Court of India. In that behalf, the said sum of Rs.8.00 crores was remitted to the Central Pollution Control Board in terms of the order dated 21.01.2020 and a Memo to that effect was filed before this Hon'ble Tribunal on 16.07.2024 and the same was duly taken on record.

4. On 19.05.2023 when the Civil Appeal was listed for hearing, it was represented on behalf of the Respondents 3 and 4 therein that an inspection is going to take place on 03.06.2023 as regards the delirious effect on the construction as also on other terms on which such inspection is to be carried on. It is pertinent to bring to the notice of this Hon'ble Tribunal that in its 369th meeting held on 20.04.2023, the 2nd Respondent decided to constitute a sub-committee to make onsite inspection to assess the present status of the proposed project, environment settings and to assess the ecological assessment.

5. I state that in terms of the representation made before the Hon'ble Supreme Court of India made on 19.05.2023, the sub-committee constituted by the 2nd Respondent conducted inspection of the project. The sub-committee after visiting the site, submitted damage assessment report calculated on the basis of CPCB methodology, SEAC

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methodology and EAC methodology and submitted its report assessing the environmental compensation as Rs.2,77,93,750/=. The report submitted by the sub-committee of the 2nd Respondent was also placed in the 404th meeting of the 2nd Respondent held on 25.08.2023 which is filed as Annexure A-43 along with the instant Appeal. However, for reasons, the 1st Respondent brushed aside the report of the sub-committee stating that the views of the sub-committee holding that the same are only recommendatory in nature and that SEAC takes final decision after considering all aspects including the recommendation of the sub-committee. On that basis, the 1st Respondent proceeded to determine the compensation to the tune of Rs.6.80 crores which is the subject matter of the instant appeal.

6. I state that a counter affidavit was filed on behalf of the respondents before this Hon'ble Tribunal on 18.07.2024 stating that that since the final compensation will be decided by the committee constituted by this Hon'ble Tribunal, the compensation already determined by the 1st Respondent based on the recommendation of the 2nd Respondent may be treated as cancelled subject to the final disposal of the case by this Hon'ble Tribunal. In this regard, I respectfully submit that having conducted the inspection on 03.06.2023 in terms of the representation

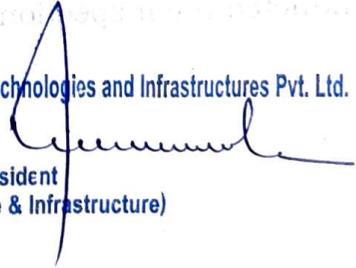
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made before the Hon'ble Supreme Court of India on 19.05.2023 and having tabled the report in its meeting held on 25.08.2023 and recommending the same, cannot be heard to contend that the compensation determined by the 1st Respondent based on the recommendation made by the 2nd Respondent may be treated as cancelled. There is absolutely no justification for rejecting the said recommendation. The said action of the Respondents is totally arbitrary and whimsical.

7. I state that sub-committee of the 2nd Respondent having conducted the inspection on 03.06.2023 and determining the compensation to the tune of Rs.2,77,93,750/=, there was no necessity to carry out an inspection after 10 years. The said committee had followed the methodology for arriving at the environmental compensation. As a matter of fact, when the appeal was taken up for hearing on 04.12.2024, it was argued that there is no necessity for conducting an inspection at this distance of time. However, directions were given by this Hon'ble Tribunal to the Joint Committee to conduct the inspection and submit its report. The joint committee should have also considered the report placed in the 404th meeting of the 2nd Respondent held on 25.08.2023

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before arriving at the environmental compensation pursuant to the inspection on 24.01.2025.

8. I state that on 24.01.2025, the Joint Committee conducted the inspection to assess the actual environmental compensation payable by the project proponent. During the inspection, a request was made to the Joint Committee to calculate the environmental compensation based on the project cost as per the auditor certificate provided by the project proponent. The Joint Committee adopted two approaches for determining the compensation viz., (1) calculation based on project cost as per the auditor certificate provided by the project proponent (2) calculation based on the sale value of the total flats as per the registered documents. While calculating the compensation adopting the 1st approach, the compensation payable was Rs.2.78 crores. The compensation determined by the Joint Committee adopting the 2nd approach was Rs.5.38 crores. On 12.02.2025, a report was submitted by the Joint Committee opining that this Hon'ble Tribunal may impose as the final compensation the highest figure arrived among the above approaches or the interim compensation levied by this Hon'ble Tribunal.

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9. In this regard, I respectfully submit that the determination of environmental compensation by the Joint Committee on the basis of the sale price of the 434 units is incorrect and the same is contrary to the judgment of the Hon'ble Supreme Court of India reported in (2018) 5 SCC 257. In the said judgment, the Hon'ble Apex Court held that damage/compensation shall be levied at the rate of 5% of the project cost. The cost of the project in the instant case is Rs.55.55 crores. Applying the ratio of 5% as stated above, the environmental compensation payable by the project proponent is Rs.2.78 crores. In this regard, it will be useful to refer to the recommendations of the sub-committee of the 2nd Respondent determining a sum of Rs.2.77 crores. On the contrary, the Joint Committee determined the quantum of environmental compensation taking into consideration the sale price/value of the entire 435 flats, and arrived at a sum of Rs.5.38 crores. The determination of environmental compensation by the Joint Committee on the basis of sale price/value of the 434 flats is wholly arbitrary and unreasonable. It is submitted that while arriving at the project cost, the Committee ought not to have included the land cost because the land was belonging to the Appellant only.

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10. I submit that the Joint Committee ought to have obtained third party valuation through the Public Works Department. However, for reasons which are not germane, the Joint Committee did not obtain the valuation from the Public Works Department. In this regard, I state that a similar issue came up for consideration before this Hon'ble Tribunal in O.A.No.162 of 2015 with regard to calculation of environmental compensation. In the said case, the Joint Committee obtained valuation from the Public Works Department and the recommendations of the Joint Committee was accepted by this Hon'ble Tribunal applying the ratio of the decision reported in 2018 (5) SCC 257. However, in the instant case, for reasons best known to it, the Joint Committee did not obtain the valuation from the Public Works Department and proceeded to determine the compensation on the basis of the sale price/value of the 435 flats (including the value of the land). The Joint Committee ought to have obtained the third party valuation from the PWD for determining the project cost and grossly erred in determining the environmental compensation on the sale price/value of the flats numbering 435.

11. At the risk of repetition, I am advised to state that the Hon'ble Supreme Court in the decision as stated supra, held that 5% of the

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project cost shall be taken into account for arriving at the environmental compensation. While adopting the ratio of the Hon'ble Supreme Court of India, the environmental compensation payable by the project proponent is Rs.2.78 crores viz., Rs.55.55 x 5% of the project cost. The methodology adopted by the Joint Committee taking into consideration the sale price of the flats is erroneous. The further recommendation of the Joint Committee to impose the interim environmental compensation is unreasonable and arbitrary. The project proponent is liable to pay the environmental compensation on the basis of the project cost to the tune of Rs.2.78 crores and not the amount determined by the Joint Committee adopting Approach 2.

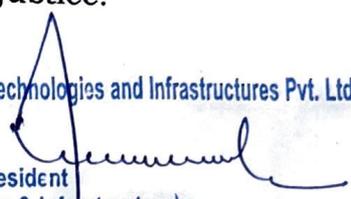
12. I state and submit that applying the ratio laid down in the judgment reported in 2018 (5) SCC 252 and the order of this Hon'ble Tribunal in O.A.No.162 of 2015 dated 13.01.2021, the project proponent is liable to pay environmental compensation at the rate of 5% of the project cost only and the environmental compensation cannot be levied on the basis of sale price/value of the flats.

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For the reasons stated above, it is prayed that this Hon'ble Tribunal may be pleased to take the objections on record and pass appropriate orders in the circumstances of the case and render justice.

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Vice President
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Solemnly affirmed at Chennai
this the 17th day of March, 2025
and signed his name in my
presence

BEFORE ME,


Advocate, Chennai

1001/2020/
29/ March
u/c/
Ch-602

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GREEN TRIBUNAL, CHENNAI**

Appeal No.39 of 2024

**OBJECTIONS TO THE
INSPECTION REPORT OF THE
JOINT COMMITTEE**

M/s. RITA CHANDRASEKAR

COUNSEL FOR APPELLANT

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