

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL**

**SOUTHERN ZONE, CHENNAI**

**O.A.NO.23/2022**

**Kambala Ammorina and others**

**...Applicants**

**Vs**

**Union of India and others**

**...Respondents**

**RESPONSE FILED ON BEHALF OF THE 11TH RESPONDENT TO  
THE REPORTS FILED BY MoEF&CC AND APPCB**

The 11th Respondent above named respectfully submits as follows:

On receiving the Reply filed by MoEF&CC and APPCB submitted to Hon'ble NGT in the matter of OA. No. 23 of 2022, the industry (M/s Hetero Infrastructure SEZ Ltd and Hetero Labs Ltd) is submitting the clarifications to the Hon'ble NGT for perusal and kind consideration:

**1. Status of the Compliance by the Industry:**

M/s Hetero Infrastructure SEZ Ltd and M/s Hetero Labs Ltd, Unit-III are being operated with valid Clearances and permissions from MoEF&CC and APPCB. The details of the clearances since its inception have already been submitted to the Hon'ble NGT in the preliminary objections filed by the industry.

The industry is complying with all the conditions of Environmental Clearances issued by MoEF&CC, Consents issued by APPCB and the directions issued by the Board from time to time. The detailed Compliance reports have already filed by MoEF&CC and APPCB in the Hon'ble NGT.

In this regard, most respectfully this is to submit as under:

- The industry has been complying with all the conditions of Environmental & CRZ clearances since the beginning and the same has been verified by the MoEF&CC on 19/08/2017 and issued certified Compliance report. Copy of the certified



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compliance report has already been submitted to Hon'ble NGT along with preliminary objections.

- The industry is complying with all the conditions mentioned in the CTO's issued by APPCB and are being verified by the Board from time to time. Copies of compliance reports have already been submitted to Hon'ble NGT.
- The partial compliances mentioned by MoEF&CC in the reply filed by MoEF&CC in Hon'ble NGT dated 08/08/2023 are due to intentional damaging of equipment by the public, lack of awareness or due to misplacing of the documents which the industry has already submitted to the Ministry.
- There are no intentional violations, non-compliances made by the industry and there is no damage to the environment due to the mentioned partial compliances.

**2. Compliance to the recommendations of the Joint Committee appointed by Hon'ble NGT in OA No23/2022**

The industry is complying with all the recommendations made by the Joint Committee in its final report dated 07/07/2022 except payment of Environmental Compensation. After gone through the report filed by the APPCB, it has been found that they have mentioned "proposal not submitted" at two places.

The industry has already submitted the compliance status to APPCB along with all annexures and the same is reproduced below:

<b>Point No</b>	<b>Recommendation</b>	<b>Status of Compliance</b>
9	The industry shall explore the possibility of recycling of treated wastewater and	<b>Complying.</b> The industry has taken following measures for recycling wastewater/ treated water & to



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	reducing the withdrawal of the sea water.	reduce usage of fresh water by way of following measures:
13	The industry shall make efforts to recycle and reuse the treated effluents so as to reduce the intake water quantity from the Sea.	<ul style="list-style-type: none"> <li>➤ Recycling 100% domestic wastewater to the gardening &amp; Green belt development after treating it in Sewage Treatment Plant.</li> <li>➤ Part of the Treated wastewater is being used for Cooling tower make up in ETP area.</li> <li>➤ Fresh water RO reject is being used for Fire Hydrant system &amp; ash quenching.</li> <li>➤ To enhance the Steam condensate recovery &amp; reuse, the industry has installed &amp; commissioned condensate polishing/ treatment plant. With the installation of this plant, the industry is recovering more than 90% steam condensate in the plant thereby reducing the water consumption.</li> </ul> <p>Apart from all the above measures, Hetero R&amp;D is working on the following:</p> <ul style="list-style-type: none"> <li>➤ Recovery of by products from the scrubber water i.e SMBS, NaCl etc.</li> <li>➤ Recovery of Bromine water, Iodine water, H<sub>2</sub>SO<sub>4</sub> etc.</li> <li>➤ Usage of reactor washings for</li> </ul>



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		<p>the cleaning of the previous batch.</p> <p>➤ Reducing the water consumption in the process itself etc.</p>
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### **3. Recommendation for Levying of Environmental Compensation on the Project Proponent:**

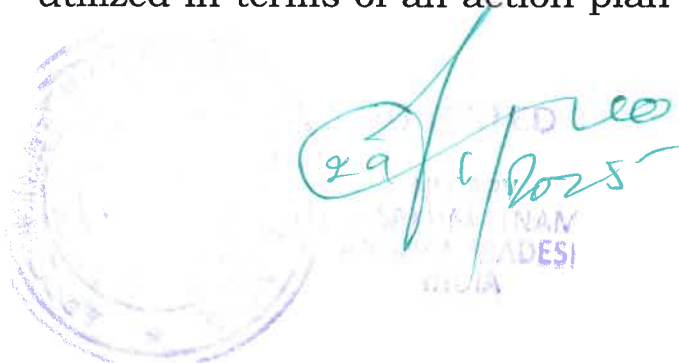
In the additional affidavit filed by MoEF&CC they have mentioned that “It is humbly submitted that with respect to these violations and non-compliances, the Joint Committee has already recommended levying compensation on the project proponent. Further, it is pertinent to note that since the observation of the Answering Respondent is in line with the Joint committee's observation constituted by the Hon'ble NGT vide order dated 21.02.2022, the Answering Respondent will take appropriate action in compliance of further order(s)/judgement of this Hon'ble Tribunal in the instant matter”.

*In this connection the industry most respectfully submits as below:*

The Hon'ble Supreme Court of India in WP no 375/2012 vide order dt.22.02.2017 in Paryavaran Suraksha Samiti Vs Union of India (petition regarding operation of industries without functional primary treatment plant) directed the Hon'ble NGT to monitor the issue of establishment and functioning of ETPs /CETPs /STPs. The Hon'ble NGT principal Bench in the matter of OA no 593/2017 (WP (civil) no 375 /2012) directed the following:

Industries, ULBs, CETPs:

“The CPCB may take penal action for failure if any, against those accountable for setting up and maintaining STPs, CETPs and ETPs. CPCB may also assess and recover the compensation for damages to the environment and said fund may be kept in a separate account and utilized in terms of an action plan for protection of the environment.



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Such action plan may be prepared by the CPCB within 3 months i.e. 03.11.2018.”

Accordingly, the CPCB submitted a report on 12.12.2018 with the details of methodology for assessing Environmental Compensation and action plans to utilize the fund.

*After considering various factors including the policy implementation issues, Committee has come up with following formula for levying the Environmental Compensation in instances as mentioned at*

- a) *Discharges in violation of consent conditions, mainly prescribed standards/limits.*
- b) *Not complying with the directions issued such as direction for closure due to non-installation of OCEMS, non-adherence to the action plan submitted etc., and*
- c) *Intentional avoidance of data submission or data manipulation by tampering the online continuous emission/effluent Monitoring systems. including non-compliance of the environmental standards / violation of directions. The Environmental Compensation shall be based on the following formula:*

$$EC=PI \times N \times R \times S \times LF$$

*Where, EC is Environmental Compensation in Rs.*

*PI = Pollution Index of industrial sector*

*N = Number of days of violation took place*

*R = A factor in Rupees for EC*

*S = Factor for scale of operation*

*LF = Location factor*

*The formula incorporates the anticipated severity of environmental pollution in terms of Pollution Index, duration of violation in terms of number of days, scale of operation in terms of micro & small/medium/large industry and location in terms of proximity to the large habitations.*

*In case of*

- d) *Accidental Discharges lasting for short durations resulting into damage to the environment.*



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- e) *Intentional discharges to the environment – land, water and air resulting into acute injury or damage to the environment.*
- f) *Injection of treated / partially treated / untreated effluent to ground water the Environmental Compensation may be levied based on the detailed investigations by Expert Institutions/Organizations.*

*The same methodology for EC calculation is adopted by the SPCBs. It is pertinent to submit that the CPCB vide office order 04.09.2019 directed that the following cases shall be considered for levying EC:*

- a) Discharges in violation of consent conditions, mainly prescribed standards/ consent limits.
- b) Not complying with the directions issued, such as direction for closure due to the non-installation of OCEMS, non-adherence to the action plans submitted etc.
- c) Intentional avoidance of data submission or data manipulation by tampering with the Online Continuous Emission/ Effluent Monitoring systems.
- d) Accidental discharge lasting for short durations resulting into damage to the environment.
- e) Intentional discharges to the environment - land, water and air resulting into acute injury or damage to the environment.
- f) Injection of treated/ partially treated/ untreated effluents in to ground water.

The Joint Committee under the 10<sup>th</sup> directive of the Hon'ble NGT regarding the calculation of EC as per the CPCB guidelines has calculated the EC as RS 6,08,70,000/- (for the noncompliance of taskforce directions dated 16.5.2016). In this context, we would like to bring to Kind notice that:

- **The Directions were issued to M/s Hetero Labs Ltd, Unit-III on 16/05/2017. It was wrongly typed in the order. The order is effective from 16/05/2017 not from 16/05/2016.**
- **The industry has complied with all the APPCB Task Force directions and the same was also accepted by the Board vide Inspection/CFE agenda of M/s Hetero Labs Ltd, Unit-III and M/s**



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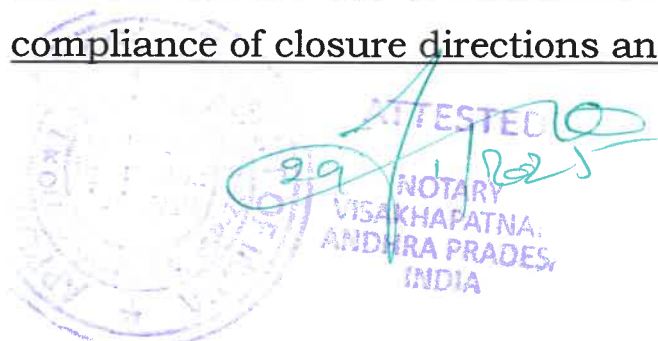
**Hetero Infrastructure SEZ Ltd dated 19.09.2019 and 06.06.2018 respectively.**

Regarding the partial compliance of the condition i.e provision of dual stage scrubbers, most respectfully, this is to bring to the kind notice of Hon'ble NGT that, the industry has been increasing the number of scrubbers from time to time since 2016 as per the process requirements. The industry has procured & installed more than 50 no's of scrubbers for controlling emissions and due to manufacturing campaign products in small quantities to meet the market requirements, industry has installed single stage scrubbers for campaign products and hence there were few single stage scrubbers in the facility.

The industry has submitted letters to the APPCB during CFE/CFO meetings, that technically it is not required to convert all the single stage scrubbers to dual stage scrubbers as the industry is manufacturing some campaign & validation batches at very small scale as per the market requirements/epidemics.

However now the industry has converted all the single stage scrubbers to multistage scrubbers and installed secondary stage scrubbers by connecting the vents of scrubbers installed at the production blocks to avoid the issue of multistage scrubbers by way of eliminating vents at the production blocks. Compliance status has been informed to APPCB, and all the scrubbers are connected to APPCB website.

The partial compliance of the above condition was considered for calculating the Environmental Compensation, which is against the CPCB guidelines, as CPCB guidelines clearly say the levy of Environmental Compensation discharges in violation of consent conditions, mainly prescribed standards/ consent limits, non-compliance of closure directions and intentional avoidance of data.



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Further this is to bring to the kind notice of Hon'ble NGT that, the industry has conducted the "Environmental Impact Assessment Study" to ascertain the impact of pollution on water, air, soil and agricultural crops within 5 Km radius of the industry through CSIR - NEERI and the received report. As per the studies, there is no impact/negligible impact on the water, air, soil and agricultural crops due to the operations of the industry.

**In view of the above, most respectfully submit that the industry is not liable for payment of any environmental compensation as the industry has not caused any damage to the environment and taking all necessary measures/ precautions to mitigate the pollution in and around the industry.**

In view of the above, it is most respectfully prayed that this Hon'ble Tribunal may be pleased to dismiss OA No.23 of 2022 and thus render justice.

Place : Visakhapatnam

DATE : 29/01/2025

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RESPONDENT NO.11

**VERIFICATION**

I, Sane Kullayi Reddy S/o. Sane Adinarayana Reddy Age: 54 Years, Authorized Signatory of the 11th Respondent herein carrying on business at N.Narasapuram (v) Nakkapalli Mandal, Visakhapatnam-531 081, do hereby verify and declare that what is stated are true to my personal knowledge and believed to be true on legal advice and that I have not suppressed any material fact.

Verified on this day of 29 January 2025 at Visakhapatnam



For HETERO INFRASTRUCTURE SEZ LTD

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RESPONDENT NO.11

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