

BEFORE THE NATIONAL GREEN TRIBUNAL

SOUTHERN ZONE, CHENNAI

Appeal No. 80 of 2022 (SZ)

In the matter of

Anaithu Vivasaykalin Kanimavala, Neervalu,
Sutrusoolal Padhukapu Iyakam,
Virudhunagar District and Anr.

...Appellant(s)

Versus

Ministry of Environment, Forests &
Climate Change & Others

...Respondent(s)

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Through

Dr. D. Shanmuganathan

Standing Counsel of TN

National Green Tribunal

Southern Zone

DATE 03.02.2026

IN THE HONOURABLE NATIONAL GREEN TRIBUNAL

(SOUTHERN ZONE)

Appeal No.80 of 2022 (SZ)

In the matter of:

Anaithu Vivasayikalin Kanimavala, Neervalu,

Sutrusoolal Padhukappu Sangam.

... Appellant(s)

- Versus -

The Secretary,

Ministry of Environment, Forests &

Climate Change & Others

... Respondent(s)

WRITTEN SUBMISSIONS OF THE 4TH RESPONDENT

WATER RESOURCE DEPARTMENT

CHRONOLOGY

1) Environmental Clearance	25-08-2022
2) Environmental Clearance Issued on	10-09-2022
3) Original Application No.133 of 2022	07-10-2022
4) Original Application No. 133 of 2022	29-11-2022
5) Appeal No. 80 of 2022 filed	22-12-2022

The Appellants approached this Hon'ble Tribunal seeking for the following relief by way of an Application, (O.A No.13 of 2022). On 29-11-2022, the following order was made:

1. The Environmental Clearance (EC) which is under challenge was issued on 25-08-2022 and this Original Application has been filed, challenging the same on 07-10-2022, which is well within the period of limitation prescribed under the National Green Tribunal

Act, 2010. However, the same should have been filed as an Appeal instead of Original Application.

2. The Learned Counsel for the Applicant is directed to convert this as an Appeal and file it with a delay condonation application, if any.
3. After conversion, let the same may be listed for admission.

It is important to note that the Applicant did not challenge the environmental clearance dated 25-08-2022, on the other hand, they sought to enforce the order of the Hon'ble High Court of Madras at Madurai Bench.

PRAYER SOUGHT IN APPEAL NO. 80 OF 2022 (SZ)

For the reasons stated above, it is humbly prayed that this Hon'ble Tribunal may be pleased to:

- (A) Call for the records pertaining to the Environment Clearance granted in EC identification number EC22B001TN154780 file number 9625. (SEIAA-TN/F.No.9265/EC.1(a)/5226/2022 dated 25.8.2022) issued on 10-09-2022 and to stay the operation of the clearance till complying the orders of the Hon'ble Madurai Bench of the Madras High Court in W.P.(MD) No.20903 of 2016 etc., batch dated 12-02-2021 and
- (B) Pass such further order or other orders as may be fit proper and necessary in the facts and circumstances of the case and thus render justice.

On 29-11-2022, this Hon'ble Tribunal, in this order categorically stated that the applicant in their application were challenging the Environmental Clearance dated 25-08-2022, Neither in the O.A.133 of 2022 prayer, nor in the present Appeal No.80 of 2022, Environmental Clearance was never challenged by the Applicants/Appellants, in accordance with Section 16 (h) of the National Green Tribunal Act 2010.

- (C) According to Sec. 16 - Tribunal to have appellate Jurisdiction any person aggrieved by;

Section 16 (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);

(D) The Hon'ble Tribunal has permitted the proposed Appellants to convert their application O.A. No. 133 of 2022 as an Appeal. Prayers sought for in the O.A. No. 133 of 2022 and in the Appeal No. 80 of 2022 were more or less the same. The prayer in Appeal No. 80 of 2022 does not fall within the scope of section 16(h) NGT Act 2010.

LIMITATION:

1. As ordered by this Hon'ble Tribunal on 29-11-22, the appellants filed the present appeal on 22-12-2022. The Environmental clearance dated 25-08-2022 was issued to the fourth respondent herein on 10-09-2022. Hence, the limitation starts from 10-09-2022.
2. According to the NGT Act, Section 16 prescribes as follows for the limitation;

“Within a period of thirty days from the date on which the order or description or direction or determination is communicated to him, prefer an Appeal to the Tribunal”.
3. As against the Environmental clearance date 10-09-2022, appellants filed an application O.A. No.133 of 2022 on 07-10-2022. The Hon'ble Tribunal observed limitation was not expired at the time of filing of the Original Application in other word; it was well within the limitation period.
4. Even though the Applicants were permitted to convert their present Application into an Appeal, the Appellants filed this Appeal on 22-12-2022.

BREAK DOWN OF DATES:

- | | |
|----------------------------|------------|
| 1. Environmental Clearance | 10-09-2022 |
| 2. 30 days expired on | 09-10-2022 |

a) Section 16 of NGT Act 2010, further states,
“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”.

b) The Hon’ble Tribunal observed on 29-11-2022 in O.A No. 133 of 2022 as follows:

(2) The Learned Counsel for the applicant to convert this as an appeal and file it with a delay condonation application, if any.

The appellants pleaded in their present Appeal No. 80 of 2022.

According to the Appellant they claim as follows that the Appeal was filed within the limitations. They claimed as follows;

LIMITATION

- (I) The appeal declares that as per the National Green Tribunal Act 2010 this appeal is well, within the prescribed time as the preliminary works for the Commissioning of the purposed sand quarrying had not yet commenced.
- (II) Appeal applied under Section 16(h) of the National Green Tribunal Act, 2010.
- (III) Appeal made under section 18(1) of the National Green Tribunal Act, 2010.
- (IV) Appeal in Form I made as per rule 8(1) of the National Green Tribunal (Practice & Procedure) Rules, 2011.

1. As mentioned above, 30 days to file appeal commenced on 10-9-2022 and the same was expired on 09-10-2022. Thereafter 60 days period

started from 10-10-2022, and was over on 8th December, 2022. The appellants filed their present appeal only on 22 December, 2022.

2. It is important to note that the appellants were represented by their Counsel. But in O.A No. 133 of 2022 and in the present Appeal No. 80 of 2022.
3. The appellants did not file an application to condone the delay, nor they filed their appeal on or before 8th December, 2022, in other words 90 days period expired on that day.
4. The present appeal is filed beyond 90 days period, which is in violation of Section 16 of the NGT Act 2010. This Tribunal is invited to dismiss this appeal with costs.



DATE: 06.10.2023

STANDING COUNSEL FOR
GOVERNMENT OF TAMIL NADU
(For 4th Respondent)