

**BEFORE THE NATIONAL GREEN TRIBUNAL,  
PRINCIPAL BENCH, NEW DELHI**

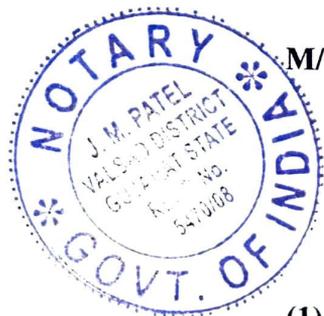
(Under Section 16 read with Section 18 of The National  
Green Tribunal Act 2010)

**Appeal No. 8 of 2020**

**M/s. Platinum AAC Blocks Pvt. Ltd. ... Appellant**

**Vs.**

**(1) The Pollution Control Committee,  
And others ... Respondents**



**COUNTER REPLY**

**(On behalf of Appellant Platinum AACF Blocks Pvt. Ltd.)**

This Counter Reply is being to the reply-affidavit filed by the Respondent No.1 – The Pollution Control Committee, Daman Diu and Dadra Nagar Haveli (hereinafter referred to as “the PCC”) as under:

1. On 17/01/2020 the Hon’ble NGT has passed clear order in Appeal No.77/2019, taking reference of the Joint Committee report that “*the view taken by the PCC cannot be sustained and is set aside.*” Considering the fact that the view taken by the PCC has not been sustained and the previous Appeal No. 77/2019 has been decided on merits, the scope of the present Appeal becomes very limited and strict.
2. It is legally not allowed for the PCC to try to sustain their rejected view in the present Appeal.

3. The further part of the order mentions that “*The PCC may pass a further order in accordance with law within two weeks*”. So it clearly indicates that the previous orders by PCC of rejecting the Applications for grant of consent/permission were not in accordance with law and hence the NGT has again asked the PCC to pass further order “in accordance with law”.
4. But the PCC has passed on 3/02/2020 improper, irrational and illogical order rejecting the Application submitted by the Appellant on the basis of their Notification dated 09/10/2015, which has been already set aside and held as non-sustainable by the Hon’ble NGT.
5. The PCC has also not yet harmonize the categorization of industries in compliance of Modified Directions issued by CPCB but the Respondent No.1- PCC has submitted their contentions in total 600 pages bunch of documents by which they are actually trying to go beyond scope of appeal which is not allowed.
6. It is pertinent to note that the PCC has not filed any Appeal or any Application against the order dated 17/01/2020 passed by the Hon’ble NGT and now in this Appeal Respondent No.1 is trying to illegally expand the scope of the Appeal by bringing in various irrelevant documents and misleading the Hon’ble Tribunal.
7. On behalf of Appellant – M/s. Platinum AAC Blocks Pvt. Ltd. it is submitted that the object and intention of Notification published by CPCB on 29/02/2016 revising classification of industrial sector as red, orange, green and white categories needs to be followed by the State Pollution



Control Board and PCC of Daman Diu and Dadra Nagar Haveli.

8. The Respondent No.1- PCC has never mentioned such various grounds at the time of rejection of Application of M/s. Platinum AAC Blocks Pvt. Ltd., but is now trying to mention such various grounds through their 600 pages reply and documentation.
9. The whole issue is related to only harmonization of classification of industrial sector as red, orange, green and white categories, but the PCC since 29/02/2016 is not deciding on harmonization.
10. We think that the PCC is yet to harmonize the categories of the industries in compliance with modifying directions issued by the CPCB vide their letter dated 07/03/2016 under Section 18(1) (b) and based on such harmonization of industries the admissibility of consent to the unit of the Appellant is to be considered by the PCC.
11. The CPCB has also mentioned in his Reply-Affidavit dated 16/07/2020 that as per their final documentation of revised classification of industrial sector under red, orange, green and white categories published by CPCB on 29/02/2016, “**Fly-ash export, transport and disposal facility falls under green category.**”
12. Why the Respondent No.1 – PCC is taking so-much time for harmonization as per the CPCB’s revised classification?
13. Whether the PCC can have its own different classification decided whimsically without giving reason as to why they do not want to follow the CPCB’s classification?

14. On behalf of Appellant – Industry, it is submitted that if fly-ash is being generated at various plants and there are guidelines for utilization of fly-ash considering the environmental reason, then whether the PCC is empowered to impose its own whimsical style of interpretation by ignoring the Notification of CPCB regarding fly-ash utilization and management? is also an important question related to the present Appeal.

15. It has been mentioned in the Reply-Affidavit of the CPCB that till today the CPCB has sent 12 reminders to the PCC from the year 2016 and the Respondent No.1- PCC is still in process of categorization of industries.

16. The question also arises whether the Respondent No.1- PCC has to do categorization of industries based on CPCB's 'final document on revised classification of industrial sector as red, orange, green and white categories or is the PCC allowed to come up with any different idea of their own classification?

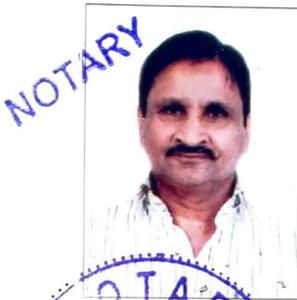
17. What is the meaning of harmonization? In this contest, if harmonization means all the State Pollution Control Boards and PCCs shall have same standing and consensus of implementing basic Notification regarding utilization and management of fly-ash, then procedure adopted by Respondent No.1-PCC is like running 'State within State'.


  
 (DilipKadivar)  
 Chairman  
 Platinum AAC Blocks P.Ltd.

(Asim Sarode)  
 Advocate for the Appellant

**AFFIDAVIT**

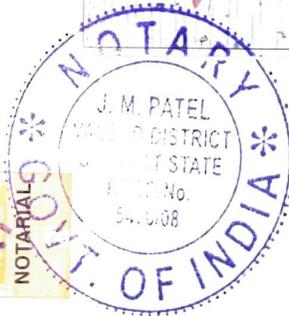
I, DilipKadivar Aged 58 Yrs, Chairman Platinum AAC Blocks Pvt. Ltd. having its office at Survey No.19/1, VillageKherdi, Dadra and Nagar Haveli (D&NH) Silvassa -3962 the Appellant herein do hereby solemnly affirm and state on oath that the contents of this Counter Reply as mentioned above in Para Nos. 1 to 17 are true and correct to the best of my knowledge, information and belief and I have not suppressed any material fact. In witness whereof, I have signed here at ghwael on this 4 th day of August 2020



સલામત સ્થાને સહી કરવામાં આવી છે.  
(DilipKadivar)

Affiant

I know the Affiant,  
Advocate



Solemnly Affirmed before me by Shri/Smt. દિલીપકાદિવાર of ગુજરાત Who has been identified before me by Shri \_\_\_\_\_ of \_\_\_\_\_ Whom I know personally

*J. M. Patel*

JAYANTILAL M. PATEL  
NOTARY  
VALSAD DISTRICT  
GOVT OF INDIA

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