

**IN THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
APPEAL NO. 15 OF 2020**

IN THE MATTER OF:

Amelia Textiles & Chemicals Pvt. Ltd. ...Appellant

Versus

Uttar Pradesh Pollution Control Board ...Respondent

Objections of Appellant to UPPCB's Report dated 28.07.2022

PAPER BOOK
(PLEASE SEE INSIDE FOR INDEX)



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Place: New Delhi
Date: 18.08.2022

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Objections of Appellant to UPPCB's Report dated 28.07.2022

1. The Appellant has been acquainted with a copy of the Report dated 28.07.2022 filed by the Uttar Pradesh Pollution Control Board (UPPCB) in the captioned case pursuant to the Order dt.12.11.2021 of this Hon'ble Tribunal in the captioned appeal.

2. It is relevant to note that even before preparation/filing of the Report dt.28.07.2022, the UPPCB had issued a Demand Notice dt.14.04.2022, assessing Appellant's liability as Rs. 14,61,66,557 on the basis of a deemed contribution of chromium waste of 3248.146 MT. Appellant has already filed IA No.127/2022 on 23.05.2022 in the captioned appeal before this Hon'ble Tribunal, challenging the said notice.

3. The Report dt.28.07.2022 filed by the UPPCB appears to be by way of afterthought considering that UPPCB had already issued Demand Notice dt.14.04.2022 without any scientific basis and in blatant violation of this Hon'ble Tribunal's Order dt.12.11.2021. The Report dt.28.07.2022 deserves to be rejected on this preliminary ground. Without prejudice, and for the sake of completeness, the Appellant has however furnished the present objections, dealing with the merits of the Report dt.28.07.2022.

4. The UPPCB's Report dated 28.07.2022 contains the following findings:

- A. Assessment of contribution of chromium waste is based on the “production capacity of the industry”.
- B. Pursuant to this Hon’ble Tribunal’s Order dt.12.11.2021, the replies of four of the noticees, *i.e.*, Khanna Vivek Chemical Pvt. Ltd. Unichem India, IGS Chemicals Pvt Ltd., Rahman Industries Ltd., were found satisfactory and accordingly, the proceedings against these units were revoked.
- C. None of the appellants before the Hon’ble NGT have furnished record of Form-1 and Form 13. The inspection report of Regional Officer, Kanpur Dehat/Kanpur Nagar of relevant period shows that the concerned industries have time and again, thrown their generated hazardous waste unscientifically outside their industry premises.
- D. Therefore, the concerned industries were responsible for the dumping of hazardous waste and their liability is to be apportioned as per production and operation period.

5. On this basis, the UPPCB has entered the following conclusion against the Appellant herein:

Name & address of industry:	<i>M/s Amiliha Textiles Pvt. Ltd. 23, Khanchandrapur, Rania, Kanpur Dehat</i>
Production capacity (MTD):	3
Operational Period:	<i>2001 to Oct 2005 NOC dated 11.09.2001 (40 months)</i>
Assessed quantity of	<i>About 4.682 percent of total waste based on production capacity (Chromium Waste 2898.809 MT).</i>

dumped Chromium waste as per percentage of production (MT):	
Revised Assessed quantity of dumped Chromium waste after assessment of stored quantity in the premises (M.T.):	$2898.809 + \{4.682 * 4652 / (28.092 + 8.779 + 4.682 + 15.021 + 5.74)\} = 3248.146$
Revised Environmental Compensation	14,61,66,557/-

6. The aforesaid findings and conclusions contained in UPPCB's Report dt.28.07.2022, are whimsical, capricious, and arbitrary. In the succeeding paragraphs, Appellant sets out its objections to the report.

A. Whimsical fluctuating assessments

7. As per the Order dt.28.05.2020 (originally impugned in appeal), the UPPCB declared that that the Appellant was responsible for dumping **8885.73 MT** and assessed liability thereon as **Rs.39,98,57,850**. The said assessment was stayed by this Hon'ble Tribunal on 04.01.2021 and the UPPCB thereafter gave Report dt.30.09.2021 stating that the Appellant had dumped **2545.921 MT** of chromium waste and must pay **Rs.11,45,66,431**. Even this assessment was found faulty, as evident from this Hon'ble

Tribunal's Order dt.12.11.2021. Now, in the third instance, the UPPCB's Report dt.28.07.2022 has come out with the story that the Appellant is responsible for dumping **3248.146 MT** of chromium waste and liable to pay **Rs.14,61,66,557**. For ease of reference, the figures are tabulated below:

Order dt.28.05.2020	Report dt.30.09.2021	Report dt.28.07.2022
8885.73 MT Rs.39,98,57,850	2545.921 MT Rs.11,45,66,431	3248.146 MT Rs.14,61,66,557

8. In all three instances, there is no scientific or rational basis for calculation. The chromium dumps in question are in existence since 1976 (as recorded by the Hon'ble Tribunal in various judicial orders). Yet, the dump of 62225 metric ton has been sought to be divided only among a few units, including Appellant that operated only between 2001-2005 on the basis of "production capacity".

9. It is relevant that the Order dated 15.11.2019 as passed in OA Nos.985-986/2019 speaks of chromium dumps and water pollution **at two sites:** (i) Rania, Village Khan Chandpur, District Kanpur Dehat (ii) Rakhi Mandi, Kanpur Nagar, which have been in existence since 1976. The said order records that the CPCB had filed a report on 30.10.2019 stating that both the contaminated sites located at Khan Chandpur and Rakhi Mandi require remediation of groundwater. The damages of Rs.280 crores (approx.) was apparently assessed as estimated cost for remediation of **both areas**. However, UPPCB has apportioned the waste and assessment for liability only among the units in Kanpur Dehat in each instance.

10. UPPCB has failed to comply with the Order dt.12.11.2021 of this Hon'ble Tribunal. No scientific reasons have been furnished for the determination of quantum of waste and consequent liability. The Report dt.28.07.2022 has made an estimate on the basis of "production capacity",

which methodology has not been approved hitherto. The same methodology was hitherto followed by the UPPCB in its Notice dt.28.05.2020, Reply to Appeal dt. NIL November 2020, Report dt.30.09.2021 filed in the captioned appeal. However, the said methodology was not approved by this Hon'ble Tribunal, as would be apparent from the Orders dt.10.07.2020, 04.01.2021 and 12.11.2021.

B. Unexplained escalation in quantity

11. The total quantity of waste as assessed in the UPPCB Impugned Order dated 28.05.2020, Report dated 30.09.2021 and Report dt.28.07.2022 is 62225 MT. On the contrary, in 2009, as per the intimation of UPPCB itself, the total waste was assessed as 45000 MT. True and Typed Copy of the UPPCB Letter dated 01.04.2009 is annexed herewith as **Annexure 'A'**. Appellant had objected to the said communication categorically raising the plea that the dump was pre-existing Appellant's operations. True Copy of the Letter dt.10.07.2009 is annexed herewith as **Annexure 'B'**. The matter was not further actioned. It appears that between 2009 and 2019, the 45000 MT has gone up to 62225 MT as per UPPCB's own inspection. Indisputably, Appellant had shut down in 2005. Therefore, assuming but not conceding Appellant bore any responsibility, it could not be responsible for the escalation in quantity.

12. UPPCB has not disclosed the waste quantity as it stood in 2005. It appears that UPPCB has permitted other establishments/operators to continue with dumping activity beyond 2009 but affixed responsibility thereto to the appellants in the present batch of cases.

Arbitrary exclusions of favoured units

13. There were various other entities operating chromium-based units in the concerned area but the UPPCB has found some or the other reason to

exempt or absolve such units of liability and conveniently accepted whatever explanation has been provided by other units which were issued show cause notices.

14. In the Report dt.28.07.2022, the UPPCB has given a clean chit to Khanna Vivek Chemical Pvt. Ltd. Unichem India, IGS Chemicals Pvt Ltd., Rahman Industries Ltd., accepting the explanation was furnished by them. However, none of the objections nor explanations of the appellants before this Hon'ble Tribunal have found favour with the UPPCB. The UPPCB's slanted and biased approach speaks for itself. The estimated figures (of waste and liability) are for mere convenience of the UPPCB whose only objective appears to be that the total Environmental Compensation of Rs.280.01 Crores has to be divided up among some pre-determined target units (i.e., the Appellants before this Hon'ble Tribunal).

C. Failure to consider relevant facts pertaining to production

15. The Appellant had consumed limited quantity of chromium ore and generated only limited chromium waste which is nowhere close to the quantity alleged to be dumped. The details of consumption were provided along with the Objections dt.08.11.2021 served on UPPCB and filed before this Hon'ble Tribunal in this captioned appeal. The details were as follows:

- a) Total chromite ore utilised between 2001-2005: 3833.475 MT
- b) Total waste generated between 2001-2005: 479.180 MT (stored premises).

True Copy of the Table of Production Details and Year-wise Purchase Chart of Chromite Ore of Amelia Textiles is annexed herewith as **Annexure 'C'**.

16. It is relevant that this Hon'ble Tribunal had itself taken cognizance of the objections filed, in the Order dt.12.11.2021. However, the Objections dt.08.11.2021 filed before this Hon'ble Tribunal have not been noticed, let

alone considered by the UPPCB. Once again, this approach points to the biased and pre-determined mindset of the UPPCB.

D. Irrelevant documents furnished as “basis”

None of the documents filed with the Report dt.28.07.2022 indicate the quantum of waste alleged to be dumped by the Appellant to be anywhere close to 3248.146 MT. The barely legible documents filed (in Hindi) by UPPCB appear to pertain to a period *prior to closure of Appellant's unit in 2005*. As such, these documents nowhere support the UPPCB's conclusion as to responsibility of the Appellant in dumping to the extent of 3248.146 MT.

17. The basis (i.e., adverse materials) on which the UPPCB has purported to arrive at the quantum of waste and liability have thus not been furnished. The documents furnished bear little or no nexus to the exercise required to be carried out pursuant to this Hon'ble Tribunal's Order dt.12.11.2021.

E. Permission for storage / transport of waste

21. It is relevant that Appellant had also applied for disposal of the waste likely to be generated, in terms of the Hazardous Waste (Management & Handling) Rules, 1989. True/Typed Copy of the Appellant's Application dt.11.09.2001 is annexed herewith as **Annexure D**. During pendency of such application, in accordance with the NOC dt.11.09.2001 issued by UPPCB, the Appellant stored the chromium waste generated in lined tanks within the factory premises. However, Appellant's application under Hazardous Waste (Management & Handling) Rules, 1989 remained unprocessed and the Appellant was not given permission to remove the chromium waste generated at its unit. The waste was however not dumped outside the premises. Appellant complied with the conditions contained in

the NOC dt.11.09.2001 which had specified that production has to cease if the storage capacity within the factory premises is exhausted.

F. Improper legal basis for calculation of damages

18. The Report dated 28.07.2022 has relied upon a formula prepared by the CPCP under the Hazardous and other Waste (Management and Transboundary Movement) Rules, 2016 being,

"Environmental Compensation (EC) = Q X ERF X R where 'Q' is observed quantity of waste; ERF is environmental risk factor and R is environmental compensation factor @ Rs.30000."

19. This formula, as issued under the 2016 Rules, cannot retrospectively apply qua an alleged violation ending in 2005. Reliance is placed on Rule 1(2) of the 2016 which states that the Rules come into force on the date of their publication in the gazette (which is 04.04.2016). The 2016 Rules or guidelines issued thereunder, being subordinate legislation / executive instructions cannot carry retrospective effect for calculation of damages in respect of alleged dumping upto 2005. Of particular relevance is the 'R' factor taken @ Rs.30000, which benchmark of 2016 would have likely been different if the formulation was to apply for 2005.

20. Assuming but not conceding that the 2016 formula can be applied, the 'Q' factor (quantity of waste) has been incorrectly assessed, as a matter of fact, for the reasons already mentioned above. Going by UPPCB's own Letter of 01.04.2009, the maximum applicable penalty was only Rs.1.125 crores on the basis total quantity being 45000 MT and the disposal charge being Rs.1500 per tonne.

G. Laches

21. The entire exercise is highly belated and hit by laches. The Appellant is non-functional for a very long time and neither the resources nor materials

to defend itself. The very process of requiring the Appellant to defend itself against alleged acts/omissions which relate back to two decades is untenable, hit by delay and laches.

22. The exercise undertaken by the UPPCB was quasi-judicial in nature. It has resulted in a serious civil liability. Even if there is no express provision of limitation for initiation of proceedings of compensation for environmental damage, the proceedings cannot be launched after 15 years of closure of the unit and in respect of dumps in existence since 1976 (well before the incorporation/existence of Appellant). Such proceedings, being quasi-judicial in nature, ought to have been initiated within a reasonable time as held by the Hon'ble Supreme Court in the following cases:

(a) *Shalimar Works Ltd. v. Workmen*, AIR 1959 SC 1217, which holds that though the Industrial Disputes Act, 1947, does not prescribe limitation for reference of disputes, nonetheless disputes ought to be referred to the tribunal within a reasonable time-frame. Such interpretation was given thought Section 10 of the Industrial Disputes Act in fact permits reference of industrial dispute “at any time”. This position reiterated in *Prabhakar v. Sericulture Department*, (2015) 15 SCC 1.

(b) *Chhedi Lal Yadav v. Hari Kishore Yadav*, (2018) 12 SCC 527. A prayer for repossession of land was filed by farmers after a lapse of 24 years in terms of Bihar Kosi Area (Restoration of Lands to Raiyats) Act, 1951. It was contended that the statute a welfare legislation and ought to be read so as to benefit the Raiyat farmers, in matters of delay. It was contended that there was no provision of limitation regarding suo moto exercise of power by the authority for restoration of land. The Supreme Court rejected the contention on the ground that even if there is no limitation

against suo moto exercise of power, there cannot be any exercise of power after a long lapse of time. Similar position has been enunciated in *Collector v. D. Narsing Rao*, (2015 3 SCC 695).

23. Though the Interim Order dated 04.01.2021 of this Hon'ble Tribunal has expressed a prima facie view against the plea of limitation (on the ground that there is absolute liability under the "polluter pays" principle), it is respectfully submitted that even the doctrine of "absolute liability" premised on the "polluter pays" principle does not enable the Pollution Control Board to initiate proceedings for imposition of penalty beyond a reasonable time-frame.

24. For example, Section 15(3) of the NGT Act permits the apex authority in the field of environmental law enforcement - i.e., this Hon'ble Tribunal, to entertain applications for compensation within 5 years of the date of cause of action, as first accrued. This shows that there is **no** legislative intent to permit an open-ended and indefinite period for assessment/demand of compensation on the doctrine of absolute liability. When such is the case for the apex body, it ought **not** to be implied that the State Pollution Control Board enjoys unlimited power to impose and assess damages for any length of time.

25. In the interim order dated 04.01.2021, the Hon'ble Tribunal relied on the judgement in *Hindustan Times v. UOI*, (1998) 2 SCC 242 to observe that limitation is not applicable to the case. However, the aforementioned precedent also takes note of the principle that the defence of delay can be availed where prejudice is pleaded and proved.

26. In the present case, prejudice has been consistently pleaded both before the authority (UPPCB) and this Hon'ble Tribunal. The Appellant's unit was

shut in 2005. There was no production for 15+ years. The impugned proceedings of the UPPCB seeks to penalise Appellant for alleged dumping of waste from 1976 for which the UPPCB is not able to produce any record other than rely on hypothetical "production capacity". Petitioner was not even in existence from 1976.

27. The dumps in question admittedly existed since 1976 while the Appellant operated only between 2001-2005. UPPCB has failed to disclose as to the quantity and extent of the dumps as they existed, prior to the operation of the Appellant. As the matter is very stale and production has long ceased, Appellant has found it extremely difficult to make its defence on facts. Appellant has been unable to marshal contemporaneous evidence of wrongdoing of other persons/third parties who may have been the actual entities responsible for the dumping in the areas concerned. Such prejudice is irreversible.

28. Appellant ought not to be visited with adverse civil consequences in respect of the land/unit in 2022 in respect of alleged dumping between 2001-2005. Appellant relies on the principle enunciated in *State of Punjab v. Chaman Lal Goyal*, (1995) 2 SCC 570.

29. Furthermore, if any reliance is to be placed on the documents furnished with Report dt.28.07.2022, UPPCB was fully aware more than 15 years ago, of the alleged dumping, if any. It was thus capable of taking appropriate measures against the erring units at the relevant time that the alleged dumping was detected. It is unlawful and belated for UPPCB to levy environmental compensation 15 years after discovery of alleged violation.

30. Appellant reiterates all other grounds and submissions hitherto made in the appeal, Objections dt.08.11.2021 filed before this Hon'ble Tribunal to UPPCB Report dt.30.09.2021 and IA No.127/2022 filed in the captioned appeal respect of UPPCB's Demand Notice dt.14.04.2022.

31. Appellant respectfully submits that the Appeal may accordingly be allowed and the Impugned Order dt.28.05.2020, Report dated 30.09.2021, Order dt.14.04.2022 and Report dt.28.07.2022 set aside, insofar as the Appellant is concerned.

AND FOR THIS ACT OF KINDNESS THE APPELLANT AS IS
DUTY BOUND SHALL EVER PRAY

Filed on: 18.08.2022	<p>For AMELIA TEXTILES & CHEMICALS PVT.LTD.</p> <p>Amelia Textiles & Chemicals Pvt. Ltd. (Authorised Signatory)</p> <p>ADVOCATE FOR THE APPELLANT: SANTHOSH KRISHNAN</p>
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PRINCIPAL BENCH, NEW DELHI**

**APPEAL NO. 15 OF 2020
IN THE MATTER OF:**

Amelia Textiles & Chemicals Pvt. Ltd. ...Appellant

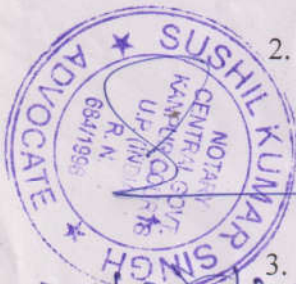
VERSUS

Uttar Pradesh Pollution Control Board ...Respondent

AFFIDAVIT

I, Kirtiman Singh Raikwar, age about 42 years, son of RS Raikwar, residing at 6/31C, Parvati Bagla Road, Tilak Nagar, Kanpur 208002 solemnly affirm and state as under:

1. I am the Authorised Representative and Director of Appellant. I am conversant with the facts of the case in such capacity, based on the records of the Appellant. I am thus competent to affirm this affidavit.
2. The facts set forth in the accompanying Statement of Objections are true to my knowledge based on the records of the Appellant. Legal submissions made in the Objections are based on legal advice received and believed to be true.
3. Documents annexed with the Statement of Objections are true/typed/translated copies of their respective originals.



For AMELIA TEXTILES & CHEMICALS PVT. LTD.

DEPONENT

VERIFICATION

Verified on this ___ day of August 2022 at _____ that the contents of the foregoing affidavit are true and correct, to the best of my knowledge, information and belief. Nothing false is stated therein and no material fact concealed therefrom.

For AMELIA TEXTILES & CHEMICALS PVT. LTD.

Identified By

DEPONENT



M. P. Singh
17/08/22
Maheendra Pratap Singh Jomari
Advocate
Court Compound Kanpur Nagar

Certified that this document is presented before me today by Sri.....
who is identified by Sri.....
Verified per identified.....
Hence Attested

Keshu Man Singh Raikwar
M. P. Singh Jomari

Sushil Kumar Singh Advocate
Central Govt. Notary
Kanpur Court (U.P.)

17/08/22

ANNEXURE - 'A'

EXHIBIT-7A

The Member Secretary,
Central Pollution Control Board,
East Arjun Nagar, Bahadur,
Delhi - 110052

Subject: **Imposing fine under Section 16(3) of the Hazardous Waste Rules, 1989 against Basic Chrome Sulphate (BCS) units of Kanpur Dehat.**

Kindly refer your letter no. B-29016 (SC)/1/06/HWMD/2118 dated 09-06-06 on the above subject. Six industries producing Basic Chrome Sulphate are operating at Kanpur Village, Raina, Kanpur Dehat for last fifteen years. They have dumped their hazardous waste, containing Chromium in open ground of approx. 200 X 100 meter area. The ground water and the soil of this area is therefore polluted. The Central Pollution Control Board, Kanpur has estimated the quantity to be dumped in this area. The details are as given below:

1. Ms. Ganga Chemicals Pvt. Ltd., Khanchandpur, Raina, Kanpur Dehat.
2. Ms. Khanchandpur Chemicals Pvt. Ltd., Khanchandpur, Raina, Kanpur Dehat.
3. Ms. Higgins Chemicals Pvt. Ltd., Khatkhanda, Raina, Kanpur Dehat.
4. Ms. Wadia Chemicals Pvt. Ltd., Khanchandpur, Raina, Kanpur Dehat.
5. Ms. Ananya Chemicals Pvt. Ltd., Khanchandpur, Raina, Kanpur Dehat.
6. Ms. Rukmani Chemicals Pvt. Ltd., Khanchandpur, Raina, Kanpur Dehat.

It is also to mention that closure order has been issued to these industries under Hazardous Waste Rules and presently they are closed.

These units have not agreed to dispose off the Hazardous Waste illegally dumped by them into TSDF constructed at Kumbhari, Kanpur Dehat nor they are ready to equally share the expenditure. A Meeting between the representatives of these industries and T.S.D.F. operator was held in the presence of U.P. Pollution Control Board officials on 06.12.06 but these industries were not ready to pay Rs. 1500/Ton as ordered by T.S.D.F. operator at that time.

Total hazardous BCS waste lying at site as per I.I.T.R. study report, is around 45,000 tonnes. Taking transportation, stabilization & disposal charges in Secured Land Fill @ Rs. 1,600/tonne, total Expenditure worked out is Rs. 6.75 crores and thus Fine charges for each industry will be Rs. 1.125 crore only (Rs. One Crore Twelve lacs and fifty thousand only).

Contd.

(2)

As evident from the above, these six industries, which have illegally dumped Hazardous Waste At Rania, Kanpur Dehat are not realising their responsibility to rectify the harms done to the environment. They are least interested in shifting and proper disposal of the illegal Hazardous Waste dumped by them.

Therefore a fine of Rs. 1.125 crore is recommended on each of above Industries so that the expenditure incurred in lifting and disposal of Hazardous Waste at TSDF, Kumbhi, Kanpur Dehat can be recovered

In the above circumstances, kindly give necessary approval for imposing the fine on these six industries under section 16(3) of the Hazardous Waste Rules, 1989 so that the fine can be imposed on the above defaulters and the fine money can be used for lifting the dump Hazardous Waste to TSDF.

Yours faithfully,

(Dr. C.S. Bhatt)
Member Secretary

12/11/2012

Typed Copy

01.04.09

The Member Secretary,
Central Pollution Control Board,
East Arjun Nagar, Shahdara,
Delhi-110032.

Subject: Imposing fine under Section 16(3) of the Hazardous Waste Rules, 1969 against Basic Chrome Sulphate (BCS) units of Kanpur Dehat.

Dear Sir,

Kindly refer your letter No. B-29016(SC)/1/08/HWMD/2018 dated 09.06.08 on the above subject. Six industries producing Basic Chrome Sulphate are operating at Kanpur Village, Raina, Kanpur Dehat for last fifteen years. They have dumped their hazardous waste containing Chromium in open ground of approx. 200 x 100 meter (illegible). The details of the industries are given below:

- 1.M/s CeruleanChemicals Pvt. Ltd. Khandchandpur, Raina, Kanpur, Dehat.
- 2.M/s ChandniChemicals Pvt. Ltd. Khandchandpur, Raina, Kanpur, Dehat.
3. M/sHilgersChemicals Pvt. Ltd. Khandchandpur, Raina, Kanpur, Dehat.
4. M/s Waris Chemicals Pvt. Ltd. Kanchandpur, Raina, Kanpur Dehat.
5. M/s AmeliaChemicals Pvt. Ltd. Khandchandpur, Raina, Kanpur, Dehat.
- 6.M/sRukmaniChemicals Pvt. Ltd. Khandchandpur, Raina, Kanpur, Dehat.

It is also information that closure order has been issued to these industries, under Hazardous Waste Rules (illegible).

These units have not agreed to dispose of the Hazardous Waste illegally disposed by them to TSDS constructed as Kumbhi, Kanpur Dehat nor they are ready to any share the expenditure. A Meeting between the representatives of those industries and T.S.D.F. operator was held in the presence of U.P. Pollution Control Board on 26.12.05 but these industries were not ready to pay Rs.1,500/Ton (illegible).

Total hazardous BGS waste wing at site as per I.I.T.R. study report, is around 45,000 tones, taking transportation, stabilization & disposal charges

in Secured Land @ Rs. 1,500 tonne, total Expenditure worked out is Rs.6.75 crores and thus Fine charges for each Industry will be Rs.1.125 crore only (Rs.One Crore Twelve lacs and fifty thousand only).

As evident from the above these six industries which have illegally dumped Hazardous Waste at Rania, Kanpur Dehat are not realizing their responsibility to rectify the harms done to the environment. They are least interested in shifting and proper disposal of the illegal Hazardous Waste dumped by them.

Therefore a fine of Rs. 1.125 crores is recommended on each of above Industries so that the expenditure incurred in lifting and disposal of Hazardous Waste at TSDF, Kumbhi, Kanpur Dehat can be recovered.

In the above circumstances, kindly give necessary approval for imposing the fine on these six industries under Section 16(3) of the Hazardous Waste Rules, 1989 so that the fine can be imposed on the above defaulters and the fine money can be used for lifting the dump Hazardous waste to TSDF.

Yours faithfully,

Sd/-
(Dr. C.S. Bhatt)
Member Secretary



TRUE TYPED COPY

ANNEXURE - 'B'**Address for communication :**10th July 2009

CERULEAN CHEMICALS PVT. LTD. ,
128 CLYDE HOUSE, THE MALL,
KANPUR – 208004 (UP)

TO,
THE MEMBER SECRETARY,
CENTRAL POLLUTION BOARD,
EAST ARJUN NAGAR,
DELHI.

**RE: Hazardous waste of BCS manufacturing units at Khanchandpur
Rania, Kanpur Dehat (UP)**

Dear sir,

This humble submission is with reference to the letter no. **F47150/c-2/HAZ/440/09 dt.. 01/04/2009** of UP Pollution Control Board, Lucknow (UPPCB) addressed to your good self on the subject:

1. That before writing to you for imposing fine on 6 units of Rania Kanpur Dehat. UPPCB did not give any opportunity to clarify our positions. The quantity and total fined amount stipulated in that letter are fictitious and malafide.
2. That the fine stipulated unit wise is incorrect in total as the said companies ran their units for different span of time. Further the capacity installed & utilized of each plant is different so the quantity of waste generation of individual unit will not be the same.
3. That at the said solid waste dump, the lot of waste was lying there before operation of these 6 units. The many BCS units were in operation before/during the operation of our units in Kanpur Nagar, Kanpur Dehat, Unnao & Fatehpur. That some waste dumped there maybe of units other than BCS factories.

4. That UPPCB was allotted 10.5 Hectares of land by Government free of cost in year 1994 at village Kumbhi, Kanpur Dehat for developing common secured land fill (CSLF) facility. It was the primary responsibility of UPPCB to arrange for CSLF at least for small scale industries like us in UP, but they did not nothing until 2003.
5. That after 10 years in the year 2003 3 Hectares land was leased to KANPUR PRADOOSHAN NIYANTRAN SAMTI (KPNS) to develop and construct CSLF facility. We are also member of KPNS and contributed a lot towards the construction of CSLF facility. KPNS completed the CSLF in the month of Oct 2005, which was intimated to UPPCB vide their letter dated 30/09/2005 (copy attached)

The construction of CSLF was carried out as per technical specification of National Productivity Council, guide lines of local administration and UPPCB. The Chairman of UPPCB also visited the site in May 2005 and appreciated the quality of work being done by KPNS.

That the KPNS also applied for authorization of the operation of the CSLF facility vide their letter dt 07/03/2005 (copy of application attached)

That the UPPCB had neither responded to the request of KPNS for operation of CSLF facility nor intimated to them in regard to deficiency, if any in the work done by them.

6. That without pointing out any shortcoming in the construction work of CSLF the factories were closed/ sealed in 2005, causing us severe financial crisis and unemployment to the workers.
7. That the lease of land to KPNS was terminated by UPPCB unilaterally on 4/10/2006 without giving any opportunity.
8. That if the CSLF was not up to the mark why the said CSLF was given to Bharat Oil & Waste Management Ltd. (BOWML) free of cost, who have no experience of such type of activities. The KPNS has not been compensated for handling over the CSLF facility to BOWML. The present cost of CSLF will be about Rs. 2 Crores.
9. That the authorization for disposal of solid waste in CSLF constructed by KPNS was not given, where as authorization for the same CSLF has been granted to BOWML.
10. That this discriminatory action of the UPPCB heavily damaged the environment, industrial production & social cause.
11. That our units are SSI Sick Units and are unable to bear any fine. Moreover the financial position worsened due to long closure of the units.
12. That howsoever, if the said CSLF Facility is handed over to KPNS we will clear the said site (dump). If CSLF is not handed over to KPNS

then Bharat Oil & Waste Management Ltd. should clear the site (dump) on their cost.

13. That before taking any action against us, we may please be given a chance of personal hearing also.

Our request may please be considered sympathetically in light of facts and figures furnished here in above in the interest of natural justice.

Thanking You,

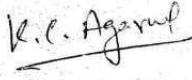
Yours faithfully,

For Cerulean Chemicals (P) Ltd., For Waris Chemicals (P) Ltd.,


(Director)


(Director)

For Hilgers Chemicals (P) Ltd., For Chandani Chemicals (P) Ltd.,


(Director)


(Director)

For Amelia Textiles & Chemicals (P) Ltd., For Rulmani Chemicals (P) Ltd.,


(Director)

(Director)

Encl: As above.

Copy to: 1. The Minister of Environment (Govt. UP), Bapu Bhawan, Lucknow.
2. The Member Secretary UPPCB, Lucknow.


True Copy

ANNEXURE - 'C'

Amelia Textiles & Chemicals Pvt. Ltd.
6/31-C Parvati Bagla Road, Kanpur- 208002
Mobile: 9369103031,9415041660

Production of Chromium Products, Consumption of Chromite Ore and Generation of Chromium Waste from 2001-02 to 2005-06.

Figures in M.T.

Sr. No.	Year	Basic Chrome Sulphate	Sodium Dichromate	Sodium Chromate	Sodium Sulphate	Total	Chromite Ore Consumed	Chromium Waste Generation
1	2001-02	408.400	57.000	17.500	151.600	634.500	692.505	
2	2002-03	852.850	5.500		316.463	1,174.818	1067.870	
3	2003-04	901.650	3.750		418.823	1,324.223	945.460	
4	2004-05	469.750			93.220	562.970	684.740	
5	2005-06	479.500			112.860	592.360	442.900	
		3112.150	66.250	17.500	1,092.971	4,288.871	3833.475	479.180

For Amelia Textiles & Chemicals (P) Ltd.,


(Director)


True Copy

ANNEXURE - 'D'

UP PRADESH POLLUTION CONTROL BOARD, LUCKNOW - FORM FORMAT

Page 1 of 7

APPLICATION FOR AUTHORISATION / RENEWAL FOR COLLECTION /
RECEPTION / TREATMENT / TRANSPORT / STORAGE / DISPOSAL
OF HAZARDOUS WASTES

From Sri. Santosh Kumar Awasthi
 M/s. Amelia Textile & Chemicals Pvt Ltd
Khan Chandrapur
Rania
Kanpur Dehat

The Member Secretary
 U.P. Pollution Control Board
 PICUP Bhawan, III Floor
 Vibhuti Khand, Gomti Nagar, Lucknow

Sir,

I/We hereby apply for authorisation (initial/renewal) under sub-rule(3) of Rule-5 of the Hazardous Waste Rules 1989 (as amended) for collection /reception /treatment /transport/storage/disposal of hazardous wastes.

To be filled by state Board office)

FOR OFFICE USE ONLY

1. CODE NO.

2. WHETHER THE UNIT IS SITUATED IN A CRITICALLY POLLUTED AREA AS IDENTIFIED BY MINISTRY OF ENVIRONMENT and FORESTS

TO BE FILLED IN BY THE APPLICANT)

PART-A GENERAL

(3) (a) Name of Owner/Occupier/Operator of the facility

Santosh Kumar Awasthi

(b) Name and Address of the Unit and Location of the Activity

Amelia Textile & Chemicals Pvt Ltd.
Khan Chandrapur, Rania,
Kanpur Dehat(c) Authorisation required for
(Please tick mark appropriate activity/activities)

- (i) Collection
- (ii) Reception
- (iii) Treatment
- (iv) Transport
- (v) Storage
- (vi) Disposal

(d) In case of renewal of authorisation previous authorisation No.

X

9/9/2003

http://www.uppcb.com/form_1.htm

ated

(a) Whether the unit is generating hazardous wastes as defined in Hazardous Waste (management and handling) Rules 1989 (As amended)

(b) If so then types of hazardous wastes as per Schedules 1,2&3 appended to the Rules

(a) Total Capital invested on the project Approx Rs 46.00 lacs

(b) Year of Commencement of production Sept 2001

(c) Whether the unit works

General

Two shifts

Round the clock

3. (a)(1) List and quantam of products

Basic Chrome Sulphate : 3.00 MT/day

Sodium Dichromate : 1.37 MT/day

Sodium Chromate : 2.00 MT/day

Chromic Acid : 0.750 MT/day

(a)(2) List and quantam of bye-products

Sodium Sulphate : 1.00 MT/day

(b) List and quantam of raw materials

Chromite Ore : 3.5 MT/day

Soda Ash/Caustic : 1.5 MT/day

Sulphuric Acid : 1.2 - 1.5 MT/day

Molasses : 0.2 MT/day

Lime : 0.8 MT/day

7. Furnish a flow diagram of manufacturing process showing input and output in terms of raw materials and products and wastes generated including for captive power, generation, demineralised water plant and other utilities, storage and transport of raw materials and products etc.

PAF B

Pertaining to sewage and trade effluents

8. Quantity and Source of water for

(a) Cooling m^3/d

(b) Process m^3/d 1.5

(c) Domestic m^3/d 1.00

(d) Others m^3/d 1.0

Total 3.5

9. Sewage and trade effluent discharge

(a) Quantum of discharge m^3/d 1000 lit/day

Process : 1000 lit/day

Domestic : 500 lit/day

blowdown : 500 lit/day

After Treatment Recycled & Reuse

(b) Is there any effluent treatment plant yes/no

yes

9/9/2001

Characteristics of discharged effluent before and after treatment

(i) pH	6.0 - 8.0	5.5 - 9.0
(ii) Suspended Solids	500 - 600 mg/l	100 mg/l
(iii) Dissolved Solids		
(iv) Chemical Oxygen Demand (COD)		
(v) Bio-chemical Oxygen Demand (BOD)		
(vi) Oil and Grease		
(vii) Total Organic Carbon (TOC)		
(viii) Heavy Metals (specify)	Chromium	200-300 mg/l
(viii) Others (specify)		5-10 mg/l

(e) Mode of disposal and final discharge point (enclose map showing discharge points)

After Treatment recycled & reused

(f) Parameters and Frequency of self monitoring

X

PART C

Pertaining to Stacks (chimney) and vent emissions

10 (a) Number of stacks and vents with height and diameter (m)

1 Furnace	105'	2.5"
2 Boilers	100'	2"
3 DG-set	16'	2"

(b) Quality and quantity of emission from each of the above sources or stacks

- (i) Particulate matter
- (ii) Sulfur dioxide
- (iii) Acid fumes
- (iv) Nitrogen oxides
- (v) Fluoride
- (vi) Additional parameters if any

X

(e) A brief account of the air pollution control units to deal with the emission

For Furnace Settling Chamber
Boiler Cyclone Dust Collector

PART D

Pertaining to hazardous wastes and hazardous chemicals

11. Solid wastes

(a) Total Quantum of generation including all types

(b) Quantum of different types of hazardous waste generated, its classification in terms of schedules 1,2,3 of the amended Hazardous Waste Rule dated 6th, January, 2000 and defined under the Environment (Protection) Act 1986

Solid Wastes 0.5 MT/day
Hazardous Wastes 0.5 MT/day

Quantity
ton/year

Source
of waste

Category as per
schedules 1,2&3

(c) Mode of storage within plant and method of disposal for all of above wastes

http://www.uppcb.com/form_1.htm

Temporarily stores in Pits of
size 42' x 50' x 15' depth
40' x 30' x 10' depth

9/5/2001

(a) Hazardous chemicals as defined under defined Name Quantity

Environment (Protection) Act 1986 (refer to the Manufacture, Storage and Import of Hazardous Chemicals Rules 1989 as amended)

(b) Whether any isolated storage is involved ,if yes attach details

(c) Whether emergency plans are prepared for taking on-site measure yes/no if yes then enclose details off-site measures yes /no if yes then enclose details

Yes
FOR AMEHA TEXTILE & CHEMICAL PVT. LTD.
Santosh Kumar
DIRECTOR

Yours faithfully

Place

Name and signature of applicant

Date

Designation *Santosh Kumar*
Awasthi
Director
Ameha Textile & Chemicals Pvt Ltd

Annexure to Form 1

1. Important environmental features of the surrounding site
(Please attach a map of the area ,2.5 km radius with the site at the centre indicating therein ,water bodies , important human activities,sensitive features)

2. (a) A description of different steps of process /operation which give rise to generation of hazardous wastes. (refer to list in rules)

X

(b) Maximum storage at a time of hazardous chemicals

3. Description of Hazardous Wastes (Details may be enclosed on separate sheet)

X

(a) Total quantity of each type of hazardous waste generated per year in terms of Schedules appended to the revised rules

() Physical properties

- (1) Physical form (solid/semi solid /liquid) with respective quantity in each form
- (2) Specific gravity
- (3) percentage solids
- (4) chemical composition
- (Attach analytical reports for each type)

X

(c) Detailed characteristic if known

X

- (1) Flash Point
- (2) Reactivity
- (3) Toxicity
- (4) Explosivity
- (5) Calorific value
- (6) Biodegradability

4. Details regarding waste recycling/reprocessing/reuse

Hazardous wastes are being recycled/reprocessed/reused
 Details of such hazardous waste as follows

Name & type Total Waste Quantity TPA	Indigenous Waste Quantity TPA	Imported Waste Quantity TPA	Major chemical constituents wt%	Minor chemical constituents wt%
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5. Method of packaging and labelling of wastes

(1) Type of Containers, size & number

(2) Is the packaging /labelling in accordance with Rules
 under E.P.Act 1986.

6. Method of handling and transport

(a) By hand /trolley/tractor/truck/or any other means

(b) Name of transporter/scrap contractor

(c) RTO number of vehicles

(d) Is the transport in accordance with Rules made by
 the Central Government under Motor vehicles Act 1988?

(e) Is the manifest system being followed

(f) Is the TREM Card being issued

(g) Temperature and pressure of the waste during transport

By Hand Trolley

If yes, details thereof

If yes, details thereof

If yes, details thereof

Method of treatment of wastes

(a) Give details of treatment facility with map, diagrams,
 type of treatment such as physical, chemical, biochemical
 incineration etc.

(b) Quantity of leachate generated m/d

(c) Analysis of leachate, if available from a laboratory
 approved under Environment (Protection) Act, 1986

(1) TOC

(2) BOD

(3) COD

(4) TDS

- (5) Heavy metals
- (6) Oil & grease
- (7) Phenolics
- (8) Cyanides
- (9) Pesticides
- (10) Toxicity
- (11) Others(specify)

Method of Temporary Storage

Give details such capacity, material of construction, covered or open to sky, leachate collection etc

Hazardous waste disposal

(a) Give details such operator of facility, location and capacity, construction details, leachate collection and treatment etc

(b) Whether disposal area is restricted with fencing, if so give details and the security arrangements.

(c) Whether disposal facility is a common facility or individual, in case of individual site give details of land, ownership, size etc

0. Details of surface/groundwater surveillance conducted

(a) Details of soil survey conducted

(b) If collection and treatment of leachate is provided give details

(c) Mode of disposal of leachate on land or in surface waters directly or through municipal sewer or in any other water body .

(d) Give detailed on site crisis management plan

(e) Give details of Environment Management Plan

Prepared
Prepared

1. Details of waste incineration system

(a) Waste quantity being incinerated ton/year

(b) Height of stack

(c) Details of off-gas cleaning system

(d) Characteristics of off-gases

(e) Analysis of incineration ash

(f) Details of incineration ash storage and disposal

RADESH POLLUTION CONTROL BOARD, LUCKNOW- FORM FORMAT

Other Solid wastes Quantity Storage Disposal

- (a) In the Form of floor cleaning, containers
- (b) Fly ash, scrap, packing waste etc
- (c) Scraps



- 13. (a) Name and address of units to whom hazardous wastes are sold as for disposal or reuse
- (b) Whether these units are authorised under Rule-5 and meet environmental requirements, if so enclose copies of the consents and authorisations.

14. Any other details regarding hazardous waste handling and management.

NOTE

- 1. The occupier of unit/operator of facility fill Form-1
- 2. The records of hazardous wastes are to be maintained in Form-3.
- 3. The applicant has to submit returns on Form-4 to U.P. Pollution Control Board
- 4. Any accident during transport to the facility or at the site has to be reported immediately to U.P. Pollution Control Board.
- 5. A demand draft of Rs. 7500 payable to U.P. Pollution Control Board towards processing fee of the application has to be enclosed.
- 6. Please attach documents wherever required.

I, Santosh Kumar Awasthi of M/s. Amelia Textile & Chemicals Pvt Ltd. Kanpur
 is authorized by above said company and the Board of directors /Partners or Proprietors have read the Form and annexures attached and that I understand that the above information is correct.

FOR AMELIA TEXTILE & CHEMICAL PVT. LTD.

Place Kanpur Signature Santosh Kumar Awasthi
 Date 11.9.2001 **DIRECTOR,** Seal

List of enclosures::

- 1. DD for Rs. 7500/- No. dated drawn on
- 2. Compliance report of previous authorisation
- 3. Analytical reports
- 4. Any other (specify)

Union Bank of India payable at Lucknow
DD No. 102732 Dt 11.9.2001
favouring the Member Secretary U.P. Pollution Control Board

True Copy