

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
SOUTHERN ZONE, CHENNAI**

**Miscellaneous Application No.04 of 2024 (SZ)
in
Original Application No.74 of 2017 (SZ)**

Tribunal on its own Motion in Re Non-
Compliance of order passed by NGT
dt.21.01.2020 arising out of Civil
Appeal No:3891 of 2020 vide order dt 07.02.2024.

And

The State of Tamil Nadu
Rep. by its Secretary to Government
Department of Environment and Forest
and Others.

...Respondents

INDEX

S.No	Description	Page No.
1.	REPORT FILED ON BEHALF OF THE THIRD RESPONDENT -TAMIL NADU POLLUTION CONTROL BOARD	1 - 3
2	Annexure - Joint Committee Report	4 - 9



**Filed by
Thiru.S. Sai Sathya Jith,
Advocate, Chennai.**

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**REPORT FILED ON BEHALF OF THE THIRD RESPONDENT-
TAMIL NADU POLLUTION CONTROL BOARD.**

I, M.Vijayalakshmi, D/o. Muthiah, aged about 59 years, having office at No. 76, Mount Salai, Guindy, Chennai - 600 032, do hereby solemnly affirm and sincerely state as follows:-

1. I submit that I am working as the Additional Chief Environmental Engineer, Tamil Nadu Pollution Control Board, Chennai and I am filing this report on behalf of the third respondent, TNPCB and as such I am well acquainted with the facts of the case from the records available in our office and authorized to file this report.

2. It is respectfully submitted that the Appellant has filed this appeal with a prayer to *call for the records pertaining to the communication in Lr.No.SEIAA/-TN/F/No.372/2023,dt: 1201.2024 issued by the 1st respondent and quash the same.*

1. Consequently direct the respondents to grant environmental clearance to the appellant for the existing residential apartment building complex in S.F.No.375/5B Pt, 376/1B Pt, 376/3BPt, 377/3 Pt of Keeranatham Village, Annur Taluk, Coimbatore District,

M. Vijayalakshmi 6/2/2025

ADDITIONAL CHIEF ENVIRONMENTAL ENGINEER
TAMIL NADU POLLUTION CONTROL BOARD
No.76, MOUNT SALAI, GUINDY,
CHENNAI-600 032.

2. *Direct the respondents to return the bank guarantee bearing the number T20GPGE240755001, dated: 15.03.2024 issued by the Canara Bank KGISL Saravanampatty branch, Coimbatore – 641 035 in favour of the TNPCB and*
3. *Pass such further or other orders as this Hon'ble Tribunal may deem fit and proper in circumstances of the case and render justice...*

3. It is respectfully submitted that the Hon'ble Tribunal in its order dated 04.04.2024, inter-alia, that-

“... the SEIAA – Tamil Nadu was a member of the Joint Committee appointed by this Tribunal, ... the Tamil Nadu Pollution Control Board (TNPCB) was a nodal agency for coordinating the Joint Committee, let the TNPCB also file a report in this regard ...”

4. It is respectfully submitted that the unit, M/s. KGISL Technologies & Infrastructure Private Ltd, named “Platina” located at S.F.No.376/1B & 377/1B, Keeranatham Village, Annur Taluk, Coimbatore District is a building construction project. The project proposal includes the development of two blocks with Stilt Floor + 8 floors each, two blocks with Stilt floor + 7 floor each, and LIG block with ground floor + 3 floors for providing 435 dwelling units in a land area of 17200.26 Sq.m. with a total built up area of 41,914.58 Sq.m. As per the Environmental Impact Assessment (EIA) Notification, dated 14.09.2006, the project comes under Category ‘B’ which requires prior Environmental Clearance (EC). The project was completed in all aspects during 2014 without obtaining Environmental Clearance and it is considered an EC Violation project.

5. It is respectfully submitted that on 11.7.2024, the Tamil Nadu Pollution Control Board has filed its report before the

M. Vijayakrishna 10/2/2025
 ADDITIONAL CHIEF ENVIRONMENTAL ENGINEER
 TAMIL NADU POLLUTION CONTROL BOARD
 No.76, MOUNT SALAI, GUINDY,
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Hon'ble Tribunal (SZ), Chennai and it may be pleased to take as part and parcel of this report.

6. It is respectfully submitted that the Expert Committee was reconstituted on 06.12.2024 and 09.01.2025 comprising of CPCB, SPCB, SEIAA, Regional Office of MoEF, Council of Scientific and Industrial Research and NIT, Tiruchirappali and to carry out detailed inspection of the unit of M/s. KGISL Technologies & Infrastructure P Ltd, S.F.No.376/1B & 377/1B, Keeranatham Village, Annur Taluk, Coimbatore District so to assess the actual compensation payable by the said unit of M/s. KGISL Technologies & Infrastructure P Ltd.

7. It is respectfully submitted that the joint committee members visited the site on 24.01.2025. The Inspection of the Site and observation by the committee is enclosed as the annexure.

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

M. Vijayalakshmi 6/2/2025
 ADDITIONAL CHIEF ENVIRONMENTAL ENGINEER
 TAMIL NADU POLLUTION CONTROL BOARD
 No.76, MOUNT SALAI, GUINDY,
 CHENNAI-600 032.

VERIFICATION

I, M.Vijayalakshmi, D/o. Muthiah, working as Additional Chief Environmental Engineer, Tamil Nadu Pollution Control Board, Chennai, do hereby verify that the contents of above report are true to the best of my knowledge through records.

M. Vijayalakshmi 6/2/2025
 ADDITIONAL CHIEF ENVIRONMENTAL ENGINEER
 TAMIL NADU POLLUTION CONTROL BOARD
 No.76, MOUNT SALAI, GUINDY,
 CHENNAI-600 032.

4

Inspection Report of the Joint Committee on M/s. KGISL Technologies & Infrastructure P Ltd, "Platina", S.F.No.376/1B & 377/1B, Keeranatham village, Annur Taluk, Coimbatore District - To assess the actual environmental compensation payable in compliance with the directions of the Hon'ble National Green Tribunal order (SZ) dated 21.01.2020 and 07.02.2020 in O.A.No.74 of 2017

Background

Thiru.V.Sankara Subramanian, S/o.S.Velusamy, No.4/67, South Street, Manur post, Thirunelveli District has filed a case before the Hon'ble National Green Tribunal (SZ), Chennai against M/s.KGISL Technologies & Infrastructure P Ltd, in application No.74 of 2017 (SZ) and prayed to demolish the unauthorized and unlawful construction work put up at the project area.

The Hon'ble NGT (SZ) in the said Application No.74 of 2017 vide its order dated 21.01.2020 and Hon'ble NGT (SZ) Corrected Order dt.07.02.2020 has passed an order and inter alia as follows:-

"...So considering these aspects we feel it appropriate that fifth respondent is directed to pay an interim compensation of Rs.8 Crores and that amount can be deposited before the Central Pollution Control Board within a period of two months and the same can be utilized by the CPCB for restoration of ecology cost..."

"..Further, in order to assess the actual compensation payable we constitute a committee comprising of CPCB, SPCB, SEIAA, Regional Office of MoEF, Council for Scientific and Industrial Research and IIT, Chennai. SPCB will be the nodal agency for coordination and providing necessary logistics for this purpose and the committee shall submit a report within a period of three months to this tribunal."

Constitution of Expert Committee

Further, the NGT case was filed in the year 2017 and the MoEFCC has issued notification and clarifications vide notifications (S.O.804 (E), Dt: 14.03.2017, S.O.1030 (E), Dt: 08.03.2017 & O.M.No.F.No.Z-11013/22/2017-IA.II(M) dated: 15.03.2018) for processing of EC violation applications by MoEFCC & SEIAA.

Earlier, the Hon'ble NGT (SZ) passed an Order in O.A. No. 74 of 2017 dated 21.01.2020 which reads as follows:

35. It is seen from the original counter statement filed by the fifth respondent that the cost of the project was Rs.55.55 crores and it was having 350 flats but in the present affidavit filed by them today, the project cost has been reduced to 34.85 crores though the number of flats has been increased to 435. So it cannot be believed that the construction could have been completed by the project proponent at a project cost of 34.85 cores for 435 flats which is in contradiction with the earlier project cost even admittedly of 55.55 crores.

36. The area in question is a developing area in Coimbatore. One cannot believe for moment that project could be completed and sold for lesser amount. Further, applying the principle of "Polluter Pays" and also considering the manner in which environmental compensation has to be fixed as has been held in Godavarman"s case, it must be deterrent in nature and it must take into account loss of service to ecology and the cost of restoration and that must be non profitable in the nature. Even assuming that each flat is sold for minimum of Rs.35 lakhs then the approximate value comes to Rs.152.25 crores and as has been held in the decision report in S.P. Muthuraman"s case and also Goel Ganaga"s case, if 5% of the amount of the project cost is calculated, then it will come to Rs.7.61 crores. However, that alone will not be sufficient until the loss of ecology has been assessed by the authorities. Though there is a provisions as to how the environmental compensation has to be fixed under para 5 of the Notification dated 14.03.2017, we feel that it will not fetter the power of the Tribunal to appoint an independent committee to assess the same. The committee can take note of guidelines provided in the notification for this purpose.

37. So considering these aspects we feel it appropriate that fifth respondent is directed to pay an interim compensation of Rs.8 crores and that amount can be deposited before the CPCB within a period of two months and the same can be utilized by the CPCB for restoration of ecology lost.

38. Further, in order to assess the actual compensation payable we constitute a committee comprising of CPCB, SPCB, SEIAA, Regional Office of MoEF, Council for Scientific and Industrial Research and IIT, Chennai. SPCB will be the nodal agency for coordination and providing necessary logistics for this purpose and the committee shall submit a report within a period of three months to this Tribunal through e-mail at ngtszfiling@gmail.com."

As per the Hon'ble NGT Order, an expert committee was constituted comprising of CPCB, SPCB, SEIAA, Regional Office of MoEF, Council for Scientific and Industrial Research and NIT, Trichy to determine the quantum of Environmental Compensation to be levied on Project Proponent for the above-said violations.

The TNPC Board had nominated DEE/TNPCB/Coimbatore North to act as a **member of Joint Committee and Nodal Officer of the said committee**. Further, the Expert Committee was reconstituted vide TNPCB Proc.No.T2/TNPCB/F.022610/CBN/2022 dated 06.12.2024 and 09.01.2025 comprising of CPCB, SPCB, SEIAA, Regional Office of MoEF, Council of Scientific and Industrial Research and NIT, Tiruchirappali and the following officials were deputed for the Expert committee and to carry out detailed inspection of the unit of M/s. KGISL Technologies & Infrastructure P Ltd, S.F.No.376/1B & 377/1B, Keeranatham Village, Annur Taluk, Coimbatore District so to assess the actual compensation payable by the said unit of M/s. KGISL Technologies & Infrastructure P Ltd. in order to comply with the Hon'ble NGT (SZ) order dated 21.01.2020 and Corrected Order dt.07.02.2020 in the said Application No.74 of 2017.

The following officials were deputed for the Expert committee to assess the compensation.

S.No	Institution / Organization	Nominated by the respective Institution/Organization
1	Tamil Nadu Pollution Control Board,	The District Environmental Engineer Coimbatore North <i>Member and Nodal Officer</i>
2	Central Pollution Control Board	Dr.R.Rajkumar Scientist E Regional Directorate - Chennai <i>Member</i>
3	State Environmental Impact Assessment Authority (SEIAA)	Dr.K.S.Kavi Kumar, Madras School of Economics <i>Member</i>
4	Ministry of Environment, Forest & Climate Change	Dr.C.Palpandi, Scientist D Regional Office, Chennai <i>Member</i>
5	CSIR-NEERI	Dr.R.Sivacoumar, Chief Scientist and Head,CSIR-NEERI, Chennai Zonal Centre <i>Member</i>
6	National Institute of Technology	Dr. S.T.Ramesh, Professor,

	Tiruchirappalli	Department of Civil Engineering National Institute of Technology, Tiruchirappalli, <i>Member</i>
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In compliance with the Hon'ble Tribunal order, the committee meeting was conducted through VC on 12.12.2024&06.01.2025 to discuss the directions of the Hon'ble Tribunal and the methodology to adopt to arrive at the environmental compensation. Further, it was decided to inspect the unit of **M/s.KGISL Technologies & Infrastructure P Ltd**, named as "**Platina**" on **24.01.2025**.

Inspection of the Site and discussion by the Expert Committee:

The joint committee members visited the site on 24.01.2025 and had a discussion with the representatives of the project proponent. The following observation is made by the committee members;

- (i) M/s. KGISL Technologies & Infrastructure P Ltd, named as "Platina" located at S.F.No.376/1B & 377/1B, Keeranatham Village, Annur Taluk, Coimbatore District is a building construction project. The project proposal comprised of development of two blocks with Stilt Floor + 8 floors each, two blocks with Stilt floor + 7 floor each, and LIG block with ground floor + 3 floors for providing 435 dwelling units in a land area of 17200.26 Sq.m. with a total built-up area of 41,914.58 Sq.m. As per the EIA Notification, dated 14.09.2006, the project comes under Category 'B' which required prior Environmental Clearance. The project was completed in all aspects during 2014 without obtaining environmental clearance as well as Consent to Establish/Operate from TNPCB.
- (ii) The project proponent has applied for Environmental Clearance to SEIAA under the violation category, which is pending before SEIAA for granting approval. SEIAA has directed the project proponent to remit the amount of Rs.6.80 crore in the form of bank guarantee to Tamil Nadu Pollution Control Board and submit acknowledgment of the same to SEIAA-TN. The amount shall be utilized for the ecological damage remediation plan, Natural resource augmentation plan & community resource augmentation plan as indicated. However, the amount remitted by the project proponent was returned vide TNPCB letter dated: 24.06.2024, as the final

compensation will be decided by the Expert Committee constituted by Hon'ble NGT (SZ).

- (iii) Further, the project proponent has deposited the interim compensation amount of Rs 8.00 Cr imposed by the Hon'ble NGT (SZ) to CPCB through online payment on 25.06.2024.
- (iv) The project proponent has submitted the Auditor Certificate dated 29.12.2014 with UDIN number (23222423BGVEDS7729) having the cost of the project as Rs.55.55 Crores. However, the auditor certificate does not provide a detailed cost estimation of the project. The Expert Committee instructed the project proponent to submit the details of the sale cost of the 435 flats based on the Registered Sale Deed.

Environmental Compensation:

The Expert Committee has discussed about the approaches for Environmental Compensation followed by Hon'ble NGT (SZ), Chennai and SEIAA and accordingly, suggested the following approaches to arrive the Environmental Compensation based on the available documents and information adopting the reference 5% of the project cost as damage (and hence Environmental Compensation), as held in Goyal Ganga (2018) SCC.

The committee decided not to obtain the third party valuation through PWD or Police Hosing Corporation since only input cost alone could be validated and hence decided to go through the sale deed valuation as it was earlier considered by the Hon'ble NGT in the present matter.

- a. Approach 1: Calculation based on project cost as per the Auditor certificate provided by the project proponent;
- b. Approach 2: Calculation based on Sale value of the Total Flats as per the registered documents

Approach 1: Calculation based on project cost as per the Auditor certificate provided by the project proponent

The Project Cost stated by the proponent is 55.55 Crores as per the Auditor Statement Annexure

Environmental Compensation = 55.55 Cr X 5 % = Rs. 2.78 Cr

Approach 2: Calculation based on Sale value of the Total Flats as per the registered documents

The Sale Value of the entire 435 flats as per the Sale Deed of the registered document is Rs.107.61 Crores is enclosed vide Annexure.

Environmental Compensation = 107.61 Cr X 5 % = Rs. 5.38 Cr

The Project Cost was assessed through Sale Deed of all 435 units and evaluated as Rs.107.61 Cr. Copy of the Cost Evaluation is enclosed vide Annexure.

Conclusion:

The Expert Committee opines that keeping in view the judgment in Goyal Ganga (2018) SCC, the Hon'ble NGT (SZ) may impose as the final compensation the highest figure arrived among the above approaches or the interim environmental compensation levied by the Hon'ble NGT (SZ).

Ajith
31/1/25

Dr.R.Rajkumar
Scientist E
CPCB, RD-Chennai

Kavi. Kumar
31/1/2025

Dr.K.S.Kavi Kumar,
Madras School of Economics

C. Palpandi
31/01/2025

Dr.C.Palpandi,
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Regional Office (SEZ),
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R. Sivacoumar

Dr.R.Sivacoumar,
Chief Scientist and Head
CSIR-NEERI,
Chennai Zonal Centre

S.T. Ramesh
31.01.2025

Dr.S.T.Ramesh,
Professor,
Department of Civil Engineering
NIT, Tiruchirappalli

Er.V. Swaminathan
31/1/25

Er.V. Swaminathan,
District Environmental
Engineer,
TNPCB, Coimbatore North

Encl:

1. The unit's Covering Letter
2. The Auditor Certificate based on the Sale Deed
3. Abstract of the Sale Deed of all the 435 Flats.

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GREEN TRIBUNAL,
SOUTHERN ZONE, CHENNAI**

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...Respondents

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THIRD RESPONDENT -TAMIL NADU
POLLUTION CONTROL BOARD**

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

Date of filing :12.02.2025

Date of hearing on:18.02.2025

