

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

SOUTHERN ZONE, CHENNAI

APPEAL NO. 66 & 67 OF 2024

M/s GKN Food Products Pvt., Ltd.,
Rep by its Managing Director
N. Sivamurugeswara Pandian
Theni District, Pin: 625 534
8610159425,
Email ID: info@velumaranlaw.com

..... Appellant

-Vs-

1. The Tamil Nadu Pollution Control Board,
Rep by its Chairman,
100, Anna Salai, Guindy,
Chennai - 600 032 & others.

...Respondents

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Advocate
Thiru.S. Sai Sathya Jith,
Advocate, Chennai.

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-Vs-

1. The Tamil Nadu Pollution Control Board,
Rep by its Chairman,
100, Anna Salai, Guindy,
Chennai - 600 032.
Tel No: 044-22353134-134
Email ID: tnpcb-chn@gov.in
2. The District Environmental Engineer,
Tamilnadu Pollution Control Board,
15-412A-3,SAR Complex,
Boothipuram Road
Theni.
Tel No: 04546-264426,
Email ID: deeten@tnpcb.gov.in
3. Rajsree Sugars & Chemicals
Rep by its Chief Financial Officer
C.S. Sathiyarayanan
Unit -1, Varadaraj Nagar,
Periyakulam Taluk,
Theni District. Pin: 625 562
Tel No: 442-2580981,
Email ID: rscl@rajshreesugars.com

.... Respondents

REPORT FILED ON BEHALF OF THE FIRST AND SECOND RESPONDENTS - TAMIL NADU POLLUTION CONTROL BOARD

I, S.Malarvizhi, Daughter of Thiru. K. Subburam, aged about 58 years, having office at No.76, Mount Salai, Guindy, Chennai 600 032 do hereby solemnly affirm and sincerely state as follows:

1. I submit that I am working as the Joint Chief Environmental Engineer, Tamil Nadu Pollution Control Board, Chennai and I am authorized to file this report on behalf of the first and second Respondents and as such I



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am well acquainted with the facts of the case from the records available in our office.

2. It is respectfully submitted that the appellant has filed this Appeal with the prayer to set aside the order passed by the Hon'ble Appellate Authority dated 13.08.2024 in Appeal Nos. 65 of 2023 and also to grant an order of interim stay against the order passed by the Hon'ble Appellate Authority in Appeal Nos. 65 & 66 of 2023 by its order dated 13.08.2024, pending disposal of the present Appeal.
3. It is respectfully submitted that the appellant unit M/s GKN Food Products Private Limited (Previously GKN Food Products) located at S.F. No. 892/3A of Kodangipatti Village, Bodinaickkaur Taluk, Theni District has applied for Consent to Establishment of the Board to manufacture Jaggery powder of 70 Tons/Month and Jaggery cake of 30 Tons/Month through OCMMS on 14.12.2020. Based on the application, the unit was inspected on 16.12.2020 and found that the unit has established an industrial shed and office buildings without obtaining prior consent to establish of the Board. The DEE, Theni, the second respondent herein has issued a Show Cause Notice dated 22.12.2020 under section 25 of the Water (Prevention and Control of Pollution) Act 1974 as amended and Air (Prevention and Control of Pollution) Act 1981 as amended to the Appellant unit for establishing the unit without obtaining prior consent of the Board.
4. It is respectfully submitted that appellant unit in its reply letter dated 28.12.2020, stated that they have applied for consent through OCMMS vide application No, 35115377 and assured that they will not carry out further establishment before obtaining Consent To Establishment order from the Board. The appellant unit was again inspected on 18.01.2021 and the Consent to Establishment application was placed before DLCCC meeting and the unit's application for the "Consent To Establishment" was rejected by the Committee, for the following reasons and the same was communicated to the Managing Partner of the appellant unit vide O/o. DEE proceeding No F.0836TEN/OS/DEE/TNPCB/25/W&A/2021 dated on 29.01.2021.



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- 1) *The unit started its construction activities to establish their industrial plant in an Agricultural land without obtaining "Consent To Establishment" of the Board.*
 - 2) *The unit has not furnished any approved building plan/building permit obtained from Competent Authority to establish the industry, at S.F.No. 892/3A of Kodangipatti Village, Bodinaickanur Taluk, Theni District, which is a non-planned area as per the letter issued by the Assistant Director, Directorate of Town and Country Planning, Theni dated 09/11/2020.*
 - 3) *The unit's site is located adjacent to three numbers of houses with a build-up area of approximately 250 – 350 sq. feet each, on western side, and a distance of 40 m from the Sadayalpatti area of Kodangipatti revenue village on southern side, which is having population of nearly about 500 numbers.*
5. It is respectfully submitted the Managing Partner of the unit M/s GKN Food Products preferred an appeal before the Hon'ble Appellate Authority, against the order issued by the Tamilnadu Pollution Control Board for its rejection of application seeking "Consent To Establishment" vide Appeal No. 10 & 11 of 2021. The Hon'ble Appellate Authority in its order dated 06.10.2021 set aside the rejection order issued by the Board vide proceedings dated 29.01.2021 and directed the Board to grant CTE-NEW to the unit, M/s GKN Food Products for establishing their jaggery manufacturing unit in the area concerned with any general and/or special condition as they deem fit and proper.
6. It is respectfully submitted that the Joint Director of Agriculture, Theni vide its letter dated 17.08.2021 stated the following;

"Further during inspection carried out, in person, by the Joint director of Agriculture, along with the Revenue Department, in the aforesaid land on 16.08.2021, it became evident that the building of large scale for the Mill, was constructed in the aforesaid land and

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that the work of installing, the machines for the Mill was carried out. Therefore, the question of getting No objection Certificate of the Joint Director of Agriculture, for converting the dry land in this case for Non-Agricultural Purpose” cannot be raised for the above said reasons”.

7. It is respectfully submitted that in subsequent to the orders passed by the Hon’ble Appellate Authority, the unit M/s GKN Food Products submitted an application for consent to establishment and obtained CTE form the Board vide Proc.No.F.0836TEN / OS / DEE / TNPCB / TEN / W&A / 2021 dated 27.10.2021.

8. It is respectfully submitted that aggrieved by the same the 3rd respondent herein, M/s Rajshree Sugars and Chemicals limited, situated at Kullapuram Village, Periyakulam Taluk, Theni District filed an appeal in Appeal No. 73 & 74 of 2021 before the Hon’ble NGT (SZ) and the Hon’ble National Green Tribunal (Southern Zone), Chennai vide its order dated 25.10.2021 in Appeal No. 73 of 2021 (SZ) & Appeal No. 74 of 2021 (SZ) directed that

“the order passed by the Appellate Authority in Appeal No.10 and 11 of 2021 was set aside and further it was directed that the Consent to Establish issued by the Tamil Nadu Pollution Control Board to the 1st Respondent herein to be kept in abeyance till next hearing date (i.e. 22.11.2021).”

The order above of Hon’ble National Green Tribunal (SZ) dated 25.10.2021 in the matter of Appeal No. 73 & 74 of 2021 was received in the O/o. DEE, Theni, 2nd respondent herein through email on 30.10.2021.

9. It is respectfully submitted that before receiving the order of the Hon’ble National Green Tribunal (SZ), “Consent to Establish” was issued to the unit M/s GKN Food Products on 27.10.2021 as per the orders of the Hon’ble Appellate Authority order dated 06.10.2021. However, the copy of the order of the Hon’ble National Green Tribunal (SZ) was communicated to the appellant unit M/s GKN Food Products vide O/o. DEE, TNPCB, Theni letter dated 01.11.2021. The Hon’ble National Green Tribunal (SZ) by its order dated 28.01.2022 allowed the appeals

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11. It is respectfully submitted that the appellant submitted a Demand Draft for Rs. 2,65,625/- (Rupees Two Lakhs Sixty five Thousands Six Hundred and Twenty Five only) towards Environmental Compensation as directed by the Board vide its letter dated 05.01.2023. The unit has obtained Punjai land releasing report dated 16.05.2023 from Joint Director of Agriculture, Agriculture – Farmer Welfare Department in which it was stated that *“the Punjai land in the said survey number is not suitable for agriculture, and considering the request of the land owner, it is declared to be used for non-agricultural purposes”*. The Assistant Director, Director of Town and Country Planning, Theni district has given technical sanction for the construction of Jaggery Food Factory vide permission letter dated 30.09.2022.
12. It is respectfully submitted that the Assistant Director of District and Town Planning, Theni District vide its letter dated 18.11.2022 stated that the said survey Nos 392/3A and 393/13 comes under Non-planned area. The unit submitted new application on 21.12.2022 for Consent to Establish along with certificates obtained from Joint Director of Agriculture, Agriculture – Farmer Welfare Department, Assistant Director, Director of Town and Country Planning, Theni and obtained CTE-New from the Board vide Proc.No.F.0836TEN /OS /DEE /TNPCB /TEN /A&W/2023 dated 13.01.2023.
13. It is further submitted that the Assistant Director, District Urban Development office, Theni vide its letter dated 09.07.2024 informed that the unit's location at S.F. No. 892/3A of Kodangipatti Village, Bodinaickkaur Taluk, Theni District is non – planned area and the Joint director of Agriculture, Theni vide letter dated 17.08.2021 observed that the land can be utilized for non – agricultural purpose and relying on the above facts, the Theni District Urban Development Assistant Director has granted technical approval to the unit.
14. It is respectfully submitted that after completing the establishment works, the unit has submitted an application for CTO after CTE along with name change on 13.05.2023 and obtained CTO after CTE order from the Board vide Proc.No.F.0836TEN/OS/DEE/TNPCB/TEN/W&A/2023



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dated 20.05.2023 in the name of M/s GKN Food Products Pvt., Ltd., with validity up to 31.03.2033.

15. It is respectfully submitted that the 3rd respondent aggrieved by the CTO- after CTE orders of the Tamilnadu Pollution Control Board issued to the appellant unit filed an Appeal No.65 & 66/2023 before the Hon'ble Appellate Authority and obtained following interim order dated 07.06.2023,

"..The Hon'ble National Green Tribunal on an application filed by the appellant has set aside the Consent to Establish granted in favour of the 3rd respondent on the ground that the 1st respondent shall consider the conversion of lands for non agricultural purposes and then to grant consent. However, prima facie it appears that conversion of land has not happened. The Consent to Establish and Consent to Operate granted by the respondent-Board does not refer to the order passed by the Hon'ble National Green Tribunal (SZ).

Considering the above facts, an order of stay is granted till 14.6.2023..."

16. It is respectfully submitted that the unit by its letter dated 04.07.2023 annexed the following interim order dated 28.06.2023 passed by the Hon'ble Appellate Authority,

"5. Accordingly, the interim order stands suspended and the matter will be decided at the time of final disposal."

17. It is respectfully submitted that the Assistant Director, District Urban Development Office, Theni vide its letter dated 09.07.2024 stated that

"...the aforesaid non-plan area, comprised in the dry land site and observing therein, that it could be utilized for purposes other than agriculture, upon which the blue print for the factory measuring an extent of 1836.19 sq.metres comprised in the aforesaid survey numbers (Jaggery Food Factory)..."

18. It is respectfully submitted that the Hon'ble Appellate Authority passed its final order on 13.08.2024 as follows,

"...20. Therefore, it is very clear that the reason for granting exception for converting land from agricultural use to non agricultural use should



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have been recorded by the authorities for issuing a conversion certificate. We have not come across any such records, much less of specific order for conversion produced before the 1st and 2nd respondents or before this Authority for consideration. In that event, we consider the specific direction mandated by the Hon'ble National Green Tribunal in its order in Appeal No: 73 & 74/2021 dated 28.8.2022 has not been complied with and no order of conversion has been obtained by the 3rd respondent for getting consent to operate.

In such circumstance, the order passed by the respondent-Board is violative of the directions issued by the Hon'ble National Green Tribunal and does not stand the test of scrutiny of law."

19. It is respectfully submitted that in compliance to the orders of the Hon'ble Appellate authority by its order dated 13.08.2024 passed in Appeal No. 65 & 66 of 2023, the CTE & CTO issued to the unit, M/S. G.K.N Food products private limited (Previously GKN Food products) vide proceedings dated 30.01.2023, 20.05.2023 respectively is revoked by the 2nd respondent vide proceedings No. TNPCB/F.0836/OS/TEN/Revocation of consent order / W &A/ 2024 dated 27.11.2024 and the same was intimated to the concerned unit.

Therefore, it is prayed that this Hon'ble National Green Tribunal (SZ) may be pleased to pass such order or further orders or other orders as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of this case and thus render justice.



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VERIFICATION

I, S.Malarvizhi, Daughter of Thiru. K.Subburam, working as the Joint Chief Environmental Engineer, Tamil Nadu Pollution Control Board, having office at No.76, Mount Salai, Guindy, Chennai 600 032, do hereby verify that the contents of above are true to the best of my knowledge through records.



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RESPONDENTS - TAMIL NADU
POLLUTION CONTROL BOARD**

**Advocate for Respondent: TNPCB
Thiru.Sai Sathya Jith,
Advocate, Chennai.**

Date:17.12.2024

Date of Hearing on:23.01.2025

