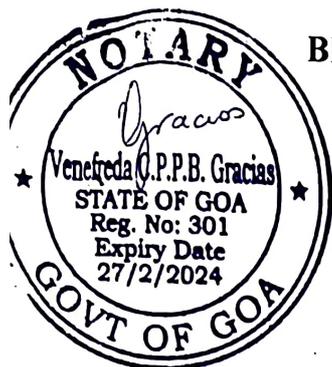


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1.	Counter Affidavit on behalf of Respondent No. 1	906-919
2.	<u>Annexure R-1</u> True copy of the judgement and final order dated 21.11.2017 of the Hon'ble National Green Tribunal (Western Zone) Bench, Pune in the matter of Austin Francis D'Souza v. Secretary & Others [Appeal No. 3/2017 (WZ)]	920-931
3.	<u>Annexure R-2</u> True copy of the application dated 27.04.2015	932-935
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BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

(WESTERN ZONE BENCH)

AT PUNE

APPEAL NO. 20/2022 (WZ)

PAUL LOBO & OTHERS

...APPELLANTS

VERSUS

GOA COASTAL ZONE MANAGEMENT

AUTHORITY & OTHERS

...RESPONDENTS

COUNTER-AFFIDAVIT ON BEHALF OF THE RESPONDENT NO. 1

GOA COASTAL ZONE MANAGEMENT AUTHORITY

I, Dr. Geeta S. Nagvenkar, Major in age, Member Secretary of the Respondent No. 1 GCZMA joined from 22/12/2022, having office at: Goa Coastal Zone Management Authority, c/o. Department of Science, Technology and Environment (Govt. of Goa), 4th Floor, Dempo Towers, Patto, Panaji, Goa, do hereby solemnly affirm and state as under:

1. I say that I am the Member Secretary of the Respondent No. 1 GCZMA and am, as such, capable of affirming the present counter-affidavit on the basis of the records available in my office. The present counter-affidavit is filed to oppose any reliefs, final or interim, from being granted to the Appellants above-named. Nothing in the memorandum of the Appeal may

A handwritten signature in black ink, appearing to be "G. Nagvenkar", written at the end of the text.

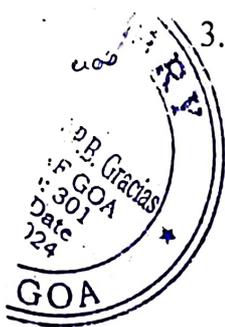
907

be deemed to have been admitted for want of specific denial unless the same is categorically admitted herein.



PRELIMINARY OBJECTION

2. The Appellants have filed the above-captioned Appeal against the decision dated 03.03.2022 taken by the Respondent No. 1 GCZMA to discharge the proceedings pertaining to revocation of CRZ clearance dated 20.10.2015 granted in favour of the Respondent No. 2 M/s. Nova Resorts Pvt. Ltd [hereinafter referred to as the **Project Proponent** for the sake of brevity and convenience] for want of any violation warranting revocation of permission. As per the pleadings in the memorandum of the above-captioned Appeal, the Appellants have approached this Hon'ble Court under Section 16 of the National Green Tribunal Act, 2010 against the purported failure on the part of the Respondent No. 1 GCZMA to revoke the CRZ Clearance granted to the Respondent No. 2 Project Proponent. At the outset it is submitted that the above-captioned Appeal is not maintainable in terms of the relevant provisions of the National Green Tribunal Act, 2010 [hereinafter referred to as the **NGT Act** for the sake of brevity and convenience].



3. Chapter III of the NGT Act provides of “Jurisdiction, Powers and Proceedings of the Tribunal”. Section 16 provides for the appellate jurisdiction of this Hon’ble Tribunal. The relevant portion of Section 16 reads as under:

“16. **Tribunal to have appellate jurisdiction.** – Any person aggrieved by, -

...

(g) **any direction issued**, on or after the commencement of the National Green Tribunal Act, 2010, under Section 5 of the Environment (Protection) Act, 1986 (29 of 1986).

...

may, within a period of thirty days from the date on which the order or decision or direction or determination is communicated to him, prefer an appeal to the Tribunal:

Provided that the Tribunal may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed under this section within a further period not exceeding sixty days.”

[Emphasis supplied]

It is submitted that the decision of the answering Respondent to discharge the proceedings pertaining to revocation of permission dated 20.10.2015

granted in favour of the Respondent No. 2 Project Proponent is not a direction issued under Section 5 of the Environment (Protection) Act, 1986 as contemplated by Section 16(g) of the NGT Act. As such The Appellant cannot prefer an appeal to this Hon'ble Tribunal against the aforesaid decision of the answering Respondent.



4. The aforesaid preliminary objection raised by the answering Respondent is no longer *res integra*. This Hon'ble Tribunal *vide* its judgment and final order dated 21.11.2017 in the matter of *Austin Francis D'Souza v. Secretary & Others* [Appeal No. 3/2017 (WZ)] had *inter alia* framed the following issue:

“9. *Controversy thus raised before us persuade us to answer the following points:*

I. *Whether the impugned letter dated 26th May, 2015 communicating the withdrawal of proposed directions issued under Section 5 of the Environment (Protection) Act, 1986 is appealable under any of the provisions of Section 16 particularly Section 16(g) of the National Green Tribunal Act, 2010.*

II. *...”*

In *Austin Francis D'Souza* (supra), this Hon'ble Tribunal considered the provisions of Rule 4 of the Environment (Protection) Rules, 1986 which prescribes the procedure for issuance of directions under Section 5 of the said Environment (Protection) Act and ultimately held as under:

"11. ...

Thus, it is within the domain of the Government to take such decision either to confirm, modify or decide not to issue such directions. Obviously the decision not to issue said directions in not a direction but a decision taken by the authority. By any standard such decision can never be regarded as a command or instruction or even a guidance to any person, officer or any authority so as to bind him to comply with such command, instruction or guidance as envisaged under Section 5 of the Environment (Protection) Act, 1986. It is correct that the power vested with the Central Government to issue such directions under the said section has a wide amplitude as can be seen from the inclusive enunciation of its sweep in the Explanation of Section 5. However, the same has to be understood in context with the meaning of the word "direction".




[Emphasis Supplied]

This Hon'ble Tribunal thereafter considered the provisions of Section 16 of the NGT Act and held as under:

"12. ...

Law makers have studiously omitted the use of words "order" or "decision" as is found used in clause (a), (b), (d), (e), (f), (h), (i) and (j) of Section 16. Thus, law envisages an appeal only against the direction under Section 5 of the Environment (Protection) Act, 1986 and not against any order or decision taken by the authority while exercising such authority vested in it under Section 5 of the Environment (Protection) Act, 1986. As observed herein above, the letter dated 26th May, 2015 is not a direction but a communication of the decision taken by the authority. No appeal would, therefore, lie against such letter under Section 16(g) of the National Green Tribunal Act, 2010 and as a corollary thereto there is no obligation to communicate this decision to any third party"

[Emphasis Supplied]





A true copy of the judgment and final order dated 21.11.2017 of the Hon'ble National Green Tribunal (Western Zone) Bench, Pune in the matter of *Austin Francis D'Souza v. Secretary & Others* [Appeal No. 3/2017 (WZ)] is annexed and is marked as **ANNEXURE R – 1**.(920-931)

5. The answering Respondent reiterates that its decision to discharge proceedings pertaining to revocation of permission dated 20.10.2015 granted in favour of the Respondent No. 2 Project Proponent is not a direction, but a decision taken by the Respondent No. 1, and thus, no appeal would lie against such a decision under Section 16(g) of the NGT Act, 2010.

SUBMISSIONS ON MERITS

6. Without prejudice to the answering Respondent's submission about the maintainability of the above-captioned Appeal, it is submitted that even otherwise the above-captioned Appeal deserves to be dismissed on merits.
7. The Respondent No. 2 Project Proponent *vide* its application dated 27.04.2015 sought grant of recommendation for proposed construction of hotel/resort as per the plan enclosed therewith in the property bearing Survey No. 134/3 (area between 200 mtr to 500 mtr from the High Tide Line CRZ – III area) of Cavlossim Village, Salcete Taluka [hereinafter referred to as the *said plot* for the sake of brevity and convenience]. The

Respondent No. 2 Project Proponent had also submitted certain plans in this regard.

A true copy of the application dated 27.04.2015 is annexed and is marked as **ANNEXURE R – 2.**(932-935)

True copies of the plans dated nil are annexed and are marked as **ANNEXURE R – 3 Colly.** (936-940)

8. Pursuant to the aforesaid application, a site inspection was carried out by the answering Respondent on 30.04.2015. The answering Respondent considered the aforesaid application in its 121st Meeting dated 13.10.2015.

Thereafter, the answering Respondent granted permission for the proposed construction of hotel/resort in the said plot *vide* its order dated 20.10.2015.

A true copy of the relevant extracts of the answering Respondent's 121st Meeting dated 13.10.2015 is annexed and is marked as **ANNEXURE R – 4.** (941-946)

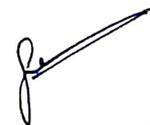
9. The Appellants filed Original Application No. 28 of 2021 before this Hon'ble Tribunal *inter alia* seeking a direction to the answering Respondent to revoke the permission dated 20.10.2015 granted to the Respondent No. 2 Project Proponent. The Hon'ble Principal Bench was pleased to dispose off the aforementioned O.A. of the Appellants by its judgment and final order dated 16.06.2021. Pertinently, while disposing



off the aforementioned O.A., the Hon'ble Principal Bench observed as under:

- "4. *While the application is beyond five years from the date of original permission granted on 20.10.2015, we are confining our consideration to the player for revocation of permission on account of violations in the last five years. However, if the said permission is illegal but beyond limitation before this Tribunal, the matter can be raised before an appropriate forum where constraint of limitation is not applicable.*
5. *We consider it appropriate to direct respondent no. 1 authority – Goa Coastal Zone Management Authority (GCZMA) to look into the matter in the first instance and determine, after considering the rival viewpoints, where there are violations warranting revocation of the permission granted on 20.10.2015. The GCZMA may take a view in the matter, as far as possible, within four months."*

10. In terms of the directions issued by the Hon'ble Principal Bench *vide* its judgment and order dated 16.06.2021 in O.A. No. 28/2021 (WZ), the answering Respondent conducted hearings in respect of the Appellants'



complaint. Pertinently, in its 276th meeting dated 21.10.2021, the answering Respondent heard the parties at length and thereafter decided to inspect the site through its Expert Members to verify the site at *loco*.

11. The site inspection was conducted by the Expert Members of the answering Respondent on 08.11.2021 in presence of the Appellants and two representative of the Respondent No. 2 Project Proponent. The Expert Members submitted their report dated 17.11.2021 to the answering Respondent. Pertinently, in respect of the alleged destruction of sand dunes, the Expert Members made the following observations:

<i>"Sr. No.</i>	<i>Summary of alleged violation</i>	<i>Observation</i>
01	<i>Flattening of sand dunes for filling low-lying areas</i>	<i>No filling of low lying area with sand extracted from dunes was noted. The spot indicated by the complainants was filled with construction debris.</i>
02	<i>Cutting and damaging sand dune for construction of road.</i>	<i>It appears that a portion of the sand dune identified by NCSCM in Draft CZMP has been cut</i>

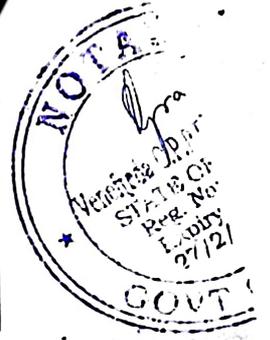




		<p>along the edge for widening of existing road. Incidentally, an approx. 5 m wide road is shown on Draft CZMP from the village road through the property upto 260 meters from HTL. Oldest available Google earth image also suggests that a kutchra road existed at the spot prior to December 2002. A 10 meter wide access road is shown on plans approved by the Authority. Likewise, another portion of the sand dunes has been cut to enable construction of public access to the</p>
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		<i>beach. The total area of sand dune affected is 1100 mtr. Sq."</i>
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In view of the aforesaid, the Expert Committee concluded that the purported violations did not warrant revocation of permission granted to the Respondent No. 2 Project Proponent. It was observed that the portion of sand dunes cut by the Respondent No. 2 Project Proponent for construction of approach road and public access road were marked for the said purposes on the approved plan. As such, there did not appear to be any contravention of the permission granted by the answering Respondent.

12. The Appellants above-named filed its Affidavit-in-Rejoinder dated 21.10.2021 questioning the findings and recommendations made by the Expert Committee. The Appellants also filed a written note of arguments in support of their complaint. It is only after considering the relevant pleadings and documents on record, and more importantly the relevant statutory provisions and judicial pronouncements, that the answering Respondent decided to discharge the Respondent No. 2 Project Proponent.

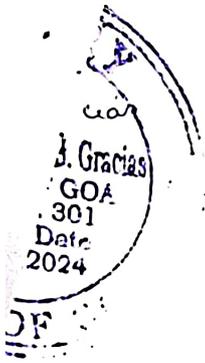
13. The answering Respondent submits that a reading of the memorandum of Appeal would make it clear that the Appellants are aggrieved by the grant of permission for the proposed construction of hotel/resort in the said plot by the answering Respondent *vide* its order dated 20.10.2015. O.A. No.

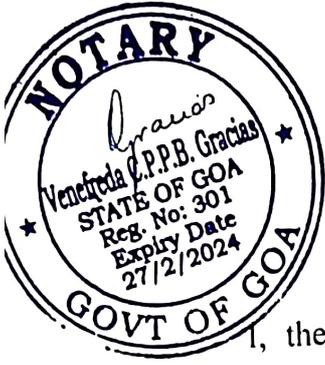
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28/2021 filed by the Appellants before this Hon'ble Tribunal *inter alia* sought revocation of the aforesaid permission. However, the Hon'ble Principal Bench *vide* its order dated 16.06.2021 rightly observed that the aforesaid O.A. was against the grant of the aforesaid permission. The prayer relating to direction to revoke the same in view of the alleged violations was a tactic employed by the Appellants herein to overcome the gross delay of more than 5 years in questioning the correctness of the aforesaid permission. The Hon'ble Principal Bench was pleased to direct the answering Respondent to look into the matter and determine whether there are violations warranting revocation of the permission.

14.A perusal of the Expert Committee Report makes it abundantly clear that there are no violations warranting revocation of the permission. As such, it is submitted that the above-captioned appeal is an abuse of the process of court and deserves to be dismissed with costs. The contents of the memorandum of appeal which are not specifically admitted herein and which are contrary to the aforesaid may be taken to have been denied by the answering Respondent.


12/01/2023
DEPONENT





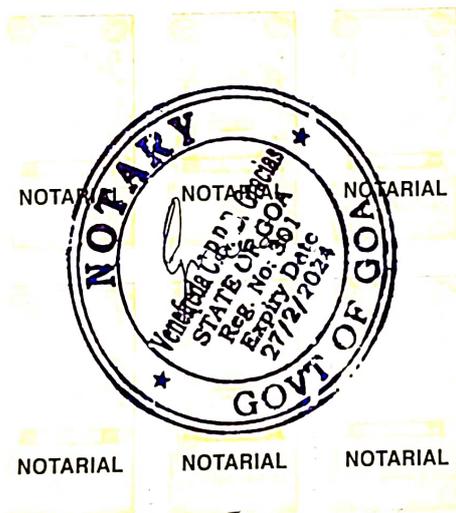
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VERIFICATION

I, the above-named Deponent, do hereby state on solemn oath and affirmation that the facts stated hereinabove in this Counter Affidavit are true and correct to the best of my knowledge, information and belief, and nothing has been concealed.

Verified at Panaji, Goa on the 12th day of January, 2023.

[Signature]
12/01/2023
DEPONENT



Solemnly Affirmed Before Me by
Dr Geeta S Nagvenkar
Who is identified before me by

_____ at Calangute - Goa
Sr No. 004/01/2023/P
Date: 12/01/2023

[Signature]
Venefreda C.P.P.B. Gracias
Advocate & Notary
Bardez-Goa

**BEFORE THE NATIONAL GREEN TRIBUNAL
(WESTERN ZONE) BENCH, PUNE**

APPEAL No.3/2017 (WZ)

CORAM:

**Hon'ble Mr. Justice U.D. Salvi
(Judicial Member)**

**Hon'ble Mr. Bikram Singh Sajwan
(Expert Member)**

Between:

Austin Francis D'souza

JM Rebello Chawl, Chawl No.412,
Room No.4, Sewri Cross Road,
Wadala Mumbai – 400 031.

... **Appellant**

And

1. Secretary
Environment Department
Mantralaya, Mumbai – 400 032.

2. The Chief Executive Officer
Slum Rehabilitation Authority
Anant Kelar Marg,
Bandra East, Mumbai – 400 051.

3. New Look Constructions Pvt. Ltd.
3 Siddharth Nagar
Ground Floor, MMGS Marg,
Dadar, Mumbai – 400 014.

... **Respondents**

Counsel for Appellant (s):

Mr. Aditya Pratap, Advocate a/w Appellant in person.

Counsel for Respondent (s):

Ms. Manasi Joshi, Advocate for Respondent No.1

Mr. Girish Utangale, Advocate for Respondent No.2

**Mr. Saket Mone, Advocate i/b M/s. Vidhi Partners for
Respondent No.3.**

Date: 21st November, 2017

Judgment/Order

1. The Appellant has assailed the communication dated 26th May, 2015 addressed by the Principal Secretary, Environment Department, Government of Maharashtra to the Respondent No.3 – New Look Constructions Pvt. Ltd. thereby withdrawing the proposed directions issued under Section 5 of the Environment (Protection) Act, 1986 read with EIA Notification, 2006 in the present appeal.

2. Pertinently the appeal has been preferred on 11th January, 2017. Sensing the delay in preferring the present appeal, we issued Notice before admission on the point of limitation to the Respondents vide Order dated 27th January, 2017. In response to the said Notice all the parties to the Appeal namely – Respondent No.1 – Secretary, Environment Department, Government of Maharashtra, Respondent No.2 – The Chief Executive Officer, Slum Rehabilitation Authority and Respondent No.3 – New Look Construction Pvt. Ltd. appeared before us and filed replies on the issue of limitation dated 23rd March, 2017, 3rd March, 2017 and 7th March, 2017 respectively. Additional Affidavit dated 8th May, 2017 supplementing the facts was also filed by Respondent No.1 – Environment Department, Government of Maharashtra. The Appellant re-joined the respective replies.

3. According to the Appellant, he is a resident of Wadala area of Mumbai occupying the premises in Slum

Rehabilitation Scheme developed within the layout of the offending construction and was aggrieved by the impugned communication withdrawing the proposed directions under Section 5 of the Environment (Protection) Act, 1986. The offending construction, the Appellant added, was an expansion of the project crossing the threshold limit under the EIA Notification, 2006 executed on the land bearing C.S. No.298(pt), 299 to 305 & 306 (pt), F.P. No.27 to 34 of Wadala Estate South Scheme No.57 at Katrak Road, Wadala for 'Vitthal-Rakhuma CHS Ltd.' and S.R. Scheme on plot bearing C.S. No.298 (pt.), 306 (pt.) and F.P. No.24, 25, 26, 35, 36 & 37 of Wadala Estate South Scheme No.57 at Katraj Road, Wadala without obtaining the prior environmental clearance as required under the said Notification.

4. As regards the limitation, the Appellant pleaded that the impugned communication was not communicated to him as required by Section 16 of the National Green Tribunal Act, 2010 dealing with such appeals provided under the Act. The Appellant further pleaded that the limitation period prescribed under Section 16 of the said Act was to commence from the date of the communication of the order. The Appellant further pleaded that the communication of the order has to be by putting it in the public domain for the benefit of the public at large and making it available to the public with the downloading of

it made possible without any hindrance or impediment. According to the Appellant, he did not find the impugned communication on the website of the Environment Department of Government of Maharashtra and he was prompted to file the present Appeal only when he got some hearsay reference made to corrupt practices in the passing of the impugned order.

5. The Respondent No.1 – Environment Department, Government of Maharashtra revealed the facts leading to the impugned communication through the Affidavits dated 23rd March, 2017 and 8th May, 2017. The Respondent No.1 contended that from reading of the text of Section 16 of the National Green Tribunal Act, 2010 it is crystal clear that there is no appeal against the decision of withdrawal of the proposed directions under Section 5 is provided in the said provision. Moreover, the Respondent No.1 contended that the State Level Expert Appraisal Committee – 2 (SEAC-2) a Committee for appraisal for MMR construction project had duly recommended the proposal for environmental clearance to the project in question and forwarded the recommendation to the State Environment Impact Assessment Authority (SEIAA); and thereupon the SEIAA in its wisdom issued proposed directions under Section 5 of the Environment (Protection) Act, 1986 read with EIA Notification dated 14th September, 2006 to the Respondent No.3 vide letter dated 25th March, 2015 to show cause as

to why their building construction activity shall not be stopped forthwith and why further legal action shall not be initiated against them under provisions of the Environment (Protection) Act, 1986 and Rules made thereunder; and following the response to the said Show Cause Notice and the personal hearing held thereafter the Respondent No.1 – Principal Secretary, Environment Department took a decision of withdrawing the proposed directions upon noticing that the plinth of Building No.1 was completed prior to amendment dated 7th July, 2004 in the EIA Notification, 1994; and the SEIAA took cognizance of withdrawal of the said proposed directions on 26th May, 2015 in its 87th Meeting held during 10th to 12th August 2015, minutes of which were uploaded on the website of the Environment Department. The Respondent No.1 further revealed that thereafter with due deliberation EC to the project had been issued on 13th October, 2015.

6. The Respondent No.2 – The Slum Rehabilitation Authority resisted the appeal with the reply dated 3rd March, 2017 thereby contending:

- (i) that the Appellant has no locus to file the present appeal having enjoyed the fruits of redevelopment in slum scheme;
- (ii) that the Appellant was aware of all the sanctions and permissions given by the authorities including the Respondent No.1's letter dated 26th May, 2015 withdrawing directions issued on 25th March, 2015;

- (iii) there has been delay of more than 18 months;
- (iv) no appeal was conceived by law against the communication withdrawing the directions issued under Section 5 of Environment (Protection) Act, 1986.

7. The Respondent No.3 – New Look Constructions Pvt. Ltd likewise resisted the appeal with the reply dated 7th March, 2017 bringing forth the facts regarding the litigation between itself and the Appellant, and further contending that there has been reason to believe that the Appellant was well aware of the impugned letter dated 26th May, 2015 since the time it was issued and the decision to withdraw the directions had culminated into grant of EC dated 13th October, 2015 and thus got merged with the said EC which was duly uploaded on Ministry website on 15th October, 2015; and the appeal against the said EC being apparently time barred, the Appellant has chosen a path to challenge the said communication in order to skirt the predicament arising out of its failure to challenge the EC dated 13th October, 2015 well in time. The Respondent No.3 further contended that the communication dated 26th May, 2015 being the communication of the decision taken by the authority to withdraw the directions, it cannot be interpreted as a direction against which Section 16(g) specifically provided an appeal and, therefore, no appeal would lie against such letter of withdrawal of directions under Section 16(g) of the National Green Tribunal Act, 2010. The Respondent No.3 further contended that the

authority was not under obligation to communicate the decision to withdraw the proposed directions under Section 5 of the Environment (Protection) Act, 1986 to the Appellant in person, a third party.

8. The Appellant re-joined the replies. No new dimension to his case was set forth with the rejoinders filed by the Appellant.

9. Controversy thus raised before us persuade us to answer the following points:

- I. Whether the impugned letter dated 26th May, 2015 communicating the withdrawal of proposed directions issued under Section 5 of the Environment (Protection) Act, 1986 is appealable under any of the provisions of Section 16 particularly Section 16(g) of the National Green Tribunal Act, 2010.
- II. Whether the appeal is barred by limitation prescribed under Section 16 of the National Green Tribunal Act, 2010.

Point No.I

10. Learned Counsel Mr. Aditya Pratap on behalf of the Appellant vehemently argued that the limitation being a procedural law needs to be liberally construed and in the present case, the decision to withdraw the proposed directions issued under Section 5 of the Environment (Protection) Act, 1986 amounted to an order appealable under Section 16(g) of the National Green Tribunal Act, 2010; and this order was never communicated to the Appellant nor was it published on the website.

11. It is revealed by Respondent No.1 – Environment Department of Government of Maharashtra that no directions were issued under Section 5 of the Environment (Protection) Act, 1986 but a Show Cause Notice proposing the directions under Section 5 of the Environment (Protection) Act, 1986 dated 25th March, 2015 was issued and after extending personal hearing to Respondent No.3 on 18th May, 2015 a decision was taken by the Respondent No.1 to withdraw the proposed directions as per law. Rule 4 of the Environment (Protection) Rules, 1986 prescribes procedure for issuance of directions under Section 5 of the said Act in the manner quoted herein below:

“4. Directions. - (1) Any direction issued under section 5 shall be in writing.

(2) The direction shall specify the nature of action to be taken and the time within which it shall be complied with by the person, officer or the authority to whom such direction is given.

[(3-a) The person, officer or authority to whom any direction is sought to be issued shall be served with a copy of the proposed direction and shall be given an opportunity of not less than fifteen days from the date of service of a notice to file with an officer designated in this behalf the objections, if any, to the issue of the proposed direction.

[(3-b) Where the proposed direction is for the stoppage or regulation of electricity or water or any other service affecting the carrying on any industry, operation or process and is sought to be issued to an officer or an authority, a copy of the proposed direction shall also be endorsed to the occupier of the industry, operation or process, as the case may be and objections, if any, filed by the occupier with an officer designated in this behalf shall be dealt with in accordance with the procedures under sub-rules (3a) and (4) of this rule:

Provided that no opportunity of being heard shall be given to the occupier if he had already been

heard earlier and the proposed direction referred to in sub-rule

(3b) above for the stoppage or regulation of electricity or water or any other service was the resultant decision of the Central Government after such earlier hearing.]

(4) The Central Government shall within a period of 45 days from the date of receipt of the objections, if any or from the date up to which an opportunity is given to the person, officer or authority to file objections whichever is earlier, after considering the objections, if any, received from the person, officer or authority sought to be directed and for reasons to be recorded in writing, confirm, modify or decide not to issue the proposed direction.

(5) In case where the Central Government is of the opinion that in view of the likelihood of a grave injury to the environment it is not expedient to provide an opportunity to file objections against the proposed direction, it may, for reasons to be recorded in writing, issue directions without providing such an opportunity.

(6) Every notice or direction required to be issued under this rule shall be deemed to be duly served

(a) where the person to be served is a company, if the document is addressed in the name of the company at its registered office or at its principal office or place of business and is either-

(i) sent by registered post, or

(ii) delivered at its registered office or at the principal office or place of business;

(b) where the person to be served is an officer serving Government, if the document is addressed to the person and a copy thereof is endorsed to this Head of the Department and also to the Secretary to the Government, as the case may be, in-charge of the Department in which for the time being the business relating to the Department in which the officer is employed is transacted and is either-

(i) sent by registered post, or

(ii) given or tendered to him;

(c) in any other case, if the document is addressed to the person to be served and-

(i) is given or tendered to him, or

(ii) if such person cannot be found, is affixed on some conspicuous part of his last known place of residence

or business or is given or tendered to some adult member of his family or is affixed on some conspicuous part of the land or building, if any, to which it relates, or

(iii) is sent by registered post to that person;

Explanation.-For the purpose of this sub-rule,-

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

(b) "a servant" is not a member of the family."

Thus, it is within the domain of the Government to take such decision either to confirm, modify or decide not to issue such directions. Obviously the decision not to issue said directions is not a direction but a decision taken by the authority. By any standard such decision can never be regarded as a command or instruction or even a guidance to any person, officer or any authority so as to bind him to comply with such command, instruction or guidance as envisaged under Section 5 of the Environment (Protection) Act, 1986. It is correct that the power vested with the Central Government to issue such directions under the said section has a wide amplitude as can be seen from the inclusive enunciation of its sweep in the Explanation of Section 5. However, the same has to be understood in context with the meaning of the word "direction".

12. Section 16 of the National Green Tribunal Act deals with the appellate jurisdiction of the Tribunal and with particular reference to Section 5 of the Environment (Protection) Act, 1986 which provides for an appeal in following words:

“16(g) any direction issued, on or after the commencement of the National Green Tribunal Act, 2010, under section 5 of the Environment (Protection) Act, 1986 (29 of 1986);”

Law makers have studiously omitted the use of words “order” or “decision” as is found used in clause (a), (b), (d), (e), (f), (h), (i) and (j) of Section 16. Thus, law envisages an appeal only against the direction under Section 5 of the Environment (Protection) Act, 1986 and not against any order or decision taken by the authority while exercising such authority vested in it under Section 5 of the Environment (Protection) Act, 1986. As observed herein above, the letter dated 26th May, 2015 is not a direction but a communication of the decision taken by the authority. No appeal would, therefore, lie against such letter under Section 16(g) of the National Green Tribunal Act, 2010 and as a corollary thereto there is no obligation to communicate this decision to any third party.

Point No. I is thus answered negatively.

Point No.II

13. There is no reason to disagree with submission made on behalf of Respondents that the decision to withdraw the proposed directions under Section 5 of the Environment (Protection) Act, 1986 merged into the EC dated 13th October, 2015 in view of the facts leading to the grant of EC as disclosed in the Affidavit in Reply of the Respondent No.1 – Environment Department, Government of Maharashtra. There is also material on record to show

that the EC dated 13th October, 2015 was uploaded on the website of the Environment Department of Government of Maharashtra on 15th October, 2015 vide Affidavit dated 8th May, 2017. This fact of uploading of the EC is not disputed by the Appellant. No appeal has been preferred against the said EC. Present appeal, therefore, appears to be a clever ploy to skirt the predicament arising out of the failure to prefer an appeal against EC within time. There is also an undisputed material on the record to show that the Minutes of 87th Meeting dated 12th August, 2015 of State Environment Impact Assessment Authority - wherein the fact of withdrawal of proposed directions vide letter dated 26th May, 2015 was noted - was uploaded on the website on 10th September, 2015. We have, therefore, no hesitation in holding that the present appeal which ought to have been preferred within a period prescribed in the proviso under Section 16 of the National Green Tribunal Act, 2010 but not preferred so in time is grossly time barred. The Appeal, therefore, must fail.

Appeal No.3/2017 is, therefore, rejected.

....., **JM**
(Justice U.D. Salvi)

....., **EM**
(Bikram Singh Sajwan)

Date: 21st November, 2017
mk

Member Secretary
G.C. M.A. 378/F
Inward No.
Date 28/04/15

From:
Ms. Nova Resorts
C/o Soares & Associates
G-1 Vikas Building
18th June Road
Panjim Goa.
27th April 2015

The Member Secretary
G.C.Z.M.A.
Patto Panjim
Goa

Sub : Proposed approval from GCZMA
Ref No : DJ/6002/TCP/97/2439 and

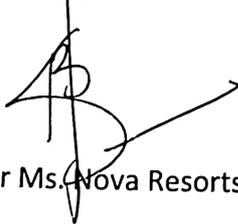
Dear Sir,

We wish to draw your attention that our project was approved by the G.S.C.C.E committee in its 13th Meeting held on 26/11/96 and its 14th meeting held on 26/05/97.

In view of the above the same was further granted sanction by MOEF letter dated 28th June 2000. (Copy attached)

In view of the above we request you to kindly issue us final approval from Environment so that we can proceed with our construction License.

Sincerely,



For Ms. Nova Resorts.

**J.19011/12/97-IA-III
Government of India
Ministry of Environment & Forests**

Paryavaran Bhawan,
CGO Complex, Lodi Road,
New Delhi - 110 003.

Dated the June 28, 2000

Sub : **Environmental clearance for the proposed construction of Nova Resort by M/s Nova Resorts Pvt. Ltd. in Survey No. 134/3 of Cavellossim Village of Salcete Taluka, Goa - regarding.**

Reference is invited to the letter No. DJ/6002/TCP/97/2439 dated 11.8.97 from the Chief Town Planner, Town and Country Planning Deptt., Government of Goa, on the above subject.

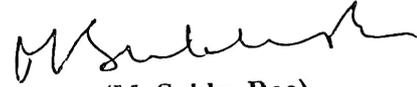
2. The proposal involves construction of 80 units (40 on GF + 40 on FF) and a swimming pool. The proposal has been examined in this Ministry and environmental clearance to the project is hereby accorded, subject to the effective implementation of the following specific conditions and general conditions contained in the Annexure :-

Specific Conditions: -

- (i) There shall be no withdrawal of groundwater for the purpose of the project.
- (ii) The project should not be commissioned till the requisite quantity of water for the project (not less than 200 cu. m./day) is made available by the PWD, Government of Goa.
- (iii) The project shall not be commissioned till the requisite quantity of electricity for the project is made available by the State Electricity Department, Government of Goa.
- (iv) Public access to the beach on both sides of the Resort within the property of the proponent shall be provided in accordance with the guidelines for development of beach resorts contained in Annexure II of the CRZ Notification, 1991.
- (v) Any change in project profile including alteration or addition of rooms etc. shall be notified to this Ministry and prior approval for the same shall be obtained.
- (vi) The project proponent should make specific arrangements for rainwater harvesting in the project design and the rainwater so harvested should be optimally utilized.
- (vii) The Ministry reserves the right to revoke the clearance if implementation of terms and conditions stipulated is not satisfactory. This Ministry or any other competent authority may also modify or alter the stipulated conditions or may stipulate any other additional conditions for environmental protection, subsequently, if deemed necessary.

The above conditions will be monitored by the Regional Office of the Ministry located at Bangalore. Necessary facilities should be provided by the project proponents to the staff of the Ministry during their inspection. A six monthly report should be sent by the project proponents to the Ministry's Regional Office regarding their compliance with the above conditions.

4. These stipulations will be enforced among others, under the provisions of the Coastal Regulation Zone Notification dated 19.2.1991 and the amended Notifications dated 16.8.94 and 9.7.97, the Water (Prevention and Control of Pollution) Act, 1974, the Air (Prevention and Control of Pollution) Act, 1981 and the Environment (Protection) Act, 1986. The project authorities should also ensure that the construction complies with the orders of the Supreme Court passed on 18.4.1996 in the W.P.(C) No. 664 of 1993 to the extent it applies to this case and also the provisions of the Coastal Zone Management Plan of Goa approved by this Ministry.

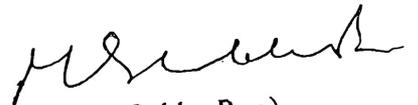


(M. Subba Rao)
Joint Director (S)

To
The Chief Town Planner,
Town & Country Planning Department,
Government of Goa, Panaji - 403 001.

Copy to :

1. The Secretary, Department of Environment, Government of Goa, Secretariat, Panaji, Goa
2. The Director/Joint Secretary, STE & Member Secretary, GCZMA, Department of Science, Technology & Environment, Opp. Saligao Seminary, Saligao, Bardez, Goa - 403 511.
3. C.C.F., Regional Office (Central) (SZ), No. 463, 1st Main, IIIrd Block, IIIrd Stage, Basaveswara Nagar, Bangalore - 560 079.
4. The Chairman, C.P.C.B., Parivesh Bhawan, CBD-cum-Office Complex, East Arjun Nagar, Delhi - 110 032.
5. The Chairman, Goa State Pollution Control Board, Panaji, Goa
6. DIG (SU), Regional Office Cell, Ministry of Environment & Forests, New Delhi.
7. Guard File
8. Monitoring Cell
9. M/s Nova Resorts Pvt. Ltd., Soares and Associates, G-1 Vikas Building, 18th June Road, Panjim, Goa.
10. Sr. Advisor (H), Ministry of Environment & Forests, New Delhi.



(M. Subba Rao)
Joint Director (S)

935

Ref. No. DT/6002/TCP/97/2439
Town & Country Planning Dept.
Government of Goa.

Panaji, Goa-403001.

Date: 11/8/97

To,
Shri. M.S. Subha Rao,
Dy. Director,
(Coastal Regulation Zone Section)
Union Ministry of Environment & Forests,
Paryavaran Bhavan,
C.G.O Complex,
Lodi Road, New Delhi 110 003.

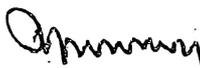
Sub:- Proposed construction of Nova Resort in
Sy. No. 134/3 of Cavelossim village of
Salcete Taluka.

Sir,

I am forwarding herewith the proposal of Nova Resort for construction of hotel project in Sy. No. 134/3 of Cavelossim village of Salcete Taluka for necessary action at your end.

The proposal was approved in the 13th G.S.C.C.E meeting held on 26/11/96 and adjourned meeting held on 29/11/96. Thereafter the revised proposal was discussed in the 14th GSCCE meeting held on 26/5/97 and same was approved. The 20 sets of plan, agenda and minutes are enclosed herewith for necessary action.

Yours faithfully,



(R. N. RAY)

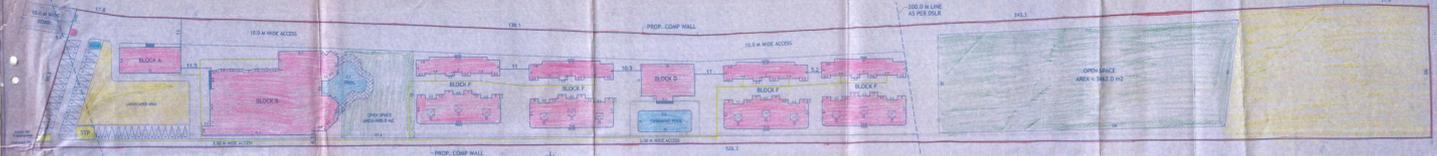
Chief Town Planner

Encl: As above.

MR/-

Annexure.R.3 936

DWG NO. 1/15



AREA STATEMENT

a	PLOT AREA	23400.00 m ²
b	AREA UNDER ROAD WIDENING	
c	NET PLOT AREA	23400.00 m ²
d	REQUIRED OPEN SPACE (6% x 15%)	3510.00 m ²
e	PROVIDED OPEN SPACE	4362.00 m ²
f	AREA WITH IN 200 MT HTL	9000.00 m ²
g	AREA BET 200 MT-500 MT HTL	13897.70 m ²
h	AREA BEYOND 500 MT HTL	502.80 m ²
i	PERMISSIBLE F.A.R. (33%)	7772.00 m ²
j	PROPOSED F.A.R	3774.71 m ²
k	F.A.R CONSUMED	25.52 %
l	PROPOSED COVERED AREA (16.31 %)	3818.56 m ²

AREA CALCULATION

TYPE	COVERAGE	F.A.R	B.U.A
BLOCK A	327.59	271.46	126.65
BLOCK B	1326.25	2392.61	3541.32
BLOCK D	252.68	396.80	492.80
BLOCK F	2234.12	3849.04	9178.44
TOTAL	3818.56	5774.71	7299.91

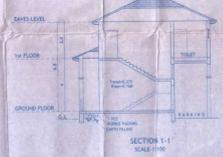
TOTAL B.U.A = 7299.91 (270.00 pool) + 4.00 (security cabin)
 TOTAL B.U.A = 7379.91 m²
 SWIMMING POOL (C x C) = 270.0 m²
 TOTAL ROOMS = 20 x 4 units = 80 nos

PARKING STATEMENT

a) TOTAL NO OF ROOMS = 80 nos / 4 = 20 cars
 b) BLOCK A = 271.46 m² / 50 = 5 cars
TOTAL PARKING REQUIRED = 26 cars
PARKING PROVIDED = 42 cars

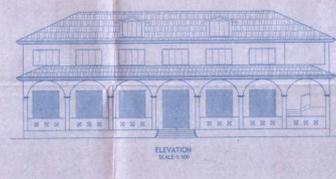
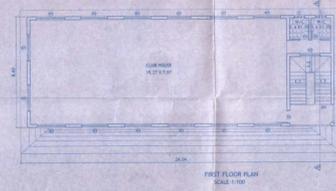
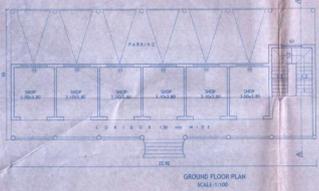
AREA STATEMENT - (BLOCK A)

FLOORS	TOTAL B.U.A (sq.m.)	CHARACTER BLDG/TYPE (sq.m.)	AREA FREE OF F.A.R. (sq.m.)	PERMISSIBLE F.A.R (sq.m.)	GRAND TOTAL F.A.R (sq.m.)	LESS ADDITIONAL NET F.A.R (sq.m.)
GROUND FLOOR	227.59	13.21	34.37	90.55	87.46	0.00
FIRST FLOOR	194.81	12.73	0.00	481.00	0.00	181.00
TOTAL	332.40	25.94	34.37	1381.55	87.46	181.00



SCHEDULE OF DOORS & WINDOWS

TYPE	SIZE
D1	2.00 x 2.50
D2	2.00 x 2.50
W1	2.00 x 1.50
W2	2.00 x 1.50
W3	2.00 x 1.50
W4	2.00 x 1.50



SITE PLAN

PROJECT: PROPOSED CONSTRUCTION ON BY: NO. 15/8 (A) (NO. 15/3) AT CAVELLOSSI VILLAGE, SALLETTE TALUKA

OWNER: NOVA RESORTS

ARCHITECT'S SIGNATURE: *[Signature]* CLIENT'S SIGNATURE: *[Signature]*

By: *[Signature]* SOARES
 P. NO. 15/8 (A) (NO. 15/3)
 APPROVED

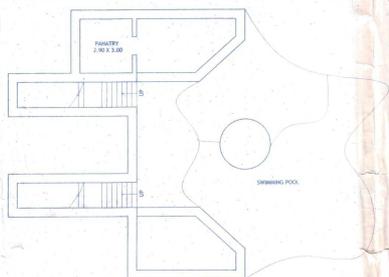
ARCHITECTS: SOARES & ASSOCIATES
 G-1, VIKAS BUILDING,
 1675, ANNE ROAD,
 PANJABI, COA,
 TEL: 98431 200049,
 e-mail: soares@rediffmail.com

DWG NO: 1/15
 DATE: 15/08/2018
 SCALE: 1:500, 1:100

937

DWG NO - 2/5

5516



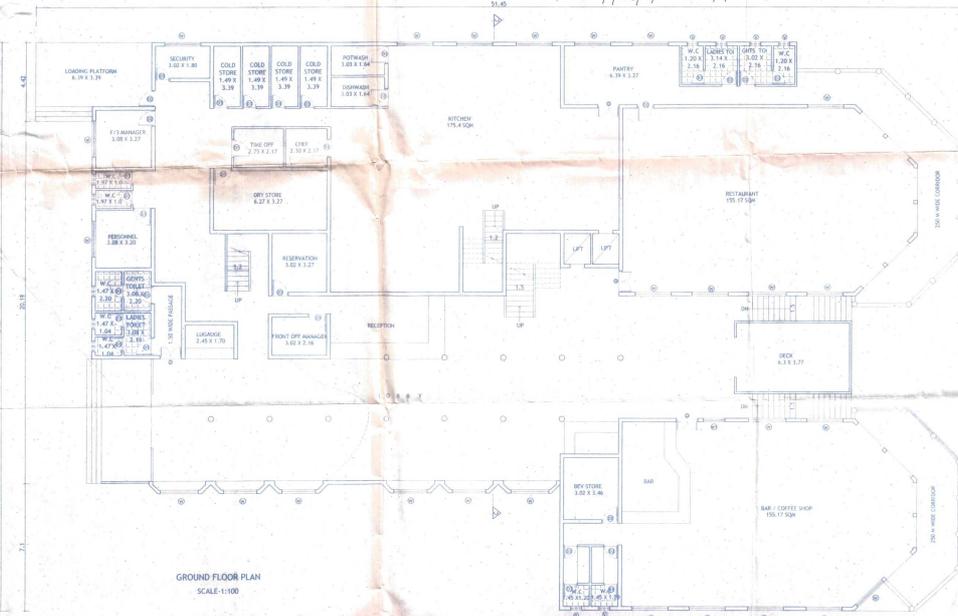
BASEMENT FLOOR PLAN
SCALE: 1:100



ELEVATION FROM THE POOL
SCALE: 1:100



Ref: No: 022/2010/S/05-16/10/1775 dated 20/10/2015



GROUND FLOOR PLAN
SCALE: 1:100

AREA STATEMENT - (BLOCK B)

FLOORS	TOTAL B.U.A. (sq.m.)	AREA FREE OF F.A.R. STAIRCASE (sq.m.)	BALCONY/PASSAGE (sq.m.)	TERRACE (sq.m.)	GROSS F.A.R. (sq.m.)	LESS ADDITIONAL F.A.R. 7.5%	NET F.A.R. (sq.m.)
BASEMENT FLOOR	48.48	34.16	0.00	0.00	14.32	14.32	0.00
GROUND FLOOR	1304.25	32.03	57.12	0.00	1215.10	24.39	1190.71
FIRST FLOOR	1188.49	28.71	56.87	0.00	1102.91	36.01	1066.90
TOTAL	2541.22	94.90	113.99	0.00	2332.33	74.72	2257.61

TYPE	SIZE
D1	1.20 X 2.10
D2	1.00 X 2.10
D3	0.90 X 2.10
D4	2.00 X 2.10
W1	0.60 X 2.00

BLOCK B

PROJECT:
PROPOSED CONSTRUCTION ON SY/NO/SUB DIV NO. 134/3, AT CAVELLOSSUM VILLAGE, SALTETE TALUKA

OWNER:
NOVA RESORTS

DRN BY: H.M. DRGS:
CHKD BY: B.S. FLOOR PLAN, ELEVATION
JOB NO: 4192 AREA STATEMENT
DATED: SCALE: 1:100

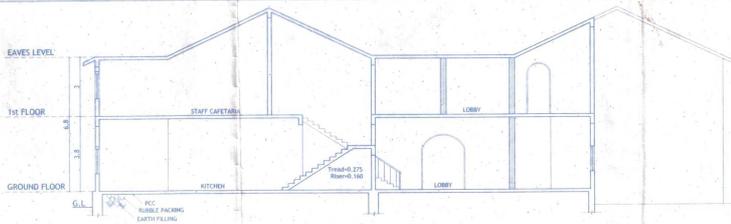
ARCHITECT'S SIGNATURE: CLIENT'S SIGNATURE:

Bryan S. Soares
Reg. No. CA089120085
AR00312010

ARCHITECTS:
SOARES & ASSOCIATES
G-1, VIKAS BUILDING,
16TH CROSS ROAD,
PANDINA, GOA.
PH. FAX: 2226040, 2426010
e-mail: soares@rediffmail.com

938

DWG NO - 3/5

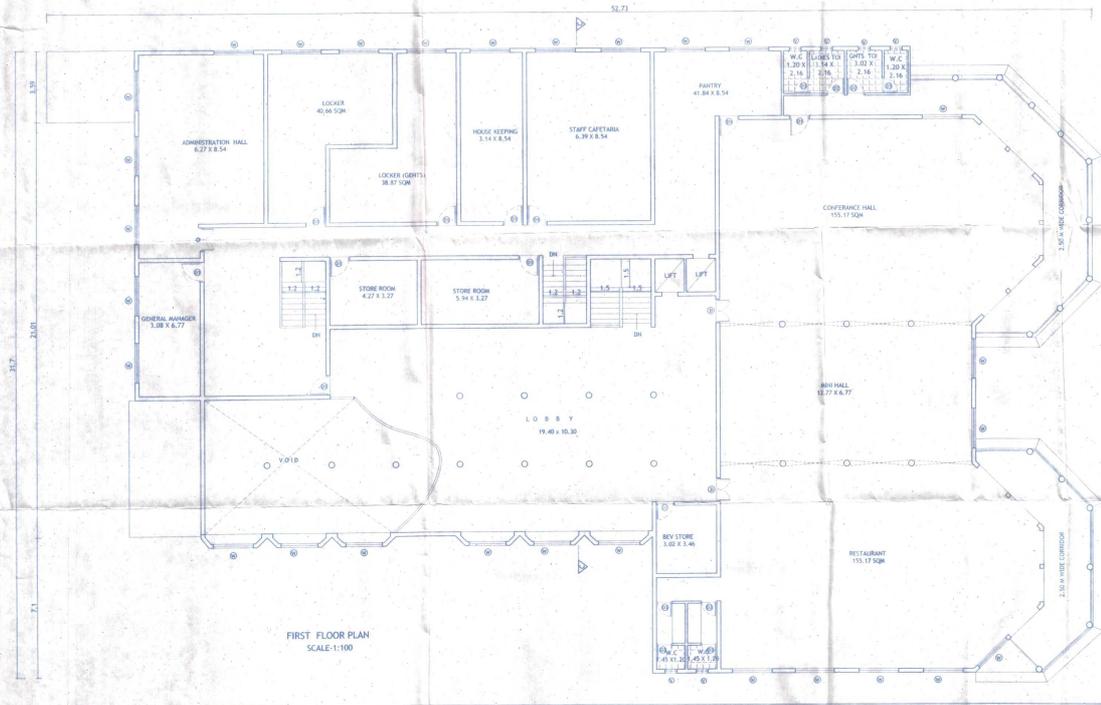


SECTION AT C-C
SCALE-1:100

REGD ARCHITECT
GOA COASTAL ZONE MANAGEMENT AUTHORITY
PANAJI, GOA



Ref: 151/2015/15-16/01/1775 dated 20/10/2015



FIRST FLOOR PLAN
SCALE-1:100

SCHEDULE OF DOORS & WINDOWS	
TYPE	SIZE
D1	1.20 X 2.10
D2	1.00 X 2.10
D3	0.90 X 2.10
D4	0.80 X 2.10
W	2.00 X 1.20
Y	0.60 X 0.60

BLOCK B

PROJECT:
PROPOSED CONSTRUCTION ON SY.NO/SUB DIV NO.
134/3, AT CAVELLOSSIM VILLAGE, SALCETE TALUKA

OWNER:
NOVA RESORTS

DRN BY: H.M. DRGS:
CHKD BY: B.S. FLOOR PLAN

JOB NO: 4/92 SCALE - 1:100

DATED:

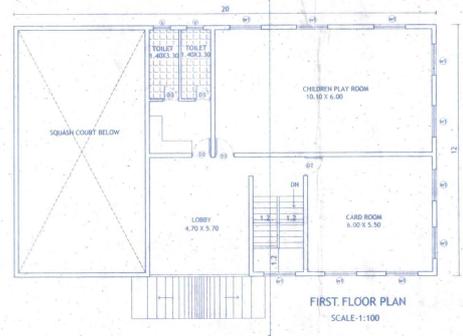
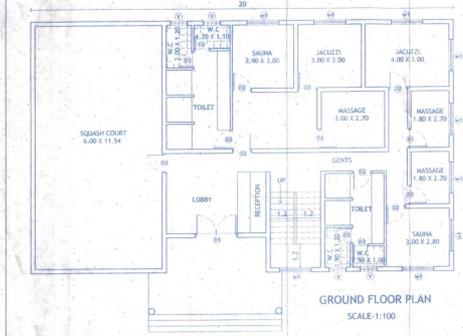
ARCHITECT SIGNATURE: CLIENT'S SIGNATURE:

Bryan J. Soares
Reg. No. CA/89/12085
AR/003/2010

ARCHITECTS:
SOARES & ASSOCIATES
G-1, VIKAS BUILDING,
18TH BANE ROAD,
PANJIM, GOA.
PH: FAX: 2220040, 2420010
e-mail: soares85@gmail.com

939

DWG NO - 4/5



AREA STATEMENT - (BLOCK D)

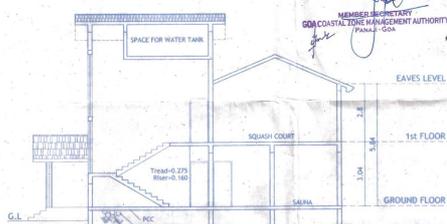
FLOORS	TOTAL B.U.A (sq.m.)	AREA FREE OF F.A.R. STAIRCASE (sq.m.)	BALCONY/PASSAGE (sq.m.)	TERRACE (sq.m.)	GROSS F.A.R (sq.m.)	LESS ADDITIONAL F.A.R 7.5%	NET F.A.R (sq.m.)
GROUND FLOOR	252.60	13.77	0.00	0.00	238.83	40.53	198.30
FIRST FLOOR	240.00	13.77	0.00	0.00	226.23	27.93	198.30
TOTAL	492.60	27.54	0.00	0.00	465.06	68.46	396.60

SCHEDULE OF DOORS & WINDOWS

TYPE	SIZE
D1	2.00 X 2.10
D2	0.90 X 2.10
D3	0.70 X 2.10
W1	1.50 X 1.20
V	0.80 X 0.80



ELEVATION SCALE: 1:100



SECTION 1-1 SCALE: 1:100

MEMBER SECRETARY
COASTAL ZONE MANAGEMENT AUTHORITY
PUNJAB-GA
Ref no: 622001/1516/09/1725
Dated: 20/10/2015



BLOCK D

PROPOSED CONSTRUCTION ON SY. NO./SUB DIV. NO. 134/3, AT CAVELLOSSIM VILLAGE, SALCETE TALLUKA

OWNER: **NOVA RESORTS**
 DRN BY: HJM
 CHKD BY: B.S.
 JOB NO: 4192
 DATED: _____
 ARCHITECT'S SIGNATURE: *[Signature]*
Bryan J. Soares
 Reg. No. GA/89/12085
 AR/0031/2010

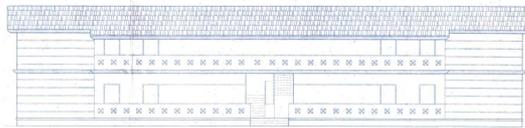
ARCHITECTS: **SOARES & ASSOCIATES**
 G-1, VEKAS BUILDINGS,
 18TH JUNE ROAD,
 PANJABI, GDA,
 PUNJAB, INDIA.
 PH. FAX: 9228940, 2435910.
 e-mail: soares88@gmail.com

940

DWG NO - 5/5



SECTION 1-1
SCALE: 1/100

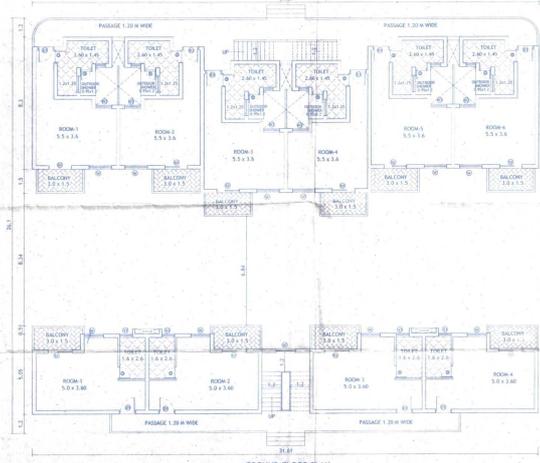


ELEVATION
SCALE: 1/100

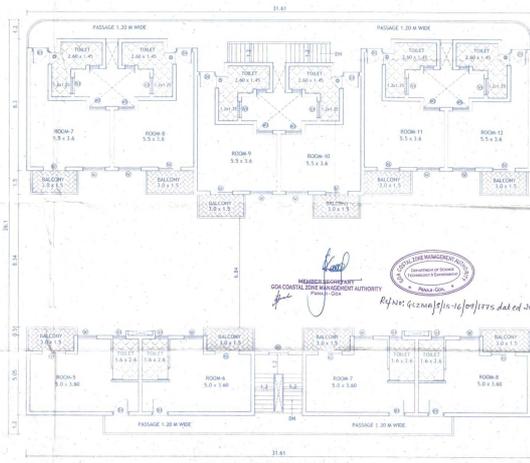
AREA STATEMENT - (BLOCK F)

FLOORS	TOTAL B.U.A (sq.m.)	AREA FREE OF F.A.R. (sq.m.)	BALCONY/PASSAGE (sq.m.)	FERRACE (sq.m.)	GROSS F.A.R. (sq.m.)	LESS ADDITIONAL F.A.R. 7.5% (sq.m.)	NET F.A.R. (sq.m.)
GROUND FLOOR	508.53	23.60	128.80	0.00	356.13	0.00	356.13
FIRST FLOOR	476.33	0.00	120.20	0.00	356.13	0.00	356.13
TOTAL	984.86	23.60	249.00	0.00	712.26	0.00	712.26

PROPOSED COVERAGE = 508.53 m² X 4 (units) = 2034.12 m²
 PROPOSED F.A.R = 712.26 m² X 4 (units) = 2849.04 m²
 PROPOSED B.U.A = 984.86 m² X 4 (units) = 3939.44 m²



GROUND FLOOR PLAN
SCALE: 1/100



FIRST FLOOR PLAN
SCALE: 1/100

SCHEDULE OF OPENINGS

TYPE	CLEAR OPENINGS IN METRES	HEIGHT IN METRES
D	0.75	2.15
D1	1.00	2.15
D2	1.50	2.15
W	1.50	1.25
W2	1.00	1.25
V	0.90	0.65

BLOCK F

PROJECT: PROPOSED CONSTRUCTION ON SY. NO./SUB DIV. NO. 134/3, AT CAVELLOSSIM VILLAGE, SALCETE TALUKA, GOA.

OWNER: NOVA RESORTS
 DRAWN BY: H.S. DATE: FLOOR PLAN, ELEVATION
 JOB NO.: 4/92 SECTION, AREA STATEMENT
 DATE: SCALE: 1/100

ARCHITECT'S SIGNATURE: CLIENT'S SIGNATURE:
 Bryan L. Soares
 Reg. No. CA001005 AR00012010
 ARCHITECTS: SOARES & ASSOCIATES
 51, VIAS BELONGE,
 16TH JUNE ROAD,
 PANAJI, GOA.
 PH. FAX: 222660, 222610
 E-MAIL: soares@gsa.com

MEMBER BOARD OF GOVT. CONTROLLED ZONE MANAGEMENT AUTHORITY PANAJI, GOA.
 Ref No: 622001/15-16/10/175 dated 20/10/2015

MINUTES OF THE 121st MEETING OF THE GOA COASTAL ZONE MANAGEMENT AUTHORITY (GCZMA) HELD ON 13/10/2015 (TUESDAY) AT 2:30 P.M. IN THE CONFERENCE HALL OF PRINCIPAL SECRETARY (ENVIRONMENT), 2ND FLOOR, SECRETARIAT, PORVORIM – GOA.

The 121st meeting of the Goa Coastal Zone Management Authority (GCZMA) was held under the Chairmanship of the Principal Secretary (Environment), on 13/10/2015 (Tuesday) at 2:30 p.m. in the Conference Hall of Principal Secretary (Forests & Environment), 2nd Floor, Secretariat, Porvorim - Goa.

The following members were present during the meeting:

1. Principal Secretary (Environment) / Chairman(GCZMA)
2. Principal Chief Conservator of Forests, Department of Forests, Government of Goa
3. Director, Directorate of Tourism, Government of Goa
4. Chief Engineer, Water Resources Department (W.R.D), Government of Goa
5. Director, Directorate of Industries, Trade & Commerce, Government of Goa
6. Chief Engineer, Public Works Department (P.W.D), Government of Goa
7. Dr. Antonio Arsenio Mascarenhas
8. Dr. Savita Kerkar
9. Shri. Rangunath Dhume
10. Dr. Nitin Sawant
11. Member Secretary (GCZMA)

At the outset, the Chairman (GCZMA) welcomed the Members of GCZMA present for the meeting. Thereafter, following agenda items were taken up for deliberation and decision.

Item No.1: To confirm the minutes of the 120th Meeting of the GCZMA held on 11/09/2015.

The minutes of the 120th Meeting of the GCZMA held on 11/09/2015 at 10:00 a.m. were circulated among all the members for their comments and suggestions. The Authority confirmed the minutes of the 120th GCZMA meeting held on 11/09/2015.

clearance does not give immunity to the project proponent in the case filed against him / her, if any or action initiated under the Environment Protection Act.

Case No. 4.4:

Approval / Recommendation for proposed construction of Hotel / Resort in the property bearing Sy. No. 134/3, at Cavelossim Village, Salcete Taluka submitted by M/s. Nova Resorts Pvt. Ltd.

Background: The project proposal is submitted by M/s. Nova Resorts Pvt. Ltd. in respect of proposed construction of Hotel in the property bearing Sy. No. 134/3, at Cavelossim Village, Salcete – Goa. The proponent has submitted a copy of the Environmental Clearance granted to M/s. Nova Resorts Pvt. Ltd. vide letter bearing No. J/19011/12/97-IA-III dated 28/06/2000 issued by the Ministry of Environment & Forests, Government of India for the said project.

Upon receipt of the said proposal the inspection of the said site was conducted.

Site Inspection Report: The site was inspected by Shri. Rangunath Dhume & Dr. Antonio Mascarenhas, the Expert Members of the GCZMA on 30/04/2015. The site inspection report indicates that the entire coastal strip is a sand dune complex. Road to the site is not ready. There exists dune vegetation and creepers. The proposed plot falls beyond 200 mts from the HTL. This project is an old case which was cleared by GSSCE in 1997 and subsequently cleared by MoEF in June, 2000. The plot falls beyond 200 mts. and the entire strip constitutes a dune field. Several prominent sand dunes are observed in the 0-200 mts. zone. The project proponents should not disturb the existing dunes under any circumstances. However, the GCZMA needs to discuss whether approvals of June 2000 are valid in May 2015. It appears the MoEF needs to clarify.

The salient features of the project proposal are indicated herebelow:-

(i) Project Details:- The proposal involves construction of a Hotel / Resort comprising of 11 buildings having around 80 units.

(ii) Location:- The project is proposed at the plot located in Sy. No. 134/3, at Cavelossim Village, Salcete - Goa. The proposed site falls under CRZ-III as per the GCZM Plan (i.e. 200 – 500 mtr from HTL and partly within 200 mts. from the HTL).

(iii) Total Project Cost: --

(iv) Water Requirement:- 167,000 Lts. / day

(v) Waste water generation:- 124,000 lpd.

(vi) Power Requirement: --

(vii) Building Area Statement:

Plot Area: 23,400 m² (having 9000.00 m² within 200 mtrs. and remaining area of 14, 400.00 m² beyond 200 mtrs.)

FAR: 31% (i.e. 5774.71 m²)

Height: 9 mtr.

Ground Floor Area: 3530.69 m²

First Floor Area: 2244.02 m²

Coverage: 3530.69 m² (24.5%)

Area of other amenities provided: 270.00 m²
(eg. Swimming pool, lawns etc.)

The said project proposal was placed in the 116th GCZMA meeting held on 26/05/2015 wherein the Authority after detailed discussion and due deliberations decided to direct the project proponent i.e. M/s. Nova Resorts Pvt. Ltd. to carry out fresh demarcation of the HTL line / NDZ line for the property bearing Sy. No. 134/3, at Cavelossim Village, Salcete - Goa through the Directorate of Survey & Land Records (DSLRL), Panaji and to indicate the project layout on the same and thereafter forward the same to the Town & Country Planning (TCP) Department for its scrutiny.

Accordingly, the project proponent i.e. M/s. Nova Resorts Pvt. Ltd. was communicated about the decision taken vide letter bearing No. GCZMA/S/15-16/09/464 dated 02/06/2015 directing him to submit a copy of the delineation plan issued by the Directorate of Survey & Land Records (DSLRL) indicating the project layout to the Office of the GCZMA.

In this regard, the applicant has now submitted a copy of the delineation of CRZ line in property bearing Sy. No. 134/3, at Cavelossim Village, Salcete - Goa wherein it is stated that the said property is partly falling within 200 m from High Tide Line (HTL) i.e westward side of the property, Partly in the zone between 200 to 500 m from HTL and partly beyond 500 m from HTL i.e eastward side of the property as extracted from certified CRZ map of Cavelossim Village Salcete Taluka. Copy of the said letter was enclosed with the Agenda Item as **Annexure 'X'**.

Decision: After detailed discussion and due deliberations and on considering the site inspection report of Shri. Ragnath Dhume and Dr. Antonio Mascarenhas, Expert Members (GCZMA) dated 30/04/2015, the Authority decided to recommend the said proposal for construction of Hotel / Resort in the property bearing Sy. No. 134/3, at Cavelossim Village, Salcete - Goa by M/s. Nova Resorts Pvt. Ltd. to the Planning authorities in terms of the CRZ Notification 2011, as amended and subject to compliance of following conditions:-

A. Specific Conditions

1. All the provisions of the CRZ Notification 2011, as ammended should be strictly complied with. In the event of a change in project profile or change in the implementation agency, a fresh reference shall be made to the GCZMA.

2. All conditions stipulated in the CRZ Notification 2011, as amended shall be applicable to the applicant, owner, architect, project consultant, builder, developer and occupier. They shall be liable for violation or non-adherence to the provisions stipulated therein.
3. Proposed construction shall be strictly in accordance with the provisions of CRZ Notification, 2011, as amended. Further the planning/local authority/executing Agency shall ensure that there are no violations of CRZ Notification, 2011(as amended).
4. Construction as per the approved plan shall be permitted only on the landward side and the total covered area on all floors shall not exceed 33 percent of the plot size i.e. the Floor Space Index shall not exceed 0.33 and open area shall be suitable landscaped with appropriate vegetal cover.
5. The overall height of construction upto the highest ridge of the roof, shall not exceed 9 mts. and the construction shall not be more than two floors(ground floor plus one upper floor);
6. The construction shall be consistent with the surrounding landscape and local architectural style;
7. Construction of basement may be allowed subject to the condition that no objection certification is obtained from the State Ground Water Authority to the effect that such construction will not adversely affect the flow of groundwater in that area;
8. Live fencing and barbed wire fencing with vegetative cover may be allowed around private properties subject to the condition that such fencing shall in no way hamper public access to the beach and traditional access/easement of public.
9. All Construction shall be beyond 200 mtr. from the HTL of sea and no construction of whatsoever kind and nature shall be carried out in No Development Zone area.
10. Consent to Establish/Operate and hazardous waste Authorization shall be obtained from the Goa State Pollution Control Board under the Air Act/Water Act and Hazardous Waste Rules.
11. The applicant shall take all requisite environmental safeguard to ensure that there would not be any environmental degradation in this area.
12. No flattening of sand dunes and cutting of mangroves vegetations shall be carried out;
13. No permanent structures for sports facilities shall be permitted, except construction of goal posts, net posts and lamp posts.
14. The work site shall be clear of debris after completion of the work.
15. Ground water shall not be tapped within 200 mts. of the High Tide Line. For any drawal of water in 200 to 500 mtr from HTL prior approval of the State Ground Water Authority shall be obtained.
16. Extraction of sand, leveling or digging of sandy stretches except for structural foundation of building, swimming pool shall not be permitted within 500 mtrs of High Tide line.
17. The quality of treated effluents, solid wastes, emissions and noise levels and the like, from the project area must conform to the standards laid down by the competent authorities including the Central or Goa State Pollution Control Board and under the Environment (Protection) Act, 1986
18. There shall be no man-made beach development.

19. There shall be no disposal of waste into the coastal area. All the solid waste shall be handled as per the Solid Waste Management Rules.
20. Construction activity shall be carried out strictly as per the provisions of CRZ Notification, 2011. No construction work other than those permitted in Coastal Regulation Zone Notification shall be carried out in Coastal Regulation Zone area.
21. The project shall be executed in such a manner that there shall not be any disturbance to the fishing activity.
22. It shall be ensured that there is no displacement of people, houses or fishing activity as a result of the project.
23. The project proponent shall set up separate environmental management cell for effective implementation of the stipulated environmental safeguards under the supervision of a Senior Executive.
24. The funds earmarked for environment management plan shall be include in the budget and this shall not be diverted for any other purposes.

B. General Conditions

- (i) This recommendation is issued without prejudice to any other permission as required under the law including that of ownership of property, court case etc. As such, prior to the commencement of the 'Hotel/Resort' work, it will be incumbent upon the applicant to obtain all the requisite permission from any other authority as required under the law including from the local authority, Town and Country Planning Department, Revenue Authority etc.,
- (ii) Necessary arrangements for the treatment of the effluents and solid wastes must be made and it must be ensured that the untreated effluents and solid wastes are not discharged into the water or on the beach; and no effluent or solid waste shall be discharges on the beach.
- (iii) To allow public access to the beach, at least a gap of 20 mtrs width shall be provided between any two hotels or beach resorts; and in no case shall gaps be less than 500 mtrs apart; and
- (iv) Traditional access/easement shall not be blocked.
- (v) Adequate provisions for infrastructure facilities including water supply and sanitation must be ensured for construction workers during the construction phase of the project to avoid any damage to the environment.
- (vi) The GCZMA or any other authority may stipulate any additional conditions or modify the existing ones, if, necessary in the interest of environment and the same shall be complied with;

- (vii) This permission is liable to be revoked, if it is found, at any stage, that the application contained false information / wrong plans / calculations / documents / misleading or false information, etc. or account of violation of aforementioned conditions.
- (viii) Any appeal against this CRZ clearance/Permission/NOC shall lie with the Hon'ble National Green Tribunal, if preferred, within 30 days as prescribed under section 16 of the National Green Tribunal Act, 2010.
- (ix) This recommendation/permission shall be valid for 5 years from the date of issue of this letter.
- (x) The recommendation / clearance from CRZ point of view is being issued without prejudice to the action initiated under the Environment Protection Act or any Court case / matter pending in the court of law / NGT and it does not mean that the project proponent / applicant has not violated any environmental laws / CRZ Notification, 1991 /2011 in the past and whatever decision under Environment Protection Act or of the Hon'ble Court / NGT will be binding on the project proponent / Applicant. Hence this recommendation / clearance does not give immunity to the project proponent in the case filed against him / her, if any or action initiated under the Environment Protection Act.

Item No. 5 To discuss and decide on the applications received for erection of Temporary seasonal structures such as Shacks /Huts/Tents / structures in CRZ area in the Private Properties.

The GCZMA was in receipt of various proposals for erection of temporary seasonal structures such as Shacks / Huts / Tents during the year 2015-16 from various project proponents / Applicants in the private properties at various locations in the State of Goa. The duly constituted Sub – Committee of the GCZMA in its meeting held on 13/02/2014 had formulated certain guidelines governing the erection of temporary shacks in private properties. These guidelines were approved by the GCZMA in its 99th meeting held on 20/02/2014. A copy of these guidelines were enclosed herewith as Annexure 'XI'. Further, a copy of the summary of all the applications indicating the observations of the Inspection team was enclosed with the Agenda item as Annexure 'XII'.

The various applications pertaining to erection of temporary seasonal structures such as Shacks / Huts / Tents / cottages / stalls for the Tourist Season 2015-16 from various project proponents / Applicants in the private properties at various locations in the State of Goa were inspected by the Expert members of the GCZMA along with GCZMA officials and all the applications wherein inspections were carried on various dates (i.e. 29/09/2015, 30/09/2015, 01/10/2015, 06/10/2015, 09/10/2015, 12/10/2015) by the GCZMA were placed before the Authority. All together 171 nos. of applications (i.e Case Nos. 5.1 to 5.66 and additional cases from Case nos. 7.1 to 7.105) were placed before the Authority for deliberation and decision.