

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

Original Application No. 108 of 2024

Bhagat Singh A.,
Son of Arunachalam,
2, 3rd Street, Ulaganathapuram,
Ennore, Tiruvallur, Tamil Nadu- 600 057.
Email: iraiyanbup14@gmail.com
Ph No. 9094722907 and 9 others.

...Applicants

Vs

The Union of India,
Rep. by its Secretary to Government,
Ministry of Environment,
Forests & Climate Change
Indra Paryavaran Bhavan,
Jor Bagh, New Delhi & others.

...Respondents

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Advocate
Thiru.S. Sai Sathya Jith,
Advocate, Chennai.

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Ministry of Environment,
Forests & Climate Change
Indra Paryavaran Bhavan,
Jor Bagh, New Delhi.
Email: secy-moef@nic.in,
Ph No: 011-24695262.
2. The Tamil Nadu Coastal Zone
Management Authority,
Rep. by its Member Secretary,
No.1, Jeenis Road, Panagal Building,
Ground Floor, Saidapet,
Chennai-600 015.
Email: tndoe@tn.nic.in,
Phone: 044-24336594.
3. The Tamil Nadu Pollution Control Board,
Rep. by its Member Secretary,
No.76, Mount Salai, Guindy,
Chennai.
Ph: 044-22353134,
Email: memsec@tnpcb.gov.in.
4. M/s Coromandel International Limited,
Rep. by its Managing Director,
1, 2nd Street, Satyavanimuthu,
Thiruvalluvar Nagar,
Ennore, Tamil Nadu 600057.
Phone: 088078 81805,
E-mail: mail@coromandel.murugappa.com.

... Respondents


28/11/2024

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

**REPLY AFFIDAVIT FILED ON BEHALF OF THE 3rd RESPONDENT
MEMBER SECRETARY, TAMIL NADU POLLUTION CONTROL
BOARD (TNPCB)**

I, S.Malarvizhi, D/o.K.Subburam, aged about 58 years, having office at No.76, Mount Salai, Guindy, Chennai - 600 032, do hereby solemnly affirm and sincerely state as follows:-

2. I submit that I am working as the Joint Chief Environmental Engineer, Tamil Nadu Pollution Control Board, Chennai and I am authorized to file this reply affidavit on behalf of the 3rd Respondent - Member Secretary, TNPCB and as such I am well acquainted with the facts of the case from the records available in our office.
3. It is submitted that the application was filed against the respondents with the following prayers:

“a. Quash the clearances issued by the 1st and 3rd Respondents dated 16.12.1993, 20.12.1995, 03.09.2007 and 21.07.2023 as they were issued in violation of the CRZ Notification, 1991 and CRZ Notification, 2011 or in the alternative declare clearances issued by the 1st and 3rd Respondents dated 16.12.1993, 20.12.1995, 03.09.2007 and 21.07.2023 as non-est and void ab initio as they were issued in the violation of the CRZ Notification, 1991 and CRZ Notification, 2011.

b. Direct Respondents 1, 2 and 3 to demolish the 4th Respondent industry in so far as the expansions effected post 19.02.1991 in violation of the CRZ Notification, 1991 and CRZ Notification, 2011.

c. Direct Respondents 1, 2 and 3 to impose penalty and prosecute the 4th Respondent industry under the provisions of the Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981”.

4. It is respectfully submitted that the unit M/s. EID Parry India Ltd. located at S.F. No.37/B2, 38/5A, 39/B1, 39/6A, 246/2, 3, 4, 5, 6, 7, 247/(part)1A, 2A,

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3C, 3A, Ernavoor Village, Thiruvottiyur Taluk, Chennai District which was in operation since 1963, obtained consent of the Board under the Water (P&CP) Act, 1974 as amended and the Air (P&CP) Act, 1981 as amended vide Board's proceedings dated 20.03.1985 valid up to 19.03.1986 for manufacturing the following:

I. Product

- i) Ammonium Phosphate Sulphate Fertilizer-4755 MT/Month,

II. Intermediate Product

- i) Ammonia – 1050 MT/Month
 ii) Sulphuric Acid – 4572 MT/Month
 iii) Phosphoric Acid – 972 MT/Month

III. By Product

- i) Gypsum – 4500 MT/Month
 ii) Calcium Carbonate – 3000 MT/Month

5. It is respectfully submitted that subsequently, the unit obtained renewal of consent of the Board vide Proceedings dated 17.06.1991 valid up to 31.03.1992. Further, vide proceeding dated 14.07.1992 the unit obtained CTO-Direct valid up to 31.03.1993 for manufacturing the following products

- i) Ammonium Phosphate Sulphate – 7800 T/Month,
 ii) Sulphuric Acid – 8120 T/Month,
 iii) Phosphoric Acid – 1600 T/Month,
 iv) Gypsum – 8000 T/Month,

It is respectfully submitted that the Ministry of Environment and Forests, (Department of Environment, Forests & Wildlife), Government of India, issued a Notification under Section 3(1) and Section 3(2)(v) of the Environment (Protection) Act, 1986 and Rule 5(3)(d) of Environment (Protection) Rules, 1986, on 19.02.1991 declaring coastal stretches as Coastal Regulation Zone (CRZ) and regulating activities in the CRZ. It is also submitted that though CRZ Notification was issued on 19.02.1991, the mapping of the CRZ zones were published in 1996 only.


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6. It is respectfully submitted that the said unit obtained Environmental Clearance from the Ministry of Environment & Forests, Government of India vide Letter No. J-11011 / 7 / 93-IA.II dated 16.12.1993 for its expansion cum modernization of Compound Fertilizer Complex for manufacturing the following

- i) Ammonium Phosphate Sulphate (Fertilizer) – 170000 TPA
- ii) Sulphuric Acid – 181000 TPA
- iii) Phosphoric Acid – 35800 TPA

Based on the Environmental Clearance, vide proceeding dated 08.11.1999 the unit obtained CTE- Expansion and subsequently vide proceeding dated 05.08.2002 obtained CTO-Expansion valid up to 31.03.2003 under the Water and Air Acts for manufacturing the following products

Products

1. Ammonium Phosphate Sulphate (16:20:0) – 170000 T/Annum

By product

1. Gypsum – 162400 T/Annum

Intermediate Product

1. Sulphuric Acid – 181000 T/Annum
2. Phosphoric Acid – 35800 T/Annum

7. It is respectfully submitted that the unit was also manufacturing Ammonia within the unit's premises till 1996 and then they have proposed to import Ammonia through ships and transport through pipelines and store in storage tank within their premises. Hence, the unit M/s. EID Parry (India) Ltd., obtained CRZ clearance from MoEF, New Delhi for their seawater pipeline project for importing Ammonia vide Lr.No.J-170119/9/94-IA-III dated 17.06.1994. Subsequently, the unit M/s. EID Parry (India) Ltd., has obtained CRZ clearance from MoEF, New Delhi for installation of Ammonia Storage tank of capacity 12,500MT vide Lr.No. J-17011/9/94-IA-III dated 20.12.1995.
8. It is respectfully further submitted that the unit M/s. EID Parry (India) Ltd., Ammonia Storage Terminal facility located at R.S.No.247,Kathivakkam Village, Ennore, Saidapet Taluk, Chennai MGR District has obtained separate consent of the Board under the Water and Air Acts for the activity of "Liquid

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Ammonia imported through ships anchored at 2 to 3 km from seashore will be pumped into storage tank proposed in the premises through submarine pipeline system connecting the tank and the mooring location. The liquid Ammonia will be stored in double integrity storage tanks of 12,500 MT capacity in atmospheric pressure at -33°C" vide Board's proceedings dated 15.10.1996. The name of the unit has been changed from M/s. EID Parry India Ltd. to M/s. Coromandel Fertilizers Limited, accordingly obtained consent vide Board's proceedings dated 28.06.2005 valid up to 31.12.2005. Further, the name of the unit has been changed from M/s. Coromandel Fertilizers Limited to M/s. Coromandel International Limited vide proc. Dated:19.07.2010. The unit has obtained renewal of consent under the Water and Air Acts for the activity of "Liquid Ammonia imported through ships anchored at 2 to 3 km from sea shore will be pumped into storage tank through submarine pipeline to tank and the mooring location. The liquid ammonia will be stored in double intergity storage tank at -33deg C -12500 MT" vide Board's proceedings dated 12.05.2023 valid up to 31.03.2028.

9. It is respectfully submitted that the name of the unit has been changed from M/s. EID Parry India Ltd. to M/s. Coromandel Fertilizers Limited and the unit obtained Environmental Clearance from the Ministry of Environment and Forests (I.A Division), Government of India, New Delhi in the new name of M/s. Coromandel Fertilizers Ltd. vide Letter No. J-11011 / 358 / 2007-IA II(I) dated 03.09.2007 for the expansion as follows.

Plant	Consent Capacity (Existing)	Proposed Capacity
Fertilizer Plant	170000 MTPA	330000 MTPA
Phosphoric Acid plant	35800 MTPA	66000 MTPA
Sulphuric Acid plant	181000 MTPA	280450 MTPA

Based on the Environmental Clearance, vide proceeding dated 11.04.2008 the unit M/s. Coromandel Fertilizers Ltd. obtained CTO-Expansion valid up to 31.03.2009 for manufacturing the following


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Products

1. Ammonium Phosphate Sulphate – 300000 T/Year

By / Intermediate Product

1. Gypsum – 41000 T/Month
2. Phosphoric Acid – 66000 T/Year
3. Sulphuric Acid – 258000 T/Year

10. It is respectfully submitted that subsequently, the unit obtained Amendment in the consent order for the name change from M/s. Coromandel Fertilizers Limited to M/s. Coromandel International Limited vide Board's proceedings dated 24.07.2013 and renewed the consent vide Board's proceedings dated 18.09.2019 valid up to 31.03.2020 for the following

Products

1. Ammonium Phosphate Sulphate – 300000 MT/Year

By-Product

1. Gypsum – 41000 MT/Month

Intermediate Product

1. Phosphoric Acid – 66000 MT/Year
2. Sulphuric Acid – 258000 MT/Year

11. It is respectfully submitted that vide letter dated 12.03.2021, the unit obtained "No Increase In Pollution Load" Certificate from the TNPCB for the change in product mix. Subsequently, vide proceeding dated 23.11.2021 CTO-Direct Order valid up to 31.03.2022 was issued to the unit for the following augmented production without installation of new machinery and construction of additional building

Products

2. Ammonium Phosphate Potash Sulphate – 300000 MT/Year

By-Product

2. Gypsum – 41000 MT/Month

Intermediate Product

3. Phosphoric Acid – 66000 MT/Year
4. Sulphuric Acid – 258000 MT/Year
5. Captive power – 4 MW

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and the unit then renewed the consent vide Board's proceedings dated 21.11.2022 valid up to 31.03.2023.

12. It is respectfully submitted that vide letter dated 21.07.2023 the unit obtained the "No Increase In Pollution Load" Certificate from the TNPCB for the increase in the production of Ammonium Phosphate Potash Sulphate from 3,00,000 to 4,00,000 MTPA .
13. It is respectfully submitted that as per MoEF&CC Notification S.O. 980(E) dated 02.03.2021

(Clause b):

Existing Projects (having Prior Environmental Clearance) with no increase in pollution load: Any Increase in production capacity in respect of processing or production or manufacturing sectors (listed against item numbers 2, 3, 4 and 5 in the Schedule to this notification) with or without any change in (i) raw material-mix or (ii) product-mix or (iii) quantities within products or (iv) number of products including new products falling in the same category or (v) configuration of the plant or process or operations in existing area or in areas contiguous to the existing area (for which prior environmental clearance has been granted) shall be exempt from the requirement of Prior Environmental Clearance provided that there is no increase in pollution load (derived on the basis of such Prior Environmental Clearance). Provided that such exemption shall be applicable only consequent to -

A. The project proponent furnishing information regarding such changes along with no increase in pollution load certificate, from the environmental auditor or reputed institutions empanelled by the State Pollution Control Board or Union Territory Pollution Control Committee or Central Pollution Control Board or Ministry of Environment, Forest and Climate Change, as per the procedure laid down in Appendix-XIII, on PARIVESH portal as well as to the concerned State Pollution Control Board or Union Territory Pollution Control Committee.

Note: If on verification, the State Pollution Control Board or Union Territory Pollution Control Committee, as the case may be, after giving the project proponent the opportunity of being heard, holds that such change or

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expansion or modernization results in increase in pollution load, the exemption claimed under this clause shall not be valid and it shall be deemed that the project proponent was always liable to obtain prior environmental clearance, in respect of such change or expansion or modernization, as per the clause (a) and the provisions of Environment (Protection) Act, 1986 shall apply accordingly;

B. installation and implementation of Online Continuous Monitoring System (OCMS) with at least 95% uptime, connected to the servers of the Central Pollution Control Board and State Pollution Control Board or Union Territory Pollution Control Committee concerned to report the quantity and quality, of emission and discharges:

Provided further that the provisions of this clause shall not be applicable if such change or increase results in change in category of project or activity from Category – ‘B2’ to either Category – ‘A’ or Category – ‘B1’.

(Clause c):

Any change in configuration of the plant or activity from the environmental clearance conditions during execution of the project after detailed engineering, in respect of projects or activities, falling in any item of the Schedule to this notification, shall not require prior environmental clearance, if there is no change in production capacity and there is no increase in pollution load subject to furnishing particulars of such changes on PARIVESH portal in the format as may be provided by the Government from time to time, before implementing such changes whereupon a system generated acknowledgement will be issued by the concerned Regulatory Authority.

14. It is respectfully submitted that in CRZ, Notification, 2011, under Section-8 (II)(iii) Norms for regulation of activities permissible under this notification it is mentioned as “Reconstruction of authorized building to be permitted subject with the existing Floor Space Index or Floor Area Ratio Norms and without change in present use”. Hence, the unit proposed to increase its production capacity from 3,00,000 MTPA to 4,00,000 MTPA without any change in their floor area and also without increase in their pollution load and without change in present use.

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Accordingly, the unit obtained CTO-Expansion vide Board's proceedings dated 20.10.2023 valid up to 31.03.2028 for manufacturing the following.

Products

1. Ammonium Phosphate Potash Sulphate – 400000 TPA

By-Product

1. Gypsum – 492000 TPA

Intermediate Product

1. Phosphoric Acid – 66000 TPA
2. Sulphuric Acid – 258000 TPA
3. Captive power – 4 MW

It is submitted that the unit was utilizing the M/s. Ennore Thermal Power Station let out water for its process. As the unit M/s. Ennore Thermal Power Station was decommissioned; the unit proposed to take sea water for desalination and utilize the same in its process. Hence the unit obtained CRZ Clearance vide Ministry of Environment, Forest and Climate Change, Government of India, New Delhi Letter No. F.No.11-46 / 2017-IA-III, dated 25.10.2018 for setting up of sea water intake system to take sea water for desalination by realigning of existing intake and outfall pipeline route at Ennore, Tiruvottiyur Taluk, Chennai District

15. It is respectfully submitted that on 27.12.2023, there was an Ammonia gas leak during the pre-cooling operation of pipeline from the said unit which lead to hospitalization of 42 nearby residents.
16. It is respectfully submitted that based on the above Ammonia gas leakage occurred in the under-sea pipeline of M/s. Coromandel International Ltd., Ennore, vide Proc. Dated: 27.12.2023, the TNPCB issued directions under Section 33A of the Water (P&CP) Act, 1974 as amended and Section 31A of the Air (P&CP) Act, 1981 as amended to the unit to suspend the operation of the unit of M/s. Coromandel International Limited-Ammonia Storage Terminal Facility and M/s. Coromandel International Limited(Fertilizer unit). Based on the same, the unit suspended its operation.

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16. It is respectfully submitted that, a committee with the experts from the CPCB, IITM, Chennai, CLRI, DISH and the senior officials of the TNPCB was constituted by the TNPCB and the committee submitted a report to the Board during January 2024. Based on the committee's report, vide Proc. Dated: 02.02.2024, the Board issued show cause notice under Section 5 of the Environmental Protection Act, 1986 to the unit as to why Rs.5,92,50,888/- shall not be levied as environmental compensation for causing damage to the environment due to ammonia gas leakage and vide Proc. Dated: 14.02.2024, directions under Section 33A of the Water (P&CP) Act, 1974 as amended and Section 31A of the Air (P&CP) Act, 1981 as amended issued to the unit for the compliance of all the recommendations of the Technical Committee. Meanwhile, the unit vide C.R.No. 988 dated 14.03.2024 remitted the environmental compensation, based on the directions issued by the Board to the unit.

18. It is respectfully submitted that the Hon'ble National Green Tribunal (South Zone) on its own motion, based upon the news report on "Ammonia Gas Leak From Fertilizer Manufacturing Unit Triggers Panic In Chennai's Ennore" by Express News Service published on 27th December 2023" took up a case vide O.A. No.195 of 2023. The Hon'ble NGT (SZ) has disposed the Original Application 195 of 2023 vide its order dated 21.05.2024 with the following direction.

- i) The 7th Respondent (M/s. Coromandel International Limited) is directed to strictly follow the directions issued by the various official respondents including the Tamil Nadu Pollution Control Board and the recommendations made by the Technical Committee (constituted by the TNPCB).
- ii) The 7th Respondent (M/s. Coromandel International Limited) is directed to obtain necessary NOC from the Directorate of Industrial Safety and Health (DISH) and approvals from the Indian Register of Shipping (IRS) and the Tamil Nadu Maritime Board before resuming the operation of ammonia offshore pipeline activity.

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- iii) The Tamil Nadu Pollution Control Board is directed to closely monitor the activities of the 7th Respondent
- iv) The Directorate of Industrial Safety and Health and the Tamil Nadu Maritime Board are directed to inspect the unit before issuing NOC and approvals for restarting the ammonia operations.
- v) The Tamil Nadu Pollution Control Board should utilize the environmental compensation of Rs.5.92 Crore collected from the 7th Respondent for environmental mitigation in Ennore industrial area.
19. It is respectfully submitted that presently the unit has partially started its operations for manufacturing Sulphuric Acid and Phosphoric Acid in their premises by obtaining permission from the Board vide Letter dated 12.08.2024. Further the unit has informed that they have conducted full scale Off Site Emergency mock drill on 06.02.2009 within the premises of ammonia storage area and Fertilizer plant with the scenario of action to be taken for ammonia leakage. Further, the unit has informed that they have requested the Greater Chennai Corporation for conducting full scale Off Site Emergency mock drill. Also, the unit has submitted an Off Site Emergency plan to the TNPCB, Directorate of Industrial Safety and Health, Chennai and Greater Chennai Corporation.
20. It is respectfully submitted that the unit has prepared an On Site Emergency Plan and the same was approved by the Industrial Safety and Health, Chennai vide letter dated 25.07.2022. Also the unit has conducted Risk Assessment on Handling and Storage of Ammonia at Ennore Factory Terminal by Cell for Industrial Safety and Risk Analysis, Central Leather Research Institute, Adyar, Chennai during April 1994. The unit has informed that they have proposed to conduct the Risk Assessment study by Central Leather Research Institute.
21. It is respectfully submitted that the unit has also informed that they obtained license from the Directorate of Industrial Safety and Health every year for their manufacturing unit and ammonia storage tank and have obtained renewal of license from the Directorate of Industrial Safety and Health valid up to 31.12.2024.

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Therefore, it is humbly prayed that this Hon'ble Tribunal may be pleased to pass an order or other orders as this Hon'ble Tribunal may deem fit and proper in the facts and circumstance of this case and thus render justice.


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VERIFICATION

I, S.Malarvizhi, D/o.K.Subburam, working as Joint Chief Environmental Engineer, TNPCB, having office at No.76, Mount Salai, Guindy, Chennai 600 032, do hereby verify that the contents of above are true to the best of my knowledge through records.


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REPLY AFFIDAVIT FILED ON
BEHALF OF THE 3rd RESPONDENT
MEMBER SECRETARY, TAMIL
NADU POLLUTION CONTROL
BOARD (TNPCCB)

Advocate for Respondent: TNPCCB
Thiru.Sai Sathya Jith,
Advocate, Chennai.

Date:29.11.2024

