

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
APPEAL NO. 55 OF 2026**

IN THE MATTER OF:

Harduaganj Thermal Power Station

...Appellant

VERSUS

Commission For Air Quality Management
In National Capital Region and Adjoining
Areas & Ors.

... Respondents

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24. Proof of Service

400

New Delhi
Dated: 13.07.2026

Filed By

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**COUNTER AFFIDAVIT ON BEHALF OF THE
COMMISSION FOR AIR QUALITY MANAGEMENT IN
NATIONAL CAPITAL REGION & ADJOINING AREAS,
RESPONDENT NO. 1**

I, Ritesh Prasad Gurung aged about 47 years, S/o Shri Dhruba Gurung, working as Scientist 'E' in the Commission for Air Quality Management in National Capital Region and Adjoining Areas, New Delhi (hereinafter referred to as 'Commission') having office at 17th Floor, Jawahar Vyapar Bhawan, STC Building, Tolstoy Marg, New Delhi – 110001, do hereby solemnly affirm and state as under:

1. That I, in the capacity of Scientist 'E' of the Commission for Air Quality Management in National Capital Region and Adjoining Areas, am fully conversant with the facts of

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Commission for Air Quality Management in NCR & Adjoining Areas
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the case and competent to swear this affidavit on behalf of respondent no. 1.

2. That the appellant *vide* its appeal has challenged the direction bearing F. No. 120015/25/TPP/CAQM/(UPRVUNL)-1594DT dated 01.04.2026 issued by the Commission for Air Quality Management in National Capital Region and Adjoining Areas (hereinafter referred to as "Commission") imposing Rs. 2,74,03,497/- as Environmental Compensation (hereinafter referred to as "EC") on the appellant under Rule 3 of the Environment (Utilisation of Crop Residue by Thermal Power Plants) Rules, 2023 (hereinafter referred to as "Rules, 2023"), read with Section 12 of the Commission for Air Quality Management in National Capital Region and the Adjoining Areas Act, 2021 (hereinafter referred to as "CAQM Act") for non – compliance or contravention of the provisions of the aforesaid rules with respect to mandatory use of a minimum five percent blend of pellets or briquettes made of crop residue, along with coal. The copy of CAQM Act, 2021 is annexed herein as **ANNEXURE-I**. The copy of Rules, 2023 is annexed herein as **ANNEXURE-II**.

That, it is respectfully submitted that as per Section 12(2)(xi) of the aforesaid CAQM Act empowers the Commission to issue directions in writing to any person,



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officer or any authority, which includes power to direct closure, prohibition or regulation of any industry, operation or process and also includes stoppage or regulation of supply of electricity or water or any other service. It is further submitted that Commission is empowered to take all such measures and issue directions as it deems necessary or expedient for the purpose of protecting and improving the quality of the air in the National Capital Region and Adjoining Areas.

4. That, it is respectfully submitted that paddy stubble burning continues to pose a serious environmental challenge and remains a significant contributor to the deterioration of air quality in the Delhi National Capital Region (hereinafter referred to as "NCR"). The Commission had rigorously taken up-co-firing of biomass/pellets in coal based Thermal Power Plants (hereinafter referred to as "TPPs") as viable and major alternate to control stubble burning and to mitigate air pollution. Therefore, it was felt by the Commission to promote and create an eco-system for ex-situ crop residue management through biomass utilization in TPPs. It is further submitted that to promote the use of biomass pellets, the Ministry of Power (hereinafter referred to as "MoP"), Central Electricity Authority (hereinafter referred to as "CEA"), issued an Advisory dated 24.11.2017 to all

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coal-based TPPs in India, including Central, State and Public and Private sector Power Utilities. The Advisory stipulated that such plants shall endeavour to use a 5–10% blend of biomass pellets, primarily derived from agro-residues, along with coal. The copy of Advisory dated 24.11.2017 issued by MoP, CEA to all coal-based TPPs in India is annexed herein as **ANNEXURE-III**.

5. That, it is respectfully submitted that the Commission seeing the urgency and criticality actively pursued the matter of ex-situ utilisation of stubble-based biomass pellets in TPPs located within 300 kms radius of Delhi, engaging with the State Governments of Punjab, Haryana and other NCR States. It is further submitted that the Commission after extensive deliberations had issued Advisory No(s) 5-7 dated 28.07.2021 to the State Governments of Haryana, Punjab and Uttar Pradesh regarding “Ex situ stubble management for tackling the problem of stubble burning,” specifically emphasizing utilization of paddy straw in TPPs for co-firing. The copy Commission’s Advisory No(s) 5-7 dated 28.07.2021 is annexed herein as **ANNEXURE-IV**. The Commission, reviewed the issue of co-firing of biomass pellets with the concerned stakeholders and keeping in view the successful trials and experimentation of NTPC regarding the feasibility to co-fire bio-mass pellets / torrefied pellets with



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coal in proportion up to 5-10% in the TPPs, without any modifications in the boilers, issued Statutory Direction No. 42 dated 17.09.2021 to TPPs situated within a radius of 300 km of Delhi mandating co-firing of biomass based pellets up to 5-10 % substituting coal with immediate effect. The copy of Commission's Direction No. 42 dated 17.09.2021 is annexed herein as **ANNEXURE-V**.

6. That, it is respectfully submitted that the progress of compliance of Direction No. 42 dated 17.09.2021 has since been continuously monitored and reviewed by the Commission through a series of meetings, including the meetings held on 15.03.2022, 14.09.2022, 25.04.2023, 22.09.2023, 10.01.2024, 21.02.2024, 13.03.2024, 20.06.2024, 30.08.2024, 08.10.2024, 21.10.2024, and 22.01.2025. These meetings involved TPPs and stakeholder agencies such as Sustainable Agrarian Mission on use of Agri-Residue in TPPs (hereinafter referred to as "SAMARTH") and officials from the MoP / CEA. It is further submitted that during these reviews plant-wise performance gaps were examined based on inputs received from SAMARTH and the concerned TPPs. Specific observations, corrective measures and operational requirements were communicated to the respective TPP representatives. Additionally, SAMARTH, CEA and the MoP were periodically requested to undertake necessary

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facilitative and corrective actions to ensure effective compliance.

7. That, it is respectfully submitted that in the review meetings, several issues relevant to the non-compliance and sub optimal performance of the concerned TPPs and associated agencies were examined and deliberated upon, as outlined below:

- i. The concerned authorities were advised to devise advance procurement mechanisms for biomass pellets. It was also discussed that the Principal Secretaries (Environment) of Governments of Haryana, Punjab and Uttar Pradesh may be designated as Nodal Officers for monitoring progress and utilization of biomass co-firing in their respective States.
- ii. The Government of Uttar Pradesh informed that biomass pellets had been incorporated into its Biofuel Policy (2022) and that initiatives had already been undertaken to secure pellet procurement for co-firing purposes.
- iii. It was observed that pellet procurement through tendering remained substantially far from satisfactory levels. Accordingly, during the stakeholder meetings organized by MoP on 03.10.2022 and 15.02.2023, TPPs were strongly advised to establish their own pellet manufacturing plants and to expedite short-term



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procurement processes to secure at least 5% co-firing. Concerned agencies were also advised to expedite subsidy schemes and financial facilitation mechanisms to support pellet manufacturing plants. The copy of the minutes of meeting of the stakeholder meetings organized by MoP is annexed herein as **ANNEXURE-VI**.

8. That, it is respectfully submitted that in order to strengthen the biomass pellet supply chain and improve the compliance status of TPPs, the Commission, issued its Advisory No. 11 dated 30.08.2023 for adoption of the benchmark pricing mechanism to substantially scale up biomass co-firing in TPPs, thereby ensuring effective implementation of Statutory Direction No. 42 in its true letter and spirit. The copy of the Commission's Advisory No.11 dated 30.08.2023 is annexed herein as **ANNEXURE-VII**.
9. That, it is respectfully submitted that Ministry of Environment Forest and Climate Change (hereinafter referred to as "MoEF&CC") has notified Rules, 2023 read with Corrigendum GSR 522(E), dated 18.07.2023 which are applicable to National Capital Region and the Adjoining Areas as defined respectively in clauses (f) and (a) of sub-section (1) of section 2 of the CAQM Act. It is further submitted that, Rule 2 of the Rules, 2023 mandates

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coal based TPPs of power generation to utilise a minimum five per cent (min. 5%) blend of pellets or briquettes made of crop residue along with coal and Rule 3 of the Rules, 2023 also empowers the Commission or its authorized officer to impose and collect the EC from non-compliant TPPs on annual basis for non-utilisation of crop residue as per Rule 2 of the Rules, 2023.

10. That, it is respectfully submitted that the issue was considered by the Hon'ble Supreme Court in M.C. Mehta v. Union of India W.P. (Civil) No. 13029 of 1985, wherein the Hon'ble Court, vide order dated 13.12.2023, inter alia, directed the MoP *"To ensure that all Thermal Power Plants (TPPs) within range of 300 km of Delhi and all captive TPPs implement the CAQM direction for co-firing minimum 5% of biomass along with coal."* The copy of the Hon'ble Supreme Court's order dated 13.12.2023 in Writ Petition (Civil) No. 13029 of 1985 M.C. Mehta Vs. Union of India and ors., is annexed herein as **ANNEXURE-VIII**.
11. That, it is respectfully submitted that the Commission, vide letter dated 26.12.2023 informed the Secretary, MoP, that despite regular monitoring and follow-ups by the Commission and the MoP the progress made by the TPPs is far from adequate. The copy of the Commission's letter dated 26.12.2023 is annexed herein as **ANNEXURE-IX**. The Commission reviewed the compliance status in the



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meeting held on 10.01.2024 and recorded that certain TPPs exhibiting persistently poor or average performance were required to immediately rectify deficiencies and ensure adherence to mandated targets. It was categorically reiterated that failure to achieve the prescribed co-firing targets would attract imposition of EC in accordance with the notified schedule under the Rules, 2023, without prejudice to any other legal action. It is further submitted that, the Commission thereafter escalated the matter to the Chief Secretaries of Punjab, Haryana and Uttar Pradesh vide communications dated 09.02.2024 and 13.02.2024, seeking appropriate cognizance and intervention at the highest administrative level to ensure compliance by the concerned TPPs. The copy of the Commission's Communication dated 09.02.2024 and 13.02.2024 is annexed herein as **ANNEXURE-X**.

12. That, it is respectfully submitted that in view of the persistently poor performance, the Commission on 21.02.2024 sent communication to the Plant Heads / In-charges of Harduaganj Thermal Power Station (hereinafter referred to as "HTPS") to submit its action plan. The copy of the Commission's communication dated 21.02.2024 issued to HTPS is annexed herein as **ANNEXURE-XI**. Further, HTPS submitted its reply vide letter dated 28.02.2024. The copy of the HTPS reply dated 28.02.2024

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is annexed herein as **ANNEXURE-XII**. The progress was reviewed by the Commission on 21.02.2024 and 13.03.2024 wherein it was observed that, cumulatively, only 4.83% of the overall co-firing target for 2024 had been achieved by eleven (11) TPPs up to February 2024, which was grossly inadequate and not at all satisfactory. The reiterated that continued non-compliance would attract levy of EC in the ensuing financial year, without prejudice to any other appropriate legal action.

13. That, it is respectfully submitted that during 2024 overall implementation was further assessed through a High-Level Joint Inspection conducted by senior officials of the Commission, the CEA, MoP and SAMARTH. Based on the findings of the Joint High-Level inspection, the Commission reiterated specific action points to MoP and SAMARTH vide communications dated 03.06.2024 and 24.07.2024 under intimation to the concerned State Pollution Control Boards (hereinafter referred to as "SPCBs"). The Commission emphasized the need for strict compliance with the 2023 Rules by fostering co-firing efforts through intensified monitoring, scaling up of production and utilization, strengthening of supply chains, and augmentation of manufacturing capacity for both torrefied and non-torrefied biomass pellets. The copy of



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the Commission's communication dated 03.06.2024 and 24.07.2024 is annexed herein as **ANNEXURE-XIII**.

14. That, it is respectfully submitted that considering the progress made, the Commission convened further review meetings on 21.10.2024 and 22.01.2025 and issued specific action points to ensure compliance with Direction No. 42 and the Rules, 2023. During the review meeting dated 21.10.2024, it was clearly reiterated that failure to comply with statutory mandates would attract coercive action in accordance with applicable provisions. The copy Commission's minutes of meeting dated 21.10.2024 and 22.01.2025 is annexed herein as **ANNEXURE-XIV**.
15. That, it is respectfully submitted that upon completion of FY 2024-25, a joint review was undertaken by MoP, CEA and SAMARTH with respect to eleven (11) TPPs. It was observed that six (06) TPPs, namely Rajiv Gandhi Thermal Power Plant – Hisar, Deenbandhu Chhotu Ram Thermal Power Plant – Yamunanagar, Panipat Thermal Power Station - Panipat, Guru Hargobind Thermal Power Plant – Lehra Mohabbat, Harduaganj Thermal Power Station and Talwandi Sabo Power Limited have failed to achieve the prescribed co-firing mandates.
16. That, it is respectfully submitted that as per the information provided by the MoP, HTPS has co-fired only 43,461.27 Metric Tonnes in 2024-25 against the mandatory co-firing

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target of at least 5%, which clearly establishes the fact that entity has done only about 2.05% of biomass co-firing against a total of 62,238 Metric Tonnes of coal consumed in the year 2024-25, which was in gross violation of the Rules, 2023 on account of the fact that as per Rule 2 "all coal based thermal power plants of power generation utilities shall mandatorily use minimum five per cent blend of pellets or briquettes made of crop residue along with coal" and Rule 3 mandates co-firing of more than 3% for FY 2024-25 i.e. at least 62,238 Metric Tonnes so as to avoid imposition of stipulated environmental compensation. Therefore, due to consistent non-compliance, HTPS has failed to comply with the directives / mandates of the Commission and failed to comply with the statutory mandates under the Rules, 2023.

17. That, it is respectfully submitted that SAMARTH furnished details to the Commission regarding EC applicable to the aforesaid six non-compliant TPPs in terms of the Rules, 2023. As per Rule 3 of the said Rules, TPPs located in NCR and adjoining areas were required to co-fire more than 3% crop residue-based biomass pellets during FY 2024-25 and at least 5% from FY 2025-26 onwards. The Rules prescribe graded EC for failure to achieve the stipulated targets from FY 2024-25 onwards. It is further submitted that, Rule 5 of the said Rules



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राष्ट्रीय राजधानी क्षेत्र और निकटवर्ती क्षेत्रों में वायु गुणवत्ता प्रबंधन आयोग
Commission for Air Quality Management in NCR & Adjoining Areas
भारत सरकार / Government of India
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empowers the Commission to grant relaxation to non-compliant TPPs on a case-to-case basis, in consultation with the CEA and the Central Pollution Control Board (hereinafter referred to as "CPCB"), where non-compliance is attributable to circumstances beyond the control of the concerned TPPs. The Commission to examine representations, if any, seeking relaxation from EC under Rule 5, constituted a Committee on 21.03.2025 comprising representatives of the Commission, CEA, SAMARTH and CPCB, mandating to assess such representations in accordance with the provisions of the Rules and submit its recommendations to the Commission for appropriate consideration. The Committee also granted opportunity of personal hearings to the non-compliant TPPs. The copy of constitution of Committee on 21.03.2025 for relaxation of EC is annexed herein as **ANNEXURE-XV**.

18. That, it is respectfully submitted that the Committee held detailed deliberations on 13.06.2025, 31.07.2025, 26.08.2025, 22.09.2025, 19.01.2026 and 20.03.2026 wherein performance data, compliance status, written submissions and grounds cited for relaxation were examined in depth. During its meetings held on 13.06.2025 and 31.07.2025, the Committee undertook a comprehensive review of the overall performance of all

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eleven (11) identified TPPs for FY 2024–25 vis-à-vis the statutory co-firing targets prescribed under the 2023 Rules. The Committee accorded specific attention to the six (06) non-compliant TPPs. The Committee also evaluated the EC liable to be imposed for non-compliance during FY 2024–25 in accordance with the methodology prescribed under the Environment (Utilisation of Crop Residue by Thermal Power Plants) Rules, 2023. The plant-wise computation of EC, based on verified shortfall and applicable rates, is tabulated below:

S.No.	Name of the Plants	Environmental Compensation (EC) for 2024-25			
		Biomass Co-fired in % consumption	Biomass Pellets % Required @ to be co-fired to be complied with	Environmental Compensation (EC) (in Million Rs.)	
				As per E(GT)	As per ESO (Energy injected into grid)
1	JPL, Jhajjar (Apparva Energy)	4.11 %	>3 %	0.0	0.0
2	NTPC-Dadri	3.79 %		0.0	0.0
3	IGSTPS-APCPL, Jhajjar,	3.66 %		0.0	0.0
4	GGSSTP, Ropar	3.10 %		0.0	0.0
5	NPL (L&T), Rajpura	3.04 %		0.0	0.0
6	Harduaganj TPS.	2.05 %		27.40	24.63
7	RGTPP, Hisar	2.07 %		55.51	51.80



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8	GHTPP Lehra Mohhabbat	2.00 %		48.66	44.52
9	PTPS, Panipat	1.86 %		89.79	80.96
10	DCRTPP, Yamuna Nagar	1.44 %		66.87	60.78
11	TSPL, Mansa	0.36 %		330.26	306.91
Total		-		618.49	569.61

*E(GT)-Electricity Generated at Generator Terminal;
ESO-Energy Sent Out or – Ex-Bus Generation.

19. That, it is respectfully submitted that the Committee decided that opportunity of personal hearing may be provided to all non-compliant TPPs. Accordingly, opportunity of personal hearing was given to all 6 non-complied TPPs. The Committee heard HTPS on 26.08.2025.
20. That, it is respectfully submitted that upon consideration of the written and oral submissions and relevant material placed on record during the hearing, the Committee observed that the explanations and grounds advanced by the HTPS were insufficient to demonstrate that the circumstances leading to non-compliance were beyond their reasonable control within the meaning of Rule 5 of the Rules, 2023. The Committee did not find any material on record which establishes force majeure-like situation or systemic impediment attributable to external factors that could justify relaxation of the statutory mandate.

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21. That, it is respectfully submitted that the Committee had earlier afforded HTPS an opportunity of personal hearing, during which the submissions of HTPS were duly considered and thereafter, with a view to further ensuring that HTPS was provided reasonable and adequate opportunity of hearing to present its case and respond to the proposed action, a Show Cause Notice dated 23.12.2025 was issued proposing the imposition of EC of Rs. 2,74,03,497/- (Two crore seventy-four lakh three thousand four hundred and ninety-seven only), thereby granting a further period of fifteen (15) days from the date of issuance of the said notice to submit its explanation. The copy of the Show Cause Notice dated 23.12.2025 issued by the Commission to HTPS is annexed herein as **ANNEXURE-XVI**.

22. That, it is respectfully submitted that in reply to the Show Cause Notice dated 23.12.2025 HTPS submitted its reply dated 05.01.2026, stating that there was force majeure-like conditions from July, 2024 to August, 2024 as severe monsoon conditions allegedly resulted in excessive moisture in biomass pellets (being hydrophilic in nature), leading to deterioration of Gross Calorific Value (GCV) and operational difficulties in handling and feeding. HTPS in its reply further submitted that due to technical constraints, kanwar yatra restrictions, quality and supply



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issues, procurement related challenges and Litigation constraints led to the non-compliance of the mandated co-firing targets under the Rules, 2023. The copy of the HTPS reply dated 05.01.2026 is annexed herein as **ANNEXURE-XVII.**

23. That, it is respectfully submitted that, HTPS sought exemption from co-firing in its new 660 MW unit, citing subsisting guarantee/ warranty obligations of the Original Equipment Manufacturer (OEM) and technical concerns including chlorine content in biomass, ash fusion temperature, impact on boiler efficiency, auxiliary power consumption and intermittent non-availability of biomass. The technical issues were examined by the CEA and initially, the request for exemption was rejected by CEA vide communication dated 08.07.2024. However, upon re-examination limited to contractual obligations arising out of OEM warranty conditions, CEA granted a one-time exemption up to 31.01.2025 vide communication dated 08.11.2024, strictly in respect of the 660 MW unit.
24. That, it is respectfully submitted that the Committee carefully examined the submissions and relevant records / data and noted as under:
- i. The exemption, if any, was HTPS -specific and did not extend to the remaining three units of its plant. CEA had clarified that chlorine levels in biomass were within

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permissible boiler limits. HTPS continued to generate electricity during the year, thereby undermining the plea of persistent shutdowns or breakdowns. It was further reiterated that any technical relaxation, even if granted by CEA does not dilute or alter the statutory co-firing targets prescribed, nor does it absolve liability for EC in case of non-achievement of the annual mandate.

- ii. The Committee noted that HTPS had initially demonstrated commitment towards co-firing and had shown appreciable progress up to mid-FY 2023–24, as acknowledged in the communication issued by the MoP dated 06.10.2023. However, performance declined significantly thereafter. At the close of FY 2024–25, HTPS achieved only about 2.05% co-firing of annual coal consumption, as against the prescribed target of at least 3% to avoid imposition of EC. During multiple review meetings convened by the Commission during 2023-24 and during the visit of the High-Level Joint Committee (comprising representatives of the Commission, CEA, and SAMARTH) during 2024–25, HTPS was specifically advised to ensure advance procurement planning and assured availability of biomass pellets in order to comply with the notified schedule.



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iii. **Seasonal factors (Monsoon and Kanwar Yatra):**

These were temporary and seasonal disruptions. HTPS failed to demonstrate why such short-term constraints could not be compensated through enhanced co-firing during the remaining months of the year.

iv. **Procurement and supply chain gaps:** HTPS did not

establish that biomass pellet availability in the region was inadequate. It was noted that supply of non-torrefied pellets in the region was generally sufficient. The failure appeared attributable to lack of sustained procurement planning rather than systemic shortage.

v. **Litigation plea:** Upon perusal of orders dated 20.01.2025, 28.02.2025, 10.03.2025, 01.04.2025, 07.04.2025 and 18.04.2025 in Writ-C No. 34248 of 2024 titled *M/s Rajan Construction Company vs. State of U.P. & Ors.*, it was evident that:

- No interim stay or restraint order was granted against the tender floated by HTPS.
- The Hon'ble High Court recorded absence of appearance on behalf of respondent authorities.
- The writ petition was ultimately dismissed on merits on 18.04.2025.

vi. Accordingly, the Committee found that there was no judicial embargo preventing HTPS from proceeding with procurement. Even assuming administrative

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uncertainty, HTPS failed to take timely legal recourse or seek clarification **from** the Court. Such inaction reflects lack of due diligence and seriousness in complying with the statutory mandate.

- vii. **Comparative Performance:** The Committee observed that other similarly placed plants, including JPL (Apraava Energy), successfully undertook co-firing of non-torrefied pellets. This demonstrated that technical feasibility was not an insurmountable barrier.
- viii. **Statutory Mandate Predating Exemption:** The obligation to achieve annual co-firing targets existed independently of and prior to the request for exemption of the 660 MW unit. HTPS was expected to factor projected coal consumption and ensure proportionate biomass procurement accordingly.
- ix. **Deviation from Commitments:** The Committee recorded that HTPS's actual performance deviated materially from commitments previously furnished before the Commission.
25. That, it is respectfully submitted that, upon detailed consideration of the written and oral submissions of HTPS and the material placed on record, the Committee concluded as follows:
- i. That the HTPS achieved only about 2.05% biomass co-firing during FY 2024-25, thereby falling short of the



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statutory mandate under the Environment (Utilisation of Crop Residue by Thermal Power Plants) Rules, 2023.

ii. The grounds cited by HTPS, including monsoon-related moisture issues, temporary transportation disruptions during Kanwar Yatra, shutdowns and maintenance activities, vendor-related quality and supply concerns, procurement gaps and pendency of Writ-C No. 34248 of 2024 before the Hon'ble High Court of Judicature at Allahabad, do not constitute circumstances beyond its reasonable control within the meaning of Rule 5. The material on record demonstrates that:

- The seasonal disruptions were temporary in nature and could have been mitigated through advanced planning and compensatory co firing during other periods.
- No judicial stay or restraint order operated against HTPS's procurement process.
- Biomass availability in the region was not proven as inadequate.
- Other similarly situated generating stations successfully undertook co-firing during the same period.

iii. The limited exemption, even if granted by CEA up to 31.01.2025 in respect of the 660 MW unit was expressly confined to OEM warranty considerations and did not dilute the statutory obligation to meet the annual co-firing target for HTPS for its other units. However, it

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was observed by the Committee that exemption as claimed w.r.t. 660 MW unit was already considered and granted for said period while determining annual co-firing target and calculation of environmental compensation accordingly.

- iv. The Committee further noted that the obligation to achieve the notified annual co-firing percentage is independent of internal procurement or administrative challenges. The circumstances placed on record indicate operational and managerial shortcomings rather than force majeure, legal impossibility or any prohibitive statutory restraint.
- v. The Committee also noted that, despite advising repeatedly to HTPS to establish in-house or proximate pellet manufacturing facilities, HTPS failed to comply with the same.

The copy of the report of the Committee constituted for relaxation of EC is annexed herein as **ANNEXURE-XVIII**.

26. That, it is respectfully submitted that, in view of the foregoing, the Committee was not satisfied that HTPS has made out a case for relaxation under Rule 5. Accordingly, the Committee decided that EC is liable to be imposed on HTPS for the shortfall in biomass co-firing during FY 2024-25. The EC computed strictly in accordance with the



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prescribed regulatory methodology is compensatory and deterrent in nature, intended to secure adherence to the statutory mandate.

27. That, it is respectfully submitted that the Committee upon a comprehensive review of the representations, replies and oral submissions placed on record and having regard to the facts and circumstances emerging in the present matter, further observed and reaffirmed that:

- i. The explanations and justifications advanced by the TPP are insufficient to establish that the circumstances cited were beyond their reasonable control within the meaning of Rule 5 of the Rules, 2023. The material on record does not demonstrate force majeure, statutory prohibition or legal impediment preventing compliance.
- ii. The constraints cited predominantly relate to operational and managerial domain of the TPP and were capable of mitigation through timely and structured managerial response and diversified procurement planning, including establishment of in-house or proximate pellet manufacturing arrangements.
- iii. Upon detailed examination of the compliance measures and actions undertaken by the TPP, there appears to be a clear lack of intent to adhere to the statutory mandate. Further, no effective efforts were evident towards achieving the prescribed co-firing targets. In view of the

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long-term and sustained compliance requirements aimed at preventing stubble burning incidents, the Committee was of the considered opinion that the imposition of suitable EC on the defaulting TPP is warranted. Such imposition would not only address the present non-compliance but would also serve as a deterrent.

28. That, it is respectfully submitted that the Commission on the report and recommendations of the Committee, reply of HTPS and other material available on record, was satisfied that adequate and sufficient opportunity of being heard was afforded to HTPS in line with the principles of natural justice and that no ground has been made out warranting any relaxation from the statutory requirements under the Rules, 2023. It is further submitted that the Commission, *vide* its direction bearing F. No. 120015/25/TPP/CAQM/ (UPRVUNL)-1594DT dated 01.04.2026, in exercise of the powers conferred upon it under Section 12 of the CAQM Act read with the provisions of the Rules, 2023, directed HTPS to deposit EC of Rs. 2,74,03,497/- (Two crore seventy-four lakh three thousand four hundred ninety-seven only), latest by 15.04.2026.

29. In view of the aforesaid facts and circumstances, it is most respectfully submitted that the direction bearing F. No.



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120015/25/TPP/CAQM/ (UPRVUNL)-1594DT dated 01.04.2026 has been passed strictly in accordance with the provisions of the CAQM Act, 2021 and the Rules, 2023, after affording sufficient opportunities and adequate time to the appellant to comply with the statutory mandate relating to biomass co-firing. The material placed on record clearly demonstrates that despite continuous monitoring, repeated advisories, statutory directions, review meetings, notices and opportunities of hearing, the Appellant persistently failed to achieve the mandatory co-firing targets for FY 2024-25. The EC imposed upon the appellant has been computed strictly in accordance with the methodology prescribed under the Rules, 2023 and is compensatory as well as deterrent in nature, intended to secure effective implementation of the statutory framework aimed at mitigating air pollution and preventing stubble burning.

30. That, in view of the facts and circumstances stated hereinabove, it is respectfully submitted that the appellant has failed to make out any case against the direction bearing F. No. 120015/25/TPP/CAQM/ (UPRVUNL)-1594DT dated 01.04.2026. The above-mentioned submissions states that the appellant was under a statutory obligation to achieve the prescribed biomass co-firing targets under the Rules, 2023, and despite repeated

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advisories, review meetings, monitoring exercises, opportunities of hearing and facilitative interventions extended by the Commission and other stakeholder agencies, the appellant remained substantially non-compliant.

31. It is most respectfully submitted that the explanations submitted by the appellant regarding force majeure like conditions, technical constraints, kanwar yatra restrictions, quality and supply issues, procurement related challenges and Litigation constrains were duly considered by the Committee as well as the Commission in detail. However, none of the grounds raised by the appellant established the existence of any force majeure circumstance, legal impossibility or statutory impediment beyond its reasonable control to warrant relaxation under Rule 5 of the Rules, 2023.

32. That, it is further submitted that the Environmental Compensation imposed upon the appellant has neither been levied arbitrarily nor in a punitive manner. The same has been computed strictly in accordance with the methodology prescribed under Rule 3 of the Rules, 2023 on the basis of verified data furnished by the competent authorities. The direction bearing F. No. 120015/25/TPP/CAQM/ (UPRVUNL)-1594DT dated 01.04.2026 is therefore fully supported by the statutory



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राष्ट्रीय राजधानी क्षेत्र और निकटवर्ती क्षेत्रों में वायु गुणवत्ता प्रबंधन आयोग
Commission for Air Quality Management in NCR & Adjoining Areas
भारत सरकार / Government of India
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framework and is necessary to ensure effective implementation of the measures aimed at reduction of stubble burning, promotion of biomass utilisation and improvement of air quality in the National Capital Region and adjoining areas.

REPLY TO THE CONTENTION(S) RAISED BY THE APPELLANT

33. The contentions raised by the Appellant are denied as being misconceived, untenable and contrary to the material available on record. At the outset, it is submitted that the Direction issued by the Commission for imposition of EC is a reasoned and speaking order passed after detailed deliberations by the Committee constituted under Rule 5 of the Rules, 2023. Further, the Appellant was afforded multiple opportunities to place all facts, documents and explanations on record, including a personal hearing on 26.08.2025 and a further opportunity pursuant to the Show Cause Notice dated 23.12.2025. The Committee examined in detail each of the difficulties which are reiterated in the appeal, namely, monsoon-related moisture issues, transportation disruptions during Kanwar Yatra, Reserve Shut Down (RSD) of units, contract expiry, procurement-related litigation, quality concerns regarding biomass

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pellets and alleged supply-chain constraints. The findings of the Committee expressly record consideration of each of these issues.

34. That the plea taken by appellant relating to heavy rainfall and moisture content in biomass pellets, it is submitted that seasonal monsoon conditions are recurring and foreseeable operational realities in the region and cannot be elevated to the status of force majeure. The doctrine of force majeure applies only where an event is unforeseeable, unavoidable and renders performance legally or physically impossible. The Appellant failed to establish that such temporary weather conditions made compliance impossible throughout the financial year. Accordingly, the Committee observed that any temporary disruption during July-August 2024 could have been offset by enhanced procurement and co-firing during the remaining months of the year.

35. Similarly, the plea concerning Kanwar Yatra restrictions was duly considered and it has been observed that temporary traffic diversions and movement restrictions are annual and predictable occurrences. The principle of prudent regulatory compliance requires regulated entities to anticipate such events and make advance logistical arrangements. The inability of the Appellant to maintain adequate inventories or alternative supply arrangements



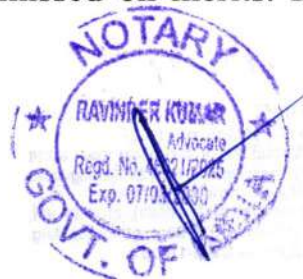
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cannot constitute a circumstance beyond its reasonable control. Further, the reliance made by the appellant upon Reserve Shut Down (RSD), maintenance schedules and technical outages, it is submitted that regulatory obligations cannot be avoided on the basis of self-serving reliance upon operational events that form part of routine plant management.

36. The Appellant's plea regarding procurement challenges and expiry of contracts is similarly untenable in the eye of law on account of the fact that the procurement planning, contract management, vendor diversification and supply-chain resilience fall squarely within the managerial domain of the thermal power plant. The Committee found that biomass availability in the region was not inadequate and that similarly situated generating stations successfully achieved compliance during the same period. The inability of the Appellant to secure adequate biomass supply reflects deficiencies in planning and execution rather than any systemic shortage.
37. The contention regarding pendency of Writ-C No. 34248 of 2024 was also specifically examined. The Committee scrutinized the orders passed by the Hon'ble High Court and found that no interim stay, injunction or restraint order was ever granted against the procurement process. The writ petition was ultimately dismissed on merits. In the

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absence of any judicial prohibition, the Appellant cannot rely upon mere pendency of litigation as a justification for statutory non-compliance. The doctrine of legal impossibility is attracted only where compliance is rendered impossible by operation of law. No such circumstance existed in the present case.

38. The impugned Direction therefore demonstrates due consideration of the explanation furnished by the Appellant. Mere rejection of those explanations does not amount to non-consideration. The challenge on this ground is accordingly devoid of merit. It is a settled principle of law that the requirement of natural justice is one of fair opportunity and not endless consultation. The doctrine of audi alteram partem stands satisfied once a party is informed of the allegations, the proposed action and is granted a reasonable opportunity to respond. The Appellant was fully aware of the basis of the proceedings and has failed to demonstrate any prejudice whatsoever. Merely because the findings ultimately went against the Appellant cannot lead to an inference of bias or predetermination.

39. The submissions of the Appellant proceed on an erroneous assumption that Environmental Compensation under the Rules, 2023 is penal in nature and requires proof of mens rea. The said contention is legally unsustainable.



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Environmental Compensation under Rule 3 is not penal in nature but constitutes a regulatory and compensatory consequence flowing from objective non-compliance with a statutory mandate. The Rules do not require proof of intention, negligence or wilful default as a precondition for imposition of Environmental Compensation. The principles of sustainable development, precautionary principle and environmental accountability operate in the field of environmental regulation precisely because environmental protection cannot be made contingent upon proof of subjective intent. Therefore, the admitted failure to achieve the prescribed co-firing targets is sufficient to attract the statutory consequence contemplated by Rule 3.

40. The Environmental Compensation imposed under Rule 3 is a statutory regulatory consequence arising from failure to achieve the prescribed co-firing targets. The liability is founded upon the fact of non-compliance and not upon proof of intention, malice or deliberate misconduct. The environmental jurisprudence developed by the Hon'ble Supreme Court consistently recognizes that environmental liability is founded upon the principles of strict liability, absolute liability and the Polluter Pays Principle, where proof of wrongful intention is not a prerequisite.
41. The Rules, 2023 do not prescribe mens rea as an ingredient for imposition of Environmental Compensation. Once the

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prescribed co-firing threshold is not achieved, the statutory consequence follows. The Appellant admittedly achieved only about 2.05% co-firing against the prescribed benchmark required to avoid Environmental Compensation. The fact of non-compliance is undisputed.

42. The allegation that the Commission failed to exercise its powers under Rule 5 is wholly misconceived. It is humbly submitted that Rule 5 of the Rules, 2023 confers a limited discretionary power upon the Commission to grant relaxation only in cases where any difficulty arises due to circumstances beyond the control of the concerned TPP. The burden lies upon the applicant seeking relaxation to establish the existence of circumstances beyond the control with material and evidence. Mere difficulties arise from operational and managerial shortcomings cannot, by themselves, constitute circumstances beyond the control of the Appellant.

43. It is humbly submitted that in the present case, the Appellant has failed to demonstrate the existence of any circumstance beyond its control which prevented compliance with Rule 2 of the Rules, 2023. The Appellant was aware of the statutory requirement relating to co-firing of biomass pellets and had sufficient opportunity to undertake necessary operational and managerial shortcomings to ensure compliance. The difficulties



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pleaded by the Appellant cannot be characterized as external circumstances beyond its control. It is further submitted that Rule 5 is intended to address exceptional situations where compliance becomes impracticable due to factors external to and beyond the control of the TPP. The provision cannot be interpreted in a manner that permits relaxation merely because compliance may require operational and managerial changes. It is pertinent to state that, acceptance of such an interpretation would defeat the very object and purpose of the Rules, 2023, which mandate adoption of biomass co-firing by all coal-based TPPs.

44. It is humbly submitted that pursuant to Rule 5, the Commission constituted a Committee comprising representatives of the Commission, CEA, SAMARTH and CPCB to examine the representations seeking relaxation. The Committee afforded HTPS sufficient opportunity of personal hearing, examined its written submissions, procurement records and compliance status and thereafter recorded its detailed findings. The Committee categorically concluded that HTPS had failed to establish the existence of any circumstance beyond its control within the meaning of Rule 5. It is further submitted that the grounds relied upon by HTPS, namely, monsoon-related moisture issues, transportation disruptions during Kanwar Yatra, Reserve Shut Down (RSD) of units, contract expiry,

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procurement-related litigation, quality concerns regarding biomass pellets and alleged supply-chain constraints, were specifically considered by the Committee. It was observed by the Committee that these factors relate to managerial and operational considerations falling within the management domain of HTPS and may indicate business or procurement challenges but do not constitute force majeure, legal impossibility or any statutory prohibition preventing compliance with the biomass co-firing mandate.

45. It is humbly submitted that the Hon'ble Supreme Court in Appeal (Civil) No. 3556 of 1984 *Novopan India Ltd., Hyderabad vs. Collector of Central Excise and Customs, Hyderabad* on 14.09.1994, while hearing the issue related to seeking to take advantage of the Exemption Notification No. 55 of 1979 issued by the Central Government under Rule 8 (1) of the Central Excise Rules, 1944, inter alia, held that "*A person invoking an exception or an exemption provision to relieve him of the tax liability must establish clearly that he is covered by the said provision. In case of doubt or ambiguity, benefit of it must go to the State.*" The copy of the Hon'ble Supreme Court's Judgment dated 14.09.1994 in Appeal (Civil) No. 3556 of 1984 *Novopan India Ltd., Hyderabad Vs. Collector of Central Excise and*



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Customs, Hyderabad is annexed herein as **ANNEXURE-XIX**.

46. It is further submitted that exemption notifications must be interpreted strictly, the claimant must first clearly satisfy that the circumstances were beyond its control, for claiming any benefit of exemption.
47. It is humbly submitted that the Appellant does not satisfy the threshold requirements prescribed under Rule 5 of the Rules, 2023 for grant of relaxation. Consequently, the Appellant is not entitled to any exemption or relaxation from compliance with Rules 2 & 3 and the EC imposed for non-compliance has been levied strictly in accordance with the statutory framework.
48. It is humbly submitted that the expression "circumstances beyond the control" occurring in the Rules 5 cannot be read in isolation and must be construed in accordance with settled principles of statutory interpretation. The provision contemplates situations where compliance is prevented by factors external to the TPP and not by circumstances arising from its own operational and managerial decisions. It is further submitted that Rule 5, being a relaxation provision, can be invoked only when the TPP establishes that its non-compliance resulted from circumstances beyond its control. Further, under any circumstances the relaxation cannot be claimed as a matter of right.

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49. The Rule does not confer an automatic or absolute right to relaxation merely because of operational and managerial difficulties. Rather, the Commission is required to examine whether the facts and circumstances establish that the non-compliance was actually beyond the control of the entity. It is further submitted that the Committee undertook a comprehensive examination of the Appellant's written submissions, oral representations, procurement records, compliance history and other relevant material. Each of the grounds raised by the Appellant including monsoon-related moisture issues, transportation disruptions during Kanwar Yatra, Reserve Shut Down (RSD) of units, contract expiry, procurement-related litigation, quality concerns regarding biomass pellets and alleged supply-chain constraints was independently considered before arriving at its conclusions. Thus, the Committee did not reject the Appellant's claim by applying any predetermined or narrow interpretation of Rule 5.

50. It is humbly submitted that it is a settled principle of law that where a statute confers discretionary power to grant exemption or relaxation, the beneficiary seeking such relief must strictly establish fulfilment of the conditions prescribed thereof. The Hon'ble Supreme Court has held that exemption and relaxation provisions are to be construed strictly and the burden lies upon the claimant to



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demonstrate entitlement thereto. In Civil Appeal No. 3327 of 2007 Commissioner of Customs (Import), Mumbai vs. Dilip Kumar & Co., the Constitution Bench on 30.07.2018, while examining the interpretative rule to be applied while interpreting tax exemption provision when there is an ambiguity as to its applicability with reference to the entitlement of the assessee or the rate of tax to be applied, *inter-alia*, held as under:

“52. To sum up, we answer the reference holding as under:

1. *Exemption notification should be interpreted strictly; the burden of proving applicability would be on the assessee to show that his case comes within the parameters of the exemption clause or exemption notification.*
2. *When there is ambiguity in exemption notification which is subject to strict interpretation, the benefit of such ambiguity cannot be claimed by the subject/assessee and must be interpreted in favour of the revenue.”*

The copy of the Hon’ble Supreme Court’s Judgment dated 30.07.2018 in Civil Appeal No. 3327 of 2007 Commissioner of Customs (Import), Mumbai vs. Dilip Kumar & Co., is annexed herein as **ANNEXURE-XX**.

51. It is further submitted that the expression 'circumstances beyond the control' cannot be interpreted to include every

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commercial, managerial, procurement or operational difficulty faced by the TPP. The burden lies on the Appellant for exemption under Rule 5 and the same cannot be claimed as a matter of right. That mere hardship, inconvenience or onerous performance does not amount to impossibility or circumstances beyond control and that a party seeking relaxation or exemption must strictly establish its entitlement thereto.

52. It is humbly submitted that under the Environmental jurisprudence, particularly under the "Precautionary Principle" and the doctrine of strict/absolute liability, the burden of proof lies on the violator. The Hon'ble Supreme Court in Vellore Citizens Welfare Forum Vs. Union of India & ors., 1996 (5) SCC 647, 1996, while dealing the issue of pollution being caused by enormous discharge of untreated effluent by the tanneries and other industries in the State of Tamil Nadu, *inter alia*, noted that "*The Onus of Proof is on the actor or the developer/industrial to show that his action is environmentally benign.*" The copy of the Hon'ble Supreme Court's order Vellore Citizens Welfare Forum Vs. Union of India & ors., 1996 (5) SCC 647, 1996 is annexed herein as **ANNEXURE-XXI**.

53. The very constitution of the Committee under Rule 5 demonstrates that the Commission actively considered the question of relaxation. The Committee conducted multiple



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meetings, examined detailed submissions, granted personal hearing and assessed all facts relied upon by the Appellant before arriving at its conclusions. It is not out of place to state here that the Rule 5 of Rules, 2023 does not confer an automatic right to relaxation. The provision merely enables relaxation where difficulties arise from circumstances beyond the control of the concerned thermal power plant. The burden of establishing such circumstances lies upon the applicant seeking relaxation. The Committee recorded detailed findings that the difficulties cited by the Appellant were operational, managerial and procurement-related in nature and did not constitute force majeure, legal impossibility or any statutory prohibition.

54. The contention that EC may ultimately impact consumers is legally irrelevant to the determination of statutory liability under the Rules, 2023. Acceptance of such a proposition would render every regulatory obligation imposed upon public utilities unenforceable. Compliance with environmental laws cannot be subordinated to speculative tariff considerations. The statutory objective underlying the Rules, 2023 is to promote ex-situ utilization of crop residue and reduce stubble burning, which has been identified as a significant contributor to severe air pollution in the National Capital Region and adjoining areas. The

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larger public interest lies in securing compliance with environmental mandates and protecting public health under Articles 21, 48A and 51A(g) of the Constitution of India.

55. The EC imposed upon the Appellant is neither arbitrary nor disproportionate. The amount has not been determined on an ad hoc basis. Rather, it has been calculated strictly in accordance with the methodology prescribed under Rule 3 of the Rules, 2023. The Commission possesses no discretion to alter or dilute the prescribed formula. The principle of proportionality is therefore fully satisfied as the compensation bears a direct nexus to the statutory scheme and the extent of non-compliance.
56. In light of the foregoing submissions, it is most respectfully prayed that the present appeal, being devoid of merits, is liable to be dismissed and the direction bearing F. No. 120015/25/TPP/CAQM/ (UPRVUNL)-1594DT dated 01.04.2026 passed by the Commission be upheld in the interest of justice, environmental protection and effective implementation of the statutory mandate under the CAQM Act and the Rules, 2023.
57. It is most humbly prayed that the Answering Respondent craves leave of this Hon'ble Tribunal to make additional submissions, if required, during the course of proceedings.



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58. It is most humbly prayed that this Hon'ble Tribunal may kindly be pleased to pass such Order(s) as may be deemed fit and proper in the facts and circumstances of the case.

R. P. Gurung

DEPONENT

VERIFICATION

13 JUL 2026

Verified at New Delhi on this ____ day of July, 2026 that the contents of the above affidavit are true and correct to my knowledge and as per official records maintained in the routine course of business. No part of the above affidavit is false and nothing material has been concealed there from.

R. P. Gurung

DEPONENT

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राष्ट्रीय राजधानी क्षेत्र और निकटवर्ती क्षेत्रों में वायु गुणवत्ता प्रबंधन आयोग
Commission for Air Quality Management in NCR & Adjoining Areas
भारत सरकार / Government of India
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NOTARY PUBLIC
GOVT. OF INDIA



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सत्यमेव जयते

The Commission for Air Quality Management in National Capital Region and Adjoining Areas Act, 2021

(ACT NO. 29 OF 2021)

[As on the 6th November, 2025]

LIST OF ABBREVIATIONS USED

G.S.R.	.	.	.	.	.	<i>for</i>	General Statutory Rules.
S.O.	.	.	.	.	.	„	Statutory Order.
Notifn.	.	.	.	.	.	„	Notification.

THE COMMISSION FOR AIR QUALITY MANAGEMENT IN NATIONAL CAPITAL REGION
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THE COMMISSION FOR AIR QUALITY MANAGEMENT IN NATIONAL CAPITAL
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ACT NO. 29 OF 2021

[12th August, 2021.]

An Act to provide for the constitution of the Commission for Air Quality Management in National Capital Region and Adjoining Areas for better co-ordination, research, identification and resolution of problems surrounding the air quality index and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Seventy-second Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. Short title, application and commencement.—(1) This Act may be called the Commission for Air Quality Management in National Capital Region and Adjoining Areas Act, 2021.

(2) It shall apply to the National Capital Region and also to adjoining areas in so far as it relates to matters concerning air pollution in the National Capital Region.

(3) It shall be deemed to have come into force on the 13th April, 2021.

2. Definitions.—(1) In this Act, unless the context otherwise requires,—

(a) “adjoining areas” means the areas in the States of Haryana, Punjab, Rajasthan and Uttar Pradesh, adjoining the National Capital Territory of Delhi and the National Capital Region, where any source of pollution is located, causing adverse impact on air quality in the National Capital Region;

(b) “Associate Member” means a member who is co-opted under sub-section (3) of section 3;

(c) “Chairperson” means the Chairperson of the Commission for Air Quality Management in National Capital Region and Adjoining Areas referred to in section 3;

(d) “Commission” means the Commission for Air Quality Management in National Capital Region and Adjoining Areas constituted under section 3;

(e) “Member” means a Member of the Commission and includes the Chairperson thereof;

(f) “National Capital Region” shall have the same meaning as assigned to it in clause (f) of section 2 of the National Capital Region Planning Board Act, 1985 (2 of 1985);

(g) “prescribed” means prescribed by rules made under this Act.

(2) The words used herein and not defined, but defined in the Environment (Protection) Act, 1986 (26 of 1986), shall have the meaning as assigned to them in that Act.

CHAPTER II

COMMISSION FOR AIR QUALITY MANAGEMENT IN NATIONAL CAPITAL REGION AND ADJOINING AREAS

3. Constitution of Commission.—(1) The Central Government shall, by notification in the Official Gazette, constitute a body to be known as the Commission for Air Quality Management in National Capital Region and Adjoining Areas to exercise the powers conferred upon, and to perform the functions assigned to, that Commission under this Act.

(2) The Commission shall consist of the following Members, namely:—

(a) a full-time Chairperson having experience of not less than fifteen years in the field of environment protection and pollution control or having administrative experience of not less than twenty-five years;

(b) a representative of the Secretary to the Government of India in the Ministry of Environment, Forest and Climate Change, who shall be an officer not below the rank of Joint Secretary, *ex officio*;

(c) five *ex officio* Members who are either Chief Secretaries, or Secretaries in-charge of the department dealing with environment protection in the National Capital Territory of Delhi and the States of Punjab, Haryana, Rajasthan and Uttar Pradesh;

(d) one full-time Member who is or has been a Joint Secretary to the Government of India;

(e) three full-time independent technical Members to be appointed from amongst persons having specific knowledge and experience in matters relating to air pollution;

(f) one technical Member from the Central Pollution Control Board, *ex officio*;

(g) one technical Member to be nominated by the Indian Space Research Organisation, *ex officio*;

(h) three Members from non-Governmental organisations having experience in matters concerning combating of air pollution;

(i) one representative of the National Institution for Transforming India, not below the rank of Joint Secretary or Adviser, *ex officio*;

(j) one officer in the rank of Joint Secretary to the Government of India to be appointed by the Central Government as a full-time Member-Secretary of the Commission;

(k) three members, being stakeholders from such sectors as agriculture, industry, transport or construction.

(3) The Commission may co-opt the following persons as Associate Members, namely:—

(a) a representative of the Ministry of Road Transport and Highways, not below the rank of Joint Secretary to the Government of India;

(b) a representative of the Ministry of Power, not below the rank of Joint Secretary to the Government of India;

(c) a representative of the Ministry of Housing and Urban Affairs, not below the rank of Joint Secretary to the Government of India;

(d) a representative of the Ministry of Petroleum and Natural Gas, not below the rank of Joint Secretary to the Government of India;

(e) a representative of the Ministry of Agriculture and Farmers' Welfare, not below the rank of Joint Secretary to the Government of India;

(f) a representative of the Ministry of Commerce and Industry, not below the rank of Joint Secretary to the Government of India;

(g) a representative of any association of commerce or industry;

(h) such other Associate Members, as may be prescribed.

(4) The Member-Secretary shall be the Chief Co-ordinating Officer of the Commission and shall assist the Commission in the discharge of its functions under this Act.

(5) The headquarters of the Commission shall be at Delhi and the Commission may, with the previous approval of the Central Government, establish offices at other places in the National Capital Region or adjoining areas.

(6) Notwithstanding anything contained in any other law for the time being in force, and notwithstanding any judgment or order of any court, the Commission shall have exclusive jurisdiction in the National Capital Region and adjoining areas in respect of matters covered by this Act and no other body, authority, individual or committee shall have any power or jurisdiction in such matters:

Provided that in case of any conflict in the orders or directions of the Commission and the Governments of the National Capital Territory of Delhi and of the States of Punjab, Haryana, Rajasthan and Uttar Pradesh or the Central Pollution Control Board or the State Pollution Control Boards of the States of Punjab, Haryana, Rajasthan and Uttar Pradesh or the Pollution Control Committee of the National Capital Territory

of Delhi or any other statutory authority set up or established under a State Act, the order as well as the direction of the Commission shall prevail.

4. Appointment of Chairperson, Members and Member-Secretary.—(1) The full-time Chairperson and full-time Members, other than *ex officio* Members, of the Commission shall be appointed by the Central Government:

Provided that every appointment under this sub-section shall, subject to the provisions of second proviso, be made on the recommendations of a Selection Committee consisting of—

(a) Minister in-charge of the Ministry of Environment, Forest and Climate Change in the Government of India--Chairperson;

(b) Minister in-charge of the Ministry of Commerce and Industry in the Government of India--member;

(c) Minister in-charge of the Ministry of Road Transport and Highways in the Government of India--member;

(d) Minister in-charge of the Ministry of Science and Technology in the Government of India--member;

(e) Cabinet Secretary--member:

Provided further that in case where the Central Government appoints a serving officer as the Chairperson under clause (a) of sub-section (2) of section 3, or the full-time Member under clause (d) thereof, then, no recommendation of the Selection Committee shall be required.

(2) No appointment of the Chairperson or a Member shall be invalid merely by reason of any vacancy of any member in the Selection Committee referred to in sub-section (1).

(3) The appointment of the Member-Secretary of the Commission shall be made by the Central Government in such manner, subject to such terms and conditions, as may be prescribed.

5. Resignation and removal of Chairperson and Members.—(1) The Chairperson or a Member, other than an *ex officio* Member, may, by notice in writing under his hand addressed to the Central Government, resign his office.

(2) The Central Government may remove the Chairperson or any Member, other than an *ex officio* Member, from his office, in such manner as may be prescribed, if such person—

(a) is adjudged an insolvent;

(b) engages during his term of office in any paid employment outside the duties of his office;

(c) is of unsound mind and stands so declared by a competent court;

(d) has so abused his position as to render his continuance in office prejudicial to the public interest;

(e) has acquired such financial or other interest as is likely to affect prejudicially his functions; or

(f) is convicted and sentenced to imprisonment for an offence which in the opinion of the Central Government involves moral turpitude:

Provided that no such Member shall be so removed, unless he has been given an opportunity of being heard.

6. Term of office of Chairperson and Members.—The Chairperson or a Member, other than an *ex officio* Member, shall hold office for a term of three years from the date on which he enters upon his office or until he attains the age of seventy years, whichever is earlier, and shall be eligible for re-appointment.

7. Member to act as Chairperson or to discharge his functions in certain circumstances.—(1) In the event of the occurrence of any vacancy in the office of the Chairperson by reason of death, resignation or otherwise, the Central Government may, by notification, authorise one of the Members to act as the Chairperson until the appointment of a new Chairperson to fill such vacancy.

(2) When the Chairperson is unable to discharge his functions owing to absence on leave or otherwise, such one of the Members as the Central Government may, by notification, authorise in this behalf, shall discharge the functions of the Chairperson until the date on which the Chairperson resumes his duties.

8. Terms and conditions of service of Chairperson and Members.—The salaries and allowances payable to, and the other terms and conditions of service of, the Chairperson and Members, other than *ex officio* Members, shall be such as may be prescribed:

Provided that neither the salary and allowances nor the other terms and conditions of service of the Chairperson or a Member shall be varied to his disadvantage after his appointment.

9. Vacancies, etc., not to invalidate proceedings of Commission.—No act or proceedings of the Commission shall be invalidated merely on the ground of existence of any vacancy or defect in the constitution of the Commission.

10. Procedure to be regulated by Commission.—(1) The Commission shall meet at such time and place as the Chairperson may think fit.

(2) Subject to the provisions of this Act and the rules made thereunder, the Commission shall have the power to lay down by regulations its own procedure.

(3) All orders and decisions of the Commission shall be authenticated by the Member-Secretary or any other officer of the Commission duly authorised by the Chairperson in this behalf.

(4) The Commission may, by general or special order, subject to such conditions and limitations, if any, as may be specified therein, delegate to the Chairperson, full-time Member, Member-Secretary or any Sub-Committee constituted under section 11, such of its powers under this Act (except the power to make regulations under section 25), as it may deem necessary or expedient for the purpose of protecting and improving the quality of the air in the National Capital Region and adjoining areas.

11. Sub-Committees and other staff of Commission.—(1) The Commission shall have at least the following three Sub-Committees—

- (a) Sub-Committee on Monitoring and Identification;
- (b) Sub-Committee on Safeguarding and Enforcement;
- (c) Sub-Committee on Research and Development.

(2) The Sub-Committee on Monitoring and Identification shall be headed by a Member of the Commission chosen by it and shall have the following additional members, namely:—

- (a) one representative from the Central Pollution Control Board;
- (b) one representative each from the State Pollution Control Board or Committee, as the case may be, of the National Capital Territory of Delhi and the States of Punjab, Haryana, Rajasthan and Uttar Pradesh;
- (c) one representative from the National Environmental Engineering Research Institute;
- (d) such other members as may be specified by regulations.

(3) The Sub-Committee on Safeguarding and Enforcement shall be headed by the full-time Chairperson of the Commission and shall have the following additional members, namely:—

- (a) one representative each, not below the rank of Secretary from the department tackling air pollution from the National Capital Territory of Delhi and the States of Punjab, Haryana, Rajasthan and Uttar Pradesh;
- (b) one representative each from the State Pollution Control Board or Committee, as the case may be, from the National Capital Territory of Delhi and the States of Punjab, Haryana, Rajasthan and Uttar Pradesh;
- (c) one officer not below the rank of Inspector General of Police or equivalent from the National Capital Territory of Delhi and the States of Punjab, Haryana, Rajasthan and Uttar Pradesh;

(d) such other members as may be specified by regulations.

(4) The Sub-Committee on Research and Development shall be headed by a full-time technical Member of the Commission and shall have the following additional Members, namely:—

(a) two technical representatives from the National Environmental Engineering Research Institute;

(b) one technical representative each from research institutions or Universities or colleges or organisations in the National Capital Territory of Delhi and the States of Punjab, Haryana, Rajasthan and Uttar Pradesh;

(c) two technical representatives from the field of medicine and research working or studying on the impact of air pollution on living beings;

(d) such other members as may be specified by regulations.

(5) The Commission may also constitute such other Sub-Committees as it thinks fit.

(6) The members of the Sub-Committees, other than *ex officio* members, shall be paid such allowances as may be prescribed.

(7) The Central Government, in consultation with the Commission, shall determine the nature and the categories of officers and other staff required to assist the Commission in the discharge of its function and provide the Commission with such officers and employees as it may deem fit.

(8) The officers and other staff of the Commission shall discharge their duties and functions under the general superintendence of the Chairperson.

(9) The salaries, allowances and conditions of service of the officers and other staff appointed under sub-section (7) shall be such as may be prescribed.

CHAPTER III

POWERS AND FUNCTIONS OF THE COMMISSION

12. Powers and functions of Commission.—(1) Notwithstanding anything contained in any other law for the time being in force, the Commission shall have the power to take all such measures, issue directions and entertain complaints, as it deems necessary or expedient, for the purpose of protecting and improving the quality of the air in the National Capital Region and adjoining areas and shall also have the duty to take all such measures as may become necessary for protecting and improving the quality of air in the National Capital Region and adjoining areas.

(2) In particular and without prejudice to the generality of sub-section (1), the Commission shall, for the purposes of sub-section (1), have the following powers to perform its duties, including taking measures to abate air pollution and to regulate or prohibit activities that are likely to cause or increase air pollution in the National Capital Region and adjoining areas, namely:—

(i) co-ordination of actions by the Governments of the National Capital Territory of Delhi and the States of Punjab, Haryana, Rajasthan and Uttar Pradesh, officers and other authorities under this Act or the rules made thereunder or under any other law for the time being in force, which is relatable to the objects of this Act;

(ii) planning and execution of a programme for the region for prevention, control and abatement of air pollution;

(iii) laying down parameters for the quality of air in its various aspects;

(iv) laying down parameters for emission or discharge of environmental pollutants from various sources whatsoever that have implications on air quality in the region:

Provided that different parameters for emission or discharge may be laid down under this clause from different sources having regard to the quality or composition of the emission or discharge of environmental pollutants from such sources that have implications on air quality in the region;

(v) restriction of areas in which any industries, operations or processes or class of industries, operations or processes, that have implications on air quality in the region, shall not be carried out or shall be carried out subject to certain safeguards;

(vi) carrying out and requiring investigations and research relating to problems of environmental pollution that have implications on air quality in the region;

(vii) inspection of any premises, plant, equipment, machinery, manufacturing or other processes, materials or substances and giving, by order, of such directions to such authorities, officers or persons as it may consider necessary to take steps for the prevention, control and abatement of air pollution in the region;

(viii) collection and dissemination of information in respect of matters relating to air pollution in the region;

(ix) preparation of manuals or codes or guidelines relating to the prevention, control and abatement of air pollution in the region;

(x) appoint officers, with prior approval of the Central Government, with such designations, as it thinks fit, for the purposes of this Act and may entrust to them such of the powers and functions under this Act or for the purposes of achieving the objects of this Act, as it may deem fit;

(xi) issue directions in writing to any person, officer or any authority and such person, officer or authority shall be bound to comply with such directions.

Explanation.—For avoidance of doubts, it is hereby declared that the power to issue directions under this section includes the power to direct—

(a) the closure, prohibition or regulation of any industry, operation or process; or

(b) stoppage or regulation of the supply of electricity or water or any other service.

(3) (a) Subject to the provisions of this section, any person authorised by the Commission in this behalf shall have a right to enter, at all reasonable times, and with such assistance as he considers necessary, any place, for the purpose of—

(i) performing any of the functions of the Commission entrusted to him;

(ii) determining whether and if so, in what manner any such functions are to be performed or whether any provisions of this Act or the rules made thereunder or any notice, order, direction or authorisation served, made, given or granted under this Act is being or has been complied with;

(iii) examining and testing any equipment, industrial plant, record, register, document or any other material object or for conducting a search of any building in which he has reasons to believe that an offence under this Act or the rules made thereunder has been or is being or is about to be committed and for seizing any such equipment, industrial plant, record, register, document or other material object if he has reasons to believe that it may furnish evidence to the Commission of an offence punishable under this Act or the rules made thereunder or that such seizure is necessary to prevent or mitigate environmental pollution;

(b) every person carrying on any industry, operation or process or handling any hazardous substance shall be bound to render all assistance to the person empowered by the Commission under clause (a) for carrying out the functions under that clause and if he fails to do so without any reasonable cause or excuse, he shall be guilty of an offence under this Act;

(c) if any person wilfully delays or obstructs any person authorised by the Commission under clause (a) in the performance of his functions, he shall be guilty of an offence under this Act;

(d) the provisions of the Code of Criminal Procedure, 1973 (2 of 1974) shall apply to any search or seizure under this section as they apply to any search or seizure made under the authority of a warrant issued under section 94 of the said Code or, as the case may be, under the corresponding provisions of the said law.

(4) (a) The Commission or any officer authorised by it in this behalf, shall, for the purpose of analysis, have power to take samples of air from any factory, premises or other place in such manner as may be prescribed;

(b) the result of any analysis of a sample taken under clause (a) shall not be admissible in evidence in any legal proceeding unless the provisions of clauses (c) and (d) are complied with;

(c) subject to the provisions of clause (d), the person taking the sample under clause (a) shall,—

(i) serve on the occupier or his agent or person in-charge of the place, a notice, then and there, in such form as may be prescribed, of his intention to have it so analysed;

(ii) in the presence of the occupier or his agent or person, collect a sample for analysis;

(iii) cause the sample to be placed in a container or containers which shall be marked and sealed and shall also be signed both by the person taking the sample and the occupier or his agent or person;

(iv) send without delay, the container or the containers to the laboratory established or recognised by the Central Government;

(d) when a sample is taken for analysis under clause (a) and the person taking the sample serves on the occupier or his agent or person, a notice under sub-clause (i) of clause (c), then, —

(i) in a case where the occupier, his agent or person wilfully absents himself, the person taking the sample shall collect the sample for analysis to be placed in a container or containers which shall be marked and sealed and shall also be signed by the person taking the sample; and

(ii) in a case where the occupier or his agent or person present at the time of taking the sample refuses to sign the marked and sealed container or containers of the sample as required under sub-clause (iii) of clause (c), the marked and sealed container or containers shall be signed by the person taking the samples,

and the container or containers shall be sent without delay by the person taking the sample for analysis to the laboratory established or recognised by the Central Government and such person shall inform the Government Analyst appointed or recognised, about the wilful absence of the occupier or his agent or person, or, as the case may be, his refusal to sign the container or containers.

(5) In discharge of its functions and exercising of its authority, the Commission and the Sub-Committees mentioned in section 11 shall be bound by such general or specific directions of the Central Government, as may be issued from time to time.

(6) In particular and without prejudice to the generality of the foregoing provisions, the Commission shall perform all or any of the following functions, namely:—

(a) take up matters *suo motu*, or on the basis of complaints made by any individual, representative body or organisation functioning in the field of environment, against any individual, association, company, public undertaking or local body carrying on any industry, operation or process;

(b) provide the mechanism and the means to implement in the National Capital Region and adjoining areas—

(i) the National Clean Air Programme;

(ii) the National Air Quality Monitoring Programme;

(iii) the National Ambient Air Quality Standards;

(c) provide an effective framework and platform in the National Capital Region and adjoining areas for—

(i) source identification of air pollutants on a periodic basis;

- (ii) taking on-ground steps for curbing air pollution;
- (iii) specific research and development in the field of air pollution;
- (iv) synergising the energies and efforts of all stakeholders in developing innovative ways to monitor, enforce and research on the issues concerning air pollution;
- (v) building a network between technical institutions working or researching in the field of air pollution;
- (vi) international co-operation including sharing of international best practices in the field of air pollution;
- (vii) training and creating a special work-force for tackling the problem of air pollution;
- (d) provide an effective frame work, action plan and take appropriate steps for—
 - (i) tackling the problem of stubble burning;
 - (ii) monitoring, assessing and inspecting air polluting agents;
 - (iii) increasing plantation;
- (e) monitoring the measures taken by the States to prevent stubble burning;
- (f) undertake and promote research in the field of air pollution;
- (g) spread awareness regarding air pollution among various sections of society and promote awareness of the collective steps that the public may take through publications, the media, seminars and other available means;
- (h) encourage the efforts of non-governmental organisations and institutions working in the field of air pollution;
- (i) any other functions as have been entrusted to any *ad hoc* committee or commission or task force or body formed for the purpose of dealing with issues concerning air pollution, stubble burning or the monitoring of related factors, in pursuance of any judicial order passed from time to time;
- (j) such other functions as it may consider necessary for the prevention of air pollution in the National Capital Region and adjoining areas.

13. Annual report.—(1) The Commission shall furnish to the Central Government an annual report containing such details of the steps taken, proposals made, researches awaited and other measures undertaken by it in pursuance of its functions under section 12, in such form and manner as may be specified by regulations.

(2) The Central Government shall cause the annual report furnished under sub-section (1) to be laid before each House of Parliament.

14. Penalty for contravention of provisions of Act, rules, order or direction.—(1) Any non-compliance or contravention of any provisions of this Act, rules made thereunder or any order or direction issued by the Commission, shall be an offence punishable with imprisonment for a term which may extend up to five years or with fine which may extend up to one crore rupees or with both:

Provided that the provisions of this section shall not apply to any farmer for causing air pollution by stubble burning or mismanagement of agricultural residue.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), the offence under this Act shall be non-cognizable and triable by the Jurisdictional Judicial Magistrate of the First Class, who shall not take cognizance of the offence except upon a complaint made by the Commission or any officer authorised by the Commission in this behalf.

(3) Where any offence under this Act has been committed by a company, every person who, at the time when the offence was committed, was directly in-charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(4) Notwithstanding anything contained in sub-section (3), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of sub-sections (3) and (4),—

(a) "company" means any body corporate, and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

(5) Where an offence under this Act has been committed by any Department of the Government, the Head of the Department shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this section shall render such Head of the Department liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(6) Notwithstanding anything contained in sub-section (5), where an offence under this Act has been committed by a Department of Government and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any officer, other than the Head of the Department, such officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(7) For the purpose of this section and the procedure to be followed thereunder, the provisions of the Code of Criminal Procedure, 1973 (2 of 1974), shall apply.

15. Environmental compensation.—The Commission may impose and collect environmental compensation from farmers causing air pollution by stubble burning, at such rate and in such manner, as may be prescribed.

CHAPTER IV

FINANCE, ACCOUNTS AND AUDIT

16. Grants by Central Government.—(1) The Central Government shall, after due appropriation made by Parliament by law in this behalf, pay to the Commission by way of grants such sums of money as the Central Government may think fit for being utilised for the purposes of this Act.

(2) The Commission may spend such sums as it thinks fit for performing the functions under this Act, and such sums shall be treated as expenditure payable out of the grants referred to in sub-section (1).

17. Accounts and audit.—(1) The Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Commission shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Commission to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the accounts of the Commission under this Act shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General of India generally has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Commission.

(4) The accounts of the Commission, as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf, together with the audit report thereon shall be forwarded annually to the Central Government by the Commission and the Central Government shall cause the audit report to be laid, as soon as may be after it is received, before each House of Parliament.

CHAPTER V

MISCELLANEOUS

18. Appeal.—An appeal shall lie to the National Green Tribunal constituted under the National Green Tribunal Act, 2010 (19 of 2010) against any order, direction or action taken by or on behalf of the Commission constituted under section 3.

19. Constitution of special investigation teams.—Notwithstanding anything contained in any other law for the time being in force, or any judicial order by any Court, where the Commission considers it necessary so to do, it may constitute one or more special investigation teams, consisting of such officers or such persons, as it thinks necessary, for the purposes of carrying out its functions under this Act.

20. Power of Central Government to issue direction.—Notwithstanding anything contained in any other law for the time being in force, but subject to the provision of this Act, the Central Government may issue in writing such direction, as it deems fit, to the Commission or any person, officer or authority authorised by the Commission, and the Commission, person, or authority, as the case may be, shall be bound to comply with such direction.

21. Power of Central Government to call for information.—The Central Government may, from time to time, call for such information and reports from the Commission, as it deems fit and the Commission shall be bound to provide such information and report.

22. Bar of jurisdiction.—No civil court shall have jurisdiction to entertain any suit, proceeding or dispute pertaining to or arising out of the actions taken or directions issued by the Commission in respect of any matter which the Commission is empowered by or under this Act.

23. Protection of action taken in good faith.—No suit or other legal proceeding shall lie against the Central Government, the Commission, or any Member thereof, or any person acting under the direction of either the Central Government or the Commission in respect of anything which is in good faith done or intended to be done in pursuance of this Act or of any rules or any order made thereunder.

24. Members and officers to be public servants.—Every Member of the Commission and every officer appointed or authorised by the Commission to exercise functions under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (45 of 1860).

25. Power of Central Government to make rules.—(1) The Central Government may, by notification, make rules to carry out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the other Associate Members under clause (h) of sub-section (3) of section 3;
- (b) the manner of removal of Chairperson or a Member under sub-section (2) of section 5;
- (c) the salaries and allowances payable to, and the other terms and conditions of service of, the Chairperson and Members under sub-section (1) of section 8;
- (d) the allowance payable to the members, other than *ex officio* members of the Sub-Committees, under sub-section (6) of section 11;
- (e) the appointment of officers and other staff under sub-section (7) of section 11;
- (f) the salaries, allowances and conditions of service of the officers and other staff under sub-section (9) of section 11;
- (g) the manner of taking samples under clause (a) and the form of notice under sub-clause (i) of clause (c), of sub-section (4) of section 12;

(h) the rate at which, and the manner in which, the environmental compensation shall be imposed and collected under section 15;

(i) the form in which annual statement of accounts shall be prepared under sub-section (1) of section 17;

(j) any other matter which has to be, or may be, prescribed.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

26. Power of Commission to make regulations.—(1) Subject to the provisions of this Act and the rules made thereunder, the Commission may, with the previous approval of the Central Government, by notification, make regulations to carry out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(a) the procedure to be followed by the Commission under sub-section (2) of section 10;

(b) the conditions and limitations subject to which power may be delegated by the Commission under sub-section (4) of section 10;

(c) the members of each Sub-Committee under sub-sections (2), (3) and (4) of section 11;

(d) the form and the manner of furnishing annual report under section 13;

(e) any other matter which has to be, or may be, specified by regulations.

(3) Every regulation made by the Commission under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation or both Houses agree that the regulation should not be made, the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation.

27. Power to remove difficulties.—(1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty:

Provided that no order shall be made under this section after the expiry of a period of two years from the commencement of this Act.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

28. Act to have overriding effect.—(1) The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force, any document, judgment, order, bye-law, rule, regulation, notification having the force of law in the territory of India.

(2) Notwithstanding anything contained in any other law for the time being in force or any judgment or any order of any Court and subject to the provisions of this Act, upon the notification of the constitution of the Commission under section 3, no other individual or body or authority constituted either under a law enacted by Parliament, or by a State, or appointed or nominated in terms of any judicial order, shall act upon or have jurisdiction in relation to the matters covered by this Act.

29. Repeal and savings of order constituting Environment Pollution (Prevention and Control) Authority for National Capital Region.—(1) The Order made under section 3 of the Environment (Protection) Act, 1986 (29 of 1986) constituting the Environment Pollution (Prevention and Control) Authority for the National Capital Region *vide* notification number S.O. 93(E), dated the 29th January, 1998 is hereby repealed and the Environment Pollution (Prevention and Control) Authority for the National Capital Region is hereby dissolved.

(2) Notwithstanding such repeal, anything done or any action taken by the Environment Pollution (Prevention and Control) Authority for the National Capital Region under the said Order, shall be deemed to have been done or taken under the corresponding provisions of this Act.

30. Savings.—Notwithstanding the cessation of the Commission for Air Quality Management in National Capital Region and Adjoining Areas Ordinance, 2020 (Ord. 13 of 2020), anything done or any action taken under the Ordinance so ceased, shall be deemed to have been done or taken under the corresponding provisions of this Act.

31. Repeal and savings.—(1) The Commission for Air Quality Management in National Capital Region and Adjoining Areas Ordinance, 2021 (Ord. 4 of 2021) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Commission for Air Quality Management in National Capital Region and Adjoining Areas Ordinance, 2021 (Ord. 4 of 2021) shall be deemed to have been done or taken under the corresponding provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

India is committed to create a clean environment and pollution free air as mandated in the Constitution of India. The committee appointed under the Environment (Protection) Act, 1986 has taken measures to deal with the menace of air pollution, particularly in the National Capital Region. By orders passed from time to time, the courts have also set up ad hoc committees to aid and assist the monitoring and implementation of its orders and generally to take steps to deal with air pollution. Even then, quality of air in the air shed of the National Capital Region and in the adjoining areas remains a major cause of concern.

2. There is a need to evolve and implement a consolidated approach for monitoring, tackling and eliminating the causes for air pollution and identifying, specifying and rigorously enforcing measures for elimination and mitigation of air pollution, including but not limited to, controlling or eliminating the activities of stubble burning, vehicular pollution, industrial emissions, road dust, biomass burning and urban construction. It is now considered necessary to have a statutory authority with appropriate powers, and charged with the duty of taking comprehensive measures to tackle air pollution on a war footing, with power to coordinate with concerned States and the Central Government and issue directions to statutory authorities established under various laws.

3. The commitments and obligations to environmental conservation and protection within the ambit of the targeted goals on environmental sustainability under the Sustainable Development Goals, particularly towards the issue of air pollution, is manifested in the Air (Prevention and Control of Pollution) Act, 1981, which was enacted under article 253 of the Constitution and more recently in the National Clean Air Programme. It is noticed that there is lack of a permanent, dedicated and participative mechanism adopting a collaborative and participatory approach involving relevant Central Ministries, State Governments, local bodies and other stakeholders to tackle air pollution, in the National Capital Region and Adjoining Areas.

4. It is observed that sources of air pollution particularly in the National Capital Region consist of a variety of factors which are beyond the local limits of the National Capital Region. Special focus is required on all sources of air pollution which are associated with different economic sectors, including power, agriculture, transport, industry, residential and construction. Since air pollution is not a localised phenomenon, the effect is felt in areas even far away from the source, thus creating the need for regional-level initiatives through inter-State and inter-city coordination in addition to multi-sectorial synchronization.

5. Due to the absence of an inter-sectorial, public participative, multi-State dynamic body, the Hon'ble Supreme Court had to devote its precious time in constituting various ad hoc or permanent committees at various stages to oversee the problem of air pollution in the National Capital Region and suggest mitigation measures and has been monitoring, supervising and guiding the problem of air pollution in the National Capital Region through the continuing mandamus in the case of *M.C. Mehta vs. Union of India and Others*, W.P. (C) No.13029/1985. Though in compliance of the directions of the Hon'ble Supreme Court, the Central Government had constituted the Environment Pollution (Prevention and Control) Authority for the National Capital Region with effect from 29th January, 1998 vide notification number S.O.93(E), dated 29th January, 1998, the powers and functions of said Authority were limited to section 5 of the Environment Protection Act, 1986 and to the State of Delhi without any collaboration with other nearby States thereby limiting its efficacy.

6. Noting the lack of inter-State co-operation, the Hon'ble Supreme Court had, on multiple occasions, directed the presence of Chief Secretaries of the four States in question, namely, Punjab, Haryana, Delhi and Uttar Pradesh to ensure inter-State co-operation. Due to lack of an oversight mechanism over the joint functioning of the States on issues concerning air pollution, and specifically stubble burning, the Hon'ble Supreme Court in *Aditya Dubey (minor) and Another vs. Union of India and Others*, W.P(C) No. 1135/2020, had further appointed a one-man Monitoring Committee to monitor the measures taken by the States to prevent stubble burning. The Hon'ble Supreme Court has, on numerous occasions sought to improve and propose innovative measures and research initiatives to resolve the problem of air pollution.

7. In order to provide a permanent solution and establish a self-regulated, democratically monitored mechanism for tackling air pollution in National Capital Region and adjoining areas, rather than limited and ad hoc measures, it was deemed necessary to take up immediate legislative measures to set up a Commission for Air Quality Management in National Capital Region and Adjoining Areas, which would replace the above-mentioned Committees in order to streamline the public participation, the inter-State co-operation, the expert involvement and persistent research and innovation.

8. As Parliament was not in session and there was an immediate need for legislation in this regard, the Commission for Air Quality Management in National Capital Region and Adjoining Areas Ordinance, 2020 (Ord.13 of 2020) was promulgated by the President of India on the 28th October, 2020, but a Bill to replace the said Ordinance could not be introduced in Parliament, consequently, the Ordinance got lapsed on the 12th March, 2021. Thereafter, the Commission for Air Quality Management in National Capital Region and Adjoining Areas Ordinance, 2021 (Ord. 4 of 2021) was promulgated by the President of India on the 13th April, 2021 under clause (1) of article 123 of the Constitution.

9. The Commission for Air Quality Management in National Capital Region and Adjoining Areas Bill, 2021, which seeks to replace the Commission for Air Quality Management in National Capital Region and Adjoining Areas Ordinance, 2021 (Ord. 4 of 2021), provides for—

- (a) the constitution of the Commission for Air Quality Management in National Capital Region and Adjoining Areas;
- (b) three Sub-Committees to assist the Commission, viz., Sub-Committee on Monitoring and Identification; Sub-Committee on Safeguarding and Enforcement; and Sub-Committee on Research and Development;
- (c) the powers and functions of the Commission;
- (d) the penalty for contravention of provisions of Act, rules, order or direction;
- (e) the imposition of Environmental Compensation by the Commission for causing air pollution by stubble burning.

10. The Bill seeks to replace the aforesaid Ordinance.

BHUPENDER YADAV.

NEW DELHI;
The 22nd July, 2021.

रजिस्ट्री सं. डी.एल.- 33004/99

REGD. No. D. L.-33004/99



भारत का राजपत्र The Gazette of India

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असाधारण
EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (i)
PART II—Section 3—Sub-section (i)

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

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No. 416]

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पर्यावरण, वन और जलवायु परिवर्तन मंत्रालय

शुद्धिपत्र

नई दिल्ली, 18 जुलाई, 2023

सा.का.नि. 522(अ).—भारत के राजपत्र, असाधारण, भाग II, खंड 3, उप-खंड (i) में प्रकाशित पर्यावरण, वन और जलवायु परिवर्तन मंत्रालय की अधिसूचना संख्या सा.कि.नि. 499 (अ), दिनांक 11 जुलाई, 2023 में शीर्षक की, दूसरी पंक्ति में 'मसौदा अधिसूचना' शब्द के स्थान पर 'अधिसूचना' पढ़ा जाए।

[फा. सं. क्यू-15014/16/2021-सीपीए (भाग-2)
नरेश पाल गंगवार, अपर सचिव

MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE
CORRIGENDUM

New Delhi, the 18th July, 2023

G.S.R. 522(E).—In the Notification No. G.S.R. 499(E) dated 11th July, 2023 of the Ministry of Environment, Forest and Climate Change published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), in second line of the title, for the words 'DRAFT NOTIFICATION', read 'NOTIFICATION'.

[F. No. Q-15014/16/2021-CPA (Part-2)]
NARESH PAL GANGWAR, Addl. Secy.

4652 GI/2023

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असाधारण
EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (i)
PART II—Section 3—Sub-section (i)

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पर्यावरण, वन और जलवायु परिवर्तन मंत्रालय

प्रारूप अधिसूचना

नई दिल्ली, 11 जुलाई, 2023

सा.का.नि. 499(अ).—केंद्रीय सरकार पर्यावरण (संरक्षण) अधिनियम, 1986 (1986 का 29) की धारा 3, धारा 6 और धारा 25 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, तापीय विद्युत संयंत्रों द्वारा फसल-अवशेषों के उपयोग को विनियमित करने के लिए निम्नलिखित नियम बनाती है, अर्थात्:-

1. संक्षिप्त नाम, लागू होना और प्रारंभ. —

(1) इन नियमों का संक्षिप्त नाम पर्यावरण (तापीय विद्युत संयंत्रों द्वारा फसल अवशेषों का उपयोग) नियम, 2023 है।

(2) ये राष्ट्रीय राजधानी क्षेत्र और निकटवर्ती क्षेत्रों में वायु क्वालिटी प्रबंध आयोग अधिनियम, 2021 (2021 का 29) की धारा 2 की उपधारा (1) के क्रमशः खंड (च) और खंड (क) में यथा परिभाषित राष्ट्रीय राजधानी क्षेत्र और निकटवर्ती क्षेत्रों पर लागू होंगे।

(3) ये राजपत्र में उनके प्रकाशन की तारीख से प्रवृत्त होंगे।

2. फसल अवशेष का उपयोग. — विद्युत उत्पादन उपयोगिताओं से संबंधित सभी कोयला आधारित तापीय विद्युत संयंत्रों को कोयले के साथ अनिवार्य रूप से फसल अवशेषों से बने गुटिका (पेलेट्स) या ब्रिकेटों के न्यूनतम पांच प्रतिशत मिश्रण का अनिवार्य रूप से उपयोग करना होगा।

3. पर्यावरणीय प्रतिकर. - नियम 2 में यथा उपबंधित फसल अवशेषों का उपयोग न करने के लिए, राष्ट्रीय राजधानी क्षेत्र और निकटवर्ती क्षेत्रों में वायु क्वालिटी प्रबंध आयोग अधिनियम, 2021 (2021 का 29) के अधीन गठित राष्ट्रीय

राजधानी क्षेत्र और के निकटवर्ती क्षेत्रों में वायु क्वालिटी प्रबंध आयोग या उस आयोग द्वारा पराधिकृत कोई अधिकारी नीचे दी गई सारणी में विनिर्दिष्ट दर पर वार्षिक आधार पर ऐसे तापीय विद्युत संयंत्रों को पर्यावरणीय प्रतिकर अधिरोपित करेगा और उसकी वसूली करेगा:

वर्ष 2024-2025 के लिए पर्यावरणीय प्रतिकर की दर:	
वार्षिक आधार पर उपयोग किए गए फसल अवशेष गुटिका (पेलेट्स) या ब्रिकेटों का प्रतिशत	पर्यावरणीय प्रतिकर की दर (उत्पादित विद्युत की प्रति यूनिट रु.)
पाँच प्रतिशत से कम या उसके बराबर किंतु चार प्रतिशत से अधिक	0.0
चार प्रतिशत से कम या उसके बराबर किंतु तीन प्रतिशत से अधिक	0.0
तीन प्रतिशत से कम या उसके बराबर किंतु दो प्रतिशत से अधिक	0.01
दो प्रतिशत से कम या उसके बराबर किंतु एक प्रतिशत से अधिक	0.02
एक प्रतिशत से कम या उसके बराबर किंतु शून्य प्रतिशत से अधिक	0.03
वर्ष (2025-2026) से आगे के लिए पर्यावरणीय प्रतिकर की दर	
वार्षिक आधार पर उपयोग किए गए फसल अवशेष गुटिका (पेलेट्स) या ब्रिकेट का प्रतिशत	पर्यावरणीय प्रतिकर की दर (उत्पादित विद्युत की प्रति यूनिट रु.)
पाँच प्रतिशत से कम किंतु चार प्रतिशत से अधिक या उसके बराबर	0.01
चार प्रतिशत से कम किंतु तीन प्रतिशत से अधिक या उसके बराबर	0.02
तीन प्रतिशत से कम किंतु दो प्रतिशत से अधिक या उसके बराबर	0.03
दो प्रतिशत से कम किंतु एक प्रतिशत से अधिक या उसके बराबर	0.04
एक प्रतिशत से कम किंतु शून्य प्रतिशत से अधिक या उसके बराबर	0.05

4. कतिपय मामलों में इन नियमों का लागू होना – यथास्थिति, केंद्रीय विद्युत विनियामक आयोग या राज्य विनियामक आयोग, नियम 2 के उपबंधों पर विचार करने के पश्चात् विद्युत अधिनियम, 2003 (2003 का 36) के , अधीन टैरिफ अवधारित करेगा।

5. शिथलीकरण की शक्ति. - वायु क्वालिटी प्रबंध आयोग, मामला-दर-मामला के आधार पर, केंद्रीय विद्युत प्राधिकरण और केंद्रीय प्रदूषण नियंत्रण बोर्ड के परामर्श से, तापीय विद्युत संयंत्र का ऐसे तापीय विद्युत संयंत्रों के नियंत्रण से परे परिस्थितियों से उत्पन्न होने वाली किसी भी कठिनाई के समाधान के लिए नियम 2 और 3 के उपबंधों के अनुपालन से शिथलीकरण कर सकेगा है।

[फा. सं. क्यू-15014/16/2021-सीपीए (पार्ट-1)]

नरेश पाल गंगवार, अपर सचिव

MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE

DRAFT NOTIFICATION

New Delhi, the 11th July, 2023

G.S.R. 499(E).—In exercise of the powers conferred by sections 3, 6 and 25 of the Environment (Protection) Act, 1986 (29 of 1986), the Central Government hereby makes the following rules to regulate the utilisation of crop-residue by the thermal power plants, namely:-

1. Short title, application and commencement. –

(1) These rules may be called the Environment (Utilisation of Crop residue by Thermal Power Plants) Rules, 2023.

(2) They shall apply to the National Capital Region and the Adjoining Areas as defined respectively in clauses (f) and (a) of sub-section (1) of section 2 of the Commission for Air Quality Management in National Capital Region and Adjoining Areas Act, 2021(29 of 2021).

(3) They shall come into force on the date of their publication in the Official Gazette.

2. Utilisation of crop residue. - All coal based thermal power plants of power generation utilities shall mandatorily use minimum five per cent blend of pellets or briquettes made of crop residue along with coal.

3. Environmental compensation.- For non-utilisation of crop residue as provided in rule 2, the Commission for Air Quality Management in National Capital Region and Adjoining Areas, constituted under the Commission for Air Quality Management of National Capital Region and Adjoining Areas Act, 2021 (29 of 2021), or any officer authorised by that Commission, shall impose and collect the environmental compensation from such thermal power plants on annual basis at the rates specified in the table given below:

(1) Rate of environmental compensation for the year 2024-2025:	
Percentage of crop residue pellets or briquettes utilized on annual basis	Rate of environmental Compensation (Rs. Per unit of electricity generated)
Less than or equal to five per cent but more than four per cent	0.0
Less than or equal to four per cent but more than three per cent	0.0
Less than or equal to three per cent but more than two per cent	0.01
Less than or equal to two per cent but more than one per cent.	0.02
Less than or equal to one per cent but more than zero per cent	0.03
(2) Rate of environment compensation for the year (2025-2026) onwards	
Percentage of crop residue pellets or briquettes utilised on annual basis	Rate of environmental Compensation (Rs. Per unit of electricity generated)
Less than five per cent but more than or equal to four per cent	0.01
Less than four per cent but more than or equal to three per cent	0.02
Less than three per cent but more than or equal to two per cent.	0.03
Less than two per cent but more than or equal to one per cent	0.04
Less than one per cent but more than or equal to zero per cent	0.05

4. Application of these rules in certain cases- The Central Electricity Regulatory Commission or the State Regulatory Commissions, as the case may be, shall determine tariff under the Electricity Act, 2003 (36 of 2003) after taking into consideration the provisions of rule 2.

5. Power to grant relaxation - The Commission for Air Quality Management may, on case to case basis, grant relaxation to thermal power plants, in consultation with the Central Electricity Authority and the Central Pollution Control Board, for addressing any difficulty arising out of circumstances beyond the control of such thermal power plants in its compliance of the provisions of rule 2 and 3 above.

[F. No. Q-15014/16/2021-CPA (part-1)]

NARESH PAL GANGWAR, Addl. Secy.



भारत सरकार
Government of India
विद्युत मंत्रालय
Ministry of Power
केंद्रीय विद्युत प्राधिकरण
Central Electricity Authority
सचिव कार्यालय
Office of the Secretary

No. CEA/TETD-TT/2017/M-25/1137-1251

Dated: 24.11.2017

To

All State Power Secretaries, Thermal Power Generating Plants/ Utilities (Public or Private), Power Equipment Manufacturers – As per list

Subject: Biomass Utilization for Power Generation through Co-firing in Pulverised Coal Fired Boilers- Advisory के बारे में ।

Dear Sir,

As you may be aware that stubble burning has been cited as a major cause of recent smog in North- West India. Stubble burning is deliberate setting fire of the straw stubble that remains after harvesting of paddy and other crops. Instead of burning in open fields, these can be collected, processed and can be used as Biomass fuel to generate power.

Biomass Co-firing is a well proven technology. With increasing environmental awareness, power plants all over the world have adopted Biomass Co-firing as a strategy to combat pollution. UNFCCC recognizes Biomass Co-firing as a carbon neutral technology for mitigation of carbon emission from coal based power plants.

NTPC have successfully demonstrated the Co-firing of 7% blend of Biomass pellets with coal in its Dadri Power Plant. This can be replicated in other coal fired power plants having bowl mills/vertical roller mills/ beater mills.

Ministry of Power vide letter No. 11/86/2017-Th.II dated 17th November, 2017 have forwarded 'Policy for Biomass Utilization for Power Generation through Co-firing in Pulverised Coal Fired Boilers' and has requested to issue the same to all the Power Plants/ Utilities (public or private), State Governments, Power equipment manufacturers and other stake holders. The Policy has been uploaded on CEA website www.cea.nic.in

'In order to promote use of the Biomass pellets, all fluidized bed and pulverized coal units (coal based thermal power plants) except those having ball and tube mill, of power generating utilities, public or private, located in India, shall endeavor to use 5-10% blend of Biomass pellets made, primarily, of agro residue along with coal after assessing the technical feasibility, viz. safety aspects etc.'

Yours faithfully,


(P.C. Kureel)
Secretary, CEA

To

Central Utilities

1. Chairman & Managing Director, NTPC Ltd., NTPC Bhawan, Scope Complex, 7, Institutional Area, Lodhi Road, New Delhi-110003.
2. Chairman, Damodar Valley Corporation, DVC Towers, VIP Road, Kolkata- 700 054
3. Chairman & Managing Director, Neyveli Lignite Corporation Ltd., Corporate Office, Block-I, Neyveli - 607801 , Tamil Nadu

State Utilities

1. Managing Director, Andhra Pradesh Power Generation Corporation Limited, Vidyut Soudh, Hyderabad- 500 049 Andhra Pradesh
2. Managing Director, Assam Power Generation Corporation Ltd. , Bijuli Bhawan, 4th Floor, Palton Bazar, Guwahati 781001 Assam
3. Managing Director, Bihar State Power Generation Company Ltd., 1st Floor, Vidyut Bhawan, Bailey Road, Patna 800 021
4. Managing Director, Chhattisgarh State Power Generation Corporation Ltd., Dagniya, Raipur - 492 013 Chhattisgarh
5. Managing Director, Durgapur Projects Ltd., Dr. B C Roy Avenue, Disrict Burdwan, Durgapur- 713 201 West Bengal
6. Managing Director, Gujarat State Electricity Corporation Ltd., Sardar Patel Vidyut Bhawan, Race Course, Vadodara 390 007 Gujarat
7. Managing Director, Gujarat Urja Vikas Nigam Ltd., Sardar Patel Vidyut Bhawan, Race Course Road, Vadodara- 390 007 Gujarat
8. Managing Director, Haryana Power Generation Corporation Ltd., Room No. 411, 3rd Floor, Urja Bhawan, C-7, Sector-6, Panchkula - 134 112 Haryana
9. Managing Director, Jharkhand Urja Vikas Nigam Limited, Engineering Building HEC, Dhurwa, Ranchi 834 004 Jharkhand.
10. Managing Director, Karnataka Power Corporation Ltd., Shakti Bhawan, 82, Race Course Road, Bangalore- 560 001
11. Managing Director , Maharashtra State Power Generation Corporation Limited, Plot No. G-9, Prakashgad, Bandra (East), MUMBAI-400 051
12. Managing Director, Madhya Pradesh Power Generation Corporation Ltd., Shakti Bhawan, Vidyut Nagar, Rampur P.O. , Jabalpur- 482 008
13. Managing Director, Odisha Power Generation Corporation Ltd., Zone- A, 7th Floor, Fortune Towers, Chandrashekharpur, Bhubaneshwar -751 023 Odisha

14. Chairman & Managing Director, Punjab State Power Corporation Limited, The Mall, Patiala -147 001 Punjab
15. Chairman & Managing Director, Rajasthan Rajya Vidyut Utpadan Nigam Ltd., Vidyut Bhawan, R.C. Dave Marg, Jyoti Nagar, Janpath Jaipur – 302 005 Rajasthan
16. Chairman & Managing Director, Tamil Nadu Generation and Distribution Corporation Limited, 10th Floor, NPKRR Maaligai, 144, Anna Salai, Chennai- 600 002
17. Chairman & Managing Director, Telangana State Power Generation Corporation Limited, Vidyut Soudha, Khairatabad, Hyderabad – 500082
18. Managing Director, U.P. Rajya Vidyut Utpadan Nigam Ltd., 7th Floor, Shakti Bhawan, 14, Ashok Marg, Lucknow – 226 001
19. Chairman & Managing Director, West Bengal Power Development Corporation Ltd., Bidyut Unnayan Bhaban, Block- LA, Plot No. 3/C. Sector- III, Salt Lake City, Kolkata-700 098 West Bengal
19. Managing Director, Indraprastha Power Generation Co. Ltd. , Office of PRO, Himadri, Rajghat Office Complex, New Delhi - 110 001

State Government

1. Chairman & Managing Director, Rural Electrification Corporation, Core- 4, SCOPE Complex, 7, Lodhi Road, New Delhi – 110003.
2. Chairman & Managing Director, Power Finance Corporation Ltd., Urjanidhi, 1,Barakhamba Lane, Connaught Place, NEW DELHI-110 001.
3. Principal Secretary Head (Energy Dept.), Government of Andhra Pradesh Secretariat, Hyderabad- 500 022 Andhra Pradesh
4. Additional Chief Secretary (Power), WPT&BC, Assam Secretariat, (Government of Assam), P.O. Assam Sachivalaya, Block-C, Ground Floor, Dispur - 781 006 Assam
5. Principal Secretary (Energy), Government of Bihar, Irrigation Building, Sinchai Bhawan, 1st Floor, Patna – 800 015 Bihar
6. Principal Secretary (Energy), Government of Chhattisgarh, Room No. 308, DKS Bhawn, Mantralaya, Raipur, Chhattisgarh
7. Chief Secretary (Power), Government of NCT of Delhi, 8th Floor, Players Building, Delhi Secretariat, I.P. Estate, New Delhi – 110 002
8. Principal Secretary (Energy Deptt.), Government of Gujarat, Sachivalaya, Block No. 5, 5th floor, Gandhi Nagar-382 010 Gujarat
9. Financial Commissioner & Principal Secretary (Power), Government of Haryana Room No. 603, 6th floor, New Secretariat Building, Sector-17, Chandigarh – 160 017 Haryana
10. Principal Secretary (Energy) , Government of Jharkhand , Nepal House, Room No. 6, Doranda, Ranchi – 834002 Jharkhand

11. Addl. Chief Secy. & Principal Secy. (Energy), Energy Department, Government of Karnataka, Room No. 236, 2nd floor, Vikasa Soudha, Dr. Ambedkar Road, Bangalore - 560 001 Karnataka
12. Secretary (Energy), Government of Madhya Pradesh, Mantralaya, Bhopal- 462 001 Madhya Pradesh
13. Secretary (Energy), Government of Maharashtra, Industries Energy & Labour Deptt., 4th floor, Mantralaya, Room no. 401, Mumbai- 400 032
14. Commissioner-cum- Secretary, Department of Energy, Government of Odisha, Odisha Secretariat, Bhubaneshwar - 751 001 Orissa
15. Secretary (Power), Government of Punjab, Mini Secretariat, Sector- 9, Chandigarh - 160 009 Punjab
16. Secretary (Power), Chief Secretariat, Goubert Avenue, Puducherry - 605 001
17. Secretary (Energy), Government of Rajasthan, Main Building Secretariat, Janpath, Jaipur- 302 001 Rajasthan
18. Principal Secretary (Energy), Energy Department, Government of Tamil Nadu, Secretariat, Chennai - 600 009 Tamil Nadu
19. Principal Secretary, Energy Department, Government of Telangana, Room No. 328A, 2nd Floor, D- Block, T.S. Secretariat, Hyderabad - 500022 Telangana
20. Principal Secretary (Energy), Government of Uttar Pradesh, Lal Bahadur Shastri Bhawan, Annexe, 5th Floor, Lucknow - 226 004 Uttar Pradesh
21. Principal Secretary (Energy), Department of Power & NCES, Govt. of West Bengal, New Secretariat Building, I.K.S. Roy Road, 7th floor, Block 'A', Kolkata-700 001 West Bengal

Power Equipment Manufacturers

1. Chairman & Managing Director, Bharat Heavy Electrical Ltd., BHEL House, Asiad Village, Siri Fort, New Delhi - 110 049
2. General Manager, L&T MHI Boilers Private Ltd., 12/4 Delhi Mathura Road, Near Sarai Khawaja Chowk, Faridabad - 121003 Haryana
3. General Manager, L&T - MHI Turbine & Generators Pvt. Ltd., 1st Floor, Pankaj Building, Chhani Road, Vadodara - 390 024 Gujarat
4. CEO, Alstom Bharat Forge Power Limited, IHDP Building, Plot # 7, Sector- 127, NOIDA - 201301 Uttar Pradesh
5. Managing Director, Toshiba JSW Power Systems Private Limited, S. No. 74-95, Vaikkadu Village, Andarkuppam Check Post, Manali New Town, Chennai - 600103 Tamil Nadu

6. Vice President, Thermax Babcock & Wilcox Energy Solutions Private Limited, Energy House, D-2 Block, Plot No. 38 & 39, MIDC Area, R.D. Aga Road, Chinchawad, Pune – 411019
7. Managing Director, Doosan Power Systems India Pvt. Ltd., 18/2A, Sennerkuppam Bypass, Poonamallee, Chennai – 600056

IPPs / Generating Companies

1. Vice President, M/s Adani Power Limited, 8 A, Sambhav Building, Judges Bungalow Road, Bodakdev, Ahmedabad – 380 015 (Gujarat)
2. M/s Athena Chhattisgarh Power Pvt. Ltd., 7-1-24, B- Block, 5th Floor, B Block, Roxana Towers, Green Lands, Begumpet, Hyderabad- 500 016 Andhra Pradesh
3. M/s Atlas Power India Pvt. Limited, A-2, II Floor, Regency Splendour Apartments No. 25, Hall Road, Richards Town, Bangalore-560005
4. M/s Amaravati Thermal Power Private Limited, 6-3-1090, TSR Towers, Rajbhavan Road, Somajiguda, Hyderabad- 500082
5. M/s Astaranga Power Company Limited, 1259, Lakshmi Towers, Road No 36, Jubilee Hills, Hyderabad- 500033
6. Aban Power Company Ltd., 3rd Floor, 25 GN Chetty Road, T Nagar, Chennai – 600 017
7. Adhunik Power & Natural Resources Ltd., 208-209, 2nd Floor, Padma Tower-II, 22 Rajendra Place, New Delhi – 110 008
8. Alfa Infraprop Private Limited, 3rd Floor, Rider House, 136, Sector – 44, Gurgaon – 122 002
9. AES (India) Private Limited, 9th Floor, Tower – B, DLF Building No. 10, Cyber City, Phase – II, Gurgaon – 122 002 Haryana
10. BPL Power Projects (AP) Pvt. Limited, H. No. 8-2-293/82/NG/03, Plot No. 3, Road No. 69, Nandagiri Hills, Jubilee Hills, Hyderabad – 500 033
11. BGR Energy Systems Ltd., 443, Anna Salai Teynampet, Chennai – 600 018
12. Coastal Energen Pvt. Ltd., 7th Floor, Buhari Towers, 4, Moores Road, Chennai -600 006
13. M/S Corporate Power Ltd., Insignia Tower, EN1, Sector-V, Salt Lake, 3rd Floor, Kolkatta 700 091
14. CESC Limited, CESC House, Chowringhee Square, Kolkata- 700 001
15. CLP Power India Private Limited, 15th Floor, Oberoi Commerz, International Business Park, Oberoi Garden City, Goregaon (E), Mumbai – 400 063
16. Coastal Gujarat Power Limited (A Tata Power Company), Tunda Vandh Road, Tunda Village, Mundra , Kutch – 370 421
17. DHARIWAL Infrastructure (P) Ltd., CF-366, Salt lake City, Sector-1, Kolkata – 700064

18. Himanshu Jhavar, Sr. Vice President, D.B. Power Ltd., G-3A / 4-6, Kamanwala Chambers, New Udyog Mandir – 2, Mogul Lane, Mahim (W), Mumbai- 400 016
19. M/s East Coast Energy Pvt. Limited, 7-1-24, B Block, 5th Floor Roxena Towers, Greenland, Begumpet, Hyderabad 550 016 Andhra Pradesh
20. Essar Power Limited, Essar House, Prakash Deep, 10th Floor, 7 Tolstoy Marg, New Delhi – 110 001
21. Executive Vice President (Power Projects), GMR Energy Limited, IBC Knowledge Park, Phase 2, D- Block, 9th Floor, 4/1, Bannerghatta Road, Bangalore- 560 029
22. GVK Power & Infrastructure Limited, Paigah House, 156-159, Sardar Patel Road, Secundrabad – 500 003 Andhra Pradesh
23. M/s India Bulls Realtech Limited, “Indiabulls House”, 448-451, Udyog Vihar, Phase-V, Gurgaon-122001
24. M/s Ind-Barath Power (Utkal) Limited, Plot No 30-A, Road No 1, Film Nagar, Jubilee Hills, Hyderabad- 500 033
25. M/s. Ideal Energy Projects Ltd., 122, Telecom nagar, Pratap Nagar, Nagpur – 410022.
26. Director, Jindal Power Limited, Jindal Centre, 12, Bhikaji Cama Place, New Delhi- 110066
27. M/s Jindal India Thermal Power Limited, Plot No 12, Local Shopping Complex, Sector B-1, Vasant Kunj, New Delhi- 110 070
28. Sr. Vice President, M/s JSW Energy Limited, Jindal Mansion, 5A, Dr. G. Deshmukh Marg, Mumbai- 400026
29. M/S Jhabua power Ltd., 6th-7th Floor, Vatika Point, M.G.Road Phase II, Opposite First India Palace, Sector- 53, Gurgaon – 122 002
30. Avantha Power & Infrastructure Limited, 6th & 7th Floor, Vatika City Point, M.G. Road, Gurgaon – 122002
31. M/s Krishnapatnam Power Corporation Limited, Plot No 322, Road No 25, Jubilee Hill, Hyderabad-500033
32. M/s KVK Energy & Infrastructure (P) Limited, 6-3-1109/A/1, 3rd Floor, Navabharath Chambers, Somajiguda, Raj Bhavan Road, Hyderabad-500082
33. M/s Kineta Power Private Limited, Uma Enclave, 5th Floor, Road No. 9, Banjara Hills, Hyderabad-500 034
34. Head of SBU & CEO, Lanco Infratech Limited, Plot No 397, Udyog Vihar, Phase-III, Gurgaon-122 016 Haryana
35. Vice President (Technical), Lanco Anpara Power Limited, Plot No 397, Udyog Vihar, Phase-III, Gurgaon-122 016 Haryana

36. General Manager, Fuel Sourcing Group (E&C Power), Larsen & Toubro Limited, G-4, 2nd Floor, Gate No.1, Powai Campus, Saki-Vihar Road, Mumbai- 400072
37. M/S Lanco Amarkantak power Ltd., Plot No. 397, Phase-III, Udyog Vihar, Gurgaon-122016, Haryana
38. M/s Maithon Power Limited, (JV of Tata Power & DVC), C- 43, Sector-62, Noida 201 307 (UP)
39. M/s Moser Baer Power & Infrastructure Limited, 43 B, Okhala Industrial Estate, New Delhi- 110020
40. Meenakshi Energy Private Limited, Meekashi House, 8-2-418, Road No. 7, Banjara Hills, Hyderabad – 500 034
41. M/s NSL Power Limited, NSL ICON, Door No. 8-2-684/2/A, Plot Nos. 1to 4, 4th Floor Road No. 12, Banjara Hills, Hyderabad-500034
42. M/s Reliable Thermal Power limited, C-101, Ground Floor, East of Kailash, New Delhi-110065
43. Shri J. P. Chalsani, Chief Executive Director, Reliance Power Limited, Reliance Energy Centre, Shanta Cruz East, Mumbai-400 055
44. R.K.M. POWERGEN PVT LTD, 2nd & 3rd Floor, 14 Dr. Giri Appa Road, T. Nagar, Chennai-600017
45. M/s Sahara India Power Corporation Limited, Sahara India Centre, 5th Floor, 2, Kapoorthala Complex, Aliganj, Lucknow-226024
46. M/s Sheshadri Power & Infrastructure (P) Ltd., Surya Towers, 6th Floor, 105, Sardar Patel Road, Secundrabad-500003
47. M/s SJK Powergen Limited, 501, Waves Apartments, 4th Floor, Opp. R.K. Beach, Adjacent to SAIL Office, Visakhapatnam- 530 003
48. M/s SKS Ispat and Power Limited, 501 B, Elegant Business Park, Andheri Kurla Road, J.B. Nagar, Andheri (E), Mumbai-400 059
49. M/s SLS Energy Private Limited, 1445, “Vajras”, 1st Floor, 28th Main, Southend ‘A’ Cross Jayanagar, 9th Block (East), Bangalore-560069
50. M/s Sophia Power Company Ltd., Indiabulls House, 448-451, Udyog Vihar, Phase-V, Gurgaon-122001
51. Chief Operating Officer, Spectrum Power Generation Limited, Plot No 231, 8-2-293/82/A/231, 3rd Floor, Road No. 36, Jubilee Hills, Hyderabad-500 033
52. M/s SRM Energy Private Limited, 43, Free Press House, 215, Nariman Point, Mumbai-400021
53. M/s Sterlite Energy Pvt. Ltd., 1st Floor, City Mart Commercial Complex, Baramundra, Bhubaneswar-751003

54. M/s. Simhapuri Energy pvt. Ltd., Madhucon, Greenland, 6-3-866/2, 3rd Floor, Begumpet, Hyderabad-500016
55. Managing Director, Tata Power Company Limited, 24, Homi Mody Street, Mumbai-400 001
56. Shri K. Chandrashekhar, Director (Projects), Tata Power Company Limited, Dharavi Receiving Station, Matunga, Mumbai-400 019
57. M/s Torrent Power Limited, Torrent House, Off Ashram Road, Ahemdabad-380009
58. DGEN Mega Power Project, Torrent Energy Limited, Plot No. Z-9, Dahej SEZ Area (Eastern Side), Taluka Vagra, Distt. Bharuch – 392130 Gujarat
59. M/s VIDEOCON Industries Limited, VIDEOCON Towers, 12th Floor, E-1, Jhandewalan Extn., New Delhi-110055
60. VANDANA VIDYUT Ltd., Vandana Bhawan, MG Road, Raipur – 492 001, Chhattisgarh
61. Wardha Power Company Private Limited, Sony Apartment, 2nd Floor, 19, REbella Road, Bandra West, Mumbai – 400 050
62. CEO, Jinbhuvish Power Generation Pvt. Limited, 155- A, Mittal Tower, Nariman Point, Mumbai- 400 021
63. Managing Director, Godawari Power and Ispat Ltd., Plot No. 428/2, Phase I, Industrial Area, Distt. Raipur, Siltara – 493111 Chhattisgarh
64. Managing Director, Godawari Power and Ispat Ltd., Hira Arcade, 1st Floor, New Bus Stand, Pandri, Raipur – 492001 Chhattisgarh

F. No. A-110014/10/2020/CAQM-SB-Vol.II -573
Commission for Air Quality Management in
NCR and Adjoining Areas

Indian Oil Bhavan, 1, Sri Aurobindo Marg,
Yusuf Sarai, New Delhi 110016

Dated: 28th July, 2021

Advisory No: 5 of 2021

To

The Chief Secretary,
Government of Punjab,
6th Floor, Punjab Civil Secretariat -1, Sector -1,
Chandigarh – 160001.

ADVISORY FROM THE COMMISSION

Subject: Ex-situ stubble management for tackling the problem of stubble burning: reg.

1. Whereas, the Commission in various meetings held with the representatives of State Governments of Punjab, Haryana, Uttar Pradesh, Rajasthan, Government of NCT of Delhi and other stakeholders/knowledge institutions like Indian Council of Agricultural Research(ICAR), Indian Agriculture Research Institute (IARI), Indian Space Research Organization (ISRO), NGOs, and civil society groups etc. working in the National Capital Region (NCR) has observed that Paddy stubble burning has been a matter of grave concern in view of its adverse impact on air quality in NCR ;
2. Whereas, the Commission has provided an effective framework and steps to be taken to tackle the problem of stubble burning to the State Governments of Punjab, Haryana, Uttar Pradesh, Rajasthan and GNCTD, and issued Directions dated 10th June, 2021 to prepare a

detailed/comprehensive plan of action, based on the contours contained in the frame-work provided to tackle the problem of stubble burning;

3. Whereas, ***Ex-situ Crop Residue management (CRM)*** is one of the vital strategies of the framework to tackle the problem of stubble burning;
4. Whereas, a meeting dated 13th July, 2021 on the subject of *Ex-situ* stubble management was chaired by Chairperson of Commission and attended by the representatives of the State Governments of Punjab, Haryana and Uttar Pradesh, Ministries of Power, Agriculture and Farmers Welfare, New and Renewable Energy, Government of India and National Thermal Power Corporation (NTPC) and the meeting *inter alia* discussed utilization of stubble in Coal based Thermal Power Plants;
5. Whereas, the major alternate usage of paddy straw as fuel is in thermal power plants, waste to energy plants, brick kilns etc. and also as end products as pellets/ briquettes, bio-fuels (bio-ethanol, compressed bio-gas), particle board, compressed agri-panel, panel furniture, packaging material etc. was highlighted in the meeting;
6. Whereas, the Commission had emphasised and reiterated that the major challenge, in making the *ex-situ* options workable is to ensure a continuous and assured availability of paddy straw to the various end users and to develop a sound policy framework for robust supply chain mechanism covering both the supply side and demand side requirements;
7. Whereas, the NTPC a potential major end user of the paddy straw in Thermal Power Plants in the form of pellets/ torrefied pellets, *inter-alia* highlighted that :
 - i) It is technically feasible and implementable to co-fire bio-mass pellets with coal in proportion upto 5-10% in Thermal Power Plants ;

- ii) There is no technical constraints in utilising paddy straw pellets for co-firing in super critical plants and such co-firing is already being done in super-critical boilers in three NTPC plants ;
 - iii) NTPC is expanding the use bio-pellets in thermal power plants and actions have been initiated for the use bio-mass pellets in 17 plants to utilise about 5 million ton of bio-mass per annum;
 - iv) To promote supply of paddy straw/ bio-mass pellets to the thermal power plants by private entrepreneurs and vendors, State Governments should take necessary steps to create an ecosystem for this purpose ;
 - v) NTPC is committed to utilise paddy straw pellets which are made available to them at the gate of the plants;
 - vi) Since many thermal power plants in the states of Punjab and Haryana are operated by State Government agencies, they may also use biomass pellets in such power plants and considering the proximity, the transportation and logistics costs would be competitive.
8. Whereas, Ministry of Power, Government of India has launched a National Biomass Mission for utilization of biomass with representatives from CEA, NTPC, DVC and NLC, where NTPC will provide the logistic and infrastructural support for the Mission;
9. Whereas, the Commission was apprised that Ministry of New and Renewable Resources, Government of India have provisions for providing subsidies for various bio-fuel projects and soft loans for supporting biomass supply chains ;
10. Whereas, there is a compelling necessity to promote *ex-situ* crop residue management and create a policy framework and eco-system for the purpose;

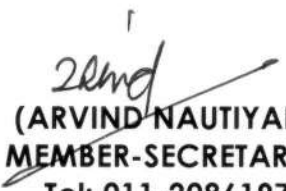
11. And therefore the State Government of Punjab is advised to take steps and initiatives in this regard and such steps *inter-alia* may include :-

- (i) Developing and Piloting small scale, affordable equipment (cutters, rakers, balers) that can be used in a versatile manner and across seasons through shared economy models;
- (ii) Enabling entrepreneurs to procure and share residue management equipments in greater numbers;
- (iii) Developing low cost, long-term paddy straw storage facilities by creating a convergence of subsidies, loan guarantees, lowering collateral etc.;
- (iv) Demonstrating price discovery model of paddy residue for farmers, by connecting a variety of end-users across the paddy straw value chain with entrepreneurs / FPO;
- (v) Demonstrating the profitability of paddy straw residue end use;
- (vi) Deploying and scaling decentralized innovations, which deliver higher value for paddy straw through multiple sustainable high-value end products.

12. And further the State Government of Punjab is advised to take note that paddy straw based biomass pellets and torrefied charcoal can be successfully used in thermal power plants for co-firing upto a blend ratio of 10 %, without any boiler design modifications and therefore initiate the following steps for utilisation of paddy straw in thermal power plants :-

- (i) To formulate a policy framework for ensuring assured and continuous supply of raw materials to *ex-situ* plants utilizing paddy crop residue.
- (ii) To use paddy straw pellets as fuel for co-firing in thermal power plants operated by State Governments in NCR since huge quantities of straw are available proximate to thermal power plants.
- (iii) ~~To~~ Promote and facilitate setting up of paddy straw pelletising units / torrefying units at strategic geographical locations in the state to optimize on the supply chain logistics.
- (iv) To have detailed deliberations with NTPC for assistance in using paddy straw in thermal power plants operated by NTPC as well as TPPs operated by the respective States. Such a possibility may also be explored for the private power plants.
- (v) To tap the expertise of the National Biomass Mission and NTPC by State Government of Punjab for required assistance in this regard.
- (vi) To take benefit and required assistance under different schemes for *ex-situ* projects including providing subsidies and soft loans from Ministry of New and Renewable Resources, Government of India.

The Action Taken Report on the above advisory be apprised to the Commission.


(ARVIND NAUTIYAL)
MEMBER-SECRETARY
Tel: 011-20861974
Email: arvind.nautiyal@gov.in

F. No. A-110014/10/2020/CAQM-SB-Vol.II - 574
Commission for Air Quality Management in
NCR and Adjoining Areas

Indian Oil Bhavan, 1, Sri Aurobindo Marg,
Yusuf Sarai, New Delhi 110016

Dated: 28th July, 2021

Advisory No: 6 of 2021

To

The Chief Secretary,
Government of Haryana,
4th Floor, Haryana Civil Secretariat,
Sector-1, Chandigarh -160019

ADVISORY FROM THE COMMISSION

Subject: Ex-situ stubble management for tackling the problem of stubble burning: reg.

1. Whereas, the Commission in various meetings held with the representatives of State Governments of Punjab, Haryana, Uttar Pradesh, Rajasthan, Government of NCT of Delhi and other stakeholders/knowledge institutions like Indian Council of Agricultural Research(ICAR), Indian Agriculture Research Institute (IARI), Indian Space Research Organization (ISRO), NGOs, and civil society groups etc. working in the National Capital Region (NCR) has observed that Paddy stubble burning has been a matter of grave concern in view of its adverse impact on air quality in NCR ;
2. Whereas, the Commission has provided an effective framework and steps to be taken to tackle the problem of stubble burning to the State Governments of Punjab, Haryana, Uttar Pradesh, Rajasthan and GNCTD, and issued Directions dated 10th June, 2021 to prepare a

detailed/comprehensive plan of action, based on the contours contained in the frame-work provided to tackle the problem of stubble burning;

3. Whereas, ***Ex-situ Crop Residue management (CRM)*** is one of the vital strategies of the framework to tackle the problem of stubble burning;
4. Whereas, a meeting dated 13th July, 2021 on the subject of *Ex-situ* stubble management was chaired by Chairperson of Commission and attended by the representatives of the State Governments of Punjab, Haryana and Uttar Pradesh, Ministries of Power, Agriculture and Farmers Welfare, New and Renewable Energy, Government of India and National Thermal Power Corporation (NTPC) and the meeting *inter alia* discussed utilization of stubble in Coal based Thermal Power Plants;
5. Whereas, the major alternate usage of paddy straw as fuel is in thermal power plants, waste to energy plants, brick kilns etc. and also as end products as pellets/ briquettes, bio-fuels (bio-ethanol, compressed bio-gas), particle board, compressed agri-panel, panel furniture, packaging material etc. was highlighted in the meeting;
6. Whereas, the Commission had emphasised and reiterated that the major challenge, in making the *ex-situ* options workable is to ensure a continuous and assured availability of paddy straw to the various end users and to develop a sound policy framework for robust supply chain mechanism covering both the supply side and demand side requirements;
7. Whereas, NTPC a potential major end user of the paddy straw in Thermal Power Plants in the form of pellets/ torrefied pellets, *inter-alia* highlighted that :

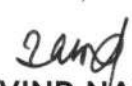
- i) It is technically feasible and implementable to co-fire bio-mass pellets with coal in proportion upto 5-10% in Thermal Power Plants ;
 - ii) There is no technical constraints in utilising paddy straw pellets for co-firing in super critical plants and such co-firing is already being done in super-critical boilers in three NTPC plants ;
 - iii) NTPC is expanding the use bio-pellets in thermal power plants and actions have been initiated for the use bio-mass pellets in 17 plants to utilise about 5 million tonnes of bio-mass per annum;
 - iv) To promote supply of paddy straw/ bio-mass pellets to the thermal power plants by private entrepreneurs and vendors, State Governments should take necessary steps to create an ecosystem for this purpose ;
 - v) NTPC is committed to utilise paddy straw pellets which are made available to them at the gate of the plants;
 - vi) Since many thermal power plants in the states of Punjab and Haryana are operated by State Government agencies, they may also use biomass pellets in such power plants and considering the proximity, the transportation and logistics costs would be competitive.
8. Whereas, Ministry of Power, Government of India has launched a National Biomass Mission for utilization of biomass with representatives from CEA, NTPC, DVC and NLC, where NTPC will provide the logistic and infrastructural support for the Mission;
9. Whereas, the Commission was apprised that Ministry of New and Renewable Resources, Government of India have provisions for providing subsidies for various bio-fuel projects and soft loans for supporting biomass supply chains ;

10. Whereas, there is a compelling necessity to promote *ex-situ* crop residue management and create a policy framework and eco-system for the purpose;
11. And therefore the State Government of Haryana is advised to take steps and initiatives in this regard and such steps *inter-alia* may include :-
- (i) Developing and Piloting small scale, affordable equipment (cutters, rakers, balers) that can be used in a versatile manner and across seasons through shared economy models;
 - (ii) Enabling entrepreneurs to procure and share residue management equipments in greater numbers;
 - (iii) Developing low cost, long-term paddy straw storage facilities by creating a convergence of subsidies, loan guarantees, lowering collateral etc.;
 - (iv) Demonstrating price discovery model of paddy residue for farmers, by connecting a variety of end-users across the paddy straw value chain with entrepreneurs / FPO;
 - (v) Demonstrating the profitability of paddy straw residue end use;
 - (vi) Deploying and scaling decentralized innovations, which deliver higher value for paddy straw through multiple sustainable high-value end products.
12. And further the State Government of Haryana is advised to take note that paddy straw based biomass pellets and torrefied charcoal can be successfully used in thermal power plants for co-firing upto a blend ratio of

10 %, without any boiler design modifications and therefore initiate the following steps for utilisation of paddy straw in thermal power plants :-

- (i) To formulate a policy framework for ensuring assured and continuous supply of raw materials to *ex-situ* plants utilizing paddy crop residue.
- (ii) To use paddy straw pellets as fuel for co-firing in thermal power plants operated by State Governments in NCR, since huge quantities of straw are available proximate to thermal power plants.
- (iii) To promote and facilitate setting up of paddy straw pelletising units / torrefying units at strategic geographical locations in the state to optimize on the supply chain logistics.
- (iv) To have detailed deliberations with NTPC for assistance in using paddy straw in thermal power plants operated by NTPC as well as TPPs operated by the States. Such a possibility may also be explored for the private power plants.
- (v) To tap the expertise of the National Biomass Mission and NTPC by State Government of Haryana for required assistance in this regard.
- (vi) To take benefit and required assistance under different schemes for *ex-situ* projects including providing subsidies and soft loans from Ministry of New and Renewable Resources, Government of India.

The Action Taken Report on the above advisory be apprised to the Commission.

1

(ARVIND NAUTIYAL)
MEMBER-SECRETARY
Tel: 011-20861974
Email: arvind.nautiyal@gov.in

F. No. A-110014/10/2020/CAQM-SB-Vol.II -575-
Commission for Air Quality Management in
NCR and Adjoining Areas

Indian Oil Bhavan, 1, Sri Aurobindo Marg,
Yusuf Sarai, New Delhi 110016

Dated: 28th July, 2021

Advisory No: 7 of 2021

To

The Chief Secretary,
Government of Uttar Pradesh,
1st Floor, Room No. 110,
Lalbahadur Sastri Bhawan,
Uttar Pradesh Secretariat,
Lucknow-226001

ADVISORY FROM THE COMMISSION

Subject: Ex-situ stubble management for tackling the problem of stubble burning: reg.

1. Whereas, the Commission in various meetings held with the representatives of State Governments of Punjab, Haryana, Uttar Pradesh, Rajasthan, Government of NCT of Delhi and other stakeholders/knowledge institutions like Indian Council of Agricultural Research(ICAR), Indian Agriculture Research Institute (IARI), Indian Space Research Organization (ISRO), NGOs, and civil society groups etc. working in the National Capital Region (NCR) has observed that Paddy stubble burning has been a matter of grave concern in view of its adverse impact on air quality in NCR
2. Whereas, the Commission has provided an effective framework and steps to be taken to tackle the problem of stubble burning to the State Governments of Punjab, Haryana, Uttar Pradesh, Rajasthan and GNCTD, and issued Directions dated 10th June, 2021 to prepare a

detailed/comprehensive plan of action, based on the contours contained in the frame-work provided to tackle the problem of stubble burning;

3. Whereas, ***Ex-situ Crop Residue management (CRM)*** is one of the vital strategies of the framework to tackle the problem of stubble burning;
4. Whereas, a meeting dated 13th July, 2021 on the subject of *Ex-situ* stubble management was chaired by Chairperson of Commission and attended by the representatives of the State Governments of Punjab, Haryana and Uttar Pradesh, Ministries of Power, Agriculture and Farmers Welfare, New and Renewable Energy, Government of India and National Thermal Power Corporation (NTPC) and the meeting *inter alia* discussed utilization of stubble in Coal based Thermal Power Plants;
5. Whereas, the major alternate usage of paddy straw as fuel is in thermal power plants, waste to energy plants, brick kilns etc. and also as end products as pellets/ briquettes, bio-fuels (bio-ethanol, compressed bio-gas), particle board, compressed agri-panel, panel furniture, packaging material etc. was highlighted in the meeting;
6. Whereas, the Commission had emphasised and reiterated that the major challenge, in making the *ex-situ* options workable is to ensure a continuous and assured availability of paddy straw to the various end users and to develop a sound policy framework for robust supply chain mechanism covering both the supply side and demand side requirements;
7. Whereas, NTPC a potential major end user of the paddy straw in Thermal Power Plants in the form of pellets/ torrefied pellets, *inter-alia* highlighted that :

- i) It is technically feasible and implementable to co-fire bio-mass pellets with coal in proportion upto 5-10% in Thermal Power Plants ;
 - ii) There is no technical constraints in utilising paddy straw pellets for co-firing in super critical plants and such co-firing is already being done in super-critical boilers in three NTPC plants ;
 - iii) NTPC is expanding the use bio-pellets in thermal power plants and actions have been initiated for the use bio-mass pellets in 17 plants to utilise about 5 million tonnes of bio-mass per annum;
 - iv) To promote supply of paddy straw/ bio-mass pellets to the thermal power plants by private entrepreneurs and vendors, State Governments should take necessary steps to create an ecosystem for this purpose ;
 - v) NTPC is committed to utilise paddy straw pellets which are made available to them at the gate of the plants;
8. Whereas, Ministry of Power, Government of India has launched a National Biomass Mission for utilization of biomass with representatives from CEA, NTPC, DVC and NLC, where NTPC will provide the logistic and infrastructural support for the Mission;
9. Whereas, the Commission was apprised that Ministry of New and Renewable Resources, Government of India have provisions for providing subsidies for various bio-fuel projects and soft loans for supporting biomass supply chains ;
10. Whereas, there is a compelling necessity to promote *ex-situ* crop residue management and create a policy framework and eco-system for the purpose;
11. And therefore the State Government of Uttar Pradesh is advised to take steps and initiatives in this regard and such steps *inter-alia* may include :-

- (i) Developing and Piloting small scale, affordable equipment (cutters, rakers, balers) that can be used in a versatile manner and across seasons through shared economy models;
- (ii) Enabling entrepreneurs to procure and share residue management equipments in greater numbers;
- (iii) Developing low cost, long-term paddy straw storage facilities by creating a convergence of subsidies, loan guarantees, lowering collateral etc.;
- (iv) Demonstrating price discovery model of paddy residue for farmers, by connecting a variety of end-users across the paddy straw value chain with entrepreneurs / FPO;
- (v) Demonstrating the profitability of paddy straw residue end use;
- (vi) Deploying and scaling decentralized innovations, which deliver higher value for paddy straw through multiple sustainable high-value end products.

12. And further the State Government of Uttar Pradesh is advised to take note that paddy straw based biomass pellets and torrefied charcoal can be successfully used in thermal power plants for co-firing upto a blend ratio of 10 %, without any boiler design modifications and therefore initiate the following steps for utilisation of paddy straw in thermal power plants :-

- (i) To formulate a policy framework for ensuring assured and continuous supply of raw materials to *ex-situ* plants utilizing paddy crop residue.

- (ii) To use paddy straw pellets as fuel for co-firing in thermal power plants operated by State Governments in NCR, since huge quantities of straw are available proximate to thermal power plants.
- (iii) To promote and facilitate setting up of paddy straw pelletising units / torrefying units at strategic geographical locations in the state to optimize on the supply chain logistics.
- (iv) To have detailed deliberations with NTPC for assistance in using paddy straw in thermal power plants operated by NTPC as well as TPPs operated by the States. Such a possibility may also be explored for the private power plants.
- (v) To tap the expertise of the National Biomass Mission and NTPC by State Government of Uttar Pradesh for required assistance in this regard.
- (vi) To take benefit and required assistance under different schemes for *ex-situ* projects including providing subsidies and soft loans from Ministry of New and Renewable Resources, Government of India.

The Action Taken Report on the above advisory be apprised to the Commission.


(ARVIND NAUTIYAL)
MEMBER-SECRETARY
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**COMMISSION FOR AIR QUALITY MANAGEMENT
IN NATIONAL CAPITAL REGION AND ADJOINING AREAS**

17th Floor, Jawahar Vyapar Bhawan (STC Building)
Tolstoy Marg, New Delhi-110001

F.No.-120015/25/TPP/2021/CAQM- /948-955

Dated: 17.09.2021

Subject: Ex-Situ Paddy Straw Management through utilization in Coal Based Thermal Power Plants.

1. WHEREAS, Ministry of Environment, Forest and Climate Change, Government of India, in exercise of the powers conferred under Section 3 of the Commission for Air Quality Management in National Capital Region and Adjoining Areas Act 2021, has constituted the Commission for Air Quality Management in National Capital Region and Adjoining Areas (hereinafter referred to as the Commission);
2. WHEREAS, Section 30 of the Act, 2021 provides that anything done or any action taken under the erstwhile Ordinance 2020 shall be deemed to have been done or taken under the corresponding provisions of the Ordinance 2021;
3. WHEREAS, under Section 12 (1) of the Act, the Commission has powers to take all such measures, issue directions, etc., as it deems necessary or expedient for the purpose of protecting and improving the quality of the air in the National Capital Region and Adjoining Areas;
4. WHEREAS, Section 12 (2) (xi) of the Act, empowers the Commission to issue directions in writing to any person, officer, or any authority and such person, officer or authority shall be bound to comply with such directions;

5. WHEREAS, the Commission has observed that Paddy stubble burning is a matter of grave concern for air quality in NCR and Ex-situ utilization of paddy straw is an important strategy to solve the problem, especially in the Coal based Thermal Power Plants, being one of the potential users;
6. WHEREAS, the Commission had taken up the matter regarding ex-situ stubble management with NCR States in the past and State Governments were impressed upon the urgency and criticality of ensuring supply chain of biomass for making the ex-situ options viable and successful;
7. WHEREAS, the Commission has issued advisory on 28.07.2021 to the State Governments of Punjab, Haryana and Uttar Pradesh regarding ex-situ stubble management for tackling the problem of Stubble burning.
8. WHEREAS, the matter of utilization of biomass pellets for co-firing in thermal power plants was discussed in the meetings held in the Commission on 09.12.2020, 13.07.2021 and also 5th Meeting of the Commission held on 19th August, 2021 and 24th August, 2021;
9. WHEREAS, NTPC, based on the trials and experimentation has confirmed that it is technically feasible and implementable to co-fire bio-mass pellets with coal in proportion upto 5-10% in Thermal Power Plants without any modifications in the boilers;
10. WHEREAS, NTPC has already started co-firing bio-mass pellets in its power plants and based on the success of the trials, is promoting the use of bio-pellets in its thermal power plants across the country;
11. WHEREAS, the Commission has advised State Governments of Punjab, Haryana and Uttar Pradesh in the 5th Meeting of the Commission dated 19th August, 2021 and 24th August, 2021, to use paddy straw towards

co-firing as fuel in their respective state owned thermal power plants, NTPC power plants in the region and also make efforts to "on-board" private thermal power plant operators for this initiative;

12. WHEREAS, the matter was further deliberated in the meeting chaired by the Hon'ble Minister, EF&CC on 03.09.2021, in which the representatives from Thermal power plants in NCR and adjoining areas also participated, Wherein the need to use straw based biomass pellets in thermal power plants was reiterated;
13. WHEREAS, the matter was further deliberated in the meeting held in the Commission on 09.09.2021, in which the representatives of all the Thermal power plants in NCR and adjoining areas participated, wherein the need to co-fire paddy straw based pellets with coal was reiterated;
14. NOW THEREFORE, in view of the above position and the compelling need to control air pollution from burning of paddy straw and its effective utilization as a resource, the Commission constituted under the provisions of "Commission for Air Quality Management in National Capital Region and Adjoining Areas, Act, 2021", hereby directs the Coal based Thermal Power plants situated upto a radius of 300 Km of Delhi:
 - I. To initiate immediate steps to co-fire biomass based Pellets, Torrefied Pellets/Briquettes (with focus on paddy straw) with Coal (up to 5-10%) in the power plants through a continuous and uninterrupted supply chain and
 - II. To take all necessary steps to ensure that co-firing of biomass pellets in Thermal Power Plants begins without any delay.

Direction No. 42

15. First Action taken report in compliance of the above direction be submitted to the Commission by 25.09.2021 and reports thereafter may be sent on a monthly basis.

(Arvind Nautiyal)
 Member Secretary
 Tel No.: 011-23701197
 Email: arvind.nautiyal@gov.in

To:

1. Chairman and Managing Director, NTPC
2. MDs of Power Plants in NCR and adjoining areas:
 - I. Mahatma Gandhi TPS, CLP Jhajjar, Haryana
 - II. Panipat TPS, HPGCL, Haryana
 - III. Rajiv Gandhi TPS, Hisar, HPGCL, Haryana
 - IV. Deenbandhu Chhoturam TPS, Yamunanagar, HPGCL, Haryana
 - V. Guru Hargobind TPS, PSPCL, Punjab
 - VI. Nabha Power Ltd, Rajpura TPS, Punjab
 - VII. Talwandi Sabo TPS, Mansa, TSPL, Punjab
 - VIII. Guru Gobind Singh TPS, PSPCL, Punjab
 - IX. Harduaganj TPS, UPRVUNL, Uttar Pradesh

Copy forwarded to:

1. The Chief Secretary, Government of Punjab, 6th Floor, Punjab Civil Secretariat-1, Sector-1, Chandigarh -160 001
2. The Chief Secretary, Government of Haryana, 4th Floor, Civil Secretariat, Sector – 1, Chandigarh.
3. The Chief Secretary, Government of Uttar Pradesh, 101, Lok Bhawan, U. P. Civil Secretariat, Vidhan Sabha Marg, Lucknow – 226001.
4. Additional Secretary, Ministry of Power, Government of India.
5. Additional Chief Secretary, Power, Government of Punjab.

6. Additional Chief Secretary, Power and New and Renewable Energy, Government of Haryana.
7. Additional Chief Secretary, Department of Additional Sources of Energy, Government of Uttar Pradesh.
8. Member Secretary, Central Pollution Control Board

Arvind
(Arvind Naufiyal)

Minutes of the Meeting held under the Co-Chairmanship of Hon'ble Minister of Power & NRE and Hon'ble Minister of Environment, Forest & Climate Change and Labour & Employment on the issues related to co-firing of biomass pellets in Thermal Power Plants (TPPs) on 03.10.2022 at 11:30 AM

List of participants is given at **Annexure-I**.

2. At the outset, Secretary (Power) welcomed Hon'ble Minister of Power & NRE, Hon'ble Minister of Environment, Forest & Climate Change and Labour & Employment and all the participants. He apprised about the urgency to address the issue of air pollution due to farm stubble burning in the National Capital Region (NCR). He further highlighted the importance of the initiatives taken by the Ministry of Power (MoP) under the SAMARTH Mission to reduce the carbon footprint of Thermal Power Plants (TPPs) and to contribute to efforts to mitigate the air pollution issue from the Parali burning.

3. With the permission of Chair, Mission Director (SAMARTH Mission) made a presentation on the issue of co-firing of biomass pellets in the Thermal Power Plants in the NCR.

4. Mission Director (SAMARTH Mission) presented a detailed status of utilization of biomass in respect of 11 TPPs, status of tendering, Purchase Order (PO) Awarded, Under Award and Under Tendering Process. It was informed that NTPC has already placed PO of around 26 LMT of biomass pellets for their NCR plants. However, other than NTPC plants, the tendering for procurement of Biomass pellets for other plants is still under process.

4.1 In this regard, Hon'ble Minister of Power & NRE observed that the target of 5% co-firing of biomass along with coal in TPPs in the country is compulsory and non compliance will involve penalties. Most power plants have initiated long term tenders and the situation is expected to improve in future. He further pointed out the tendering efforts made by the TPPs located in Haryana and Punjab (other than NTPC) is inadequate.

5. Hon'ble Minister of Power & NRE asked representative of Government of Punjab (GoP) & Government of Haryana (GoH) to share the reasons for delay in awarding the tenders by GENCOs. He directed that the states should fix the responsibility for the non-compliance of biomass co-firing policy and various directions of CAQM. The State Governments were advised to ensure timely implementation of biomass utilization without any further delay.

5.1 CMD, PSPCL informed that the coal consumption for the PSPCL plants was around 25 Lakh Tonnes for the year 2021-22 and accordingly they

floated a tender for around 1.6 Lakh tonnes of coal in April 2022. It was further informed that PSPCL plants operate only during the paddy season and have a very low PLF.

5.2 Hon'ble Minister of Power & NRE suggested to PSPCL to estimate biomass requirement based on the coal consumption pattern and decide the tender quantity accordingly. It was directed to immediately issue a short term tender for biomass procurement, for the current season.

5.3 Secretary (Power) observed that there is a seasonal lag between biomass availability and the operative period of PSPCL plants and advised that PSPCL may also devise a mechanism to procure the biomass pellets during the harvest period and store it for their use during their plants' operational period.

6. Hon'ble Minister of Environment, Forest & Climate Change and Labour & Employment suggested that there may be a need of policy intervention for the TPPs in NCR. The TPPs in NCR may be given Must Run status in order to accelerate and enable the co-firing Biomass in these TPPs.

6.1 Hon'ble Minister of Power & NRE directed to examine the suggestion of Must Run status to TPPs utilizing biomass.

7. Hon'ble Minister of Power & NRE suggested that TPPs may set up their own pellet manufacturing units/torrefication facilities, to convert non torrefied pellets to torrefied pellets. It shall be fruitful in the long run to the TPPs.

7.1 In this regard, Hon'ble Minister of Environment, Forest & Climate Change and Labour & Employment suggested that GENCOs may also explore to set up biomass pellets manufacturing plant through Consortium.

7.2 Hon'ble Minister of Power & NRE directed that NTPC and other TPPs in the NCR to set up pellet manufacturing units based on the cluster model. District based mapping may be done in the cluster. Thereafter, assessment of the biomass potentials in these clusters may be carried out. This will ensure that every plant will have their ensured catchment area of biomass and they do not face any difficulty in availability of biomass in future.

7.3 CMD, NTPC Ltd., requested that the state Government may facilitate in allocation of land for setting up the pellet manufacturing units as directed by Hon'ble Minister of Power & NRE.

7.4 Hon'ble Minister of Power & NRE directed that Principal Secretaries/ (Environment) from Haryana, Punjab & Uttar Pradesh be nominated as

Nodal Officers for monitoring the progress and utilization of Biomass co-firing of the TPPs in their State. He further stated that the non-compliance in this regard would be viewed very strictly. Hon'ble Minister of Environment, Forest & Climate Change and Labour & Employment appreciated the suggestion and praised the initiative by MoP and remarked that all the support to Biomass Mission will be given to achieve its objective.

8. On reviewing the status of Talwandi Sabo Power Ltd. (TSPL) & Nabha Power Ltd. (NPL), Secretary (Power) stated that these TPPs are not serious regarding the biomass co-firing in their TPP.

8.1 Hon'ble Minister of Power & NRE directed TSPL & NPL to set up their own pellet manufacturing units and also to procure biomass on short term basis in this season without any further delay.

9. MD, HPGCL informed that they have floated a long term tender for 19.3 Lakh MT for procurement of biomass and PO will be placed by 10.10.2022. Thereafter, the supply of pellets will commence after a minimum of 6 months after awarding the PO.

9.1 Secretary (Power) remarked that the progress toward co-firing by HPGCL is not adequate. He further stated that long-term tender placed by HPGCL will be effective in next season and HPGCL has not placed any short term tender for procurement of biomass in this season. This may lead to burning of parali in this season.

9.2 Hon'ble Minister of Power & NRE directed to make immediate arrangements for the short term tenders and may also set up pellet manufacturing units in the premises of their respective TPPs.

9.3 MD, HPGCL ensured that they will procure the biomass pellets in this season through spot market.

9.4 MD, HPGCL informed that their Panipat plant has some technical limitation for the use of Biomass pellets in co-firing and it has been confirmed by its OEM i.e BHEL. However, Mission Director (SAMARTH Mission) informed that all ball & Tube mill are technically feasible to use Torrefied Biomass pellets with Volatile Matter (VM) limit of 22%, including Panipat plant which is mentioned in Biomass policy as well. It may require minor modification in their Milling system.

9.5 Hon'ble Minister of Power & NRE stated that Ministry of Power will also pursue the matter of Panipat TPP with BHEL.

10. Apaarva, Jhajjar informed that they have conducted technical feasibility study and submitted the report to CEA. As per report, they can utilize only 1-2% of non-torrefied biomass pellets in their co-firing. However, it was informed that Aaparva plant is technically feasible for the usage of torrefied biomass pellets for higher percentage.

10.1 Hon'ble Minister of Power & NRE directed Apaarva TPS (JPL) to set up their own pellet manufacturing unit and also to procure biomass on short term basis in this season without any further delay.

11. Hon'ble Minister of Power & NRE remarked that all TPPs in NCR should focus on the procurement of biomass for the short term via alternate methods like spot market or commission agents as the harvesting season has already arrived. They should find alternative arrangements for the supply of biomass pellets until supply from the long term tenders starts.

11.1 It was also recommended that all TPPs in NCR shall install biomass pellet manufacturing plants (torrefied / non-torrefied) in their premises, including the private power companies. The Cost of installation to be passed through as fixed cost in tariff.

11.2 Further, all TPPs were directed to issue enough tenders to cover 5% requirement of biomass (based on average 3-years coal consumption) with special emphasis on plants located in Punjab and Haryana. The power utilities should make all out efforts to complete the procurement process for existing tenders at the earliest.

12. The Chairman, CPCB informed that they have prepared a capital subsidy scheme which is under approval. This scheme will provide financial assistance for setting up the pellet manufacturing plants in the NCR. The scheme shall provide assistance of upto Rs 70 Lakhs for Non Torrefied Units and upto Rs. 1.4 Crore for setting up Torrefied Units.

12.1 Hon'ble Minister of Power & NRE suggested that subsidy amount in CPCB scheme should cover atleast 25% of the project cost to set up torrefied/non-torrefied units to make it attractive for entrepreneurs to set up plants and also suggested that soft loans may also be considered to the sector via REC & PFC.

12.2 In this regard, Hon'ble Minister of Environment, Forest & Climate Change and Labour & Employment informed that they would consider the suggestion of Hon'ble Minister of Power & NRE before finalizing the scheme.

13. ACS(Energy), Uttar Pradesh informed that they have already taken initiative and awarded PO for the supply of 12,500 MT biomass and supply will commence from 15.10.2022. He further informed that 90,000 MT supply of biomass tender will be finalized very shortly.

13.1 It was informed that Uttar Pradesh has recently published Bio fuel policy in September, 2022. This policy will encourage the development of manufacturing units for Bio fuel & Bio Pellets and will further streamline the supply chain of domestic biomass.

14. Joint Secretary, Ministry of Agriculture & Farmer Welfare (MoAFW) apprised that MoAFW have already disbursed Rs. 600 Cr. under the scheme 'Crop Residue Management' to the Govt. of Punjab (Rs 240 Cr), Govt. of Haryana (Rs. 195 Cr) & Govt. of Uttar Pradesh (Rs 154 Cr). This Scheme will enable Custom Hiring Centers (CHCs) to hire farm and agro residue aggregation machineries during the harvesting season.

14.1 Hon'ble Minister of Power & NRE advised MoAFW to monitor the implementation of the scheme and to review it regularly to ensure whether it is benefiting the intended beneficiary. It was also advised that CHCs equipments to be made available in the catchment area of the TPPs for the biomass aggregation.

15. The Chairperson, CAQM stated that the actual utilization in TPPs as against the requirement is very low among the 9 TPPs across NCR except NTPC Ltd. plants (Jhajjar & Dadri). He further stated that tendering done so far by TPPs in NCR are also not satisfactory.

15.1 Hon'ble Minister of Power & NRE stated that after reviewing the status of all TPPs, Ministry of Power (MoP) will send its recommendations to CAQM/MoEF&CC. Based on recommendations, CAQM/MoEF&CC may consider invoking penal provisions on TPPs which are not taking enough steps to curb emissions and not co-firing sufficient quantity of biomass.

16. Regarding tariff regulation, PSPCL informed that they have filed a Petition in the State Regulatory Commission regarding pass through of the cost of pellets in ECR and they hope that it will be approved by State Commission very soon.

16.1 Hon'ble Minister of Power & NRE asked GoP to expedite the process of tariff approval and incorporate the provision for inclusion of biomass utilization in the Tariff Regulation.

16.2 HPGCL informed that HERC has already given permission for the pass through of the cost. However, GENCOs need to file a Petition in HERC subject to written clearance from their respective OEM.

17. Hon'ble Minister of Power & NRE stated that negligence toward environment cannot be tolerated any further and appropriate actions will be taken towards non-compliance of the policy. MoP would also consider reduction in coal supply of those TPPs that do not comply with the MoP's policy on biomass co-firing.

18. After detailed deliberations, the following directions were given:-

(i) All NCR TPPs shall float and expedite the short term tenders for biomass pellets for increased collection of biomass during the current harvest season.

(ii) All the TPPs shall install biomass pellet manufacturing plants (torrefied / non-torrefied) in their premises or in cluster based model, including the private sector TPPs. The State Governments will facilitate in providing land for installation of pellet manufacturing unit.

(iii) Concerned Principal Secretary (Environment) shall be nominated as Nodal Officer for monitoring the progress and utilization of Biomass co-firing of the TPPs in their state.

(iv) CAQM/MoEF&CC may consider invoking penal provisions on TPPs which are not taking enough steps to curb emissions and not co-firing sufficient quantity of biomass. Further, MoP would also consider reduction in coal supply of those TPPs that do not comply with the MoP's policy on biomass co-firing.

(v) Govt. of Haryana to ensure the biomass procurement and utilization in JPL (Apraava Energy) and Panipat TPL and furnish the report in next 10 days.

(vi) Govt. of Punjab to ensure the biomass procurement and utilization in TSPL & NPL and furnish the report in next 10 days.

The meeting ended with a vote of thanks to the chair.

Annexure-I

Sl no	Name	Organization
01	Shri. R. K Singh	Hon'ble Minister of Power & NRE ...in Co-Chair
02	Shri Bhupender Yadav	Hon'ble Minister of Environment, Forest & Climate Change and Labour & Employmentin Co- Chair
03	Shri Alok Kumar	Secretary, Ministry of Power
04	Ms. Leena Nandan	Secretary, MoEF&CC
05	Sh. Vijay Kumar Janjua	Chief Secretary, Govt. of Punjab
06	Sh. Sanjeev Kaushal	Chief Secretary, Govt.of Haryana
07	Shri Rahul Tiwari	Secretary, Science & Technology, Govt.of Punjab.
08	Dr. M. M. Kutty,	Chairperson, CAQM
09	Sh. Tanmay Kumar	Chairman, CPCB
10	Shri Mahesh Kumar Gupta	Additional Chief Secretary (Energy) , Uttar Pradesh
11	Shri Piyush Singh	Joint Secretary, Ministry of Power
12	Shri Ashish Kumar Srivastava	Joint Secretary, MoAFW
13	Shri. T.V.S.N Prasad	ACS(Home), Govt. of Haryana
14	Shri Jagminder Nain	Joint Director (AE), Govt. of Haryana
15	Sh.Mohammed Shayin	MD, HPGCL
16	Shri. P. Guru Prasad	MD,UPRVUNL
17	Er. Baldev Singh Sran	CMD, PSPCL
18	Shri Gurdeep Singh	CMD, NTPC Ltd
19	Shri Ramesh Babu V	Director (Operations), NTPC Ltd
20	Shri S Majumdar	Deputy Secretary, Ministry of Power
21	Shri Sudip Nag,	Mission Director, SAMARTH (Mission)
22	Shri Kumar Saurabh	Deputy Director, MoP
23	Shri A Balan	Member(Planning), CEA

24	Shri Dheeraj Shrivastav	Chief Engineer, CEA
25	Shri Vibhav Agarwal	CEO, TSPL
26	Shri S K Narang	CEO, NPL
27	Shri K.P Rao	VP, JPL (Apaarva)

Advisory No. 11

**COMMISSION FOR AIR QUALITY MANAGEMENT
IN NATIONAL CAPITAL REGION AND ADJOINING AREAS**

17th Floor, Jawahar Vyapar Bhawan (STC Building)
Tolstoy Marg, New Delhi-110001

F. No.120015/25/TPP/2021/CAQM

Dated: 30.08.2023

To,

1. Chairman and Managing Director, NTPC.
2. Additional Chief Secretary (New and Renewable Energy), Government of Haryana
3. Additional Chief Secretary (Additional Source of Energy), Government of Uttar Pradesh
4. Principal Secretary (Power), Government of Punjab
5. MDs of Power Plants:
 - I. Mahatma Gandhi TPS, CLP Jhajjar, Haryana
 - II. Panipat TPS, HPGCL, Haryana
 - III. Rajiv Gandhi TPS, Hisar, HPGCL, Haryana
 - IV. Deenbandhu Chhoturam TPS, Yamunanagar, HPGCL, Haryana
 - V. Guru Hargobind TPS, PSPCL, Punjab
 - VI. Nabha Power Ltd, Rajpura TPS, Punjab
 - VII. Talwandi Sabo TPS, Mansa, TSPL, Punjab
 - VIII. Guru Gobind Singh TPS, PSPCL, Punjab.
 - IX. Harduaganj TPS, UPRVUNL, Uttar Pradesh

Subject: Co-firing of Bio-mass (focusing on paddy straw-based pellets) in Thermal Power Plants.

Sir,

Grave concerns on air quality in NCR owing to paddy stubble burning in the entire NCR and adjoining areas and the potential of *ex-situ* utilisation of paddy straw for co-firing in thermal power plants led to issue of Direction No. 42 dated 17.09.2021, following an advisory on 28.07.2021 to the State Governments of Punjab, Haryana and Uttar Pradesh related to various strategies for *ex-situ* utilisation of paddy stubble.

2. The above referred statutory directions of the Commission mandate all the 11 identified thermal power plants situated up to 300 kms of Delhi to



regularly co-fire bio-mass based pellets (with focus on paddy straw) up to 5-10% of their total coal requirements, through a continuous supply chain.

3. The above stated directions were facilitated by successful field trials by NTPC and technology demonstrations in some of its plants across the country and accordingly the identified 11 thermal power plants as above, including NTPC plants, were directed for regular co-firing.

4. To this effect, while NTPC units and a select other TPPs have started regular co-firing, there are still 3 TPPs in the State of Haryana, and 4 in the State of Punjab respectively which are yet to take up co-firing on a regular basis. However, even for the plants where co-firing has been started the progress is far below the targeted quantities of biomass pellets. The progress in this regard is being regularly monitored by the Ministry of Power and the Commission. Furthermore, the MoEFCC Notification No. G.S.R. 499(E) dated 11.07.2023 stipulating EC charges in respect of TPPs not achieving the targets laid down for co-firing may be taken note.

5. During all such reviews with the thermal power plants, non-availability of biomass pellets in the desired quantities under a continuous / regular supply chain is highlighted by most of the plants including NTPC, due to Non-finalisation of tenders, owing to unworkable rates quoted by various bidders and / or for not conforming to the criteria / conditions of the tenders. Situations were also reported where some successful bidders bagged multiple tenders but lacked capability to simultaneously supply such quantities to multiple thermal power plants, including for other *ex-situ* applications in the region.

6. In all such reviews, benchmarking of price / rates for bio-mass pellets was strongly felt so as to ease out the process of repeated procurements of large quantities of agro-based pellets for co-firing in TPPs.

7. In line with the above, the Ministry of Power, Govt of India vide its letter No. 11/86/2017-Th. II dated 23.08.2023 have issued a benchmark price of non -torrefied bio-mass pellets in the NCR @Rs. 2.32 / 1000 Kcal, excluding

2 and

GST & transportation cost at the pellet manufacturing plant site, for a period of one-year w.e.f. 01.09.2023. Such pellets however, need to have a moisture content of below 14% and GCV between 2800-3400 Kcal/Kg.

8. Considering that an established benchmark price facilitates and significantly eases out the process of procurement /tendering of bio-mass pellets and with abundant availability of agro-based bio-mass, including paddy straw in particular, the state Governments and the 11 identified Thermal power plants within 300 kms of Delhi are required to substantially step-up bio-mass co-firing in their respective units as per the targeted quantities, towards effective implementation and compliance of the statutory Direction No. 42 of the Commission in letter and spirit. Appropriate action may accordingly be taken on top priority and well before the ensuing paddy harvesting season.


(Arvind Nautiyal)
Member- Secretary
Email: arvind.nautiyal@gov.in

Copy to:

1. The Chief Secretary, Government of Haryana
2. The Chief Secretary, Government of Punjab
3. The Chief Secretary, Government of Uttar Pradesh
4. The Chief Secretary, Government of Rajasthan
5. The Chairperson and all Members, CAQM.
6. Secretary, Ministry of Power


(Arvind Nautiyal)
Member- Secretary

ITEM NO.14

COURT NO.2

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Writ Petition(s)(Civil) No(s). 13029/1985

M.C. MEHTA

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(IN RE: CROP BURNING
BURNING OF E-WASTE IN DELHI/NCR

- 1) IA NO. 232078/2023 (APPLN. FOR INTERVENTION ON B/O MINU SINGH)
- 2) IA NO. 231822/2023 (APPLN. FOR DIRECTIONS ON B/O HARISH ARORA AND ORS.)
- 3) IA NOS. 235142, 235148 AND 235725/2023 (APPLNS. FOR INTERVENTION, PERMISSION TO APPEAR AND ARGUE IN PERSON AND TO FILE WRITTEN SUBMISSION)
- 4) IA NOS. 228781 AND 228785/2023 (APPLNS. FOR INTERVENTION AND PERMISSION TO APPEAR AND ARGUE IN PERSON)

AND

IN RE: COLOUR-CODED STICKERS

(5) IA NOS. 61328/2020, 237378/2023 AND 61330/2020 (APPLNS. FOR DIRECTIONS AND EXEMPTION FROM FILING O.T. ON BEHALF OF SIDDHARTH NAYAK)

AND

IN RE: REGIONAL RAPID TRANSPORT SYSTEM

DELHI - ALWAR AND DELHI - PANIPAT CORRIDOR

(6) IA NO. 238763/2023 (APPLN. FOR DIRECTIONS ON B/O NATIONAL CAPITAL REGION TRANSPORT CORP. LTD.)

ONLY" IN W.P.(C) NO. 13029/1985 IS LISTED.

"ONLY" NAME OF THE FOLLOWING ADVOCATES MAY BE TREATED TO HAVE BEEN SHOWN IN THE LIST:

- MR. HARISH N. SALVE, SR. ADVOCATE (A.C.)
MS. APARAJITA SINGH, SR. ADVOCATE (A.C.)
MR. A.D.N. RAO, SR. ADVOCATE (A.C.)
MR. SIDDHARTHA CHOWDHURY, ADVOCATE (A.C.)

PETITIONER-IN-PERSON

- G.S. MAKKER,
MR. AMRISH KUMAR,
MR. SANJAY KR. VISEN,
MR. SUDEEP KUMAR,
MS. ROOHE HINA DUA,
MR. SANDEEP KR. JHA

MR. JYOTI MENDIRATTA,
 MS. VRINDA BHANDARI,
 MR. MUDIT GUPTA,
 MR. VIKRAM GULATI, APPLICANT-IN-PERSON (ADVOCATE)
 MR. MANISH BHATNAGAR, APPLICANT-IN-PERSON (ADVOCATE),
 MR. ANIL KUMAR,
 MR. KARUNAKAR MAHALIK, ADVOCATES)

Date : 13-12-2023 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJAY KISHAN KAUL
 HON'BLE MR. JUSTICE SUDHANSHU DHULIA

Ms. Aparajita Singh, Sr. Adv. (A.C.)
 Mr. A.D.N. Rao, Sr. Adv. (A.C.)
 Mr. Siddhartha Chowdhury, Adv. (A.C.)
 Mr. Harish N. Salve, Sr. Adv. (A.C.) (NP)

Mr. R. Venkataramani, Ld. Attorney General
 Ms. Aishwarya Bhati, A.S.G.
 Mr. Gurmeet Singh Makker, AOR
 Ms. Suhasini Sen, Adv.
 Mr. Rajesh Kumar Singh, Adv.
 Mr. S.S. Rebello, Adv.
 Mr. Subhranshu Padhi, Adv.
 Ms. Archana Pathak Dave, Adv.
 Mr. Wasim Qadri, Adv.
 Ms. Ruchi Kolhi, Adv.

Mrs. Aishwarya Bhati, A.S.G.
 Mr. Amrish Kumar, AOR
 Mrs. Suhasini Sen, Adv.
 Mr. Rajesh Kumar Singh, Adv.
 Mr. Shubhranshu Padhi, Adv.
 Mrs. Archana Pathak Dave, Adv.
 Mr. Gaurang Bhushan, Adv.

Mrs. Aishwarya Bhati, ASG
 Ms. Alka Agrawal, Adv.
 Ms. Baby Devi Bonia, Adv.
 Ms. Archana Pathak Dave, Adv.
 Mr. Anirudh Bhat, Adv.
 Mr. Prashant Singh, Adv.
 Ms. Sonali Jain, Adv.
 Ms. Ruchi Kohli, Adv.
 Mr. Raj Bahadur Yadv, AOR

Mr. Gurminder Singh Ag Punjab, Adv.
 Mr. Shadan Farasat, A.A.G.
 Ms. Rooh-e-hina Dua, AOR
 Mr. Harshit Khanduja, Adv.
 Mr. Umang Mehta, Adv.

Mr. Lokesh Sinhal, Sr. A.A.G.
Mr. B.k. Satija, A.A.G.
Mr. Rahul Khurana, Adv.
Ms. Suvarna Singh, Adv.
Mr. Aman Prasad, Adv.
Mr. Jha Amlendu Kumar Akhilesh Kumar, Adv.
Ms. Mohini Kumari, Adv.
Mr. Sanjay Kr. Visen, AOR

Ms. Garima Prasad, AAG, U.P, Sr. Adv.
Mr. Sudeep Kumar, AOR

Dr. Manish Singhvi, Sr. Adv.
Mr. Sandeep Kumar Jha, AOR

Mr. S. Muralidhar, Sr. Adv.
Mrs. Meenakshi Arora, Sr. Adv.
Ms. Jyoti Mendiratta, AOR

Ms. Vrinda Bhandari, AOR

Mr. Vikas Singh, Sr. Adv.
Mr. Mudit Gupta , AOR
Mr. Varun Singh, Adv.
Ms. Deepeika Kalia, Adv.
Ms. Kajal S Gupta, Adv.
Ms. Somesa Gupta, Adv.
Mr. Keshav Khandelwal, Adv.
Ms. Vaishnavi, Adv.

Mr. Vikram Gulati, Applicant-In-Person

Mr. Manish Bhatnagar, Applicant-In-Person

Mr. Vipin Sanghi, Sr. Adv.
Mr. Anil Kumar, AOR
Mr. Saif Ali, Adv.
Ms. Pratiksha Chaturvedi, Adv.
Mr. Shubhendu Shukla, Adv.

Mr. A.N.S. Nadkarni, Sr. Adv.
Mr. Rajesh Katyal, Adv.
Mr. Devendra Kumar Singh, Adv.
Mr. S.S. Rebello, Adv.
Ms. Deepti A., Adv.
Mr. Arzu Paul, Adv.
Ms. Manisha Gupta, Adv.
Mr. Siddhant Gupta, Adv.
Mr. Rishikesh Gupta, Adv.
Mr. Karunakar Mahalik, AOR

Mr. Avijit Mani Tripathi, AOR

Mr. T.K. Nayak, Adv.

UPON hearing the counsel the Court made the following
O R D E R

IA NO. 238763/2023

Mr. S. Murlidhar, learned senior counsel sought to raise an issue that while the State Government has made the budgetary provision for Delhi-Alwar And Delhi- Panipat Corridor, they were awaiting approval of the Central Government. We may note that the other States have already transferred the money in 2019 and 2020 and learned Attorney General present on behalf of the Union Government submits that there is no problem insofar as the formal approval is concerned. We thus grant 7 days' time to Delhi Government to transfer the amount.

Needless to say that the Delhi Government would continue to abide by the schedule and not give opportunity to this Court to revive the order dated 21.11.2023.

IN RE: CROP BURNING

Affidavit dated 06.12.2023 filed by the State of Punjab shows that the environmental compensation recorded as on that date is 53.10%. The recoveries must be speeded up. An endeavour has been made in

para 3 to submit that farm fires between 15.09.2023 to 30.11.2023 have been less in 2023. Point is still farm fires are significant and all this must stop.

Learned Attorney General has submitted a note on behalf of the Union of India qua the steps to be taken and places the minutes of the meeting of the Committee of Secretaries chaired by the Cabinet Secretary for reviewing the air quality management in Delhi.

Five meetings have been held to crystallize the issue. Learned Attorney General in para 3 of the report has set out the steps to be taken by the Government of Haryana and Punjab. The same are as under:

"a. Actions to be taken by State Governments of Haryana and Punjab: It is respectfully submitted that the State Governments may take the following steps and report compliance to this Hon'ble Court of the same:

i. To effectively implement the existing centrally sponsored Schemes for in-situ/ex-situ management of crop residue on a mission mode. They may provide additional incentives as required.

ii. Government of Punjab may devise and implement various incentives schemes on the lines already implemented by the State of Haryana for reducing stubble burning.

iii. The Departments of Agriculture & Farmers Welfare of the State Governments may consider inclusion of ex-situ management components in CRM scheme.

iv. The States may ensure that Environment Compensation is levied and realized in all stubble burning cases as identified through ISRO protocol.

v. The States may take immediate steps to put in

place mechanisms for making RED entry in farm records for all cases of stubble burning identified through ISRO protocol. Department of Food and Public Distribution may consider the suggestion to exclude the farmers who resort to stubble burning from MSP operations.

vi. Additionally, with respect to the MSP it is respectfully submitted that the Government of India fixes MSP for 22 mandated agricultural crops on the expert and technical recommendations of the Commission on Agricultural Costs and Prices (The "CACP"), after considering the views of the concerned State Governments and Central Ministries/Departments. The CACP considers various factors viz. cost of production, overall demand-supply situations of various crops in domestic and world markets, domestic and international prices, inter-crop price parity, terms of trade between agriculture and non agriculture sector, likely effect of price policy on rest of economy and a minimum of 50 percent as the margin over cost of production. Cost of production includes all paid out costs - such as hired human labour, bullock labour/machine labour, rent for leased in land, expenses incurred in cash/kind on the use of material inputs like seeds, fertilizers, manures, irrigation charges, depreciation on implements and farm buildings, interest on working capital, diesel/electricity for operation of pump sets etc., miscellaneous expenses and imputed value of family labour. The MSP fixed provides at least 50% return over all India weighted average cost of production. These benefits of the MSP are available to the farmers all across the country. It respectfully submitted that is not appropriate to raise the price of crops simply to make them competitive with rice. This will result in a complete distortion of market prices and cannot be resorted to for any one State.

b. Action to be taken by the Government of Punjab:

- To devise and implement incentive schemes for diversification from paddy and work with grain-based distilleries to facilitate Procurement of maize from farmers. It is respectfully submitted that the State Government of Punjab may report compliance to this Hon'ble Court on these aspects in addition to those set out above."

We direct the State Governments to take steps in

respect of the aforesaid and submit a report to this Court within two months from today. There are other aspects also in the report whereby steps are to be taken by different authorities which are reproduced hereunder:

"c. Inter-Ministerial Committee with special Secretary, Ministry of Agriculture and Farmers Welfare, Ministry of Power, Ministry of New & Renewable Energy (MNRE), Ministry of Petroleum & Natural Gas, Ministry of Environment Forests & Climate Change, Commission for Air Quality Management and the Central Pollution Control Board:

i. To regularly monitor the effective time bound implementation of the various schemes for management of paddy straw in a convergent and synergistic manner.

ii. State Governments should take all necessary actions to ensure that these schemes are fully implemented on ground.

iii. The Inter-Ministerial Committee may hold regular review meetings with State Governments in Delhi and may also visit States for effective monitoring and timely resolution of any issues.

d. Ministry of Power:

- To ensure that all Thermal Power Plants (TPPs) within range of 300 km of Delhi and all captive TPPs implement the CAQM direction for co-firing minimum 5% of biomass along with coal.

e. Ministry Of Petroleum and Natural Gas (MoPNG):

- To encourage private entrepreneurs to set up more CBG plants in Punjab and Haryana under its scheme for setting up CBG plants.

f. CAQM:

- Apart from the regular coordination meetings and actions being taken by CAQM, follow up action on decisions taken in CoS meetings pertaining to CAQM may also be actively pursued by CAQM.

g. Urban Local Bodies in NCR like MCD, NDMC, NOIDA etc.:

i. To ensure strict enforcement of guidelines related to construction activities round the year and submit periodic compliance report in this regard to CAQM.

ii. CAQM to monitor action taken regularly.

h. Action to be taken by the GNCTD and NCR States for better implementation of the Graded Response Action Plan ("GRAP"): It is submitted that the GNCTD may take urgent and effective steps to address the following lacunae noted in the implementation of the various stages of GRAP as and when the said stages are in force:

i. Overaged / EOL vehicles (10 year old diesel/ 15 year old petrol) still plying in NCR, and therefore steps must be taken to address this issue

ii. More intensified drives on vehicles with invalid PUC are required

iii. Enforcement of diversion of non-destined truck for Delhi.

iv. Further intensified action on visibly polluting vehicles, overloaded vehicles, uncovered vehicles carrying C&D materials including debris.

v. Addressing the inadequacy of infrastructure and resources for complete mechanised sweeping and water sprinkling in all identified roads.

vi. Addressing the inadequacy of anti-smog guns at vulnerable locations in major infrastructure projects, road projects.

vii. Addressing the issue of ineffective dust control measures in C&D project sites.

viii. Concerted actions found wanting as per "air pollution hotspots" mitigation plans.

ix. Open MSW burning being resorted to for warming / heating purposes and therefore steps must be taken to address this issue

x. Addressing the issue of ineffective ban on coal fired tandoors in dhabas.

xi. Addressing the issue of ineffective implementation of regulations related to DG sets."

The aforesaid authorities will also duly

implement what they are required to do and submit a report within two months.

IN RE: COLOUR-CODED STICKERS

Mr. Vipin Sanghi, learned senior counsel flags the issue of colour coding of the scheme. The same forms part of the minutes of the meeting at para 14 which reads as under :

14. There was a suggestion for strict enforcement of the Scheme for hologram-based color-coded stickers for vehicles. The Committee was apprised that this scheme is being implemented by all the States. Committee was informed that out of the nearly 27 lakh vehicles in Delhi, 17-18 lakh already have colour coded stickers. The remaining vehicles are primarily old vehicles bought before the implementation of the scheme in 2019. The Committee urged GNCTD of Delhi to ensure compliance with it. At the same time CAQM, in consultation with MoRTH, may examine the practical utility of this measure for improving air quality."

The submission is that once the law exists, it must be implemented. To that extent there can be no cavil and it is the duty of all State Governments to ensure that the law is implemented without any caveat to it. The Committee of Secretaries may call for a report from all State Governments about the progress made in implementation of this aspect of law to ensure that if there are any delinquent States, they comply with the same and that aspect may be brought to the notice of this Court.

IA NO. 232078/2023

Mr. Vikas Singh, learned senior counsel submits that Committee has taken care of the concerns expressed in this application and the application is disposed of accordingly.

IN RE: BURNING OF E-WASTE IN DELHI/NCR

At the suggestion of the learned Amicus we direct the Commission for Air Quality Management(CAQM) to also consider the issue of e-waste burning and as to how to implement it so that it does not aggravate the situation at the time of the Winters.

We do believe that there has to be some judicial monitoring to ensure that we are not again faced with the same scenario next winters. Thus it may be appropriate to continue to list this matter periodically for a judicial monitoring even though there is CAQM and seek reports.

List on 27.02.2024.

We must appreciate the role being placed by Ms. Aparajita Singh, Mr. A.D.N. Rao, and Mr. Siddhartha Chowdhury, learned Amici in these matters jointly.

IA NOS. 228781, 228785/2023

These applications are disposed of requiring them to be placed before CAQM.

[CHARANJEET KAUR]
ASTT. REGISTRAR-cum-PS

[POONAM VAID]
COURT MASTER (NSH)



राष्ट्रीय राजधानी क्षेत्र और निकटवर्ती क्षेत्र
वायु गुणवत्ता प्रबंधन आयोग
Commission for Air Quality Management in
National Capital Region and
Adjoining Areas



F. No. 120015/25/TPP/2021/CAQM - 589

Dated 26th December, 2023

To,

The Secretary,
Ministry of Power,
Government of India,
Shram Shakti Bhawan, Rafi Marg,
New Delhi-110001

Subject: Poor compliance by TPPs located within 300 Km Delhi in respect of co-firing of biomass- reg.

Sir,

To address the concerns of adverse air quality scenario in Delhi-NCR owing to paddy stubble burning and to mitigate the effect of such a contributory source, the Commission had issued Direction No. 42 dated 17.09.2021 and Advisory No.- 11 dated 30.08.2023 mandating regular co-firing of 5-10 % biomass replacing coal (comprising of at least 50% paddy straw) in the identified 11 TPPs located within 300 Km of Delhi.

2. However, despite regular monitoring and follow up with the stakeholders by the Commission and the MoP; and adequately addressing the issues related to benchmark pricing of non-torrefied bio-mass pellets / procurement of pellets, the progress made by most of the TPPs is far from adequate.

3. Against a target of minimum co-firing of 5% biomass in the TPPs, during the year 2023, till November, only **85,624** tonnes of biomass has been cumulatively co-fired in these power plants, which is a miniscule **4.75** % of the target itself. Further, 3 TPPs in the State of Haryana, and 1 in the State of Punjab are yet to take up co-firing on a regular basis.

4. The Hon'ble Supreme Court vide its order dated 13.12.2023 in W. P. (Civil) No. 13029 of 1985, M.C. Mehta Vs UOI has also *inter alia* directed the Ministry of Power to "ensure that all the Thermal Power Plants (TPPs) within range of 300 Km of Delhi and all captive TPPs implement the CAQM Direction for co-firing minimum 5% of biomass along with coal".

17 वी मंजिल, जवाहर व्यापार भवन (एस. टी.सी. बिल्डिंग), टॉलस्टॉय मार्ग, नई दिल्ली-110001

दूरभाष : 011-23701213, ई-मेल : caqm-ncr@gov.in

17th Floor, Jawahar Vyapar Bhawan (STC Building), Tolstoy Marg, New Delhi-110001

Tel:011-23701213, E-mail: caqm-ncr@gov.in

:2:-

5. Action taken in pursuance of the above said Orders of the Hon'ble Supreme Court in this regard, may kindly be communicated to the Commission by 07.01.2024 as part of coordinating the response from various stakeholders to apprise the Cabinet Secretariate.

Yours faithfully,



(R.K. Agrawal)

Director, CAQM

rk.agrawal69@gov.in

डॉ. ए. एम. कुट्टी
अध्यक्ष
Dr. M. M. Kutty
Chairperson



राष्ट्रीय राजधानी क्षेत्र और
निकटवर्ती क्षेत्रों में
वायु गुणवत्ता प्रबंधन के लिए आयोग
Commission for Air Quality Management in
National Capital Region and
Adjoining Areas

D.O. No. 120015/25/TPP/2021/CAQM /739(4K)

Dated: 9th February, 2024

Dear Shri Anurag,

The Commission has repeatedly taken up with PSPCL, M/s Talwandi Sabo Power Plant (TSPL), M/s Nabha Power Limited (NPL) and Government of Punjab regarding the continuous poor performance of four Thermal Power Plants (TPPs), two of PSCPL - located in Ropar (GGSSTP), Lehra Muhabbat (GHTP) and two others i.e. TSPL (Vedanta) and NPL (L & T) in complying with the Commission's Direction No. 42 issued on 17/09/2021. The Direction mandates co-firing of 5-10 % biomass/ biomass-based pellets by TPPs located within 300 Km of Delhi, as part of ex-situ management of stubble/ biomass to prevent its burning and in the process reduce air pollution due to stubble burning.

2. You are also aware that the Hon'ble Supreme Court of India, in W. P. (C) No. 13029/1985, 'M.C. Mehta V/s Union of India and Ors.', while hearing the matter related to air pollution in Delhi-NCR, has passed series of orders to control stubble burning including utilization of biomass-based pellets in TPPs and has also ordered to continue to list the matter periodically for judicial monitoring. The matter is now listed for 27/02/2024.

3. Hon'ble Supreme Court in its order dated 13.12.2023 in W. P. (Civil) No. 13029 of 1985, M.C. Mehta Vs UOI has *inter alia* directed to "ensure that all the Thermal Power Plants (TPPs) within range of 300 Km of Delhi and all captive TPPs implement the CAQM Direction for co-firing minimum 5% of biomass along with coal".

4. Pursuant to the orders of the Hon'ble Supreme Court, the Committee of Secretaries (CoS), chaired by Cabinet Secretary has also held meetings and the minutes of the meetings were duly sent to Government of Punjab. The Committee of Secretaries in the minutes of the meeting issued on 19th January, 2024 has noted that out of 11 TPPs, 7 TPPs contributed to co-firing of 1,21,582 tonnes (~ 6.7 % of the target) of biomass in 2023.

5. In the meetings of CoS, it has been directed to ensure that target of biomass in all Thermal Power Plants within 300 Km of Delhi is strictly complied with. Others sector may also be identified where biomass pellets could be utilized for co-firing and may ensure utilisation of biomass in such identified sectors.

6. You may please note that a "Policy to Curb Air Pollution in NCR" of the Commission in July, 2022 was shared with Government of Punjab vide this office letter No. 16014/13/2021/MERD, dated 06/07/2022 & 27.07.2022. The sector-wise plan for abatement of air pollution caused by crop residue/ stubble burning in the policy may also be referred to.

Contd.....p/2



17 वीं मंजिल, जवाहर व्यापार भवन (एस.टी.सी. बिल्डिंग), टॉलस्टॉय मार्ग, नई दिल्ली-110001
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-2-

7. Considering the above position, it is requested to :-

- (iii) Take cognizance of the 'Rate Contract mechanism' put in place by the Ministry of Power, Government of India to expedite procurement of pellets for TPPs;
- (iv) Review to ensure that orders of Hon'ble Supreme Court and recommendations of the CoS with regarding co-firing in the four TPPs of Punjab are complied with.

8. Action taken in this regard, may please be communicated to the Commission, by 15th February, to enable the Commission to appropriately apprise the Hon'ble Supreme Court in the next day of hearing i.e. 27th February, 2024.

With best wishes

M Yours sincerely
(Dr. M. M. Kutty)

Shri Anurag Verma,
Chief Secretary, Government of Punjab
6th Floor, Punjab Civil Secretariat -1, Sector - 1
Chandigarh 160001.

डॉ. एम. एम. कुट्टी

अध्यक्ष

Dr. M. M. Kutty

Chairperson



सत्यमेव जयते

राष्ट्रीय राजधानी क्षेत्र और
निकटवर्ती क्षेत्रों में
वायु गुणवत्ता प्रबंधन के लिए आयोग
Commission for Air Quality Management in
National Capital Region and
Adjoining Areas

D.O. No. 120015/25/TPP/2021/CAQM/738(4K)

Dated: 9th February, 2024

Dear Sangeev,

The Commission has repeatedly taken up with HPGCL and Government of Haryana regarding the continuous poor performance of the three Thermal Power Plants (TPPs) of HPGCL- located in Yamuna Nagar (DCRTPP), Panipat (PTPS) and Hissar (RGTPP) in complying with the Commission's Direction No. 42 issued on 17/09/2021. The Direction mandates co-firing of 5-10 % biomass/ biomass-based pellets by TPPs located within 300 Km of Delhi, as part of ex-situ management of stubble/ biomass to prevent its burning and in the process reduce air pollution due to stubble burning.

2. You are also aware that the Hon'ble Supreme Court of India, in W. P. (C) No. 13029/1985, 'M.C. Mehta V/s Union of India and Ors.', while hearing the matter related to air pollution in Delhi-NCR, has passed series of orders to control stubble burning including utilization of biomass-based pellets in TPPs and has also ordered to continue to list the matter periodically for judicial monitoring. The matter is now listed for 27/02/2024.

3. Hon'ble Supreme Court in its order dated 13.12.2023 in W. P. (Civil) No. 13029 of 1985, M.C. Mehta Vs UOI has *inter alia* directed to "ensure that all the Thermal Power Plants (TPPs) within range of 300 Km of Delhi and all captive TPPs implement the CAQM Direction for co-firing minimum 5% of biomass along with coal".

4. Pursuant to the orders of the Hon'ble Supreme Court, the Committee of Secretaries (CoS), chaired by Cabinet Secretary has also held meetings and the minutes of the meetings were duly sent to Government of Haryana. The Committee of Secretaries in the minutes of the meeting issued on 19th January, 2024 has noted that out of 11 TPPs only 7 TPPs contributed to co-firing of 1,21,582 tonnes (~ 6.7 % of the target) of biomass in 2023, **whereas 3 TPPs of Haryana not yet even started the co-firing and need to start co-firing immediately.**

5. In the meetings of CoS, it has been directed to ensure that target of biomass in all Thermal Power Plants within 300 Km of Delhi is strictly complied with. Others sector may also be identified where biomass pellets could be utilized for co-firing and may ensure utilisation of biomass in such identified sectors.

6. You may please note that a "Policy to Curb Air Pollution in NCR" of the Commission in July, 2022 was shared with Government of Haryana vide this office letter No. 16014/18/2021/MERD, dated 06/07/2022 & 27.07.2022. The sector-wise plan for abatement of air pollution caused by crop residue/ stubble burning in the policy may also be referred to.

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17 वीं मंजिल, जवाहर व्यापार भवन (एस.टी.सी. बिल्डिंग), टॉलस्टॉय मार्ग, नई दिल्ली-110001
दूरभाष : 011-23701191, ई-मेल : kuttydm@nic.in

17th Floor, Jawahar Vyapar Bhawan (STC Building), Tolstoy Marg, New Delhi-110001

Tel. : 011-23701191, E-mail : kuttydm@nic.in

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-2-

7. Considering the above position, it is requested to :-

- (v) Take cognizance of the 'Rate Contract mechanism' put in place by the Ministry of Power, Government of India to expedite procurement of pellets for TPPs ;
- (vi) Review to ensure that orders of Hon'ble Supreme Court and recommendations of the CoS with regarding co-firing in the three TPPs of Haryana are complied with.

8. Action taken in this regard, may please be communicated to the Commission, by 15th February, to enable the Commission to appropriately apprise the Hon'ble Supreme Court in the next day of hearing i.e. 27th February, 2024.

With best wishes

Yours sincerely

(Dr. M. M. Kuty)

Shri Sanjeev Kaushal,
Chief Secretary,
Government of Haryana
4th Floor, Haryana Civil Secretariat, Sector-1,
Chandigarh.

विरिन्दर शर्मा
सदस्य तकनीकी
Virinder Sharma
Member Technical



राष्ट्रीय राजधानी क्षेत्र और
निकटवर्ती क्षेत्रों में
वायु गुणवत्ता प्रबंधन के लिए आयोग
Commission for Air Quality Management in
National Capital Region and
Adjoining Areas

D.O. No. 120015/25/TPP/2021/CAQM - 749

Dated: 13th February, 2024

Dear Shri D S Mishra ji,

The Commission in its various review meetings had repeatedly taken up with UPRVUNL-Harduaganj TPP, regarding concern over plant's non-satisfactory progress towards augmentation of co-firing/ performance in respect of Commission's Direction No.-42. The Direction mandates co-firing of 5-10 % biomass/ biomass-based pellets by TPPs located within 300 Km of Delhi, as part of *ex-situ* management of stubble/ biomass to prevent its burning and in the process to reduce air pollution due to stubble burning.

2. You are also aware that the Hon'ble Supreme Court of India, in W. P. (C) No. 13029/1985, 'M.C. Mehta V/s Union of India and Ors.', while hearing the matter related to air pollution in Delhi-NCR, has passed series of orders to control stubble burning including utilization of biomass/ biomass based pellets in TPPs and has also ordered to continue to list the matter periodically for judicial monitoring. The matter is now listed for 27/02/2024.

3. Hon'ble Supreme Court in its order dated 13.12.2023 in W. P. (Civil) No. 13029 of 1985, M.C. Mehta Vs UOI has, *inter alia*, directed the Ministry of Power to "ensure that all the Thermal Power Plants (TPPs) within range of 300 Km of Delhi and all captive TPPs implement the CAQM Direction for co-firing minimum 5% of biomass along with coal".

4. Pursuant to the orders of the Hon'ble Supreme Court, the Committee of Secretaries (CoS), chaired by Cabinet Secretary has also held meetings and the minutes of the meetings were duly sent to Government of Uttar Pradesh. The Committee of Secretaries in the minutes of the meeting issued on 19th January, 2024 has noted that out of 11 TPPs only 7 TPPs contributed to co-firing of 1,21,582 Tonnes (~ 6.7 % of the target) of biomass in 2023.

5. In the meeting of CoS, it has also been directed to ensure that target of biomass in all Thermal Power Plants within 300 Km of Delhi is strictly complied with. Other sectors may also be identified where biomass pellets could be utilized for co-firing, and may ensure utilisation of biomass in such identified sectors.

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17 वीं मंजिल, जवाहर व्यापार भवन (एस.टी.सी. बिल्डिंग), टॉलस्टॉय मार्ग, नई दिल्ली-110001
दूरभाष : 011-23701213, ई-मेल : caqm-ncr@gov.in
17th Floor, Jawahar Vyapar Bhawan (STC Building), Tolstoy Marg, New Delhi-110001
Tel. : 011-23701213, E-mail : caqm-ncr@gov.in

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:2:-

6. You may please note that a "Policy to Curb Air Pollution in NCR" of the Commission in July, 2022 was shared with Government of Uttar Pradesh vide this office letter No. 16014/18/2021/MERD, dated 06.07.2022 & 27.07.2022. The sector-wise plan for abatement of air pollution caused by crop residue/ stubble burning in the policy may also be referred to.

7. Considering the above position, it is requested to:-

- (i). Take cognizance of the 'Rate Contract mechanism' put in place by the 'Ministry of Power', Government of India and to take immediate actions to implement the directives without waiting for finalization of the related tendering process. Specific action taken in this regard, may kindly be expedited for procurement of pellets for TPPs;
- (ii). Review the performance of TPP to ensure that orders of Hon'ble Supreme Court and recommendations of the CoS regarding co-firing are complied with

Action taken in this regard, may please be communicated to the Commission, by 15th February, 2024 to enable the Commission to appropriately apprise the Hon'ble Supreme Court in the next date of hearing i.e. 27th February, 2024.

With regards,


(Dr. Virinder Sharma)
Member Technical

Shri Durga Shanker Mishra,
Chief Secretary, Government of Uttar Pradesh
101, 'B' Block, Lok Bhawan, U.P. Secretariat,
Lucknow - 226001.

Copy also to: Dr. Ashish Kumar Goel,
The Chairman,
Uttar Pradesh Rajya Vidyut Utpadan Nigam Limited,
14, Ashok Marg, Shakti Bhavan, Lucknow

विरिन्दर शर्मा
सदस्य तकनीकी
Virinder Sharma
Member Technical



राष्ट्रीय राजधानी क्षेत्र और
निकटवर्ती क्षेत्रों में
वायु गुणवत्ता प्रबंधन के लिए आयोग
Commission for Air Quality Management in
National Capital Region and
Adjoining Areas

D. O. No. A-110015/25/TPP/2021/CAQM -784

Dated: 21st February, 2024

Dear Dr. A K Sohl,

This has reference to Statutory Direction No.42 dated 17.9.2021 issued by the Commission and its communication dated 13.02.2024 to you, with focus to augmenting ex-situ utilization of paddy straw, in 11 identified Thermal Power Plants within 300 Km. radius of Delhi. Considering the poor progress of co-firing in TPPs the Hon'ble Supreme Court vide its order dated 13.12.2023 in W. P. (Civil) No. 13029 of 1985, M.C. Mehta Vs UOI has also inter alia directed the Ministry of Power to "ensure that all the Thermal Power Plants (TPPs) within range of 300 Km of Delhi and all captive TPPs implement the CAQM Direction for co-firing minimum 5% of biomass along with coal". Pursuant to the orders of the Hon'ble Supreme Court, the Committee of Secretaries (CoS), chaired by Cabinet Secretary has also held meetings, wherein it has been directed to ensure that target of co-firing of biomass in all Thermal Power Plants within 300 Km of Delhi is strictly complied with.

2. The total annual biomass requirement for UPRVUNL-Harduaganj TPP, of Uttar Pradesh assessed based on a criterion of 5% of the fuel requirements at a PLF of 60%, is about 1.09 Lakh MT as per monthly report of MoP till January' 2024. However, it is a matter of a grave concern that only about 19065 MT of biomass pellets have been co-fired by this power plants till the end of January' 2024 with a lapse of more than 2 year since the issue of the Directions by the Commission and yet to achieve the target. However, the progress in this regard is very poor, even after agreeing to utilize 'benchmark price'/'rate contract' mechanism already in place.

3. The MoP has also taken a serious note on the progress made by your plant. Therefore, it is the high time to review the scope of augmentation of co-firing of biomass/ pellets in this front and accordingly it is desired that earnest efforts are initiated towards substantially enhancing the biomass co-firing, duly consolidating the procurement process and the supply chain management.

Contd..p/2



17 वीं मंजिल, जवाहर व्यापार भवन (एस.टी.सी. बिल्डिंग), टॉलस्टॉय मार्ग, नई दिल्ली-110001

दूरभाष : 011-23701213, ई-मेल : caqm-ncr@gov.in

17th Floor, Jawahar Vyapar Bhawan (STC Building), Tolstoy Marg, New Delhi-110001

Tel. : 011-23701213, E-mail : caqm-ncr@gov.in

-2-

4. A detailed plan of action, duly fixing higher targets for co-firing ensuing monthly periods up to March, 2024, be worked out along with subsequent year (2024-25) augmentation plan, and submit to the Commission within a week's time for further apprising the status to the Hon'ble Supreme Court.

With regards,



(Dr. Virinder Sharma)
Member Technical

Dr. Ashish Kumar Goel,
The Chairman,
Uttar Pradesh Rajya Vidyut Utpadan Nigam Limited,
14, Ashok Marg, Shakti Bhavan, Lucknow

Augmenting ex-situ utilization of paddy straw reg.

From : CAQM NCR <caqm-ncr@gov.in>
Subject : Augmenting ex-situ utilization of paddy straw reg.
To : cmd <cmd@uprvunl.org>
Cc : RAM KUMAR AGRAWAL <rk.agrawal69@gov.in>,
soumya caqm <soumya.caqm@gmail.com>,
Gyanendra Kr. Yadav <gyanendra90.fci@gov.in>

Wed, Feb 21, 2024 06:23 PM

1 attachment

Sir,

Please find attached herewith a D.O. letter on the subject cited above for necessary action.

With regards,

Under Secretary, CAQM
New Delhi

— **AK Goel.pdf**
869 KB

5168/CAQM
06/03/24
OFFICE OF THE CHIEF GENERAL MANAGER
HARDUAGANJ THERMAL POWER STATION
U.P. RAJYA VIDYUT UTPADAN NIGAM LTD
KASIMPUR (ALIGARH)
CIN:U40101UP1980SGC005065



कार्यालय मुख्य महाप्रबन्धक
हरदुआगंज तापीय परियोजना
उ०प्र०राज्य विद्युत उत्पादन निगम लि०
कासिमपुर (अलीगढ़)
E-mail:- gm.harduaganj@uprvnl.org

पत्रांक: 85/मु०म०प्र०/बॉयोमास/को०सं०म०

दिनांक: 28.02.2024

विषय: दिल्ली एवं एन०सी०आर० क्षेत्र में वायु गुणवत्ता प्रबन्धन के सम्बन्ध में।

श्री वीरेन्द्र शर्मा,

सदस्य तकनीकी, वायु गुणवत्ता प्रबन्धन आयोग

सी०ए०क्यू०एम०, 17वां तल, जवाहर व्यापार भवन,

(एस०टी०सी० भवन) टॉलस्टाय मार्ग, नई दिल्ली-110001

उपरोक्त विषयक स्वकार्यालयीय पत्रांक A-110015/25/TPP/2021/CAQM-784 दिनांक 21.02.2024 का संदर्भ ग्रहण करें, उक्त के सम्बन्ध में वांछित आख्या निम्नवत् है:-

- विद्युत मंत्रालय, भारत सरकार एवं पर्यावरण मंत्रालय के निर्देशानुसार हरदुआगंज तापीय परियोजना पर बायोमास पैलेट को कोयले के साथ आवश्यक मात्रा में मिश्रित कर उपयोग 250 मे०वा० की इकाई सं० 8 एवं 9 में उपयोग फरवरी-2021 में आरम्भ की गयी थी तदोपरान्त इस प्रक्रिया को अनवरत चलाया जा रहा है। हरदुआगंज तापीय परियोजना की इकाई सं० 10 (1x660 मे०वा०) में बायोमास पैलेट उपयोग की अनुमति हेतु इकाई के मूल निर्माता मै० तोशीबा प्रा०लि० से पत्राचार किया जा रहा है अनुमति प्राप्त होने के उपरान्त उक्त इकाई में भी बायोमास पैलेट का उपयोग किया जा सकेगा।
- विद्युत मंत्रालय, भारत सरकार एवं पर्यावरण मंत्रालय के निर्देशानुसार हरदुआगंज तापीय परियोजना पर बायोमास पैलेट को उपलब्धता के आधार पर कोयले के साथ आवश्यक मात्रा में मिश्रित कर लगातार उपयोग किया जा रहा है। पूर्व के वर्षों में अनुपातिक बायोमास पैलेट की अनुपलब्धता के कारण वांछित प्रतिशत में बायोमास पैलेट का उपयोग हरदुआगंज तापीय परियोजना पर नहीं किया जा सका। वर्तमान में बायोमास पैलेट की आपूर्ति परियोजना पर निरंतर बनी हुई है। हरदुआगंज तापीय परियोजना पर विगत 03 माह में बायोमास उपयोग का 2.25 प्रतिशत से ज्यादा रहा है। पिछले माह फरवरी, 2024 में लगभग 3.35 प्रतिशत के निकट है।
- हरदुआगंज तापीय परियोजना पर एक वर्ष के लिए आवश्यक 90,000.00 मी०टन बायोमास का क्रय आदेश (क्रय आदेश सं० 5000011921 दिनांक 14.11.2023) दिनांक 14.11.2023 को निर्गत किया जा चुका है, जिसके विरुद्ध 12500.00 मी०टन की अग्रिम दिनांक 28.02.2024 तक की जा चुकी है।
- हरदुआगंज तापीय परियोजना पर विद्युत मंत्रालय एवं वायु गुणवत्ता प्रबन्धन आयोग के निर्देशानुसार बायोमास पैलेट के उपयोग की मात्रा लगातार उपलब्धता के आधार पर बढ़ायी जा रही है, विद्युत मंत्रालय एवं वायु गुणवत्ता प्रबन्धन आयोग के निर्देशानुसार दिये गये लक्ष्य को वित्तीय वर्ष में 2024-25 में प्राप्त करने का प्रयास किया जा रहा है।
- हरदुआगंज तापीय परियोजना द्वारा दीर्घ कालीन योजना (7 वर्ष के लिये) के तहत लगभग 1330000 मी०टन बायोमास पैलेट को क्रय करने हेतु का प्रस्ताव अनुमोदन के लिये सम्पूर्ण प्रकरण को इस कार्यालय के पत्र सं० 1118/मु०म०प्र० दिनांक 18.04.2023 द्वारा मुख्यालय को प्रेषित किया जा चुका है। जिसका अनुमोदन प्राप्त होते ही क्रय आदेश निर्गत किया जा सकेगा जिससे विद्युत मंत्रालय एवं वायु गुणवत्ता प्रबन्धन आयोग द्वारा निर्धारित लक्ष्य को प्राप्त किया जा सकेगा।

मुख्य महाप्रबन्धक

दिनांक: 28.02.2024

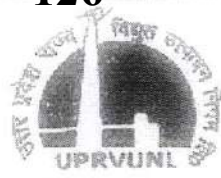
पत्रांक: 85/मु०म०प्र०/बॉयोमास/को०सं०म०

प्रतिलिपि निम्नलिखित को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित।

- निदेशक (तकनीकी) 8वां तल, उ०प्र०राज्य वि०उ०नि०लि० शक्ति भवन विस्तार, लखनऊ।
- मुख्य अभियन्ता, (पर्या० एवं सू०), 7वां तल, उ०प्र०राज्य वि०उ०नि०लि० शक्ति भवन विस्तार, लखनऊ।
- मुख्य अभियन्ता (ईंधन) 14वां तल, उ०प्र०राज्य वि०उ०नि०लि० शक्ति भवन विस्तार, लखनऊ।
- महाप्रबन्धक, 'द' ता०वि०गृ०, हरदुआगंज तापीय परियोजना, कासिमपुर।
- महाप्रबन्धक, (निर्माण) 'ई' ता०वि०गृ०, हरदुआगंज तापीय परियोजना, कासिमपुर।
- क्षेत्रीय प्रबन्धक, उ०प्र० प्रदूषण नियंत्रण बोर्ड, जे-1, 100 फुट रोड, ज्ञान सरोवर कालोनी, ज्ञान सरोवर, मानसरोवर कालोनी, अलीगढ़-202001

मुख्य महाप्रबन्धक

OFFICE OF THE CHIEF GENERAL MANAGER
HARDUAGANJ THERMAL POWER STATION
U.P. RAJYA VIDYUT UTPADAN NIGAM LTD
KASIMPUR (ALIGARH)
CIN:U40101UP1980SGC005065



कार्यालय मुख्य महाप्रबन्धक
हरदुआगंज तापीय परियोजना
उ०प्र० राज्य विद्युत उत्पादन निगम लि०
कासिमपुर (अलीगढ़)
E-mail:- gm.harduaganj@uprvunl.org

:3695

पत्रांक: 85/मु०म०प्र०/बाँयोमास/को०स०म०

दिनांक: 28.02.2024

विषय: दिल्ली एवं एन०सी०आर० क्षेत्र में वायु गुणवत्ता प्रबन्धन के सम्बन्ध में।

श्री वीरेन्द्र शर्मा,

सदस्य तकनीकी, वायु गुणवत्ता प्रबन्धन आयोग

सी०ए०क्यू०एम०, 17वां तल, जवाहर व्यापार भवन,

(एस०टी०सी० भवन) टॉलस्टाय मार्ग, नई दिल्ली-110001

उपरोक्त विषयक स्वकार्यालयीय पत्रांक A-110015/25/TPP/2021/CAQM-784 दिनांक 21.02.2024 का संदर्भ ग्रहण करें, उक्त के सम्बन्ध में वांछित आख्या निम्नवत् है :-

1. विद्युत मंत्रालय, भारत सरकार एवं पर्यावरण मंत्रालय के निर्देशानुसार हरदुआगंज तापीय परियोजना पर बाँयोमास पैलेट को कोयले के साथ आवश्यक मात्रा में मिश्रित कर उपयोग 250 मे०वा० की इकाई सं० 8 एवं 9 में उपयोग फरवरी-2021 में आरम्भ की गयी थी तदोपरान्त इस प्रक्रिया को अनवरत चलाया जा रहा है। हरदुआगंज तापीय परियोजना की इकाई सं० 10 (1x660 मे०वा०) में बायोमास पैलेट उपयोग की अनुमति हेतु इकाई के मूल निर्माता मै० तोशीबा प्रा०लि० से पत्राचार किया जा रहा है अनुमति प्राप्त होने के उपरान्त उक्त इकाई में भी बाँयोमास पैलेट का उपयोग किया जा सकेगा।
2. विद्युत मंत्रालय, भारत सरकार एवं पर्यावरण मंत्रालय के निर्देशानुसार हरदुआगंज तापीय परियोजना पर बाँयोमास पैलेट को उपलब्धता के आधार पर कोयले के साथ आवश्यक मात्रा में मिश्रित कर लगातार उपयोग किया जा रहा है। पूर्व के वर्षों में अनुपातिक बायोमास पैलेट की अनुपलब्धता के कारण वांछित प्रतिशत में बायोमास पैलेट का उपयोग हरदुआगंज तापीय परियोजना पर नहीं किया जा सका। वर्तमान में बायोमास पैलेट की आपूर्ति परियोजना पर निरंतर बनी हुई है। हरदुआगंज तापीय परियोजना पर विगत 03 माह में बायोमास उपयोग का 2.25 प्रतिशत से ज्यादा रहा है जबकि माह फरवरी, 2024 में लगभग 3.35 प्रतिशत के निकट है।
3. हरदुआगंज तापीय परियोजना पर एक वर्ष के उपयोग के लिये आवश्यक 90,000.00 मी०टन बायोमास का कय आदेश (कय आदेश सं० 5000011921 दिनांक 14.11.2023) दिनांक 14.11.2023 को निर्गत किया जा चुका है, जिसके विरुद्ध 12500.00 मी०टन की आपूर्ति दिनांक 28.02.2024 तक की जा चुकी है।
4. हरदुआगंज तापीय परियोजना पर विद्युत मंत्रालय एवं वायु गुणवत्ता प्रबन्धन आयोग के निर्देशानुसार बायोमास पैलेट के उपयोग की मात्रा लगातार उपलब्धता के आधार पर बढ़ायी जा रही है, विद्युत मंत्रालय एवं वायु गुणवत्ता प्रबन्धन आयोग के निर्देशानुसार दिये गये लक्ष्य को वित्तिय वर्ष में 2024-25 में प्राप्त करने का प्रयास किया जा रहा है।
5. हरदुआगंज तापीय परियोजना द्वारा दीर्घ कालीन योजना (7 वर्ष के लिये) के तहत लगभग 1330000 मी०टन बाँयोमास पैलेट को कय करने हेतु का प्रस्ताव अनुमोदन के लिये सम्पूर्ण प्रकरण को इस कार्यालय के पत्र सं० 1118/मु०म०प्र० दिनांक 18.04.2023 द्वारा मुख्यालय को प्रेषित किया जा चुका है। जिसका अनुमोदन प्राप्त होते ही कय आदेश निर्गत किया जा सकेगा, जिससे विद्युत मंत्रालय एवं वायु गुणवत्ता प्रबन्धन आयोग द्वारा निर्धारित लक्ष्य को प्राप्त किया जा सकेगा।

मुख्य महाप्रबन्धक

दिनांक: 28.02.2024

पत्रांक: /मु०म०प्र०/बाँयोमास/को०स०म०

प्रतिलिपि निम्नलिखित को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित।

1. निदेशक (तकनीकी) 8वां तल, उ०प्र०रा०वि०उ०नि०लि० शक्ति भवन विस्तार, लखनऊ।
2. मुख्य अभियन्ता, (पर्या० एवं सु०), 7वां तल, उ०प्र०रा०वि०उ०नि०लि० शक्ति भवन विस्तार, लखनऊ।
3. मुख्य अभियन्ता (ईधन) 14वां तल, उ०प्र०रा०वि०उ०नि०लि० शक्ति भवन विस्तार, लखनऊ।
4. महाप्रबन्धक, 'द' ता०वि०गृ०, हरदुआगंज तापीय परियोजना, कासिमपुर।
5. महाप्रबन्धक, (निर्माण) 'ई' ता०वि०गृ०, हरदुआगंज तापीय परियोजना, कासिमपुर।
6. क्षेत्रीय प्रबन्धक, उ०प्र० प्रदूषण नियंत्रण बोर्ड, जे-1, 100 फुट रोड, ज्ञान सरोवर कालोनी, ज्ञान सरोवर, मानसरोवर कालोनी, अलीगढ़-202001

मुख्य महाप्रबन्धक

Biomass HTPS

893/45/174/CAQM
01/03/24VS (4x)
JSC
01/3/24296/Dirttech
1/3/24296
01/03/24
SCM (SC)

4213



राष्ट्रीय राजधानी क्षेत्र और निकटवर्ती क्षेत्र
वायु गुणवत्ता प्रबंधन आयोग
Commission for Air Quality Management in
National Capital Region and
Adjoining Areas



F. No. 120015/25/TPP/2021/CAQM-11099-1203

Dated: 3rd June' 2024

To,

Shri Piyush Singh,
The Joint Secretary,
Ministry of Power, Government of India,
Shram Shakti Bhawan, Rafi Marg,
New Delhi-110001

Subject: Actions towards further augmentation of co-firing and to ensure robust supply chain for compliance of Direction No.-42 and Environment (Utilisation of Crop residue by Thermal Power Plants) Rules, 2023- reg.

Sir,

Due to consistent non-compliance of Commission's Direction No.-42 by certain TPPs, lag to achieve the target of 2022, 2023 and to access ground situation, a High-Level team consisting of CAQM, MoP/CEA and SAMARTH visited 10 TPPs out of 11 located within 300 Km of Delhi.

2. During review, it appeared that out of 10 identified Power Plants of Haryana, Punjab & UP, co-firing has been scaled up in 6 plants (2 in Punjab; 3 in Haryana; and 1 in UP). In rest 4 power plants the co-firing status is critically low (2 in Punjab; and 2 in Haryana) against the co-firing targets for 2024, which requires intensive monitoring by MoP/SAMARTH/CAQM and state agencies, so that the entity can achieve their annual target of co-firing.

3. It has also been noted in the recent months that despite availability of torrefied/ non-torrefied pellets and subsequent augmentation of co-firing a strong need has been felt to ensure consistent robust supply chain mechanism for securing desired quantity biomass for consistent firing throughout the year to achieve the annual target and to achieve 'zero' open burning incidents with special emphasis in Punjab and Haryana. To achieve the goal intensive meetings between stakeholders' viz. 11 TPPs, pellet manufacturers, suppliers, farmers, State/ Central Agencies with specific agenda must be scheduled in Punjab, Haryana and Uttar Pradesh till the end of 2024 to cover entire **'Bailing to Pelleting and co-firing Paddy straw Supply chain'**, to scale up production, utilization and capacity potential of torrefied & non-torrefied pellet manufacturers/ suppliers to TPPs.

4. Moreover, immediate implementation and consistent scaling up of co-firing of torrefied and non-torrefied in OEM mandated boilers viz. HPGCL, JPL etc. is required in consultation with BHEL/ NTPC/FTL.

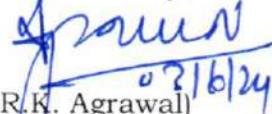
Contd./

:2:-

5. In view of above and for timely implementation of Environment (Utilisation of Crop residue by Thermal Power Plants) Rules, 2023 w.e.f. due date, following actions needs to be taken immediately:

- A. Fostering of co-firing rate in 4 power plants (2 in Punjab and 2 in Haryana) where co-firing is at critically low level and is far behind the annual targets of 2024 and / or 2024-2025, through intensive monitoring.
- B. Immediate review of implementation status and consistent scaling up of co-firing of torrefied and non-torrefied in OEM mandated boilers viz. HPGCL, JPL etc., in consultation with BHEL/ NTPC/FTL.
- C. Schedule intensive monthly meetings till 2024-25 with TPPs, pellet suppliers, farmers and other State/ Central agency stakeholders in Punjab, Haryana and Uttar Pradesh covering the entire **'Bailing to Pelleting and co-firing Paddy straw Supply chain'**, to scale up production, utilization and capacity potential of torrefied & non-torrefied pellet manufacturers/ suppliers to TPPs. Please share meetings schedule with CAQM.

Yours faithfully,



03/06/24

(R.K. Agrawal)

Director, CAQM

rk.agrawal69@gov.in

Copy to:

1. Shri Satish Upadhyaya
The Mission Director,
SAMARTH Mission (NBM in Thermal Power Plants)
E-3, Main Market Rd, Ecotech-II, Udyog Vihar,

Copy also to SPCBs for information:

2. The Member Secretary,
Punjab Pollution Control Board,
Vatavaran Bhawan, Nabha Road, Patiala
3. The Member Secretary,
Haryana State Pollution Control Board,
C-11, Sector-6. Panchkula-134109,
Haryana.
4. The Member Secretary,
Uttar Pradesh Pollution Control Board,
Building.No. TC-12V Vibhuti Khand, Gomti
Nagar Lucknow-226 010.

17 वी मंजिल, जवाहर व्यापार भवन (एस. टी.सी. बिल्डिंग), टॉलस्टॉय मार्ग, नई दिल्ली-110001

दूरभाष : 011-23701213, ई-मेल : caqm-ncr@gov.in

17th Floor, Jawahar Vyapar Bhawan (STC Building), Tolstoy Marg, New Delhi-110001

Tel:011-23701213, E-mail: caqm-ncr@gov.in

Actions towards further augmentation of co-firing and to ensure robust supply chain for compliance fo Direction No.42 and Environment (Utilisation of Crop residue by Thermal Powwer Plants) Rules, 2023 - reg.

From : CAQM NCR <caqm-ncr@gov.in>

Mon, Jun 03, 2024 04:14 PM

Subject : Actions towards further augmentation of co-firing and to ensure robust supply chain for compliance fo Direction No.42 and Environment (Utilisation of Crop residue by Thermal Powwer Plants) Rules, 2023 - reg.

1 attachment

To : singhp7 <singhp7@nic.in>

Cc : Satish Upadhyay <supadhyay@ntpc.co.in>, msppcb <msppcb@gmail.com>, hspcbms <hspcbms@gmail.com>, ms <ms@uppcb.in>, RAM KUMAR AGRAWAL <rk.agrawal69@gov.in>, Gyanendra Kr. Yadav <gyanendra90.fci@gov.in>

Sir,

Please find attached herewith a letter on the subject cited above for necessary action.

With regards,

Director, CAQM
New Delhi

महोदय,

उपरोक्त विषय में पत्र आपकी आवश्यक कार्रवाई हेतु संलग्न है।

सादर,

निदेशक
सी ए क्यू एम
नई दिल्ली

— co-firing.pdf
1 MB



राष्ट्रीय राजधानी क्षेत्र और निकटवर्ती क्षेत्र
वायु गुणवत्ता प्रबंधन आयोग
Commission for Air Quality Management in
National Capital Region and
Adjoining Areas



F. No. 120015/25/TPP/2021/CAQM/ Vol.VI/972 DT Dated 24.07.2024

To,

Shri Satish Upadhyaya
The Mission Director,
SAMARTH Mission (NBM in Thermal Power Plants)
E-3, Main Market Rd, Ecotech-II, Udyog Vihar,

**Subject: Intensive meeting schedule with stakeholders in NCR - TPPs
located within 300 Km Delhi for biomass co-firing target recovery**

Ref: Mission SAMARTH letter No. NBM/MD/24-25/07/32 dated 10.07.2024

Sir,

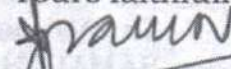
The Commission is in receipt of letter from SAMARTH mentioned under reference requesting CAQM to intimate to the respective TPPs and other concerned for attending the meetings.

2. It is to mention that to address the concern of worsening air quality of Delhi-NCR specially during the winter months due to stubble burning and to mitigate the effect of such a contributory source, the Commission had issued Direction No. 42 dated 17.09.2021 and Advisory No. 11 dated 30.08.2023 mandating regular co-firing of stubble replacing 5-10 % coal, in 11 TPPs located within 300 Km of Delhi. The Commission has also been regularly reviewing the status of co-firing of biomass in TPPs through monthly meetings with TPPs/ MOP and concerned agencies of the States etc. for the compliance of the aforesaid direction by TPPs.
3. The matter was also discussed in different meetings chaired by the Cabinet Secretary wherein Power Ministry was asked to ensure utilization of straw pellets by TPPs. Starting January till June 2024, so far the progress of co-firing of biomass in TPPs (barring TPPs in the states of Haryana & Punjab) has been satisfactory though a lot is still to be done to achieve the target of 5% co-firing of biomass replacing coal in TPPs.

:2:

4. It is advised that Ministry of Power/ SAMARTH may fix such regular meetings with TPPs, agencies/ departments concerned including different stakeholders like paddy supply chain status aggregators and pellet manufacturers in coordination with States concerned to ensure adequate co-firing of Biomass by concerned TPPs and communicate to CAQM so as to ensure participation from the Commission.

Yours faithfully,



(R.K. Agrawal)

Director, CAQM

rk.agrawal69@gov.in

011-23446806

Copy to:

Shri Piyush Singh,
The Joint Secretary, MoP, Govt. of India,
Shram Shakti Bhawan, Rafi Marg,
New Delhi-110001

180

Email

Intensive Meeting schedule with stakeholders in NCR - TPPs located within 300 kms Delhi for biomass co-firing target recovery reg.

From : CAQM NCR <caqm-ncr@gov.in> Wed, Jul 24, 2024 04:43 PM
Subject : Intensive Meeting schedule with stakeholders in NCR - TPPs located within 300 kms Delhi for biomass co-firing target recovery reg. 1 attachment
To : satishupadhyay161 <satishupadhyay161@gmail.com>, Satish Upadhyay <supadhyay@ntpc.co.in>, RAM KUMAR AGRAWAL <rk.agrawal69@gov.in>, Gyanendra Kr. Yadav <gyanendra90.fci@gov.in>, soumya caqm <soumya.caqm@gmail.com>
Cc : singhp7 <singhp7@nic.in>

महोदय,

उपरोक्त विषय पर 24 July, 2024 के वायु गुणवत्ता प्रबंधन आयोग के पत्र की प्रति आपकी जानकारी एवं आवश्यक कार्रवाई के लिए संलग्न है।

सादर,

निदेशक, सीएक्यूएम,
पर्यावरण, वन और जलवायु परिवर्तन मंत्रालय,
भारत सरकार, नई दिल्ली

 **972 DT Intensive Meeting TPP Dir SAMRATH 24072024.pdf**
416 KB



राष्ट्रीय राजधानी क्षेत्र और निकटवर्ती क्षेत्र
वायु गुणवत्ता प्रबंधन आयोग
Commission for Air Quality Management in
National Capital Region and
Adjoining Areas



F. No. 120015/25/TPP/2021/CAQM/1402-1428

दिनांक: 24th अक्टूबर, 2024

बैठक का कार्यवृत्त /
Minutes of Meeting

Subject: Review meeting w.r.t. preparedness to comply with Commission's Direction No.-42 w.r.t. co-firing of biomass/ biomass pellets in 11 TPPs located within 300 Km of Delhi - reg.

उपरोक्त विषय पर वायु गुणवत्ता प्रबंधन आयोग के अध्यक्ष, श्री राजेश वर्मा की अध्यक्षता में दिनांक 21.10.2024 को आयोजित बैठक का कार्यवृत्त सूचना संलग्न है।

The minutes of meeting held on 21.10.2024 under the Chairmanship of Shri Rajesh Verma, the Chairperson, of the Commission for Air Quality Management, on the above subject is enclosed herewith.

संलग्न: उपरिउक्त

(Handwritten Signature)
(अ. के. अग्रवाल)
निदेशक (तकनीकी)

सेवा में:

1. The Additional Secretary, MoEFCC, GoI, asnpg.mefcc@gov.in
2. The Additional Secretary, Ministry of New & Renewable Energy, as-mnre@gov.in
3. The Joint Secretary, Ministry of Power, Government of India, singhp7@nic.in
4. The Mission Director, SAMARTH md-biomass-power@gov.in
5. The Member Secretary, Central Pollution Control Board, Delhi, mascb.cpcb@nic.in
6. The Chairman & Managing Director, NTPC cmd@ntpc.co.in
7. The Chairman cum Managing Director, Punjab State Power Corporation Ltd, Govt. of Punjab cmd-pspcl@pspcl.in
8. The Managing Director, Haryana Power Generation Corporation Ltd. Govt. of Haryana, md@hpgcl.org.in
9. The Chief Executive, Punjab Energy Development Agency, ceo@peda.gov.in, mpsingh@peda.gov.in
10. The Director General, HAREDA, hareda-chd@nic.in
11. The Managing Director, UPRUVNL, md@uprvnl.org

Contd./

17 वी मंजिल, जवाहर व्यापार भवन (एस. टी.सी. बिल्डिंग), टॉलस्टॉय मार्ग, नई दिल्ली-110001

दूरभाष : 011-23701213, ई-मेल : caqm-ncr@gov.in

17th Floor, Jawahar Vyapar Bhawan (STC Building), Tolstoy Marg, New Delhi-110001

Tel:011-23701213, E-mail: caqm-ncr@gov.in

12. Power Plants of NCR within 300 Km of Delhi:

- (i). Chief General Manager, National Capital Dadri Thermal Power Plant, NTPC, Dadri, (srbodanki@ntpc.co.in, brahmajig@ntpc.co.in)
- (ii). Chief Executive Officer, Indira Gandhi Super Thermal Power Project, NTPC JV, Jhajjar, (hopjhajjar@ntpc.co.in)
- (iii). Managing Director, Mahatma Gandhi TPS, CLP Jhajjar' Haryana. (bhaskar.bhattacharjee@apraava.com, rajan.tiwari@apraava.com)
- (iv). Managing Director, Panipat TPS, HPGCL, Panipat, Haryana, (cepts@hpgcl.org.in)
- (v). Managing Director, Rajiv Gandhi TPS, Hisar, HPGCL, Haryana, (cergtpp@hpgcl.org.in)
- (vi). Managing Director, Deenbandhu Chhoturam TPS, Yamunanagar, HPGCL, Haryana, (cedertpp@hpgcl.org.in)
- (vii). Managing Director, Guru Hargobind TPS, PSPCL, Punjab, (ceghtp@pspcl.in)
- (viii). Managing Director, Guru Gobind Singh TPS, PSPCL, Punjab (ce-ggsstp@pspcl.in)
- (ix). Managing Director, Nabha Power Ltd, Rajpura TPS, L&T, Punjab (sk.narang@larsentoubro.com, saurabh.patel@larsentoubro.com)
- (x). Managing Director, Talwandi Sabo TPS, Mansa, Vedanta, Punjab (Pankaj.sharma@vedanta.co.in, Vikas.S@vedanta.co.in)
- (xi). Managing Director, Harduaganj TPS, UPRVUNL, Uttar Pradesh (md@uprvunl.org, director.project@uprvunl.org)

Copy to:-

- (i). PS to the Chairperson, CAQM.
- (ii). the all Member (Technical), CAQM.
- (iii). the Member (SKB), CAQM.
- (iv). the Member Secretary, CAQM.
- (v). the Director-Technical (CAQM)

Review meeting w.r.t. preparedness to comply with Commission's Direction No.-42 w.r.t. co-firing of biomass/ biomass pellets in 11 TPPs located within 300 Km of Delhi - reg.

A meeting on the above subject was held on 21.10.2024 under Chairmanship of Shri Rajesh Verma, the Chairperson, CAQM, on 21st October' 2024 at 11 A.M. in "SAMEER" Conference Hall at 17th Floor, Jawahar Vyapar Bhawan (STC Building), Tolstoy Marg, New Delhi, in physical mode/ combined mode. The list of participants is **annexed**.

2. The Member, CAQM welcomed the participants, followed by brief introduction by all the participants. After which a brief presentation was given by the Member CAQM on genesis of the Direction No.-42 and various Advisories of the Commission on the above subject matter including various initiatives by MoP for facilitation of compliance; compliance progress of co-firing till September, 2024; Challenges, way forward and agenda for today's meeting.

3. He briefed about the objectives of the meeting w.r.t. actions required to be taken to achieve the gap of co-firing, as the time line for imposition of Environmental Compensation for the period of 2024-25 is approaching, while flagging the concerns due to poor performances by three (03) plants of HPGCL namely RGTPS-Hissar, DCRTTP-Yamunanagar & PTPS-Panipat; and one plants of Punjab namely TSPL - Vedanta, to those notice u/s 14 has already been served in February, 2024.

4. It was followed by a presentation by Mission Director, SAMARTH who apprised the updated progress status on co-firing in 11 TPPs during FY 2024-25 till 15.10.2024 based on average coal consumption during 2021-24; and accordingly discussion on plant wise recovery target of co-firing for the due periods of 2024-25 was carried out. The highlights of the SAMARTH-Mission presentation is as follows:

- A. Till 15.10.2024, only 5.31 Lakh MT (LMT) biomass pellets was co-fired by identified 11 TPPs during FY 2024-25, against projected requirement of 22.64 Lakh MT (LMT) in 2024-25 for co-firing up to 5%.
- B. It was emphasized that to achieve the compliance w.r.t. co-firing up to 3 % between October to March, 2024-25, three times increase in co-firing is required to be achieved by the 11 TPPs altogether compared to biomass pellets co-fired during April to September, 2024-25. Moreover, it is highlighted that a major portion of due amount of pellets co-firing fall under 9 TPPs, other than two plants of NTPC.

C. The plant wise brief status of co-firing and issues presented by SAMARTH as follows:

S.N.	TPPs	Biomass pellet Consumed/ consumption During 2024-25 (in Lakh MT)		Issue	Remarks/ Comments
		April to September	Oct to Dec		
i	HPGCL - PTPS;	0.073	0.75	- Falling short to meet the target - Shortage of supply and single point supply in three plants. - Already highlighted to HPGCL authorities.	Director (T) HPGCL: supply are gradually augmenting and each of the three plants will co-fire at least 3 % pellets by end of 2024-25 FY.
	HPGCL - RGTPS;	0.281	0.72		
	HPGCL - DCRTTP	0.063	0.74		
ii	TSPL	0.0012	2.187	- Torrified pellets availability in NCR is about 31%. - Recovery targets for TSPL-Vedanta is worrisome and longtime has been passed.	Unit could have focused on the setting up of own torrefied pellets plants long back to avoid the situation.
iii	NPL-L&T	0.309	1.44	- The recovery progress in NPL-L&T, Rajpura is quite well. - Needs consistency in co-firing with continuous higher targets.	NPL informed, they will achieve the targets and requested PSPCL to look into the fuel related issues as per adopted policy/ agreement.
iv	Harduaganj	0.301	0.401	Upon recovery progress of co-firing, UPRVUNL-Harduaganj informed that from dependency on single/ limited vendor/ supplier, unit is switching to multiple supplier/ manufacturer.	Will be compliant with the directives within time.
v	PSPCL-Ropar	0.213	0.496	- The recovery progress in PSPCL-Ropar & Lehra Mohabbat are quite well. - Needs consistency in co-firing with continuous higher targets.	The representative of TPPs assured that they will achieve the targets.
	PSPCL-Lehra	0.299	0.429		
vi	NTPC Dadri	1.13	1.41	The recovery progress in NTPC Dadri & APCPL plant and Apravva-Jhajjar are quite well.	The three (03) TPPs assured that they will continue the progress on co-firing mandates.
	APCPL-Jhajjar;	1.12	1.36		
	Apravva-Jhajjar	0.972	1.31		

5. After the detailed discussions on each plant and issues involved, the Chairperson, CAQM mentioned that after issuance of the Direction No.-42 long time has passed and the Commission from time to time has flagged the issues

before the State and TPPs. Therefore resolution of the supply chain issues as well as augmentation of manufacturing capacity of the biomass pellets should have been dealt by the State authorities long back. As the Schedule for Environmental Compensation has already been notified and Notices under Section – 14 of the Act, have already been served to a few of the consistent poor performers, therefore State and TPP Authorities should focus to comply with the directives in a time bound manner in letter and spirit else coercive action will be initiated by CAQM .

6. The Chairperson further enquired on the funding mechanism of MNRE & CPCB for pellet manufacturing facilities and emphasized that there should be convergence/ synchronization between the two funding mechanisms. MNRE replied that their Scheme was developed based on PAN India requirements, whereas CPCB replied that their scheme is prepared only for pellet plants located in NCR and fund has been provided from EPC. CPCB informed that so far it has funded only two (02) torrefied pellet plants in Punjab.

7. In view of the mandates of the Direction No.-42, as well as notices served to four (04) TPPs for consistent poor performance and the status of co-firing in 11 TPPs w.r.t. concerns of stubble management, the Chairperson concluded the meeting as follows:

- A. MoP will ensure issuance of (i) 'Benchmark price' for torrefied pellets at the earliest and (ii) will co-ordinate with MNRE & CPCB on convergence of their funding programme for the augmentation of pellet manufacturing capacity, where funding from CPCB may act as top up subsidy/gap funding. **[Action: MoP/SAMARTH]**
- B. State of Haryana and Punjab shall monitor and resolve the issues, if any immediately, which may have any bearing on the availability of paddy straw for the TPPs in their respective state. The fuel supply issues of PSPCL and sourcing of paddy by the TPPs of Haryana may be appropriately addressed by the State Authorities without any further delay. **[Action: HAREDA, PEDDA, SAMARTH]**
- C. TPPs and SAMARTH should endeavor to comply with benchmark price given by MoP, in case the State has not notified their own benchmark price. In any case supply chain has to be maintained in a manner that farmers get remunerative price for the paddy stubble. **[Action: TPPs, SAMARTH]**
- D. Concerted efforts of all stakeholders, including 11 TPPs within 300 Km of Delhi shall ensure compliance of Direction No.-42 and 11 TPPs must qualify the criteria/ schedule of co-firing notified by MoEFCC on 18.07.2023 to avoid Environmental Compensation. **[Action: TPPs]**
- E. Non-compliance of directives shall attract coercive action as per rules/regulations which may include prosecution u/s 14 of the CAQM Act, 2021. **[Action: CAQM]**

8 Meeting ended with a vote of Thanks to the Chair.

List of Attendees

CAQM

1. Shri Rajesh Verma, Chairperson, CAQM
2. Dr. N. P. Shukla, Member-Technical, CAQM
3. Dr. S. D. Attri, Member-Technical, CAQM
4. Dr. Sujit Kumar Bajpayee, Member, CAQM
5. Shri Arvind Nautiyal, Member-Secretary, CAQM
6. Shri R. K. Agrawal, Director, CAQM
7. Dr. Soumya Chatterjee, Senior Consultant, CAQM

Ministry of Power, Govt. of India

8. Shri Piyush Singh, Joint-Secretary

Central Electricity Authority (CEA)

9. Shri T. Venkateshwarlu, Chief Engineer

SAMARTH

10. Shri Satish Upadhyay, Mission Director – SAMARTH & ED – NTPC
11. Mohd. Nizamuddin, Additional General Manager (Biomass)- NTPC
12. Shri Prakhar Malviya, Senior Manager/Biomass **(VC)**
13. Shri S. K. Arjaria, Senior General Manager/DVC **(VC)**

Ministry of Environment Forest and Climate Change, Govt. of India

14. Shri Mukesh Balodhi, Scientist – E

Ministry of New & Renewable Energy, Govt. of India

15. Shri S. K. Shahi, Scientist E

Central Pollution Control Board (CPCB)

16. Mohd. Naziumuddin, Scientist F

National Thermal Power Corporation (NTPC)

17. Shri K. C. Muraleedharan, Head of Project - Dadri
18. Shri S. P. S. Virk, Chief General Manager
19. Shri Sanjay Singh, Senior Manager, APCPL – Jhajjar
20. Shri Joyotosh Kumar Dey, General Manager (FM), APCPL - Jhajjar
21. Shri N. N. Sinha, General Manager (Fuel Management), NTPC – Dadri

Punjab Energy Development Agency (PEDA)

22. Shri M. P. Singh, Director

Haryana Renewable Energy Development Agency (HAREDA)

23. Not attended/ No representative.

Uttar Pradesh Pollution Control Board (UPPCB)

24. Shri D. K. Gupta, Regional Officer – Greater Noida

Other Thermal Power Plants:

25. Shri Atul Kumar, Chief General Manager (Harduaganj TPS) – UPRVUNL
26. Shri Sushil Singh, Superintending Engineer (Harduaganj TPS) – UPRVUNL
27. Shri Harish Kumar Sharma, Chief Engineer, (GGSSTP) Ropar, PSPCL
28. Shri Jasvinder Singh, Deputy Chief Engineer, (GHTP) Lehra Mohabbat – PSPCL **(VC)**
29. Shri Anil Kumar Kalsi, Superintending Engineer, (GGSSTP) Ropar, PSPCL
30. Shri R. K. Verma, Director Technical, (HPGCL) Panchkula – **(VC)**
31. Shri S. P. Arya, Executive Engineer/Fuel (RGTPP) Hisar, HPGCL
32. Shri Naresh Kumar Kamboj, Superintending Engineer (Fuel Division) DCRTTP, Yamuna Nagar, HPGCL **(VC)**
33. Shri V. K. Singh, Executive Engineer (Fuel) DCRTTP, Yamuna Nagar, HPGCL

34. Shri Mrinal Jaiswal, Assistant Executive Engineer (Fuel) DCRTTP, Yamuna Nagar, HPGCL **(VC)**
35. Shri Naresh Kumar Rana, Executive Engineer/Fuel (PTPS), Panipat - HPGCL
36. Shri K. Prasanna Rao, Vice President (O&M), (JPL)- Apraava Energy
37. Shri Aananth R. M., General Manager (C&E), (JPL) - Apraava Energy
38. Shri Pulkit Khurana, Manager (Commercial), Nabha Power Ltd. - **(VC)**
39. Shri Jitendra Upadhyay, General Manager (Fuel), Nabha Power Ltd.
40. Shri Saurabh Patel, Assistant General Manager, Nabha Power Ltd. **(VC)**
41. Shri Vikas Sharma, Head Business Strategy (TSPL), Vedanta - **(VC)**
42. Shri Himanshu Agarwal, Director Regulatory (TSPL), Vedanta
43. Executive Director, TPS - Yamuna Nagar **(VC)**

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Review meeting w.r.t. preparedness to comply with Commission's Direction No.-42 w.r.t. co-firing of biomass/ biomass pellets in 11 TPPs located within 300 Km of Delhi - reg.

ME

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Thu, 24 Oct 2024 6:31:53 PM +0530

To "Mr Naresh Gangwar" <asnpg.mefcc@gov.in>, "Sudeep Jain" <as-mnre@gov.in>, "singhp7" <singhp7@nic.in>, "National Mission" <md-biomass-power@gov.in>, "Member CPCB" <mscb.cpcb@nic.in>, "cmd" <cmd@ntpc.co.in>, "cmd-pspcl" <cmd-pspcl@pspcl.in>, "Mohammad Shayin" <md@hpgcl.org.in>, "mpsingh" <mpsingh@peda.gov.in>, "New" <hareda-chd@nic.in>, "md" <md@uprvunl.org>, "SR Bodanki" <srbodanki@ntpc.co.in>, "Brahmaji G" <brahmajig@ntpc.co.in>, "HoP Jhajjar" <hopjhajjar@ntpc.co.in>, "bhaskar bhattacharjee" <bhaskar.bhattacharjee@apraava.com>, "rajan tiwari" <rajan.tiwari@apraava.com>, "S L SACHDEVA" <cepts@hpgcl.org.in>, "D L Rohila" <cergtpp@hpgcl.org.in>, "S K Sachdeva" <cedcrtp@hpgcl.org.in>, "ce-ghttp" <ce-ghttp@pspcl.in>, "ce-ggsstp" <ce-ggsstp@pspcl.in>, "SK Narang" <sk.narang@larsentoubro.com>, "saurabh patel" <saurabh.patel@larsentoubro.com>, "Pankaj sharma" <pankaj.sharma@vedanta.co.in>, "vikas" <vikas.s@vedanta.co.in>, "director project" <director.project@uprvunl.org>

Cc "Ravi Prakash" <ravi.kaushik7@gov.in>, "Dr Narmada Prasad Shukla" <narmada.shukla55@gov.in>, "S D ATTRI" <sd.attri@imd.gov.in>, "Dr Virinder Sharma" <virinder.sharma@gov.in>, "Sujit Kumar Bajpayee" <sujit.baju@gov.in>, "ARVIND KUMAR NAUTIYAL" <arvind.nautiyal@gov.in>, "RAM AGRAWAL" <rk.agrawal69@gov.in>, "soumya caqm" <soumya.caqm@gmail.com>

महोदय/ महोदया,

उपरोक्त विषय पर वायु गुणवत्ता प्रबंधन आयोग की 21 अक्टूबर, 2024 को आयोजित बैठक के कार्यवृत्त की प्रति आपकी जानकारी एवं आवश्यक कार्रवाई के लिए संलग्न है।

निदेशक, सीएक्यूएम,
पर्यावरण, वन और जलवायु परिवर्तन मंत्रालय,
भारत सरकार, नई दिल्ली

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राष्ट्रीय राजधानी क्षेत्र और निकटवर्ती क्षेत्र
वायु गुणवत्ता प्रबंधन आयोग
Commission for Air Quality Management in
National Capital Region and
Adjoining Areas



F. No. 120015/25/TPP/2021/CAQM 158-178

दिनांक: 3rd फरवरी, 2024

बैठक का कार्यवृत्त /
Minutes of Meeting

Subject Review meeting w.r.t. the status of compliance Commission's Direction No.-42 mandates co-firing of biomass/ biomass pellets in 11 TPPs located within 300 Km of Delhi - reg.

उपरोक्त विषय पर वायु गुणवत्ता प्रबंधन आयोग के सदस्य तकनीकी डॉ. विरिंदर शर्मा की अध्यक्षता में दिनांक 22.01.2025 को आयोजित बैठक का कार्यवृत्त सूचना संलग्न है।

The minutes of meeting held on 22.01.2025 under the Chairmanship of Dr. Virinder Sharma, Member Technical, Commission for Air Quality Management, on the above subject is enclosed herewith.

संलग्न: उपरिउक्त

R.P. Lurung
(आर. पी. गुरुंग) 3/2/25
Sc. 'E'

सेवा में:

1. The Additional Secretary, MoEFCC, GoI, asnpg.mefcc@gov.in
2. The Additional Secretary, Ministry of New & Renewable Energy, as-mnre@gov.in
3. The Joint Secretary, Ministry of Power, Government of India, singhp7@nic.in
4. The Mission Director, SAMARTH md-biomass-power@gov.in
5. The Member Secretary, Central Pollution Control Board, Delhi, mascb.cpcb@nic.in
6. Power Plants of NCR within 300 Km of Delhi:
 - (i). Chief General Manager, National Capital Dadri Thermal Power Plant, NTPC, Dadri, srbodanki@ntpc.co.in, brahmajig@ntpc.co.in
 - (ii). Chief Executive Officer, Indira Gandhi Super Thermal Power Project, NTPC JV, Jhajjar, hopjhajjar@ntpc.co.in
 - (iii). Managing Director, Mahatma Gandhi TPS, CLP Jhajjar' Haryana. bhaskar.bhattacharjee@apraava.com, rajan.tiwari@apraava.com
 - (iv). Managing Director, Panipat TPS, HPGCL, Panipat, Haryana, cepts@hpgcl.org.in

Contd./

:2:

- (v). Managing Director, Rajiv Gandhi TPS, Hisar, HPGCL, Haryana, (cergtpp@hpgcl.org.in)
- (vi). Managing Director, Deenbandhu Chhoturam TPS, Yamunanagar, HPGCL, Haryana, (cedcrtp@hpgcl.org.in)
- (vii). Managing Director, Guru Hargobind TPS, PSPCL, Punjab, (ceghtp@pspcl.in)
- (viii). Managing Director, Guru Gobind Singh TPS, PSPCL, Punjab (cegsstp@pspcl.in)
- (ix). Managing Director, Nabha Power Ltd, Rajpura TPS, L&T, Punjab (sk.narang@larsentoubro.com, saurabh.patel@larsentoubro.com)
- (x). Managing Director, Talwandi Sabo TPS, Mansa, Vedanta, Punjab (Pankaj.sharma@vedanta.co.in, Vikas.S@vedanta.co.in)
- (xi). Managing Director, Harduaganj TPS, UPRVUNL, Uttar Pradesh (md@uprvunl.org, director.project@uprvunl.org)

Copy to:-

- (i). PS to the Chairperson, CAQM.
- (ii). the Member (Technical) (Dr. V.S.), CAQM.
- (iii). the Member Secretary, CAQM.
- (iv). the Director-Technical, CAQM
- (v). Sh. R. P. Gurung, Sc.'E', CAQM

Minutes of Review meeting w.r.t. the status of compliance on Commission's Direction No.-42 mandate for co-firing of biomass/ biomass pellets in 11 TPPs located within 300 Km of Delhi.

A meeting on the above subject was held on 22.01.2025 under Chairmanship of Dr. Virinder Sharma, Member (Technical), CAQM, on 22nd January 2025 in hybrid mode. The list of participants is **annexed**.

2. After brief introduction, a presentation was made by Mission Director, SAMARTH who apprised the progress status of co-firing in 11 TPPs during FY 2024-25 till 15.01.2025 based on average coal consumption and/ or electricity generation. The highlights of the SAMARTH-Mission presentation are as follows:

A. Till 15.01.2025 of FY 2024-25, only 9.37 Lakh MT (LMT) biomass pellets was co-fired by identified 11 TPPs, against projected target of 22.64 Lakh MT (LMT) in 2024-25 for co-firing up to 5%.

B. To achieve the compliance w.r.t. co-firing up to 3 % for the year 2024-2025, the cumulative biomass consumption by the 11 TPPs, during the period of Jan 2025 to March 2025 has to be increased by around 1.1 Lakh MT (LMT)/ month over the existing consumption rate about 1.95 % achieved during April to December, 2024. It was further highlighted that only two plants of NTPC and one plant i.e., Apravva-Jhajjar, have already achieved the targets of 3% co-firing of biomass.

C. The plant wise brief status of co-firing and issues presented by SAMARTH is as follows:

S. N.	TPPs	Biomass consumed during April to Dec 2024 (Lakh MT)	Biomass to be consumed during Jan to Mar 2025 to achieve 3% co-firing (Lakh MT)	Issue	Remarks/ Comments
i	HPGCL - PTPS;	0.316	1.034	- Progress of DCRTTP in December 2024 is very poor. - All three units are unlikely to meet the target of 3% co-firing. Single point supply of pellets for all three TPPs is the main reason for the shortfall.	Authorities from HPGCL / Representatives from three plants of HPGCL was absent in the meeting.
	HPGCL - RGTPS;	0.592	1.068		
	HPGCL - DCRTTP	0.154	1.076		
ii	TSPL	0.058	3.582	- The unit is unlikely to meet the target of 3% co-firing - Rate of consumption of	No long-term tender/ contract has been placed. Also no progress

				biomass is extremely poor for TSPL-Vedanta.	on setting up of own torrefied pellet plants is reported.
iii	NPL-L&T	1.208	1.672	- The recovery progress in NPL-L&T, Rajpura is steady - Needs consistency in co-firing with continuous higher targets to comply.	NPL informed, they will achieve the targets. Fuel related issues as per adopted policy/ agreement with PSPCL has been sorted out.
iv	Harduaganj	0.377	1.222	UPRVUNL-Harduaganj informed that the dip in progress is due to weather impacted quality of the pellets, and delay in finalization of price of long/ short term tendering	Commitment was made regarding compliance of target in time
v	PSPCL-Ropar	0.501	0.598	- The recovery progress in PSPCL-Ropar & Lehra Mohabbat are quite well. - Needs consistency in co-firing with continuous higher targets to comply.	The representative of TPPs assured that they will achieve the targets.
	PSPCL-Lehra	0.461	0.678		
vi	NTPC Dadri	1.895	1.065	The recovery progress in NTPC Dadri & APCPL plant and Apravva-Jhajjar has been completed and needs consistency in co-firing with higher targets to comply.	The three (03) TPPs assured that they will continue the progress on co-firing mandates.
	APCPL-Jhajjar;	1.588	1.012		
	Apravva-Jhajjar	1.682	0.797		

4. All three plants of HPGCL had performance poorly in terms of co-firing of biomass. It was further noted that representative of all three units were absent from the meeting inspite of an official invitation. The Member (Technical), CAQM expressed concerns regarding their poor performance absence in this review meeting.

5. The Member (Technical) and Mission Director, SAMARTH appreciated Apravva-Jhajjar & NPL, L&T for their performance and they were invited to share their experiences. Both the TPPs informed that standardization of practices w.r.t. utilization of paddy straw based pellets is the key to success. However, Apravva-Jhajjar informed that in their TPP to comply with the target set for 2025-26 i.e. @5%, up-gradation of feeding system is required and matter has already been raised before CERC.

Member (Technical) remarked that compliance of the Commission's Directives by all the TPPs shall be in letter and spirit.

6. Member (Technical) enquired on the status of progress of actions taken by MoP/CEA/SAMARTH after review meeting held on 21.10.2024. MoP/ CEA has informed that

- A. Price Benchmarking of Torrified pellets has been completed on 18.11.2024 and renewal of prices w.r.t. non-torried pellets has already been carried out on 03.10.2024.
- B. It was also informed that the review meeting with MNRE & CPCB regarding convergence of the funding programme for the augmentation of pellet manufacturing capacity in NCR area was held 29.10.2024. MoP further informed that following two criteria were concluded in the meeting for the development of proposal related to convergence of the funding of MNRE & CPCB on the matter vis-à-vis the Pellet manufacturers who have availed financial assistance from MNRE, may take additional financial assistance under CPCB scheme, if they meet the criteria specified by CPCB as envisaged:
 - (i) MNRE needs to remove the clause 3.9 from their guidelines of the CFA scheme. (As per clause 3.9 of the guidelines of the scheme, "Central financial assistance from any other Ministry or department of the Central Govt. should not be claimed for proposed plant for which application has been submitted to this Ministry")
 - (ii) CPCB needs to add a clause in their scheme for giving additional financial assistance to the pellet manufacturers, after they receive financial assistance from MNRE scheme.

MoP/SAMARTH also clarified that MoP guidelines provides utilization of minimum 50% of paddy straw and it can be anything above 50% as per CPCB criteria. The Member (Technical) highlighted that the clubbing of the Central Financial Assistance Grant with adoption of highest capping through top up subsidy/ gap funding from side of CPCB could lead to efficient utilization of fund:

7. In view of the mandates of the Direction No.-42, as well as earlier notices served to four (04) TPPs due to their consistently poor performance and after considering the status of co-firing in 11 TPPs w.r.t. concerns of stubble management, the Member (Technical) concluded the meeting as follows:

- A. Concerted efforts of all stakeholders, including the 11 TPPs within 300 km of Delhi shall be needed to ensure compliance of Direction No.-42. Further, the 11 TPPs must comply with the criteria/ schedule of co-firing notified by MoEFCC on 18.07.2023 to avoid Environmental Compensation.

B. Non-compliance of directives by the TPPs will attract coercive action as per rules/ regulations which may include prosecution u/s 14 of the CAQM Act, 2021.

8. Meeting ended with a vote of Thanks to the Chair.

Annexure

List of Attendees

CAQM

1. Dr. Virinder Sharma, Member (Technical), CAQM
2. Shri R. P. Gurung, Scientist – E, CAQM
3. Dr. Soumya Chatterjee, Senior Consultant, CAQM

Ministry of Power, , Govt. of India / Central Electricity Authority (CEA)

4. Shri T. Venkateshwarlu, Chief Engineer **(VC Mode)**
5. Shri Jitesh Shrivastava, Deputy Director
6. Shri Lucky Yadav, Assistant Director - II

Ministry of Environment Forest and Climate Change, Govt. of India

7. Shri Mukesh Balodhi, Scientist – E **(VC Mode)**

SAMARTH

8. Shri Satish Upadhyay, Mission Director – SAMARTH & ED – NTPC
9. Mohd. Nizamuddin, Additional General Manager (Biomass)- NTPC

Central Pollution Control Board (CPCB)

10. Mohd. Naziumuddin, Scientist F
11. Shri Ankush Tiwani, Sc.'E'

National Thermal Power Corporation (NTPC)

12. Shri Joyotosh Kumar Dey, General Manager (FM), APCPL - Jhajjar
13. Shri N. N. Sinha, General Manager (Fuel Management), NTPC – Dadri
14. Shri Guru Prasad Singh, General Manager (O&M), NTPC – Dadri

Other Thermal Power Plants:

15. Shri Atul Kumar, Chief General Manager (Harduaganj TPS) UPRVUNL
16. Shri Sushil Singh, Superintending Engineer/Coal (Harduaganj TPS) UPRVUNL
17. Shri Anil Kumar Kalsi, Deputy Chief Engineer, (GGSSTP) Ropar, PSPCL
18. Shri Barinderjit Singh Sohi, Superintending Engineer (GHTP) Lehra Mohabbat – PSPCL
19. Shri Bhaskar Bhattacharjee, Director, (JPL)- Apraava Energy
20. Shri Aananth R. M., General Manager C&E, (JPL) – Apraava Energy
21. Shri Rajan Tiwari, Manager/C&E, (JPL) – Apraava Energy
22. Shri Saurabh Patel, Assistant General Manager, Nabha Power Ltd.
23. Shri Tarun Jindal, Manager/Env. (TSPL), Vedanta
24. Shri Siddharth Ruhil, Associate Manager, (TSPL), Vedanta

Minutes of Review meeting - "The status of compliance Commission's Direction No. 42 mandates co-firing of biomass/ biomass pellets in 11 TPPs located within 300 Km of Delhi" - reg.

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 Tue, 04 Feb 2025 11:51:01 AM +0530

To "Mr Naresh Gangwar" <asnpng.mefcc@gov.in>, "Sudeep Jain" <as-mnre@gov.in>, "singhp7" <singhp7@nic.in>, "National Mission" <md-biomass-power@gov.in>, "Member CPCB" <mccb.cpcb@nic.in>, "SR Bodanki" <srbodanki@ntpc.co.in>, "Brahmaji G" <brahmajig@ntpc.co.in>, "HoP Jhajjar" <hopjhajjar@ntpc.co.in>, "bhaskar bhattacharjee" <bhaskar.bhattacharjee@apraava.com>, "rajantiwari" <rajan.tiwari@apraava.com>, "S L SACHDEVA" <cepts@hpgcl.org.in>, "D L Rohila" <cergtpp@hpgcl.org.in>, "S K Sachdeva" <cedcrtp@hpgcl.org.in>, "ceghttp" <ceghttp@pspcl.in>, "ceggstp" <ceggstp@pspcl.in>, "SK Narang" <sk.narang@larsentoubro.com>, "saurabh patel" <saurabh.patel@larsentoubro.com>, "Pankaj sharma" <pankaj.sharma@vedanta.co.in>, "vikas" <vikas.s@vedanta.co.in>, "md" <md@uprvunl.org>, "director project" <director.project@uprvunl.org>

Cc "Ravi Prakash" <ravi.kaushik7@gov.in>, "ARVIND KUMAR NAUTIYAL" <arvind.nautiyal@gov.in>, "RAM AGRAWAL" <rk.agrawal69@gov.in>, "Ritesh Prasad Gurung" <rpgurung.cpcb@nic.in>, "soumya caqm" <soumya.caqm@gmail.com>

महोदय/ महोदया,

उपरोक्त विषय पर 3 February, 2025 के वायु गुणवत्ता प्रबंधन आयोग के पत्र की प्रति आपकी जानकारी एवं आवश्यक कार्रवाई के लिए संलग्न है।

सादर,

आर. पी. गुरुंग, वैज्ञानिक 'ई',
 सीएक्यूएम,
 पर्यावरण, वन और जलवायु परिवर्तन मंत्रालय,
 भारत सरकार, नई दिल्ली





राष्ट्रीय राजधानी क्षेत्र और निकटवर्ती क्षेत्रों में वायु गुणवत्ता प्रबंधन आयोग
Commission for Air Quality Management in National Capital Region and Adjoining Areas



FILE NO. 120015/ 25/ TPP/ 2021/ CAQM 1270 DT

March 21, 2025

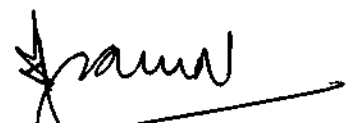
Order

Subject: Constitution of Committee for relaxation of Environmental Compensation in Accordance with the Environment (Utilization of Crop Residue by Thermal Power Plant) Rules, 2023

As per Rule 5 of the Environment (Utilization of Crop Residues by Thermal Power Plants) Rules, 2023, the Commission for Air Quality Management in National Capital Region and Adjoining Area may, on case to case basis, in consultation with the Central Electricity Authority and the Central Pollution Control Board, grant relaxation to thermal power plants on the Environmental Compensation imposed to them for non-utilization of crop residue as per notified stipulated percentages.

Accordingly, with the approval of Competent Authority, a Committee is hereby constituted as under:

Sl. No.	Name and Designation	Agency
1	Dr. Virinder Sharma, Member-Technical	CAQM
2	Chief Engineer, Thermal Engineering & Technology Development (TEDA)	CEA, MoP
3	Mission Director	SAMARTH, MoP
4	Dr. Prasoon Gargava, Scientist 'F'	CPCB


(Ram Kumar Agrawal)
Director Technical

To,

1. Dr. Virinder Sharma, Member-Technical, CAQM
2. Chief Engineer, Thermal Engineering & Technology Development (TETD), CEA
3. Mission Director, SAMARTH, MoP
4. Dr. Prasoon Gargava, Scientist 'F', CPCB

Contd...P/2

-2-

Copy to:

1. PS to Chairperson, CAQM, for kind information of Chairperson, please
2. PS to Member-Secretary, CAQM, For kind information of Member-Secretary, please
3. Dr. Vikash Singh, Scientist 'E', CAQM
4. Sh. Ritesh Prasad Gurung, Scientist 'E', CAQM



राष्ट्रीय राजधानी क्षेत्र और निकटवर्ती क्षेत्र
वायु गुणवत्ता प्रबंधन आयोग
Commission for Air Quality Management in
National Capital Region and
Adjoining Areas



F.No.-120015/25/TPP/CAQM/(UPRVUNL) 1518 DT

Dated: 23.12.2025

SHOW CAUSE NOTICE

IMPOSITION OF ENVIRONMENTAL COMPENSATION UNDER RULE – 3 OF THE ENVIRONMENT (UTILISATION OF CROP RESIDUE BY THERMAL POWER PLANTS) RULES, 2023 FOR NON-COMPLIANCE OR CONTRAVENTION OF THE PROVISIONS OF THE AFORESAID RULES WITH RESPECT TO MANDATING USE MINIMUM FIVE PER CENT BLEND OF PELLETS OR BRIQUETTES MADE OF CROP RESIDUE ALONG WITH COAL AS PART OF EX-SITU PADDY STRAW MANAGEMENT.

WHEREAS, MoEF&CC has notified Environment (Utilisation of Crop residue by Thermal Power Plants) Rules, 2023 read with Corrigendum GSR 522(E), dated 18.07.2023 (hereinafter referred to as the “Rules, 2023”) which are applicable to National Capital Region and the Adjoining Areas as defined respectively in clauses (f) and (a) of sub-section (1) of section 2 of the Commission for Air Quality Management in National Capital Region and Adjoining Areas Act, 2021(hereinafter referred to as the “CAQM Act”);

WHEREAS, Rule 2 of the Rules, 2023 mandates coal based thermal power plants of power generation to utilise a minimum five per cent (min. 5%) blend of pellets or briquettes made of crop residue along with coal;

WHEREAS, the Rule 3 of the Rules, 2023 also empowers the Commission for Air Quality Management in National Capital Region and Adjoining Areas (hereinafter referred to as the “Commission”) or its authorized officer to impose and collect the Environmental Compensation (hereinafter referred to as the “EC”) from non-compliant Thermal Power Plants on annual basis for non-utilisation of crop residue as per Rule 2, of the said Rules;

WHEREAS, Ministry of Environment, Forest and Climate Change, Government of India, in exercise of the power conferred under Section 3 of the CAQM Act, has constituted the Commission;

WHEREAS, Section 12(2)(xi) of the aforesaid CAQM Act empowers the Commission to issue directions in writing to any person, officer or any authority, which includes power to direct closure, prohibition or regulation of any industry, operation or process and also includes stoppage or regulation of supply of electricity or water or any other service;

WHEREAS, the Commission is empowered to take all such measures and issue directions as it deems necessary or expedient for the purpose of protecting and improving the quality of the air in the National Capital Region and Adjoining Areas;

WHEREAS, the Commission had rigorously taken up co-firing of bio-mass/pellets in coal based Thermal Power Plants as viable and major alternate to control stubble burning to mitigate air pollution. Therefore, it was felt by the Commission to promote and create an eco-system for *ex-situ* crop residue management through biomass utilization in Thermal Power Plants (TPPs)

WHEREAS, the Commission after extensive deliberations and taking inputs of all concerned stakeholders had issued Advisory No(s) 5-7 dated 28.07.2021 to the State Governments of Haryana, Punjab and Uttar Pradesh for initiating several steps so that paddy straw based biomass pellets can be successfully used in TPPs for co-firing;

WHEREAS, the Commission subsequently reviewed the issue of co-firing of biomass pellets with the concerned stakeholders and keeping in view the compelling need to control air pollution from burning of paddy straw and its effective utilization as a resource, the Commission issued Statutory Direction No 42, dated 17.09.2021 to Thermal Power Plants situated upto a radius of 300 km of Delhi mandating co-firing of biomass based pellets up to 5-10 % substituting coal with immediate effect through a continuous and uninterrupted supply chain;

WHEREAS, NTPC, based on the trials and experimentation has confirmed that it is technically feasible and implementable to co-fire bio-mass pellets/ torrefied pellets with coal in proportion up to 5-10% in the TPPs without any modifications in the boilers and there are no technical constraints in utilizing paddy straw pellets for co-firing in super

critical plants and such co-firing is already being done in super-critical boilers in three NTPC plants;

WHEREAS, the Commission in a series of meetings with the concerned State Governments and stakeholders had closely monitored and reviewed the status of implementation and compliance of its Statutory Direction No. 42 dated 17.09.2021 and also issued necessary instructions from time to time for ensuring effective and strict compliance of the Commission's Directions;

WHEREAS, despite issuing Statutory Directions, subsequent continuous meetings / reviews, the progress of Harduaganj TPS of UPRVUNL in ensuring the required level of co-firing has remained grossly inadequate and non-compliant;

WHEREAS, the compliance status for co-firing of requisite / targeted blend of pellets or briquettes made of crop residue in TPPs were found not satisfactory. Accordingly, high level joint inspection visits were conducted in such TPPs which included the TPP of Harduaganj TPS of UPRVUNL. Based on the said inspection, amongst other instructions, Harduaganj TPS of UPRVUNL was asked to immediately place multiple diversified orders to multiple vendors to ensure compliance, including setting up own pellets manufacturing plant;

WHEREAS, as per the information provided by the Ministry of Power, Government of India, indicates that Harduaganj TPS of UPRVUNL has co-fired only 43461.27 Metric Tonnes in 2024-25 against the mandatory co-firing target of more than 3% i.e. at least 62,238 Metric Tonnes during financial year 2024-25, which clearly establish the fact that entity has done only about 2.05% of biomass co-firing in the year 2024-25, which was in gross violation of the Rules, 2023 on account of the fact that as per Rule 2 "all coal based thermal power plants of power generation utilities shall mandatorily use minimum five per cent blend of pellets or briquettes made of crop residue along with coal" and Rule 3 mandates co-firing of more than 3% for FY 2024-25 so as to avoid imposition of stipulated environmental compensation. Therefore, due to consistent non-compliance, Harduaganj TPS of UPRVUNL has failed to comply with the directives/ mandates of the Commission and also failed to comply with the statutory mandates under the Rules, 2023;

WHEREAS, as per Rule 3 of the Environment (Utilisation of Crop residue by Thermal Power Plants) Rules, 2023, Environmental compensation of **Rs. 2,74,03,497/- (Two crore seventy four lakh three thousand four hundred ninety seven only)** is required



to be imposed on Harduaganj TPS of UPRVUNL for violation of the Rules, 2023 without prejudice to any action under the provisions of the CAQM Act as given below;

Determination of applicable Environmental Compensation (EC) for the year 2024-25						
Details of TPP	Coal Consumed (in Metric Tonnes)	Biomass co-firing required to meet 3% (in Metric Tonnes)	Actual Biomass co-fired (in Metric Tonnes)	Biomass Co-fired (in %)	Electricity Generated in (Million Units)	Environmental Compensation in Rs. (@ Rs. 0.01 per unit of electricity generated)
Harduaganj, UPRVUNL (1265 MW)	20,74,605	62,238	43,461.27	About 2.05 %	2,740.3497	2,74,03,497/-

WHEREAS, the Commission has received representations dated 06.06.2025 from Harduaganj TPS of UPRVUNL for grant of relaxation / exemption to Harduaganj TPS of UPRVUNL Thermal Power Plant from imposition of Environmental Compensation.

WHEREAS, the Commission on 21.03.2025 constituted a Committee in terms of Rule 5 of the Rules, 2023 comprising of Members from the Commission, Central Electricity Authority (CEA) and Sustainable Agrarian Mission on use of Agri-Residue in Thermal Power Plants (SAMARTH) and Central Pollution Control Board (CPCB), to consider relaxation to thermal power plants on the Environmental Compensation imposed on them for non-utilization of crop residue on case to case basis;

WHEREAS, the representation(s) of Harduaganj TPS of UPRVUNL and submission(s) made by their representative(s) before the Committee, were duly considered by the Committee. Based on submission(s) made in the representation(s) and also before the Committee, it emerged that they are seeking exemption from environmental compensation primarily on the grounds of (i) technical issues like shutdown/ breakdown or maintenance in their all units; (ii) disruption of pellet supply due to monsoon, Kanwar Yatra, poor quality and insufficient supply by the vendors and; (iii) procurement challenge vis-à-vis contract expiry, limited supply under new order, quality and supply gaps;

WHEREAS, the TPP also raised the issue of Guarantee/ Warranty of OEM for its new 660 MW unit long after starting of co-firing since 2021 and sought exemption from co-firing process in this 660 MW unit. The TPP further highlighted constraints like higher chlorine content in biomass fuel, ash fusion temperature, boiler efficiency and auxiliary power, non-availability of biomass etc. The unit also contended that all such technical

issues were appropriately examined by the CEA. As per TPP, after examining the issues, the request for exemption was considered on the ground of contracts related obligation by OEM for its 660 MW unit, for which a one-time exemption from co-firing till 31.01.2025 was granted by the CEA on 08.11.2024;

WHEREAS, the Committee found that UPRVUNL-Harduaganj TPS failed to ensure consistent supply and procurement of non-torrefied pellets across the year. Reasons like monsoon and Kanwar Yatra are seasonal and the gaps of these periods could have been compensated during other periods. It was also noted that the mandate of co-firing of biomass was already in place prior to the initiation of request for exemption of its 660 MW unit by the TPP. Besides, the efforts made by the Harduaganj-UPRVUNL for filling the supply chain gap during 2024-25 were found to be insufficient considering their commitments given by them during various review meetings held in the Commission. As per the data presented before the Committee, it was found that the non-torrefied pellet supply was adequate to cater to the needs of the Harduaganj TPP;

WHEREAS, after detailed deliberation, the committee is of the view that Harduaganj TPS of UPRVUNL had co-fired less than 3 % as per its consumption, the reason(s) put forward by the Harduaganj TPS of UPRVUNL fail to establish that the circumstances highlighted by them were beyond their control so as to justify non-compliance with the applicable statutory requirements. The Committee observed that the TPPs could have taken effective and timely measures to ensure compliance with the co-firing mandate, particularly in view of the fact that such directions have been in force since 2021, followed by subsequent Rules notified in the year 2023, thereby affording sufficient opportunity to address the issue adequately. The TPP not only failed to comply with the directions issued by the Commission, as well as the co-firing mandate under the Rules, 2023 but also failed to establish the ground(s) for relaxation of Environmental Compensation as stipulated under the Rules, 2023;

NOW, THEREFORE, in view of the above, the Commission, hereby directs you to explain:

- (i) why Environmental Compensation of Rs. 2,74,03,497/- (Two crore seventy four lakh three thousand four hundred ninety seven only) should not be imposed upon Harduaganj TPS of UPRVUNL, Uttar Pradesh in accordance with the Environment (Utilisation of Crop residue by Thermal Power Plants) Rules, 2023; and

- (ii) why action should not be initiated against you and other responsible person(s), as stipulated under Section 14 of the Act, for non-compliance / contravention of the Order(s) / Direction(s) issued by the Commission. It is further directed to also submit the details of the responsible person(s) for aforesaid non-compliance.

Your explanation should reach to the Commission within fifteen (15) days from the date of issue of this Notice, failing which, it shall be presumed that you and the Company have nothing to state and action as per the provisions of the Act shall be initiated accordingly.


(R.K. Agrawal)
Director

To,

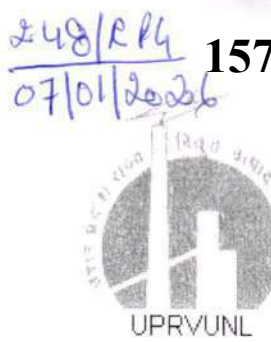
1. Shri Mayur Maheshwari, IAS
Managing Director
Uttar Pradesh Rajya Vidyut Utpadan Nigam Limited
14, Ashok Marg, Shakti Bhavan, Lucknow
E-mail: md@uprvunl.org
2. Er. Raj Kumar,
Chief General Manager
Aligarh, Kasimpur Power House Colony,
Uttar Pradesh 202127
Email: cgm.harduaganj@uprvunl.org, director.project@uprvunl.org

Copy to:

1. The Chairman, Uttar Pradesh Rajya Vidyut Utpadan Nigam Limited, Government of Uttar Pradesh.
2. The Member Secretary, Uttar Pradesh Pollution Control Board.


(R.K. Agrawal)
Director

Ashwini Kumar Tripathy
Director (Technical)



U.P. RAJYA VIDYUT UTPADAN
NIGAM LTD.

8TH FLOOR, SHAKTI BHAWAN EXTEN,
LUCKNOW- 226001

TEL.No. 0522-2287859

FAX NO.(0522 2287844)

E-mail: director.technical@uprvunl.org

CIN:-U31901UP1985SGC007135

No. 08 -CE(Fuel)/DT/

Date: 05 January ,2026

The Director (Technical),
Commission for Air Quality Management (CAQM)
in National Capital Region and Adjoining Areas,
17th Floor, STC Building, Jawahar Vyapar Bhawan,
Tolstoy Marg, New Delhi, 110001

Subject: Reply to Show Cause Notice F.No.-120015/25/TPP/CAQM/(UPRVUNL)/518 DT dated 23.12.2025 issued by the Commission for Air Quality Management in National Capital Region and Adjoining Areas to Harduaganj Thermal Power Station, UPRVUNL, with respect to the alleged non-compliance of the CAQM Act, 2021 read with the Environment (Utilization of Crop Residue by Thermal Power Plants) Rules, 2023.

Respected Sir,

This is in reference to the Show Cause Notice dated 23.12.2025 issued by the Hon'ble Commission for Air Quality Management ("CAQM/Commission") to Harduaganj TPS, U. P. Rajya Vidyut Utpadan Nigam Limited (UPRVUNL), explaining the reasons as to why the Environmental Compensation imposed upon Harduaganj TPS amounting to ₹2,74,03,497, for the alleged non-compliance of the CAQM Act, 2021 ("Act") read with the Environment (Utilisation of Crop Residue by Thermal Power Plants) Rules, 2023 ("Rules") should not be imposed and why further action under Section 14 of the Act should not be initiated.

It is respectfully submitted that Harduaganj TPS has at all times acted in bona fide manner, has made continuous and sustained efforts to comply with the biomass co-firing mandate, and that the alleged shortfall occurred due to circumstances beyond the reasonable control of the Station.

DT Engg(42)

The present reply is submitted without prejudice to any rights and contentions available to UPRVUNL under law. Summary of Reasons beyond the control of UPRVUNL for Shortfall in Biomass Co-firing at Harduaganj TPS are as under :-

1. Force Majeure-like Conditions (July–August 2024):

- **Severe monsoon** caused excessive moisture in biomass (hydrophilic), resulting in GCV degradation and serious handling/feeding issues.
- **Kanwar Yatra restrictions** led to road blockages and disruption of heavy vehicle movement during July-August; vendor M/s Ankur Enterprises (letters dated 22.07.2024 & 12.09.2024) confirmed non-delivery of biomass during this period.
- **Reserve Shut Down (RSD)** of multiple units during July–September 2024 made biomass co-firing technically infeasible and impacted fuel scheduling and utilization.

2. Tendering and Litigation Constraints:

- Existing biomass contract expired on 14.11.2024.
- Fresh tender for 2.25 lakh MT floated in July 2024 with 43 bidders.
- Process stalled due to Writ C No. 34248 of 2024 before Hon'ble High Court—entirely beyond UPRVUNL's control.
- Writ dismissed on 18.04.2025, after which procurement was streamlined.

3. Quality-Related Rejections:

- Feb–Mar 2025: 229 trucks received; 72 rejected due to high moisture and poor GCV.
- Acceptance of sub-standard biomass posed serious operational and safety risks.

4. Technical and Grid Constraints:

- Units operated at/near technical minimum during FY 2024–25 as per grid requirements.
- Higher biomass co-firing under such conditions is unsafe and risks equipment damage.

5. OEM Non-Approval and Latent Defect Risk:

- OEM has not approved biomass co-firing in 660 MW unit due to latent defect and long-term reliability concerns.
- OEM communications dated 18.04.2024, 20.09.2024 & 12.12.2025 warned of adverse impact

DT Eng(43)

6. on boiler, SCR and FGD due to high Chlorine/Na₂O and low IDT.
- Any co-firing would be at UPRVUNL's own risk with no OEM liability; boiler designed for 100% coal firing.
7. **No Willful Non-Compliance:**
- Biomass mandate was not disregarded.
 - Shortfalls arose solely due to climatic, logistical, legal and technical constraints beyond control.

In current FY i.e. 2025-26, coal consumption and Biomass order placed details are as under:-

Unit	Coal Consumption (in Lac MT) (April 25 to December 25)	Purchase Order of Biomass details
7 (110 MW)	0.89	Purchase Order to 45 firms for procurement of 1.25 Lac MT Biomass was issued on 17.11.2025 but due to continuous RSD, UPRVUNL is unable to co-fire Biomass. Only 843 MT Biomass has been supplied under 1.25 Lac MT contract due to RSD.
8& 9 (2X250 MW)	8.61	
10 (1X660 MW)	15.05	
Total	24.55	

UPRVUNL has applied for exemption from biomass co-firing for the 660 MW unit as the OEM has not permitted biomass co-firing. The OEM has also communicated that the Latent Defect Liability (February 2025 to January 2030) shall stand waived if biomass co-firing is undertaken, even in a minuscule quantity. The request for biomass exemption in respect of Harduaganj TPS was reviewed by the Biomass Exemption Committee under CEA on 18.12.2025; however, the final decision is still awaited. The reasons in detail, supported by relevant facts, are set out in **Annexure-A**

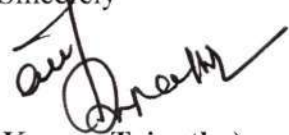
In view of the facts and circumstances stated above, it is most respectfully prayed that the Hon'ble Commission may be pleased absolve UPRVUNL of the proposed EC amounting to Rs 2,74,03,497 and refrain from initiating any action under Section 14 of the Act.

DT Eng(44)

Harduaganj TPS and UPRVUNL remain fully committed to compliance with biomass co-firing obligations and shall continue to take all necessary steps to enhance utilization in accordance with statutory requirements.

Annexure:- As above

Yours Sincerely


(Ashwini Kumar Tripathy)
Director (Technical)

CC:

1. Managing Director, UPRVUNL.
2. Chief Engineer (TE&TD), CEA, New Delhi.
3. CGM , Harduaganj TPS.

DT Eng(45)

Annexure-A

Sr. No.	Month / Period (FY 2024-25)	Detailed Reasons for insufficient Biomass Co-firing
1	April – June 2024	During April, May and June 2024, average biomass co-firing at Harduaganj TPS was maintained above 3% (Annexure-1). During this period, weather conditions were favorable, logistics were normal, and units were available for operation, enabling regular receipt and utilization of biomass fuel in line with guidelines.
2	July – August 2024	a) Biomass co-firing was lower due to multiple unavoidable factors beyond the control of the station. Heavy and continuous rainfall during these months adversely affected availability of biomass fuel, which is hydrophilic in nature and absorbs moisture easily. Even limited exposure to rain significantly increased moisture content, reduced calorific value, and caused serious difficulties in handling, storage, transportation, and feeding. Further, movement of raw biomass material was severely restricted due to waterlogging and reduced accessibility to collection and processing points. b) Additionally, Kanwar (Kawad) Yatra during July and August 2024, resulted in ban and diversion of heavy commercial vehicles movement in entire Aligarh region and western part of UP thereby severely disrupting biomass transportation (News paper cuttings and Supplier letters are annexed as Annexure-2). c) Moreover, Reserve Shut Down (RSD) (Annexure-3) of Unit-7 (110 MW) from 03.07.2024 to 11.07.2024, 04.08.2024 to 06.08.2024, and 20.08.2024 to 21.08.2024, along with complete station RSD from

04.08.2024 to 05.08.2024, further disrupted Biomass fuel scheduling, receipt planning, and operational utilization of biomass. Under RSD conditions which is beyond control of UPRVUNL, even limited biomass supply could not be effectively received or utilized.

- 3 **September – October 2024** a) After improvement in weather conditions and gradual normalization of logistics, biomass supply resumed. Despite frequent RSDs in September, the station made continuous efforts to utilize available biomass to the extent operationally feasible.
- b) As a result, biomass co-firing levels of up to 2.89% in September and 3.19% in October were achieved during periods when units were available.
- c) During October 2024, no RSD was imposed, allowing uninterrupted operation. With improved fuel availability, stable grid conditions, and normal logistics, the station demonstrated operational readiness and commitment towards biomass co-firing by achieving up to 3.19% co-firing. Units were running under thermal backing which has caused cautious Biomass co-firing to avoid flame failure/disturbances (Details is annexed as **Annexure-4**).
- 4 **November – December 2024** During November and December 2024, biomass co-firing at Harduaganj TPS was constrained due to a combination of **contractual, legal, operational, and technical factors**, all of which were beyond the direct control of the station and are explained below:-
- a) UPRVUNL had already contracted for 90,000 MT of Biomass as per direction of Hon'ble Commission. It was valid from 14.11.2023 to 14.11.2024. Anticipating the continued requirement of biomass co-

firing and to ensure long-term availability, Harduaganj TPS floated a fresh tender for procurement of 2.25 lakh MT of biomass for a period of two years in July 2024 (**Annexure-5**).

- b) Subsequently, a writ petition filed on 03.10.2024 (**Annexure-6**) before the Hon'ble High Court, Allahabad Bench, challenging the Pre-Qualifying Requirements (PQRs) of the said tender. Due to the pendency of the said judicial proceedings, further processing and finalization of the tender could not be completed within the anticipated timeframe. This delay was unavoidable and beyond the control of the station.
- c) In order to ensure assured biomass supply, avoid non-compliance penalties, and preclude any adverse audit observations, the matter was placed before the Competent Committee. In its meeting held on 13.12.2024 (**Annexure-7**), the Committee decided to:
 - i. Obtain offers from all technically qualified bidders at the L-1 discovered rate, so as to maximize biomass availability through multiple sources.
 - ii. Place purchase orders limited to the current financial year 2024-25, considering operational requirements and financial prudence; and
 - iii. Initiate a fresh tender for procurement of quality biomass with strengthened quality assurance provisions.

Therefore, despite these proactive measures, the combined impact of contract expiry, judicial intervention, quality concerns, financial prudence considerations, and prolonged Reserve Shut Down of units severely restricted biomass co-firing during November and December 2024.

- 5 January 2025** a) Further, Committee, after due deliberation in its meeting held on 25.01.2025, decided to place purchase orders on 12 mutually agreed and technically qualified firms for a total quantity of 27,891 MT of biomass (**Annexure-8**).
- b) Further, to ensure operational flexibility and to address any uncertainty in supply, the Competent Committee also approved a quantity variation of up to $\pm 50\%$, enabling augmentation of biomass procurement, if required as units were undergoing frequent RSD . These decisions were taken with the objective of ensuring maximum biomass availability, mitigating risks arising from ongoing legal and logistical challenges, and ensuring compliance with national biomass co-firing directives. The above actions clearly establish that during January 2025, all possible steps within the control of Harduaganj TPS were taken in a timely and bona fide manner to facilitate biomass co-firing.
- 6 February – March 2025** a) Pursuant to the decision of the Competent Committee, the supply order was issued on 11.02.2025, under which 229 trucks of biomass were received during 13.02.2025 to 31.03.2025, while 72 trucks were rejected due to excessive moisture. During February–March 2025, the units operated at or near Technical Minimum levels in compliance with grid requirements, and despite constraints, 5,863 MT biomass was co-fired. Operational data indicates that higher biomass co-firing under Technical Minimum conditions could adversely impact combustion stability, flame characteristics, heat transfer, and overall unit safety. Further, OEM has not permitted biomass co-firing in the 660 MW unit due to latent defect and long-term reliability concerns, cautioning against adverse impacts on

boiler, SCR, and FGD systems, with any co-firing being at UPRVUNL's own risk and without OEM liability (**Annexure-9**).

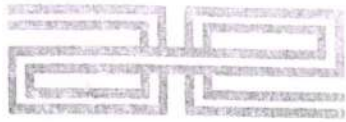
Annexure-1

UPRVUNL humbly submits the actual cost consumption and biomass pellets supply in FY 2024-25 :-

Coal Consumption in FY 24-25	Coal Consumption in Unit 7,8&9 (in MT)	Biomass co-fired in MT	% Biomass co-firing
April	188245	8866.45	4.50
May	223742	5629.03	2.45
June	215334	8665.26	3.87
July	160747	108.32	0.07
August	204254	2969.48	1.43
September	124800	3711.6	2.89
October	206674	6807.46	3.19
November	43271	840.19	1.90
December	45101	0	0.00
January	172646	0	0.00
February	148725	2685.92	1.77
March	182204	3177.56	1.71
Total	1915743	43461.27	2.22

216

168

Annexure-2
31/07/2024**Ankur Enterprises****GSTIN no: 09AVJPS5339J1ZW**

Redd Office: 83/11/1, 1st Floor, 1st
Manas Nagar Extn, Ghaziabad
Uttar Pradesh - 201005

TAN no: ALDR06966B

Date: 22/7/2024

सेवा में,

मुख्य महाप्रबन्धक
हरदुआगंज तापीय परियोजना
कासिमपुर अलीगढ़

विषय:- क्रय आदेश संख्या 5000011921 दिनांक 14-11-2023 बायोमास पैलेट सप्लाई के पेनाल्टी के सम्बन्ध में महोदय,

जुलाई 2024 के शुरुआत के प्रथम सप्ताह में वर्षा से सप्लाई प्रभावित हुई इसके बाद प्लांट शटडाउन हो गया, जब प्लांट चालू हुआ उसके तुरन्त बाद कॉवड यात्रा के चलते पूरा रोड ही ब्लॉक कर दिया गया, मैंने सावन में माल सप्लाई करना भी चालू किया प्रमुख पुलिस वालों ने तीन गाड़ियां जब्त कर ली जिससे मुझे काफी नुकसान भी उठाना पड़ा।

अतः आपसे निवेदन है कि जुलाई तथा अगस्त के पहले सप्ताह, जब तक कावड यात्रा के चलते रास्ता अवरोध रहेगा तब तक पेनाल्टी न लगाने की कृपा करें तथा जैसा कि आप मुझे पिछली सप्लाई चालू कर चुके हैं तथा माह अगस्त में पिछली सप्लाई भी पूरी कर दूंगा

आपकी अति कृपा होगी।

धन्यवाद

प्रतिलिपि- निदेशक तकनीक, शक्ति भवन लखनऊ
आदेशात्मक इतिहास CHD-II

DTPS

EE CHD-II

No. 712/SE/CHC

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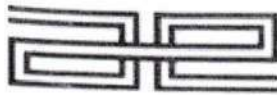
Date 31/7/24

31/07/2024

No 1792/CGM(W) dt 31/7/24
CE DTPS / SE CHC DTPS
for Mr. P. discuss.

CGM DTPS 31/7/24
प्रार्थी
रमेश कुमार सिंह

Branch Office : 805 Solitaire, Paramount Symphony, Crossing Republik Ghaziabad 201016



Ankur Enterprises

GSTIN no: 09AVJPS5339J1ZW

+91-9415-355284

rameshsingh.tpp@gmail.com

Redg. Office : B34/103-A-18M,
Manas Nagar Extn. Durgakund,
Varanasi - 221005

TAN no : ALDR069668

Date: 12/9/2024

५०५

उपनिषद् विचार
कोमल, निचाला खरड-म
हरदुआमडा भस्मिल पावर स्थित
आसे मपुर, अलीगढ़

विषय - २५५ आरिफा सरस्वती - School 11921 dt 14/11/2023 कनिष्ठक वर्ग
का पेनाल्टी के समीक्षा के

मा. ५३४

[illegible]

अतः आपसे विनम्र है कि मैं पेशाना के धर्म को छोड़ कर दिया जहाँ तुम और पेशाना एक ही धर्म छोड़ कर आपसे धर्मारा न पेशाना कर ली जहाँ धर्म को छोड़ आया नही होगा

ANKUR ENTERPRISES

PROPRIETOR

Branch Office : 805 Solitaire, Paramount Symphony Crossing, RepubliK Ghaziabad 201016

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Uttar Pradesh government issues guidelines for Kanwar Yatra

The Uttar Pradesh government has released new guidelines for the Kanwar Yatra. Key decisions were made during a review meeting in Meerut involving UP officials and representatives from neighbouring states.

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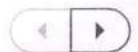
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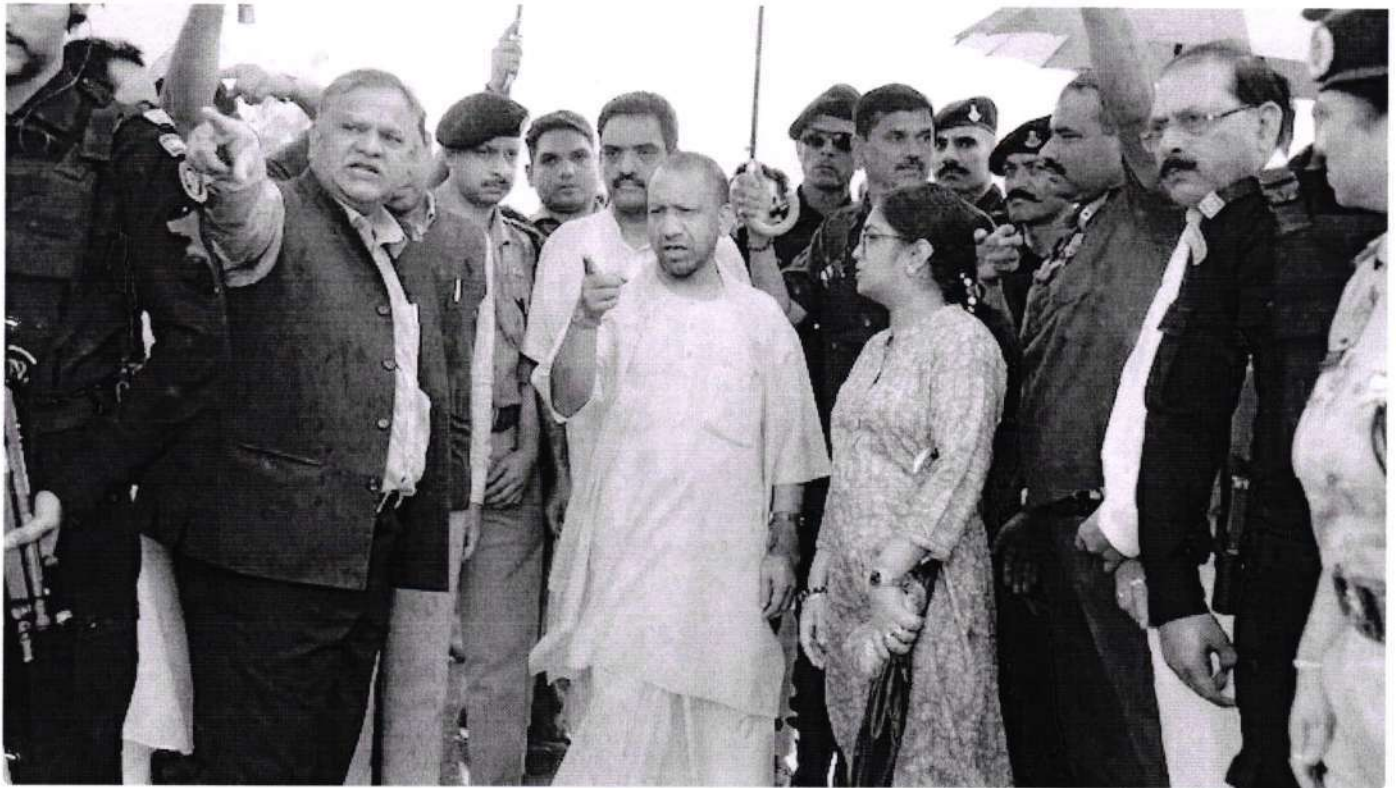
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https://www.indiatoday.in/india/story/uttar-pradesh-government-issues-guidelines-kanwar-yatra-2563372-2024-07-07?utm_source=chatgpt.com

1/8

12/24/25, 12:38 PM

Uttar Pradesh government issues guidelines for Kanwar Yatra - India Today



Chief Secretary Manoj Kumar Singh and DGP Prashant Kumar led the meeting, which included officials from Uttarakhand, Haryana, Delhi, Rajasthan, and six divisions of western Uttar Pradesh.

Shilpi Sen ✕



Meerut, UPDATED: Jul 7, 2024 07:22 IST

Edited By: Vadapalli Nithin Kumar

The Uttar Pradesh government has released new guidelines for the Kanwar Yatra. Key decisions were made during a review meeting in Meerut involving UP officials and representatives from neighbouring states.

Chief Secretary Manoj Kumar Singh and DGP Prashant Kumar led the meeting, which included officials from Uttarakhand, Haryana, Delhi, Rajasthan, and six divisions of western Uttar Pradesh.

The discussions focused on the yatra's route, traffic management, and security measures. UP Chief Minister Yogi Adityanath had previously directed thorough

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No dignity: Odisha govt on the mat as wrestlers forced to sit near train toilets



Economy | On a roar: How to sustain the upsurge



✕

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WEAPONS, TRICOLOURS RESTRICTED

Starting July 22, Kanwariyas are prohibited from carrying spears, tridents, or any weapons. There will be close monitoring of devotees carrying the tricolour flag. Camps will be set up along the route for rest, food, and medical facilities, with special arrangements for women.

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DJ SOUND, HEIGHT LIMITS

There will be no ban on DJs, but sound limits will be enforced. The height of the Kanwar structures will also be regulated to prevent accidents with electric wires. CCTV and drones will monitor the yatra, and safety measures like covering electric poles and transformers will be implemented.

LIQUOR, MEAT SHOPS CLOSED

Liquor and meat shops on the yatra route will remain closed. The Kanwar route is divided into five zones, with WhatsApp groups for communication among officials. Senior officers and police station-level officers will share information in separate groups.

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No dignity: Odisha govt on the
mat as wrestlers forced to sit
near train toilets



Economy | On a roar: How to
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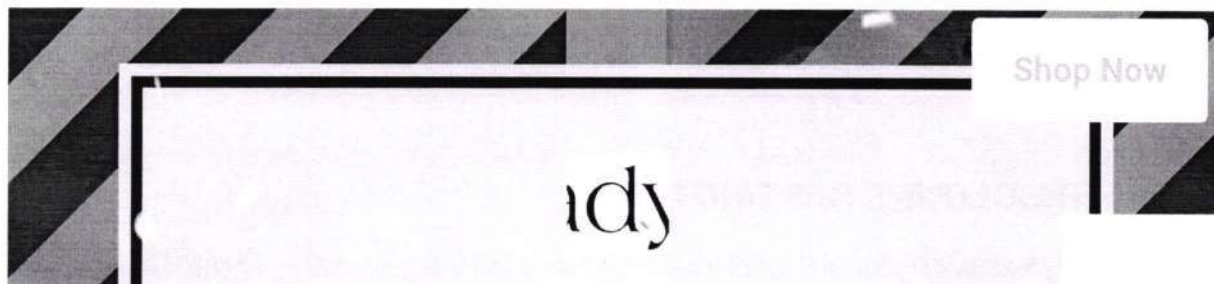
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https://www.indiatoday.in/india/story/uttar-pradesh-government-issues-guidelines-kanwar-yatra-2563372-2024-07-07?utm_source=chatgpt.com

3/8

12/24/25, 12:38 PM

Uttar Pradesh government issues guidelines for Kanwar Yatra - India Today



ID ISSUANCE, SECURITY MEASURES

Officials from other states are requested to issue IDs to Kanwariyas. Eight control rooms will be set up in UP and Uttarakhand for coordination. Special security arrangements will be in place at the borders of Delhi, Haryana, Uttarakhand, and Rajasthan, with active participation from bomb disposal squads and intelligence teams.

Heavy vehicles will be banned from key routes, including the Delhi Expressway, Dehradun Expressway, and Chaudhary Charan Singh Kanwar Marg, starting at midnight on July 21.

- Ends

Published By: Vadapalli Nithin Kumar

Published On: Jul 7, 2024

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Annexure-3

U#7 RSD in FY 2024-25

S.No.	Reason	Tripping		Synchronised		Outage Hour
		Date	Time	Date	Time	
1	RSD	01-04-2024	15:37	05-04-2024	16:46	97:09:00
2	RSD	12-04-2024	23:59	16-04-2024	18:04	90:05:00
3	RSD	03-07-2024	2:17	11-07-2024	1:50	191:33:00
4	RSD	04-08-2024	12:27	06-08-2024	19:56	55:29:00
5	RSD	20-08-2024	11:05	21-08-2024	16:46	29:41:00
6	RSD	11-09-2024	10:05	20-09-2024	23:57	229:52:00
7	RSD	27-09-2024	11:15	30-09-2024	17:45	78:30:00
8	RSD	04-11-2024	11:28	06-01-2025	15:48	1516:20:00
9	RSD	05-03-2025	15:02	10-03-2025	7:15	112:13:00

U#8 RSD in FY 2024-25

S.No.	Reason	Tripping		Synchronised		Outage Hour
		Date	Time	Date	Time	
1	RSD	01-04-2024	15:46	03-04-2024	1:24	33:38:00
2	RSD	04-07-2024	1:53	10-07-2024	17:50	159:57:00
3	RSD	04-08-2024	19:50	05-08-2024	23:11	27:21:00
4	RSD	20-08-2024	11:09	21-08-2024	15:12	28:03:00
5	RSD	11-09-2024	10:31	19-09-2024	16:57	198:26:00
6	RSD	27-09-2024	11:19	30-09-2024	14:38	75:19:00
7	RSD	04-11-2024	23:28	12-11-2024	17:07	185:39:00
8	RSD	16-11-2024	0:00	19-12-2024	21:09	813:09:00
9	RSD	27-12-2024	23:40	31-12-2024	15:53	88:13:00

U#9 RSD in FY 2024-25

S.No.	Reason	Tripping		Synchronised		Outage Hour
		Date	Time	Date	Time	
1	RSD	01-04-2024	15:40	03-04-2024	2:47	35:07:00
2	RSD	04-08-2024	20:07	05-08-2024	16:30	20:23:00
3	RSD	11-09-2024	10:23	19-09-2024	21:34	203:11:00
4	RSD	04-11-2024	23:30	12-11-2024	15:47	184:17:00
5	RSD	15-11-2024	23:59	19-12-2024	18:19	810:20:00
6	RSD	27-12-2024	23:50	31-12-2024	15:12	87:22:00

MONTHWISE ACTUAL GENERATION AND DEEMED GENERATION FY 2024-25																	
Month	Gen. (MU)	Anpara "A"	Anpara "B"	Anpara "D"	Anpara Total	Obra "B"	Obra "C"	Obra Total	H'Ganj old	H'Ganj Extn.	H'Ganj (1x660)	H'Ganj Total	Parichha "B"	Parichha "ext."	Parichha Total	Jawaharpur	Total
Apr-24		630	1000	1000	2630	1000	660	1660	110	500	660	1270	420	500	920	660	7140.00
	Actual	378.152	583.400	632.199	1593.751	433.191	218.470	651.661	33.655	203.748	308.342	545.745	194.610	247.370	441.980	49.140	3282.28
	PLF (%)	83.37	81.03	87.81	84.17	80.17	45.97	54.52	42.49	56.60	64.89	59.68	84.36	68.71	66.72	10.34	63.85
	Deemed Gen.	393.74	601.23	660.04	1655.00	473.44	222.51	695.94	78.66	350.99	443.42	873.06	281.53	359.66	641.19	51.12	3916.32
May-24		660	830	830	2320	830	460	1290	110	500	660	1270	420	500	920	660	7140.00
	Actual	396.502	629.250	685.174	1710.926	474.877	293.484	768.361	50.351	258.140	287.029	595.520	234.970	278.520	513.490	173.530	3761.83
	PLF (%)	84.59	84.58	92.09	87.44	83.83	59.77	62.21	61.52	69.39	58.45	63.03	75.20	74.87	75.02	35.34	70.82
	Deemed Gen.	399.55	633.01	688.84	1721.39	489.59	294.11	783.71	70.95	382.23	397.46	850.64	299.02	352.53	651.56	173.53	4180.83
Jun-24		660	830	830	2320	830	460	1290	110	500	660	1270	420	500	920	660	7140.00
	Actual	364.352	603.580	699.309	1667.241	482.745	137.110	619.855	42.718	239.682	346.787	629.187	209.760	263.250	473.010	161.320	3550.61
	PLF (%)	80.32	83.83	97.13	88.05	87.05	28.85	51.86	53.94	66.58	72.98	68.81	69.37	73.13	71.41	33.95	69.07
	Deemed Gen.	373.39	613.99	714.01	1701.38	503.12	137.27	640.39	45.62	324.29	455.49	825.40	260.62	324.68	585.30	161.32	3913.79
Jul-24		660	830	830	2320	830	460	1290	110	500	660	1270	420	500	920	660	7140.00
	Actual	368.745	577.940	687.880	1634.565	453.030	270.861	723.891	33.686	180.608	322.718	537.012	233.170	274.380	507.550	175.810	3578.83
	PLF (%)	78.67	77.88	92.46	83.54	80.89	55.16	58.61	41.16	48.55	65.72	56.83	74.62	73.76	74.15	35.80	67.37
	Deemed Gen.	389.02	597.65	711.75	1698.42	496.60	277.47	774.07	64.28	288.89	472.11	825.28	301.86	353.90	655.75	204.46	4157.98
Aug-24		660	830	830	2320	830	460	1290	110	500	660	1270	420	500	920	660	7140.00
	Actual	298.589	631.470	686.917	1616.976	390.356	74.777	465.133	39.573	213.112	309.372	562.057	183.410	227.360	410.770	298.500	3353.44
	PLF (%)	63.70	84.88	92.33	82.64	52.47	15.23	37.66	48.35	57.29	63.00	59.48	58.69	61.12	60.01	60.79	63.13
	Deemed Gen.	316.41	662.61	716.15	1695.17	449.02	75.86	524.90	66.36	386.90	485.01	938.27	264.32	329.98	594.29	435.38	4188.01
Sep-24		660	830	830	2320	830	460	1290	110	500	660	1270	420	500	920	660	7140.00
	Actual	360.363	576.480	624.228	1563.071	369.571	212.667	582.238	24.657	138.106	233.039	395.802	190.940	210.760	401.700	252.970	3195.78
	PLF (%)	79.45	80.34	86.70	82.54	51.33	44.75	48.71	31.13	38.36	49.04	43.29	83.14	58.54	60.64	53.23	62.17
	Deemed Gen.	395.92	632.12	678.84	1706.88	432.86	244.51	677.37	77.18	369.16	475.14	921.48	280.12	311.55	591.68	412.04	4309.45
Oct-24		660	830	830	2320	830	460	1290	110	500	660	1270	420	500	920	660	7140.00
	Actual	385.606	606.800	665.040	1657.446	471.116	227.400	698.606	46.451	223.080	317.062	587.493	204.080	210.104	414.184	284.770	3642.50
	PLF (%)	82.27	81.56	89.39	84.71	83.32	46.33	56.57	58.78	59.97	64.75	62.18	85.31	56.48	60.51	57.99	68.57
	Deemed Gen.	393.51	616.65	672.98	1683.14	522.24	318.24	840.48	71.53	385.10	503.65	960.28	301.25	307.74	608.99	407.37	4500.27
Nov-24		660	830	830	2320	830	460	1290	110	500	660	1270	420	500	920	660	7140.00
	Actual	300.868	325.520	448.400	1075.788	434.709	146.932	581.641	5.192	49.602	163.203	217.997	182.710	218.250	400.960	268.370	2544.76
	PLF (%)	66.33	45.21	62.42	58.81	60.38	30.92	48.66	6.56	13.78	23.84	23.84	60.42	60.63	60.53	56.48	49.50
	Deemed Gen.	323.07	346.50	469.71	1139.28	571.13	428.58	999.71	78.47	359.67	484.06	922.21	290.20	348.44	638.64	445.83	4145.66
Dec-24		660	830	830	2320	830	460	1290	110	500	660	1270	420	500	920	660	7140.00
	Actual	388.965	261.040	286.390	936.395	433.312	285.661	718.973	0.000	60.794	73.377	134.171	217.280	248.820	467.100	157.950	2414.59
	PLF (%)	82.98	35.09	38.49	47.86	58.24	58.17	58.21	0.00	16.34	14.94	14.20	69.53	67.16	68.24	32.17	45.45
	Deemed Gen.	423.01	276.53	308.36	1007.90	588.41	394.86	983.26	81.84	368.75	430.26	880.86	312.40	360.35	672.75	198.79	3743.56
Jan-25		660	830	830	2320	830	460	1290	110	500	660	1270	420	500	920	660	7140.00
	Actual	392.636	300.510	280.840	973.985	446.293	264.386	710.679	41.158	181.272	328.290	550.720	221.710	265.988	487.698	0.000	2723.08
	PLF (%)	83.77	40.39	37.75	49.78	59.99	53.84	57.54	50.29	48.73	66.86	58.28	70.95	71.50	71.25	0.00	51.26
	Deemed Gen.	405.55	309.20	286.65	1001.40	590.86	306.67	897.53	73.94	277.70	485.40	837.04	302.21	364.98	667.19	0.00	3403.15
Feb-25		660	830	830	2320	830	460	1290	110	500	660	1270	420	500	920	660	7140.00
	Actual	245.815	506.040	417.020	1168.875	433.734	321.443	755.177	41.911	146.552	5.127	193.590	197.300	234.004	431.304	19.430	2568.38
	PLF (%)	58.06	75.30	62.06	66.14	64.54	72.48	67.70	56.70	43.62	1.16	22.68	69.91	69.64	69.76	4.38	53.53
	Deemed Gen.	252.95	521.79	431.15	1205.90	544.68	349.14	893.83	59.31	229.86	6.91	296.08	277.12	329.24	606.35	22.48	3024.65
Mar-25		660	830	830	2320	830	460	1290	110	500	660	1270	420	500	920	660	7140.00
	Actual	226.179	636.120	545.780	1408.079	423.987	275.438	699.425	40.724	193.938	246.512	481.174	214.640	274.674	489.314	315.280	3393.27
	PLF (%)	48.25	85.50	73.36	71.96	56.99	56.09	56.63	49.78	52.13	50.20	50.92	68.69	73.84	71.49	84.21	63.88
	Deemed Gen.	241.22	681.72	587.93	1510.86	474.91	294.87	769.78	64.52	291.11	347.44	703.07	278.83	357.28	636.11	420.28	4040.10
04/24 to 03/25		660	830	830	2320	830	460	1290	110	500	660	1270	420	500	920	660	7140.00
	Actual	4106.769	6240.150	6660.177	17007.096	5246.921	2728.719	7975.640	400.077	2088.634	2941.758	5430.469	2484.580	2954.480	5439.060	2157.070	38009.34
	PLF (%)	74.41	71.23	76.03	73.82	59.90	47.20	54.85	41.52	47.89	50.88	48.81	67.53	67.45	67.49	37.31	60.77
	Deemed Gen.	4307.32	6492.99	6926.42	17726.73	6136.87	3344.10	9460.97	832.65	4014.67	4986.35	9833.67	3449.48	4100.32	7549.80	2932.62	47523.78
Gen loss TB (MU)		200.552	252.844	266.241	719.637	889.945	615.381	1505.326	432.575	1826.032	2044.592	4403.199	964.898	1145.838	2110.736	775.545	9514.44
	Gen loss TB (%)	3.63	2.89	3.04	3.12	10.16	10.64	10.35	44.89	43.97	35.36	39.58	26.23	26.16	26.19	13.41	15.21

E-Tender No. ET- 60/MMC/PD/ETPS/HTPS/2024

The Tender is invited for "Procurement of Agro based Non-Torrefied Biomass Pellets for Coal Handling Plant, CTPS & DTPS, HTPS, Kasimpur through Open Tender for 2 Years (E-Tender)."

e-Tender/Bid Reference Number	ET- 60/MMC/PD/ETPS/HTPS/2024
e-Bid Portal Number	http://etender.up.nic.in
Name of Material	Supply of Agro based Non-Torrefied Biomass Pellets for Coal Handling Plant, CTPS & DTPS, HTPS, Kasimpur through Open Tender for 2 Years (E-Tender).
Estimated Cost	Rs: 153.25 Crores (Taxes (GST) Extra)
Tender Cost	Rs. 1180.00 (Non-Refundable)
Earnest Money Deposit	EARNEST MONEY:- (* EMD to be submitted in multiple of 10 MTPD) 1. For Min quoted Quantity 20 MTPD, EMD shall be Rs. 8.00 Lac. 2. For 30 MTPD, EMD shall be Rs. 11,55,875.00 3. For 40 MTPD, EMD shall be Rs. 12,74,500.00, 4. For maximum 50 MTPD, EMD shall be Rs. 13,93,125.00 (Through RTGS/NEFT/BG)
e-Bid Submission Start Date & Time	10.07.2024 at 16.00 Hrs.
Pre-Bid Meeting Date	23.07.2024 at 12:00 Hrs.
e-Bid Submission End Date & Time	12.08.2024 at 17.00 Hrs.
e-Bid Opening Date / Time (Part-I)	13.08.2024 AT 16:00HRS or Later
e-Bid Opening Date / Time (Part-II)	AFTER OPENING OF PART-I

- Bidders are requested to upload all the PQC related documents on e-tender portal. No further correspondence shall be entertained after opening of Part-I of the tender. The eligibility of the tenderer shall be decided on the basis of uploaded documents on e-tender portal only.
- Pre-Bid Meeting shall be held on 23.07.2024 at Fuel Management Unit, 14th Floor, Shakti Bhawan, Lucknow Headquarters. Contact Person: Er. Ranjit Pal, (SE-Fuel), Mobile No. 9415900559, Email ID- gm.fuel2@gmail.com.
- For any further clarification regarding this tender, firms may contact at:-
E-mail ID: ee.pd.etpsharduaganj@uprvunl.org

Mobile No.: 09415900030

(DILIP KUMAR JAIN)
Superintending Engineer
MMC, HTPS, Kasimpur

The instruction to the bidders is as follows:-

1. **Submission of E-Bids:** The Bid Submission module of e-procurement website <https://etender.up.nic.in> enables the bidders to submit the e-bids online against this bidding published by the purchaser. Bid may be submitted only during the period and time stipulated in the bidding. Bidders are advised start the Bid Submission process well in advance so that they can submit their bids in time. The bidders shall submit their bids taking into account the server time, displayed in the e-procurement website. This server time is the time by which the bid submission activity will be allowed till the permissible time on the last date of submission stipulated in the schedule. The bidders cannot submit their bids after the completion of bid submission period. For delay in submission of bids due to any reasons, shall be responsibility of the bidder. The bidders shall follow the instructions mentioned herein under for submission of their e-bids:
 - 1.1 For participating in bids through the e-bidding system, it is necessary for the bidders to be the registered users of the e-procurement website <https://etender.up.nic.in>. The bidders shall first register themselves on the e-bidding website, if they have not done so previously, using the option "Click here to enroll" available on the home page of the website.
 - 1.2 In addition to the normal registration, the bidder has to register with their Digital Signature Certificate (DSC) in the e-bidding system and subsequently he/she will be allowed to carry out his/her bid submission activities. Registering the Digital Signature Certificate (DSC) is a onetime activity. Before proceeding to register their DSC, the bidder shall first log on to the e-bidding system using the User Login option on the home page with the logging Id and Password with which they has registered as per clause 1.1 above.
For successful registration of DSC on e-procurement website <https://etender.up.nic.in>, the bidder must ensure that they possess class-2 /Class-3 DSC issued by any certifying authorities duly approved by Controller of Certifying Authorities. The bidder is also advised to register their DSC on E-procurement website well in advance before bid submission period & time so that they do not face any problem while submitting their e-bid against this bidding. The bidder can perform User Login creation and DSC registration exercise as described in clauses 1.1 and 1.2 above even before bid submission period starts. The purchaser shall not be held responsible if the bidder tries to submit their e-bid at the last moment of submission of bid, but could not submit due to DSC registration problem.
 - 1.3 The bidder can search for active biddings through "Search Active Biddings" link, select a bidding in which they are interested in and then move it to "My Biddings" folder using the option available in the Bid Submission menu. After selecting and viewing the bidding, for which the bidder intends to bid, from "My Biddings" folder, the bidder can place their bid by clicking "pay Offline" option available at the end of the view bidding form. Before this, the bidder should download the bidding document and price Schedule/Bill of Quantity (BOQ) and study them carefully. The bidder shall keep all the documents ready as per the requirements of bidding document in the PDF format except the Price Schedule/Bill of Quantity (BOQ), which shall be in the XLS format (EXCEL sheet).
 - 1.4 After clicking the "Pay offline" option, the bidder shall be redirected to the relevant page of Terms and conditions. The bidder shall read the Terms and conditions before proceeding to fill in the Bidding fee EMD offline payment details. After entering and saving the Bidding Fee and EMD details, the bidder shall click "Encrypt & Upload" option given in the offline payment details form so that "Bid Document Preparation and Submission" window appears to upload the documents as per technical (Fee details, Qualification details, Bid Form and Technical Specification details) and financial (Bid Form and Price Schedule/BOQ) schedules/packets given in the bidding details. The details of the Demand Draft or any other accepted instrument which is to be physically sent in the original before opening of technical bids, should tally with the details available in the scanned copy and the data entered during with submission time otherwise the bid submitted shall not be accepted.
 - 1.5 Next, the bidder should upload the Technical Bid Documents for fee details (Bidding fee and EMD), Qualification details as per PQC, and Financial Bid documents as per BOQ of bidding document. Before uploading, the bidder has to select the relevant Digital signature Certificate. They may be prompted to enter the digital signature Certificate password, if necessary. For uploading, the bidder should click "Browse" button against each document label in Technical and Financial schedules/packets and then upload the relevant PDF/XLS files already prepared and stored in the bidder's computer.
 - 1.6 The Bidder shall click "Encrypt" next for successfully encrypting and uploading of required documents. During the above process, the bid documents are encrypted/ locked electronically with the DSCs of the Bid openers to ensure that the bid documents are protected, stored and opened by concerned bid openers only.
 - 1.7 After successful submission of bid documents, a page giving the summary of bid submission will be displayed that the process of e- bid submission is completed. The bidder can take a printout of the summary using the "print" option available in the window as an acknowledgement for future reference.
 - 1.8 **UPRVUNL reserves right to cancel any or all Bids without assigning any reason.**
 - 1.9 The Bidders are advised to upload the scanned documents with minimum of 150 dpi to ensure readable uploaded e- Bids.
2. **Deadline for Submission of E-Bids:**
 - 2.1 E-Bids (Technical and Financial) must be submitted by the bidders at e-procurement website <https://etender.up.nic.in>.
 - 2.2 The Purchaser may at his discretion extend this deadline for submission of bids by amending the bid documents.
3. **Late Bids:** The server time indicated in the Bid Management window on the e-procurement website <https://etender.up.nic.in> will be the time by which the bid submission activity will be allowed till the permissible date and time schedule in the bidding. Once the bid submission period is over, the bidder cannot submit their bid. Bidder has to start the Bid Submission well in advance so that the submission process is completed within the scheduled period, failing which; it shall be the bidder's responsibility.
4. **Withdrawal and Resubmission of E-Bids:-**
 - 4.1 At any point of time, a bidder may withdraw their bid submitted online before the bid completion of bid submission period. For withdrawing, the bidder shall first log in using their login id and password and subsequently by their Digital Signature Certificate on the e-procurement website <https://etender.up.nic.in>. The bidder shall then select "My Bids" option in the Bid Submission menu. The page listing all the bids submitted by the bidder shall be displayed. Click "View" to see the details of the bid to be withdrawn. After selecting the "Bid Withdrawal" option, the bidder has to click "Yes" to the message "Do you want to withdraw this bid?" displayed in the Bid Information window for the selected bid. The bidder also has to enter the reason for withdrawing the bid and upload the same for withdraw before clicking the "Submit" button. The bidder has to confirm again by pressing "Ok" button before finally withdrawing their selected bid.
 - 4.2 The bidder has to request the purchaser with a letter, attaching the proof of withdrawal and submission of bid security/EMD in the office of purchaser for taking back the bid security/EMD as per the manual procedure.
 - 4.3 No bid may be withdrawn in the period fixed for submission of bids and the period of expiry. Withdrawal of a bid during this interval may result in the Bidder's forfeiture of their bid security.
 - 4.4 The bidder can resubmit their bid as and when required till the scheduled bid submission end date and time. The bid submitted earlier will be replaced by the new one. The bid security submitted by the bidder earlier will be used for revised bid and the new bid submission summary

generated after the successful submission of the revised bid will be considered for evaluation purposes. For resubmission, the bidder shall first log in using their Login id and Password and subsequently by their Digital Signature Certificate on the e-procurement website <https://etender.up.nic.in>. The bidder should then select "My Bids" option in the Bid Submission menu. The page listing all the bids submitted by the bidder will be displayed. Click "View" to see the details of the bid to be resubmitted. After selecting the "Bid Resubmission" option, click "Encrypt & Upload" to upload the revised bid documents by following the methodology provided in clauses 1.4 to 1.7.

- 4.5 The bidders can submit their revised bids as many times as possible by up loading their bid documents within the schedule period for submission of e-bids.
- 4.6 No bid can be resubmitted subsequently after the period for submission of bids is over.
5. Bidders are advised to study the bid Document carefully. Submission of bids against the tender notice shall be deemed to have been done after careful study and examination of the procedures, terms and conditions stipulated in the bid Documents with full understanding of its implications.
6. The bid document is available at e-procurement website <https://etender.up.nic.in>. Interested bidders may view, download the bidding document, seek clarification and submit their bid online up to the prescribed date and time through uploading on e-procurement website <https://etender.up.nic.in>.
7. The bidders are required to submit the cost of bidding document as stated above through RTGS/NEFT only (details as per **Annexure – B**), prior to the scheduled date & time of opening of bid, failing which bid shall not be considered/opened.
8. The bids shall be electronically opened in the presence of bidder's representatives, who may choose to attend, at the prescribed venue, date and time mentioned above.
9. UPRVUNL reserves the right to cancel any or all the bids/annul the bidding process without assigning any reason thereof.
10. In case, date specified for bids opening, is declared a holiday then the bid shall be opened on next working day at schedule time.
11. All bids must be accompanied by a Bid Security (EMD) deposited through RTGS/NEFT/BG only (details as per **Annexure – B**). The scanned copies of bid document fee (Tender Cost), Earnest Money, Power of attorney must be up loaded electronically along with all the bid documents. The **original** copies of Power of Attorney made in the name of individual who'll sign bid documents digitally through DSC & Validity Commitment in prescribed format as per Annexure – F on non-judicial stamp paper of Rs. 100.00 should be furnished to the office of Superintending Engineer, MMC, HTPS, Kasimpur.
12. All the required documents shall be submitted/uploaded by the bidder electronically in the PDF format. However, the Financial Bid should be submitted in the XLS format.
13. Quantity as mentioned in e-Tender Notice is tentative and may vary up to any extent as per site requirement.
14. No deviation from the Technical specification & Technical Conditions shall be acceptable in bid.

(DILIP KUMAR JAIN)
Superintending Engineer
MMC, HTPS, Kasimpur

Scope Of Supply:-

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		1.4	Before unloading, samples shall be tested for moisture content. However, the HGI report shall be submitted by the Supplier with each carriage vehicle/consignment at the time of supply.
		1.5	Demurrage, if any, on the carriage vehicle for reasons attributable to the Supplier will be borne by the Supplier.
2	RAW MATERIAL FOR PELLET MANUFACTURING	a.	i. Base material for pellet manufacturing shall be agro residue which means the leftover portion of the agriculture produce such as stubble/straw/stalk/husk of those agro residues which are surplus and not being used as animal fodder such as paddy, soya, Arhar, Gwar, cotton, gram, jawar, bajara, moong, mustard, sesame, Til, maize, sunflower, jute, coffee, etc., groundnut shell, coconut shell, castor seed shell, etc., pine needle, elephant grass, sarkanda and horticulture waste such as dry leaves and trimmings generated during the maintenance and pruning of trees and plants. ii. In addition, pellets made from the following agro product/crop/waste can also be used for co-firing in TPPs i.e. Bamboo and its by-products (e.g. Bamboo chips, cuttings, Bamboo Dust etc.), Horticulture waste such as dry leaves and trimmings obtained from maintenance & pruning of trees and plants, other biomass such as Pine Cone/ Needle, Elephant Grass, Sarkand etc. b. Since Harduaganj Thermal Power Station is within 300 km of NCR, use of minimum 50% raw material as stubble /straw/crop residue of rice paddy sourced from Punjab, Haryana or National Capital Region only is mandatory. Successful Bidder has to submit documentary evidence in the form of Certificate from State Authority from where the paddy straw has been sourced/ any amendment regarding this by SAMARTH (if any) may be incorporated from time to time. c. Agro residue-based biomass pellets can be manufactured by mixing single or multiple base materials together. d. Mixing material such as by-products of woodwork factory like wood chips, sawdust, furniture waste, etc., bagasse, press mud, molasses, bamboo dust, or natural additives/binder such as lignin, starch, and animal dung may also be used with agro residue in limited proportion to enhance material properties and the same shall be explicitly mentioned by the supplier in consignment details. e. Wood obtained from tree cutting shall not be treated as agro residue and shall not be used as base material or for mixing purposes whatsoever. f. The supplier shall mention the name(s) of agro/crop residue(s) used for manufacturing non torrefied pellets and their approximate proportion in consignment details during the dispatch of material. g. Natural additives/binder such as lignin, starch, animal dung, etc. can be used for manufacturing non torrefied pellets if required and the same shall also be explicitly mentioned by the supplier in consignment details. h. Power plant reserves the right to exclude any base material/additive/ binder or modify their proportion if any adverse impact of the base material/ additives/binder is found on the boiler in long run.
3.	PERIOD OF CONTRACT	3.1	Period of Contract: A) Supply Duration: The period of contract shall be for Two (02) years. Further, after award, if the supplier is not able to supply the allocated quantity of pellets to Plant due to any reason attributed to Plant or reason mentioned in force majeure clause, an additional Three-months grace period corresponding to one year of supply period shall be provided to the supplier. Thus, a maximum 6 months grace period shall be given corresponding to the supply of Two years. In this grace period, the supplier shall be able to supply leftover quantity out of the total allocated quantity of pellets. B) Delivery Commencement: The supplier shall commence delivery of material within 30 days on indent basis from the date of LOI or from the issue of the Purchase Order.
		3.2	Delivery Address: The consignment of pellets shall be delivered to the following address:- Office of Executive Engineer, CHD-II site, DTPS/ETPS, HTPS Kasimpur.
		3.3	Delivery Schedule: Default delivery schedule shall be the quantity allocated to the supplier(s) for the supply of pellets on a daily basis, which is XXX (quantity allocated to bidder) MT per day. Accordingly, the supplier(s) shall deliver that quantity of pellets to the Plant site. There should be continuous off take of the biomass by the plant as per the terms of the contract. Purchaser should not restrict the supply from the supplier unless some exigency happens and with mutual consent with

			the supplier. Although the supplier shall supply the pellets as per the above delivery schedule, however, the supplier shall have the flexibility to supply the material in higher quantity than the delivery schedule on mutual consent basis to meet the annual supply requirement. In such a case, the supplier shall give one-week advance intimation to the Plant site and the site shall give the consent to supply material in higher quantity after assessing traffic congestion or other aspects as required. Purchaser can also give a reduced daily delivery schedule to the supplier by giving one-week advance notice through the official e-mail ID of the Engineer-in charge or e-mail ID of any other person authorized by him and the supplier shall dispatch the consignment accordingly. Maximum variation in Biomass monthly off take of Plants shall be within $\pm 15\%$ of the contracted quantity. In case, if a Plant is not able to off take the contracted quantity of Biomass in a given period due to technical/non-technical reasons, it may be either stored at Plant end or diverted to other plant of the same organization OR the period of supply in the same plant may be extended without LD. However, Supply quantity of Biomass as identified in contract for a quarter shall be adjusted within the same Quarter. In case of diversion, Price of pellet for the diverted plant will be decided after mutual agreement between the destination Plant and the supplier. If distance from supplier works to the diverted plant is within $\pm 10\%$ of the distance of destination plant from supplier works, the price will remain same. However, in case of distance from supplier works to the diverted plant is more than 10% of the distance of destination plant, then supplier will get proportional compensation for transportation cost assuming 20% of the landed cost of pellet of that consignment at destination plant as total transportation cost.
4.	PRICE & ITS EFFECTIVENESS	4.1	Price Basis:- FIRM and Free on Road at Plant SITE STORES. The total bid price shall be the sum of the base price and transportation price on distance basis in Rs. /MT + (GST Extra) Total procurement price shall be (A+B) + GST Extra as follows: A. Basic Price per 1000 Kcal (which includes P&F, Insurance Charges etc.) B. Transportation cost per 1000 Kcal The bidders are required to fill the quantity in MT per day, Basic Price per MT, GCV, and Transportation cost in the BOQ/Excel sheet. However the evaluation for Bucket Filling will be done on the basis of Basic rate and Freight quoted by the firm on distance basis i.e. the Landed Price in Rs. Per 1000 KCal basis
		4.2	Freight charges: -The materials shall be dispatched by road on "Freight paid" basis through supplier's transporter. GST shall paid Extra on Freight charges
		4.3	Price Escalation: Not Applicable.
		4.4	Security Deposit: Security Deposit shall be Rs 5,000.00/- (Rupees Five Thousand) per MTPD quantity per year of supply period. Thus for 50 MTPD awarded quantity for 02 Years supply period, security deposit shall be 5,00,000.00 (Rupees Five Lac Only). Supplier shall deposit a minimum of 25% of total Security Deposit amount within 30 days of issue of Purchase Order and the remaining amount shall be recovered from running bill @ 10% of the Basic value of bills subject to maximum Security Deposit (SD). In case after having been issued the Notification of Award/Purchase Order of a package, if the bidder does not accept the Notification of Award/Purchase Order or do not submit an acceptable Performance Security, which results in tender being annulled then the bidder shall be treated ineligible for participation in retendering of this particular package. Further, such vendor shall also be dealt as per the provisions of the policy for Withholding and Banning of Business Dealings. If after award of the Purchase Order/Contract it is found that the manufacturing plant from which

		supplies are being made, is not registered in the name of the Contractor, to whom Purchase Order/Contract is awarded, then the Contract shall be terminated and security deposit of the bidder is liable to be forfeited and bidder is also liable to be debarred for participation in subsequent tenders. Note: Security Deposit may be submitted in any of the following forms: a. A crossed Demand Draft/ Bankers Cheque drawn in favor of Plant payable at respective Location. b. An irrevocable Bank Guarantee as per the Plant standard format from any Nationalized Bank/ Scheduled Bank as acceptable to Plant owner c. In the shape of BG/FDR/TDR of scheduled bank (BG incase the security money exceeds Rs-5000.00) valid for the 30 months in favour of SAO-EPAD-HTTPS-Kasimpur d. The security money may also be submitted directly through RTGS/NEFT in account of S.A.O, EPAD, HTTPS, Kasimpur, SBI A/c no. 11264105069, SBI Kasimpur, IFSC code: SBIN0001364.
	4.5	Liquidated Damages (LD): a) The Supplier shall have to commence delivery of material within 30 days from the date of issue of the Purchase Order. To facilitate initial capacity ramp up, no Liquidated Damage shall be levied for initial 30 days from the delivery start date (here in after referred to as 'NO LD period'). b) Liquidated Damage (LD) shall not be applicable for short supply up to 15% in a month against aggregate of daily delivery schedule in that month. However, for monthly short supply beyond 15%, liquidated damage (LD) shall be recovered from supplier @5%of price of the biomass pellets for shortfall quantities. c) Although the Supplier shall supply the material as per quantity ordered to supply on a daily basis (i.e. xxx MT per day), the Supplier shall have the flexibility to supply the material in higher quantity than offered to supply on daily basis on mutual consent basis to meet the annual supply requirement. d) In such case, the supplier shall give one-week advance intimation to the Plant site and the site shall give the consent to supply material in higher quantity after assessing the traffic congestion or other aspects as required. e) Modification of the Purchase Order quantities by Generating utilities up to a maximum reduction of 15% may be done by giving three-months notice during the supply period. Further reduction in order quantity and /or notice period, if any, may be done with mutual agreement between the Supplier& Generating utility. f) Further, in case the supplier realizes that it has quoted higher quantities than its capabilities, in that case, the PO may be revised with a maximum reduction of 15% by giving three-months notice. Further reduction in order quantity and/ or notice period, if any, may be done with mutual agreement between the g) Supplier & Generating utility. However, Supplier has to pay penalty for short supply, if any, till the revision of PO. h) Penalties for short supply calculated on monthly as is will be levied at the rate of 5% of the awarded price for the shortfall quantity. i) GST extra as applicable shall also be levied on Liquidated Damages. Total amount of LD for shortfall in supply shall not exceed 5% of the total contract price

5.	QUANTITY DETERMINATION	a. Weighing of vehicles shall be carried out on weighbridges (for tare and gross) at Power Plant. The Supplier may witness the weight of vehicles once in 15 days, Power Plant Fuel sourcing (FS) representative will accompany the Supplier representative when any such visit is carried out. Supplier shall intimate Power Plant FS representative via e-mail at least two days in advance about the date of such visit. Net weight =Gross weight less the Tare weight, both as measured at Power Plant weigh bridge Power Plant may provide a copy of calibration certificates of weighbridge if requested by the Supplier. Power Plant shall undertake the calibration of Weigh Bridge in line with the schedule/practice as recommended by Legal Metrology. b. Any other contingency may be mutually discussed and settled c. Net adjusted quantity received at the Plant i.e. quantity worked out by Power Plant after carrying out adjustment due to quality variations for the Base Parameters, if any, shall be applicable for payment.
6	QUALITY DETERMINATION	6.1 Power Plant will carry out the sampling and analysis of non-torrefied pellets at Power Plant as per the provisions of either BIS or ASTM at the option of Power Plant. Power Plant will carry out the sampling and testing process as per the relevant BIS (IS 436 Part-1) standards for vehicle top sampling. 6.2 The authorized representatives of Power Plant and pellet supplier shall jointly witness the process of sample collection and preparation of the laboratory samples. The representatives shall put their signature on the sample tags in evidence of the process of sampling. Both consumer and pellet supplier shall sign on the samples register maintained by the Power Plant at the unloading end. 6.3 For purpose of rejection test before unloading, samples shall be tested for moisture content by Power Plant. If test result of any sample collected from a truck/consignment meets Technical parameter criterion for moisture content as given in (Table 1) then truck will be allowed for unloading, otherwise, truck (Consignment) will be rejected if test result meets the rejection criterion as given in (Table 3) and it shall be the supplier's responsibility to carry it back on his own cost. 6.4 For testing of GCV and other technical parameters, single sample shall be prepared for all the consignments received in a day from a particular Supplier. For avoidance of doubt, in case supply is from multiple Suppliers in a day, Supplier-wise sample shall be prepared for all the consignment received in a day. 6.5 The final laboratory sample shall be divided into 3 (three) parts. Part-1 of the sample is for analysis of GCV and other technical parameters by Power Plant lab at site. Part-2 sample is to be handed over to the pellet supplier for its own analysis. Part- 3 of the sample, called Referee sample, shall be sealed jointly and shall be kept with Power Plant under proper lock and key arrangement. 6.6 The Power Plant's representative will have the right to witness sampling and testing of pellets for the Base Parameters at the loading end. 6.7 The supplier's representative will have the option to witness the sample collection, preparation, testing of the main sample, and final packing of the reserve sample. Any dispute related to sampling, preparation, and analysis activity has to be raised strictly within 48 hours of the respective activity. Further, any dispute related to testing results may be raised strictly within 7 days of the declaration of the results by the Power Plant. The disputes concerning sampling and testing may be entertained only if backed up by logical and justifiable reasons with documentary evidence. Frivolous/repeated disputes may invite penal action by Power Plant. 6.8 As this process of sampling and preparation is a continuous round the clock process to deal with the multiple consignment workloads, Power Plant would carry out the process as per the time deemed suitable for the process. Hence, it is the responsibility of the supplier's representative to be available at all times to witness the same. 6.9 Power Plant may request Supplier to withdraw representative who is not diligent and/or is not cooperative. Frivolous/unreasonable objections to the sampling and testing process at Power Plant will not be entertained. It may be noted that witnessing testing (if any) carried out outside the Power Plant lab will not be feasible and should be avoided. 6.10 Power Plant may also consider (at its option) sharing part of the sample (third sample) with the Supplier. The third sample is for reference of the Supplier only and results of analysis of the third sample will not be considered for determining the payments. 6.11 Referees samples (as per list attached in Annexure B) will be preserved in the Power Plant laboratory under locked almirah in sealed condition in a moisture-free area for 30 days (from the date of declaration of such results) in the safe custody of the Power Plant.

- 6.12 Generally, Quality reports will be generated within 7 working days of receipt of the material and the same will be communicated to the Supplier, subject to receipt of loading end quality report.
- 6.13 In case dispute is raised within the stipulated time period, the Reference sample shall be analyzed in a NABL accredited laboratory as notified by Power Plant from time to time, expense of which shall be borne equally by both Power Plant and pellet supplier. Expense borne on supplier part shall be adjusted against payment to the supplier. NABL accredited laboratory report of referee sample shall be final and binding on both the parties. List of the Referee Laboratory is enclosed in annexure B
- 6.14 It may be noted that referee samples shall only be used in case of conflict of quality and price adjustment, whereas, in case of rejection of consignment due to Total moisture (TM) content, Power Plant reported TM content result will be final and binding.
- 6.15 To prevent misuse of the facility by disputing the majority of results of the lot, Power Plant will abort this reserve testing process in case if the reserve sample results (first two) are within the repeatability limits (as per BIS 1350) from original results. In this case, original results will be considered for payment purposes.
- 6.16 Any pellet that is received at Power Plant will not be returned/ permitted to be collected by the Supplier unless agreed to in writing by Power Plant.
- 6.17 Standards//Methods as per the table below will be referenced/used for quality determination:**

Sl. No.	Technical Data	Testing Method/Standard
1.	Dimension (Diameter & Length)	ISO 17829 or Equivalent method may be referred
2.	Fines (%)	ISO 18846 or Equivalent Method may be referred
3.	GCV(ARB)	IS1350 or equivalent method may be referred
4.	Moisture content (ARB)	Method based upon IS 1350 or equivalent method may be referred (Hand-Held Moisture Meter may also be used)
5.	HGI	ISO5074 Referred

6.18 For Determination of Total Moisture (TM) content:

- a. Samples shall be collected from each truck/dumper for TM determination.
- b. TM will be determined by Power Plant lab validated method based on IS 1350, (10g of 2.90mm passing sample will be heated for 2 hours at 108 +/- 2 Deg C.

Total Moisture will be computed as per the formula below:

$$TM\% = (W1-W2) \times 100 / W1$$

Where: W1= Initial Weight of Sample (10 grams) W2= Final Weight of Sample.

Note: Before unloading, samples shall be tested for moisture at Station end. If this value is in the rejection level range, the consignment shall be rejected, and it shall be the suppliers' responsibility to carry it back at his own cost.

6.19 Disputed samples are to be referred in NABL Lab as listed by SAMARTH.

6.20 Monthly 2-3 samples of each firm shall be sent by random selection at different NABL certified Labs

7.	COMPUTATION METHODOLOGY FOR VARIOUS RECOVERIES /QUANTITY ADJUSTMENTS	7.1	The supplier shall guarantee technical parameters of Agro residue-based pellets as given in table-1 under clause 1.2. The characteristics contained in Technical Specification (table-1 under clause 1.2.) shall be adhered to and maintained and non-adherence shall result in 'Quantity and Price Adjustment' as per clause 7.2 or even rejection as per clause 7.4 of this volume.
		7.2	Acceptance range with/ without pro-rata price/quantity adjustment: 7.2.1 The Agro residue-based pellets supplied shall conform to technical specifications as given in Table-1 under clause 1.2. But, in case consignment of Agro residue-based pellets does not meet the

guaranteed parameters for GCV, moisture content, and fines %, but are within the acceptable limit as given in table 2, the consignment shall be accepted but with a pro-rata price/ quantity adjustment as applicable.

Table2: Parameters on Acceptable Limits

Sl.No.	Technical Data	Units	Acceptance range Without Price /Quantity adjustment	Acceptance range with pro-rata Price/Quantity adjustment
1a	Gross Calorific Value (ARB*)– Non torrefied	Kcal/Kg	As per clause 7.2.2.1	
2	Total Moisture (ARB*)	Wt%	Not more than 14%	
3	Fineness%(ARB)	Wt%	Fineness <= 5%	Fineness >5%

7.2.2 – Price Adjustment for Gross Calorific Value (GCV)

If a consignment of agro residue-based pellets does not meet the guaranteed parameters for Gross Calorific Value (ARB) but is within the acceptable limit, the consignment shall be accepted but with pro-rata upward or downward price adjustment as calculated using the following formula:

7.2.2.1 -

a. Stipulation of limits for Quoted GCV: Based on the Base material and Mixing material as per technical specification, Bidder is required to quote GCV value of biomass in Kcal/Kg within the range as mentioned below:

Minimum Limit- 2800Kcal/Kg

Maximum Limit 4000kcal/Kg

b. Supplier shall supply the agro residue based Non-Torrefied biomass pellets of GCV not less than 2800 kcal/kg. Price shall be adjusted for GCV variation of supplied material as below:

For GCV(ARB) >= 2800 Kcal/Kg [For GCV more than or equal to 2800 Kcal/Kg]

c. Pro-rata price adjustment shall be done for GCV variation within acceptable GCV range of supplied material as per following formula: -

$$\text{Adjusted FOR price} = [\text{Quoted FOR price} \times \text{Actual GCV(ARB)}] / \text{Quoted GCV(ARB)}$$

*FOR Price- FOR Destination Price

d. In case upward GCV variation is more than the Maximum Limit for Non -Torrefied pellet then Price adjustment on account of GCV shall be limited to Maximum Limit for Non-Torrefied pellet only.

e. The downward GCV variation from Minimum limit, pro-rata price adjustment shall be done for GCV variation of supplied material as per following formula:

For GCV 2800 Kcal/Kg > GCV > 2400 Kcal/Kg [For GCV less than 2800 Kcal/Kg AND more than or equal to 2400 Kcal/Kg]

$$\text{Adjusted FOR price} = 0.75 \times [\text{Quoted FOR price} \times \text{Actual(ARB)}] / \text{Quoted GCV(ARB)}$$

For GCV 2400 Kcal/Kg > GCV > 2000 Kcal/Kg [For GCV less than 2400 Kcal/Kg AND more than or equal to 2000 Kcal/Kg]

$$\text{Adjusted FOR price} = 0.5 \times [\text{Quoted FOR price} \times \text{Actual(ARB)}] / \text{Quoted GCV}$$

100

		(ARB) For GCV<2000Kcal/Kg [For GCV less than 2000 Kcal/Kg] f. In case of GCV (ARB) is less than 2000 kcal/Kg, no payment shall be made for already delivered and consumed material of GCV less than 2000Kcal/kg. Note: In case, supplier is found to frequently supply the material of GCV less than 2800 Kcal/Kg or found to take deviations in other technical parameters, warning letter shall be issued to supplier. g. However, if material is supplied below 2000 Kcal/Kg in more than 3 (Three) instances during the currency of contract even after issuing warning letter then Contract shall be liable for cancellation. h. Material supplied of GCV less than 2000 Kcal/Kg is liable for rejection and no payment shall be made for material already delivered and consumed.												
	7.3	Recovery on Account of Excess Fines in Consignment The dimension of agro residue-based pellets has been given in the technical specification which shall be adhered to. Dust, crushed agro residue-based pellets in consignment as received at Power Plant shall be treated as fines and there shall be recovery on account of excess fines (ARB) if it exceeds 5%. The recovery on account of excess fines will be worked out as per the following formula. Recovery= Adjusted price of biomass pellets x W x (Weight% of fines beyond 5%.) This amount shall be recovered from the payment of that consignment.												
	7.4	Rejection level The consignment of agro residue based pellets arrived at the Power Plant shall initially be tested for following before unloading and shall be rejected if total moisture (as given in table3) exceeds the rejection level given as follows: <table><tr><th colspan="4">Table-3 Rejection Level</th></tr><tr><th>Sr. No</th><th>Technical Data</th><th>Unit</th><th>Rejection Level</th></tr><tr><td>1</td><td>Total Moisture (ARB)</td><td>Wt%</td><td>More than14%</td></tr></table>	Table-3 Rejection Level				Sr. No	Technical Data	Unit	Rejection Level	1	Total Moisture (ARB)	Wt%	More than14%
Table-3 Rejection Level														
Sr. No	Technical Data	Unit	Rejection Level											
1	Total Moisture (ARB)	Wt%	More than14%											
8.	BILLING AND PAYMENT TERMS	The Contractor shall submit the bills in triplicate on completion of delivery of material at Power Plant and payment shall be released based on the methodology as below: The bills are to be submitted along with the following supporting documents (as applicable), including but not limited to: - i. Copy of weighment certification by Power Plant. ii. Copy of Quality reports of loading end iii. Copy of Power Plant receipt end quality reports. iv. Certified working for deriving payable quantity. v. Original challan copies of truck engaged in transportation vi. HGI Certificate from NABL accredited lab vii. Composition of Biomass pellets 100% of payable amount shall be paid after receipt of material at site. All the relevant payments due as per the contract shall be released to the Contractor on production of documentary evidence such as LR copy/ e-way bill/ toll tax receipts etc, to ensure that Biomass Pellets have been supplied from bidder's declared place (District) of manufacturing plant. Price Adjustment on account of GCV: The final payments to the vendor shall be done according to the Adjusted Price mechanism where Adjusted prices shall be calculated as detailed in Technical Specification.												

(DILIP KUMAR JAIN)
Superintending Engineer
MMC, HTPS, Kasimpur

STANDARD TERMS & CONDITIONS

1. Tenders must be submitted in two parts through E-Tender Process.

Part-I: It should contain the Tender Fee and Earnest Money in acceptable form and evidences regarding pre-qualifying conditions, general information, technical particulars, Commercial terms & conditions. Acceptance of our Standard Terms & Conditions, please mention the variation clearly (only minor), if any.

PART-II: (BOQ): It will contain the price schedule only. The bidders are required to fill the quantity in MT per day, Basic Price per MT, GCV, and Transportation cost on distance basis per MT in the BOQ/Excel sheet. **The Firm shall quote quantity in multiple of 10 only i.e. 20 MTPD (minimum allowed), 30 MTPD, 40 MTPD and 50 MTPD (Maximum Allowed).** In case the firm quotes fractional quantities like 36 MTPD or 42 MTPD, then their lower round multiple of 10 will be taken as the quoted quantity, i.e. 30 MTPD for 36 MTPD and 40 MTPD for 42 MTPD will be considered.

Note: Part-II shall be opened only of those bidders who will qualify the pre-qualifying conditions.

2. PRICE BASIS:

The bidder shall offer the prices FIRM & FOR destination basis in Indian rupees per unit as per required GCV of the material. Price variation clause is applicable. The price variation formula is as per price adjustment formula mentioned in clause 7.2.2.1 in technical specification of agro based biomass pellets.

3. **Price variation Formula:** The payments against the PO shall be on variable price basis i.e. will vary for each delivery lot in accordance with the GCV of the received lot. The payments for the supplied delivery lot shall be calculated according to the formula mentioned in clause no. 7.2 Computation Methodology For Various Recoveries/Quantity adjustments and GCV Variation on Transportation Cost as per Annexure-A of Technical specifications of agro based biomass pellets.
4. **TRANSIT INSURANCE CHARGES:** To be borne by the supplier.
5. **PACKING & FORWARDING CHARGES:** To be borne by the supplier.
6. **TAXES & DUTIES:** GST Extra @ 5% or as applicable at the time of supply against documentary evidence on Basic and Freight charges only (GST shall not be quoted in BOQ, it shall be calculated extra)
7. **TERMS OF PAYMENT:** As per clause 8 - Billing and payment terms of Technical specifications of agro based biomass pellets .
8. **Inspection:** Inspection of materials shall be carried out at HTPS, Kasimpur.
NOTE: Sampling, Testing and rejection of biomass pellets will be as per clause 6 & 7 of Technical specifications of agro based biomass pellets.
9. **Security:** Shall be applicable as per clause 4.4 of Technical specifications of agro based biomass pellets.
10. **LD/Penalty:** Shall be applicable as per clause 4.5 of Technical specifications of agro based biomass pellets.
11. **Delivery:** Delivery shall be applicable as per clause no.3.3 of Technical specifications of agro based biomass pellets.
12. **Validity of offer:** Firm shall submit the validity of the offer for a minimum period of 180 days from the actual date of opening of BID PART- II as per Annexure – IV
13. **Engineer of Contract:** Executive Engineer, Purchase Division, ETPS, HTPS, Kasimpur shall be the Engineer of Contract.
14. **Consignee:** Executive Engineer, Coal Handling Division-II, DTPS, HTPS, Kasimpur shall be the Consignee.
15. **Paying Authority:** Office of the CFA & BO, HTPS Kasimpur shall be the Paying Authority.
16. **Engineer of Contract will have the right to reduce the supplying quantity to any extent in case of shutdown/Force Shutdown/ RSD/ Overhauling etc of unit. The minimum Notice period to stop/ resume the supply will be in discretion of UPRVUNL.**
17. Tenderer should be registered under GST and copy of their GST registration certificate in the form of **GST REG-06** should be submitted/ **uploaded.**
18. The Tenderer/ Bidder should upload, information/declaration regarding firm's name, Firm's work & registered office address along with mobile number and e-mail address of the authorized person (who may be contacted in case any clarification is required) as per format prescribed in Annexure-VII and may submit the same in the office of SE, MMC, HTPS, Kasimpur, Aligarh-202127.
19. Where a bidder has not furnished complete information/documents which are required in part-I, part-II [price bid] cover may not be opened.
20. In case, due date of opening happens to be a holiday, the tender shall be opened on the next working day.
21. Intending bidders are advised to visit the plant before submitting their bid/offer, so that all their technical queries, if any, may be resolved.
22. Tenderer sending their tender by mail/courier/speed post will do so solely at their own risk and responsibility. This office shall not be responsible for any delay in this regard, whatsoever.
23. The bidder shall clearly mention the quantity offered against the specified quantity of purchase on **Bucket Filling Procedure** as mentioned in Annexure A
24. UPRVUNL reserves the right to split the award of contract among more than one bidders for uninterrupted supply of material as per recommendation/approval of competent authority/committee as per UPRVUNL policy.

25. If the Nigam suffers any loss due to infringement of the conditions mentioned in the supply of order, the same will be recovered from any of the Firm's pending bills in Nigam and P.O. may be cancelled at any stage without any prior intimation to the firm.
26. In order to meet out any emergency of UPRVUNL, the successful bidder may be asked to supply part of the ordered material to any other Unit/project of UPRVUNL on same terms & conditions, which will be binding on the firm.
27. Each and every paper of the tender bid submitted by the firm should be legible and should be signed with remark "submitted by me" by the authorized representative of the firm with stamp/seal of the company/firm. Documents not having such remark/attestation/ illegible may not be considered/accepted for evaluation.
28. **Variation of Quantity: The permissible limit of deviation over the original quantity of each item will be (+) 50% for Biomass pellets, on same rates and terms and conditions on mutual consent basis between vendor and UPRVUNL.**
29. Overwriting/use of whitener may reject the tender. Any cutting should be verified with full signature of the bidder. In case there is any variation between the rates indicated in figures and words, the rates quoted in words shall be considered final. However, the decision to accept/reject such offer by Nigam shall be final and binding on the tenderer.
30. Conditional offer shall not be accepted. If any rebate, discount or reduction in the rates, should be clearly mentioned. No conditional rebate/discount shall be considered.
31. UPRVUNL reserves the right to accept/reject any or all tenders in total/parts thereof and split the tender without assigning any reason thereof. This office may revise the quantity of material at any stage and it will be communicated to the firm.
32. UPRVUNL reserves the right to cancel any or all the bids/annul the bidding process without assigning any reason thereof
33. The tenderer shall have "NO" right to issue addendum to tender documents to clarify, amend, supplement or delete any of the conditions, clause or items stated there in.
34. No contents/figures/any other entries should be blocked or deleted while submitting the photocopies of documents; otherwise such documents shall not be considered/ accepted for evaluation.
35. Any dispute arising against this tender/order there-of shall be subject to the jurisdiction of competent court of **Aligarh/Hon'ble High Court of Judicature at Allahabad.**
36. Any bidder, running blacklisted in UPRVUNL on the date of opening of part-I of Tender, is not eligible to participate in Tender. If the same is found during finalization of tender process, then their offer will be rejected.
37. If, at any stage during finalization of tender/execution of purchase order, any document, submitted by a bidder in his bid in support of Pre-Qualifying Conditions, is found to be forged/false, his bid is liable to be rejected, purchase order cancelled, EMD/Security deposit forfeited and any other departmental action as deemed fit be initiated. For this purpose the contractor shall have to produce original documents, if required, before opening of bid Part-II or afterward.
38. **As the contracted quantity is 2.25 Lakh MT (to be delivered in 2 years), therefore, UPRVUNL will place multiple orders to successful bidders on Bucket Filling Procedure. The bid comparison shall be done on Rupees per 1000 Kcal basis.**
39. All other terms & conditions of FORM "B" of UPRVUNL shall also be applicable.
40. HTPS/UPRVUNL reserve the right to alter the quantity, split, reject any or all the quotations without assigning any reason thereof

Signature of Bidder:
 Date:.....
 Rubber Seal:.....

PRE QUALIFYING CONDITIONS (Tender Bid Part-I) OF THE TENDER

Sl. No.	Pre Qualifying Conditions (PQC)	Firm's Remark (The bidder should fill this column completely with their remarks and upload the same on e-Tender portal)
	Part A	
1	TENDER COST: Tenderer/ Bidder shall have to deposit the requisite amount of tender cost in HTTPS-Kasimpur account (SBI Account no. – 11264105069, IFSC code- SBIN0001364) through RTGS/NEFT only and Documentary evidence for the same must be uploaded in prescribed format in Annexure-I in Part-I. (Transfer of tender cost through Cheque deposit is not permitted.) Required tender cost is Rs. 1000.00 + Rs. 180.00 (18% GST on Rs. 1000.00) only = Rs 1180.00	
2	EARNEST MONEY:- (* EMD to be submitted in multiple of 10 MTPD) - For Min quoted Quantity 20 MTPD, EMD shall be Rs. 8.00 Lac. - For 30 MTPD, EMD shall be Rs. 11,55,875.00 - For 40 MTPD, EMD shall be Rs. 12,74,500.00, - For maximum 50 MTPD, EMD shall be Rs. 13,93,125.00 (Through RTGS/NEFT/BG) Tenderer / Bidder shall have to deposit the requisite amount of Earnest Money in HTTPS-Kasimpur account (SBI Account no-11264105069, IFSC code-SBIN0001364) through RTGS/ NEFT/ BANK GUARANTEE only (BG can only be submitted if Earnest money amount is Rs 5000.00 or more). - In case EMD is submitted through RTGS/NEFT, the bidder must upload details filled in prescribed format in Annexure-I in Part-I(Technical bid) - In case EMD is submitted in the form of Bank Guarantee, the bidder must upload Bank Guarantee issued by commercial scheduled bank in prescribed format in Annexure-II. In case of submission of Bank Guarantee, bidder shall upload & submit copy of confirmation e-mail sent by Bank after issuing Bank Guarantee. The Bank Guarantee to be issued by the issuing Bank on Behalf of bidder in favor of S.A.O, EPAD. HTTPS Kasimpur shall be in paper form as well as issued under the structured financial messaging system (SFMS). The Details of beneficiary for issued of BG under SFMS platform is furnished below):- SBI A/c. No. 11264105069, IFSC Code: SBIN0001364, Kasimpur Original copy of Bank Guarantee must be submitted in hard copy to SE, MMC, HTTPS, Kasimpur, Aligarh-202127.	
3	Only Existing Pellets manufacturers having their Manufacturing Plant location in NCR region only shall be allowed to participate in the tender. Every bidder shall confirm the same in Part-I of the Tender Only - In case of individual applicant, the bidder should be of minimum 21 years of age. - The Bidder shall be of Indian nationality AND / OR a Company/ Sole Proprietorships /Partnerships / Limited Liability Partnerships / Cooperative Societies registered in India AND / OR Non-Resident Indians/ Person of Indian Origin AND / OR a Multinational Company having its registered office in India. /Overseas Corporate Bodies having its registered office in India. - Bidding for the subject package is open to Bidders from within the Employer's country only, subject to fulfilment of conditions "Restrictions on procurement from a Bidder of a country which shares a land border with India".	
4	Manufacturing Capacity: Bidder shall provide Certificate by Chartered Accountant with UDIN No. on Letter Head for Bidder's Manufacturing Capacity and Available (Untied) Manufacturing capacity	

	(TPD) as per <u>Annexure- III</u>	
	Part B	
5	Agreement for validity of offer: Notarised Affidavit on a non-judicial stamp paper of Rs 100.00 plus revenue stamp of Rs. 1.00 regarding validity of offer on prescribed format in Annexure-IV must be uploaded. Validity of offer shall be 180 days from the date of opening of part-II of the Tender. Original copy of Notarised affidavit on non-judicial stamp paper must be submitted in hard copy to SE, MMC, HTPS, Kasimpur, Aligarh-202127	
7	Non-Black Listing/Debarment Declaration: Firm has to submit notarized affidavit regarding non-black listing/debarment of the firm by SEBs/UPRVUNL/NTPC/BHEL /PSU's/Govt. Sector body or any other organization.	
8	GST Registration: Copy of GST Registration certificate in form GST REG-06 must be uploaded Note: - GST shall be paid extra as applicable at time of delivery of material if required by the bidder. However, firm have to mention clearly that GST required extra (GST in percentage In Part-I and <u>GST amount in Rs in BOQ</u>), otherwise it will be considered that GST is inclusive in the offered rates.	
9	PAN CARD: PAN Card of the firm/company or proprietor as the case must be uploaded.	
10	Declaration for relative: Declaration on Firm's Letter Head as per prescribed format in Annexure-VI for relative in UPRVUNL certificate must be uploaded.	
11	Partnership/company – Copy of partnership deed, in case of tenderer is partnership firm. In case of limited company, copy of registration certificate issued by registrar of companies along with Memorandum of Association and Articles of Associations must be uploaded.	
12	Address Detail: The bidder shall furnish Name, works address, E-mail ID, registered office address of the firm along with mobile number and E-mail ID of the authorized person who may be contacted for clarification, if any, required during process of tender must be uploaded in prescribed Performa in seasonure-VII.	
13	Authority letter: In case tender has been filled by person other than Proprietor/partner, original copy of authority letter mentioning Tender No must be uploaded in e-tender portal. In case of company, authority letter mentioning tender no. duly supported with Board resolution passed in this regard. Original copy of Authority letter must be submitted in hard copy to SE, MMC, HTPS, Kasimpur, Aligarh-202127	
14	Un Priced: The bidder must upload Un-priced BOQ as enclosed in Annexure-VIII duly filled up and signed under seal along with the technical specification of the items offered by the firm.	
15	"All Terms & conditions" mentioned in the tender documents, duly filled, stamped & signed as token of Acceptance must be uploaded.	
16	Allocation Criteria - Minimum 20 MTPD and Maximum Allocation to a bidder shall be 50 MTPD. - For existing manufacturers, Total Manufacturing capacity of the vendor will be certified by a practicing Chartered Accountant on Ton Per Hour basis). The average TPD capacity will be calculated based on 10 Hr operation per day. It may be noted that 10 Hrs. operation per day is considered based on derating/underutilization of palletization machine for different agro residues and time required for over hauling or maintenance of machines. Manufacturing unit/Capacity of all awarded Bidders (L-1, L-2, L-3 and so on) may be verified by authorized UPRVUNL representatives/committee. - The available (untied) Manufacturing capacity considered for allocation of quantity shall be determined as under: Available (Untied) Manufacturing capacity (TPD) =(Total Existing manufacturing capacity in TPD) – Existing commitment in TPD- (Total Long-term order/s in TPD + Total Order qty in TPD for any short- term order placed in past one year + Total allocated quantity in TPD under any ongoing	

	tender). 5. The minimum quantity to be quoted by a bidder shall be 20 TPD and the increments shall be in the multiples of 10 TPD. <u>Bucket Filling (Quantity allocation)</u> 1 Quantity allocation (Bucket Filling) will be done from the lowest bidder to highest bidder, limiting the allocation to quoted quantity for existing manufacturers. 2 The minimum qty to be quoted by the bidder shall be 20 TPD. If at the end of bucketfilling the leftover quantity is less than 20 TPD, last bidder's allocation quantity may be adjusted to below 20 TPD so that the total allocation doesn't exceed the tender quantity.	
18	As the contracted quantity is 2.25 Lakh MT (to be delivered in 2 years), UPRVUNL will place multiple orders to successful bidders on Bucket Filling Procedure. The bid comparison shall be done on Rupees per 1000 Kcal basis	
<u>NOTE:</u> - Part II of the tender shall only be opened after the above Pre Qualifying Conditions are fulfilled by the tenderer. Tender Technical Evaluation will be done only on the basis of documents uploaded by the tenderer on e-tender portal. Bid of the Bidder will not be considered in absence of Submitted Fee/uploaded documents related to Part A of the PQC of the Tender, However clarification may be taken if required for submitted documents related to PQC clause 3 & 4, but no new documents will be taken against the same. If any document related to Part B of the PQC is missing/ clarification required, then firm may be asked to submit these documents within specified period through shortfall, failing which part-II of the tender will not be considered. In case of submission of Bank Guarantee, bidder shall upload & submit copy of confirmation e-mail sent by Issuing Bank. - Above Pre Qualifying Conditions related documents are to be uploaded with Tender Part-I (Technical Part) and requisite documents (i.e. Affidavits on Notarized Stamp paper and BG) must be submitted in Original Hard copies to the SE, MMC, HTPS, Kasimpur, Aligarh-202127 within 10 days of opening of Part-I. - Bidder/tenderer may be asked to submit any document in original hard copy for verification purpose if required by HTPS at any stage.		

Annexure-A**Methodology for Allocation of quantities & evaluation of Bids in Bucket filling approach for Agro residual based Non-torrefied Biomass Pellets**

(A) The proposed methodology for allocation of quantities and evaluation of bids in Bucket filling approach is as under:

STEP-1 : INITIAL FILLING OF BUCKET

- (i) Initially the bucket shall be filled up in the merit order of quoted prices of all the participating bidders starting from lowest to highest Bidder (Bidders shall be referred as L1, L2, L3.....H). Highest Price quoted by Bidder considered in initial filled bucket for allocation shall be termed as H. The last bidder (H) filling such bucket may or may not be allocated its full offered quantity. Such Bidders who are allocated quantities during first filling of the Bucket shall be termed as Successful Bidders and rest of Bidders as unsuccessful Bidders
- (ii) Bucket shall be filled up for 100% of the tendered quantity. The quantity considered for initial filling of bucket has been termed as QBF (Quantity for initial Bucket filling).
- (iii) In case the full 100% of the Tendered quantity is not filled in the above first cycle of Bucket Filling Process, then the cycle of filling the remaining bucket shall start again from L-1 to H Ranked Bidder's on mutual consent basis against their respective available untied capacity for each bidder, until the full Tendered quantity of the bucket is filled. For e.g. if the L-1 bidder has quoted 40 MTPD as the untied capacity and offered for 30 MTPD, then in the next cycle (if required) it can be extended to $30 + 10 = 40$ MTPD on same rates on mutual consent basis.

Rate justification may be accorded from firms and evaluation will be done on basis of Basic rates and Freight on distance basis quoted by the firm and quantity will be allocated only after prices justification from competent authority

- Tendered Quantity – 310 MT
- Offered Quantity by Bidders – 400 MT
- Quantity for initial Bucket filling (QBF) – 310 MT

Bidder Rank	Category	Quoted Quantity (MT)	Initially allocated Quantity in MT	Basic Price per MT (A)	Transportation Cost (B)	(A) + (B)	GCV	Landed Cost per 1000 Kcal without GST
L1	MB	40	40	6200	100	6300	3400	1.853
L2	MB	50	50	6250	100	6350	3350	1.896
L3	MB	30	30	6300	78	6378	3300	1.933
L4	MB	20	20	6400	200	6600	3350	1.970
L5	MB	30	30	6450	300	6750	3325	2.030
L6	MB	20	20	6500	210	6710	3300	2.033
L7	MB	30	30	6600	300	6900	3375	2.044
L8	MB	20	20	6700	250	6950	3380	2.056
L9	MB	30	30	6895	50	6945	3370	2.061

L10	MB	30	30	6800	100	6900	3200	2.156
H	MB	20	10	6850	220	7070	3100	2.281
L12	MB	30	Nil	7030	50	7080	3050	2.321
L13	MB	20	Nil	7100	0	7100	3050	2.328
L14	MB	30	Nil	7200	100	7300	3000	2.433

Where MB is Manufacturer Bidder.

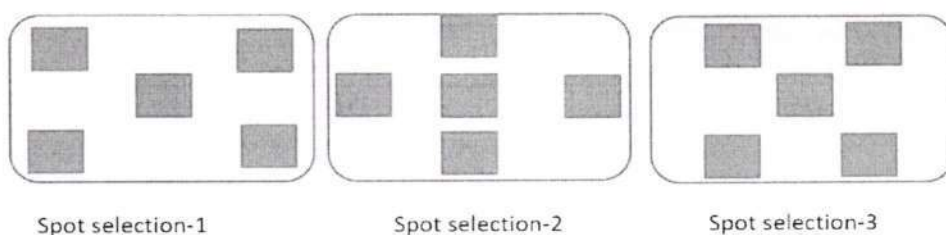
Impact of GCV variation on biomass pellet price and Transportation rate		
GCV range	Biomass pellets price/ Exfactory price of pellets	Transportation rate
Less than 2000 kcal/KG	No payment shall be made	No payment shall be Made
2000 kcal/KG to Less than 2400 kcal/KG	0.50 * Adjusted biomass pellets FOR origin Price	0.50 * Adjusted transportation cost
2400 kcal/KG to less than 2800 kcal/KG	0.75 * Adjusted biomass pellets FOR origin Price	0.75 * Adjusted transportation cost
2800-3400 kcal/KG	Adjusted biomass pellets FOR origin Price	Adjusted transportation Cost
3400-4000 Kcal/KG	Adjusted biomass pellets FOR origin Price	Transportation rate will be limited to 3400 Kcal/KG that is quoted Price
Above 4000 Kcal/KG	GCV(ARB) will be taken as 4000 kcal/Kg for calculation of biomass pellet price, that will be no extra payment for GCV more than 4000 Kcal/kg, however the material will be accepted	Transportation rate will be limited to 3400 Kcal/KG that is quoted Price

Note: In case, supplier is found to frequently supply the material of GCV less than the minimum level below which no payment is to be made as per above methodology or is found to take deviations in other technical parameters, warning letter shall be issued to supplier. Further, if material is supplied below this threshold on more than 3 (Three) instances during the currency of contract even after issuing warning letter, then Contract shall be liable for cancellation.

Sampling methodology: The biomass sample should be representative sample of the truck/ consignment. Methodology for collecting a representative sample is elaborated in the following paragraphs. For the purpose of rejection test before clearance for unloading, each truck/consignment shall be tested for moisture by UPRVUNL. For testing of GCV and other technical parameters, single composite sample shall be prepared for all the consignments received in a day from a particular vendor. For avoidance of doubt, in case supply is from multiple vendors in a day, vendor-wise sample shall be prepared for all the consignment received in a day.

Truck/wagon sample: The sample quantity of approximately 30 Kg is to be collected from each truck/consignment from 4-5 randomly selected spots on the truck top after removing biomass pellet layer of approximately 25-30 cm depth from the top. Approximately 5-6 kg of sample is to be collected from each spot.

Spot selection: Five spots are selected for sampling of biomass pallet as shown in figure below. Any one spot selection option will be decided by UPRVUNL sampling staff after viewing the biomass loading pattern. Spot selection is not invendor's scope



1. Sample preparation for testing: For the purpose of rejection test before clearance for unloading, each truck/consignment shall be tested for moisture by UPRVUNL. For testing of GCV and other Technical parameters, single composite sample shall be prepared for all the consignments received in a day from a particular vendor.

For testing of moisture for rejection test for unloading clearance: After collection of samples from the truck as stated above at para 6, thoroughly mix the pellet samples and collect approximately 1 Kg of representative sample for carrying out rejection test as per Clause 7.4.

For testing of GCV and other technical parameters: Do the coning and quartering of the rest of the sample, till the sample quantity is reduced to 4-5 Kg as explained below:

Example

Suppose one collects 30 Kg sample from One truck and total no of trucks received in a day from a particular vendor is 'N' then the total pellet sample collected will be around '30 N' Kg. 'N' can be 1,2,3 ...or so on.

Prepare a cone (heap) of '30 N' Kg and divide the cone from top to bottom and remove the half portion (left or right). Further, prepare the cone for the remaining '15 N' Kg of pellet and divide the heap and remove the pellet of side opposite to the side of previous removal. Now, the balance available qty of pellet is '7.5N' Kg and continue this process till the pellet sample is reduced to '4-5 Kg'. The final laboratory sample shall be distributed as per Clause 6.5 for determination of GCV and other technical parameters.

ANNEXURE B (Referee lab list)

Sr. No.	Lab Name	City	State	Country	Address
1	IDMA LABORATORIES LIMITED	Panchkula	HARYANA	INDIA	PLOT NO 391, INDUSTRIAL AREA, PHASE-1 Panchkula HARYANA INDIA
2	AES LABORATORIES PVT. LTD.	Noida	UTTAR PRADESH	INDIA	B - 118, PHASE - 2 Noida UTTAR PRADESH INDIA
3	SHIVA ANALYTICALS (INDIA) PRIVATE LIMITED	Bengaluru	KARNATAKA	INDIA	PLOT NO. 24D(P) AND 34D, KIADB INDUSTRIAL AREA Bengaluru KARNATAKA INDIA
4	Pollucon Laboratories Pvt. Ltd.	Surat	GUJARAT	INDIA	5/6 "Pollucon House", Old Shantinath Mill Lane, Navjivan Circle, Udhana Magdalla Road Surat GUJARAT INDIA
5	HARYANA TEST HOUSE & CONSULTANCY SERVICES	Panipat	HARYANA	INDIA	PLOT NO. 50-C, SECTOR-25, PART-II, HUDA Panipat HARYANA INDIA
6	FARE LABS PRIVATE LIMITED	Gurgaon	HARYANA	INDIA	L-17/3, DLF PHASE-II, IFFCO CHOWK, M. G. ROAD Gurgaon HARYANA INDIA
7	TEAM TEST HOUSE (A UNIT OF TEAM INSTITUTE OF SCIENCE & TECHNOLOGY PVT. LTD.)	Jaipur	RAJASTHAN	INDIA	G1-584, SITAPURA INDUSTRIAL AREA Jaipur RAJASTHAN INDIA
8	Ganesh Consultancy & Analytical Services	Mysore	KARNATAKA	INDIA	294/A, Hebbal Industrial Area Mysore KARNATAKA INDIA
9	KAILTECH TEST AND RESEARCH CENTRE PRIVATE LIMITED	Indore	MADHYA PRADESH	INDIA	141-C, ELECTRONIC COMPLEX INDUSTRIAL AREA, PARDESIPURA Indore MADHYA PRADESH INDIA
10	COAL AND COMBUSTION LABOATORY, NCPS, NTPC LIMITED	Ghaziabad	UTTAR PRADESH	INDIA	NCPS DADRI, GAUTAM BUDH NAGAR Ghaziabad UTTAR PRADESH INDIA
11	ENVIROCHEM RESEARCH & TEST LABS PVT. LTD.	Lucknow	UTTAR PRADESH	INDIA	HIG-79, SECTOR-E, ALIGANJ Lucknow UTTAR PRADESH INDIA

12	PRECITECH LABORATORIES PVT. LTD.	Vapi	GUJARAT	INDIA	1ST FLOOR BHANUJYOT COMPLEX, PLOT NO. C5/27 Vapi GUJARAT INDIA
13	LEON INSPECTION & TESTING INDIA PRIVATE LIMITED	Chennai	TAMIL NADU	INDIA	NO.4, 1ST & 3RD FLOOR, 5TH CROSS STREET, DR. RADHAKRISHNAN SALAI MYLAPORE Chennai TAMIL NADU INDIA
14	INTERSTELLAR TESTING CENTRE PVT LTD	Panchkula	HARYANA	INDIA	PLOT NO. 86, INDUSTRIAL AREA, PHASE-1 Panchkula HARYANA INDIA
15	QA TESTING LABORATORIES PRIVATE LIMITED	Noida	UTTAR PRADESH	INDIA	B-76, SECTOR- 64 Noida UTTAR PRADESH INDIA
16	KULKARNI LABORATORY	Pune	MAHARASHTRA	INDIA	3RD,SAVALI PRESTIGE BUILDING , 1ST FLOOR, NANDED PHATA SINGHGAD ROAD, NANDED PHATA Pune MAHARASHTRA INDIA

It shall be noted that notified referee laboratories by Biomass Mission changes from time to time and referee lab list prevalent at the time of raise of dispute as circulated

Tender No. ET-/MMC/PD/ETPS/HTPS/2024

ANNEXURE-I

The Tender Cost & EMD should be submitted through RTGS as below mentioned format.

1.	E-Tender No. ई निविदा संख्या	
2.	Details of UPRVUNL Bank Account उ०प्र०रा०वि०उ०नि०लि० का खाता विवरण	
	(i) Name of Bank बैंक का नाम	State Bank Of India
	(ii) Branch Name शाखा	Kasimpur
	(iii) Account No. खाता संख्या	11264105069
	(iv) IFSC Code आई०एफ०एस०सी० कोड	SBIN0001364
	(v) Name of Account Holder खाता धारक का नाम	SAO, EPAD, UPRVUNL, Kasimpur
3.	Name of Firm फर्म का नाम	
4.	Tender Cost निविदा मूल्य	
	(i) UTR No. or Reference यू०टी०आर० संख्या अथवा संदर्भ	
	(ii) Date of Deposit जमा करने की तिथि	
5.	Earnest Money धरोहर राशि	
	(i) UTR No. or Reference यू०टी०आर० संख्या अथवा संदर्भ	
	(ii) Date of Deposit जमा करने की तिथि	
6.	Details of Firm Bank Account फर्म का खाता विवरण	
	(i) Name of Bank बैंक का नाम	
	(ii) Branch Name शाखा	
	(iii) Account No. खाता संख्या	
	(iv) IFSC Code आई०एफ०एस०सी० कोड	
	(v) Name of Account Holder खाता धारक का नाम	
	Note: Kindly fill your bank account details properly so that the amount after realization of Earnest Money should be credited. नोट: कृप्या अपने खाता विवरण ठीक प्रकार से भरें ताकि धरोहर राशि अवमुक्त करने के उपरांत आपके खाते में जमा किया जा सके।	

FORM OF BANK GUARANTEE BOND

1. This guarantee should be furnished by State Bank of India and other Scheduled Commercial Bank (authorized by RBI) without deposit of securities up to prescribed limit, in the format as given below.
2. This bank guarantee should be furnished on Stamp Paper value Rs. 100/- or as per Stamp Act.
3. The stamp paper should have been purchased in the Name of the Bank executing the Guarantee.
4. The bank guarantee to be issued by the issuing Bank on behalf of Bidder in favour of Harduaganj Thermal Power Station (Uttar Pradesh Vidyut Utpadan Nigam Limited) shall be in paper from as well as issued under the Structures Financial Messaging System (SFMS). **The details of beneficiary for issue of BG under SFMS platform is furnished below:-** Harduaganj Thermal Power Station (Uttar Pradesh Vidyut Utpadan Nigam Limited), (SBI Kasimpur, Aligarh, Account no. 11264105069, IFSC code- SBIN0001364).

To,

The Senior Accounts Officer,

EPAD, Harduaganj Thermal Power Station

Kasimpur, Aligarh (U.P.)

(For the Chairman & Managing Director of UPRVUNL)

Sir,

Whereas M/s.....a company Incorporated under the Indian Companies Act having its registered office at...../ a firm registered under the Indian Partnership Act and having its business office at.....Sri.....Son of.....resident of.....carrying on business under the firm's name and style of M/s.....at.....Sri.....Son of.....resident of.....Partners carrying on business under the firm's name and style of M/s.....at.....which is an unregistered partnership firm (hereinafter called the Tenderer) has/have in response to your tender notice against Tender Notice No.ET-.....for issue of Agreement for the supply of "supply of.....of Unit no-.....-https-Kasimpur-Aligarh for a period of one year" as per technical scope of work for a period of one year as contended in the offer submitted/intended to be submitted by Tenderers letter No.....dated..... And whereas the Tenderer is required to furnish a Bank Guarantee for the sum of Rs.....as Earnest Money against Tenderer's offer as aforesaid, duly pledged for payment in the name of Senior Accounts Officer, EPAD, HTPS, Harduaganj, Kasimpur, Aligarh (U.P.).

And whereas we.....(Name of Bank) have at the request of the Tenderer agreed to give you this Guarantee as hereinafter contained.

Now therefore, in consideration of the promises we, the undersigned hereby covenant that, subject to Clause(c), below the aforesaid tender of the tenderer shall remain open for acceptance by you during the period of validity as mentioned in the tender or any extension thereof as you and the tenderer may subsequently agree and if the tenderer shall for any reason back out, whether expressly or impliedly, from his said tender during the period of its validity or any extension thereof as aforesaid, we hereby guarantee to you the payment of the sum of Rs.on demand notwithstanding the existence of any dispute between the Chairman & Managing Director of UPRVUNL and the tenderer in this regard and we hereby further agree as follows:-

That you may, subject to Clause(C), below without affecting his guarantee extend the period of validity of the said tender or grant other indulgence to or negotiate further with the tenderer in regard to the conditions contained in the said tender and thereby modify those conditions or and thereto any further conditions as may be mutually agreed upon between you and the tenderer. That the guarantee herein before contained shall not be affected by any change in the constitution of our bank or in the constitution of the tenderer.

That this guarantee shall commence from the date hereof and shall remain in force till the tenderer, if his tender is accepted by you, furnishes the security as required under the specifications and executes a formal agreement as therein provided o till the expiry of.....from the date hereof, whichever is earlier, the period of the validity of the guarantee may be extended for further period, if mutually agreed upon between you and ourselves.

That the expression the Tendered' and 'the bank' and 'Chairman & Managing Director of UPRVUNL' herein used shall, unless an interpretation is repugnant to the subject or context, include their representatives, successors and/or assigns.

Your's faithfully

Dated.....day of..... (Indicate the name of Bank)

ANNEXURE-III

**Certificate by Chartered Accountant on Letter Head for Bidder's Manufacturing Capacity and
Available (Untied) Manufacturing capacity (TPD)**

Tender no. : ET-

I. Bidders' manufacturing capacity

This is to certify that M/s (Name of the Bidder) having its registered office at and **Manufacturing plant is located at (address of Manufacturing plant) which is located at

**It is certified that M/s_(Name of the bidder) is a manufacturer of Agro-residue based (Non-Torrefied) biomass pellets having capacity of(in Tonnes per Day) and the Plant is functional since

II. Bidders' Available (Untied) Manufacturing capacity (TPD)

This is to further certify that M/s (Name of the Bidder) have **Available (Untied) Manufacturing capacity (TPD)** is as under:

	Particular	Quantity (Tonnes per Day)
	Total Existing manufacturing capacity in TPD	
Less:	Existing commitment in TPD	
Less:	Total Long-term order/s in TPD	
Less:	Total Order qty in TPD for any short - term order placed in past one year	
Less:	Total allocated quantity in TPD under any ongoing tender	
	Available (Untied) Manufacturing capacity (TPD)	

Available (Untied) Manufacturing capacity (TPD) =(Total Existing manufacturing capacity in TPD) – Existing commitment in TPD- (Total Long-term order/s in TPD + Total Order qty in TPD for any short- term order placed in past one year + Total allocated quantity in TPD under any ongoing tender)

Signature

Name of Partner/ Proprietor:.....

Membership No.....:

Firm Registration No.:

UDIN NO.....

**strike off whichever is not applicable.

Annexure-IV**PROFORMA FOR 'AGREEMENT FOR VALIDITY OF OFFER'**

Affix
Revenue
stamp of
Rs. 1

(To be submitted on non-judicial stamp paper of Rs 100.00 duly notarized & affixed with Re1 revenue stamp)

1.	Tender invited by	Superintending Engineer MMC, Harduaganj Thermal Power Station, Kasimpur, Aligarh, U.P.
2.	E-Tender Number	ET:
3.	Name of Work / Material	
4.	Name of the Tenderer /Bidder (Name of the Firm)	M/s.....

In consideration of U P Rajya Vidyut Utpadan Nigam Ltd., having treated the tenderer to be eligible person, whose tender may be considered, the tenderer hereby agrees to the condition that its offer shall remain firm & valid for **180 days** w. e. f. the date of opening of **Part-II** of the tender bid. The tenderer also agrees to the condition that if the tenderer does withdraw his proposal within the said period of Six months or during the period of execution / completion of the work, the Earnest money deposited by him, may be forfeited by the U P Rajya Vidyut Utpadan Nigam Ltd.

Date:

Place:

Seal & Signature

Name of Proprietor/Authorised Person _____

Name of Firm _____

Address of Firm _____

Witness with complete address:

1.

2.

ANNEXURE-V**(To Be Issued by Practicing Chartered Accountant on Letter Head)**

Date:...../...../.....

To,

Uttar Pradesh Rajya Vidyut Utpadan Nigam Limited

Harduaganj Thermal Power Station

Kasimpur- Aligarh

Dear Sir,

Sub: Turnover Certificate for participation in Tenders issued by UPRVUNL.

This is to certify that M/s.(Agency Name & Address) are in the business of contracts execution for.....completed years (considered up to 31st March of last Financial year. Their turnover in execution of the Contracts in each financial year during the preceding 03 (three) years are as given below:

Sl. No.	Year	Turnover (in Rupees)
1		
2		
3		

This is further certified that the above Turnover is in line with the Turnover declared by the Agency in their Income Tax Returns filed under Pan No.:.....

AND

Along with Turnover declared under GST Returns submitted by the Agency under RC/GSTIN.....which are verified by us.

It is further certified that other income has not been considered while computing above turnover.

Place:

Date:

Signature

Name of Partner/ Proprietor:.....

Membership No.:.....

Firm Registration No.:

UDIN NO.....

ANNEXURE-VIDeclaration(On Firm's Letter Head)RELATION CERTIFICATE

(A) None of the relative of the tenderers/ partners is working in UPRVUNL.

OR

(B) Following relative/relatives of the tenderer/ partners is/are working in UPRVUNL

Full Name:

Designation:

Complete Office Addresses:

Signature of Bidder/Tenderer:.....

Date:.....

Rubber Seal:.....

ANNEXURE-VII

फर्म/ठेकेदार द्वारा यह प्रपत्र विभाग द्वारा निर्गत निविदा से अलग कर भाग-1 के साथ जमा किया जाना सुनिश्चित किया जाये।

1- (अ) फर्म का नाम :

(ब) मालिक का नाम :

2- (स) पिता का नाम :

(द) साझीदार का नाम 1-

2-

3-

3- स्थायी पता-

1-मकान सं० -

2-गाँव/मोहल्ला-

3-डाकघर -

4-थाना -

5-जिला -

6-पिन कोड सं०-

7-Mob. No./दूरभाष सं०-

8-E-mail-

4- पत्राचार हेतु पता-

.....

.....

.....

हस्ताक्षर

अधिकृत प्रतिनिधि

मुहर

ANNEXURE- VIII**TECHNICAL DETAILS [UNPRICED BID]****SCHEDULE OF QUANTITY**

[This sheet must be filled and submitted with Bid Part-I]

Sl. No.	Supply of Agro Based Biomass Pellets	UNIT	Quantity (225000 MT) 310 MTPD (only 20, 30, 40 and 50 MTPD are allowed)	Distance of Manufacturing Plant to HTPS Site (Truck Gate, HTPS, Kasimpur Aligarh)	Place of Manufacturing Plant Located in NCR Region	Quoted Quantity (MT Per Day) Range (20MTPD- 50 MTPD)	Quoted GCV Range (2800- 4000 Kcal/Kg)	Technical Deviation, if any
	Description of Items							
1	Non-Torrefied Biomass pellets as per enclosed specification (Please refer Page No. 4 to 11 of the Tender Document)	MT	(-----) Minimum 20 MT Per Day to Maximum 50 MT per Day for a bidder	(-----)	(-----)	(-----)	(-----)	(-----)

Note: The bidders are required to fill the quantity in MT per day, Basic Price per MT, GCV and Transportation cost (Freight charges) in INR/MT (without GST) in the BOQ/Excel sheet and Net rate in (INR/1000 Kcal) will be calculated automatically in the BOQ. The Firm shall quote quantity in multiple of 10 only i.e. 20 MTPD (minimum allowed), 30 MTPD, 40 MTPD and 50 MTPD (Maximum Allowed). In case the firm quotes other quantities like 36 MTPD or 42 MTPD, then their lower round multiple of 10 will be taken as the quoted quantity, i.e. 30 MTPD for 36 MTPD and 40 MTPD for 42 MTPD will be considered

(DILIP KUMAR JAIN)
Superintending Engineer
MMC, HTPS, Kasimpur

ANNEXURE- IXDECLARATION OF PAST ORDERS

We declare that we are executing following Purchase Orders for supply for Non-Torrefied Biomass Pellets Procurement Package for various Plants of UPRVUNL or any other Thermal Power station of any Organisation:

S.No	Name of Project/ Purchase Order No. & Date	Ordered Quantity	Amount (Rs.)	*Period ofContract
1				
2				
3				
	<u>Total in hand Ordered Quantity</u>			

We understand that the above declaration shall be used in line with the provisions of bidding document.

Date: (Signature)

(Printed Name)

Place: (Designation)

(Seal)

Note: Continuation sheets of like size and format may be used as per Bidder's requirement and shall be annexed to this Attachment.

FORM - B

GENERAL CONDITIONS OF CONTRACT FOR THE SUPPLY OF PLANT AND MACHINERY FORWORK
PERTAINING TO THE U.P. RAJYA VIDYUT UTPADAN NIGAM LTD.

1. DEFINITION OF TERMS: In construing these general conditions and the annexed specification, the following words shall have the meaning herein assigned to them unless there is anything in the subject or context inconsistent with such construction.

The Purchaser shall mean the U.P. Rajya Vidyut Utpadan Nigam Ltd. and shall include its successor and assigns.

The Contractor shall mean the tenderer whose tender shall be accepted by the purchaser and shall include such tenderer heirs legal representatives, successors and assigns.

The Sub-Contractor shall mean the person named in the Contract for any part of the work or any person to whom any part of the contract has been sublet with the consent in writing of the Engineer and the heirs, legal representative, successors and assigns of such person.

The Engineer shall mean the officer placing the order for the work with the contractor and such other officer as may be duly authorized and appointed in writing by the purchaser to act the Engineer for the purposes of the Contract and in case where no such officer has been so appointed, the purchaser or his duly authorised representative.

The Plants shall mean the plant and materials to be provided by the contractor under the contract.

The Contract shall mean and include the general conditions, specifications, schedules drawings, form of tender covering letter, schedule of prices or the final general conditions, specifications and drawings and the Agreement to be entered into under clause 3 of these general conditions.

The Specification shall mean the specifications annexed to these general conditions and the schedule there to (if any).

The Site shall mean the site of the proposed work as detailed in the specification or any other place in Uttar Pradesh where work is to be executed under the contract.

The Month shall mean calendar month.

The Writing shall include any manuscript, type written or printed statement under or over signature or seal, as the case may be.

Words importing person shall include firms, companies, corporations and other bodies whether incorporated or not.

Words importing the singular only shall also include the plural and vice versa where the context requires.

2. CONTRACTOR TO INFORM HIMSELF FULLY:

The contractor shall be deemed to have carefully examined the general conditions, specifications, schedules and drawing if he shall have any doubt as to the meaning of any portion of these

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general conditions or of the specifications he shall, before signing the contract set forth the particulars thereof and submit them to the Engineer in writing in order that such doubt be removed.

3. CONTRACTOR: A formal agreement shall if required by the purchaser be entered into between the purchaser and the contractor for the proper fulfilment of the contract. Further, if required by the purchaser, the contractor shall deposit with the purchaser, as security for the due and the faithful performance of the contract such sum not being less than one percent of the total value of the contract as may be fixed by the purchaser either in cash or any other form approved by the purchaser by the security deposit shall be refunded to the contractor on the delivery and check of the plant at the site of the work.

The changes in respect of vetting and execution of the contract document shall be borne by the contractor. The contractor shall be furnished with an executed stamped counterpart of the agreement. After the tender has been accepted by the purchaser all orders or instructions to the contractor shall, except as herein otherwise provided be given by the Engineer on behalf of the purchaser.

4. CONTRACT DRAWING: The contractor shall submit in duplicate to the Engineer for his approval, drawings of the general arrangement of the plant to be provided and such detailed drawings, other than shop drawing, as may be reasonably necessary.

Within fourteen days of the receipt of such drawings the Engineer shall signify his approval or otherwise of the same, and in the event of disapproving the drawing, the contractor shall submit further drawing for approval.

Within a reasonable period of the notification by the Engineer to the Contractor of his approval of such drawings in three sets, in ink on tracing cloth or ferrogallic prints mounted on cloth of the drawings as approval shall be supplied to him by the contractor and be signed by him and by the contractor, respectively and be thereafter deemed to be the "Contract Drawings".

These drawings when so signed shall become the property of the purchaser and be deposited with the Engineer and shall not be departed from in any way whatsoever except by the written permission of the Engineer as hereinafter provided.

In the event of contractor desiring to possess a signed set of drawings he shall supply four sets instead of three sets, and in this case the Engineer shall sign the fourth set and return the same to the contractor.

The contractor, if required by the Engineer, shall supply in addition copy of any drawings other than shop drawings which may reasonably be required for the purpose of the contract and may make a reasonable charge for such copies.

The Engineer or his duly, authorized representative whose name shall have previously been communicated in writing to the contractor shall have the right at all reasonable times, to inspect, at the factory of the contractor, drawings of any portion of the plant.

5. MISTAKES IN DRAWINGS: The contractor shall be responsible for and shall pay for any alterations of the plant due to any discrepancies, errors or omissions in the drawings or other particulars, supplied by him, whether such drawings or particulars have been approved by the Engineer or not, provided that if such discrepancies, errors or omissions are due to inaccurate information or

particulars furnished to the contractor by the Engineer any alternations in the plant necessitated by reasons of such inaccurate information or particulars shall be paid for by the purchaser.

If any dimensions figured upon a drawing or a plan differ from those obtained by scaling the drawing or plan the dimensions as figured upon the drawing or plan shall be taken as correct.

6. SUBLETTING OF CONTRACTOR: The contractor shall not, without the consent in writing of the Engineer or purchaser, which shall not be unreasonably withheld assign or sublet his contract, or any substantial part thereof other than for raw materials, for minor details or for any part of the plant, of which the makers are named in the contract provided that any such consent shall not relieve the contract from any obligation duty or responsibility under the contract.
7. PATENT RIGHTS: In the event of any claim or demand being made or action being brought against the purchaser for infringement or alleged infringement of letters patent, in respect of any machine, plant or thing used or supplied by the contractor under this contract or in respect of any method of using or working by the purchaser of such machine, plant or thing, the contractor will indemnify the purchaser against such claim or demand and all costs and expenses arising from or incurred by reason of such claim or demand PROVIDED THAT the purchaser shall notify the contractor immediately any claim is made and that the contractor shall be at liberty if he so desires, with the assistance of the purchaser, if required but all contractors, own expense, to conduct all negotiations for the settlement of the same or any litigation that may arise there from and PROVIDED THAT no such machine, plant or thing shall be used by the purchaser for any purpose or in any manner other than that for which they have been supplied by the contractor and specified under this contract.
8. QUALITY OF MATERIALS: The plant shall be manufactured and constructed in the best and most substantial and most workmanlike manner and with materials of the best or approved quantities for their respective uses.
9. PACKING: The contractor shall be responsible for security, protecting and packing the plant so as to avoid damage under normal conditions of transport.
10. DELIVERY AND IMPORT LICENCE FEE : The cost of delivering the whole of the material F.O.R. at the railway stations specified shall be borne by the contractor. The Import Licence Fee for the import of equipment or component parts of raw materials if required, shall be paid by the contractor even when the Import Licence may have to be taken in the name of the purchaser.
11. POWER TO VARY OR OMIT WORK : No alterations amendments, omissions, additions suspensions or variations of the plant (hereinafter referred to as Variations) under the contract as shown by the contract drawings of the specification shall be made by the contractor except as directed in writing by the Engineer, but the Engineer shall have fully power, subject to provision hereinafter contained, from time to time during the execution of the contract by notice in writing to instruct the contractor to make such variations.: without prejudice to the contract and the contractor shall make such variations, and be bound by the same conditions as far as applicable, as through the said variations, occurred in the specification. If any suggested variations would, in the opinion of the contractor, if carried out, prevent him from fulfilling any of his obligations or guarantees under the contract, he shall notify the Engineer thereof in writing and the Engineer shall decide forthwith whether or not the same shall be carried out, and if the Engineer confirms his instructions, the contractor's obligations and guarantees shall be modified to such an extent as may be justified. The difference of cost if any, occasioned by any such variations shall be added to or deducted from the contract price as the case may require. The amount of such difference, if any shall be ascertained and determined in accordance with the rates specified in the schedule of prices so far as the same may be applicable and where the rates are not contained in the said schedules, are not applicable they shall be settled by the Engineer and contractor, jointly as far as possible, before such variations are carried out, provided that the purchaser shall not become liable for the

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payment of any charge in respect of any such variations, unless the instruction, performance of the same shall have been given in writing by the Engineer.

In the event of Engineer requiring any variations such reasonable and proper notice shall be given to the contractor as will enable him to make his arrangements accordingly, and in case where goods or materials have already been prepared, or any design, drawings or patterns have been made or work done that required to be altered. The Engineer shall allow such compensation in respect thereof as he shall consider reasonable.

Provided that no such variations shall except with the consent in writing of the contractor be such as will include an increase or decrease of the total price payable under the contract by more than 10 percent thereof.

In every case in which the contractor shall receive instruction from the Engineer for carrying out any work which either than or later, will in the opinion of the contractor, involve a claim for additional payment, the contractor shall as soon as reasonably possible after the receipt of such instructions inform the Engineer of such claim for additional payment.

12. NEGLIGENCE: If the contractor shall neglect to manufacture or supply the plant with due negligence and expedition or shall refuse or neglect to comply with any reasonable orders given to him in writing by the Engineer in connection with the manufacture or supply, or shall contravene any provision of the contract the purchaser may give seven days notice in writing to the contractor, to make good the failure, neglect or contravention complained of, and if the contractor shall fail to comply with the notice within a reasonable time from the date of service thereof in the case of a failure neglect of contravention capable of being made good within that time then and in such case if the purchaser shall think it, shall be lawful for him to take the manufacture or supply of plant wholly or in part, out of the contractor's hand and give it to another person on contract at a reasonable price and if the purchaser shall be entitled to retain and apply any balance which may be otherwise due on the contract by him to the contractor or such part thereof as may be necessary for the payment of the cost of manufacture or supply of such plant as aforesaid.
13. DEATHS/BANKRUPTCY ETC: If the contractor shall die or commit any act of bankruptcy or being a corporation commence to be wound up except for reconstruction purposes or carry on its business under a Receiver, the executors successors or other representatives in law of the estate of the contractor or any such Receiver, liquidator or any person in whom the contract may become vested shall forthwith give notice thereof in writing to the purchaser and shall for one month during which he shall take all reasonable steps to prevent a stoppage of the manufacture of plant have the option of carrying out the contract subject to his or their providing such guarantee as may be required by the purchaser, but not exceeding the value of the plant for the time being remaining unexecuted in the event of stoppage of the manufacture of the plant the period of the option under this clause shall be fourteen days only provided that should the above option not be exercised the contract may be determined by the purchaser by notice in writing to the contractor and the purchaser may exercise the same power which he could exercise and will have the same rights which he would have under the last proceeding clause if the work had been taken out of the contractor's hands under that clause.
14. INSPECTING AND TESTING: The Engineer, and his duly authorized representatives shall have at all reasonable times access to the contractors premises, and shall have the power at all reasonable times to inspect and examine the materials and workmanship of the plant during its manufacture there, and if part of the plant is being manufactured on other premises, the contractor shall obtain for the Engineer and for his duly authorized representatives permission to inspect it, as if the plant

was manufactured on the Contractor's own premises.

The Engineer shall, on giving seven days notice in writing to the Contractor setting out any grounds of objections which he may have in respect of the work, be at liberty to reject all or any plant or workmanship connected with such work which, in his opinion, are not in accordance with the contract, or are in his opinion, defective for any reason whatsoever provided that, if such notice be not sent to the contractor within reasonable time after, the grounds upon which such notice is based have come to the knowledge of the Engineer he shall not be entitled to reject the said plant or workmanship on such grounds, unless specially provided otherwise all tests shall be made at contractor's works before shipment.

The contractor shall, if required, give notice to the Engineer of any materials being ready for testing and the Engineer or his said representative. If so desired, shall on giving twenty-four hours previous notice in writing to the Contractor to attend at the Contractor's premises within seven days of the date on which the material is notified as being ready, failing which visit the contractor may proceed with the test which shall be deemed to have been made in Engineer's presence and he shall forthwith forward to the Engineer duly certified copies of the test in duplicate.

Test at Contractor's Premises: In all cases where the contractor provides for test, whether at the premises of the contractor or of any sub-contractor, the contractor, except where otherwise specified shall provide free of charge, such labour, material, electricity, fuel, water, stores apparatus and instruments as may reasonably be demanded to carry out efficiently such test of the plant in accordance with the contract and shall give facilities to the Engineer or to his authorized representative to accomplish such testing.

If special test other than those specified in the contract are required they shall be paid for by purchaser as variations under clause 11.

When the tests have been satisfactorily completed at the contractor's works, the Engineer shall issue a certificate to that effect.

Test of Site : In all cases where the contract provide for test on the site, the purchaser, except otherwise specified, shall provide free of charge such labour, material electricity, fuel, water, stores apparatus and instruments as may be requisite from time to time and as may reasonably be demanded efficiently to carry out such tests of the plant of workmanship in accordance with the contract.

In the case of contractor requiring electricity for test on site such electricity shall be supplied to the contractor in the most convenient from available.

15. **DELIVERY OF PLANT:** The plant or material shall not be forwarded until shipping dispatch instruction have been given to the contractor. Notification of delivery or dispatch in regard to each and every consignment shall be made to the purchaser immediately after dispatch or delivery. The supplier shall further supply to the consignee a priced invoice and packing account of all stores delivered or dispatched by him. All packages, containers, bundles and loose materials forming part of each and every consignment shall be described fully in the packing account and full details of the contents of packages and quantity of material shall be given to enable the consignee to check the stores on arrival at destination.
16. **ENGINEER'S SUPERVISION:** The manufacture and supply of plant shall be carried out under the

direction and to reasonable satisfaction of the Engineer.

17. ENGINEER'S DECISION: In respect of all matters which are left to the decision of the Engineer, including the granting or withholding certificates the Engineer shall, if required so to do by the contractor give in writing a decision thereon and his reasons for such decision. If the decision is not accepted by the Contractor, the matter shall at the request of the contractor, be referred to arbitration under the provision for arbitration hereinafter contained, but subject to the right of reference to arbitration, such decision, shall be final and binding on the contractor.
18. LIABILITY FOR ACCIDENT AND DAMAGE: The Contractor shall be responsible for loss, damage or depreciation to goods upto delivery at site.
19. REPLACEMENT OF DEFECTIVE PLANT OR MATERIALS : If during the progress of manufacture of supply or plant the Engineer shall decide and notify in writing to the contractor that the contractor has manufactured any plant or part of plant unsound or imperfect or has supplied any part inferior in quality to that specified, the contractor on receiving details of such defects or deficiency shall at his own expense within such time as may be reasonably necessary for the purpose proceed to alter, reconstruct or remove such plant or part of plant, supply fresh materials upto the standard of the specification and in case the contractor shall fail so to do the purchaser may, on giving the contractor seven days notice in writing of his intention so to do proceed alter, reconstruct or remove such plant or part of plant or supply all such materials at the Contractor's cost, provided that nothing in this clause shall be deemed to deprive the purchaser of or affect any rights under the contract which he may otherwise have in respect of such defects or deficiencies.
20. DEDUCTION FROM CONTRACT PRICE: All costs, damages or expenses, which the purchaser may have paid for which, under the contract, the contractor is liable, may be deducted by the purchaser from any money due or which may become due by him to the contractor under this contract or may be recovered by suit or otherwise from the contractor's bill. Any sum of money due and payable to the contractor (including security deposit returnable to him) under this contract may be appropriated by the purchaser and set off against any claim of the purchaser for the payment of a sum of money arising out of or under any other contract made by the contractor with the purchaser.
21. TERMS OF PAYMENT: Subject to any deduction which the purchaser may be authorized to make under the contract or subject to any additions or deductions provided for under clause-11, if the contractor shall on the certificate of Engineer be entitled to payment as follows :
 - (a) 90% (Ninety percent) of the F.O.R. contract value of the plant along with 100% Sales / Trade tax and Excise duty as applicable on the finished material/ equipment shall be made through bank, intimated by the purchaser in rupees on receipt by the purchaser of the contractor's invoice giving the number and date of the railway receipt covering the dispatch of the plant from the Indian port and of the advice note giving case number and contents, together with a certificate by the contractor to the effect, that detailed in the said advice note has actually been dispatched under the said railway receipt and that the contract value of the said plant so dispatched is not less than the amount entered in the invoice.
 - (b) 10% (Ten percent) of the F. O. R. contract value on presentation of the Contractor's invoice when each commercially useable section of the plant is complete and the last portion of such section has been dispatched and the whole material has been delivered at the place fixed for delivery and checked at the site of the work or, within one month of such delivery, whichever is earlier.
 - (c) In case, the material/equipment is dispatched by Road Transport, 100% Payment along with Sale Tax / Trade Tax and Excise duty etc. shall be made by the purchaser on receipt of material and check at site only but within one month of receipt of material/equipment.
 - (ii) If at the time at which the last installment becomes payable there are minor defects in the plant

which are not of such importance as to affect the full commercial use of the plant, then the purchaser shall be entitled to retain such part of the installments as represents the cost of making good such minor defects, and any sum so retained shall, subject to the provisions of clause 30, become due upon such minor defects being made good.

- (iii) If the purchaser desires that the plant or any portion should not be dispatched by the contractor when it is due for dispatch, the contractor shall store such plant or portion at his works and be responsible for all risks for such storage the purchaser shall pay to the contractor at a rate to be mutually agreed upon between the parties, but not exceeding Rs. 15 (fifteen) per tonne per week payable quarterly plus interest at 1 percent per annum above the current rate of the State Bank of India on 80% of the contract value of the plant or portion thereof so stored, for the period from the date on which the said plant or portion become due is ready for shipment up to the date on which it is actually shipped.
22. **PROVISIONAL SUMS:** In any case where the contract price includes a provisional sum to be provided by the contractor for meeting the expenses of extra work or for work to be done or material to be supplied by a sub-contractor, such sum shall be expended or used, either wholly or in part, or be not used at the discretion of the Engineer and entirely as he may decide and direct. If no part or only a part thereof be used then the whole or the part not used, as the case may be, shall be deducted from the contract price. If the sum, used is more than such provisional sum the contractor shall pay the excess. In the case of material supplied or work done by a sub-contractor, the total of the net sum paid to the sub-contractor on account of such materials or work and a sum equal to 10% of such net sum allowed as contractor's profit shall be deemed to be the sum used. None of the work or articles to which such sum of money refers shall be done or purchased without the written order of the Engineer. The contractor shall, allow the sub-contractors every facility for the supply of materials or execution of their several works simultaneously with his own, and shall, within fourteen days after the Engineer has requested him in writing so to do, pay the dues of such sub-contractors on account of such materials or works, PROVIDED ALWAYS that the contractor shall have no responsibility with regard to such works or articles unless he shall have previously approved the sub-contractor and or the material or plant to be supplied.
23. Every application to the Engineer for a certificate must be accompanied by a detailed invoice (in duplicate) setting forth in the order of schedule of prices particulars of the plant supplied and the certificates as to such Plant, as is, in the reasonable opinion of the Engineer. in accordance with the contract shall be issued within fourteen days of the application for the same. The Engineer may, by any certificate, make any correction or modification in any previous certificate which shall have been issued by him and payments shall be regulated and adjusted accordingly.
24. **CERTIFICATE NOT TO EFFECT RIGHTS OF THE PURCHASE CONTRACTOR:** No certificate of the Engineer on account, nor any sum paid on account by the purchaser, nor any extension of time granted under clause 26 shall affect or prejudice the rights of the purchaser, against the contractor either under this agreement or under the law, or relieve the contractor of his obligations for the due performance of the contract or be interpreted as approval of the plant manufactured or supplied and no certificate of the Engineer shall create liability on the purchaser to pay for any alteration amendments, variations or additions not ordered in writing or by the Engineer or absolve the contractor of his liability for the payment of damages whether due, ascertained or certified or not or of any sum against the payment of which he is bound to indemnify the purchaser, nor shall any such certificate nor the acceptance by him of any sum paid on account or otherwise effect or prejudice the rights of the contractor against the purchaser either under this agreement or under the law.
25. **SUSPENSION OF WORK:** The purchaser shall pay to the contractor all reasonable expenses. Incurred by the contractor by reason of suspension of the manufacturer of plant or delay in

shipment by order in writing of the purchaser or the Engineer unless such suspension or delay shall be due to some default on the part of contractor or sub-contractor.

26. EXTENSION OF TIME FOR COMPLETION : The time given to contractor for dispatch or delivery shall be reckoned from the date of receipt by contractor of the order, together with all necessary information and drawings to enable the work to be put in hand. In all cases, in which progress shall be delayed by strikes, lockouts, fire accidents, defective materials, delay in approval of drawings or any cause whatsoever beyond the reasonable control of the contractor and whether such delay or impediment shall occur before or after the time or extended time for dispatch or delivery, a reasonable extension of time shall be granted.
27. PRICE REDUCTION CLAUSE: If the contractor shall fail in the due performance of his contract within the time fixed by the contract or any extension thereof the contractor agrees to accept a reduction of the contract price by half percent per week reckoned on the contract value of such portion only of the plant as cannot, in consequence of the delay be used commercially and efficiently during each week between the appointed or extended time as the case may be and the actual time of acceptance under clause 29 and such reduction shall be in full satisfaction of the contractor's liability for delay, but shall not in any case exceed 10% of the contract value of such portion of plant.
28. REJECTION OF DEFECTIVE PLANT: If the completed plant or any portion thereof before it is taken over under clause 29, be found to be defective or fails to fulfil the requirements of the contract, the Engineer shall give the Contractor notice setting forth particulars of such defects or failure and the contractor shall forthwith make the defective plant good or alter the same to make it comply with the requirements of contract. If the contractor fails to do so within a reasonable time, the purchaser may reject and replace, at the cost of the contractor, the whole or any portion of the plant, as the case may be, which is defective or fails to fulfil the requirement of the contract. Such replacement shall be carried out by the purchaser within a reasonable time and at a reasonable price and where reasonably possible to the same specification and under competitive conditions. In case of such replacement by the purchaser the contractor shall be liable to pay to the purchaser the extra cost, if any, such replacement and or erected as provided for in the original contract, such extra cost being the ascertained difference between the price paid by the purchaser, under the provision above mentioned, for such replacement and the contract price for the plant, so replaced, and also to repay any sum paid by the purchaser to the contractor, in respect of such defective plant. If the purchaser does not so replace the rejected plant within a reasonable time, the contractor shall be liable only to be repay to the purchaser all moneys paid by the purchaser to him in respect of such plant.

In the event of such rejection, the purchaser shall be entitled to the use of the plant in a reasonable and proper manner for a time reasonably sufficient to enable him to obtain other replacement plant. During the period the rejected plant is used commercially the contractor shall be entitled to a reasonable sum as payment for such use.
29. TAKING OVER: Where the specification calls for performance test before shipment and these have been successfully carried out, the plant shall be accepted and taken over and the Engineer shall notify the contractor to the effect. When specification calls for tests on site the plant shall be taken over immediately after such tests have been satisfactorily carried out and the Engineer shall notify the contractor to that effect.
Such notification shall not be unreasonably withheld, nor shall the Engineer delay giving such notification on account of minor omissions and defects, which does not necessarily delay shipment nor effect the commercial use of plant without any serious risk, PROVIDED ALWAYS that the contractor undertakes to make good such omissions and defects at the earliest possible moment.
30. MAINTENANCE: For a period of 12 (twelve) calendar months commencing immediately upon the

setting to work of the plant or 18 months from the date of receipt of equipment by the purchaser at site, whichever is earlier, called the "maintenance period". The contractor shall remain liable to replace any defective parts that may develop in plants of his own manufacture or those of his sub-contractor approved under clause 6, under conditions provided for by the contract under proper use arising, solely from faulty design, materials or workmanship; PROVIDED ALWAYS that such defective parts as are not repairable at site and are not essential in the meantime to the maintenance in commercial use of the plant, are promptly returned to the contractor's works at the expenses of the contractor unless otherwise arranged.

If it becomes necessary for the contractor to replace or renew any defective parts of the plant under this clause, the provisions of the first paragraph of this clause shall apply to the part of the plant so replaced to renewed until the expiration of six months from the date of such replacement or renewal or until the end of the above mentioned period of twelve months whichever may be the later.

If any defect be not remedied within a reasonable time, the purchaser may proceed to do the work at the contractor's risk and expense, but without prejudice to any other rights which the purchaser may have against contractor in respect of such defect.

The repaired or new parts will be delivered in accordance with clause 10. The contractor shall bear reasonable cost of minor repairs carried out on his behalf at site.

At the end of the maintenance period the contractor's liability shall cease. In respect of goods not covered by the first paragraph of this clause the purchaser shall be entitled to the benefit of any guarantee given to the contractor by the original supplier or manufacturer of such goods.

31. **ARBITRATION:** If any dispute, difference or controversy shall at any time arise between the contractor on the one hand and this U.P, Rajya Vidyut Utpadan Nigam Ltd. and the Engineer of the contract or the other touching, the contract or as to the true construction, meaning and intent or any part or condition of or payment for the same, or as to the true intent, meaning, interpretation, construction or effect of the clauses of the contract, specifications or drawings or any of them, or as to anything to be done, committed or suffered in pursuance of the contract or specifications or as to the mode of carrying the contract in to effect or as to the breach of alleged breach, or as to obviating compensating for the commission of any such breach or as to any other matter or thing, whatsoever, connected with or arising out of the contract, and whether before or during the progress or after the completion of the contract, such question, difference or dispute shall be referred for ad jurisdiction to the C.M.D., Uttar Pradesh Rajya

Vidyut Utpadan Nigam Ltd. or to any other person nominated by him in this behalf and his decision in writing shall be final, binding and conclusive. The submission shall be deemed to be a submission to arbitration within the meaning of the Indian Arbitration Act, 1940, or any statutory modification thereof. The Arbitrator may, from time to time, with consent of the parties enlarge the time for marking and publishing the award. Upon every or any such reference, the cost of, and incidental to the reference and award respectively, shall be in the discretion of the arbitrator, who shall be competent to determine the amount thereof or direct the same to be taxed as between solicitor and client or as between parties and to direct by whom and to whom and in what manner the same shall be borne and paid.

Work under the contract shall, if reasonable, possible, continue during the arbitration proceedings and no payments due to payable by the Nigam shall be withheld on account of such proceedings.

32. **CONSTRUCTION OF CONTRACT:** The contract shall in all respect be construed and operate as a construction of contract as defined in the Indian Contract Act, 1872, and contract all payments there under shall be made in rupees unless otherwise specified.
33. **MARGINAL NOTES:** The marginal note to any clause of this contract shall not affect or control the construction of such clause.

(DILIP KUMAR JAIN)
Superintending Engineer
MMC, HTPS, Kasimpur

-----END OF THE TENDER DOCUMENT-----

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High Court of Judicature at Allahabad

DISPOSED

Case Status - WRIT - C (WRIC)-[34248/2024]

[Diary/Token No.: 187590102024]

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Filing No.	CIVIL12/210096/2024	Filing Date : 03-10-2024
CNR	UPHC055357822024	Date of Registration : 05-10-2024

Case Status

First Hearing Date	17th October 2024
Date of Decision	18th April 2025
Case Status	Case Disposed
Nature of Disposal	Dismissed on Merits
Coram	HON'BLE JUSTICE SHEKHAR B. SARAF/HON'BLE JUSTICE VIPIN CHANDRA DIXIT
Bench Type	Division Bench
Causelist Type	Fresh List
State	UTTAR PRADESH
District	ALIGARH

Petitioner/Respondent and their Advocate(s)

Petitioner	Respondent
1. M/S RAJAN CONSTRUCTION COMPANY Advocate - SATYENDRA CHANDRA TRIPATHI(A/S0630/2012),SHIV POOJAN YADAV(A/S0752/2017)	1. State of UP AND 2 OTHERS Advocate - SHAID KHAN(A/S0716/2012),SHISHIR PRAKASH(A/S2482/2013),C.S.C. (CSC/2012)

Category Details

Category	WRIT PETITION RELATING TO PUBLIC SECTOR UNDERTAKINGS (222900)
Sub Category	MISCELLANEOUS (222990)

IA Details

Application(s) Number	Party	Date of Filing	Next / Disposal Date	IA Status
IA/1/2024 Classification :Stay Application	M/S RAJAN CONSTRUCTION COMPANY Vs State of UP AND 2 OTHERS Applied by (Advocate) :SHIV POOJAN YADAV	05-10-2024		Pending
IA/2/2025 Classification :Counter Affidavit	M/S RAJAN CONSTRUCTION COMPANY Vs State of UP AND 2 OTHERS Applied by (Advocate) :SHISHIR PRAKASH	01-04-2025		Pending

Listing History

Cause List Type	Hon'ble Mr./Ms./Dr. Justice In chamber of Registrar(s)/Jt. Registrar(s)	Hon'ble Court/Serial No.	Listing Date	Short Order
Additional/Unlisted List-1	HON'BLE JUSTICE SHEKHAR B. SARAF/HON'BLE JUSTICE VIPIN CHANDRA DIXIT	CL:40 , Sl.:1	18-04-2025	
Fresh List	HON'BLE JUSTICE SHEKHAR B. SARAF/HON'BLE JUSTICE VIPIN CHANDRA DIXIT	CL:40 , Sl.:13	07-04-2025	Judgment Reserved
Fresh List	HON'BLE JUSTICE SHEKHAR B. SARAF/HON'BLE JUSTICE VIPIN CHANDRA DIXIT	CL:40 , Sl.:5	01-04-2025	Date Fixed ,Top Ten Cases
Fresh List	HON'BLE JUSTICE SHEKHAR B. SARAF/HON'BLE JUSTICE VIPIN CHANDRA DIXIT	CL:40 , Sl.:44	24-03-2025	PO
Fresh List	HON'BLE JUSTICE SHEKHAR B. SARAF/HON'BLE JUSTICE KSHITIJ SHAILENDRA	CL:40 , Sl.:19	17-03-2025	PO
Fresh List	HON'BLE JUSTICE SHEKHAR B. SARAF/HON'BLE JUSTICE VIPIN CHANDRA DIXIT	CL:40 , Sl.:10	10-03-2025	Date Fixed ,Top Ten Cases
Fresh List	HON'BLE JUSTICE SHEKHAR B. SARAF/HON'BLE JUSTICE VIPIN CHANDRA DIXIT		28-02-2025	Date Fixed ,Top Ten Cases
Fresh List	HON'BLE JUSTICE SHEKHAR B. SARAF/HON'BLE JUSTICE VIPIN CHANDRA DIXIT		20-02-2025	PO
Transferred Fresh List	HON'BLE JUSTICE SHEKHAR B. SARAF/HON'BLE JUSTICE KSHITIJ SHAILENDRA		20-01-2025	Date Fixed ,Top Ten Cases
Fresh List	HON'BLE JUSTICE SHEKHAR B. SARAF/HON'BLE JUSTICE VIPIN CHANDRA DIXIT		09-01-2025	PO
Transferred Fresh List	HON'BLE JUSTICE SHEKHAR B. SARAF/HON'BLE JUSTICE NAND PRABHA SHUKLA		20-12-2024	PO
Fresh List	HON'BLE JUSTICE SHEKHAR B. SARAF/HON'BLE JUSTICE VIPIN CHANDRA DIXIT		13-12-2024	PO
Fresh List	HON'BLE JUSTICE SHEKHAR B. SARAF/HON'BLE JUSTICE VIPIN CHANDRA DIXIT		06-12-2024	PO
Transferred Fresh List	HON'BLE JUSTICE VIVEK KUMAR BIRLA/HON'BLE JUSTICE Dr. Y. K. SRIVASTAVA		29-11-2024	PO
Transferred Fresh List	HON'BLE JUSTICE SHEKHAR B. SARAF/HON'BLE JUSTICE KSHITIJ SHAILENDRA		23-11-2024	PO
Fresh List	HON'BLE JUSTICE SHEKHAR B. SARAF/HON'BLE JUSTICE VIPIN CHANDRA DIXIT		14-11-2024	PO
Fresh List	HON'BLE JUSTICE SHEKHAR B. SARAF/HON'BLE JUSTICE VIPIN CHANDRA DIXIT		07-11-2024	PO
Transferred Fresh List	HON'BLE JUSTICE SHEKHAR B. SARAF/HON'BLE JUSTICE KSHITIJ SHAILENDRA		24-10-2024	PO
Fresh List	HON'BLE JUSTICE SHEKHAR B. SARAF/HON'BLE JUSTICE VIPIN CHANDRA DIXIT		17-10-2024	PO

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HIGH COURT OF JUDICATURE AT ALLAHABAD

Court No.40
Neutral Citation No. - 2025:AHC:57344-DB

**CORAM : HON'BLE SHEKHAR B. SARAF, J.
HON'BLE VIPIN CHANDRA DIXIT, J.**

WRIT-C NO. 34248 OF 2024

M/S RAJAN CONSTRUCTION COMPANY

V.

STATE OF U.P. AND ANOTHER

For the Petitioners : Mr. Satyendra Chandra Tripathi, Advocate
Mr. Shiv Poojan Yadav, Advocate

For the Respondents : Mr. Mukul Tripathi, Standing Counsel
Mr. Shad Khan, Advocate
Mr. Shishir Prakash, Advocate

Last heard on April 7, 2025
Pronounced on April 18, 2025

SHEKHAR B. SARAF, J.

1. The present writ petition has been filed under Article 226 of the Constitution of India, wherein the petitioner prays for the issuance of a writ of certiorari quashing the impugned E-Tender No. ET-60/ MMC/PD/ETPS/

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HTPS/2024 dated July 10, 2024 as amended on August 13, 2024 issued by Superintending Engineer, Material Management Circle (MMC), Harduaganj Thermal Power Station (HTPS), Uttar Pradesh Rajya Vidyut Utpadan Nigam Limited, Kasimpur, Aligarh (hereinafter referred to as 'respondent no.3') whereby the petitioner was restricted from participating in E-Tender. The petitioner further prays for a direction to respondent no.3 to invite a fresh tender for the supply of agro-based non-torrefied biomass pellets for coal handling plant at the aforementioned location and to permit the petitioner to participate in the tender process without imposing any pre-qualifying condition as mentioned in Clause 3(i) of the impugned E-Tender.

FACTS

2. The factual matrix of the present writ petition is delineated below:
 - a. The petitioner is a firm registered at District Ambedkar Nagar, Uttar Pradesh, engaged in small-scale business of supplying non-torrefied biomass pellets for coal handling plants.
 - b. On November 17, 2017 the Ministry of Power published a Standard Operating Procedure (SOP) regarding biomass utilization for power generation through co-firing in coal-based power plants. This was followed by an advisory dated November 24, 2017 wherein all State Power Secretaries, Thermal Power Generating Plants/ Utilities (Public or Private) along with the Managing Director of Uttar Pradesh Rajya Vidyut Utpadan Nigam Limited, Lucknow (hereinafter referred to as 'respondent no.2') were directed to utilize biomass pellets to the extent of 5-10%.
 - c. Subsequently, the said advisory was revised on October 8, 2021 further emphasizing biomass utilization for power generation through co-firing in coal based power plants.
 - d. On March 2, 2022 the Ministry of Power issued a Model Contract for the use of biomass in Thermal Power Plants

(TPPs) which was later revised on January 6, 2023.

- c. Clause 2(b) of the aforementioned Model Contract provides that the power stations situated within 300 km of National Capital Region (NCR) must use a minimum 50% raw materials consisting of stubble/straw/crop residue from rice paddy sourced exclusively from Punjab, Haryana or NCR region.
- f. On July 11, 2023, Ministry of Environment, Forest and Climate Change notified the Environment (Utilisation of Crop residue by Thermal Power Plants) Rules, 2023 which are applicable to the NCR region. These rules mandate that all coal-based thermal power plants must utilize a minimum five percent blend of pellets or briquettes made from crop residue along with coal.
- g. On July 10, 2024, respondent no.3 under the control of the Uttar Pradesh Rajya Vidyut Utpadan Nigam Ltd. floated an E-Tender (No. ET-60/MMC/PD/ETPS/HTPS/2024), inviting bids for the supply of non-torrefied biomass pellets, a renewable fuel source promoted by the Central Government to reduce pollution and encourage cleaner energy in thermal power plants and the said E-Tender was amended on August 13, 2024.
- h. However, the tender documents contained a restrictive Clause 3(i) as a pre-qualifying condition, which mandated that only existing manufacturers in the NCR region or those whose manufacturing plants are located within 100 km from the Truck Gate (Material Entry Gate), Harduaganj Thermal Power Station, Kasimpur, Aligarh are eligible to participate in the tender. Bidders were required to confirm compliance with this condition in Part-I, that is, technical bid of the tender.
- i. The technical bids wherein the confirmation of the impugned restrictive clause was mandatory were opened on September 12, 2024.

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- j. Subsequently, on October 8, 2024, Ministry of Power, Government of India, has issued a notification concerning significant shortfall in biomass co-firing monthly targets, wherein immediate action was required from the Head of all the thermal power plants to mitigate air pollution caused due to stubble burning in the NCR region by achieving the stipulated mandate for co-firing of biomass pellets in each thermal power plants.
- k. Thereafter, the financial bids were opened on November 13, 2024 and twelve firms were selected for the supply of agro-based non-torrefied biomass pellets.
- l. The petitioner's firm situated at District Ambedkar Nagar in Uttar Pradesh was excluded from participating due to the restrictive clause mentioned in the tender documents.
- m. Aggrieved by the exclusionary condition under Clause 3(i) of the tender, the petitioner has approached this Court by means of the present writ petition.

CONTENTIONS OF PETITIONER

- 3. Learned counsel appearing on behalf of the petitioner has made the following submissions:
 - a. There exists no nexus between the objective of procuring raw materials from specific regions and location of manufacturing unit as required within a particular geographical area. The petitioner further emphasized that the restriction lacks any reasonable connection with the objective of the tender and merely serves to unfairly limit the competition.
 - b. The tender condition is in violation of Article 19 and Article 21 of the Constitution of India, as they restrict applicants to a specific location, particularly within the NCR region and are therefore, discriminatory, arbitrary and contrary to the

principles of natural justice.

- c. Clause 3(i) as a pre-qualifying condition in the tender document is wholly illegal, arbitrary and in gross violation of the right to equality under Article 14, the right to practice any profession or trade under Article 19(1)(g), and the freedom of trade and commerce across India under Article 301 of the Constitution of India.
- d. Article 14 of the Constitution of India mandates that the State shall not deny equality before law or equal protection of laws. By imposing such a restrictive condition, the respondent authority being an instrumentality of the State has discriminated against the petitioner in the E-Tendering process.
- e. Article 19(1)(g) of the Constitution of India guarantees all its citizens the right to practice any profession or to carry on any occupation, trade or business. However, this right is subject to reasonable restrictions under Article 19(6) of the Constitution of India and must be justified in the interest of the general public.
- f. Clause 3(i) as a pre-qualifying condition is not based on any *intelligible differentia*. It lacks substantial reasoning or justification as to how it serves public interest and effectively excludes many capable suppliers from other parts of the State from participating in the tender process.
- g. Despite possessing all necessary registrations, technical capabilities, and willingness to comply with Government guidelines including the requirement of sourcing 50% raw materials as stubble, straw or crop residue of rice paddy from Punjab, Haryana, or NCR region, the petitioner was disqualified solely due to their location falling outside the arbitrary 100 km radius.

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- h. The Central Government through a circular dated January 6, 2023, issued a revised Model Contract which does not impose such a restriction. Therefore, the restriction under Clause 3(i) of the impugned E-Tender is in gross violation of the said circular and contradicts the spirit and intent of various Central Government policies.
- i. The Ministry of Power, through its Model Contract and other advisories, has consistently emphasized promoting the use of biomass to combat air pollution, particularly that is caused by stubble burning in the northern states. However, none of these guidelines prescribe a territorial restriction on who may supply the biomass fuel. In case of any repugnancy between Central and State guidelines, the Central guidelines must prevail. Consequently, the tender floated by the State Government must conform to the Central policies.
- j. The petitioner is left with no alternative remedy except to approach this Court against the arbitrary actions of the respondent authorities.
- k. To buttress his arguments, counsel has placed reliance upon the judgments in **Engineering Kamgar Union v. Electro Steels Castings Ltd. and another** reported in (2004) 6 SCC 36; **Association of UPS and Power Conditioning Systems Manufacturer v. Society of Applied Microwave Electronics Engineering and Research (Sameer) & Ors.** reported in 2002 (65) DRJ 678 ; **Ramana Dayaram Shetty v. International Airport Authority of India and Others** reported in (1979) 3 SCC 489 and **Rashbihari Panda v. State of Orissa** reported in (1969) 1 SCC 414.

CONTENTIONS OF THE RESPONDENT

- 4. Learned counsel appearing on behalf of the respondents has made the

following submissions:

- a. The clause in question imposes certain restrictions aimed at addressing the significant issue of air pollution in the NCR region which is primarily caused by the widespread practice of farm stubble burning. This environmental regulation has been introduced with the objective of reducing the carbon footprints associated with thermal power generation, particularly in the NCR region, where air quality has been a persistent concern.
- b. In this context, the impugned E-Tender was issued with the specific purpose of mitigating environmental pollution in the NCR region by promoting the use of biomass pellets, thereby offering a sustainable alternative to the conventional disposal of agricultural residue through burning. The ultimate aim of the tender is to support eco-friendly initiatives that contribute to cleaner air and align with the broader goals of environmental protection and climate change mitigation.
- c. The clause in question is in consonance with the draft notification dated July 11, 2023, issued by Ministry of Environment, Forest and Climate Change whereby the Environment (Utilisation of Crop residue by Thermal Power Plants) Rules, 2023 directed the thermal power plants to use crop residue in NCR region to reduce air pollution caused by stubble burning.
- d. The tender condition is also in consonance and purposely made to mitigate air pollution caused due to stubble burning in the NCR region as directed vide notification dated October 8, 2024, issued by the Ministry of Power, Government of India concerning significant shortfall in biomass co-firing monthly targets.
- e. It is pertinent to note that the petitioner was not found to be

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technically qualified during the bid evaluation process. Following this, the contract was awarded and executed between Uttar Pradesh Rajya Vidyut Utpadan Nigam Limited and twelve successful manufacturers. These manufacturers have already commenced the supply of biomass pellets to the designated thermal power plant, and such supply has been ongoing for over a month.

- f. To buttress his arguments, counsel has placed reliance upon judgments in **Tata Cellular v. Union of India** reported in (1994) 6 SCC 651 ; **Caretel Infotech Ltd. v. Hindustan Petroleum Corpn. Ltd.** reported in (2019) 14 SCC 81 ; **Silppi Constructions Contractors v. Union of India** reported in (2020) 16 SCC 489 ; **Montecarlo Ltd. v. NTPC Ltd.** reported in (2016) 15 SCC 272 ; **Agmatel India (P) Ltd. v. Resoursys Telecom** reported in (2022) 5 SCC 362; **Balaji Ventures (P) Ltd. v. Maharashtra State Power Generation Co. Ltd.** reported in 2022 SCC OnLine SC 1967; **N.G. Projects Ltd. v. Vinod Kumar Jain** reported in (2022) 6 SCC 127 ; **Airport Authority of India v. Centre for Aviation Policy, Safety & Research (CAPSR)** reported in 2022 SCC OnLine SC 1334.

ANALYSIS

5. We have considered the rival submissions and have perused the materials placed on record.
6. Before delving into the rival contentions canvassed by both the sides, it is necessary to examine Clause 3(i) as a pre-qualifying condition of the E-Tender dated July 10, 2024. The said clause in verbatim is as follows:

"(1) Only Existing Pellets manufacturers having their Manufacturing Plant location in NCR region only shall be allowed to participate in the tender. Every bidder shall confirm the same in Part-I of the Tender Only".

7. Subsequently, the said tender was amended on August 13, 2024. The

amended clause in verbatim is as follows:

"1. Only Existing Pellets manufacturers having their Manufacturing Plant location in NCR region shall be allowed to participate in the tender. Every bidder shall confirm the same in Part-I of the Tender Only.

OR

2. Only those manufacturers whose manufacturing plant location is within the radius of 100 Km from Truck Gate (Material Entry Gate), Harduaganj Thermal Power station, Kasimpur Aligarh shall also be allowed to participate in the tender. Every bidder shall confirm the same in Part-I of the Tender Only

Note: For measurement of Km (Kilometer) from Truck Gate (Material Entry Gate), Harduaganj Thermal Power station, Kasimpur Aligarh to the manufacturing plant location, Google Map shall be applicable only."

8. Clause 2(b) of the Technical Specification in the tender documents mandates the manufacturers to purchase raw materials for manufacturing pellets only from Punjab, Haryana or National Capital Region (NCR). The said clause in verbatim is as follows:

"Since Harduaganj Thermal Power Station is within 300 km of NCR, use of minimum 50% raw material as stubble/straw/crop residue of rice paddy sourced from Punjab, Haryana or National Capital Region only is mandatory. Successful Bidder has to submit documentary evidence in the form of Certificate from State Authority from where the paddy straw has been sourced/ any amendment regarding this by SAMARTH (if any) may be incorporated from time to time."

9. The Standard Operating Procedure (SOP) for biomass pellets co-firing published by the Ministry of Power, Government of India on November 17, 2017, highlights the need, advantages and impact of utilization of biomass in coal-based power plants. It also directs the development of site-specific SOPs based on the Model SOP.

10. The Ministry of Power subsequently issued an advisory dated November 24, 2017, to all State Power Secretaries, addressing smog in North-West India caused by stubble burning. The relevant paragraphs of the advisory in verbatim are as follows:

"As you may be aware that stubble burning has been cited as a major cause of recent smog in North-West India. Stubble burning is been cited as a major the straw stubble that remains after harvesting of paddy and other crops. Instead of burning in open fields, these can be collected, processed and can be used as Biomass fuel to generate power.

Biomass Co-firing is a well proven technology. With increasing environmental awareness, power plants all over the world have adopted Biomass Co-firing as a strategy to combat pollution. UNFCCC recognizes Biomass Co-firing as a carbon neutral technology for mitigation of carbon emission from coal based power plants.

NTPC have successfully demonstrated the Co-firing of 7% blend of Biomass pellets with coal in its Dadri Power Plant. This can be replicated in other coal fired power plants having bowl mills/vertical roller mills/ beater mills."

11. The aforementioned advisory was later revised on October 8, 2021, specifically for coal-based power plants. The relevant paragraph of the advisory in verbatim is as follows:

"(1). All coal based thermal power plants of power generation utilities with bowl mill, shall on annual basis mandatorily use 5 percent blend of biomass pellets made, primarily, of agro residue along with coal with effect from one year of the date of issue of this guideline. The obligation shall increase to 7 percent with effect from two years after the date of issue of this order and thereafter."

12. The Revised Model Contract dated January 6, 2023, for the use of biomass in thermal power plants mandated the purchase of stubble from specific regions. The relevant paragraph from the aforesaid Model Contract in verbatim is as follows:

" For power stations within 300 km of NCR use of minimum 50% raw material as stubble/straw/crop residue of rice paddy sourced from Punjab, Haryana or NCR Region only is mandatory. Successful Bidder has to submit documentary evidence in the form of Certificate from State Authority from where the paddy straw has been sourced."

13. The submissions canvassed by the learned counsel for the petitioner is mainly two-fold. Firstly, there is allegedly no nexus between the requirement to procure biomass from specific regions and the location of

manufacturing units within a defined geographical area. Secondly, the guidelines issued by the Central Government regarding biomass utilization do not impose such stringent territorial restrictions. Thus, in the event of any inconsistency, the Central Government's guidelines should prevail over the State's tender conditions.

14. Per contra, the learned counsel appearing for respondents submitted that although Article 19(1)(g) and Article 301 of the Constitution of India, guarantees the right to carry profession, trade, occupation or business to all its citizens throughout the country but this right is subject to reasonable restrictions in the public interest. The primary objective behind the restrictive clause is mainly to reduce air pollution, a concern repeatedly addressed by the Hon'ble Supreme Court and the Central Government through its various guidelines in view of the persistent obnoxious environmental condition of NCR region. The clause limits participation to local manufacturers, ensuring they source biomass from Punjab, Haryana or NCR region. This directly reduces the availability of stubble for open burning by farmers in these regions, thereby addressing the root cause of the pollution. Thus, there exists a rational nexus between sourcing biomass from specified regions and locating manufacturing units nearby. The pre-qualification condition imposed by the State in the tender is accordingly, reasonable and serves a legitimate purpose.

15. The tender in question was floated for the supply of agro-based non-torrefied biomass pellets to Harduaganj Thermal Power Station in Aligarh. Non-torrefied biomass pellets are made from agro-based residue without undergoing torrefaction (a process to transform biomass into coal-like material). Biomass including wood, crops, seaweed, stubble, and animal waste, is an organic matter which contains stored energy from the Sun. Historically used for heating and cooking, biomass is now being traversed by large-scale energy production. Stubble, a residual product after harvesting of crops, is often burnt by farmers to quickly clear fields and make it ready for the next sowing. This practice results in severe air pollution releasing

large amounts of unburnt carbon along with ashes which reduces soil fertility. Through torrefaction and densification (pelletisation or briquetting), biomass becomes more suitable for transport and storage. When used as fuel in coal-based power plants, biomass pellets combust more efficiently, and their ashes is captured by electrostatic precipitators, thereby reducing the pollution. Co-firing biomass with coal significantly reduces greenhouse gas emissions. Recognized by the United Nations Framework Convention on Climate Change (UNFCCC) as a carbon-neutral practice, this method allows carbon released during biomass combustion to be absorbed in the next crop cycle via photosynthesis. Moreover, emissions from processing and transporting biomass are negligible as compared to the resulting carbon emissions from its utilization in large coal-based power plants. Biomass co-firing thus presents a viable path towards a cleaner environment.

16. Additionally, utilization of agro-based residue pellets in thermal power plants lowers carbon emissions and mitigates air pollution caused by manual stubble burning, which emits huge amounts of unburnt carbon, ashes, Sulphur and Mercury. Biomass also has a higher oxygen content compared to coal.

17. In a celebrated case of **Tata Cellular v. Union of India (Supra)**, the Supreme Court had laid down significant principles regarding judicial review of administrative decisions, particularly emphasizing the concept of judicial restraint. The Court emphasized that judicial review is concerned with the decision-making process, not the decision itself. It emphasized that Courts should not act as appellate authorities over administrative decisions and must not substitute their own judgment for that of the authority. The relevant paragraphs of the judgment are quoted hereinbelow:

"70. It cannot be denied that the principles of judicial review would apply to the exercise of contractual powers by Government bodies in order to prevent arbitrariness or favouritism. However, it must be clearly stated that there are inherent limitations in exercise of that power of judicial review. Government is the guardian of the finances of the State. It is expected to protect the financial interest of the State. The right to refuse the lowest or any other tender is always

available to the Government. But, the principles laid down in Article 14 of the Constitution have to be kept in view while accepting or refusing a tender. There can be no question of infringement of Article 14 if the Government tries to get the best person or the best quotation. The right to choose cannot be considered to be an arbitrary power. Of course, if the said power is exercised for any collateral purpose the exercise of that power will be struck down.

94. The principles deducible from the above are:

(1) The modern trend points to judicial restraint in administrative action.

(2) The court does not sit as a court of appeal but merely reviews the manner in which the decision was made.

(3) The court does not have the expertise to correct the administrative decision. If a review of the administrative decision is permitted it will be substituting its own decision, without the necessary expertise which itself may be fallible.

(4) The terms of the invitation to tender cannot be open to judicial scrutiny because the invitation to tender is in the realm of contract. Normally speaking, the decision to accept the tender or award the contract is reached by process of negotiations through several tiers. More often than not, such decisions are made qualitatively by experts.

(5) The Government must have freedom of contract. In other words, a fair play in the joints is a necessary concomitant for an administrative body functioning in an administrative sphere or quasi-administrative sphere. However, the decision must not only be tested by the application of Wednesbury principle of reasonableness (including its other facts pointed out above) but must be free from arbitrariness not affected by bias or actuated by mala fides.

(6) Quashing decisions may impose heavy administrative burden on the administration and lead to increased and unbudgeted expenditure.

Based on these principles we will examine the facts of this case since they commend to us as the correct principles."

18. In **Reliance Energy Ltd. v. Maharashtra State Road Development Corpn. Ltd.** reported in (2007) 8 SCC 1, the Supreme Court held that necessary conditions in the contract have to satisfy the test of 'reasonableness'. The relevant paragraph of the judgment is quoted hereinbelow:

"36. We find merit in this civil appeal. Standards applied by courts in judicial review must be justified by constitutional principles which govern the proper exercise of public power in a democracy. Article 14 of the Constitution embodies the principle of "non-discrimination". However, it is not a free-standing provision. It has to be read in conjunction with rights conferred by other articles like Article 21 of the Constitution. The said Article 21 refers to "right to life". It includes "opportunity". In our view, as held in the latest judgment of the Constitution Bench of nine Judges in I.R. Coelho v. State of T.N. [(2007) 2 SCC 1] , Articles 21/14 are the heart of the chapter on fundamental rights. They cover various aspects of life. "Level playing field" is an important concept while construing Article 19(1)(g) of the Constitution. It is this doctrine which is invoked by rel/hdec in the present case. When Article 19(1)(g) confers fundamental right to carry on business to a company, it is entitled to invoke the said doctrine of "level playing field". We may clarify that this doctrine is, however, subject to public interest. In the world of globalisation, competition is an important factor to be kept in mind. The doctrine of "level playing field" is an important doctrine which is embodied in Article 19(1)(g) of the Constitution. This is because the said doctrine provides space within which equally placed competitors are allowed to bid so as to subserve the larger public interest. "Globalisation", in essence, is liberalisation of trade. Today India has dismantled licence raj. The economic reforms introduced after 1992 have brought in the concept of "globalisation". Decisions or acts which result in unequal and discriminatory treatment, would violate the doctrine of "level playing field" embodied in Article 19(1)(g). Time has come, therefore, to say that Article 14 which refers to the principle of "equality" should not be read as a stand alone item but it should be read in conjunction with Article 21 which embodies several aspects of life. There is one more aspect which needs to be mentioned in the matter of implementation of the aforesaid doctrine of "level playing field". According to Lord Goldsmith, commitment to the "rule of law" is the heart of parliamentary democracy. One of the important elements of the "rule of law" is legal certainty. Article 14 applies to government policies and if the policy or act of the Government, even in contractual matters, fails to satisfy the test of "reasonableness", then such an act or decision would be unconstitutional."

19. In the case of **Maa Binda Express Carrier v. North-East Frontier Railway** reported in (2014) 3 SCC 760, the Apex Court held that although fairness and transparency are essential in public procurement, administrative

authorities must be granted the necessary autonomy to make decisions that best serves the public interest. The relevant paragraphs of the judgment are quoted hereinbelow:

"8. The scope of judicial review in matters relating to award of contracts by the State and its instrumentalities is settled by a long line of decisions of this Court. While these decisions clearly recognise that power exercised by the Government and its instrumentalities in regard to allotment of contract is subject to judicial review at the instance of an aggrieved party, submission of a tender in response to a notice inviting such tenders is no more than making an offer which the State or its agencies are under no obligation to accept. The bidders participating in the tender process cannot, therefore, insist that their tenders should be accepted simply because a given tender is the highest or lowest depending upon whether the contract is for sale of public property or for execution of works on behalf of the Government. All that participating bidders are entitled to is a fair, equal and non-discriminatory treatment in the matter of evaluation of their tenders. It is also fairly well settled that award of a contract is essentially a commercial transaction which must be determined on the basis of consideration that are relevant to such commercial decision. This implies that terms subject to which tenders are invited are not open to the judicial scrutiny unless it is found that the same have been tailor-made to benefit any particular tenderer or class of tenderers. So also, the authority inviting tenders can enter into negotiations or grant relaxation for bona fide and cogent reasons provided such relaxation is permissible under the terms governing the tender process.

9. Suffice it to say that in the matter of award of contracts the Government and its agencies have to act reasonably and fairly at all points of time. To that extent the tenderer has an enforceable right in the court which is competent to examine whether the aggrieved party has been treated unfairly or discriminated against to the detriment of public interest. (See Meerut Development Authority v. Assn. of Management Studies [(2009) 6 SCC 171 : (2009) 2 SCC (Civ) 803] and Air India Ltd. v. Cochin International Airport Ltd. [(2000) 2 SCC 617 : (2000) 1 SCR 505])"

(Emphasis Supplied)

20. The Supreme Court in **Afcons Infrastructure Ltd. v. Nagpur Metro Rail Corpn. Ltd.** (Supra), has held that the interpretation of terms and conditions of tender by the project owner or the employer should be

respected, unless it is arbitrary or *mala fide*. The owner is best positioned to understand its requirements, and thus, its interpretation should not be second-guessed by a court in judicial review proceedings. This case reinforces the limited scope of judicial intervention in administrative decisions, highlighting the discretion of the tendering authority and its expertise in relation to formulate the terms and conditions of the tender. The relevant paragraph of the judgment is quoted hereinbelow:

"15. We may add that the owner or the employer of a project, having authored the tender documents, is the best person to understand and appreciate its requirements and interpret its documents. The constitutional courts must defer to this understanding and appreciation of the tender documents, unless there is mala fide or perversity in the understanding or appreciation or in the application of the terms of the tender conditions. It is possible that the owner or employer of a project may give an interpretation to the tender documents that is not acceptable to the constitutional courts but that by itself is not a reason for interfering with the interpretation given."

21. In **Silppi Constructions Contractors v. Union of India** (Supra), the Supreme Court citing precedents like *Tata Cellular* (Supra), *Afcons Infrastructure Ltd.* (Supra), *Air India Ltd.* (Supra), *Raunaq International Ltd.* (Supra) amongst others, reiterated that the evaluation of tenders falls within the exclusive domain of the tendering authority, and the Courts should refrain from substituting their judgment with that of authority unless there is a clear violation of constitutional or legal provisions. The decision reinforces the principle that administrative authorities have the discretion to assess and decide on tender matters, and judicial interference is warranted only in exceptional circumstances where the decision-making process is flawed. The relevant paragraphs of the judgment are quoted hereinbelow:

"8. In Raunaq International Ltd. v. I.V.R. Construction Ltd. [Raunaq International Ltd. v. I.V.R. Construction Ltd., (1999) 1 SCC 492], this Court held that the superior courts should not interfere in matters of tenders unless substantial public interest was involved or the transaction was mala fide.

9. In Air India Ltd. v. Cochin International Airport Ltd. [Air India Ltd. v. Cochin International Airport Ltd., (2000) 2 SCC 617], this

Court once again stressed the need for overwhelming public interest to justify judicial intervention in contracts involving the State and its instrumentalities. It was held that the courts must proceed with great caution while exercising their discretionary powers and should exercise these powers only in furtherance of public interest and not merely on making out a legal point.

11. In Master Marine Services (P) Ltd. v. Metcalfe & Hodgkinson (P) Ltd. [Master Marine Services (P) Ltd. v. Metcalfe & Hodgkinson (P) Ltd., (2005) 6 SCC 138] it was held that while exercising power of judicial review in respect of contracts, the court should concern itself primarily with the question, whether there has been any infirmity in the decision-making process. By way of judicial review, the court cannot examine details of terms of contract which have been entered into by public bodies or the State.

14. In Michigan Rubber (India) Ltd. v. State of Karnataka [Michigan Rubber (India) Ltd. v. State of Karnataka, (2012) 8 SCC 216] it was held that if the State or its instrumentalities acted reasonably, fairly and in public interest in awarding contract, interference by court would be very restrictive since no person could claim fundamental right to carry on business with the Government. Therefore, the courts would not normally interfere in policy decisions and in matters challenging award of contract by the State or public authorities.

15. In Afcons Infrastructure Ltd. v. Nagpur Metro Rail Corpn. Ltd. [Afcons Infrastructure Ltd. v. Nagpur Metro Rail Corpn. Ltd., (2016) 16 SCC 818] it was held that a mere disagreement with the decision-making process or the decision of the administrative authority is no reason for a constitutional court to interfere. The threshold of mala fides, intention to favour someone or arbitrariness, irrationality or perversity must be met before the constitutional court interferes with the decision-making process or the decision. The owner or the employer of a project, having authored the tender documents, is the best person to understand and appreciate its requirements and interpret its documents. It is possible that the owner or employer of a project may give an interpretation to the tender documents that is not acceptable to the constitutional courts but that by itself is not a reason for interfering with the interpretation given.

17. In Municipal Corpn., Ujjain v. BVG (India) Ltd. [Municipal

Corpn., Ujjain v. BVG (India) Ltd., (2018) 5 SCC 462 : (2018) 3 SCC (Civ) 291] it was held that the authority concerned is in the best position to find out the best person or the best quotation depending on the work to be entrusted under the contract. The court cannot compel the authority to choose such undeserving person/company to carry out the work. Poor quality of work or goods can lead to tremendous public hardship and substantial financial outlay either in correcting mistakes or in rectifying defects or even at times in redoing the entire work.

(Emphasis Supplied)

22. Upon a perusal of the umpteen judgments cited by both the parties and sifting through the ratios laid down by the Apex Court in the various judgments, it emerges that Courts can scrutinize the award of contracts by Government or its agencies in exercise of its power of judicial review to prevent arbitrariness or favouritism, but there are inherent limitations in the exercise of such power. It becomes crystal clear that conventionally the Writ Court does not intermeddle with the terms and conditions mentioned in the tender documents, unless, there is a *prima facie* arbitrariness, favouritism, irrationalism or perversity. After examining a *catena* of judgments cited before this Court, one may carve out the principles for judicial intervention in tender cases as follows:-

A. Emerging trend of globalisation and competition equates judicial review with judicial restraint in tender matters. The Writ Court does not act as a Court of appeal but merely reviews the *modus operandi* adopted by the tender making authority (either private or public) in arriving at a decision as it is not equipped with the expertise to correct the administrative decision. In arriving at a commercial decision considerations which are paramount are commercial consideration. The authority can choose its own method to arrive at a decision. If a review of administrative decision is permitted by Writ Court without necessary expertise, it will lead to manifest injustice. Principles of equity and natural justice would normally stay at a distance in tender matter, unless there is patent illegality.

B. The terms of the invitation to tender cannot be open to judicial

scrutiny because the invitation to tender equates with invitation to offer which is in the realm of contract. While scrutinizing the terms and conditions of the tender documents, one has to keep in mind that particular terms and conditions are framed by the tender making authorities in order to achieve a specific goal that would serve the purpose of the authority in the interest of general public, even though the conditions are at the cost of the interest of individual applicants. The *raison d'être* of tender conditions must not be unreasonable or perverse, but must serve a meaningful purpose.

C. Tender making authority must have the freedom of contract. In other words, a fair play in the joints is a necessary concomitant for an administrative body to perform its function in administrative sphere or quasi-administrative sphere and that freedom will not be curtailed unless it is detrimental to public interest.

D. Tender making authority is the best person to understand and appreciate its requirements and has the right to choose the best quotation as per its requirement. It is free to grant any relaxation or impose any restriction, for *bona fide* reasons. If the tender conditions permit such relaxation or restriction, it may not accept the offer even though it happens to be the highest or the lowest. A term is essential or not is a decision taken by the employer, which should be respected and soundness of that decision cannot be questioned by Writ Court. Reasonableness of restriction is to be determined in an objective manner from the standpoint of interests of the general public and not from the standpoint of the interest of persons upon whom the restrictions have been imposed or upon abstract consideration.

E. No person could claim a fundamental right to carry on business with the government. If the authority is exercising its right to choose in order to get the best person or the best quotation, there can be no question of infringement of fundamental rights. Article 14 read with Article 19(1)(g) of the Constitution of India embodies the principle of

non-discrimination in practising trade or business. However, this right is not absolute and is subject to restrictions imposed reasonably. The doctrine of level-playing field is an important concept embedded under Article 19(1)(g) of the Constitution of India, but is subject to public interest. The said doctrine provides space within which equally placed competitors are allowed to bid so as to subserve the larger public interest.

F. Quashing decisions may impose heavy administrative burden on the administration and lead to increased and unbudgeted expenditure.

23. In the present case, considering the hazardous environmental conditions in the NCR region, the respondent authority floated the tender with a pre-qualifying condition allowing only manufacturers located either in NCR region or within 100 km from the Truck Gate (main gate) of the power plant to participate in the tender process. This ensures that the raw materials are procured from nearby areas such as Punjab, Haryana and NCR region. If manufacturers from outside this region were permitted, they might source biomass from their local areas rather than the targeted regions, defeating the objective of reducing stubble burning in NCR adjacent agricultural zones. Thus, the restriction serves the specific environmental goal of curbing local pollution.

24. This Court is of the view that the impugned conditions are tailor-made and incorporated with a specific motive for public interest and no material has been placed on record to show as to how the petitioner has been targeted for their exclusion in the tender process. There is no material to show that the impugned condition is designed to favour a particular bidder. For want of necessary particulars, we are not inclined to accept the submissions of the learned counsel for the petitioner.

25. It is contended by the learned counsel for the respondents that there are twelve firms in the fray which were selected and they had also placed the order for supplying of pellets. This means that, there were bidders who were

interested in participating in the tender process and were also complying with the conditions of the tender of being manufacturers in close proximity as per the tender condition.

CONCLUSION

26. The tender condition is also in consonance with the policy of the Government. The purpose of incorporating such conditions can be clearly understood from the policy framed by the Government, followed by the advisory issued in this regard. The respondents, in its counter-affidavit, has also averred that the purpose behind incorporating such stringent clause as a pre-qualifying condition of the tender is the distressing environmental condition in the NCR region. This indicates that the *raison d'être* of imposition of a stringent condition, that is, allowing only the existing pellet manufacturers having their plant location in NCR region or within 100 km from the truck gate of the power station to participate in the tender process is to reduce stubble burning by farmers which is the persistent and root cause for air pollution in the NCR region.

(Emphasis Added)

27. Ergo, the restrictive condition in the tender cannot be considered to be arbitrary and discriminatory. It is within the wisdom and discretion of the employer to determine the conditions/clauses that are best suited for the work to be performed in the public interest.

28. In the present case, respondent no.3 floated a tender dated July 10, 2024 for supply of biomass pellets at Harduaganj Thermal Power Station. Clause 3(i) of the tender imposes restrictions on participants to keep a tight rein on persistent obnoxious air condition in the NCR region. This clause is also at consensus with the revised Model Contract dated January 6, 2023 issued by the Ministry of Power, Government of India. It is the prerogative of the respondents to frame the terms and conditions of the tender in accordance with policy decisions. We, therefore, do not find any substance in the arguments raised on behalf of the petitioner.

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29. The power of judicial review will not be permitted to be invoked to protect private interest at the cost of public interest. It is a well settled principle that judicial review in contractual matters is limited, particularly when the decision of the tendering authority is *bona fide* and taken in the public interest.

30. This Court, being the guardian of fundamental rights is duty-bound to interfere only in cases when there is arbitrariness, irrationality, *mala fide* and biasness and not otherwise.

31. The essence of the law laid down in a *catena* of judgments referred to above emphasizes the need for judicial restraint and caution, and that only overwhelming public interest can justify judicial intervention in contractual matters involving the State instrumentalities. The court must acknowledge that the authority floating the tender is the best judge of its requirements and, therefore, the court's interference should be minimal.

32. The Court found no evidence of *mala fide* intent or partisanship aimed at excluding manufacturers outside the NCR region. Rather, the conditions were structured to advance the public interest by ensuring the effective and secure implementation of the Government's policy, which is crucial for public safety and welfare.

33. The writ petition is, accordingly, dismissed.

(Shekhar B. Saraf, J.)

I agree

(Vipin Chandra Dixit, J.)

18.04.2025
Kuldeep

कारपोरेट निविदा समिति-द्वितीय, उत्पादन निगम लि. की
दिनांक: 25.01.2025 को हुई बैठक का कार्यवृत्त।

उपस्थित :	1. डा. आशीष कुमार गोयल, अध्यक्ष	अध्यक्ष
	2. डॉ. रूपेश कुमार, प्रबन्ध निदेशक	सदस्य
	3. श्री संजय कुमार दत्ता, निदेशक (परियोजना एवं वाणिज्य)	सदस्य
	4. श्री दिलीप श्रीवास्तव, निदेशक (वित्त)	सदस्य
	5. श्री अश्विनी कुमार त्रिपाठी, निदेशक (तकनीकी)	सदस्य
	6. श्री अशोक कुमार सेठ, निदेशक (कार्मिक प्रबन्धन एवं प्रशासन)	सदस्य
	7. श्री सोमनाथ मिश्रा, मुख्य अभियन्ता (आर. एण्ड एम.)	संयोजक

अन्य श्री पीयूष कान्त पाण्डेय, मुख्य अभियन्ता (ईधन), उनीलि

विषय:- हरदुआगंज तापीय परियोजना पर 90 दिन की अवधि के लिए बायोमॉस (Non-Torrefied Biomass Pellets) क्रय के सम्बन्ध में। आर. एण्ड एम. सन्दर्भ सं.-सीटीसी-11-14/24-25 (एस-1)।

मुख्य अभियन्ता (ईधन), उत्पादन निगम लि के पत्रांक 100/मु.अ.ईधन/हरदुआगंज दिनांक 20.01.2025 सपटित मुख्य महाप्रबन्धक, हरदुआगंज तापीय परियोजना, उत्पादन निगम लि. के पत्रांक 142/मु.महाप्र./सा.प्र.म. दिनांक 18.01.2025 द्वारा प्रेषित एवं मुख्य अभियन्ता (आर. एण्ड एम.), उनीलि के पत्रांक 58/आर.एण्डएम./परि. एव. अनु. /सीटीसी-11 (CIR/14/24-25 (एस-1) दिनांक 21.01.2025 द्वारा परिचालित उपरोक्त विषयक प्रस्ताव पर समिति को निम्नवत अवगत कराया गया :-

1. हरदुआगंज तापीय परियोजना द्वारा परियोजना पर 02 वर्ष की अवधि के लिए कुल 2.25 लाख मीट्रिक टन बायोमास (नॉन-टोरेफाइड बायोमॉस पेलेट्स) के क्रय हेतु सक्षम स्तर से अनुमोदनोपरांत प्राक्कलित लागत ₹153.25 करोड़ पर खुली ई-निविदा आमंत्रित की गई, जिसका भाग-प्रथम दिनांक 12.09.2024 को खोला गया, जिसमें 43 फर्मों द्वारा प्रतिभाग किया गया। कारपोरेट निविदा समिति-द्वितीय की दिनांक 06.11.2024 को सम्पन्न हुई बैठक में समिति द्वारा लिये गए निर्णय के अनुपालन में परियोजना द्वारा निविदा में प्रतिभागी एवं अनर्ह 08 फर्मों को छोड़कर निविदा की प्रतिभागी एवं अर्ह कुल 35 फर्मों की निविदा का भाग-द्वितीय (प्राइस बिड) दिनांक 13.11.2024 को खोला गया।
2. कारपोरेट निविदा समिति-द्वितीय की दिनांक 13.12.2024 को सम्पन्न हुई बैठक में समिति द्वारा लिए गए निर्णय के अनुपालन में 09 फर्मों (एल-1 से एल-5) से निविदा में प्राप्त एल-1 दर (Rs. 1.52 /1000 Kcal) पर काउन्टर ऑफर एवं 31.03.2025 तक लगभग 90 दिनों तक सप्लाई देने के लिए सहमति प्राप्त करने के संबंध में परियोजना द्वारा ई-मेल के माध्यम से अनुरोध किया गया। इसके प्रतिउत्तर में 02 फर्मों (M/s Kala Kusum (L-4) एवं M/s Shreem Kantan Infrastructure Private Limited (L-5) को छोड़कर शेष 07 फर्मों द्वारा एल-1 दर (Rs 1.52/1000 Kcal) एवं मात्रा पर सहमति व्यक्त की गई। इसके साथ ही, आमंत्रित ई-निविदा के अंतर्गत अतिरिक्त बायोमॉस पेलेट की आपूर्ति के लिए परियोजना द्वारा पूरक प्रस्ताव प्रेषित किया गया।
3. दिनांक 17.01.2025 को मुख्यालय पर हुई चर्चा के तारतम्य में शेष प्रतिभागी एवं अर्ह 26 फर्मों से एल-1 दर Landed Rate/GCV/1000 Kcal (inclusive of freight, Without GST) Rs 1.52 पर आपूर्ति करने के निर्देश के संबंध में परियोजना द्वारा शेष प्रतिभागी एवं अर्ह कुल 26 फर्मों से सहमति प्राप्त करने हेतु ई-मेल के माध्यम से अनुरोध किया गया। इसके प्रतिउत्तर में पूर्व सहमत फर्मों (07 फर्मों) के अतिरिक्त अन्य मात्र 05 फर्मों द्वारा सहमति प्रदान की गई। इस प्रकार कुल अर्ह 35 फर्मों में 12 फर्मों द्वारा एल-1 दर पर बायोमॉस आपूर्ति की सहमति प्रदान की गई है, जबकि 15 फर्मों द्वारा असहमति व्यक्त की गई और शेष 08 फर्मों द्वारा कोई उत्तर नहीं दिया गया।
4. दिनांक 20.01.2025 को मुख्यालय पर उच्च प्रबंधन और परियोजना के प्रतिनिधियों की उपस्थिति में हुई चर्चा के उपरांत, दिनांक 22.01.2025 को प्रस्तुत पूरक प्रस्ताव में समिति को निम्नलिखित अवगत कराया गया है :-
 - i. 309.90 टन प्रतिदिन के आधार पर 90 दिन की अवधि हेतु कुल 27,891 मीट्रिक टन बायोमॉस पेलेट्स की खरीद की जाएगी। इस हेतु कुल 35 अर्ह फर्मों में से 12 फर्मों द्वारा एल-1 दरों पर 90 दिनों के लिए बायोमॉस पेलेट्स की आपूर्ति करने की स्वीकृति प्रदान की गई है। इस संदर्भ में समिति द्वारा प्रस्ताव का अनुमोदन किया जाना प्रस्तावित है।

क्रमशः पेज 2 पर

(2)

आर. एण्ड एम. सन्दर्भ संख्या- सीटीसी-11-14/24-25 (एस-1)

- ii. SAMARTH MISSION के पत्रांक NBM/MD/24-25/01/091 दिनांक 07.01.2025 के माध्यम से हरदुआगंज तापीय परियोजना हेतु माह जनवरी 2025 से मार्च 2025 तक कुल 39,965 मी. टन बायोमॉस पैलेट्स को फायरिंग रिकवरी लक्ष्य प्राप्ति हेतु निर्देशित किया गया है। इसे निविदा के Variation of Quantity के अन्तर्गत 50 प्रतिशत बायोमॉस पैलेट्स की अतिरिक्त मात्रा 90 दिनों में आपूर्ति किये जाने हेतु एल-1 दर पर सहमत 12 फर्मों में वितरण किया जाना है। Variation of Quantity निम्नवत् उद्धृत है :-

(Under Standard Terms & Conditions S.No. 28):

Variation of Quantity: The permissible limit of deviation over the original quantity of each item will be (+) 50% for Biomass pellets, on same rates, terms and conditions on mutual consent basis between vendor and UPRVUNL.

- iii. आमंत्रित ई-निविदा में प्राविधानित है कि (Under Standard Terms & Conditions S.No. 40): HTPS/UPRVUNL reserve the right to alter the quantity, split, reject any or all the quotations without assigning any reason thereof.

- iv. बिन्दु सं. iii में वर्णित क्लॉज के अन्तर्गत सभी सहमत फर्मों को पर 90 दिन की अवधि हेतु बायोमॉस पैलेट्स आपूर्ति हेतु प्रस्तावित आवंटित मात्रा एवं मूल्य तालिका में निम्नवत् है:-

तालिका - 'अ'

Sr. No.	Name of Firm	Quoted Qty. (MTPD)	Qty. Proposed to be Allocated (MTPD)	Qty. to be supplied in 90 Days (MT)	Quoted GCV (Kcal/ Kg)	Total Unit Price/ MT (Inclusive of Freight after Counter Offer)	Revised Net Rate (INR/ 1000 Kcal) (Without GST) after Counter Offer	Total Order Amount (₹)
1	Ojas Dhara	50	29.80	2682	3600	5,480.00	1.52	1,46,97,360.00
2	Manudev Enterprises	50	29.80	2682	3000	4,560.00	1.52	1,22,29,920.00
3	Anuj Enterprises	50	29.80	2682	3000	4,560.00	1.52	1,22,29,920.00
4	Shyama Agro Energy Solutions	30	17.90	1611	3400	5,168.00	1.52	83,25,648.00
5	Durvasha Bio Fuels Industries	30	17.90	1611	3400	5,168.00	1.52	83,25,648.00
6	Narayan Enterprises	50	29.80	2682	3400	5,168.00	1.52	1,38,60,576.00
7	Universal IT Solution	50	29.80	2682	3400	5,168.00	1.52	1,38,60,576.00
8	Alpha Bio Fuel	20	11.90	1071	3400	5,168.00	1.52	55,34,928.00
9	Nandani Enterprises	50	29.80	2682	3400	5,168.00	1.52	1,38,60,576.00
10	Shiv Kutir Udyog	50	29.80	2682	3400	5,168.00	1.52	1,38,60,576.00
11	Singh Agencies	50	29.80	2682	3400	5,168.00	1.52	1,38,60,576.00
12	Vivek Ecoharvest Biofuel	40	23.80	2142	2800	4,256.00	1.52	9,11,63,520.00
			309.90	27891				
Total INR								13,97,62,656.00
Total Amount including GST								14,67,50,789.00

(अशोक कुमार सेठ)

(अश्विनी कुमार त्रिपाठी)

(दिलीप श्रीवास्तव)

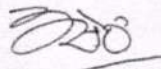
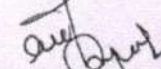
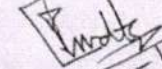
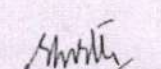
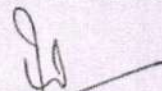
(संजय कुमार दत्ता)

(डॉ. रूपेश कुमार)

(डा. आशीष कुमार गोयल)

आर. एण्ड एम. सन्दर्भ संख्या- सीटीसी-11-14/24-25 (एस-1)

5. उपरोक्त के दृष्टिगत, नॉन-टोरेफाइड बायोमॉस पेलेट्स की आपूर्ति हेतु आमंत्रित ई-निविदा में निहित शर्तों के अंतर्गत 309.90 मीट्रिक टन प्रतिदिन के आधार पर एवं एल-1 की दर (Rs. 1.52 /1000 Kcal) से 90 दिनों की अवधि हेतु कुल 27,891 मीट्रिक टन बायोमॉस की खरीद के लिए अनुमोदन वांछित है। इसके साथ ही, यदि इकाईयाँ आर.एस.डी./ थर्मल बैकिंग में बंद नहीं रहती हैं, तो इस स्थिति में SAMARTH मिशन के 3 प्रतिशत बायोमास को-फायरिंग के लक्ष्य को प्राप्त करने हेतु आदेशित कुल 27,891 मीट्रिक टन बायोमॉस में 50 प्रतिशत का विचलन प्रदान किए जाने के लिए, विषयगत ई-निविदा में निहित शर्तों के अंतर्गत निम्नलिखित अनुमोदन प्रदान किए जाने की संस्तुति की गई है:-
- (क) 309.90 मीट्रिक टन प्रतिदिन के आधार पर 90 दिनों की अवधि हेतु कुल 27,891 मीट्रिक टन बायोमॉस की खरीद के लिए, जिसकी लागत ₹ 13,97,62,656.00 (जी.एस.टी. अतिरिक्त) है, का अनुमोदन।
- (ख) यदि इकाईयाँ आर.एस.डी./थर्मल बैकिंग में बंद नहीं रहती हैं, तो SAMARTH मिशन के 3 प्रतिशत बायोमॉस को-फायरिंग के लक्ष्य को प्राप्त करने हेतु 50 प्रतिशत का धनात्मक विचलन के आधार पर बायोमॉस की अतिरिक्त खरीद के लिए अनुमोदन प्रस्तावित है। निविदा में निहित शर्तों के तहत 50 प्रतिशत धनात्मक विचलन की स्थिति में ₹ 6,98,81,328.00 (जी.एस.टी. अतिरिक्त) का अतिरिक्त मूल्य आगणित होता है। इस धनात्मक विचलन, जिसका अधिकतम मूल्य ₹ 6,98,81,328.00 (जी.एस.टी. अतिरिक्त) है, को निविदा शर्तों के अधीन एवं इस सीमा के अंतर्गत अनुमोदित किए जाने हेतु परियोजना निविदा समिति की संस्तुति के उपरान्त निदेशक निविदा समिति को अधिकृत किए जाने का अनुमोदन प्रस्तावित है।
6. उपरोक्त तथ्यों को मुख्यालय की आर. एण्ड एम. इकाई द्वारा परियोजना एवं मुख्यालय की ईंधन इकाई से प्राप्त मूल एवं पूरक प्रस्ताव के परीक्षणोपरान्त कारपोरेट निविदा समिति-द्वितीय के समक्ष संस्तुति सहित अनुमोदनार्थ प्रस्तुत किया गया।
- सम्यक विचारोपरान्त समिति द्वारा हरदुआगंज तापीय परियोजना पर 90 दिन की अवधि के लिए बायोमॉस (Non-Torrefied Biomass Pellets) क्रय हेतु निम्नवत् निर्णय लिया गया:-
- कार्यवृत्त के पूर्व पृष्ठ सं.-02 पर अंकित तालिका-'अ' में उल्लिखित फर्मों को आवंटित मात्रा कुल 309.90 मी. टन प्रतिदिन के आधार पर 90 दिनों की अवधि हेतु कुल 27,891 मी. टन बायोमॉस क्रय किये जाने हेतु कुल लागत ₹ 13,97,62,656.00 (रुपये तेरह करोड़ सत्तानवे लाख बहसठ हजार छः सौ छप्पन मात्र) (जी.एस.टी. अतिरिक्त) का अनुमोदन प्रदान किया।
 - यदि इकाईयाँ आर.एस.डी./थर्मल बैकिंग में बंद नहीं रहती हैं, तो SAMARTH मिशन के 3 प्रतिशत बायोमॉस को-फायरिंग के लक्ष्य को प्राप्त किये जाने हेतु आवंटन में 50 प्रतिशत का सीमित धनात्मक विचलन प्रदान किये जाने हेतु अनुमोदन प्रदान किया। निविदा में निहित शर्तों के अधीन कार्यदेशित मात्रा का 50 प्रतिशत के सीमित धनात्मक विचलन के अनुसार ₹ 6,98,81,328.00 (रुपये छः करोड़ अठ्ठानवे लाख इक्यासी हजार तीन सौ अठ्ठाईस मात्र) (जी.एस.टी. अतिरिक्त) का अनुमोदन प्रदान किया गया। साथ ही आवश्यकतानुसार निविदा शर्तों के अधीन मात्रा का 50 प्रतिशत धनात्मक विचलन ₹ 6,98,81,328.00 (जी.एस.टी. अतिरिक्त) की सीमा के अंतर्गत दिये जाने हेतु परियोजना निविदा समिति की संस्तुति के उपरान्त निदेशक निविदा समिति को अधिकृत किये जाने का अनुमोदन प्रदान किया गया।
 - बायोमॉस की गुणवत्ता एवं पारदर्शिता सुनिश्चित करने हेतु NABL Approved कुल सोलह Labs (Time to Time revised by SAMARTH) के माध्यम से सभी सैम्पलों को Randomly NABL Approved Lab में भेजा जाना सुनिश्चित किया जाये। इसके अतिरिक्त कार्य सम्पादित कराने का दायित्व परियोजना का होगा तथा मुख्यालय की ईंधन इकाई इसके नियमित अनुश्रवण हेतु उत्तरदायी होगी।

 (अशोक कुमार सेठ) निदेशक (कार्मिक प्रबन्धन एवं प्रशासन)	 (अश्विनी कुमार त्रिपाठी) निदेशक (तकनीकी)	 (दिलीप श्रीवास्तव) निदेशक (वित्त)	 (संजय कुमार दत्ता) निदेशक (परियोजना एवं वाणिज्य)
 (डॉ. रakesh कुमार) प्रबन्ध निदेशक		 (डा. आशीष कुमार गोयल) अध्यक्ष	

16/12/2025, 13:21

Yahoo Mail - From(HAU2-SITE):HAU2-TJPS/UPRVUNL-002335 (Technical Query):Regarding use of Biomass pellets in the Boiler

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Annexure-9

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From(HAU2-SITE):HAU2-TJPS/UPRVUNL-002335 (Technical Query):Regarding use of Biomass pellets in the Boiler

From: tjpspn_hau2@pjnotes.tsurumi.toshiba.co.jp

To: se.hdgj660@yahoo.com

Cc: director.technical@uprvunl.org; director.project@uprvunl.org; cgm.harduaganj@uprvunl.org; ce1.pmm@gmail.com; gm.etps.harduaganj@uprvunl.org; tadafumi.shintani.n41@mail.toshiba; deepak.chugh@toshiba-tjps.in; kalyan.sahu@toshiba-tjps.in; yogesh.upadhyay@toshiba-tjps.in; tjps-harduaganj-pjm@toshiba-tjps.in; tjps-harduaganj-admin@toshiba-tjps.in; youngki.ko@doosan.com; jaeyeong.jang@doosan.com; kapil.gupta@toshiba-tjps.in

Date: Tuesday 16 December, 2025 at 09:15 am IST

Dear Sir,

This is in continuation to our Letter No. HAU2-TPB-LTR-08138 dated 12-Dec-2025 regarding use of Biomass pellets in the Boiler for Harduaganj 1x660 MW TPP.

It is amply clarified in the submitted SOP that since the Boiler in Harduaganj Extension-II project was designed for 100% Coal firing as per the Contract, the SOP was prepared to provide the Guideline for Biomass co-firing in the Boiler as per the request from the UPRVUNL.

Please note that the Biomass fuel has following major Physical & Chemical properties, which are different from Coal:

- **High Combustibility:** Usually, Biomass fuel has a lower ignition temperature than Coal because it has higher volatile matter content (40.7% V/s 30%). As a result, it's dust can easily cause explosion or fire in the Bunker, Feeder, Mill and Transport pipe.
- **Poor Fineness:** Biomass grindability is much different from that of Coal. It's fine particle size is less than 5 mm, which is considerably larger than Coal fines size of 75 micron. This causes decrease in Grinding efficiency and increased residence time of Biomass inside the Mill, which causes high differential pressure.
- **Flame Stability:** Due to the large particle size of Biomass, ignition point may have some changes during combustion. It may affect Flame shape and give negative impact on Burner performance.
- **Chlorine:** Higher Chlorine content (0.71%) in Biomass may accelerate high temperature corrosion in the Pressure Parts of Boiler. It may also cause higher Chlorine concentration in FGD Slurry, which will impact FGD Efficiency and cause corrosion in the FGD and FGD Wastewater Treatment Systems.
- **Impact on SCR System:** Higher amounts of Alkaline components such as Potassium (K), Sodium (Na), Magnesium (Mg) and Calcium (Ca) in Biomass will result in acceleration of deterioration for SCR Catalyst, thereby reducing Catalyst activation.
- **Impact on ESP, FD Fans, FGD:** Increased sub-micron particle size distribution of Biomass may have a negative impact on ESP Dust collection efficiency. As a result, Dust burden in Flue gas would become higher, which will impact the CID Fans Blade life and also will impact De-SOx performance of the FGD.

It may please be noted that our Boiler OEM (DPSI/DE) have no prior experience of co-firing the Biomass pellets (Paddy Straw made) in the Boiler. Hence, the impact of co-firing such Biomass pellets, having above defined characteristics (different from Coal) is not known to DPSI/DE. As a result, DPSI/DE cannot take responsibility of any possible damage or short / long term impact on the Boiler, SCR, ESP and FGD due to the reasons mentioned above.

Therefore, as informed before, the disclaimers mentioned as Part-4 in the SOP is non-negotiable and must be retained.

Regards,

Kaushik Roychowdhury

Toshiba JSW Power Systems Pvt. Ltd.

Gurgaon

From: gupta kapil(T J P S O P J □ P J) <kapil.gupta@toshiba-tjps.in>

Sent: Friday, December 12, 2025 10:51 AM

To: Avadhesh Singh <se.hdgj660@yahoo.com>

Cc: Directortechanical <director.technical@uprvunl.org>; Directorproject <director.project@uprvunl.org>; Cgm Harduaganj <cgm.harduaganj@uprvunl.org>; Ce Pmm <ce1.pmm@gmail.com>; gm.etps Harduaganj <gm.etps.harduaganj@uprvunl.org>; shintani tadafumi(新谷 忠文 T J P S) <tadafumi.shintani.n41@mail.toshiba>; chugh

about:blank

1/2

मुख्य महाप्रबन्धक CHIEF GENERAL MANAGER	 	कार्यालय मुख्य महाप्रबन्धक OFFICE OF THE CHIEF GENERAL MANAGER हरदुआगंज तापीय विद्युत परियोजना HARDUAGANJ THERMAL POWER STATION उ०प्र० राज्य विद्युत उत्पादन निगम लिमिटेड U.P. RAJYA VIDYUT UTPADAN NIGAM LTD. KASIMPUR (ALIGARH) -202127 CIN:U31901UP1985SGC007135
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पत्रांक: 466- मु०अभि०(कार्य)/1X660मे०वा०/बायोमास

दिनांक: 12/12/2025

मुख्य अभियन्ता
तापीय अभियांत्रिकीय एवं प्रौद्योगिकी विकास प्रभाग
केन्द्रीय विद्युत प्राधिकरण
नई दिल्ली।

विषय:- हरदुआगंज तापीय परियोजना की 1X660मे०वा० इकाई सं० 10 में बायोमास पैलेट्स की को-फायरिंग में छूट प्रदान किये जाने के सम्बन्ध में।

कृपया उपरोक्त विषयक ई-मेल दिनांक 10.12.2025 का सन्दर्भ ग्रहण करने की कृपा करें जिसके द्वारा हरदुआगंज तापीय परियोजना की 1X660मे०वा० इकाई सं० 10 में बायोमास पैलेट्स की को-फायरिंग में छूट प्रदान किये जाने के सम्बन्ध में मांगी गयी सूचना निर्धारित प्रारूप में पूर्णकर सभी संलग्नों सहित आवश्यक एवं अग्रिम कार्यवाही हेतु प्रेषित है।

संलग्नक:- यथोपरि।

(राज कुमार)
मुख्य महाप्रबन्धक

पत्रांक: - मु०अभि०(कार्य)/1X660मे०वा०/बायोमास

दिनांक:

प्रतिलिपि निम्नलिखित को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित:-

1. निदेशक (परियोजना एवं वाणिज्य), उ०प्र०रा०वि०उ०नि०लि०, शक्ति भवन, लखनऊ।
2. निदेशक (तकनीकी), उ०प्र०रा०वि०उ०नि०लि०, शक्ति भवन, लखनऊ।
3. निदेशक (टी०ई०एण्डटी०डी०) एवं समिति संयोजक, केन्द्रीय विद्युत प्राधिकरण, नई दिल्ली।
4. मुख्य अभियन्ता (तापीय परिचालन), उ०प्र०रा०वि०उ०नि०लि०, शक्ति भवन, लखनऊ।
5. मुख्य अभियन्ता (ईंधन), उ०प्र०रा०वि०उ०नि०लि०, शक्ति भवन, लखनऊ।
6. मुख्य अभियन्ता (पी०पी०एम०एम०), उ०प्र०रा०वि०उ०नि०लि०, शक्ति भवन, लखनऊ।
7. मुख्य अभियन्ता (परि०एवं०अनु०) 1X660मे०वा०, हरदुआगंज 'ई' तापीय परियोजना, कासिमपुर।
8. अधीक्षण अभियन्ता, सामग्री प्रबन्धन मण्डल, ह०ता०प०, कासिमपुर/नोडल अधिकारी बायोमास।
9. अधीक्षण अभियन्ता, परि०एवं०अनु०म०-1/II/III/IV/V, हरदुआगंज 'ई' तापीय परियोजना, कासिमपुर।

(राज कुमार)
मुख्य महाप्रबन्धक

ANNEXURE - I										
HARDUAGANJ Unit# 10 (1X660 MW) / UPRVUNL										
OEMs & SCOPE OF WORK:										
Unit#10										
PARTICULARS	OEM	COMMISSIONING DATE	COD	PG TEST DATE	DEFECT LIABILITY PERIOD		COMPLETION OF THE FACILITIES (OR ANY PART THEREOF)		OPERATIONAL ACCEPTANCE OF THE FACILITIES (OR ANY PART THEREOF)	
					START DATE	END DATE	START DATE/ EXPECTED START DATE:	COMPLETION DATE OR EXPECTED COMPLETION DATE:	START DATE/ EXPECTED START DATE:	COMPLETION DATE OR EXPECTED COMPLETION DATE:
SG/Boiler	Doosan	---	09.02.2022	04.07.2023 to 08.07.2023	31.07.2023	31.01.2025	---	30.11.2022	Yet to be done/issued.	
Turbine	Toshiba	---	09.02.2022		31.07.2023	31.01.2025	---	30.11.2022		
ESP	KC Cottrel	---	09.02.2022		31.07.2023	31.01.2025	---	30.11.2022		
FGD	Doosan	---	09.02.2022		31.07.2023	31.01.2025	---	30.06.2023		
SCR	Doosan	---	09.02.2022		31.07.2023	31.01.2025	---	31.07.2023		

Following is to be clarify as required: -

1. Completion of facilities (or any part thereof) implies completion of facilities or a part of the same (copy of relevant contract clause enclosed – Annexure-4).
2. Operational acceptance of the facilities (or any part thereof) implies operational acceptance of the facilities or a part of the same (copy of relevant contract clause enclosed – Annexure-5).

[Signature]
12/12/2021
SE - OEM-II

[Signature]
12/12/2021
SE, BMD-II

Annexure-II

Coal Quality Parameter

S. No.	Particulars	Unit	Performance/Design Fuel	Worst Fuel	Best Fuel
1.0	Proximate Analysis (As Received Basis)	By weight			
1.1	Moisture	%	10.5	12	9.5
1.2	Ash	%	35	43	33.5
1.3	Volatile Matter	%	26	19	27
1.4	Fixed carbon	%	28.5	26	30
1.5	Total	%	100	100	100
1.6	Gross Calorific Value	Kcal/kg	3700	3200	4200
2.0	Ultimate Analysis (As received Basis)				
2.1	Moisture	%	10.5	12	9.5
2.2	Ash	%	35	43	33.5
2.3	Carbon	%	42	33.5	43.2
2.4	Hydrogen	%	2.0	2.4	3.2
2.5	Nitrogen	%	1.6	1.3	1.5
2.6	Sulfur	%	0.46	0.45	0.48
2.7	Oxygen	%	8.44	7.35	8.62
2.8	Total	%	100	100	100
3.0	Hard Groove Index		53	50	56
4.0	Ash Fusion Range				
a)	Initial Deformation Temperature	°C	1200	1154	1300
b)	Hemispherical Temperature	°C	1350	1300	>1400
c)	Fusion Temperature	°C	>1400	>1400	>1400
5.0	YGP Index (All types of coal in specified range)	Mg/kg			

Pankaj
12/12/2025
EE(CND-II)
ETPS, HTPS

C/S

Agg
12/12/2025

Scanned with

TOSHIBA

Ref. No. HAU2-TPB-LTR-08138

Date 12-Dec-2025

UP Rajya Vidyut Utpadan Nigam Ltd.,
4th Floor, T.C. - 46/V, Vibhuti Khand,
Gomti Nagar, Lucknow
Uttar Pradesh - 226 010

Kind Attention: Mr. Awadhesh Singh (SE-II, PPMM)

Ref: 1. UPRVUNL Letter No. 124/ PPMM/SE-/Harduaganj Extn.-I| dated 01-Nov-2025
2. PJ_Notes E-mail HAU2-TJPS/UPRVUNL-002319 dated 02-Nov-2025
3. UPRVUNL Letter No. 130/ PPMM/SE-/Harduaganj Extn.-I| dated 28-Nov-2025

Sub: Harduaganj TPP, 1x660MW Ph-II – Regarding use of Biomass pellets in the Boiler.

Dear Sir,

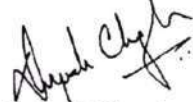
This is in reference to your Letter (Ref-3) through which, UPRVUNL has raised their concern on the disclaimer statement, which are part of SOP submitted by TJPS vide PJ_Notes E-mail (Ref-2) on 02-Nov-2025.

On the subject matter, we would like to clarify as under:

1. 1x660 MW Harduaganj Extn-II Unit has been Contractually designed for 100% Coal firing. Therefore, the use of Biomass Pellets to comply with Statutory requirements after completion of the Project is entirely at the prerogative of UPRVUNL as the Employer. Accordingly, TJPS / Doosan Enerbility (DE) shall bear no responsibility in this matter.
2. Since the Steam Generator has been Contractually designed for 100% Coal firing, the technical feasibility of introducing Biomass Pellets co-firing cannot be ascertained at this post-design and post-implementation stage, and therefore the responsibility for the same rests with the Employer. Moreover, as previously informed numerous times, Doosan does not have any experience of co-firing Biomass Pellets made from Paddy Straw.
3. Without any Contractual obligation and purely in good faith, the SOP has been provided by TJPS / DE to UPRVUNL, containing non-binding recommendations, guidelines, and Do's & Don'ts.
4. The disclaimer included as Part-4 of the SOP document is non-negotiable and must be retained in the event, Biomass Pellets are to be used for co-firing by UPRVUNL.

We trust the above clarifies our position. Kindly acknowledge the same.

For TOSHIBA JSW POWER SYSTEMS PRIVATE LTD.



Deepak Chugh
Project Director & HOC
1x660MW Harduaganj Extn - II

Encl: NIL

- CC: 1. Director Projects, UPRVUNL, Lucknow
2. Director Technical, UPRVUNL, Lucknow
3. CGM, UPRVUNL, HTPP, Kasimpur
4. CE (PPMM), UPRVUNL, Lucknow
5. CE (O&M), UPRVUNL, HTPP, Kasimpur

Toshiba JSW Power Systems Pvt. Ltd. C No. 51/1961/2005-10069121
3rd Floor, Tower C, Signature Tower III, NH 48, Sector 15-II, Gurugram, Haryana - 122001
Tel: +91 124657 4009 E-mail: TIPS-contactus@toshiba-jps.in www.toshiba-jps.in

Registered Office cum Factory: S.T. No. 74/95, Park Road Village, Andankuppam Check Post, Marathur Taluk, Tirupur District, Tamil Nadu - 641 005



उ० प्र० राज्य विद्युत उत्पादन निगम लि०
(उत्तर प्रदेश सरकार का उपक्रम)
चौथा तल, टी०सी०/V विभूति खण्ड, गोमती, लखनऊ 226010
UP RAJYA VIDYUT UTPADAN NIGAM LTD
(A UP GOVERNMENT UNDERTAKING)
4th Floor, T.C./V Vibhuti Khand, Gomti Nagar, Lucknow-226010

Letter no. 130 /PPMM/SE-II/Harduaganj Extension-II

Dated: 28/11/2025

M/s Toshiba JSW Power Systems Pvt. Ltd.,
9th Floor, Building no. 10, Tower -B, Phase-II,
DLF Cyber City, Gurgaon-122002

IMPORTANT & URGENT

Kind Attention: - Sri Deepak Chugh, HOC & Project Director- Harduaganj Project

Sub: Regarding use of Biomass pellets in the Boiler of 1x660 MW Harduaganj Extn-II Project.

Ref:

1. Harduaganj site letter no. 106/SE(O&M)/660 MW dated 07.03.2024
2. PPMM letter no. 70/PPMM/SE-II/Harduaganj Extn.-II dated 13.03.2024
3. Harduaganj site letter no. 412/CE(O&M)/660 MW dated 31.08.2024
4. Presentation by TJPS/DPSI regarding Bio mass firing on 09.01.2025
5. Discussion in meeting at HQ on 19.01.2025
6. Meeting held with TJPS at HQ, Lucknow regarding Bio mass firing on dated 19.03.2025
7. Harduaganj site letter no. 127/CE(O&M)/660 MW dated 09.04.2025
8. PPMM letter no. 42/ PPMM/SE-II/Harduaganj Extn.-II dated 16.4.2025
9. PPMM reminder email dt 05.05.2025 , 18.06.2025, 01.07.2025 & 11.07.2025
10. PPMM reminder email dt 08.10.2025 & 15.10.2025
11. TJPS confirmation for reply vide email dated 18.10.2025
12. PPMM letter no. 124/ PPMM/SE-II/Harduaganj Extn.-II dated 01.11.2025

Dear Sir,

This has reference to the above-cited correspondences and email communications regarding the implementation of biomass pellet co-firing along with coal in the boiler of the 1x660 MW Harduaganj Thermal Power Station Extension-II.

The Government of India, MOEF guidelines, and Hon'ble Court directives mandate co-firing of a minimum of 5% biomass in coal-based thermal power plants located within the NCR region. In adherence to these statutory requirements, UPRVUNL is obligated to ensure compliance in the 660 MW ETPS unit. Continuous warnings regarding penalties for non-compliance have been issued by the statutory authorities and concerned ministry.

UPRVUNL acknowledges and appreciates the support that M/s TJPS provided Standard Operating Procedure (SOP), precautionary measures (Do's & Don'ts), and related documents for biomass firing in the boiler of the 1x660 MW Harduaganj Extension-II Project, UPRVUNL.

However, it is noted that the project is still under the latent defect liability (LDL) period. In this context, the conditional clause in the SOP submitted by M/s TJPS/Doosan specifically the non-acceptance of any responsibility or liability for impacts or consequences arising from biomass pellet co-firing is not appropriate and cannot be accepted.

Accordingly, M/s TJPS is hereby requested to withdraw the said clause regarding non-acceptance of responsibility or liability. Removal of this condition is essential for enabling further action and ensuring compliance with statutory requirements for biomass co-firing in the boiler of the 1x660 MW Harduaganj Extension-II Project.

You are requested to treat this matter as top priority.

(Awadhesh Singh)
SE-II, PPMM

CC: To the following for kind information and necessary action:-

1. Director (P&C/Technical), 8th floor, Shakti Bhawan Extension II, Lucknow.
2. Chief General Manager, Harduaganj Thermal Power Project, Kasimpur, Aligarh.
3. Chief Engineer (PPMM), TC-46/V, 4th floor, Vibhuti Khand, Gomti Nagar, Lucknow.
4. Chief Engineer (O&M), 1x660 MW Harduaganj Thermal Power Extension-II Project, Aligarh.

D(PRC)

My kindly see before issue

Secy

From(PJM Gr.):HAU2-TJPS/UPRVUNL-002319 (Operation& Maintenance):Regarding use of Biomass pallets in the Boiler of 1x660 MW Harduaganj Extn-II Project

From: tjpspn_hau2@pjnotes.tsurumi.toshiba.co.jp

To: se.hdgj660@yahoo.com

Cc: ce1.ppm@gmail.com; gm.etps.harduaganj@uprvunl.org; cgm.harduaganj@uprvunl.org; director.project@uprvunl.org; director.technical@uprvunl.org; tadafumi.shintani.n41@mail.toshiba; tomomitsu.habu.v84@mail.toshiba; kalyan.sahu@toshiba-tjps.in; deepak.chugh@toshiba-tjps.in; munish.atri@toshiba-tjps.in; tjps-harduaganj-pjm@toshiba-tjps.in; tjps-harduaganj-admin@toshiba-tjps.in; youngki.ko@doosan.com; jaeyeong.jang@doosan.com; sangjin.hur@doosan.com; kapil.gupta@toshiba-tjps.in; kaushik.roychowdhury@toshiba-tjps.in

Date: Sunday 2 November, 2025 at 06:40 pm IST

Dear Sir,

This is with reference to UPRVUNL Letter no. 124/ PPMM/SE-II/Harduaganj Extn.-II dt. 01.11.2025 regarding use of Biomass Pellets in Boiler and all our previous communications on this matter.

Please note that TJPS, without prejudice to the terms and conditions of its 1x660 MW Harduaganj EPC Contract, hereby submits the **Standard Operating Procedure (SOP) and the Do's and Don'ts** for Biomass co-firing.

It may kindly be noted that the submission of the above SOP by TJPS / Doosan shall not, in any manner, be construed as an acceptance of any responsibility or liability for any impacts or consequences arising out of the co-firing of Biomass Pellets. We look forward to your kind understanding on the matter.

Regards,
Deepak Chugh

From: Avadhesh Singh <se.hdgj660@yahoo.com>

Sent: Saturday, November 1, 2025 4:47 PM

To: chugh deepak(T J P S o P J o P J 1) <deepak.chugh@toshiba-tjps.in>; habu tomomitsu(羽生 知充 T J P S) <tomomitsu.habu.v84@mail.toshiba>; sahu kalyan(T J P S o E N G) <kalyan.sahu@toshiba-tjps.in>; atri munish(T J P S o B D o M A R K E T o P R O P O S A L) <munish.atri@toshiba-tjps.in>

Cc: Cgm Harduaganj <cgm.harduaganj@uprvunl.org>; gm.etps Harduaganj <gm.etps.harduaganj@uprvunl.org>; CE Construction Harduaganj TPS <gm.const.harduaganj@uprvunl.org>; Mayank Manglik <ce1.hdgj660@gmail.com>; Ce Ppm <ce1.ppm@gmail.com>; Directorproject <director.project@uprvunl.org>; Directortechnical <director.technical@uprvunl.org>

Subject: Regarding use of Biomass pallets in the Boiler of 1x660 MW Harduaganj Extn-II Project

Dear Sir,

Report of the Committee constituted by the Commission on 21.03.2025 for examining the issues under Rule 5 of the Environment (Crop Residue Utilization by TPPs) Rule 2023 – reg.

Background

1. Paddy stubble burning continues to pose a serious environmental challenge and remains a significant contributor to the deterioration of air quality in the Delhi National Capital Region (NCR). Given the magnitude and recurring nature of the problem, the Commission has been consistently examining sustainable, long-term and scalable mitigation measures. One such key intervention, *inter alia*, involves the ex-situ utilization of paddy straw through co-firing of biomass pellets in coal-based Thermal Power Plants (TPPs) as an alternative fuel source to partially substitute coal consumption.
2. In order to promote the use of biomass pellets, the Ministry of Power (MoP), Central Electricity Authority (CEA), issued an Advisory dated 24.11.2017 (**Annexure-1**) to all coal-based TPPs in India, including Central, State and Public and Private sector Power Utilities. The Advisory stipulated that such plants shall endeavour to use a 5–10% blend of biomass pellets, primarily derived from agro-residues, along with coal.
3. The advisory was issued based on 'Policy for Biomass Utilization for Power Generation through Co-firing in Pulverised Coal Fired Boilers' of MoP, GoI circulated among all the Power Plants/ Utilities (public and private), State Governments, Power Equipment Manufacturers and other stakeholders on 17.11.2017. The policy amended from time-to-time to strengthen implementation and compliance mechanism, vide Revised policy dated 08.10.2021, clarification dated 07.04.2022, addendum to the policy dated 03.05.2023 and Modified Revised Biomass Policy dated 16.06.2023.

4. The Commission also actively pursued the matter of ex-situ utilization of stubble-based biomass pellets in TPPs located within a 300 km radius of Delhi, engaging with the State Governments of Punjab, Haryana and other NCR States. The urgency and criticality of establishing and sustaining an efficient biomass supply chain were strongly impressed upon the concerned State Governments to ensure the viability and operational success of this ex-situ model.
5. The issue was deliberated extensively during multiple meetings held in 2020 and 2021 with State Governments, Departments of Central Ministries, NTPC and representatives of various TPPs. These deliberations focused on the technical feasibility, procurement modalities, pricing mechanisms and operational integration of biomass co-firing in TPPs. It was concluded that paddy straw-based biomass pellets (both torrefied and non-torrefied) can be successfully utilized for co-firing up to a blend ratio of 5–10% of total fuel requirements, subject to adherence to specifications and modalities adopted by NTPC, with suitable refinements wherever required.
6. Thereafter, the Commission issued an Advisory dated 28.07.2021 (**Annexure-2**) to the State Governments of Punjab, Haryana, and Uttar Pradesh regarding “Ex-situ stubble management for tackling the problem of stubble burning,” specifically emphasizing utilization of paddy straw in TPPs as a structured and scalable intervention.
7. Pursuant to the above deliberations and based on inputs from concerned stakeholders, including the Power Departments of respective States and confirmation of technical feasibility and implementation of co-firing by NTPC in its plants, the Commission issued Direction No. 42 dated 17.09.2021 (**Annexure-3**), mandating co-firing of biomass pellets up to 5-10% by substituting coal with immediate effect.

8. The progress of compliance has since been continuously monitored and reviewed by the Commission through a series of meetings, including the meetings held on 15.03.2022, 14.09.2022, 25.04.2023, 22.09.2023, 10.01.2024, 21.02.2024, 13.03.2024, 20.06.2024, 30.08.2024, 08.10.2024, 21.10.2024, and 22.01.2025. These meetings involved TPPs and stakeholder agencies such as Sustainable Agrarian Mission on use of Agri-Residue in TPPs (SAMARTH) and officials from the MoP/CEA.
9. During these reviews, plant-wise performance gaps were examined based on inputs received from SAMARTH and the concerned TPPs. Specific observations, corrective measures and operational requirements were communicated to the respective TPP representatives. Additionally, SAMARTH, CEA and the MoP were periodically requested to undertake necessary facilitative and corrective actions to ensure effective compliance.
10. Simultaneously, in order to strengthen the biomass pellet supply chain and improve the compliance status of TPPs, the MoP and SAMARTH initiated several facilitative measures. These included the introduction of a 'Revised Rate Contract' mechanism dated 06.01.2023 and 'Price Benchmarking' for procurement of non-torrefied and torrefied vide communications dated 23.08.2023, 08.11.2023, 03.10.2024 and 18.11.2024.
11. Further, the MoP, vide communication dated 14.05.2024, clarified that for projects established through competitive bidding under Section 63 of the Electricity Act, 2003, wherein fuel cost pass-through is permitted under the Power Purchase Agreement (PPA), the cost of biomass pellets shall also be allowed as a pass-through component in the Energy Charge Rate.
12. The Commission, through Advisory No. 11 dated 30.08.2023 (**Annexure-4**) and subsequent communications, reiterated the need for adoption of the benchmark pricing mechanism to substantially scale up biomass co-firing in TPPs, thereby ensuring effective implementation of Statutory Direction No. 42 in its true letter and spirit.

13. The Ministry of Environment, Forest and Climate Change (MoEF&CC), vide G.S.R. 499(E) dated 11.07.2023 (**Annexure-5**), read with Corrigendum G.S.R. 522(E) dated 18.07.2023, notified the Environment (Utilisation of Crop Residue by Thermal Power Plants) Rules, 2023. The said Rules mandate that all coal based TPPs located in NCR and adjoining areas shall mandatorily use a minimum 5% blend of pellets or briquettes made of crop residue along with coal, thereby providing statutory backing to biomass co-firing requirements.

Regulatory Framework and Actions Taken Prior to Enforcement of the Environment (Utilisation of Crop Residue by Thermal Power Plants) Rules, 2023

14. In addition to the Commission's periodic review of biomass co-firing, progress towards compliance with the co-firing mandate was also reviewed by various authorities of the Central and State Governments, including the MoP, Ministry of New and Renewable Energy (MNRE), the concerned State Power Departments and the Inter-Ministerial Committee (IMC) constituted by the Central Government.
15. Despite the existence of policy frameworks and advisories since 2017 and the issuance of mandatory co-firing directions in 2021 for TPPs located within a 300 km radius of Delhi, the performance of several TPPs remained unsatisfactory. Such underperformance assumed greater significance in view of the direct and substantial impact of these TPPs on air quality in the Delhi-NCR region.
16. In the meeting held on 14.09.2022, the Secretary, MoP, directed all concerned TPPs to initiate necessary measures for enhanced collection and utilization of paddy straw for biomass pellet production for the season of 2022 itself. Subsequently, in a meeting convened by the MoEF&CC on 22.09.2022, serious concerns were expressed regarding the low levels of

biomass pellet consumption by the concerned TPPs. The matter was further deliberated in stakeholder meetings organized by MoP on 03.10.2022 and 15.02.2023. During these review meetings, several issues relevant to the non-compliance and sub-optimal performance of the concerned TPPs and associated agencies were examined and deliberated upon, as outlined below:

- a) The tendering efforts undertaken by TPPs in Punjab and Haryana (except NTPC) were found to be inadequate. The respective State Governments were advised to address deficiencies contributing to non-compliance.
- b) The concerned authorities were advised to devise advance procurement mechanisms for biomass pellets, particularly for TPPs under Punjab State Power Corporation Limited (PSPCL). It was also discussed that the Principal Secretaries (Environment) of Governments of Haryana, Punjab and Uttar Pradesh may be designated as Nodal Officers for monitoring progress and utilization of biomass co-firing in their respective States.
- c) Owing to persistently poor progress in co-firing by Haryana Power Generation Corporation Limited (HPGCL) at its three TPPs viz. M/s Deenbandhu Chhotu Ram Thermal Power Plant (DCRTPP), Yamunanagar, Haryana, M/s Panipat Thermal Power Station (PTPS), Panipat Haryana and M/s Rajiv Gandhi Thermal Power Plant (RGTPP), Hisar Haryana, the concerned authorities were directed to initiate immediate short-term tendering for procurement of biomass pellets and to establish pellet manufacturing units within plant premises to ensure assured supply.
- d) The approach adopted by Talwandi Sabo Power Limited (TSPL), Mansa, towards biomass co-firing was reviewed and was directed to

establish its own pellet manufacturing plant(s) to ensure timely and sustained compliance with the mandated co-firing targets.

e) The Government of Uttar Pradesh informed that biomass pellets had been incorporated into its Biofuel Policy (2022) and that initiatives had already been undertaken to secure pellet procurement for co-firing purposes.

f) It was observed that pellet procurement through tendering remained substantially far from satisfactory levels. Accordingly, TPPs were strongly advised to establish their own pellet manufacturing plants and to expedite short-term procurement processes to secure at least 5% co-firing. Concerned agencies were also advised to expedite subsidy schemes and financial facilitation mechanisms to support pellet manufacturing plants.

17. In furtherance of the above, the MoP reiterated the importance of biomass co-firing in TPPs *vide* communication dated 06.10.2023. Subsequently, the Commission, *vide* letter dated 12.10.2023, requested MoEF&CC to convene an Inter-Ministerial Meeting to impress upon the concerned TPPs regarding the necessity of optimally utilizing the benchmark pricing mechanism particularly with respect to non-torrefied pellets, to secure adequate procurement and ensure compliance with the mandated co-firing targets.
18. Meanwhile, the Department of Power, Government of Punjab *vide* communication dated 09.11.2023 submitted a status report to MoP, under intimation to the Commission, regarding progress of co-firing in TPPs located in the State. The Department expressed concerns regarding additional costs incurred by TPPs due to biomass co-firing and the consequent implications of cost pass-through. The report also referred to co-firing of torrefied biomass pellets at TSPL-Vedanta and suggested the establishment of biomass-based power plants under a Viability Gap Funding (VGF).

19. Upon examination, the Commission observed that proposals for establishment of biomass-based power plants under VGF were at a preliminary stage and could not serve as a substitute for mandatory co-firing in existing coal-based TPPs. The Commission further did not concur with the cost pass-through projections submitted by the Government of Punjab/PSPCL in relation to torrefied pellets, observing that such estimates appeared to be based on limited demand conditions and did not adequately factor in Life Cycle Assessment. The Commission further noted that initial higher costs are likely to be offset over time through improved availability, development of a robust supply chain, reduction in carbon footprint and progress towards Net-Zero emissions, aspects which had not been adequately factored in by the Government of Punjab.
20. The Commission forwarded the above communication of Government of Punjab dated 09.11.2023 to the MoP and the MoEF&CC on 20.11.2023 for appropriate consideration. Data furnished by the MoP indicated that the concerned TPPs collectively co-fired 7,398 MT (FY 2021–22), 13,802 MT (FY 2022–23), and 65,578 MT (FY 2023–24) up to December 2023, of crop residue-based biomass pellets, against a cumulative target of 18.03 lakh MT. The substantial shortfall clearly indicated inadequate compliance.
21. The matter was also considered by the Hon'ble Supreme Court in M.C. Mehta v. Union of India W.P. (Civil) No. 13029 of 1985, wherein the Hon'ble Court, *vide* order dated 13.12.2023 (**Annexure-6**), inter alia, directed the MoP to ensure that all TPPs within a range of 300 km of Delhi and all captive TPPs implement the CAQM directions for co-firing a minimum of 5% biomass along with coal.
22. The Commission, *vide* letter dated 26.12.2023 (**Annexure-7**) informed the Secretary, MoP, that despite repeated directions and follow-ups, three TPPs of HPGCL in the State of Haryana and TSPL, Mansa, had not commenced regular biomass co-firing and further requested appropriate intervention in

the matter. The MoP thereafter sought an Action Taken Report from the concerned TPPs vide communication dated 02.01.2024. The Commission reviewed the compliance status in the meeting held on 10.01.2024 and recorded that certain TPPs exhibiting persistently poor or average performance were required to immediately rectify deficiencies and ensure adherence to mandated targets. It was categorically reiterated that failure to achieve the prescribed co-firing targets would attract imposition of Environmental Compensation (EC) in accordance with the notified schedule under the Environment (Utilisation of Crop Residue by Thermal Power Plants) Rules, 2023, without prejudice to any other legal action.

23. The Commission thereafter escalated the matter to the Chief Secretaries of Punjab, Haryana and Uttar Pradesh vide communications dated 09.02.2024 and 13.02.2024 (**Annexure-8**), seeking appropriate cognizance and intervention at the highest administrative level to ensure compliance by the concerned TPPs. Additionally, vide communication dated 12.02.2024, the Commission reiterated to the Secretary, MoP the necessity of establishing biomass pellet manufacturing facilities in the vicinity of TPPs and emphasized the requirement of close and continuous monitoring of biomass co-firing progress.
24. In view of the persistently poor performance of four (04) TPPs, the Commission, on 15.02.2024, issued Notices to three (03) TPPs of HPGCL, namely DCRTTP, PTPS and RGTPP as well as to TSPL. The Notices were issued prior to consideration of action under Section 14 of the Commission for Air Quality Management in National Capital Region and Adjoining Areas Act, 2021, for non-compliance or contravention with Direction No. 42 relating to mandatory co-firing of paddy straw-based biomass in coal-based TPPs located within a 300 km radius of Delhi.
25. Further, communications dated 21.02.2024 (**Annexure-9**) were issued to the Plant Heads/In-charges of the remaining seven (07) TPPs, seeking submission of detailed action plans for achieving compliance with the

mandated co-firing requirements. In view of the performance commitments furnished by these seven (07) TPPs up to January 2024, the Commission, at that stage, considered not to issue Notices to them.

26. Detailed replies and action plans were submitted by all concerned TPPs pursuant to the Notices and communications issued by the Commission. These included responses from TSPL-Vedanta, dated 04.03.2024; PTPS – Panipat, DCRTTP-Yamunanagar and RGTPP-Hissar dated 07.03.2024, 09.03.2024 & 11.03.2024 respectively; NTPC Dadri & Aravali Power Company Private Limited (APCPL), letter dated 12.03.2024; Guru Gobind Singh Super Thermal Power Plant (GGSSTP) PSPCL, Ropar & Guru Hargobind Thermal Power Plant (GHTPP), Lehra Mohabbat letter dated 06.03.2024; Harduaganj Thermal Power Station (HTPS), Uttar Pradesh Rajya Vidyut Utpadan Nigam Limited (UPRVUNL) letter dated 28.02.2024; Nabha Power Limited-L&T (NPL), letter dated 24.02.2024 and Jhajjar Power Limited (JPL), Apraava, vide letter dated 22.02.2024. The progress was reviewed by the Commission on 21.02.2024 and 13.03.2024 wherein it was observed that, cumulatively, only 4.83% of the overall co-firing target for 2024 had been achieved by eleven (11) TPPs up to February 2024, which was grossly inadequate and not at all satisfactory. The Commission further stressed serious concern regarding the performance of five TPPs, namely TSPL–Mansa, NPL–Rajpura, and the three (03) HPGCL plants. It was categorically reiterated that continued non-compliance would attract levy of EC in the ensuing financial year, without prejudice to any other appropriate legal action.
27. As a consequence of the above regulatory interventions, a marginal improvement in co-firing was observed. The concerned TPPs collectively achieved 2,58,772 MT of biomass co-firing during FY 2023–24 against an overall target of 18.03 lakh MT. However, this level of achievement remained substantially below the mandated requirement. The Commission, *vide* communication dated 22.04.2024 apprised the MoP of the progress status, highlighting specific concerns regarding the performance of the

following five TPPs namely NPL– Rajpura, TSPL– Mansa, RGTPP– Hisar, DCRTTPP– Yamunanagar and PTPS. At the same time, the Commission noted encouraging progress made by HTPS and GHTPP– Lehra Mohabbat.

28. During 2024, overall implementation was further assessed through a High-Level Joint Inspection conducted by senior officials of the Commission, the CEA, MoP and SAMARTH. The inspection covered 10 out of 11 identified TPPs located in Haryana, Punjab and Uttar Pradesh to review on-ground compliance with the Commission's directions and the Environment (Utilisation of Crop Residue by Thermal Power Plants) Rules, 2023.
29. Upon detailed examination of the replies submitted by the four (04) TPPs against the Notice dated 15.02.2024 and the action plans submitted by the remaining seven (07) TPPs, the Commission forwarded its observations to SAMARTH under intimation to the MoP on 10.05.2024, identifying issues requiring corrective action and facilitative intervention. MoP updated the progress status vide communication dated 29.05.2024. Based on the findings of the Joint High-Level inspection, the Commission reiterated specific action points to MoP and SAMARTH *vide* communications dated 03.06.2024 and 24.07.2024 under intimation to the concerned State Pollution Control Boards (SPCBs). The Commission emphasized the need for strict compliance with the 2023 Rules by fostering co-firing efforts through intensified monitoring, scaling up of production and utilization, strengthening of supply chains, and augmentation of manufacturing capacity for both torrefied and non-torrefied biomass pellets.
30. Thereafter, MoP, CEA and SAMARTH initiated several measures, some of which required action at the level of the concerned States and TPPs. In this regard, the MoP vide letter dated 18.11.2024 (**Annexure-10**) notified the benchmark price for torrefied biomass pellets for the NCR region and reiterated provisions relating to cost pass-through under the Electricity Act, which had been clarified earlier vide communication dated 14.05.2024.

31. In light of the progress made, the Commission convened further review meetings on 21.10.2024 and 22.01.2025 and issued specific action points to ensure compliance with Direction No. 42 and the Environment (Utilisation of Crop Residue by Thermal Power Plants) Rules, 2023. During the review meeting dated 21.10.2024, it was clearly reiterated that failure to comply with statutory mandates would attract coercive action in accordance with applicable provisions. Subsequently, a significant increase in biomass utilization was observed, with total co-firing reaching 12,97,802 MT during FY 2024–25 against a target of approximately 22.64 lakh MT. A detailed year-wise progress statement (FY 2021–22 to FY 2024–25) is **(Annexure-11)**.
32. Upon completion of FY 2024–25, a joint review was undertaken by MoP, CEA and SAMARTH with respect to eleven (11) TPPs. It was observed that five (05) TPPs namely, JPL (Apraava Energy), NTPC–Dadri, Indira Gandhi Super Thermal Power Station (IGSTPS), Jhajjar, GGSSTPP, Ropar (PSPCL), and NPL, Rajpura had achieved the stipulated co-firing targets under the Rules. However, six (06) TPPs, namely RGTPP – Hisar (HPGCL), DCRTPP – Yamunanagar (HPGCL), PTPS - Panipat (HPGCL), GHTPP – Lehra Mohabbat (PSPCL), HTPS (UPRVUNL) and TSPL – Mansa have failed to achieve the prescribed co-firing mandates.
33. Accordingly, SAMARTH furnished details to the Commission regarding EC applicable to the aforesaid six non-compliant TPPs in terms of the Environment (Utilisation of Crop Residue by Thermal Power Plants) Rules, 2023. As per Rule 3 of the said Rules, TPPs located in NCR and adjoining areas were required to co-fire more than 3% crop residue-based biomass pellets during FY 2024–25 and at least 5% from FY 2025–26 onwards. The Rules prescribe graded EC for failure to achieve the stipulated targets from FY 2024–25 onwards.
34. Rule 5 of the said Rules empowers the Commission to grant relaxation to non-compliant TPPs on a case-to-case basis, in consultation with the CEA

and the Central Pollution Control Board (CPCB), where non-compliance is attributable to circumstances beyond the control of the concerned TPPs. In order to examine representations, if any, seeking relaxation from EC under Rule 5, the Commission constituted a Committee on 21.03.2025. The Committee was mandated to assess such representations in accordance with the provisions of the Rules and submit its recommendations to the Commission for appropriate consideration.

Examination of cases in terms of Rule 5 by the Committee

35. The Committee constituted by the Commission vide Order dated 21.03.2025 (**Annexure-12**), comprising representatives of the Commission, CEA, SAMARTH and CPCB was mandated to examine representations submitted by TPPs seeking relaxation under Rule 5 of the Environment (Utilisation of Crop Residue by Thermal Power Plants) Rules, 2023. Pursuant thereto, the Committee granted personal hearings to RGTPP – Hisar (HPGCL), DCRTPP – Yamunanagar (HPGCL), PTPS – Panipat (HPGCL), GHTPP – Lehra Mohabbat (PSPCL), HTPS (UPRVUNL) and TSPL – Mansa.
36. The Committee held detailed deliberations on 13.06.2025, 31.07.2025, 26.08.2025, 22.09.2025, 19.01.2026 and 20.03.2026 wherein performance data, compliance status, written submissions and grounds cited for relaxation were examined in depth. During its meetings held on 13.06.2025 and 31.07.2025, the Committee undertook a comprehensive review of the overall performance of all eleven (11) identified TPPs for FY 2024–25 vis-à-vis the statutory co-firing targets prescribed under the 2023 Rules. Particular attention was accorded to the six (06) non-compliant TPPs. The cases of TSPL and HTPS (UPRVUNL) were examined in detail. The Committee also evaluated the EC liable to be imposed for non-compliance during FY 2024–25 in accordance with the methodology prescribed under the Environment (Utilisation of Crop Residue by Thermal Power Plants)

Rules, 2023. The plant-wise computation of EC, based on verified shortfall and applicable rates, is tabulated below:

S.N.	Name of the Plants	Environmental Compensation (EC) for 2024-25			
		Biomass Co-fired in % consumption	Biomass Pellets % Required @ to be co-fired to be complied with	Environmental Compensation (EC) (in Million Rs.)	
				As per E(GT)	As per ESO (Energy injected into grid)
1	JPL, Jhajjar (Apparva Energy)	4.11 %	>3 %	0.0	0.0
2	NTPC-Dadri	3.79 %		0.0	0.0
3	IGSTPS-APCPL, Jhajjar,	3.66 %		0.0	0.0
4	GGSTP, Ropar	3.10 %		0.0	0.0
5	NPL (L&T), Rajpura	3.04 %		0.0	0.0
6	Harduaganj TPS.	2.05 %		27.40	24.63
7	RGTPP. Hisar	2.07 %		55.51	51.80
8	GHTPP Lehra Mohhabbat	2.00 %		48.66	44.52
9	PTPS, Panipat	1.86 %		89.79	80.96
10	DCRTPP, Yamuna Nagar	1.44 %		66.87	60.78
11	TSPL, Mansa	0.36 %		330.26	306.91
Total		-		618.49	569.61

*E(GT) – Electricity Generated at Generator Terminal;

ESO – Energy Sent Out or Ex-Bus Generation.

37. The Committee decided that opportunity of personal hearing may be provided to all non-compliant TPPs. Accordingly, opportunity of personal hearing was given to all 6 non-complied TPPs. The Committee heard TSPL-Mansa and HTPS of UPRVUNL on 26.08.2025 and 3TPPs of HPGCL and Lehra Mohabbat TPP of PSPCL on 22.09.2025. Upon consideration of the written and oral submissions and relevant data made / presented during the hearings, the Committee recorded that the following six TPPs remained non-compliant with the prescribed co-firing targets under the Environment (Utilisation of Crop Residue by Thermal Power Plants) Rules, 2023:

- i. RGTPP – Hisar (HPGCL);
- ii. DCRTPP – Yamunanagar (HPGCL);
- iii. PTPS – Panipat (HPGCL);
- iv. GHTPP – Lehra Mohabbat (PSPCL);
- v. HTPS (UPRVUNL); and
- vi. TSPL – Mansa.

38. The Committee further observed that the explanations and grounds advanced by the aforesaid TPPs were insufficient to demonstrate that the circumstances leading to non-compliance were beyond their reasonable control within the meaning of Rule 5 of the 2023 Rules. The material placed on record did not establish any force majeure-like situation or systemic impediment attributable to external factors that could justify relaxation of the statutory mandate. For the sake of brevity, the detailed submissions of the six non-compliant TPPs are not reproduced herein, as substantially similar grounds were reiterated in response to the Show Cause Notices subsequently issued by the Commission for imposition of EC under the 2023 Rules. The principal contentions raised by the TPPs, along with the Committee's observations thereon, are discussed in the ensuing paragraphs.

39. In order to afford an additional opportunity consistent with the principles of natural justice, the Commission issued Show Cause Notices dated 23.12.2025 to all six (06) non-compliant TPPs. The Notices were issued after due deliberations and examination of replies / reasons submitted by the TPPs before the Committee. The TPPs were called upon to show cause as to why EC should not be imposed in accordance with the provisions of the Environment (Utilisation of Crop Residue by Thermal Power Plants) Rules, 2023; and why action should not be initiated against the responsible person(s) under Section 14 of the Commission for Air Quality Management in National Capital Region and Adjoining Areas Act, 2021. In response, written replies were received from the concerned TPPs. The replies were placed before the Committee for detailed consideration and for rendering

its recommendations in accordance with the 2023 Rules. During the subsequent deliberations, the following aspects emerged for consideration:

A. Harduaganj Thermal Power Station (HTPS) – UPRVUNL

- I. In respect of HTPS, the Committee examined the submissions made vide letter No. 08-CE(Fuel)/DT/ dated 05.01.2026, wherein the following grounds were broadly cited to justify non-compliance with the mandated co-firing targets under the Environment (Utilisation of Crop Residue by Thermal Power Plants) Rules, 2023:
 - i. **Force majeure-like conditions (July–August 2024):** Severe monsoon conditions allegedly resulted in excessive moisture in biomass pellets (being hydrophilic in nature), leading to deterioration of Gross Calorific Value (GCV) and operational difficulties in handling and feeding.
 - ii. **Technical constraints:** Shutdowns, breakdowns and maintenance of units during the year.
 - iii. **Kanwar Yatra restrictions:** Temporary road blockages affecting transportation and delivery of biomass.
 - iv. **Quality and supply issues:** Alleged poor quality and inadequate supply by vendors.
 - v. **Procurement-related challenges:** Contract expiry, limited supply under fresh orders and gaps in quality and logistics.
 - vi. **Litigation constraints:** HTPS contended that a fresh tender floated in July 2024 was stalled due to proceedings in Writ-C No. 34248 of 2024 before the Hon'ble High Court of Judicature at Allahabad.

- II. **Issue of Exemption for 660 MW unit:** HTPS also sought exemption from co-firing in its new 660 MW unit, citing subsisting guarantee/warranty obligations of the Original Equipment Manufacturer (OEM) and technical concerns including chlorine content in biomass, ash fusion temperature, impact on boiler efficiency, auxiliary power consumption and intermittent non-availability of biomass.
- III. The technical issues were examined by the CEA. Initially, the request for exemption was rejected by CEA vide communication dated 08.07.2024. However, upon re-examination limited to contractual obligations arising out of OEM warranty conditions, CEA granted a one-time exemption up to 31.01.2025 vide communication dated 08.11.2024, strictly in respect of the 660 MW unit.

Examination of Grounds Raised

After detailed deliberations, the Committee recorded the following findings:

- i. The Committee noted that the exemption, if any, was HTPS - specific and did not extend to the remaining three of the plant. CEA had clarified that chlorine levels in biomass were within permissible boiler limits. HTPS continued to generate electricity during the year, thereby undermining the plea of persistent shutdowns or breakdowns. It was further reiterated that any technical relaxation, even if granted by CEA does not dilute or alter the statutory co-firing targets prescribed, nor does it absolve liability for EC in case of non-achievement of the annual mandate.
- ii. The Committee noted that HTPS had initially demonstrated commitment towards co-firing and had shown appreciable progress up to mid-FY 2023-24, as acknowledged in the communication issued by the MoP dated 06.10.2023. However,

performance declined significantly thereafter. At the close of FY 2024–25, HTPS achieved only about **2.05% co-firing of annual coal consumption**, as against the prescribed target of more than 3%. During multiple review meetings convened by the Commission during 2023-24 and during the visit of the High-Level Joint Committee (comprising representatives of the Commission, CEA, and SAMARTH) during 2024–25, HTPS was specifically advised to ensure advance procurement planning and assured availability of biomass pellets in order to comply with the notified schedule.

- iii. **Seasonal factors (Monsoon and Kanwar Yatra):** These were temporary and seasonal disruptions. HTPS failed to demonstrate why such short-term constraints could not be compensated through enhanced co-firing during the remaining months of the year.
- iv. **Procurement and supply chain gaps:** HTPS did not establish that biomass pellet availability in the region was inadequate. It was noted that supply of non-torrefied pellets in the region was generally sufficient. The failure appeared attributable to lack of sustained procurement planning rather than systemic shortage.
- v. **Litigation plea:** Upon perusal of orders dated 20.01.2025, 28.02.2025, 10.03.2025, 01.04.2025, 07.04.2025 and 18.04.2025 in Writ-C No. 34248 of 2024 titled *M/s Rajan Construction Company vs. State of U.P. & Ors.*, it was evident that:
 - 1. No interim stay or restraint order was granted against the tender floated by HTPS.
 - 2. The Hon'ble High Court recorded absence of appearance on behalf of respondent authorities.

3. The writ petition was ultimately dismissed on merits on 18.04.2025.
- vi. Accordingly, the Committee found that there was no judicial embargo preventing HTPS from proceeding with procurement. Even assuming administrative uncertainty, HTPS failed to take timely legal recourse or seek clarification from the Court. Such inaction reflects lack of due diligence and seriousness in complying with the statutory mandate.
- vii. **Comparative Performance:** The Committee observed that other similarly placed plants, including JPL (Apraava Energy), successfully undertook co-firing of non-torrefied pellets. This demonstrated that technical feasibility was not an insurmountable barrier.
- viii. **Statutory Mandate Predating Exemption:** The obligation to achieve annual co-firing targets existed independently of and prior to the request for exemption of the 660 MW unit. HTPS was expected to factor projected coal consumption and ensure proportionate biomass procurement accordingly.
- ix. **Deviation from Commitments:** The Committee recorded that HTPS's actual performance deviated materially from commitments previously furnished before the Commission.

Conclusion of the Committee (Harduaganj Power Station)

- i. Upon comprehensive consideration of the written / oral submissions and material placed on record, the Committee concludes that HTPS achieved only about 2.05% biomass co-firing during FY 2024–25 against the prescribed target of more

than 3%, thereby falling short of the statutory mandate under the Environment (Utilisation of Crop Residue by Thermal Power Plants) Rules, 2023.

- ii. The grounds cited by HTPS, including monsoon-related moisture issues, temporary transportation disruptions during Kanwar Yatra, shutdowns and maintenance activities, vendor-related quality and supply concerns, procurement gaps and pendency of Writ-C No. 34248 of 2024 before the Hon'ble High Court of Judicature at Allahabad, do not constitute circumstances beyond its reasonable control within the meaning of Rule 5. The material on record demonstrates that:
 - The seasonal disruptions were temporary in nature and could have been mitigated through advance planning and compensatory co-firing during other periods;
 - No judicial stay or restraint order operated against the HTPS's procurement process;
 - Biomass availability in the region was not proven as inadequate; and
 - Other similarly situated generating stations successfully undertook co-firing during the same period.
- iii. The limited exemption, even if, granted by CEA up to 31.01.2025 in respect of the 660 MW unit was expressly confined to OEM warranty considerations and did not dilute the statutory obligation to meet the annual co-firing target for HTPS for its other units. However, it was observed by the Committee that exemption as claimed w.r.t. 660 MW unit was already considered and granted for said period while determining annual co-firing target and calculation of environmental compensation accordingly.

- iv. The Committee further noted that the obligation to achieve the notified annual co-firing percentage is independent of internal procurement or administrative challenges. The circumstances placed on record indicate operational and managerial shortcomings rather than force majeure, legal impossibility or any prohibitive statutory restraint.
- v. The Committee also noted that, despite advising repeatedly to HTPS to establish in-house or proximate pellet manufacturing facilities, HTPS failed to comply with the same.
- vi. In view of the foregoing, the Committee found no ground to grant relaxation under Rule 5 for FY 2024-25. Accordingly, HTPS is liable for imposition of EC for the shortfall in biomass co-firing during the said financial year, as computed in accordance with the prescribed regulatory methodology.

B. Talwandi Sabo Power Limited (TSPL) – Mansa

- I. In respect of TSPL, Mansa, the representatives of TSPL submitted that the plant is equipped with a ball and tube mill configuration, for which torrefied biomass pellets are technically required for sustained co-firing operations. It was stated that regular supply of torrefied biomass pellets commenced from March 2024 and that TSPL has been consistently co-firing torrefied biomass pellets since 2024.
- II. TSPL submitted that it has adopted a diversified contracting framework comprising short-term (3-6 months), medium-term (12 months) and long-term (up to 60 months) supply arrangements. It was informed that seven long-term contracts (aggregating 61 months) were awarded to seven entities for supply of torrefied pellets, with projected cumulative supply of up to 7,30,000 MT by 2029. However, in certain cases, supply under the awarded contracts has

not yet commenced. In addition, six short to medium term contracts (3-12 months) have been awarded to other suppliers.

- III. In response to queries regarding discontinuation of co-firing after conducting the pilot project in 2022, TSPL clarified that the said pilot involved 50 MT of non-torrefied pellets and was discontinued due to technical incompatibility with the ball and tube mill system.
- IV. TSPL further submitted that:
- Approximately 75 vendors were engaged through the SAMARTH portal and multiple tenders were issued;
 - The plant operates under a 100% PPA with PSPCL, Government of Punjab;
 - Fuel-related decisions required concurrence of PSPCL, which had earlier raised objections to co-firing of non-torrefied pellets; and
 - Constraints relating to tariff adjustment and cost pass-through under the Electricity Act contributed to delays in regular co-firing.
- V. TSPL also submitted that owing to logistical and technical constraints affecting torrefied pellet availability, it undertook stubble management initiatives under its CSR programme, including awareness campaigns, distribution of bio-decomposer, recognition of progressive farmers and vendor partnerships targeting approximately 8 lakh MT biomass. It was claimed that such efforts contributed to reduction in stubble burning incidents in Mansa district.
- VI. Finally, TSPL highlighted its preparedness for FY 2025-26 and submitted that against a target of 3.86 lakh MT, it had already co-fired approximately 1.15 lakh MT of torrefied pellets by mid-August 2025. On this basis, TSPL requested that a one-time relaxation from imposition of EC for FY 2024-25 be granted in view of its subsequent improvement and proactive efforts.

Examination by the Committee

The Committee carefully examined the submissions and relevant records / data and observed that the technical configuration of the plant (ball and tube mill) was known since issuance of Direction No. 42 in the year 2021. Therefore, the requirement of torrefied pellets cannot be treated as an unforeseen circumstance arising during FY 2024-25. It was further noted that:

- i. **Delayed Augmentation of Supply Arrangements:** Although TSPL has now entered into multiple long-term and short-term contracts, substantial procurement and diversification efforts were initiated only in 2024, particularly after clarification regarding cost pass-through was issued by the MoP. The Committee observed that proactive augmentation measures could and ought to have been undertaken earlier.
- ii. **Availability of Torrefied Pellets:** The overall estimated availability of torrefied biomass pellets during FY 2024-25 was approximately 564 TPD (considering 60% CUF), whereas the requirement for achieving the annual target was approximately 1,423 TPD, leaving a shortfall of about 859 TPD. However, the Committee noted that since 2021 TSPL had been repeatedly advised by the Commission and concerned Ministries to facilitate capacity augmentation and explore establishment of its own torrefied pellet manufacturing arrangements to mitigate such shortages. TSPL did not demonstrate timely or sufficient action in this regard.
- iii. **Tariff Adjustment / PPA Constraints:** The Committee observed that issues relating to tariff adjustment, PPA terms or regulatory approvals do not absolve TSPL from complying with statutory mandates under the 2023 Rules. It was further noted

that despite raising tariff-related concerns, TSPL did not establish that it had pursued expeditious resolution before the appropriate regulatory forum in a time-bound manner.

- iv. **CSR Activities:** While appreciating the CSR initiatives undertaken by TSPL in relation to stubble management, the Committee observed that such measures cannot substitute compliance with the mandated co-firing requirements. Statutory compliance must be assessed strictly on the basis of actual biomass co-fired vis-à-vis prescribed targets.
- v. **Prior Correspondence and Advisory:** The Commission had on multiple occasions during 2022–2024, flagged TSPL’s lag in performance and sought specific action plans for augmentation of co-firing. A Notice was ultimately issued on 15.02.2024 due to continued non-compliance. The Committee observed that despite claimed unsuccessful co-firing pilot efforts undertaken in the year 2022 for non-torrefied pellets and subsequent successful co-firing in the year 2023, TSPL failed to initiate procurement and co-firing of torrefied pellets in timely manner to comply with mandate as per the Direction of the Commission and with the Rules notified in the year 2023.
- vi. **Subsequent Improvement in FY 2025–26:** The Committee acknowledged that TSPL has demonstrated improved performance during FY 2025-26. However, subsequent compliance cannot retrospectively cure non-compliance for FY 2024-25, particularly where the shortfall relates to a statutory annual mandate.

Conclusion of the Committee (TSPL–Mansa)

- i. Upon detailed consideration of the written and oral submissions of TSPL-Mansa and the material placed on record, the

Committee concludes that TSPL has failed to achieve the prescribed biomass co-firing target for FY 2024-25 and has not established the existence of any circumstance beyond its reasonable control within the meaning of Rule 5 of the Environment (Utilisation of Crop Residue by Thermal Power Plants) Rules, 2023.

- ii. The technical configuration of the plant (ball and tube mill) and the corresponding requirement of torrefied biomass pellets were known to TSPL since issuance of Direction No. 42 in the year 2021. The claimed necessity of torrefied pellets, therefore, cannot be treated as an unforeseen development arising during FY 2024-25. The material on record indicates that substantial augmentation of procurement and contracting arrangements was undertaken only during 2024, despite repeated instructions/ communications from the Commission during 2022-2024.
- iii. The constraints cited by TSPL including limited availability of torrefied pellets, logistical challenges, tariff adjustment issues and PPA-related approvals pertain to commercial and operational considerations falling within the management domain of TSPL. Such factors may indicate commercial difficulty but do not constitute legal impossibility, force majeure or any statutory prohibition preventing compliance. No material has been placed on record to demonstrate that compliance was rendered objectively impossible.
- iv. While the Committee acknowledges the CSR initiatives undertaken by TSPL towards stubble management and notes the improved co-firing performance during FY 2025-26. However, subsequent compliance or CSR measures cannot retrospectively offset the statutory shortfall for FY 2024-25.

Compliance with the mandated co-firing percentage is to be assessed strictly on the basis of actual biomass utilized vis-à-vis the prescribed annual target.

- v. The Committee also noted that, despite advising repeatedly to TSPL to establish in-house or proximate pellet manufacturing facilities, TSPL failed to comply with the same.
- vi. In view of the foregoing, the Committee is not satisfied that TSPL has made out a case for relaxation under Rule 5. Accordingly, EC is liable to be imposed for the shortfall in biomass co-firing during FY 2024-25. The EC computed strictly in accordance with the prescribed regulatory methodology is compensatory and deterrent in nature, intended to secure adherence to the statutory mandate.

C. Guru Hargobind Thermal Power Plant (GHTPP), PSPCL– Lehra Mohabbat

- I. In the case of PSPCL, it was observed that the GHTPP achieved approximately 2.00% biomass co-firing against the stipulated minimum target of 3% for the year 2024-25. GHTPP broadly submitted the following:
 - i. **Procurement Efforts:** GHTPP issued an e-tender dated 22.08.2024 for procurement of 200 MT per day biomass pellets for GHTPP. Pursuant to the tender, Purchase Orders (POs) were placed on four firms on 22.11.2024. However, despite issuance of POs at the quoted rates, the firms did not commence supply of biomass pellets. After granting sufficient time, GHTPP initiated action against the defaulting firms as per the terms and conditions of the Purchase Order-cum-Contract Agreement.

- ii. **Proposed Pellet Manufacturing Plant:** GHTPP stated that it is pursuing with NTPC Vidyut Vypar Nigam Ltd (NVVN) for setting up a non-torrefied pellet manufacturing plant of 40 MTPD capacity at GHTPP Lehra Mohabbat. However, the plant has not yet become operational due to technical constraints. It is noted that in GHTPP's reply dated 06.01.2026, no specific technical constraints or detailed issues arising therefrom were substantiated.
 - iii. **Increase in Coal Consumption:** GHTPP submitted that the quantity of biomass pellets for which POs were placed in April 2024 was assessed based on average coal consumption for FY 2021-22 to 2022-23 (1,950,357 MT). However, coal consumption increased significantly to 2,971,426 MT during 2024-25 owing to higher power demand. Consequently, the percentage of biomass co-firing reduced proportionately.
- II. On the above grounds, GHTPP submitted that the shortfall in achieving the minimum 3% co-firing target was attributable to external supply-side constraints and unforeseen technical variables, and not due to administrative negligence.

Examination and Findings of the Committee

The Committee deliberated upon the matter in detail.

- i. **Adoption of Benchmark Price:** SAMARTH reiterated that the "Benchmark Price" mechanism, communicated by the MoP vide letter dated 23.08.2023, was devised after considering appropriate margins for pellet manufacturers to reduce instances of contract failure. It has been evidenced from the performance of compliant TPPs that adoption of the Benchmark Price significantly reduces supply failures post issuance of POs.

The Commission has consistently noted that non-adoption or improper adoption of the Benchmark Price is one of the principal causes for failure to secure assured pellet supplies.

- ii. **Multiple Vendor Approach:** The Committee observed that compliant TPPs during 2024–25 adopted a diversified vendor strategy to mitigate supply risk. PSPCL–Lehra did not adequately operationalize such multi-vendor procurement mechanism. The importance of maintaining a resilient supply chain was emphasized during review meetings held on 13.03.2024, 20.06.2024 and 30.08.2024, the minutes of which were duly circulated.
- iii. **Establishment of Pellet Manufacturing Facilities:** The Commission, MoP and SAMARTH have repeatedly advised TPPs to establish in-house or proximate pellet manufacturing facilities, either independently or through third-party arrangements. Ensuring timely operationalization of such facilities was the responsibility of the concerned TPP. The proposed plant in coordination with NTPC Vidyut Vypar Nigam Ltd (NVVN) has not yet materialized and no cogent technical justification has been furnished for the delay.
- iv. **Accounting for Enhanced Coal Consumption:** The Committee noted that SAMARTH had already factored in potential variations in coal consumption and Plant Load Factor (PLF) while projecting co-firing targets. Therefore, the increase in coal consumption cannot, by itself, constitute sufficient justification for failure to meet the mandated co-firing percentage.
- v. **Past Performance and Prior Flagging:** While PSPCL’s Ropar TPP eventually complied with the co-firing mandate despite initial poor performance, PSPCL–GHTPP failed to demonstrate

comparable corrective action. The poor performance of PSPCL–GHTPP was flagged by the Commission to MoP, Government of India, Government of Punjab and PSPCL on multiple occasions (09.02.2024, 12.02.2024, 21.02.2024 and 27.02.2024) in relation to Commission’s Direction No. 42 dated 17.09.2021.

Conclusion of the Committee (PSPCL – Lehra Mohabbat)

- i. Upon comprehensive consideration of the written submissions and material placed on record, the Committee concludes that GHTPP- PSPCL, Lehra Mohabbat TPP achieved only 2.00% biomass co-firing during FY 2024-25 against the prescribed minimum target of 3%, thereby falling short of the statutory mandate under the Environment (Utilisation of Crop Residue by Thermal Power Plants) Rules, 2023.
- ii. The explanations advanced by GHTPP, including non-performance by vendors, delay in operationalization of the proposed pellet manufacturing plant in association with NTPC Vidyut Vypar Nigam Ltd (NVVN) and increase in coal consumption during the year, do not establish circumstances beyond its reasonable control within the meaning of Rule 5 of the 2023 Rules. The material on record indicates that:
 - Adoption of the Benchmark Price mechanism, as communicated by the MoP, was either delayed or ineffectively operationalized, contributing to procurement failure;
 - Adequate diversification of suppliers and development of a resilient procurement framework was not ensured despite repeated advisories and review meetings;
 - The proposed pellet manufacturing facility was not commissioned within a reasonable timeframe and no

substantiated technical impediment has been demonstrated;

- Variations in coal consumption and PLF are foreseeable operational parameters and were already factored into the projected co-firing targets.
- iii. The Committee further observed that no systemic or region-wide non-availability of biomass has been established. The circumstances cited reflect procurement and planning deficiencies rather than force majeure, statutory prohibition or legal impossibility.
- iv. In view of the above findings, the Committee finds no grounds to grant relaxation under Rule 5 for FY 2024-25. The shortfall in achieving the mandated co-firing percentage is attributable to inadequate planning and lack of institutional preparedness. Accordingly, GHTPP-PSPCL, Lehra Mohabbat is liable for imposition of EC for the said financial year, computed strictly in accordance with the prescribed regulatory methodology. The EC is compensatory and deterrent in character and intended to secure adherence to the statutory mandate.
- v. GHTPP should immediately streamline its procurement framework, strictly adhere to the Benchmark Price mechanism, diversify its vendor base and expedite establishment of pellet manufacturing capacity to ensure sustained compliance in subsequent financial years.

D. Three (03) TPPs of HPGCL (RGTPP – Hisar, DCRTTP - Yamunanagar and PTPS – Panipat)

The Director (Technical), HPGCL appeared before the Committee and presented the consolidated position of its three TPPs in Haryana. The submissions made on behalf of HPGCL broadly included the following:

- i. **Statutory and Regulatory Constraints:** HPGCL submitted that it had co-fired 550 MT of torrefied biomass pellets during FY 2021–22 in compliance with directions of the Commission. However, pass-through of the expenditure was not initially allowed by the Haryana Electricity Regulatory Commission (HERC), despite the policy of the MoP dated 08.10.2021.

HPGCL approached the Appellate Tribunal for Electricity, which directed HERC to take a decision on interim arrangement within four weeks. Subsequently, while allowing pass-through, HERC imposed conditions that biomass pellets shall be procured from within Haryana, pellet manufacturers must be situated in Haryana and co-firing shall be undertaken only after obtaining OEM approval.

HPGCL submitted that compliance with these directions entailed procedural delays and created additional constraints impacting procurement during FY 2024-25.

- ii. **Restriction to Torrefied Pellets and Availability Issues:** HPGCL submitted that torrefied biomass pellet manufacturing was still at a nascent stage during 2024–25. Due to non-availability of sufficient manufacturers within Haryana and lack of established technology, suppliers required time to develop adequate production capacity. Despite best efforts, HPGCL could not procure the requisite quantum of torrefied pellets.
- iii. **Constraint Regarding Purchase of Parali through Agriculture Portal:** Pursuant to directions of the Hon'ble Chief Minister in the SLHPPC meeting, HPGCL issued a Purchase Order dated 10.05.2023 providing for direct payment to farmers for paddy straw through the Agriculture & Farmers Welfare Department

portal. However, the supplier faced difficulties as the portal did not have a provision for such direct payments, which was confirmed by the Agriculture Department.

The State Government granted relaxation on 21.10.2024 and the Purchase Order was amended on 07.11.2024, with a copy marked to the Commission.

- iv. **District-wise Procurement Restrictions:** The engaged firm communicated difficulty in procuring paddy straw from the allocated districts. Although the constraint was eventually lifted by the State Government, approximately seven months of FY 2024–25 had already elapsed.
- v. **Cancellation of e-NITs due to Benchmark Price Direction:** An e-NIT dated 21.10.2024 was issued for procurement of 2 lakh MT torrefied biomass pellets. Subsequently, SAMARTH, considering MoP's revised biomass utilization policy, Commission's Direction No. 42 and the notification of the MoEF&CC regarding penalties for non-compliance, directed adherence to benchmark rates on 08.11.2024.

MoP notified benchmark price for torrefied pellets on 18.11.2024. Consequently, the tender was cancelled. A fresh e-NIT dated 31.01.2025 for 3.55 lakh MT was issued but subsequently cancelled due to insufficient bidders.

Examination by the Committee

The Members of the Committee deliberated extensively on the issues raised.

- i. **Prior Assurance and Preparedness:** The Committee noted that the Energy Department, Government of Haryana had assured

on 27.02.2024 that HPGCL was fully prepared to achieve biomass co-firing targets for 2024–25. However, actual performance did not reflect adequate preparedness.

- ii. **Over-Dependence on Torrefied Pellets and Single Vendor:** It was observed that the principal reason for non-compliance by RGTPP, DCRTTP and PTPS was over-reliance on procurement of torrefied pellets from a single vendor and absence of diversification in procurement strategy.
- iii. Repeated advisories were issued during review meetings emphasizing diversification of vendors and procurement strategy to mitigate supply risk. Notably, DCRTTP and RGTPP confined themselves to torrefied pellets despite having the technical feasibility to co-fire non-torrefied pellets, as adopted by five other compliant TPPs.
- iv. **Advisories During High-Level Committee Visit:** During the High-Level Committee visit in 2024, DCRTTP (Yamunanagar) and RGTPP (Hisar) were specifically advised to initiate co-firing of non-torrefied pellets, taking reference from the performance of NTPC TPPs and JPL–Apraava, Jhajjar.
- v. **Delay in Feasibility Implementation at PTPS:** PTPS, owing to its ball & tube mill configuration, initiated a feasibility study through Bharat Heavy Electricals Limited (BHEL) for suitability of biomass co-firing. BHEL submitted its initial report in October 2022 recommending modifications in Units 7 & 8 for trial co-firing.

However, correspondence dated 19.10.2022 indicated that BHEL sought confirmation regarding pellet availability for conducting trials. The requisite follow-up and operationalization

remained pending at PTPS for an extended period. Only after the Commission's notice dated 15.02.2024 and the subsequent High-Level Committee visit did HPGCL complete the pending exercise and commence co-firing of torrefied pellets.

The State Government of Haryana and SAMARTH were also requested to address issues of pellet and biomass availability.

- vi. **Delayed Initiation and Regulatory Flagging:** The Committee observed that all three TPPs of HPGCL initiated meaningful co-firing activities only after issuance of notice dated 15.02.2024 and the High-Level Committee intervention. The performance of HPGCL TPPs had earlier been flagged by the Commission before MoP and the Government of Haryana on 12.02.2024 and 09.02.2024, respectively.

Conclusions of the Committee (HPGCL)

- i. Upon comprehensive consideration of the written / oral submissions made by HPGCL, the material placed on record and the deliberations during review meetings and hearings, the Committee concluded that RGTPP, DCRTTP and PTPS failed to achieve the prescribed biomass co-firing targets for FY 2024–25 under the Environment (Utilisation of Crop Residue by Thermal Power Plants) Rules, 2023.
- ii. The grounds advanced by HPGCL, including regulatory conditions imposed by the HERC, procedural requirements relating to OEM approval, benchmark price notifications issued by the MoP, procurement constraints relating to torrefied pellets, portal-related issues concerning direct payment to farmers, district-wise procurement limitations and cancellation of

tenders, do not constitute circumstances beyond its reasonable control within the meaning of Rule 5 of the 2023 Rules. The Committee finds that:

- Regulatory or tariff-related conditions imposed by HERC pertain to commercial recovery of expenditure and do not suspend the statutory obligation to achieve notified co-firing percentages;
 - The benchmark price framework was introduced to stabilize procurement and was applicable uniformly to all TPPs; tender cancellations and re-tendering processes were foreseeable procurement contingencies, which could have been mitigated through timely planning;
 - Over-dependence on torrefied pellets and limited vendors, despite technical feasibility of co-firing non-torrefied pellets at RGTPP and DCRTPP, reflects procurement strategy deficiencies rather than systemic impossibility;
 - In the case of PTPS, delays in operationalizing feasibility recommendations and follow-up with BHEL were attributable to institutional inaction over an extended period;
 - Meaningful co-firing efforts were undertaken only after issuance of notice dated 15.02.2024 and intervention of the High-Level Committee, indicating reactive rather than proactive compliance.
- iii. The Committee further observed that no material has been placed on record to demonstrate force majeure, legal impossibility or any statutory prohibition preventing compliance. The constraints cited largely relate to administrative coordination, regulatory approvals, vendor management and procurement planning, which fall within the operational domain of the generating utility.

- iv. The Committee also noted that, despite advising repeatedly to RGTPP, DCRTTP and PTPS of HPGCL to establish in-house or proximate pellet manufacturing facilities, RGTPP, DCRTTP and PTPS of HPGCL failed to comply with the same
- v. In view of the foregoing, the Committee finds no grounds to grant relaxation under Rule 5 for FY 2024-25. Accordingly RGTPP, DCRTTP and PTPS are liable for imposition of EC for the shortfall in biomass co-firing during the said financial year. The EC computed strictly in accordance with the prescribed regulatory methodology is compensatory and deterrent in nature, intended to secure adherence to the statutory mandate.
- vi. HPGCL for its 3 TPPs should immediately streamline its procurement framework, adopt a diversified vendor strategy including both torrefied and non-torrefied pellets as technically feasible and institutionalize advance procurement planning to secure sustained compliance in subsequent financial years.

Observations and Recommendations

- 40. The Committee reiterates that co-firing of crop-residue-based biomass pellets in coal-based TPPs is a critical statutory and environmental intervention for addressing stubble burning in the NCR and adjoining areas. This measure directly contributes to reduction of open-field burning, mitigation of severe air pollution episodes, conservation of natural resources and lowering of the carbon footprint of TPP operations. The initiative is aligned with India's broader climate commitments, including the national objective of achieving Net-Zero emissions and represents a scalable and replicable framework for sustainable biomass utilisation.

41. Review of performance for FY 2025–26 (up to January) indicates that approximately 16.86 lakh MT of crop-residue-based biomass pellets have been co-fired collectively by 11 TPPs against a projected co-firing target of (@5% co-firing) approximately 25.34 lakh MT. This still reflects a substantial shortfall. The Committee observes that in respect of certain TPPs, the lag is attributable primarily to inadequate advance planning, weak procurement structuring, over-dependence on limited vendors, delayed institutional decision-making and failure to maintain a resilient pellet supply chain, despite repeated advisories and availability of policy support mechanisms. Such systemic deficiencies, if unaddressed, may result in recurring non-compliance and undermine the regulatory framework.
42. The Committee further noted that compliance is demonstrably achievable. During FY 2024–25, the performance of
- JPL-Aprava Energy,
 - GGSSTPP, PSPCL- Ropar, and
 - NPL, Rajpura
- demonstrates that structured procurement planning, adoption of benchmark pricing mechanisms and diversified vendor engagement can yield sustained compliance. Consistent performance post issuance of Direction No. 42 has also been observed in NTPC Dadri and IGSTPS, Jhajjar. Further, performance improvement during FY 2025–26 in TSPL reinforces that robust procurement framework and diversification of suppliers are decisive determinants of compliance, which should have been taken earlier to be compliant with co-firing targets of FY 2024-25.
43. Based on the examination of records, submissions and performance data, the Committee noted that the following five TPPs have complied with the applicable mandates under the Environment (Crop Residue Utilization by Thermal Power Plants) Rules, 2023:

1. JPL – Apraava Energy;
2. NTPC–Dadri;
3. IGSTPS, Jhajjar;
4. GGSSTPP – Ropar (PSPCL);
5. NPL – Rajpura.

The remaining six (06) TPPs, namely:

1. RGTPP, Hisar - HPGCL
2. DCRTPP, Yamunanagar - HPGCL
3. PTPS, Panipat - HPGCL
4. PSPCL - GHTPP, Lehra Mohabbat
5. HPS - UPRVUNL
6. TSPL – Mansa

have been found non-compliant with the prescribed co-firing targets for FY 2024-2025, due to inadequate planning, delayed procurement actions, over-reliance on limited suppliers and failure to institutionalize a resilient crop-residue pellet supply chain despite clear regulatory mandates and repeated advisories.

44. Upon comprehensive review of the representations, replies and oral submissions made by the aforesaid six (06) TPPs, the Committee further reaffirms as follows:
 - i. The explanations and justifications advanced by the concerned TPPs are insufficient to establish that the circumstances cited were beyond their reasonable control within the meaning of Rule 5 of the 2023 Rules. The material on record does not demonstrate force majeure, statutory prohibition or legal impediment preventing compliance.

- ii. The constraints cited predominantly relate to procurement strategy, vendor management, contractual structuring, tariff or regulatory recovery, logistical coordination or delayed institutional response. Such factors fall within the operational and managerial domain of the TPPs and were capable of mitigation through timely and structured managerial response and diversified procurement planning, including establishment of in-house or proximate pellet manufacturing arrangements.
 - iii. The Committee further observes that repeated advisories, review meetings, issuance of notices and grant of opportunities for hearing were extended to the concerned TPPs. Despite such facilitative opportunities, these six (06)sssss TPPs remained non-compliant.
 - iv. The Committee further observed that, upon a detailed examination of the compliance measures and actions undertaken by the concerned TPPs, there appears to be a clear lack of intent to adhere to the statutory mandate. Additionally, no effective efforts were evident towards achieving the prescribed co-firing targets. In view of the long-term and sustained compliance requirements aimed at preventing stubble burning incidents, the Committee is of the considered opinion that the imposition of suitable EC on the defaulting TPPs is warranted. Such imposition would not only address the present non-compliance but also serve as a deterrent against future violations.
45. Accordingly, in terms of the provisions of the Environment (Crop Residue Utilization by Thermal Power Plants) Rules 2023, the Committee recommends imposition of EC upon the aforesaid six (06) non-compliant Thermal Power Plants, as per the prescribed methodology and notified rates under the said Rules. The Environmental Compensation for shortfall in

mandated biomass co-firing targets for FY 2024-25 is liable to be imposed as reflected in the table below:

S.No.	Name of the Plants	Environmental Compensation (EC) for 2024-25			
		Biomass Co-fired in % consumption	Biomass Pellets % Required @ to be co-fired to be complied with	Environmental Compensation (EC) (in Million Rs.) as per E(GT)	
1	Harduaganj TPS.	2.05 %	>3 %	27.40	Not-complied
2	RGTPP. Hisar	2.07 %		55.51	Not-complied
3	GHTPP Lehra Mohhabbat	2.00 %		48.66	Not-complied
4	PTPS, Panipat	1.86 %		89.79	Not-complied
5	DCRTPP, Yamuna Nagar	1.44 %		66.87	Not-complied
6	TSPL, Mansa	0.36 %		330.26	Not-complied
Total		-		618.49	

46. The Committee concludes that imposition of EC is warranted on account of failure to achieve the prescribed minimum biomass co-firing targets despite availability of sufficient compliance window, institutional support mechanisms, benchmark pricing framework, repeated regulatory advisories and opportunities of hearing. The explanations advanced by the defaulting TPPs do not meet the requirement for relaxation under Rule 5. Subsequent improvements in performance, while noted, do not retrospectively cure the past shortfalls.
47. In view of the foregoing, the Committee is of the considered view that EC be imposed and recovered from the defaulting TPPs strictly in accordance with the provisions of the Environment (Utilisation of Crop Residue by Thermal Power Plants) Rules, 2023. The EC is compensatory and deterrent in character and is computed strictly in accordance with the prescribed rates.
48. At the end, the Committee also opines that, in addition to taking deterrent action against the defaulting TPPs, appropriate measures and policy

interventions should also be initiated to motivate, promote and encourage compliance with the mandated co-firing requirements.

CASE NO.:
Appeal (civil) 3556 of 1984

PETITIONER:
NOVOPAN INDIA LTD., HYDERABAD

RESPONDENT:
COLLECTOR OF CENTRAL EXCISE AND CUSTOMS, HYDERABAD

DATE OF JUDGMENT: 14/09/1994

BENCH:
B.P. JEEVAN REDDY & SUHAS C. SEN & K.S. PARIPOORNAN

JUDGMENT:
JUDGMENT

1994 SUPPL. (3) SCR 549

The Judgment of the Court was delivered by

B.P. JEEVAN RKDDY, J. This appeal is preferred against the judgment and order of the Customs, Excise and Gold (Control) Appellate Tribunal, New Delhi dismissing the appeal preferred by the appellant- manufacturer.

The appellant is engaged in the manufacture of particle boards. It commenced the production in the year 1979. The first clearances were made in the March of that year. The appellant sought to take advantage of the Exemption Notification No. 55 of 1979 issued by the Central Government under Rule 8(1) of the Central Excise Rules, 1944. This Notification exempted "plywood and boards specified in column (2) of the table hereto annexed and falling under Item No. 16-B of the First Schedule to the Central Excise and Salt Act, 1944 (1 of 1944) from so much of the duty of excise leviable thereon as is in excess of the duty specified against the corresponding entry in column (3) of the said table." The table appended to the said Notification reads as follows:

TABLE

S.No. (1)	Description (2)	Rate of Duty (3)
1.	Commercial plywood	Twenty per cent ad valorem.
2.	Batten boards and block boards (including flush doors) having both faces of commercial plywood and veneered shocks and panels made up of strips of woods flued between two outer veneers.	Twenty per cent ad valorem.
3.	Insulation boards and hard boards.	Ten per cent ad valorem.
4.	Marine plywood and aircraft plywood.	Ten per cent ad valorem.
5.	Veneered particle boards excluding particle boards with decorative veneers on one or both faces.	Twenty per cent ad valorem.
6.	Unveneered particle boards.	Nil
7.	(Omitted as unnecessary)'	

The appellant's case was that the particle boards manufactured by it are 'unveneered particle boards' within the meaning of Item No. 6 of the aforesaid table and, therefore, totally exempt from duty. This case was accepted by the department. A few months later, the appellant started manufacturing what are described as "melamine faced particle boards". The

appellant claimed the benefit of the aforesaid Exemption Notification with respect to melamine faced particle boards as well, to which the authorities did not agree. According to them, the product fell and was dutiable under Tariff Item-68. The appellant accepted the said position and accordingly a classification list was filed and approved on January 9, 1980. On June 17, 1980, the Collection of Central Excise issued a notice under Section 35-A of the Act proposing to revise the order to the Assistant Collector dated January 9, 1980. According to him, the melamine faced particle boards (M.F.P.Bs.) were classifiable under Tariff Item 16-B but were not entitled to the benefit of exemption provided by the Notification No. 55 of 1979 aforesaid - with the result that the said boards became liable to a duty higher than the one prescribed under Tariff Item-68. The appellant showed cause whereupon the Collector dropped the proceedings. He held that the MFPBs fell under Tariff Item 68 and not under Tariff Item 16-B. On this occasion, however, the appellant questioned the order to the Collector by filing a revision before the Central Government wherein he put forward a composite claim. According to it, MFPBs were no doubt classifiable under Tariff Item 16-B but at the same time, they were entitled to the benefit of the Exemption Notification No.55 of 1979 aforesaid. The idea evidently was to obtain total exemption from tax in this manner. The Tribunal examined the said claim but rejected it. The Tribunal agreed with the Collector that MFPBs were properly classifiable and dutiable under Tariff Item-68.

The short question in this appeal is whether MFPBs can be called 'unveneered particle boards' within the meaning of, Item-6 of the table appended to Notification No. 55 of 1979? The process of manufacture of particle boards is set out in the order of the Tribunal in the following words:

The manner of manufacture of particle boards by the petitioner is as follows :-

(i) Wood is received in the form of logs of approximately 1 mtr. length. The logs are fed into a chipping machine where they are cut into small particles or flakes. These flakes are dried and rifted into the fractions of definite dimension, one forming the core layer and the other for the two face layers. The two fractions of wood particles are independently mixed with U.F. resin and additives in specially designed gluing machines. The glued particles are then spread into a form of mat, forming two face layers and one Central core. The mat thus formed is conveyed to the Hydraulic press where it is subjected to heat and pressure. The boards remain in the press for a predetermined time after which they are taken out and cooled at room temperature. The surface of the board is then sanded in sanding machine, which also calibrates the board to the required thickness."

The Tribunal has pointed out that the very same process is set out in the two affidavits of 'experts' filed by and relied upon by the appellant. The Tribunal then referred to the process of manufacture of MFPBs as described in brochure Exh.-II, According to the brochure, the appellant was carrying on "a unique process where the resin impregnation takes place in an integrated process and this melamine facing is a part of this process, and not what could be a simple gluing of a material subsequently". The said process was described in the brochure as "pre-lamination which implies that lamination takes place before fully manufactured particle board, in its marketable condition, comes into existence".

The learned counsel for the appellant also placed before us pieces of particle board, veneered particle board, melamine faced particle board and commercial plywood. This has indeed assisted us in deciding the issue.

To decide whether MFPBs. can be called 'unveneered particle boards' within the meaning of Item (6) of the table appended to Notification No, 55 of 1979, the test is whether MFPBs. are understood and dealt with as unveneered particle boards in the relevant commercial circles and in common parlance. In Plasmac Machine Manufacturing Co, Pvt. Ltd. v. Collector of

Central Excise, Bombay, [1991] Suppl. 1 S.C.C, 57, it was held by this Court :

"It is an accepted principle of classification that the goods should be classified according to their popular meaning or as they are understood in their commercial sense and not as per the scientific or technical meaning. Indo International Industries v. CST, [1981] 2 SCC 528 and Dunlop India Ltd. v. Union of India, [1976] 2 SCC 241 have settled this proposition. How is the product identified by the class or section of people dealing with or using the product is also a test when the statute itself does not contain any definition and commercial parlance would assume importance when the goods are marketable as was held in Anul Glass Industrial (Pvt.) Ltd. v. CCE, [1986] 3 SCC 480 and Indian Aluminium Cables Ltd. v. Union of India, [1985] 3 SCC 284. In Asian Paints India Ltd. v. CCE, [1988] 2 SCC 470 which was a case of emulsion paint, at para 8, it was said :

"It is well settled that the commercial meaning has to be given to the expressions in tariff items. Where definition of a word has not been given, it must be construed in its popular sense. Popular sense means that sense which people conversant with the subject matter with which the statute is dealing, would attribute to it."

There is no dispute about the above proposition.

We have already set out the process of manufacture of particle boards and the MFPBs. It is difficult to say from the said process that MFPBs are unveneered particle boards. Actually, veneered particle boards mean particle boards on both sides of which plywood is pasted. Un-veneered particle boards is, what we may call, raw particle board. The melamine facing gives it a smooth polished surface. It looks as if the particle board had been laminated on both sides. (We are told by the learned counsel for the appellant that in some cases the melamine facing is done only on one side and not on both the sides.) It is thus difficult to say that the melamine faced particle boards can be described as 'unveneered particle boards'. Nobody in the trade circles or in the market would consider both the products as one and the same. From whichever way one looks at them, they appear to be different products. As stated hereinbefore, even the process of manufacturing is different. It is not a case of mere processing of particle boards for giving it strength. It is a case of manufacturing an altogether different product.

Learned counsel for the appellant relied upon the following passage occurring under the heading "Particle Boards" at page 175 of Encyclopedia Britannica (15th Edn.) Vol. 9:

"Particle board, construction material consisting of flakes, shavings, or splinters of wood glued together in the form of sheets. The particles are mixed with resin, water repellants, and mildew inhibitors, formed into mats, hot-pressed, trimmed to the appropriate size and shape, and finally sanded. Particleboard was developed in the 1940s, when suitable synthetic resins became available; it has made possible the use of residues from lumber production and logging. Particleboard is usually manufactured in thicknesses of 6-25 mm (1/5-1 inch) and in three grades of density. It may be covered with resin-impregnated paper, plastics, or other finishes."

On the basis of the last sentence in the above extract, the learned counsel sought to contend that melamine faced particle board is the same as the particle board and that merely covering the particle boards with resin-impregnated paper, with a view to lend them strength and a smooth and attractive surface do not make MFPBs a different product. We do not think that the said description in Encyclopedia is of any assistance in the matter of classification where the test is the one indicated hereinbefore, viz., whether they are commercially different goods. The Tribunal has held that they are not and no material has been brought to our notice to take a different view.

Learned counsel for the appellant sought to rely upon the affidavits of experts filed by him before the Tribunal which according to him prove that, commercially speaking, particle boards and MFPBs are one and the same product. The tribunal has declined to place any reliance on these affidavits for more than one reason. So far as Dr. Joseph, one of the 'experts' is concerned, the Tribunal has pointed out, and rightly in our opinion, that he has been associated with the appellant-company from the beginning, as admitted by the said person himself. The other person Sri A.C. Shekhar was also found to be associated with the appellant-company. Both of them deposed before the Tribunal that they did not witness the process of manufacture nor were they able to comment upon the process of manufacture contained in the brochure referred to hereinabove. From a reading of their affidavits, the Tribunal concluded that they are not independent experts and that their affidavits were prepared with a view to bolster the appellant's case in these proceedings. The said experts, the Tribunal observed, did not also try to support their opinions with reference to any technical literature or authority on the subject. For all the above reasons, the Tribunal declined to accept their bare assertion that MFPBs can be described as 'unveneered particle boards'. We cannot say that the reasons given by the Tribunal for rejecting the said affidavits are either irrelevant or unsustainable. The said affidavits, therefore, do not advance the appellant's case in any manner.

The learned counsel for the appellant then contended that since there is an ambiguity about the meaning and purport of item-6 of the table appended to the Exemption Notification, the benefit of such ambiguity should go to the assessee manufacturer and the entry must be construed as taking in the MFPBs as well. It is not possible to agree with this submission.

In *Mangalore Chemicals & Fertilizers Ltd. v. Deputy Commissioner of Commercial Taxes & Ors.*, [1992] Suppl. 1 S.C.C. 21, a Bench of this Court comprising M.N. Venkatachaliah, J. (as the learned Chief Justice then was) and S.C. Agrawal, J. stated the relevant principle in the following words :

"Shri Narasimhamurty again relied on certain observations in *CCE v. Parle Exports (P) Ltd.*, [1989] 1 SCC 345, in support of strict construction of a provision concerning exemptions. There is support of judicial opinion to the view that exemptions from taxation have a tendency to increase the burden on the other unexempted class of tax payers and should be construed against the subject in case of ambiguity. It is an equally well known principle that a person who claims an exemption has to establish his case. Indeed, in the very case of *Parle Exports (P) Ltd.* relied upon by Shri Narasimhamurthy, it was observed :

"While interpreting an exemption clause, liberal interpretation should be imparted to the language thereof, provided no violence is done to the language employed. It must, however, be borne in mind that absurd results of construction should be avoided."

The choice between a strict and a liberal construction arises only in case of doubt in regard to the intention of the legislature manifest on the statutory language. Indeed, the need to resort to any interpretative process arises only where the meaning is not manifest on the plain words of the statute. If the words are plain and clear and directly convey the meaning, there is no need for any interpretation. It appears to us the true rule of construction of a provision as to exemption is the one stated by this Court in *Union of India v. Wood Papers Ltd.*, [1990] 4 SCC 256 :

"..... Truly speaking liberal and strict construction of an exemption provision are to be invoked at different stages of interpreting it. When the question is whether a subject falls in the notification or in the exemption clause then it being in nature of exception is to be construed strictly and against the subject but once ambiguity or doubt about applicability is lifted and the subject falls in the notification then full

play should be given to it and it calls for a wider and liberal construction...."

This was also the view expressed in *The Commissioner of Inland Revenue v. James Forrest*, (1890) 15 A.C. 334 where Lord Halsbury, L.C. observed: "all exemptions from taxation to some extent increase the burden on other members of the community....," and in *Littman v. Barron* (Inspector of Taxes, [1951] 2 A.E.R. 393, a decision of the Court of Appeal where Cohen, L.J. said : "the principle that in case of ambiguity a taxing statute should be construed in favour of a taxpayer does not apply to a provision giving a taxpayer relief in certain cases from a section clearly imposing liability".

It is true that in some decisions a contrary view appears to have been expressed. In *Caroline M. Armytage & Ors. v. Frederick Wilkinson*, (1878) 3 A.C. 355, a decision of the Privy Council, it was observed :

"Their Lordships have now to consider whether the decision of Mr. Justice Molesworth upon the merits of the application to him is correct.

They must begin by expressing their dissent from the principle which seems to have influenced Mr. Justice Molesworth in this and some of the earlier cases, viz., that the provisions of the 24th section, because they establish an exception to the general rule, are to be construed strictly against those who invoke their benefit. That principle is opposed to the rule expressed by Lord Ellenborough's in *Warrington v. Furber*, (8 East 242) and followed and confirmed in *Hobson v. Neale*, (17, Beav. 185). Lord Ellenborough's words are : - "I think that when the subject is to be charged with a duty, the cases in which it is to attach ought to be fairly marked out, and we should give a liberal construction to words of exception confining the operation of the duty." It is only, however, in the event of there being a real difficulty in ascertaining the meaning of a particular enactment that the question of strictness or of liberality of construction need arise."

To the same effect is the view expressed by Sir Raymond Evershed in *Routledge v. McKay & Ors.*, [1954] 1 A.E.R. 855. The learned Master of Rolls observed : "on the authorities, that exemption, as I understand, should be liberally interpreted."

We are, however, of the opinion that, on principle, the decision of the Court in *Mangalore Chemicals - and in Union of India v. Wood Papers*, referred to therein - represents the correct view of law. The principle that in case of ambiguity, a taxing statute should be construed in favour of the assessee - assuming that the said principle is good and sound - does not apply to the construction of an exception or an exempting provision; they have to be construed strictly. A person invoking an exception or an exemption provision to relieve him of the tax liability must establish clearly that he is covered by the said provision. In case of doubt or ambiguity, benefit of it must go to the State. This is for the reason explained in *Mangalore Chemicals* and other decisions, viz., each such exception/exemption increases the tax burden on other members of the community correspondingly. Once, of course, the provision is found applicable to him, full effect must be given to it. As observed by a Constitution Bench of this Court in *Hansraj Girdhandas V.H.H. Dave*, (1969) 2 S.C.R. 253 that such a Notification has to be interpreted in the light of the words employed by it and not on any other basis. This was so held in the context of the principle that in a taxing statute, there is no room for any intendment, that regard must be had to the clear meaning of the words and that the matter should be governed wholly by the language of the notification, i.e., by the plain terms of the exemption.

Applying the above principles, we must hold that the words 'un-veneered particle boards' in Item-6 of the table appended to the Exemption Notification cannot and do not take in melamine faced particle boards.

Indeed, the learned counsel for the Revenue contends, and is our opinion rightly, that the said entry does not admit of any doubt, that it is dear and specific and that it covers only unveneered particle boards and nothing else.

For the above reasons, the appeal fails and is dismissed with costs. Advocate's fee Rs. 10,000 consolidated.

It is brought to our notice that by an interim order dated July 30, 1986, this Court directed stay of recovery of arrears of duty on condition that the appellant deposits 50% of the demand within three months from the date of the order and furnishes bank guarantee for the balance. The order reads as follows :

"In the facts and circumstances of this particular case, we direct under Article 142 of the Constitution that the recovery of the demand which is to the tune of nearly a crore of rupees shall remain stayed on a condition that the appellant deposits 50% of the demand within three months from today and furnishes the bank guarantee for the balance within that time.

Dr. Chitale, learned counsel for the appellant states that the appellant has already furnished bank guarantee for much larger amount. If that be so, the existing bank guarantee may be cancelled and a fresh bank guarantee to cover the remaining 50% of the demand shall be furnished. The bank guarantee shall, however, be kept renewed from time to time till the disposal of this appeal. The appellant will pay the interest @ 18% per annum on 50% of the demand in the event of the appeal being dismissed. If the appeal is allowed, the amount of 50% deposited by the appellant shall be refunded with the same rate of interest.

The C.M.P. is disposed of accordingly."

It is obvious that on the dismissal of this appeal, the aforesaid order comes to an end. The appellant has to pay the arrears of duty due according to law. It shall also be open to the respondents to encash the bank guarantees for the said purpose.

**IN THE SUPREME COURT OF INDIA
 CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NO. 3327 OF 2007

COMMISSIONER OF CUSTOMS (IMPORT), MUMBAI

...APPELLANT(S)

VERSUS

M/s. DILIP KUMAR AND COMPANY & ORS.

...RESPONDENT(S)

JUDGMENT

N.V. RAMANA, J.

1. This Constitution Bench is setup to examine the correctness of the *ratio* in ***Sun Export Corporation, Bombay v. Collector of Customs, Bombay***, (1997) 6 SCC 564 [*hereinafter referred as 'Sun Export Case' for brevity*], namely the question is - What is the interpretative rule to be applied while interpreting a tax exemption

provision/notification when there is an ambiguity as to its applicability with reference to the entitlement of the assessee or the rate of tax to be applied?

2. In **Sun Export Case** (supra), a three-Judge Bench ruled that an ambiguity in a tax exemption provision or notification must be interpreted so as to favour the assessee claiming the benefit of such exemption. Such a rule was doubted when this appeal was placed before a Bench of two-Judges. The matter then went before a three-Judge Bench consisting one of us (Ranjan Gogoi, J.). The three-Judge Bench having noticed the *unsatisfactory state of law* as it stands today, opined that the dicta in **Sun Export Case** (supra), requires reconsideration and that is how the matter has been placed before this Constitution Bench.

3. Few facts necessary, to appreciate the issue involved are as follows - the respondents imported a consignment of Vitamin – E50 powder (feed grade) under Bill of Entry No. 8207, dated 19.08.1999. They claimed the benefit of concessional rate of duty at 5%, instead of standard 30%, as per the Customs Notification No. 20/1999 and classified the product under Chapter 2309.90 which admittedly pertains to prawn feed. They relied on the *ratio* in **Sun Export Case** (supra) and claimed the benefit of exemption. The benefit of Customs Notification No. 20/1999 was, however, denied to the respondents on the plea of the department that the goods under import contained chemical ingredients for animal feed and not animal feed/prawn feed, as such, the concessional rate of duty under the extant notification was not available. The department classified the consignment under Chapter 29 which

attracts standard rate of customs duty. The adjudicating authority, namely, the Assistant Commissioner of Customs, distinguished **Sun Export Case** (supra), while accepting the plea of the department to deny the concessional rate. The Commissioner of Customs (Appeals) reversed the order of the Assistant Commissioner and came to the conclusion that **Sun Export Case** (supra) was indeed applicable. The department then approached the Customs, Excise and Service Tax Tribunal (CESTAT), which affirmed the order of the Commissioner of Customs (Appeals). Aggrieved thereby, the present appeal is filed.

4. When the appeal was placed, as noticed earlier, before a Bench of two-Judges, the ruling in **Sun Export Case** (supra) was doubted, observing as follows-

“We have serious doubts as to whether the Bombay High Court judgment affirmed in Sun Export Corporation's case is correct. First and foremost, it is clear that the subsequent exemption Notification largely expanded the first Notification which referred only to animal feeds and nothing else. That being the case, it would be difficult to say that a large number of other categories which have subsequently been added would be clarificatory and therefore, retrospective. Further, we also feel that in view of the catena of judgments of this Court which have held that an exemption Notification has to be strictly construed (that is, if the person claiming exemption does not fall strictly within the letter of the Notification, he cannot claim exemption), have also been ignored by this Court in Sun Export Corporation's case in paragraph 13 thereof. Apart from this, the view of this Court in paragraph 13 that it is well-settled that if two views are possible, one favourable to the assessee in matters of taxation

has to be preferred is unexceptionable. However, this Court was not concerned in that case with the charging Section of a taxation statute. It was concerned with the interpretation of an Exemption Notification which, as has been stated above, would require the exactly opposite test to be fulfilled.”

Further this Court found that the subsequent judgment in ***Collector of Customs and Central Excise, Guntur and Ors. V. Surendra Cotton Oil Mills and Fertilizers Co. and Ors.***, 2001 (1) SCC 578 [*hereinafter referred as ‘Surendra Cotton Oil Mills Case’ for brevity*], distinguished ***Sun Export Case*** (supra), which mandated this Court to take a re-look at the proposition laid down by the earlier cases in the following manner-

“We also find that in the subsequent judgment of this Court, Surendra Cotton Oil Mills's case, this Court has distinguished the Sun Export Corporation's case and held

that it dealt with 'animal feed' which was large enough to include 'animal feed supplements' whereas the facts of Surendra Cotton Oil Mills's case showed that ingredients of animal feed could not be held to be included in 'animal feed'. In our opinion, this Court did not adequately deal with why Sun Exports Corporation's case which is a binding decision of a three Judges Bench should not be followed, apart from a specious distinction between 'ingredients' and 'supplements' which is logically speaking a distinction without a difference.

...

This being the unsatisfactory state of law as it stands today, we feel that this matter should be placed before Hon'ble the Chief Justice of India to constitute an appropriate Bench to resolve the doubts pointed out by us in the body of this Order."

(emphasis supplied)

5. We feel that the reference to **Surendra Cotton Oil Mills Case** (supra), may not be necessary as the distinction was drawn on a factual footing, which this Court may not concern itself with, as we are only concerned with the principle of law. With this, the Division Bench was of the tentative view that the opinion expressed in **Sun Export Case** (supra) would require reconsideration, as the proposition laid down therein was unsatisfactory, and therefore placed before the Chief Justice of India for constituting an appropriate Bench.
6. When the matter was placed before a three Judge Bench presided over by one of us (Ranjan Gogoi, J.), the Bench reiterated the view for reconsideration of the **Sun Export Case** (supra) and again placed the matter,

before Hon'ble the Chief Justice of India for constitution of an appropriate Bench, considering the fact that **Sun Export Case** (supra) was decided by a Bench comprising of three learned judges of this Court. Hence, this matter came to be placed before this Bench of Five Judges with following observations-

“In paragraph 13 of the order of this Court in Sun’s case, views have been expressed with regard to the interpretation of an exemption notification to support the conclusion reached. The same may require a reconsideration.

That apart, in the referral order it has been noticed that *Sun’s Case (supra)* has been distinguished in ‘*Collector of Central Excise, Guntur vs. Surendra Cotton Oil Mills & Fert. Co.* The basis on which the said distinction has been drawn needs to be further pursued.

Having considered the matter at some length, we are of the tentative view, that the opinion expressed in Sun's case (supra) may require a reconsideration. Being a co-ordinate Bench, we believe we ought not to proceed any further in the matter. Hence, we direct the Registry to lay the papers before the Hon'ble the Chief Justice of India for appropriate orders."

(emphasis supplied)

7. The learned Additional Solicitor General, Ms. Pinky Anand, submits that a tax exemption statute or notification needs to be strictly interpreted. According to her, strict interpretation is literal rule of interpretation, which means that Court has to apply the provision reading the language therein and no

interpretation is required if the language is clear. In the event of any ambiguity, according to her, the benefit has to be given to the revenue and that such ambiguity in tax exemption provision must not be interpreted to benefit the assessee who fails to demonstrate without any doubt that such assessee is covered by the tax exemption notification. She elaborated her arguments by relying on various judgments and contends that the *ratio* in **Sun Export Case** (supra), which was doubted in **Surendra Cotton Oil Mills Case** (supra), is not correct law. On merits of the case, she submitted that the artificial distinction created by **Surendra Cotton Oil Mills Case** (supra), in distinguishing the ingredients from supplements is not sound and may not be accepted by the Court.

8. *Per contra*, among others, Mr. Somnath Shukla, learned counsel appearing on behalf of the respondents would

submit that the *ratio* and observations in **Sun Export Case** (supra) has to be considered holistically without giving any narrow meaning to the conclusion arrived therein. The rule of strict interpretation cannot be applied in abstract. It has to be applied keeping in view the interpretation to be used in relation to Customs Tariff Entry. According to the learned counsel, when the Customs Tariff Entry is interpreted broadly, the same should be adopted in interpreting exemption notification. Indeed, the learned senior counsel would contend that the rule of strict interpretation should be limited to the eligibility conditions of an exemption notification and while conferring the benefits to such exemption. He distinguished all the judgments relied on by the appellants and submits that “*prawn feed supplements*” would also be included under the head “*prawn feed*”, and the judgment of the Tribunal

impugned in these appeals does not warrant any interference.

9. ***Sun Export Case*** (supra) was a case against the judgment of the High Court of Judicature, Bombay. It was concerned with the interpretation of tax exemption notification, being Notification No. 234/1982 – CE, dated 01.11.1982, issued by the Central Government under sub-section (1) of Section 25 of the Customs Act. The High Court considered the issue whether Vitamin AD-3 mix (feed grade)/animal feed supplement could be included under the head ‘animal feed, including compound livestock feed’. The Bombay High Court decided, in the affirmative, in favour of the assessee. The case then landed in this Court, which was persuaded to expand the meaning of ‘animal feed’ in the light of subsequent notification issued in 1984, which largely expanded the scope of exemption to the effect

that ‘*animal feed, including compound livestock feed, animal feed supplements and animal feed concentrates*’.

This Court indeed countenanced the plea, namely, whenever there is ambiguity as to whether the subject matter was included or not, then the benefit of the same should be conferred on the assessee. The relevant portion in ***Sun Export Case*** (supra), reads as follows:

“13. We are in agreement with the above view expressed by the Bombay High Court. No doubt it was contended on behalf of the Revenue that the contrary view taken by the Tribunal has been challenged in this Court which was rejected *in limine* at the admission stage. We do not think that dismissal at the admission stage can be relied upon as a binding precedent. **Even assuming that there are two views possible, it is well settled that one favourable to the assessee in matters of taxation has to be preferred.**”

(emphasis supplied)

10. There cannot be any doubt that the *ratio* in **Sun Export Case** (supra) that, if two views are possible in interpreting the exemption notification, the one favourable to the assessee in the matter of taxation has to be preferred. This principle created confusion and resulted in *unsatisfactory state of law*. In spite of catena of judgments of this Court, which took the *contra* view, holding that an exemption notification must be strictly construed, and if a person claiming exemption does not fall strictly within the description of the notification otherwise then he cannot claim exemption.

11. About three years after **Sun Export Case** (supra), in the year 2000, this Court in **Surendra Cotton Oil Mills Case** (supra), expressed reservations as to the soundness of the dicta in **Sun Export Case** (supra), observing that **Sun Export Case** (supra) ignored catena

of judgments of this Court expressing *contra* view. This Court *prima facie* came to the conclusion with regard to the principle that when two views are possible, one favourable to the assessee in matters of taxation has to be preferred, is unexceptionable when interpreting the charging section of a taxation statute, but the opposite principle would be applicable in interpretation of exemption notification. The three-Judge Bench in the referral order further observed that the views expressed in **Sun Export Case** (supra) with regard to interpretation of exemption notification to support the conclusion, required reconsideration.

12. We may, here itself notice that the distinction in interpreting a taxing provision (charging provision) and in the matter of interpretation of exemption notification is too obvious to require any elaboration. Nonetheless, in a nutshell, we may mention that, as observed in

Surendra Cotton Oil Mills Case (supra), in the matter of interpretation of charging section of a taxation statute, strict rule of interpretation is mandatory and if there are two views possible in the matter of interpretation of a charging section, the one favourable to the assessee need to be applied. There is, however, confusion in the matter of interpretation of exemption notification published under taxation statutes and in this area also, the decisions are galore¹.

13. We may passingly, albeit, briefly reiterate the general principles of interpretation, which were also adverted to

¹ See: **Sun Export Corporation, Bombay v. Collector of Customs, Bombay and Anr.**, (1997) 6 SCC 564; **Commissioner of Central Excise, Pune v. Abhi Chemicals and Pharmaceuticals Pvt. Ltd.**, (2005) 3 SCC 541; **Collector of Central Excise, Bombay-1 and Anr. v. Parle Exports (Pvt.) Ltd.**, (1989) 1 SCC 345; **Commissioner of Customs (Import), Mumbai v. Konkan Synthetic Fibres**, (2012) 6 SCC 339; **Collector of Customs, Bombay v. Swastic Wollens (Pvt.) Ltd. And Ors.**, (1988) Supp. SCC 796; **Commissioner of Customs (Preventive), Gujarat v. Reliance Petroleum Ltd.**, (2008) 7 SCC 220.

by both the counsel. In his treatise, '**Principles of Statutory Interpretation**' Justice G.P. Singh, lucidly pointed the importance of construction of statutes in a modern State as under:

“Legislation in modern State is actuated with some policy to curb some public evil or to effectuate some public benefit. The legislation is primarily directed to the problems before the Legislature based on information derived from past and present experience. It may also be designed by use of general words to cover similar problems arising in future. But, from the very nature of things, it is impossible to anticipate fully the varied situations arising in future in which the application of the legislation in hand may be called for, and, words chosen to communicate such indefinite ‘referents’ are bound to be, in many cases lacking in clarity and precision and thus giving rise to

controversial questions of
construction.”

14. An Act of Parliament/Legislature cannot foresee all types of situations and all types of consequences. It is for the Court to see whether a particular case falls within the broad principles of law enacted by the Legislature. Here, the principles of interpretation of statutes come in handy. In spite of the fact that experts in the field assist in drafting the Acts and Rules, there are many occasions where the language used and the phrases employed in the statute are not perfect. Therefore, Judges and Courts need to interpret the words.

15. In doing so, the principles of interpretation have been evolved in common law. It has also been the practice for the appropriate legislative body to enact Interpretation Acts or General Clauses Act. In all the Acts and Regulations, made either by the Parliament or

Legislature, the words and phrases as defined in the General Clauses Act and the principles of interpretation laid down in General Clauses Act are to be necessarily kept in view. If while interpreting a Statutory law, any doubt arises as to the meaning to be assigned to a word or a phrase or a clause used in an enactment and such word, phrase or clause is not specifically defined, it is legitimate and indeed mandatory to fall back on General Clauses Act. Notwithstanding this, we should remember that when there is repugnancy or conflict as to the subject or context between the General Clauses Act and a statutory provision which falls for interpretation, the Court must necessarily refer to the provisions of statute.

- 16.** The purpose of interpretation is essentially to know the intention of the Legislature. Whether the Legislature intended to apply the law in a given case; whether the

Legislature intended to exclude operation of law in a given case; whether Legislature intended to give discretion to enforcing authority or to adjudicating agency to apply the law, are essentially questions to which answers can be sought only by knowing the intention of the legislation. Apart from the general principles of interpretation of statutes, there are certain internal aids and external aids which are tools for interpreting the statutes.

17. The long title, the preamble, the heading, the marginal note, punctuation, illustrations, definitions or dictionary clause, a *proviso* to a section, explanation, examples, a schedule to the Act etc., are internal aids to construction. The external aids to construction are Parliamentary debates, history leading to the legislation, other statutes which have a bearing, dictionaries, thesaurus.

18. It is well accepted that a statute must be construed according to the intention of the Legislature and the Courts should act upon the true intention of the legislation while applying law and while interpreting law. If a statutory provision is open to more than one meaning, the Court has to choose the interpretation which represents the intention of the Legislature. In this connection, the following observations made by this Court in ***District Mining Officer vs. Tata Iron and Steel Co.***, (2001) 7 SCC 358, may be noticed:

“... A statute is an edict of the Legislature and in construing a statute, it is necessary, to seek the intention of its maker. A statute has to be construed according to the intent of them that make it and the duty of the Court is to act upon the true intention of the Legislature. If a

statutory provision is open to more than one interpretation the Court has to choose that interpretation which represents the true intention of the Legislature. This task very often raises the difficulties because of various reasons, inasmuch as the words used may not be scientific symbols having any precise or definite meaning and the language may be an imperfect medium to convey one's thought or that the assembly of Legislatures consisting of persons of various shades of opinion purport to convey a meaning which may be obscure. It is impossible even for the most imaginative Legislature to forestall exhaustively situations and circumstances that may emerge after enacting a statute where its application may be called for. Nonetheless, the function of the Courts is only to expound and not to legislate. Legislation in a modern State is actuated with some policy to curb some public evil or to effectuate some public benefit. The legislation is primarily directed to the problems before the Legislature based on information derived from past and present experience. It may also be designed by use

of general words to cover similar problems arising in future. But, from the very nature of things, it is impossible to anticipate fully the varied situations arising in future in which the application of the legislation in hand may be called for, and, words chosen to communicate such indefinite referents are bound to be in many cases lacking in clarity and precision and thus giving rise to controversial questions of construction. The process of construction combines both literal and purposive approaches. In other words the legislative intention i.e., the true or legal meaning of an enactment is derived by considering the meaning of the words used in the enactment in the light of any discernible purpose or object which comprehends the mischief and its remedy to which the enactment is directed...”

- 19.** The well settled principle is that when the words in a statute are clear, plain and unambiguous and only one meaning can be inferred, the Courts are bound to give

effect to the said meaning irrespective of consequences. If the words in the statute are plain and unambiguous, it becomes necessary to expound those words in their natural and ordinary sense. The words used declare the intention of the Legislature. In ***Kanai Lal Sur v. Paramnidhi Sadhukhan***, AIR 1957 SC 907, it was held that if the words used are capable of one construction only then it would not be open to the Courts to adopt any other hypothetical construction on the ground that such construction is more consistent with the alleged object and policy of the Act.

20. In applying rule of plain meaning any hardship and inconvenience cannot be the basis to alter the meaning to the language employed by the legislation. This is especially so in fiscal statutes and penal statutes. Nevertheless, if the plain language results in absurdity, the Court is entitled to determine the meaning of the

word in the context in which it is used keeping in view the legislative purpose.² Not only that, if the plain construction leads to anomaly and absurdity, the court having regard to the hardship and consequences that flow from such a provision can even explain the true intention of the legislation. Having observed general principles applicable to statutory interpretation, it is now time to consider rules of interpretation with respect to taxation.

21. In construing penal statutes and taxation statutes, the Court has to apply strict rule of interpretation. The penal statute which tends to deprive a person of right to life and liberty has to be given strict interpretation or else many innocent might become victims of discretionary decision making. Insofar as taxation statutes are concerned, Article 265 of the Constitution³

² ***Assistant Commissioner, Gadag Sub-Division, Gadag v. Mathapathi Basavanneewa***, 1995 (6) SCC 355.

³ **265. Taxes not to be imposed save by authority of law-**
No tax shall be levied or collected except by authority of law.

prohibits the State from extracting tax from the citizens without authority of law. It is axiomatic that taxation statute has to be interpreted strictly because State cannot at their whims and fancies burden the citizens without authority of law. In other words, when competent Legislature mandates taxing certain persons/certain objects in certain circumstances, it cannot be expanded/interpreted to include those, which were not intended by the Legislature.

22.At the outset, we must clarify the position of ‘plain meaning rule or clear and unambiguous rule’ with respect of tax law. ‘The plain meaning rule’ suggests that when the language in the statute is plain and unambiguous, the Court has to read and understand the plain language as such, and there is no scope for any interpretation. This salutary maxim flows from the phrase “*cum in verbis nulla ambiguitas est, non debet*

admitti voluntatis quaestio". Following such maxim, the courts sometimes have made strict interpretation subordinate to the plain meaning rule⁴, though strict interpretation is used in the precise sense. To say that strict interpretation involves plain reading of the statute and to say that one has to utilize strict interpretation in the event of ambiguity is self-contradictory.

23.Next, we may consider the meaning and scope of 'strict interpretation', as evolved in Indian law and how the higher Courts have made a distinction while interpreting a taxation statute on one hand and tax exemption notification on the other. In Black's Law Dictionary (10th Edn.) 'strict interpretation' is described as under:

Strict interpretation. (16c) 1. An interpretation according to the narrowest, most literal meaning of the words without regard for context and other permissible

⁴ **Mangalore Chemicals Case** (Infra para 37).

meanings. 2. An interpretation according to what the interpreter narrowly believes to have been the specific intentions or understandings of the text's authors or ratifiers, and no more.- Also termed (in senses 1 & 2) strict construction, literal interpretation; literal construction; restricted interpretation; interpretatio stricta; interpretatio restricta; interpretatio verbalis. 3. The philosophy underlying strict interpretation of statutes.- Also termed as close interpretation; interpretatio restrictive. See strict constructionism under constructionism. Cf. large interpretation; liberal interpretation (2).

"Strict construction of a statute is that which refuses to expand the law by implications or equitable considerations, but confines its operation to cases which are clearly within the letter of the statute, as well as within its spirit or reason, not so as to defeat the manifest purpose of the legislature, but so as to resolve all reasonable doubts against the applicability of the statute to the particular case.' Willam M. Lile et al.,

Brief Making and the use of Law Books
343 (Roger W. Cooley & Charles Lesly
Ames eds., 3d ed. 1914).

“Strict interpretation is an equivocal
expression, for it means either literal or
narrow. When a provision is ambiguous,
one of its meaning may be wider than the
other, and the strict (i.e., narrow) sense is
not necessarily the strict (i.e., literal)
sense.” John Salmond , Jurisprudence
171 n. (t) (Glanville L. Williams ed., 10th
ed. 1947).

24.As contended by Ms. Pinky Anand, learned Additional
Solicitor General, the principle of literal interpretation
and the principle of strict interpretation are sometimes
used interchangeably. This principle, however, may not
be sustainable in all contexts and situations. There is
certainly scope to sustain an argument that all cases of
literal interpretation would involve strict rule of
interpretation, but strict rule may not necessarily
involve the former, especially in the area of taxation.

The decision of this Court in ***Punjab Land Development and Reclamation Corporation Ltd., Chandigarh v. Presiding Officer, Labour Court Chandigarh and Ors.***, (1990) 3 SCC 682, made the said distinction, and explained the literal rule-

“The literal rules of construction require the wording of the Act to be construed according to its literal and grammatical meaning whatever the result may be. Unless otherwise provided, the same word must normally be construed throughout the Act in the same sense, and in the case of old statutes regard must be had to its contemporary meaning if there has been no change with the passage of time.”

That strict interpretation does not encompass strict-literalism into its fold. It may be relevant to note that simply juxtaposing ‘strict interpretation’ with ‘literal rule’ would result in ignoring an important aspect that

is 'apparent legislative intent'. We are alive to the fact that there may be overlapping in some cases between the aforesaid two rules. With certainty, we can observe that, 'strict interpretation' does not encompass such literalism, which lead to absurdity and go against the legislative intent. As noted above, if literalism is at the far end of the spectrum, wherein it accepts no implications or inferences, then 'strict interpretation' can be implied to accept some form of essential inferences which literal rule may not accept.

25. We are not suggesting that literal rule *de hors* the strict interpretation nor one should ignore to ascertain the interplay between 'strict interpretation' and 'literal interpretation'. We may reiterate at the cost of repetition that strict interpretation of a statute certainly involves literal or plain meaning test. The other tools of interpretation, namely contextual or purposive

interpretation cannot be applied nor any resort be made to look to other supporting material, especially in taxation statutes. Indeed, it is well settled that in a taxation statute, there is no room for any intendment; that regard must be had to the clear meaning of the words and that the matter should be governed wholly by the language of the notification. Equity has no place in interpretation of a tax statute. Strictly one has to look to the language used; there is no room for searching intendment nor drawing any presumption. Furthermore, nothing has to be read into nor should anything be implied other than essential inferences while considering a taxation statute.

26. Justice G.P. Singh, in his treatise '**Principles of Statutory Interpretation**' (14th ed. 2016 p. – 879) after referring to **Re, Micklethwait**, (1885) 11 Ex 452; **Partington v. A.G.**, (1869) LR 4 HL 100; **Rajasthan**

Rajya Sahakari Spinning & Ginning Mills

Federation Ltd. v. Deputy CIT, Jaipur, (2014) 11 SCC

672, **State Bank of Travancore v. Commissioner of**

Income Tax, (1986) 2 SCC 11 and **Cape Brandy**

Syndicate v. IRC, (1921) 1 KB 64, summed up the law

in the following manner-

“A taxing statute is to be strictly construed. The well-established rule in the familiar words of LORD WENSLEYDALE, reaffirmed by LORD HALSBURY AND LORD SIMONDS, means: ‘The subject is not to be taxed without clear words for that purpose; and also that every Act of Parliament must be read according to the natural construction of its words. In a classic passage LORD CAIRNS stated the principle thus: “If the person sought to be taxed comes within the letter of the law he must be taxed, however great the hardship may appear to the judicial mind to be. On the other hand, if the Crown seeking to recover the tax, cannot bring the subject within the letter of the law, the subject is

free, however apparently within the spirit of law the case might otherwise appear to be. In other words, if there be admissible in any statute, what is called an equitable construction, certainly, such a construction is not admissible in a taxing statute where you can simply adhere to the words of the statute. VISCOUNT SIMON quoted with approval a passage from ROWLATT, J. expressing the principle in the following words: "In a taxing Act one has to look merely at what is clearly said. This is no room for any intendment. There is no equity about a tax. There is no presumption as to tax. Nothing is to be read in, nothing is to be implied. One can only look fairly at the language used."

It was further observed:

"In all tax matters one has to interpret the taxation statute strictly. Simply because one class of legal entities is given a benefit which is specifically stated in the Act, does not mean that the benefit can be extended to legal entities not referred to in the Act as there is no equity in matters of taxation...."

Yet again, it was observed:

“It may thus be taken as a maxim of tax law, which although not to be overstressed ought not to be forgotten that, “the subject is not to be taxed unless the words of the taxing statute unambiguously impose the tax on him”, [Russel v. Scott, (1948) 2 All ER 1]. The proper course in construing revenue Acts is to give a fair and reasonable construction to their language without leaning to one side or the other but keeping in mind that no tax can be imposed without words clearly showing an intention to lay the burden and that equitable construction of the words is not permissible [Ormond Investment Co. v. Betts, (1928) AC 143]. Considerations of hardship, injustice or anomalies do not play any useful role in construing taxing statutes unless there be some real ambiguity [Mapp v. Oram, (1969) 3 All ER 215]. It has also been said that if taxing provision is “so wanting in clarity that no meaning is reasonably clear, the courts will be unable to regard it as of any effect

[IRC v. Ross and Coutler, (1948) 1 All ER 616].”

Further elaborating on this aspect, the learned author stated as follows:

“Therefore, if the words used are ambiguous and reasonable open to two interpretations benefit of interpretation is given to the subject [Express Mill v. Municipal Committee, Wardha, AIR 1958 SC 341]. If the Legislature fails to express itself clearly and the taxpayer escapes by not being brought within the letter of the law, no question of unjustness as such arises [CIT v. Jalgaon Electric Supply Co., AIR 1960 SC 1182]. But equitable considerations are not relevant in construing a taxing statute, [CIT, W.B. v. Central India Industries, AIR 1972 SC 397], and similarly logic or reason cannot be of much avail in interpreting a taxing statute [Azam Jha v. Expenditure Tax Officer, Hyderabad, AIR 1972 SC 2319]. It is well settled that in the field of taxation, hardship or equity has no role to play in determining eligibility to tax and it is for

the Legislature to determine the same [Kapil Mohan v. Commr. of Income Tax, Delhi, AIR 1999 SC 573]. Similarly, hardship or equity is not relevant in interpreting provisions imposing stamp duty, which is a tax, and the court should not concern itself with the intention of the Legislature when the language expressing such intention is plain and unambiguous [State of Madhya Pradesh v. Rakesh Kohli & Anr., (2012) 6 SCC 312]. But just as reliance upon equity does not avail an assessee, so it does not avail the Revenue.”

The passages extracted above, were quoted with approval by this Court in at least two decisions being ***Commissioner of Income Tax vs. Kasturi Sons Ltd.***, (1999) 3 SCC 346 and ***State of West Bengal vs. Kesoram Industries Limited***, (2004) 10 SCC 201 [hereinafter referred as ‘**Kesoram Industries Case**’ for brevity]. In the later decision, a Bench of seven Judges, after citing the above

passage from Justice G.P. Singh's treatise, summed up the following principles applicable to the interpretation of a taxing statute:

“(i) In interpreting a taxing statute, equitable considerations are entirely out of place. A taxing statute cannot be interpreted on any presumption or assumption. A taxing statute has to be interpreted in the light of what is clearly expressed; it cannot imply anything which is not expressed; it cannot import provisions in the statute so as to supply any deficiency; (ii) Before taxing any person, it must be shown that he falls within the ambit of the charging section by clear words used in the section; and (iii) If the words are ambiguous and open to two interpretations, the benefit of interpretation is given to the subject and there is nothing unjust in a taxpayer escaping if the letter of the law fails to catch him on account of Legislature's failure to express itself clearly”.

27. Now coming to the other aspect, as we presently discuss, even with regard to exemption clauses or exemption notifications issued under a taxing statute, this Court in some cases has taken the view that the ambiguity in an exemption notification should be construed in favour of the subject. In subsequent cases, this Court diluted the principle saying that mandatory requirements of exemption clause should be interpreted strictly and the directory conditions of such exemption notification can be condoned if there is sufficient compliance with the main requirements. This, however, did not in any manner tinker with the view that an ambiguous exemption clause should be interpreted favouring the revenue. Here again this Court applied different tests when considering the ambiguity of the exemption notification which requires strict construction and after doing so at the stage of

applying the notification, it came to the conclusion that one has to consider liberally.

28. With the above understanding the stage is now set to consider the core issue. In the event of ambiguity in an exemption notification, should the benefit of such ambiguity go to the subject/assessee or should such ambiguity should be construed in favour of the revenue, denying the benefit of exemption to the subject/assessee? There are catena of case laws in this area of interpretation of an exemption notification, which we need to consider herein. The case of ***Commissioner of Inland Revenue vs. James Forrest***, [(1890) 15 AC 334 (HL)] – is a case which does not discuss the interpretative test to be applied to exemption clauses in a taxation statute – however, it was observed that *‘it would be unreasonable to suppose that an exemption was wide as practicable to make the*

tax inoperative, that it cannot be assumed to have been in the mind of the Legislature’ and that exemption ‘from taxation to some extent increased the burden on other members of the community’. Though this is a dissenting view of Lord Halsbury, LC, in subsequent decisions this has been quoted vividly to support the conclusion that any vagueness in the exemption clauses must go to the benefit of the revenue. Be that as it is, in our country, at least from 1955, there appears to be a consistent view that if the words in a taxing statute (not exemption clause) are ambiguous and open to two interpretations, the benefit of interpretation is given to the subject and it does not matter if the taxpayer escapes the tax net on account of Legislatures’ failure to express itself clearly (See the passage extracted hereinabove from **Kesoram Industries Case** (supra)).

29. The first case with which we need to concern ourselves is the case in ***Union of India v. The Commercial Tax Officer, West Bengal and Ors.***, AIR 1956 SC 202. It may be noted that this case was dealt with by five learned Judges of this Court resulting in two different opinions; one by the then Chief Justice of India, S.R. Das for the majority, and Justice B.P. Sinha (as His Lordship then was) rendering minority view. The question before this Court was whether the sale of goods made by one private mill to the Government of India, Ministry of Industries and Supplies were to be deducted as taxable turnover of the mill for the exemption given under Section 5 of the Bengal Finance (Sales Tax) Act, 1941 (Bengal Act VI of 1941). The exemption under Section 5(2)(a)(iii) of the Bengal Finance (Sales Tax) Act, 1941 provided for exemption '*to sales to the Indian Stores Department, the Supply Department of the Government of India, and any railway or water transport*

administration'. The Court was to interpret the aforesaid provision in order to ascertain whether the sale to the Government of India, Ministry of Industries and Supplies would be covered under the Section.

30. The majority was of the view that the Government of India, Ministry of Industries and Supplies was not similar to those mentioned in the exemption notification. The majority extensively relied on the history and origin of Ministry of Industries and Supplies and concluded that the functions of the aforesaid Ministry were different from the erstwhile departments mentioned under the exemption provision. The majority reasoned that the exemption being the creation of the statute itself, it should have to be construed strictly and the interpretation cannot be extended to sales to other departments. We might find some clue as to the content of a strict construction also. It was canvassed

before the Court that the object of Section 5(2)(a)(iii) of the relevant statute, was to give exemption not to the particular departments but to the sale of such goods to those departments and, therefore, sale of those goods made to any Departments of the Government of India, which came to be charged with the duty of purchasing those goods should also come within the purview of the exemption. The Court while repelling the aforesaid interpretation, reasoned as under:

“We are unable to accept this line of reasoning. This interpretation will unduly narrow the scope and ambit of the exemption by limiting it to sales of only those goods as, at the date of the Act, used to be sold to those two departments and sales of other goods even to those two departments, however necessary for the prosecution of the war, would not get benefit of the exemption. Such could not possibly be the intention of the Legislature as expressed by the language used by it in framing the Section.”

31. The aforesaid placitum is suggestive of the fact that the Courts utilized the rule of strict interpretation in order to decipher the intention of the Legislature and thereafter provide appropriate interpretation for the exemption provided under the provisions of the Act which was neither too narrow nor too broad. It may be noted that the majority did not take a narrow view as to what strict interpretation would literally mean; rather they combined legislative intent to ascertain the meaning of the statute in accordance with the objective intent of the Legislature.

32. On the contrary, the minority opinion of Justice B.P. Sinha (as His Lordship then was) provided a purposive interpretation for Section 5(2)(a)(iii) of the Act, which is clear from the following passage:

“The judgment under appeal is based chiefly on the consideration that the exemption clause in question does not in

terms refer to the newly created department which now goes by the name of the Ministry of Industry and Supply. But this department in so far as it deals with industry, is not concerned with the main purchasing activities of the Government of India. The exemption was granted in respect of the purchasing activity of the Government of India and that function continues to be assigned to the Supply Department which has now become a wing of the newly created department of the Government. The question therefore arises whether in those circumstances the Government of India could claim the benefit of the exemption. The High Court in answering that question in the negative has gone upon mere nomenclature. It has emphasized the change in the name and overlooked the substance of the matter.”

33. The minority construed ‘strict interpretation’ to be an interpretation wherein least number of “determinates in terms of quantity” would fall under the exemption. The minority referred to an old English case of

Commissioner of Inland Revenue v. James Forrest,

(1890) 15 AC 334. It may be relevant to note that the minority could not find the justification to apply strict interpretation as the exemption notification was broad enough to include exemptions for commodities purchased by the Government of India. The Court was of the opinion that the strict interpretation provided by the majority was uncalled for as there was no additional burden on others by giving such exemptions. The relevant observations are as follows-

“The High Court referred to the observations of Lord Halsbury in the case of *Commissioner of Inland Revenue v. James Forrest* (1890) 15 AC 334, to the effect that exemptions from taxation should be strictly construed because otherwise the burden of taxation will fall on other members of the community. Those observations, in my opinion, have no relevance to the facts and circumstances of the present controversy, because we know that the exemption was granted to the Government of India in the

department dealing with purchase of certain commodities and articles without reference to quantity. As already pointed out, the Indian Stores Department was concerned with purchase of stores for public services on behalf of all Central Departments of Government and local Government, etc., and the Government of Bengal as then constituted was one of the provinces of India which have been receiving subsidies and subventions to make up the deficit in their budgets. As a matter of fact, as stated on behalf of the Bengal Government the concession was granted in order to enable business communities within the province of Bengal to compete on favourable terms with others outside Bengal in the matter of supplying the needs of the Government. Hence, there is no question of liberal construction of the exemption resulting in throwing a greater burden on other citizens. On the other hand, the larger the sales in the province of Bengal as it used to be, the greater the benefit to the business community doing business within that province. It was therefore stated at the Bar that though the present case involved taxes

amounting to less than Rs.10,000, the question arising for determination in this case affected much larger amounts because such sales within the province amounted to several crores. I should have thought that the business community in the province of Bengal having had the advantage of the transactions of sale, the Government of Bengal in all fairness should have allowed the purchasing agency of the Government of India the benefit of the exemption until that benefit was in terms withdrawn sometimes in the beginning of 1949.”

34. In ***Hansraj Gordhandas v. H.H. Dave, Asst. Collector of Central Excise & Customs, Surat and Ors.***, AIR 1970 SC 755 = (1969) 2 SCR 253 [*hereinafter referred as ‘Hansraj Gordhandas Case’ for brevity*], wherein this Court was called upon to interpret an exemption notification issued under the Central Excise Act. It would be relevant to understand the factual context which gave rise to the aforesaid case before the Court. The appellant was sole proprietor who used to procure

cotton from a co-operative society during the relevant period. The society had agreed to carry out the weaving work for the appellant on payment of fixed weaving charges at Re.0.19 np. per yard which included expenses the society would have to incur in transporting the aforesaid cotton fabric. In the years 1959 and 1960, the Government issued an exemption notification which exempted cotton fabrics produced by any co-operative society formed of owners of cotton power looms, registered on or before 31st March, 1961. The question before the Court was whether the appellant who got the cotton fabric produced from one of the registered co-operative society was also covered under the aforesaid notification. It may be of some significance that the revenue tried to interpret the aforesaid exemption by relying on the purposive interpretation by contending that the object of granting the above exemption was to encourage the formation of co-operative societies which

not only produced cotton fabrics but also consisted of members, not only owning but having actually operated not more than four power looms during the three years immediately preceding their having joined the society. The policy was that instead of each such member operating his looms on his own, he should combine with others by forming a society to produce clothes. It was argued that the goods produced for which exemption could be claimed must be goods produced on his own and on behalf by the society. The court did not countenance such purposive interpretation. It was held that a taxing legislation should be interpreted wholly by the language of the notification. The relevant observations are:

“It is well-established that in a taxing statute there is no room for any intendment but regard must be had to the clear meaning of the words. The entire matter is governed wholly by the language of the notification. If the tax-payer is within the plain terms of the

exemption it cannot be denied its benefit by calling in aid any supposed intention of the exempting authority. If such intention can be gathered from the construction of the words of the notification or by necessary implication therefrom, the matter is different, but that is not the case here. In this connection we may refer to the observations of Lord Watson in *Salomon vs. Salomon & Co.*, (1897) AC 22):

‘Intention of the Legislature is a common but very slippery phrase, which, popularly understood may signify anything from intention embodied in positive enactment to speculative opinion as to what the legislature probably would have meant, although there has been an omission to enact it. In a Court of Law or Equity, what the Legislature intended to be done or not to be done can only be legitimately ascertained from that which it has chosen to enact, either in express words or by reasonable and necessary implication.’

It is an application of this principle that a statutory notification may not be extended so as to meet a *casus omissus*. As appears in

the judgment of the Privy Council in *Crawford v. Spooner*.

‘... we cannot aid the Legislature’s defective phrasing of the Act, we cannot add, and mend, and, by construction, make up deficiencies which are left there.’

Learned Counsel for the respondents is possibly right in his submission that the object behind the two notifications is to encourage the actual manufacturers of handloom cloth to switch over to power looms by constituting themselves in co-operative Societies. But the operation of the notifications has to be judged not by the object which the rule making authority had in mind but by the words which it has employed to effectuate the legislative intent.”

35.In the judgment of two learned Judges in ***Union of India v. Wood Papers Limited***, (1990) 4 SCC 256 [hereinafter referred as **‘Wood Papers Ltd. Case’** for brevity], a distinction between stage of finding out the eligibility to seek exemption and stage of applying the nature of exemption was made. Relying on the decision

in ***Collector of Central Excise vs. Parle Exports (P) Ltd.***, (1989) 1 SCC 345, it was held “*Do not extend or widen the ambit at the stage of applicability. But once that hurdle is crossed, construe it liberally*”. The reasoning for arriving at such conclusion is found in para 4 of ***Wood Papers Ltd. Case*** (supra), which reads-

“... Literally exemption is freedom from liability, tax or duty. Fiscally, it may assume varying shapes, specially, in a growing economy. For instance tax holiday to new units, concessional rate of tax to goods or persons for limited period or with the specific objective etc. That is why its construction, unlike charging provision, has to be tested on different touchstone. In fact, an exemption provision is like an exception and on normal principle of construction or interpretation of statutes it is construed strictly either because of legislative intention or on economic justification of inequitable burden or progressive approach of fiscal provisions intended to augment State revenue. But once exception or exemption

becomes applicable no rule or principles requires it to be construed strictly. **Truly speaking liberal and strict construction of an exemption provision are to be invoked at different stages of interpreting it. When the question is whether a subject falls in the notification or in the exemption clause then it being in nature of exception is to be construed strictly and against the subject, but once ambiguity or doubt about applicability is lifted and the subject falls in the notification then full play should be given to it and it calls for a wider and liberal construction...**"

(emphasis supplied)

36.In *Mangalore Chemicals & Fertilizers Ltd. vs. Dy.*

Commissioner of Commercial Taxes, (1992) Supp. 1

SCC 21 [*hereinafter referred as 'Mangalore Chemicals*

Case' *for brevity*], the facts of the case were that the

State Government issued a notification in exercise of power under Section 8-A of the Karnataka Sales Tax

Act, 1957, providing certain incentives to entrepreneurs starting new industries in the State pursuant to State's policy for "rapid industrialization". The notification contains a package of reliefs and incentives including one concerning relief from payment of sales tax with which the case was concerned. There was no dispute that the appellant was entitled to the benefit of the Notification dated June 30, 1969. There was also no dispute that the refunds were eligible to be adjusted against sales tax payable for respective years. The only controversy was whether the appellant, not having actually secured the "prior permission" would be entitled to adjustment having regard to the words of the Notification of August 11, 1975, that "until permission of renewal is granted by the Deputy Commissioner of Commercial Taxes, the new industry should not be allowed to adjust the refunds". The contention of the appellants therein was that the permission for the three

years had been sought well before the commencement of the respective years but had been withheld for reasons which were demonstrably extraneous. Therefore, contention was that if, in these circumstances, the Deputy Commissioner could withhold the permission.

37. This Court while accepting the interpretation provided by the appellant, observed on the aspect of strict construction of a provision concerning exemptions as follows:

“... There is support of judicial opinion to the view that exemptions from taxation have a tendency to increase the burden on the other unexempted class of tax payers and should be construed against the subject in case of ambiguity. It is an equally well known principle that a person who claims an exemption has to establish his case.

... The choice between a strict and a liberal construction arises only in case of

doubt in regard to the intention of the legislature manifest on the statutory language. Indeed, the need to resort to any interpretative process arises only where the meaning is not manifest on the plain words of the statute. If the words are plain and clear and directly convey the meaning, there is no need for any interpretation. It appears to us the true rule of construction of a provision as to exemption is the one stated by this Court in *Union of India v. Wood Papers Ltd.* [(1990) 4 SCC 256 = 1990 SCC (Tax) 422 = JT (1991) SC 151]”

Three important aspects which comes out of the discussion are the recognition of horizontal equity by this court as a consideration for application of strict interpretation, subjugation of strict interpretation to the plain meaning rule and interpretation in favour of exclusion in light of ambiguity.

38. We will now consider another Constitution Bench decision in ***Commissioner of Central Excise, New Delhi v. Hari Chand Shri Gopal***, (2011) 1 SCC 236 [hereinafter referred as '**Hari Chand Case**' for brevity].

We need not refer to the facts of the case which gave rise to the questions for consideration before the Constitutional Bench. K.S. Radhakrishnan, J., who wrote the unanimous opinion for the Constitution Bench, framed the question, viz., whether manufacturer of a specified final product falling under Schedule to the Central Excise Tariff Act, 1985 is eligible to get the benefit of exemption of remission of excise duty on specified intermediate goods as per the Central Government Notification dated 11.08.1994, if captively consumed for the manufacture of final product on the ground that the records kept by it at the recipient end would indicate its "intended use" and "substantial compliance" with procedure set out in Chapter 10 of the

Central Excise Rules, 1994, for consideration? The Constitution Bench answering the said question concluded that a manufacturer qualified to seek exemption was required to comply with the pre-conditions for claiming exemption and therefore is not exempt or absolved from following the statutory requirements as contained in the Rules. The Constitution Bench then considered and reiterated the settled principles *qua* the test of construction of exemption clause, the mandatory requirements to be complied with and the distinction between the eligibility criteria with reference to the conditions which need to be strictly complied with and the conditions which need to be substantially complied with. The Constitution Bench followed the *ratio* in ***Hansraj Gordhandas Case*** (supra), to reiterate the law on the aspect of interpretation of exemption clause in para 29 as follows-

“The law is well settled that a person who claims exemption or concession has to establish that he is entitled to that exemption or concession. A provision providing for an exemption, concession or exception, as the case may be, has to be construed strictly with certain exceptions depending upon the settings on which the provision has been placed in the statute and the object and purpose to be achieved. If exemption is available on complying with certain conditions, the conditions have to be complied with. The mandatory requirements of those conditions must be obeyed or fulfilled exactly, though at times, some latitude can be shown, if there is failure to comply with some requirements which are directory in nature, the non-compliance of which would not affect the essence or substance of the notification granting exemption.”

39. The Constitution Bench then considered the doctrine of substantial compliance and “intended use”. The

relevant portions of the observations in paras 31 to 34 are in the following terms –

“31. Of course, some of the provisions of an exemption notification may be directory in nature and some are mandatory in nature. A distinction between the provisions of a statute which are of substantive character and were built in with certain specific objectives of policy, on the one hand, and those which are merely procedural and technical in their nature, on the other, must be kept clearly distinguished...

Doctrine of substantial compliance and “intended use”

32. The doctrine of substantial compliance is a judicial invention, equitable in nature, designed to avoid hardship in cases where a party does all that can reasonably be expected of it, but failed or faulted in some minor or inconsequential aspects which cannot be described as the “essence” or the “substance” of the requirements. Like the concept of “reasonableness”, the acceptance or otherwise of a plea of “substantial compliance” depends upon the facts and circumstances of each case and the purpose

and object to be achieved and the context of the prerequisites which are essential to achieve the object and purpose of the rule or the regulation. Such a defence cannot be pleaded if a clear statutory prerequisite which effectuates the object and the purpose of the statute has not been met. Certainly, it means that the Court should determine whether the statute has been followed sufficiently so as to carry out the intent for which the statute was enacted and not a mirror image type of strict compliance. Substantial compliance means “actual compliance in respect to the substance essential to every reasonable objective of the statute” and the Court should determine whether the statute has been followed sufficiently so as to carry out the intent of the statute and accomplish the reasonable objectives for which it was passed.

33. A fiscal statute generally seeks to preserve the need to comply strictly with regulatory requirements that are important, especially when a party seeks the benefits of an exemption clause that are important. Substantial compliance with an enactment is insisted, where mandatory and directory

requirements are lumped together, for in such a case, if mandatory requirements are complied with, it will be proper to say that the enactment has been substantially complied with notwithstanding the non-compliance of directory requirements. In cases where substantial compliance has been found, there has been actual compliance with the statute, albeit procedurally faulty. The doctrine of substantial compliance seeks to preserve the need to comply strictly with the conditions or requirements that are important to invoke a tax or duty exemption and to forgive non-compliance for either unimportant and tangential requirements or requirements that are so confusingly or incorrectly written that an earnest effort at compliance should be accepted.

34. The test for determining the applicability of the substantial compliance doctrine has been the subject of a myriad of cases and quite often, the critical question to be examined is whether the requirements relate to the “substance” or “essence” of the statute, if so, strict adherence to those requirements is a precondition to give effect

to that doctrine. On the other hand, if the requirements are procedural or directory in that they are not of the “essence” of the thing to be done but are given with a view to the orderly conduct of business, they may be fulfilled by substantial, if not strict compliance. In other words, a mere attempted compliance may not be sufficient, but actual compliance with those factors which are considered as essential.”

40.After considering the various authorities, some of which are adverted to above, we are compelled to observe how true it is to say that there exists unsatisfactory state of law in relation to interpretation of exemption clauses. Various Benches which decided the question of interpretation of taxing statute on one hand and exemption notification on the other, have broadly assumed (we are justified to say this) that the position is well settled in the interpretation of a taxing statute: It is the law that any ambiguity in a taxing statute should enure to the benefit of the subject/assessee, but any

ambiguity in the exemption clause of exemption notification must be conferred in favour of revenue – and such exemption should be allowed to be availed only to those subjects/assesses who demonstrate that a case for exemption squarely falls within the parameters enumerated in the notification and that the claimants satisfy all the conditions precedent for availing exemption. Presumably for this reason the Bench which decided **Surendra Cotton Oil Mills Case** (supra) observed that there exists unsatisfactory state of law and the Bench which referred the matter initially, seriously doubted the conclusion in **Sun Export Case** (supra) that the ambiguity in an exemption notification should be interpreted in favour of the assessee.

41.After thoroughly examining the various precedents some of which were cited before us and after giving our anxious consideration, we would be more than justified

to conclude and also compelled to hold that every taxing statute including, charging, computation and exemption clause (at the threshold stage) should be interpreted strictly. Further, in case of ambiguity in a charging provisions, the benefit must necessarily go in favour of subject/assessee, but the same is not true for an exemption notification wherein the benefit of ambiguity must be strictly interpreted in favour of the Revenue/State.

42.In ***Govind Saran Ganga Saran v. Commissioner of Sales Tax***, 1985 Supp (SCC) 205, this Court pointed out three components of a taxing statute, namely subject of the tax; person liable to pay tax; and the rate at which the tax is to be levied. If there is any ambiguity in understanding any of the components, no tax can be levied till the ambiguity or defect is removed by the legislature [See ***Mathuram Agrawal v. Sate of***

Madhya Pradesh, (1999) 8 SCC 667; ***Indian Banks' Association vs. Devkala Consultancy Service***, (2004) 4 JT 587 = AIR 2004 SC 2615; and ***Consumer Online Foundation vs. Union of India***, (2011) 5 SCC 360.]

43. There is abundant jurisprudential justification for this.

In the governance of rule of law by a written Constitution, there is no implied power of taxation. The tax power must be specifically conferred and it should be strictly in accordance with the power so endowed by the Constitution itself. It is for this reason that the Courts insist upon strict compliance before a State demands and extracts money from its citizens towards various taxes. Any ambiguity in a taxation provision, therefore, is interpreted in favour of the subject/assessee. The statement of law that ambiguity in a taxation statute should be interpreted strictly and in the event of ambiguity the benefit should go to the

subject/assessee may warrant visualizing different situations. For instance, if there is ambiguity in the subject of tax, that is to say, who are the persons or things liable to pay tax, and whether the revenue has established conditions before raising and justifying a demand. Similar is the case in roping all persons within the tax net, in which event the State is to prove the liability of the persons, as may arise within the strict language of the law. There cannot be any implied concept either in identifying the subject of the tax or person liable to pay tax. That is why it is often said that subject is not to be taxed, unless the words of the statute unambiguously impose a tax on him, that one has to look merely at the words clearly stated and that there is no room for any intendment nor presumption as to tax. It is only the letter of the law and not the spirit of the law to guide the interpreter to decide the liability to tax ignoring any amount of hardship and eschewing

equity in taxation. Thus, we may emphatically reiterate that if in the event of ambiguity in a taxation liability statute, the benefit should go to the subject/assessee. But, in a situation where the tax exemption has to be interpreted, the benefit of doubt should go in favour of the revenue, the aforesaid conclusions are expounded only as a prelude to better understand jurisprudential basis for our conclusion. We may now consider the decisions which support our view.

44. In ***Hansraj Gordhandas Case*** (supra), the Constitutional Bench unanimously pointed out that an exemption from taxation is to be allowed based wholly by the language of the notification and exemption cannot be gathered by necessary implication or by construction of words; in other words, one has to look to the language alone and the object and purpose for granting exemption is irrelevant and immaterial.

45. In *Parle Exports Case* (supra), a bench of two Judges of this Court considered the question whether non-alcoholic beverage base like Gold spot base, Limca base and Thumps Up base, were exempted from payment of duty under the Central Government notification of March, 1975. While considering the issue, this Court pointed out the Strict interpretation to be followed in interpretation of a notification for exemption. These observations are made in para 17 of the judgment, which read as follows:

“How then should the courts proceed?
The expressions in the Schedule and in the notification for exemption should be understood by the language employed therein bearing in mind the context in which the expressions occur. The words used in the provision, imposing taxes or granting exemption should be understood in the same way in which these are understood in ordinary parlance in the area in which the law is in force or by the people who

ordinarily deal with them. It is, however, necessary to bear in mind certain principles. The notification in this case was issued under Rule 8 of the Central Excise Rules and should be read along with the Act. The notification must be read as a whole in the context of the other relevant provisions. When a notification is issued in accordance with power conferred by the statute, it has statutory force and validity and, therefore, the exemption under the notification is as if it were contained in the Act itself. See in this connection the observations of this Court in *Orient Weaving Mills (P) Ltd. v. Union of India*, 1962 Supp 3 SCR 481 = AIR 1963 SC 98. See also *Kailash Nath v. State of U.P.*, AIR 1957 SC 790. The principle is well settled that when two views of a notification are possible, it should be construed in favour of the subject as notification is part of a fiscal enactment. But in this connection, it is well to remember the observations of the Judicial Committee in *Coroline M. Armytage v. Frederick Wilkinson*, (1878) 3 AC 355, that it is only, however, in the event of there being a real difficulty in ascertaining the meaning of a particular enactment that the question

of strictness or of liberality of construction arises. The Judicial Committee reiterated in the said decision at page 369 of the report that in a taxing Act provisions enacting an exception to the general rule of taxation are to be construed strictly against those who invoke its benefit. While interpreting an exemption clause, liberal interpretation should be imparted to the language thereof, provided no violence is done to the language employed. It must, however, be borne in mind that absurd results of construction should be avoided.”

In the above passage, no doubt this Court observed that *“when two views of a notification are possible, it should be construed in favour of the subject as notification is part of fiscal document”*. This observation may appear to support the view that ambiguity in a notification for exemption must be interpreted to benefit the subject/assessee. A careful reading of the entire para, as extracted hereinabove would, however, suggest that an

exception to the general rule of tax has to be construed strictly against those who invoke for their benefit. This was explained in a subsequent decision in **Wood Papers Ltd. Case** (supra). In para 6, it was observed as follows:

“... In Collector of Central Excise v. Parle Exports (P) Ltd., (1989) 1 SCC 345, this Court while accepting that exemption clause should be construed liberally applied rigorous test for determining if expensive items like Gold Spot base or Limca base of Thums Up base were covered in the expression food products and food preparations used in Item No. 68 of First Schedule of Central Excises and Salt Act and held ‘that it should not be in consonance with spirit and the reason of law to give exemption for non-alcoholic beverage basis under the notification in question’. Rationale or ratio is same. Do not extend or widen the ambit at stage of applicability. But once that hurdle is crossed construe it liberally. Since the respondent did not fall in the first clause of

the notification there was no question of giving the clause a liberal construction and hold that production of goods by respondent mentioned in the notification were entitled to benefit.”

46. The above decision, which is also a decision of two-Judge Bench of this Court, for the first time took a view that liberal and strict construction of exemption provisions are to be invoked at different stages of interpreting it. The question whether a subject falls in the notification or in the exemption clause, has to be strictly construed. When once the ambiguity or doubt is resolved by interpreting the applicability of exemption clause strictly, the Court may construe the notification by giving full play bestowing wider and liberal construction. The ratio of ***Parle Exports Case*** (supra) deduced as follows:

“Do not extend or widen the ambit at stage of applicability. But once that hurdle is crossed, construe it liberally”.

47. We do not find any strong and compelling reasons to differ, taking a *contra* view, from this. We respectfully record our concurrence to this view which has been subsequently, elaborated by the Constitution Bench in ***Hari Chand Case*** (supra).

48. The next authority, which needs to be referred is the case in ***Mangalore Chemicals*** (supra). As we have already made reference to the same earlier, repetition of the same is not necessary. From the above decisions, the following position of law would, therefore, clear. Exemptions from taxation have tendency to increase the burden on the other unexempted class of tax payers. A person claiming exemption, therefore, has to establish that his case squarely falls within the exemption notification, and while doing so, a notification should be construed against the subject in case of ambiguity.

49. The ratio in ***Mangalore Chemicals Case*** (supra) was approved by a three-Judge Bench in ***Novopan India Ltd. v. Collector of Central Excise and Customs***, 1994 Supp (3) SCC 606. In this case, probably for the first time, the question was posed as to whether the benefit of an exemption notification should go to the subject/assessee when there is ambiguity. The three-Judge Bench, in the background of English and Indian cases, in para 16, unanimously held as follows:

“We are, however, of the opinion that, on principle, the decision of this Court in *Mangalore Chemicals* – and in *Union of India v. Wood Papers*, referred to therein – represents the correct view of law. The principle that in case of ambiguity, a taxing statute should be construed in favour of the assessee – assuming that the said principle is good and sound – does not apply to the construction of an exception or an exempting provision, they have to be construed strictly. A person invoking an exception or an exemption provision to

relieve him of the tax liability must establish clearly that he is covered by the said provision. In case of doubt or ambiguity, benefit of it must go to the State....”

50. In *Tata Iron & Steel Co. Ltd. v. State of Jharkhand*,

(2005) 4 SCC 272, which is another two-Judge Bench decision, this Court laid down that eligibility clause in relation to exemption notification must be given strict meaning and in para 44, it was further held –

“The principle that in the event a provision of fiscal statute is obscure such construction which favours the assessee may be adopted, would have no application to construction of an exemption notification, as in such a case it is for the assessee to show that he comes within the purview of exemption (See *Novopan India Ltd v. CCE and Customs*).”

51. In *Hari Chand Case* (supra), as already discussed, the

question was whether a person claiming exemption is required to comply with the procedure strictly to avail

the benefit. The question posed and decided was indeed different. The said decision, which we have already discussed *supra*, however, indicates that while construing an exemption notification, the Court has to distinguish the conditions which require strict compliance, the non-compliance of which would render the assessee ineligible to claim exemption and those which require substantial compliance to be entitled for exemption. We are pointing out this aspect to dispel any doubt about the legal position as explored in this decision. As already concluded in para 50 above, we may reiterate that we are only concerned in this case with a situation where there is ambiguity in an exemption notification or exemption clause, in which event the benefit of such ambiguity cannot be extended to the subject/assessee by applying the principle that an obscure and/or ambiguity or doubtful fiscal statute must receive a construction favouring the assessee.

Both the situations are different and while considering an exemption notification, the distinction cannot be ignored.

52. To sum up, we answer the reference holding as under -

(1) Exemption notification should be interpreted strictly; the burden of proving applicability would be on the assessee to show that his case comes within the parameters of the exemption clause or exemption notification.

(2) When there is ambiguity in exemption notification which is subject to strict interpretation, the benefit of such ambiguity cannot be claimed by the subject/assessee and it must be interpreted in favour of the revenue.

(3) The ratio in **Sun Export case** (supra) is not correct and all the decisions which took similar view as in **Sun Export Case** (supra) stands over-ruled.

53. The instant civil appeal may now be placed before appropriate Bench for considering the case on merits

after obtaining orders from the Hon'ble Chief Justice of India.

.....J.
(**Ranjan Gogoi**)

.....J.
(**N.V. Ramana**)

.....J.
(**R. Banumathi**)

.....J.
(**Mohan M. Shantanagoudar**)

.....J.
(**S. Abdul Nazeer**)

New Delhi
July 30, 2018

VELLORE CITIZENS' WELFARE FORUM v UNION OF INDIA

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(BEFORE KULDIP SINGH, FAIZAN UDDIN AND K. VENKATASWAMI, JJ.)

a VELLORE CITIZENS' WELFARE FORUM .. Petitioner;
Versus
UNION OF INDIA AND OTHERS .. Respondents.

Writ Petition (C) No. 914 of 1991†, decided on August 28, 1996

- b A. Constitution of India — Arts. 32, 21, 47, 48-B, 51-A(g) — Environmental pollution by tannery industries — While the industries are vital for country's development, but having regard to pollution caused by them, principle of Sustainable Development has to be adopted as a balancing concept — Precautionary Principle and Polluter Pays Principle acceptable as part of the law of the country and should be implemented — Precautionary environmental measures should be taken by State Govt. and statutory authorities and lack of scientific certainty cannot be a ground for postponing such measures where
- c there are serious threats to ecology — Onus on polluter industries to prove that their actions were environmentally benign — Polluter industries liable to pay compensation to individuals affected as well as to make good the ecological damage — Discharge of untreated effluent by tanneries in State of T.N. rendering river water unfit for human consumption, contaminating the subsoil water and spoiling the physico-chemical properties of the soil making it unfit for agricultural purposes — Held, such industries cannot be permitted to continue
- d their operation unless they set up pollution control devices — Such industries liable to compensate for the past pollution generated by them — Pollution fine of Rs 10,000 imposed on each tannery — Amount to be deposited in Environment Protection Fund which shall be utilised for compensating the affected persons and restoring the ecological balance — Environment (Protection) Act, 1986 — Ecology — Damage to — Compensation
- e B. Ecology — Environment (Protection) Act, 1986 — S. 3(3) — Authority under — Directed to be constituted by Central Govt. before 30-9-1996 — Authority to be headed by a retired High Court Judge — Authority to have all powers necessary to deal with the situation created by the polluting industries — Authority also to implement the Precautionary Principle and the principle of Polluter Pays — Authority to compute compensation payable by the polluting industries to individuals affected and that payable for restoring the damage it caused to the environment — Authority also to frame a scheme in consultation
- f with expert bodies like NEERI, Central Board and State Board for reversing the ecological damage and environmental pollution
- g C. Constitution of India — Arts. 32, 226 & 21 — PIL — Ecology — Green Bench — Environmental pollution caused by tanneries in State of T.N. — Suitable directions issued by Supreme Court — However, instead of itself monitoring the matter any further Madras High Court advised to constitute a Green Bench to deal with all the environmental matters — Such Green Benches already functioning in some other High Courts
- D. International Law — Customary international law — If not contrary to the municipal law, deemed to be incorporated in domestic law
- E. Judicial activism — Inaction on the part of the Govt. to set up regulatory/adjudicatory statutory authorities as directed by the Act makes it imperative for the Court to pass suitable necessary directions
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† Under Article 32 of the Constitution of India

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Held :

Though the leather industry is of vital importance to the country as it generates foreign exchange and provides employment avenues it has no right to destroy the ecology, degrade the environment and pose as a health-hazard. It cannot be permitted to expand or even to continue with the present production unless it tackles by itself the problem of pollution created by the said industry. (Para 9) a

The traditional concept that development and ecology are opposed to each other is no longer acceptable. "Sustainable Development" is the answer. In the international sphere, "Sustainable Development" has come to be accepted as a viable concept to eradicate poverty and improve the quality of human life while living within the carrying capacity of the supporting ecosystems. "Sustainable Development" as defined by the Brundtland Report means "Development that meets the needs of the present without compromising the ability of the future generations to meet their own needs". "Sustainable Development" as a balancing concept between ecology and development has been accepted as a part of the customary international law though its salient features have yet to be finalised by the international law jurists. (Para 10) b

"The Precautionary Principle" and "the Polluter Pays Principle" are essential features of "Sustainable Development". The "Precautionary Principle" — in the context of the municipal law — means: c

(i) Environmental measures — by the State Government and the statutory authorities — must anticipate, prevent and attack the causes of environmental degradation.

(ii) Where there are threats of serious and irreversible damage, lack of scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation. d

(iii) The "onus of proof" is on the actor or the developer/industrialist to show that his action is environmentally benign.

"The Polluter Pays Principle" has been held to be a sound principle. The "Polluter Pays Principle" as interpreted by the Supreme Court means that the absolute liability for harm to the environment extends not only to compensate the victims of pollution but also the cost of restoring the environmental degradation. Remediation of the damaged environment is part of the process of "Sustainable Development" and as such the polluter is liable to pay the cost to the individual sufferers as well as the cost of reversing the damaged ecology. Apart from the constitutional mandate to protect and improve the environment there are plenty of post-independence legislations on the subject. In view of the constitutional and statutory provisions it must be held that the Precautionary Principle and the Polluter Pays Principle are part of the environmental law of the country. (Paras 11 to 14) e

Indian Council for Enviro-Legal Action v. Union of India, (1996) 3 SCC 212 : JT (1996) 2 SC 196, *relied on*

Even otherwise, once these principles are accepted as part of the customary international law there would be no difficulty in accepting them as part of the domestic law. The rules of customary international law which are not contrary to the municipal law shall be deemed to have been incorporated in the domestic law and shall be followed by the courts of law. (Para 15) f

A.D.M. v. Shivakant Shukla, (1976) 2 SCC 521 : AIR 1976 SC 1207; *Jolly George Varghese v. Bank of Cochin*, (1980) 2 SCC 360 : AIR 1980 SC 470; *Gramophone Co. of India Ltd. v. Birendra Bahadur Pandey*, (1984) 2 SCC 534 : 1984 SCC (Cri) 313 : AIR 1984 SC 667, *relied on*

The constitutional and statutory provisions protect a person's right to fresh air, clean water and pollution-free environment, but the source of the right is the g

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VELLORE CITIZENS' WELFARE FORUM v. UNION OF INDIA

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inalienable common law right of clean environment. Our legal system having been founded on the British common law the right of a person to a pollution-free environment is a part of the basic jurisprudence of the land. (Paras 16 and 17)

- a *Commentaries on the Laws of England of Sir William Blackstone* Vol. III, Fourth Edn. published in 1876. Chapter XIII, relied on

The Environment Act contains useful provisions for controlling pollution. The main purpose of the Act is to create an authority or authorities under Section 3(3) of the Act with adequate powers to control pollution and protect the environment. It is a pity that till date no authority has been constituted by the Central Government. The

- b work which is required to be done by an authority in terms of Section 3(3) read with other provisions of the Act is being done by the Supreme Court and the other courts in the country. It is high time that the Central Government realises its responsibility and statutory duty to protect the degrading environment in the country. If the conditions in the five districts of Tamil Nadu, where tanneries are operating, are permitted to continue then in the near future all rivers/canals shall be polluted, underground waters contaminated, agricultural lands turned barren and the residents of the area exposed to serious diseases. It is, therefore, necessary for the Supreme Court to direct the Central Government to take immediate action under the provisions of the Environment Act. (Para 20)

There are more than 900 tanneries operating in the five districts of Tamil Nadu. Some of them may, by now, have installed the necessary pollution control measures; they have been polluting the environment for over a decade and in some cases even for a longer period. The Supreme Court has in various orders indicated that these tanneries are liable to pay pollution fine. The polluters must compensate the affected persons and also pay the cost of restoring the damaged ecology. (Para 21)

- c The Board has the power under the Environment Act and the Rules to lay down standards for emissions or discharge of environmental pollutants. Rule 3(2) of the Rules even permits the Board to specify more stringent standards from those provided under the Rules. The NEERI having justified the standards stipulated by the Board, it is directed that these standards are to be maintained by the tanneries and other industries in the State of Tamil Nadu. (Para 24)

[Keeping in view the above position the Supreme Court gave specific directions in para 25.]

However, it is not necessary for the Supreme Court to monitor these matters any further. The Madras High Court would be in a better position to monitor these matters hereinafter. Therefore, the Chief Justice of the Madras High Court is directed to constitute a Special Bench — “Green Bench” — to deal with this case and other environmental matters. However, it would be open to the Bench to pass any appropriate order/orders keeping in view the directions issued by “Green Benches” already functioning in Calcutta, Madhya Pradesh and some other High Courts. (Para 26)

R-M/T/16616/C

- g Advocates who appeared in this case :

R. Mohan, V.A. Bobde, Kapil Sibal, M.R. Sharma, V.C. Mahajan and S.S. Ray, Senior Advocates (K.R.R. Pillai, M.C. Mehta, Ms Seema Midha, V.G. Pragasam, Vijay Panjwani, S. Sukumaran, Sudhir Walia, A.T.M. Sampath, M.S. Dahiya, Sudhir Walia, Roy Abraham, Sm. Baby Krishna, P. Sukumar, Praveen Kumar, Romesh C. Pathak, M.A. Krishnamoorthy, V. Krishnamurthi, Ms Anil Katiyar, Ms Indra Sawhney, Deepak Divan, S.M. Jadhav, A.V. Rangam, Zafarullah Khan, Shahid Rizvi, Shakil Ahmed Syed, Jaideep Gupta and Sanjay Hegde, Advocates, with them) for the appearing parties.

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3. (1980) 2 SCC 360 : AIR 1980 SC 470, *Jolly George Varghese v. Bank of Cochin* 660d-e
4. (1976) 2 SCC 521 : AIR 1976 SC 1207, *A.D.M. v. Shivakant Shukla* 660d-e

The Judgment of the Court was delivered by

KULDIP SINGH, J.— This petition — public interest — under Article 32 of the Constitution of India has been filed by Vellore Citizens' Welfare Forum and is directed against the pollution which is being caused by enormous discharge of untreated effluent by the tanneries and other industries in the State of Tamil Nadu. It is stated that the tanneries are discharging untreated effluent into agricultural fields, roadsides, waterways and open lands. The untreated effluent is finally discharged in River Palar which is the main source of water supply to the residents of the area. According to the petitioner the entire surface and subsoil water of River Palar has been polluted resulting in non-availability of potable water to the residents of the area. It is stated that the tanneries in the State of Tamil Nadu have caused environmental degradation in the area. According to the preliminary survey made by the Tamil Nadu Agricultural University Research Centre, Vellore nearly 35,000 hectares of agricultural land in the tanneries belt has become either partially or totally unfit for cultivation. It has been further stated in the petition that the tanneries use about 170 types of chemicals in the chrome tanning processes. The said chemicals include sodium chloride, lime, sodium sulphate, chlorium (*sic*) sulphate, fat, liquor, ammonia and sulphuric acid besides dyes which are used in large quantities. Nearly 35 litres of water is used for processing one kilogram of finished leather, resulting in dangerously enormous quantities of toxic effluents being let out in the open by the tanning industry. These effluents have spoiled the physico-chemical properties of the soil and have contaminated groundwater by percolation. According to the petitioner an independent survey conducted by Peace Members, a non-governmental organisation, covering 13 villages of Dindigul and Peddiar Chatram Anchayat Unions, reveals that 350 wells out of total of 467 used for drinking and irrigation purposes have been polluted. Women and children have to walk miles to get drinking water. Legal Aid and Advice Board of Tamil Nadu requested two lawyers namely, M.R. Ramanan and P.S. Subramaniam to visit the area and submit a report indicating the extent of pollution caused by the tanneries. Relevant part of the report is as under:

“As per the Technical Report dated 28-5-1983 of the hydrological investigations carried out in Solor village near Ambur it was noticed that 176 chemicals including acids were contained in the tannery effluents. If 40 litres of water with chemicals are required for one kilo of leather, with the production of 200 tons of leather per day at present and likely to

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a be increased multifold in the next four to five years with the springing up of more tanneries like mushroom in and around Ambur town, the magnitude of the effluent water used with chemicals and acids let out daily can be shockingly imagined. ... The effluents are let out from the tanneries in the nearby lands, then to Goodar and Palar rivers. The lands, the rivulet and the river receive the effluents containing toxic chemicals and acids. The subsoil water is polluted ultimately affecting not only arable lands, wells used for agriculture but also drinking-water wells.

b The entire Ambur town and the villages situated nearby do not have good drinking water. Some of the influential and rich people are able to get drinking water from a far-off place connected by a few pipes. During rainy days and floods, the chemicals deposited into the rivers and lands spread out quickly to other lands. The effluents thus let out affect cultivation; either crops do not come up at all or if produced the yield is reduced abnormally too low. ... The tanners have come to stay. The industry is a foreign exchange earner. But one moot point is whether at the cost of the lives of lakhs of people with increasing human population the activities of the tanneries should be encouraged on monetary considerations. We find that the tanners have absolutely no regard for the healthy environment in and around their tanneries. The effluents

c discharged have been stored like a pond openly in most of the places adjacent to cultivable lands with easy access for the animals and the people. The Ambur Municipality, which can exercise its powers as per the provisions of the Madras District Municipalities Act, 1920 (5 of 1920) more particularly under Sections 226 to 231, 249 to 253 and 338 to 342 seems to be a silent spectator. Probably it does not want to antagonise the highly influential and stupendously rich tanners. The powers given under Section 63 of the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974) have not been exercised in the case of tanneries in Ambur and the surrounding areas."

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2. Along with the affidavit dated 21-7-1992 filed by Deputy Secretary to Government, Environment and Forests Department of Tamil Nadu, a list of villages affected by the tanneries has been attached. The list mentions 59 villages in the three divisions of Thirupathur, Vellore and Ranipet. There is acute shortage of drinking water in these 59 villages and as such alternative arrangements were being made by the Government for the supply of drinking water.

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3. In the affidavit dated 9-1-1992 filed by Member Secretary, Tamil Nadu Pollution Control Board (the Board), it has been stated as under:

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"It is submitted that there are 584 tanneries in North Arcot Ambedkar District vide Annexures 'A' and 'D', out of which 443 tanneries have applied for consent of the Board. The Government were concerned with the treatment and disposal of effluent from tanneries. The Government gave time up to 31-7-1985 to tanneries to put up Effluent Treatment Plant (ETP). So far 33 tanneries in North Arcot

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Ambedkar District have put up Effluent Treatment Plants. The Board has stipulated standards for the effluent to be disposed of by the tanneries.”

4. The affidavits filed on behalf of the State of Tamil Nadu and the Board clearly indicate that the tanneries and other polluting industries in the State of Tamil Nadu are being persuaded for the last about 10 years to control the pollution generated by them. They were given option either to construct common effluent treatment plants for a cluster of industries or to set up individual pollution control devices. The Central Government agreed to give substantial subsidy for the construction of Common Effluent Treatment Plants (CETPs). It is a pity that till date most of the tanneries operating in the State of Tamil Nadu have not taken any step to control the pollution caused by the discharge of effluent. This Court on 1-5-1995 passed a detailed order. In the said order this Court noticed various earlier orders passed by this Court and finally directed as under:

“Mr R. Mohan, the learned Senior Counsel for the Tamil Nadu Pollution Control Board, has placed before us a consolidated statement dividing the 553 industries into three parts. The first part in Statement 1 and the second part in Statement 2 relate to those tanneries who have set up the Effluent Treatment Plants either individually or collectively to the satisfaction of the Tamil Nadu Pollution Control Board. According to the report placed on the record by the Board, these industries in Statements 1 and 2 have not achieved the standard or have not started functioning to the satisfaction of the Board. So far as the industries in Statements 1 and 2 are concerned, we give them three months’ notice from today to complete the setting up of Effluent Treatment Plant (either individually or collectively) failing which they shall be liable to pollution fine on the basis of their past working and also liable to be closed. We direct the Tamil Nadu Pollution Control Board to issue individual notices to all these industries within two weeks from today. The Board is also directed to issue a general notice on three consecutive days in a local newspaper which has circulation in the district concerned.

So far as the 57 tanneries listed in Statement III (including 12 industries who have filed writ petition, numbers of which have been given above) are concerned, these units have not installed and commissioned the Effluent Treatment Plants despite various orders issued by this Court from time to time. Mr R. Mohan, the learned Senior Counsel appearing for Tamil Nadu Pollution Control Board, states that the Board has issued separate notices to these units directing them to set up the Effluent Treatment Plants. Keeping in view the fact that this Court has been monitoring the matter for the last about four years and various orders have been issued by this Court from time to time, there is no justification to grant any further time to these industries. We, therefore, direct the 57 industries listed hereunder to be closed with immediate effect. ... We direct the District Collector and the Senior Superintendent of Police of the district to have our orders complied with

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immediately. Both these officers shall file a report in this Court within one week of the receipt of the order.

a We give opportunity to these 57 industries to approach this Court as and when any steps towards the setting up of Effluent Treatment Plants and their commissioning have been taken by these industries. If any of the industries wish to be relocated to some other area, they may come out with a proposal in that respect."

b 5. On 28-7-1995 this Court suspended the closure order in respect of seven industries mentioned therein for a period of eight weeks. It was further observed as under:

c "Mr G. Ramaswamy, the learned Senior Advocate appearing for some of the tanneries in Madras, states that the setting up of the Effluent Treatment Plants is progressing satisfactorily. According to him several lakhs have already been spent and in a short time it would start operating. Mr Mohan, the learned counsel for the Tamil Nadu Pollution Control Board, states that the team of the Board will inspect the project and file a report by 3-8-1995."

6. This Court on 8-9-1995 passed the following order:

d "The Tamil Nadu Pollution Control Board has filed its report. List No. I relates to about 299 industries. It is stated by Mr G. Ramaswamy, Mr Kapil Sibal and Mr G.L. Sanghi, the learned Senior Advocates appearing for these industries, that the setting up of the projects is in progress. According to the learned counsel Tamil Nadu Leather Development Corporation (TALCO) is in charge of the project. The learned counsel state that the project shall be completed in every respect within 3 months from today. The details of these industries and the projects undertaken by TALCO as per List No. I are as under. ... We are of the view that it would be in the interest of justice to give a little more time to these industries to complete the project. Although the industries have asked for three months' time, we give them time till 31-12-1995. We make it clear that in case the projects are not completed by that time, the industries shall be liable to be closed forthwith. Apart from that, these industries shall also be liable to pollution fine for the past period during which they had been operating.

We also take this opportunity to direct TALCO to take full interest in these projects and have the projects completed within the time granted by us.

g Mr Kapil Sibal, the learned counsel appearing for the tanneries, stated that Council for Indian Finished Leather Manufacturers' Export Association is a body which is collecting 5 per cent on all exports. This body also helps the tanneries in various respects. We issue notice to the Association to be present in this Court and assist this Court in all the matters pertaining to the leather tanneries in Madras. Mr Sampath takes notice.

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So far as List No. II is concerned, it relates to about 163 tanneries (except M/s Vibgyor Tanners & Co., Kailasagiri Road, Mittalam-635 811, Ambur (via). The Pollution Control Board has inspected all these tanneries and placed its report before us. According to the report most of these tanneries have not even started primary work at the spot. Some of them have not even located the land. The tanneries should have themselves set up the pollution control devices right at the time when they started working. They have not done so. They are not even listening to various orders passed by this Court from time to time during the last more than 2 years. It is on the record that these tanneries are polluting the area. Even the water around the area where they are operating is not worth drinking. We give no further time to these tanneries. We direct all the following tanneries which are numbering about 162 to be closed with immediate effect.”

It may be mentioned that this Court suspended the closure orders in respect of various industries from time to time to enable the said industries to install the pollution control devices.

7. This Court by the order dated 20-10-1995 directed the National Environmental Engineering Research Institute, Nagpur (NEERI) to send a team of experts to examine, in particular, the feasibility of setting up of CETPs for cluster of tanneries situated at different places in the State of Tamil Nadu where the work of setting up of the CETPs has not started and also to inspect the existing CETPs including those where construction work was in progress. NEERI submitted its first report on 9-12-1995 and the second report on 12-2-1996. This Court examined the two reports and passed the following order on 9-4-1996:

“Pursuant to this Court’s order dated December 15, 1995, NEERI has submitted Final Examination Report dated February 12, 1996 regarding CETPs constructed/under construction by the tanneries in various districts of the State of Tamil Nadu. A four-member team constituted by the Director, NEERI inspected the CETPs from January 27, 1996 to February 12, 1996. According to the report, at present, 30 CETP sites have been identified for tannery clusters in the five districts of Tamil Nadu viz., North Arcot Ambedkar, Erode Periyar, Dindigul Anna, Trichi and Chengai M.G.R. All the 30 CETPs were inspected by the team. According to the report, only 7 CETPs are under operation, while 10 are under construction and 13 are proposed. The following 7 CETPs are under operation:

1. M/s TALCO Ranipet Tannery Effluent Treatment Co. Ltd., Ranipet, District North Arcot Ambedkar.

2. M/s TALCO Ambur Tannery Effluent Treatment Co. Ltd., Thuthipet Sector, Ambur, District North Arcot Ambedkar.

3. M/s TALCO Vaniyambadi Tanners Enviro Control Systems Ltd., Vaniyambattu, Vaniyambadi, District North Arcot.

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4. M/s Pallavaram Tanners Industrial Effluent Treatment Co., Chrompet Area, District Chengai MGR.

a 5. M/s Ranipet SIDCO Finished Leather Effluent Treatment Co. Pvt. Ltd., Ranipet, District North Arcot Ambedkar.

6. M/s TALCO Vaniyambadi Tanners Enviro Control Systems Ltd., Udayendiram, Vaniyambadi, District North Arcot Ambedkar.

b 7. M/s TALCO Pernambut Tannery Effluent Treatment Co. Ltd., Bakkalapalli, Pernambut, District North Arcot Ambedkar.

c The CETPs mentioned at Sl. Nos. 5, 6 and 7 were commissioned in January 1996 and were on the date of report passing through stabilization period. The report indicates that so far as the above CETPs are concerned, although there is improvement in the performance, they are still not operating at their optimal level and are not meeting the standards as laid down by the Ministry of Environment and Forests and the Tamil Nadu Pollution Control Board for inland surface water discharge. The NEERI has given various recommendations to be followed by the above-mentioned units. We direct the units to comply with the recommendations of NEERI within two months from today. The Tamil Nadu Pollution Control Board shall monitor the directions and have the recommendations of the NEERI complied with. So far as the three units which are under stabilization are concerned, the NEERI Team may inspect the same and place a final report before this Court within the period of two months.

e Apart from the tanneries which are connected with the above-mentioned 7 units, there are large number of other tanneries operating in the 5 districts mentioned above which have not set up any satisfactory pollution control devices. Mr Mohan, the learned counsel for the Tamil Nadu Pollution Control Board, states that notices were issued to all those tanneries from time to time directing them to set up the necessary pollution control devices. It is mandatory for the tanneries to set up the pollution control devices. Despite notices it has not been done. This Court has been monitoring these matters for the last about 4 years. There is no awakening or realisation to control the pollution which is being generated by these tanneries.

f The NEERI has indicated the physico-chemical characteristics of groundwater from dug wells near tannery clusters. According to the report, water samples show that well waters around the tanneries are unfit for drinking. The report also shows that the quality of water in Palar river downstream from the place where effluent is discharged is highly polluted. We, therefore, direct that all the tanneries in the districts of North Arcot Ambedkar, Erode Periyar, Dindigul Anna, Trichi and Chengai M.G.R. which are not connected with the seven CETPs mentioned above, shall be closed with immediate effect. None of these tanneries shall be permitted to operate till the time the CETPs are constructed to the satisfaction of the Tamil Nadu Pollution Control

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Board. We direct the District Magistrate and the Superintendent of Police of the area concerned, to have all these tanneries closed with immediate effect. Mr Mehta has placed on record the report of Tamil Nadu Pollution Control Board. In Statement I of the Index, there is a list of 30 industries which have also not been connected with any CETPs. According to the report, these industries have not, till date set up pollution control devices. We direct the closure of these industries also. List is as under. ... The Tamil Nadu Pollution Control Board has filed another report dated January 18, 1996 pertaining to 51 tanneries. There is dispute regarding the permissible limit of the quantity of total dissolved solids (TDS). Since the NEERI Team is visiting these tanneries, they may examine the TDS aspect also and advise this Court accordingly. Meanwhile, we do not propose to close any of the tanneries on the ground that it is discharging more than 2001 TDS.

The report indicates that except the 17 units, all other units are non-complaint units in the sense that they are not complying with the BOD standards. Excepting these 17 industries, the remaining 34 tanneries listed hereunder are directed to be closed forthwith. ... We direct the District Magistrate and the Superintendent of Police of the area concerned to have all these industries mentioned above closed forthwith. The tanneries in the 5 districts of Tamil Nadu referred to in this order have been operating for a long time. Some of the tanneries are operating for a period of more than two decades. All this period, these tanneries have been polluting the area. Needless to say that the total environment in the area has been polluted. We issue show-cause notice to these industries through their learned counsel who are present in Court, why they be not subjected to heavy pollution fine. We direct the State of Tamil Nadu through the Industry Ministry, the Tamil Nadu Pollution Control Board and all other authorities concerned and also the Government of India through the Ministry of Environment and Forests, not to permit the setting up of further tanneries in the State of Tamil Nadu.

Copy of this order be communicated to the authorities concerned within three days. To come up for further consideration after the replies to the show-cause. There are a large number of tanneries in the State of Tamil Nadu which have set up individual pollution control devices and which according to the Tamil Nadu Pollution Control Board are operating satisfactorily. The fact, however, remains that all these tanneries are discharging the treated effluents within the factory precincts itself. We direct NEERI Team which is visiting this area to find out as to whether the discharge of the effluent on the land within the factory premises is permissible environmentally. *M/s Nandeem Tanning Company, Valayampet Vaniyambadi* is one of such industries. Copy of the report submitted by the Tamil Nadu Pollution Control Board be forwarded to the NEERI. NEERI may inspect this industry within ten days and file a report in this Court. Copy of this order be communicated to NEERI.

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Matters regarding distilleries in the State of Tamil Nadu

- a** The Tamil Nadu Pollution Control Board has placed on record the factual report regarding 6 distilleries mentioned in page 4 of the Index of its Report dated April 5, 1996. The learned counsel for the Board states that the Board shall issue necessary notices to these industries to set up pollution control devices to the satisfaction of the Board, failing which these distilleries shall be closed. The Pollution Control Board shall place a status report before this Court."
- b** The NEERI submitted two further reports on 1-5-1996 and 11-6-1996 in respect of CETPs set up by various industries. The NEERI reports indicate that the physico-chemical characteristics of groundwater from dug wells in Ranipet, Thuthipeth, Valayambattu, Vaniyambadi and various other places do not conform to the limits prescribed for drinking purposes.
- 8.** This Court has been monitoring this petition for almost five years.
- c** The NEERI, Board and the Central Pollution Control Board (Central Board) have visited the tanning and other industries in the State of Tamil Nadu several times. These expert bodies have offered all possible assistance to these industries. The NEERI reports indicate that even the seven operational CETPs are not functioning to its satisfaction. NEERI has made several recommendations to be followed by the operational CETPs. Out of the 30
- d** CETP sites which have been identified for tannery clusters in the five districts of North Arcot Ambedkar, Erode Periyar, Dindigul Anna, Trichi and Chengai M.G.R., 7 are under operation, 10 are under construction and 13 are proposed. There are a large number of tanneries which are not likely to be connected with any CETP and are required to set up pollution control devices on their own. Despite repeated extensions granted by this Court
- e** during the last five years and prior to that by the Board the tanneries in the State of Tamil Nadu have miserably failed to control the pollution generated by them.
- 9.** It is no doubt correct that the leather industry in India has become a major foreign exchange earner and at present Tamil Nadu is the leading exporter of finished leather accounting for approximately 80 per cent of the country's export. Though the leather industry is of vital importance to the country as it generates foreign exchange and provides employment avenues it has no right to destroy the ecology, degrade the environment and pose as a health-hazard. It cannot be permitted to expand or even to continue with the present production unless it tackles by itself the problem of pollution created by the said industry.
- f**
- g** **10.** The traditional concept that development and ecology are opposed to each other is no longer acceptable. "Sustainable Development" is the answer. In the international sphere, "Sustainable Development" as a concept came to be known for the first time in the Stockholm Declaration of 1972. Thereafter, in 1987 the concept was given a definite shape by the World Commission on Environment and Development in its report called "Our
- h** Common Future". The Commission was chaired by the then Prime Minister of Norway, Ms G.H. Brundtland and as such the report is popularly known

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as “Brundtland Report”. In 1991 the World Conservation Union, United Nations Environment Programme and Worldwide Fund for Nature, jointly came out with a document called “Caring for the Earth” which is a strategy for sustainable living. Finally, came the Earth Summit held in June 1992 at Rio which saw the largest gathering of world leaders ever in the history — deliberating and chalking out a blueprint for the survival of the planet. Among the tangible achievements of the Rio Conference was the signing of two conventions, one on biological diversity and another on climate change. These conventions were signed by 153 nations. The delegates also approved by consensus three non-binding documents namely, a Statement on Forestry Principles, a declaration of principles on environmental policy and development initiatives and Agenda 21, a programme of action into the next century in areas like poverty, population and pollution. During the two decades from Stockholm to Rio “Sustainable Development” has come to be accepted as a viable concept to eradicate poverty and improve the quality of human life while living within the carrying capacity of the supporting ecosystems. “Sustainable Development” as defined by the Brundtland Report means “Development that meets the needs of the present without compromising the ability of the future generations to meet their own needs”. We have no hesitation in holding that “Sustainable Development” as a balancing concept between ecology and development has been accepted as a part of the customary international law though its salient features have yet to be finalised by the international law jurists.

11. Some of the salient principles of “Sustainable Development”, as culled out from Brundtland Report and other international documents, are Inter-Generational Equity, Use and Conservation of Natural Resources, Environmental Protection, the Precautionary Principle, Polluter Pays Principle, Obligation to Assist and Cooperate, Eradication of Poverty and Financial Assistance to the developing countries. We are, however, of the view that “The Precautionary Principle” and “The Polluter Pays Principle” are essential features of “Sustainable Development”. The “Precautionary Principle” — in the context of the municipal law — means:

(i) Environmental measures — by the State Government and the statutory authorities — must anticipate, prevent and attack the causes of environmental degradation.

(ii) Where there are threats of serious and irreversible damage, lack of scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.

(iii) The “onus of proof” is on the actor or the developer/industrialist to show that his action is environmentally benign.

12. “The Polluter Pays Principle” has been held to be a sound principle by this Court in *Indian Council for Enviro-Legal Action v. Union of India*¹. The Court observed: (SCC p. 246, para 65)

¹ (1996) 3 SCC 212 : JT (1996) 2 SC 196

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a "... we are of the opinion that any principle evolved in this behalf should be simple, practical and suited to the conditions obtaining in this country".

The Court ruled that: (SCC p. 246, para 65)

b "... once the activity carried on is hazardous or inherently dangerous, the person carrying on such activity is liable to make good the loss caused to any other person by his activity *irrespective* of the fact whether he took reasonable care while carrying on his activity. The rule is premised upon the very nature of the activity carried on".

c Consequently the polluting industries are "absolutely liable to compensate for the harm caused by them to villagers in the affected area, to the soil and to the underground water and hence, they are bound to take all necessary measures to remove sludge and other pollutants lying in the affected areas". The "Polluter Pays Principle" as interpreted by this Court means that the absolute liability for harm to the environment extends not only to compensate the victims of pollution but also the cost of restoring the environmental degradation. Remediation of the damaged environment is part of the process of "Sustainable Development" and as such the polluter is liable to pay the cost to the individual sufferers as well as the cost of reversing the damaged ecology.

d 13. The Precautionary Principle and the Polluter Pays Principle have been accepted as part of the law of the land. Article 21 of the Constitution of India guarantees protection of life and personal liberty. Articles 47, 48-A and 51-A(g) of the Constitution are as under:

e "47. *Duty of the State to raise the level of nutrition and the standard of living and to improve public health.*—The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and, in particular, the State shall endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health.

f 48-A. *Protection and improvement of environment and safeguarding of forests and wildlife.*—The State shall endeavour to protect and improve the environment and to safeguard the forests and wildlife of the country.

g 51-A. (g) to protect and improve the natural environment including forests, lakes, rivers and wildlife, and to have compassion for living creatures."

h Apart from the constitutional mandate to protect and improve the environment there are plenty of post-independence legislations on the subject but more relevant enactments for our purpose are: the Water (Prevention and Control of Pollution) Act, 1974 (the Water Act), the Air (Prevention and Control of Pollution) Act, 1981 (the Air Act) and the Environment (Protection) Act, 1986 (the Environment Act). The Water Act provides for the constitution of the Central Pollution Control Board by the

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Central Government and the constitution of the State Pollution Control Boards by various State Governments in the country. The Boards function under the control of the Governments concerned. The Water Act prohibits the use of streams and wells for disposal of polluting matters. It also provides for restrictions on outlets and discharge of effluents without obtaining consent from the Board. Prosecution and penalties have been provided which include sentence of imprisonment. The Air Act provides that the Central Pollution Control Board and the State Pollution Control Boards constituted under the Water Act shall also perform the powers and functions under the Air Act. The main function of the Boards, under the Air Act, is to improve the quality of the air and to prevent, control and abate air pollution in the country. We shall deal with the Environment Act in the latter part of this judgment.

14. In view of the above-mentioned constitutional and statutory provisions we have no hesitation in holding that the Precautionary Principle and the Polluter Pays Principle are part of the environmental law of the country.

15. Even otherwise once these principles are accepted as part of the Customary International Law there would be no difficulty in accepting them as part of the domestic law. It is almost an accepted proposition of law that the rules of Customary International Law which are not contrary to the municipal law shall be deemed to have been incorporated in the domestic law and shall be followed by the courts of law. To support we may refer to Justice H.R. Khanna's opinion in *A.D.M. v. Shivakant Shukla*², *Jolly George Varghese case*³ and *Gramophone Co. case*⁴.

16. The constitutional and statutory provisions protect a person's right to fresh air, clean water and pollution-free environment, but the source of the right is the inalienable common law right of clean environment. It would be useful to quote a paragraph from Blackstone's commentaries on the Laws of England (*Commentaries on the Laws of England of Sir William Blackstone*) Vol. III, fourth edition published in 1876. Chapter XIII, "Of Nuisance" depicts the law on the subject in the following words:

"Also, if a person keeps his hogs, or other noisome animals, or allows filth to accumulate on his premises, so near the house of another, that the stench incommodes him and makes the air unwholesome, this is an injurious nuisance, as it tends to deprive him of the use and benefit of his house. A like injury is, if one's neighbour sets up and exercises any offensive trade; as a tanner's, a tallow-chandler's, or the like; for though these are lawful and necessary trades, yet they should be exercised in remote places; for the rule is, 'sic utere tuo, ut alienum non leadas'; this

2 (1976) 2 SCC 521 : AIR 1976 SC 1207

3 *Jolly George Varghese v. Bank of Cochun*, (1980) 2 SCC 360 : AIR 1980 SC 470

4 *Gramophone Co. of India Ltd v Birendra Bahadur Pandey*, (1984) 2 SCC 534 : 1984 SCC (Cri) 313 : AIR 1984 SC 667

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therefore is an actionable nuisance. And on a similar principle a constant ringing of bells in one's immediate neighbourhood may be a nuisance.

- a ... With regard to other corporeal hereditaments; it is a nuisance to stop or divert water that used to run to another's meadow or mill; to corrupt or poison a watercourse, by erecting a dye-house or a lime-pit, for the use of trade, in the upper part of the stream; to pollute a pond, from which another is entitled to water his cattle; to obstruct a drain; or in short to do any act in common property, that in its consequences must necessarily tend to the prejudice of one's neighbour. So closely does the law of England enforce that excellent rule of gospel-morality, of 'doing to others, as we would they should do unto ourselves'."
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17. Our legal system having been founded on the British common law the right of a person to a pollution-free environment is a part of the basic jurisprudence of the land.

- c 18. The Statement of Objects and Reasons to the Environment Act, inter alia, states as under:

- d "The decline in environmental quality has been evidenced by increasing pollution, loss of vegetal cover and biological diversity, excessive concentrations of harmful chemicals in the ambient atmosphere and in food-chains, growing risks of environmental accidents and threats to life-support systems. The world community's resolve to protect and enhance the environmental quality found expression in the decisions taken at the United Nations Conference on the Human Environment held in Stockholm in June 1972. The Government of India participated in the Conference and strongly voiced the environmental concerns. While several measures have been taken for environmental protection both before and after the Conference, the need for a general legislation further to implement the decisions of the Conference has become increasingly evident.
- e

- f Existing laws generally focus on specific types of pollution or on specific categories of hazardous substances. Some major areas of environmental hazards are not covered. There also exist uncovered gaps in areas of major environmental hazards. There are inadequate linkages in handling matters of industrial and environmental safety. Control mechanisms to guard against slow, insidious build-up of hazardous substances especially new chemicals in the environment, are weak. Because of a multiplicity of regulatory agencies, there is need for an authority which can assume the lead role for studying, planning and implementing long-term requirements of environmental safety and to give direction to, and coordinate a system of speedy and adequate response to emergency situations threatening the environment.
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- h In view of what has been stated above, there is urgent need for the enactment of a general legislation on environmental protection which inter alia, should enable coordination of activities of the various regulatory agencies, creation of an authority or authorities with adequate

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powers for environmental protection, regulation of discharge of environmental pollutants and handling of hazardous substances, speedy response in the event of accidents threatening the environment and deterrent punishment to those who endanger human environment, safety and health.” a

Sections 3, 4, 5, 7 and 8 of the Environment Act which are relevant are as under:

“3. *Power of Central Government to take measures to protect and improve environment.*—(1) Subject to the provisions of this Act, the Central Government shall have the power to take all such measures as it deems necessary or expedient for the purpose of protecting and improving the quality of the environment and preventing, controlling and abating environmental pollution. b

(2) In particular, and without prejudice to the generality of the provisions of sub-section (1), such measures may include measures with respect to all or any of the following matters, namely— c

(i) coordination of actions by the State Governments, officers and other authorities—

(a) under this Act, or the rules made thereunder; or

(b) under any other law for the time being in force which is relatable to the objects of this Act; d

(ii) planning and execution of a nation-wide programme for the prevention, control and abatement of environmental pollution;

(iii) laying down standards for the quality of environment in its various aspects;

(iv) laying down standards for emission or discharge of environmental pollutants from various sources whatsoever; e

Provided that different standards for emission or discharge may be laid down under this clause from different sources having regard to the quality or composition of the emission or discharge of environmental pollutants from such sources; f

(v) restriction of areas in which any industries, operations or processes or class of industries, operations or processes shall not be carried out or shall be carried out subject to certain safeguards;

(vi) laying down procedures and safeguards for the prevention of accidents which may cause environmental pollution and remedial measures for such accidents; g

(vii) laying down procedures and safeguards for the handling of hazardous substances;

(viii) examination of such manufacturing processes, materials and substances as are likely to cause environmental pollution;

(ix) carrying out and sponsoring investigations and research relating to problems of environmental pollution; h

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a (x) inspection of any premises, plant, equipment, machinery, manufacturing or other processes, materials or substances and giving, by order, of such directions to such authorities, officers or persons as it may consider necessary to take steps for the prevention, control and abatement of environmental pollution;

(xi) establishment or recognition of environmental laboratories and institutes to carry out the functions entrusted to such environmental laboratories and institutes under this Act;

b (xii) collection and dissemination of information in respect of matters relating to environmental pollution;

(xiii) preparation of manuals, codes or guides relating to the prevention, control and abatement of environmental pollution;

c (xiv) such other matters as the Central Government deems necessary or expedient for the purpose of securing the effective implementation of the provisions of this Act.

d (3) The Central Government may, if it considers it necessary or expedient so to do for the purposes of this Act, by order, published in the Official Gazette, constitute an authority or authorities by such name or names as may be specified in the order for the purpose of exercising and performing such of the powers and functions (including the power to issue directions under Section 5) of the Central Government under this Act and for taking measures with respect to such of the matters referred to in sub-section (2) as may be mentioned in the order and subject to the supervision and control of the Central Government and the provisions of such order, such authority or authorities may exercise the powers or perform the functions or take the measures so mentioned in the order as if such authority or authorities had been empowered by this Act to exercise those powers or perform those functions or take such measures.

f 4. *Appointment of officers and their powers and functions.*—(1) Without prejudice to the provisions of sub-section (3) of Section 3, the Central Government may appoint officers with such designations as it thinks fit for the purposes of this Act and may entrust to them such of the powers and functions under this Act as it may deem fit.

g (2) The officers appointed under sub-section (1) shall be subject to the general control and direction of the Central Government or, if so directed by that Government, also of the authority or authorities, if any, constituted under sub-section (3) of Section 3 or of any other authority or officer.

h 5. *Power to give directions.*—Notwithstanding anything contained in any other law but subject to the provisions of this Act, the Central Government may, in the exercise of its powers and performance of its functions under this Act, issue directions in writing to any person, officer or any authority and such person, officer or authority shall be bound to comply with such directions.

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Explanation.—For the avoidance of doubts, it is hereby declared that the power to issue directions under this section includes the power to direct—

(a) the closure, prohibition or regulation of any industry, operation or process; or

(b) stoppage or regulation of the supply of electricity or water or any other service.

7. *Persons carrying on industry, operation, etc., not to allow emission or discharge of environmental pollutants in excess of the standards.*—No person carrying on any industry, operation or process shall discharge or emit or permit to be discharged or emitted any environmental pollutant in excess of such standards as may be prescribed.

8. *Persons handling hazardous substances to comply with procedural safeguards.*—No person shall handle or cause to be handled any hazardous substance except in accordance with such procedure and after complying with such safeguards as may be prescribed.”

19. Rules 3(1), 3(2) and 5(1) of the Environment (Protection) Rules, 1986 (the Rules) are as under:

“3. *Standards for emission or discharge of environmental pollutants.*—(1) For the purposes of protecting and improving the quality of the environment and preventing and abating environmental pollution, the standards for emission or discharge of environmental pollutants from the industries, operations or processes shall be as specified in Schedules I to IV.

3. (2) Notwithstanding anything contained in sub-rule (1), the Central Board or a State Board may specify more stringent standards from those provided in Schedules I to IV in respect of any specific industry, operation or process depending upon the quality of the recipient system and after recording reasons therefor in writing.

5. *Prohibition and restriction on the location of industries and the carrying on of processes and operations in different areas.*—(1) The Central Government may take into consideration the following factors while prohibiting or restricting the location of industries and carrying on of processes and operations in different areas—

(i) Standards for quality of environment in its various aspects laid down for an area.

(ii) The maximum allowable limits of concentration of various environmental pollutants (including noise) for an area.

(iii) The likely emission or discharge of environmental pollutants from an industry, process or operation proposed to be prohibited or restricted.

(iv) The topographic and climatic features of an area.

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- (v) The biological diversity of the area which, in the opinion of the Central Government needs to be preserved.
- a (vi) Environmentally compatible land use.
- (vii) Net adverse environmental impact likely to be caused by an industry, process or operation proposed to be prohibited or restricted.
- b (viii) Proximity to a protected area under the Ancient Monuments and Archaeological Sites and Remains Act, 1958 or a sanctuary, National Park, game reserve or closed area notified as such under the Wild Life (Protection) Act, 1972 or places protected under any treaty, agreement or convention with any other country or countries or in pursuance of any decision made in any international conference, association or other body.
- c (ix) Proximity to human settlements.
- (x) Any other factor as may be considered by the Central Government to be relevant to the protection of the environment in an area."

20. It is thus obvious that the Environment Act contains useful provisions for controlling pollution. The main purpose of the Act is to create an authority or authorities under Section 3(3) of the Act with adequate powers to control pollution and protect the environment. It is a pity that till date no authority has been constituted by the Central Government. The work which is required to be done by an authority in terms of Section 3(3) read with other provisions of the Act is being done by this Court and the other courts in the country. It is high time that the Central Government realises its responsibility and statutory duty to protect the degrading environment in the country. If the conditions in the five districts of Tamil Nadu, where tanneries are operating, are permitted to continue then in the near future all rivers/canals shall be polluted, underground waters contaminated, agricultural lands turned barren and the residents of the area exposed to serious diseases. It is, therefore, necessary for this Court to direct the Central Government to take immediate action under the provisions of the Environment Act.

21. There are more than 900 tanneries operating in the five districts of Tamil Nadu. Some of them may, by now, have installed the necessary pollution control measures; they have been polluting the environment for over a decade and in some cases even for a longer period. This Court has in various orders indicated that these tanneries are liable to pay pollution fine. The polluters must compensate the affected persons and also pay the cost of restoring the damaged ecology.

22. Mr M.C. Mehta, the learned counsel for the petitioner has invited our attention to the notification GOMs No. 213 dated 30-3-1989 which reads as under:

"In the government order first read above, the Government have ordered, among other things, that no industry causing serious water

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pollution should be permitted within one kilometre from the embankments of rivers, streams, dams, etc. and that the Tamil Nadu Pollution Control Board should furnish a list of such industries to all local bodies. It has been suggested that it is necessary to have a sharper definition for water sources so that ephemeral water collections like rainwater ponds, drains, sewerages (bio-degradable) etc. may be excluded from the purview of the above order. The Chairman, Tamil Nadu Pollution Control Board has stated that the scope of the government order may be restricted to reservoirs, rivers and public drinking-water sources. He has also stated that there should be a complete ban on location of highly polluting industries within 1 kilometre of certain water sources. a

2. The Government have carefully examined the above suggestions. The Government impose a total ban on the setting up of the highly polluting industries mentioned in Annexure I to this order within one kilometre from the embankments of the water sources mentioned in Annexure II to this order. b

3. The Government also direct that under any circumstances if any highly polluting industry is proposed to be set up within one kilometre from the embankments of the water sources other than those mentioned in Annexure II to this order, the Tamil Nadu Pollution Control Board should examine the case and obtain the approval of the Government for it.” c

Annexure I to the notification includes distilleries, tanneries, fertilizer, steel plants and foundries as the highly polluting industries. We have our doubts whether the above-quoted government order is being enforced by the Tamil Nadu Government. The order has been issued to control pollution and protect the environment. We are of the view that the order should be strictly enforced and no industry listed in Annexure I to the order should be permitted to be set up in the prohibited area. d

23. The learned counsel for the tanneries raised an objection that the standard regarding total dissolved solids (TDS) fixed by the Board was not justified. This Court by the order dated 9-4-1996 directed the NEERI to examine this aspect and give its opinion. In its report dated 11-6-1996 NEERI has justified the standards stipulated by the Board. The reasoning of the NEERI given in its report dated 11-6-1996 is as under: e

“The total dissolved solids in ambient water have physiological, industrial and economic significance. The consumer’s acceptance of mineralized water decreases in direct proportion to increased mineralization as indicated by Bruvold (1). High total dissolved solids (TDS), including chlorides and sulphates, are objectionable due to possible physiological effects and mineral taste that they impart to water. High levels of total dissolved solids produce laxative/cathartic/purgative effect in consumers. The requirement of soap and other detergents in household and industry is directly related to water hardness as brought f

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a out by DeBoer and Larsen (2). High concentration of mineral salts, particularly sulphates and chlorides, are also associated with costly corrosion damage in wastewater treatment systems, as detailed by Patterson and Banker (3). Of particular importance is the tendency of scale deposits with high TDS thereby resulting in high fuel consumption in boilers.

b The Ministry of Environment and Forests (MEF) has not categorically laid down standards for inland surface water discharge for total dissolved solids (TDS), sulphates and chlorides. The decision on these standards rests with the respective State Pollution Control Boards as per the requirements based on local site conditions. The standards stipulated by the TNPCB are justified on the afore-referred considerations.

c The prescribed standards of the TNPCB for inland surface water discharge can be met for tannery wastewaters cost effectively through proper implant control measures in tanning operation, and rationally designed and effectively operated wastewater treatment plants (ETPs and CETPs). Tables 3 and 5 depict the quality of groundwater in some areas around tanneries during peak summer period (3-6-1996 to 5-6-1996). Table 8 presents the data collected by TNPCB at individual ETPs indicating that TDS, sulphates and chloride concentrations are below the prescribed standards for inland surface water discharge. The quality of ambient waters needs to be maintained through the standards stipulated by TNPCB.”

e 24. The Board has the power under the Environment Act and the Rules to lay down standards for emissions or discharge of environmental pollutants. Rule 3(2) of the Rules even permits the Board to specify more stringent standards from those provided under the Rules. The NEERI having justified the standards stipulated by the Board, we direct that these standards are to be maintained by the tanneries and other industries in the State of Tamil Nadu.

f 25. Keeping in view the scenario discussed by us in this judgment, we order and direct as under:

g 1. The Central Government shall constitute an authority under Section 3(3) of the Environment (Protection) Act, 1986 and shall confer on the said authority all the powers necessary to deal with the situation created by the tanneries and other polluting industries in the State of Tamil Nadu. The authority shall be headed by a retired Judge of the High Court and it may have other members — preferably with expertise in the field of pollution control and environment protection — to be appointed by the Central Government. The Central Government shall confer on the said authority the powers to issue directions under Section 5 of the Environment Act and for taking measures with respect to the matters referred to in clauses (v), (vi), (vii), (viii), (ix), (x) and (xii) of sub-section (2) of Section 3. The Central Government shall constitute the authority before September 30, 1996.

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2. The authority so constituted by the Central Government shall implement the "Precautionary Principle" and the "Polluter Pays Principle". The authority shall, with the help of expert opinion and after giving opportunity to the polluters concerned assess the loss to the ecology/environment in the affected areas and shall also identify the individuals/families who have suffered because of the pollution and shall assess the compensation to be paid to the said individuals/families. The authority shall further determine the compensation to be recovered from the polluters as cost of reversing the damaged environment. The authority shall lay down just and fair procedure for completing the exercise.

3. The authority shall compute the compensation under two heads namely, for reversing the ecology and for payment to individuals. A statement showing the total amount to be recovered, the names of the polluters from whom the amount is to be recovered, the amount to be recovered from each polluter, the persons to whom the compensation is to be paid and the amount payable to each of them shall be forwarded to the Collectors/District Magistrates of the area concerned. The Collector/District Magistrate shall recover the amount from the polluters, if necessary, as arrears of land revenue. He shall disburse the compensation awarded by the authority to the affected persons/families.

4. The authority shall direct the closure of the industry owned/managed by a polluter in case he evades or refuses to pay the compensation awarded against him. This shall be in addition to the recovery from him as arrears of land revenue.

5. An industry may have set up the necessary pollution control device at present but it shall be liable to pay for the past pollution generated by the said industry which has resulted in the environmental degradation and suffering to the residents of the area.

6. We impose pollution fine of Rs 10,000 each on all the tanneries in the districts of North Arcot Ambedkar, Erode Periyar, Dindigul Anna, Trichi and Ch. gai M.G.R. The fine shall be paid before October 31, 1996 in the office of the Collector/District Magistrate concerned. We direct the Collectors/District Magistrates of these districts to recover the fines from the tanneries. The money shall be deposited, along with the compensation amount recovered from the polluters, under a separate head called "Environment Protection Fund" and shall be utilised for compensating the affected persons as identified by the authorities and also for restoring the damaged environment. The pollution fine is liable to be recovered as arrears of land revenue. The tanneries which fail to deposit the amount by October 31, 1996 shall be closed forthwith and shall also be liable under the Contempt of Courts Act, 1971.

7. The authority, in consultation with expert bodies like NEERI, Central Board, Board shall frame scheme/schemes for reversing the damage caused to the ecology and environment by pollution in the State of Tamil Nadu. The scheme/schemes so framed shall be executed by the State Government under the supervision of the Central Government. The

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a expenditure shall be met from the "Environment Protection Fund" and from other sources provided by the State Government and the Central Government.

b 8. We suspend the closure orders in respect of all the tanneries in the five districts of North Arcot Ambedkar, Erode Periyar, Dindigul Anna, Trichi and Chengai M.G.R. We direct all the tanneries in the above five districts to set up CETPs or Individual Pollution Control Devices on or before November 30, 1996. Those connected with CETPs shall have to install in addition the primary devices in the tanneries. All the tanneries in the above five districts shall obtain the consent of the Board to function and operate with effect from December 15, 1996. The tanneries who are refused consent or who fail to obtain the consent of the Board by December 15, 1996 shall be closed forthwith.

c 9. We direct the Superintendent of Police and the Collector/District Magistrate/Deputy Commissioner of the district concerned to close all those tanneries with immediate effect who fail to obtain the consent from the Board by the said date. Such tanneries shall not be reopened unless the authority permits them to do so. It would be open to the authority to close such tanneries permanently or to direct their relocation.

d 10. Government Order No. 213 dated March 30, 1989 shall be enforced forthwith. No new industry listed in Annexure I to the notification shall be permitted to be set up within the prohibited area. The authority shall review the cases of all the industries which are already operating in the prohibited area and it would be open to the authority to direct the relocation of any of such industries.

e 11. The standards stipulated by the Board regarding total dissolved solids (TDS) and approved by the NEERI shall be operative. All the tanneries and other industries in the State of Tamil Nadu shall comply with the said standards. The quality of ambient waters has to be maintained through the standards stipulated by the Board.

f 26. We have issued comprehensive directions for achieving the end result in this case. It is not necessary for this Court to monitor these matters any further. We are of the view that the Madras High Court would be in a better position to monitor these matters hereinafter. We, therefore, request the Chief Justice of the Madras High Court to constitute a Special Bench "Green Bench" to deal with this case and other environmental matters. We make it clear that it would be open to the Bench to pass any appropriate order/orders keeping in view the directions issued by us. We may mention that "Green Benches" are already functioning in Calcutta, Madhya Pradesh and some other High Courts. We direct the Registry of this Court to send the records to the Registry of the Madras High Court within one week. The High Court shall treat this matter as a petition under Article 226 of the Constitution of India and deal with it in accordance with law and also in terms of the directions issued by us. We give liberty to the parties to approach the High Court as and when necessary.

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27. Mr M.C. Mehta has been assisting this Court to our utmost satisfaction. We place on record our appreciation for Mr Mehta. We direct the State of Tamil Nadu to pay Rs 50,000 towards legal fees and other out of pocket expenses incurred by Mr Mehta. a

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(BEFORE B.P. JEEVAN REDDY AND SUHAS C. SEN, JJ.)

P. KANNADASAN AND OTHERS

.. Appellants/
Petitioners; b

Versus

STATE OF T.N. AND OTHERS

.. Respondents.

Civil Appeals No. 9847 of 1996 with Nos. 9849, 9780-81, 9905, 9851, 9906-07, 9777, W.Ps. Nos. 269 of 1995, 270 of 1994, 9908-09, 9850, 9778, 9910, 408, 9911-13 of 1996, 518, 9914-15 of 1996, 688 of 1992, 9848, 9774-76, 9916 and 9917 of 1996†, decided on July 26, 1996 c

A. Mines and Minerals — Cess and Other Taxes on Minerals (Validation) Act, 1992 — S. 2(1), (2) & (3) and the Sch. — Validity — State laws imposing cess or other taxes on minerals found by the Supreme Court/High Courts to be beyond the legislative competence of the State Legislature — Provision in S. 2 validating such State laws, held, not beyond the legislative competence of Parliament — Contention that the said provision sought to overturn the judicial decisions, repelled — Constitution of India, Arts. 245 & 246, 265 and Sch. VII List I Entries 54 & 97 & List II Entries 23 and 50 — Statute Law — Validating statute — Constitutional law — Separation of powers — Words and phrases — “Checks and balances” — Mines and Minerals (Regulation and Development) Act, 1957, Ss. 2, 9 & 9-A and Sch. II — Panchayats and Zila Parishads — T.N. Panchayats Act, 1958 (35 of 1958), S. 115 — Tax — Cess d e

B. Mines and Minerals — Cess and Other Taxes on Minerals (Validation) Act, 1992 — S. 2(1) and the Sch. — Validity — State laws imposing cess or other taxes on minerals found by the Supreme Court/High Courts to be beyond the legislative competence of the State Legislature — Provision in S. 2(1) validating such State laws from the date on which they were enacted by the State Legislature concerned, held, not bad for retrospectivity — Statute law — Validating statute — Statute validating a tax retrospectively — Validity — Taxation — Taxing statutes — Retrospective validation of an invalid taxing statute — Taxing Statutes — Constitution of India, Art. 265 f

C. Interpretation of the Constitution — Final arbiter on, held, is the Supreme Court — Constitution of India, Arts. 141, 32 and 136 — Interpretation of the Constitution g

Certain States had enacted statutes imposing a local cess on minerals which were annulled by the Supreme Court/High Courts for want of legislative competence. Therefore, Parliament enacted the Cess and Other Taxes on Minerals (Validation) Act, 1992 deeming such Acts, including Tamil Nadu Panchayats Act, 1958, Section 115, always to have been valid as if enacted by Parliament. The 1992 h

† From the Judgment and Order dated 27-6-1994 of the Madras High Court in WP No 14178 of 1989



Outlook

Counter Affidavit in Appeal No.55 of 2026 - Harduaganj Thermal Power Station Vs. CAQM & Ors.

From Faheem Ahmad <ansari_faheem47@hotmail.com>

Date Tue 7/14/2026 1:42 PM

To adarsht912003@gmail.com <adarsht912003@gmail.com>

 [HTPS Counter Affidavit_compressed.pdf](#)

Madam /Sir,

Kindly accept the service in the above subject matter on behalf of CAQM from Dr. Abhishek Atrey Advocate.

Faheem Ahmad

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