

**IN THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
APPEAL NO. 18 OF 2020**

IN THE MATTER OF:

Waris 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.44,34,53,042 on the basis of a deemed contribution of chromium waste of 9854.512MT. Appellant has already filed IA No.130/2022 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 Waris Chemicals Pvt. Ltd, Khanchandpur, Rania, Kanpur Dehat</i>
Production capacity (MTD):	<i>4</i>
Operational Period:	<i>1994 to Oct, 2005 NOC 05.9.94</i>

	<i>(134 months)</i>
Assessed quantity of dumped Chromium waste as per percentage of production (MT):	<i>About 18.299 percent of total waste on the basis of production capacity (Chromium Waste 11329.512 M.T.) About 1475 M.T. Chromium Waste was found stored in the industry premises at the time of conducting inspection, out of which 111.8 M.T. is generated by M/s G.S. Chemical Pvt. Ltd. From the above facts, it is evident that the industry has thrown 984.512 M.T. of Chromium Waste in an illegal manner.</i>
Revised Assessed quantity of dumped Chromium waste after assessment of stored quantity in the premises (M.T.):	<i>11329.512-1475 =9854.512</i>
Revised Environmental Compensation	<i>Rs.44,34,53,042</i>

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 **10372.9 MT** and assessed liability thereon as **Rs.46,67,80,837**. 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 **7519.382 MT** of chromium waste and must pay **Rs.33,83,27,196**. 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 **9854.512MT** of chromium waste and liable to pay **Rs.44,34,53,042**. For ease of reference, the figures are tabulated below:

Order dt.28.05.2020	Report dt.30.09.2021	Report dt.28.07.2022
10372.9 MT Rs.46,67,80,837	7519.382 MT Rs.33,83,27,196	9854.512MT Rs.44,34,53,042

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).

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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. Along with the Objections dt.08.11.2021 served on UPPCB and filed before this Hon'ble Tribunal in this captioned appeal, Appellant had submitted certain details regarding production, including total waste generated between 1997-2005: 1501.46875 MT (stored inside premises). True Copy of the Table of Waris Chemicals 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 9854.512MT. 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 9854.512MT.

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. 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.

F. 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 though 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 actually 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.130/2022 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

mit-shan
WARIS CHEMICALS PVT LTD
(Authorised Signatory)

Sh
ADVOCATE FOR THE APPELLANT:
SANTHOSH KRISHNAN



IN THE NATIONAL GREEN TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

APPEAL NO. 18 OF 2020

IN THE MATTER OF:

Waris Chemicals Pvt. Ltd.

...Appellant

VERSUS

Uttar Pradesh Pollution Control Board

...Respondent

AFFIDAVIT

I, Dharmendra Misra, age 36 years, son of Late Vidya Sagar Misra, residing at EWS-Y Block, Double Storey, 13 Barra 2, Kanpur Nagar 208011 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.

DEPONENT

[Handwritten signature]



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.

[Handwritten signature]

DEPONENT



certified that this document is sent
affidavit sworn before on
by Shri. *[Handwritten: Anup Kumar Dixit]*
The contents have been read over and
explained to him who is identified
by Shri.

Anup Kumar Dixit
(Notary) Kanpur Nagar

[Handwritten: 16/8/22]

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. E-29016 (SC)/1/08/HWMD/2118 dated 09-06-08 on the above subject. Six industries producing Basic Chrome Sulphate are operating at Khandari 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 and without any treatment. The ground water and the soil of this area is therefore polluted. As per the Report of the Central Pollution Control Board, the quantity of the hazardous waste dumped in this area is given as given below:

1. M/s. Indoneo Chemicals Pvt. Ltd., Khandari, Raina, Kanpur Dehat.
2. M/s. Khandari Chemicals Pvt. Ltd., Khandari, Raina, Kanpur Dehat.
3. M/s. Rogers Chemicals Pvt. Ltd., Khandari, Raina, Kanpur Dehat.
4. M/s. Wari's Chemicals Pvt. Ltd., Khandari, Raina, Kanpur Dehat.
5. M/s. Anand Chemicals Pvt. Ltd., Khandari, Raina, Kanpur Dehat.
6. M/s. Rukmani Chemicals Pvt. Ltd., Khandari, 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 dt. 06.12.06 but these industries were not ready to pay Rs. 1500/Ton as required 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 Landfill @ 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).

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,

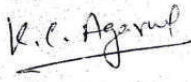
Yours faithfully,

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'

Waris Chemicals Pvt Ltd

128/444, H-2 Block Kidwai Nagar Kanpur

Mob : 9935590472, 8726040478

Production of chromium products & generation of chromium waste form 1997-98 to 2005-06.

year	quantity bcs in MTs/annum	quantity sulphate in MTs/annum	sludge generated in MTs/annum
1997	407.25	114.5	50.90625
1998	1007.55	289.5	125.94375
1999	1596.25	367	199.53125
2000	1689.35	482	211.16875
2001	1601.5	415	200.1875
2002	1597.9	434	199.7375
2003	1642.3	399	205.2875
2004	1672.15	660	209.01875
2005	797.5	241	99.6875
	12011.75	3402	1501.46875

Santhosh Krishnan <mail@skrishnan.in>

Waris Chemicals v. UPPCB NGT Appeal No.18/2020 (Objections to Report dt.28.07.2022)

1 message

Santhosh Krishnan <mail@skrishnan.in>

18 August 2022 at 14:53

To: pradeepmisra@yahoo.com

To:

Mr. Pradeep Mishra

Advocate for UPPCB

Dear Sir,

Please find below the link to download the scanned copy of the objections proposed to be filed on behalf of the appellant Waris Chemicals in respect of UPPCB's Report dt.28.07.2022

 [18.08.2022 Objections - Waris Chemicals Pvt. Lt...](#)

Please download the same at your earliest convenience as the links is not permanent.

Regards,

Santhosh Krishnan

Advocate

Notice: *This message and attachments contain legally privileged confidential information. Please notify the sender immediately if you have received this e-mail by mistake and delete this e-mail from your system.*
