

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH AT NEW DELHI
EXECUTION APPLICATION NO. 39 OF 2023
IN
ORIGINAL APPLICATION NO. 400 OF 2019**

IN THE MATTER OF:

Social Action Forest & Environment (SAFE)

...Applicant

-Versus-

Union of India & Ors.

...Respondents

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Date: 18.01.2025

Place: New Delhi

DRAWN & FILED BY:

Saumitra Jaiswal, Gitanjali Sanyal & Surya Gupta
Advocates for the Applicant
29, LGF, Presidential Estate,
Nizamuddin East, New Delhi – 110013
Email: eldflegal@gmail.com; +91- 8851323704

SETTLED BY:

Shri Sanjay Upadhyay
[Senior Advocate]

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**OBJECTIONS BY THE APPLICANT TO THE RESPONSE OF
RESPONDENT NO. 2 – CENTRAL POLLUTION CONTROL BOARD
DATED 23.09.2024**

MOST RESPECTFULLY SHEWETH:

1. That this Execution Application has been filed for effective implementation of the Final Order dated 07.11.2022 passed by this Hon'ble Tribunal in O.A. No. 400/2019.
2. That this Hon'ble Tribunal on 07.11.2023 issued Notice to the Respondent No. 1 – Ministry of Environment, Forests and Climate Change (“**MoEF&CC**”) and the Respondent No. 2 – Central Pollution Control Board (“**CPCB**”) to respond to the instant Execution Application.
3. That, subsequently, the Respondent No. 2, CPCB, filed its Reply Affidavit dated 18.01.2024 highlighting the actions taken by it in view of the directions passed in Final Order dated 07.11.2022. Accordingly, the Reply Affidavit dated 18.01.2024 was considered by this Hon'ble Tribunal on 19.01.2024. While doing so, this Hon'ble Tribunal observed certain shortcomings in the SOP and the Respondent No. 2, CPCB, was granted time to file a further Affidavit.

Additionally, the Applicant was given an opportunity to respond to the Reports of the Respondent No. 1, MoEF&CC and Respondent No. 2, CPCB.

4. That, accordingly, a Common Objection dated 21.03.2024 was filed by the Applicant to the Reply Affidavit of CPCB dated 18.01.2024 and Compliance Report of MoEF&CC dated 07.03.2024. Further, on the same day, the CPCB filed its Response dated 20.03.2024 in view of the observations made by this Hon'ble Tribunal in its Order dated 19.01.2024.
5. That, thereafter, on 22.03.2024, this Hon'ble Tribunal granted an opportunity to the Applicant to file Rejoinder to the above mentioned CPCB Report dated 20.03.2024. Accordingly, the Applicant filed its Objections dated 04.07.2024 to the Response Affidavit dated 20.03.2024 filed by the CPCB. Thereafter, the Respondent No. 2 – CPCB filed its response dated 23.09.2024 to the Objections dated 04.07.2024 filed by the Applicant.
6. That on the last date of hearing i.e. 25.09.2024, this Hon'ble Tribunal gave a further opportunity to the Applicant to file its Objections/Rejoinder to the Respondent No. 2, CPCB's Report dated 23.09.2024. Accordingly, the present Objections are being filed by the Applicant to illustrate the issues which are left unaddressed, or which remain inadequately addressed by the Respondent No. 2, CPCB in its Responses filed in the present case. Such issues have been discussed hereinunder:

- I. **Imposition of Environmental Compensation against Pyrolysis Units operating in violation of environmental norms:** The CPCB has, from time to time, submitted the status of total number of identified Pyrolysis Units, number of compliant and non-compliant units as well as the status of action against illegal units. Such information has been submitted through various reports dated 31.07.2019, 18.12.2019, 03.01.2020, 05.11.2022 and 18.01.2024. However, despite these periodic reports being

filed by the Respondent No. 2, CPCB, a clear and complete picture of the status of imposition of Environmental Compensation against violating units has not been furnished till date. While meagre sums of compensations have been reflected against few units, the same do not account for the extent and scale of illegality perpetuated due to mismanagement of waste tyres. It is, thus, imperative that environmental compensation in terms of the 'Polluter Pays' principle be imposed against illegally operating units and a report be submitted in this regard before this Hon'ble Tribunal.

- II. **Identification of Illegal Pyrolysis Units operating in violation of Environmental Norms and in the absence of valid Consent to Establish (CTE) and Consent to Operate (CTO):** While the Respondent No. 2, CPCB has identified few Pyrolysis Units, it is the humble submission of the Applicant herein that the true numbers are many more. The same has been raised on previous occasions and many batch plants are operational without any consents or any regulation. In this regard, there exists an urgent need to identify such units and for remedial action to be taken against them in accordance with the law.
- III. **The Revised Standard Operating Procedure (SOP) dated 16.01.2024 of CPCB does not provide for 'Zero Emission':** The SOP dated 16.01.2024 issued by the Respondent No. 2, CPCB does not capture the requirement of meeting 'Zero Emission' standards, as has been directed by this Hon'ble Tribunal from time to time. In fact, the Respondent No. 2, CPCB, has not provided any reason for why this omission has been made in its reports/replies.
- IV. **SOP does not consider the issue of Carbon being disposed of in landfills:** The Respondent No. 2, CPCB has not provided any submission

in this regard despite express directions being issued in this regard by this Hon'ble Tribunal in its Final Order dated 07.11.2022.

- V. **SOP is in the nature of a “Guidelines” and is not a statutory requirement having the force of the law:** While Respondent No. 2, CPCB has issued the SOP as a standalone document, the same does not have the force of law and operates without any statutory backing. It is, thus, the humble submission of the Applicant herein that a robust SOP be notified under Section 3 or Section 5 of the Environment (Protection) Act, 1986 for effective implementation.
- VI. **Final Standard for Tyre Pyrolysis Oil (TPO) is yet to be issued by the Bureau of India Standard (BIS):** As per submission of the Respondent No. 2, CPCB in its Report dated 18.01.2024, the BIS had initiated the development of fuel quality specification for TPO and it was informed in the said Report of the CPCB that the study will take approximately one year. However, till date no final Standard has been notified. In fact, it is the humble submission of the Applicant that till such standards are notified, the use of TPO be strictly regulated owing to their nature and pollution potential.
- VII. **Classification of TPO as an “approved fuel” will lead to disastrous consequences for the environment:** As per the submissions of the Respondent No. 2, CPCB, TPO is not an approved fuel under the Air (Prevention and Control of Pollution) Act 1981 in any State and neither is not allowed in the States of Andhra Pradesh, Jammu & Kashmir, Maharashtra, Uttarakhand and Delhi-NCR. However, the CPCB has now asked the State Pollution Control Board/Pollution Control Committees (SPCBs/PCCs) to permit the same and to include TPO as an “approved fuel” in view of its comparisons to furnace oil. However, the Applicant

humbly submits that the Test Reports submitted by the Applicant by way of Common Objections dated 22.05.2020 reflect that hazardous substances in TPO are higher than in Furnace Oil. In fact, TPOs have been used to adulterate diesel, furnace oil and other petroleum products as noted by 57th Minutes of the Meeting dated 19.10.2016 of the Technical Review Committee under Hazardous Waste Rules 2016. Furthermore, the CPCB has not furnished any document to reflect how it plans to ensure that the quality of TPO is maintained at “non-hazardous” levels. It is, thus, clear that the move of making TPO an approved fuel would be against the Principle of Non-Regression which is now established law by this Hon’ble Tribunal Society for Protection of Environment and Biodiversity (SPENBIO) v. Union of India (OA No. 677 of 2016, MA No. 148/2017).

VIII. No procedure has been laid down to evaluate the carrying capacity of an area for the purposes of issuing CTE to Tyre Pyrolysis Plants:

CPCB has issued a Section 5 direction dated 30.12.2019 stipulating that CTE can only be issued to Pyrolysis Plants after assessing the carrying capacity of an area. However, the basis for assessing such carrying capacity has not been clarified or even discussed. In fact, the abovementioned direction does not even discuss how the carrying capacity of an area with pre-existing Pyrolysis Plants is to be dealt with. Further there are no concrete examples of such carrying capacity being done and the results on air pollution prevention on the same. The CPCB may be directed to produce such studies to show concrete action.

IX. Absence of any rationale for categorization of Pyrolysis Plants under ‘Orange’ Category, despite its categorisation as ‘Red’ in most States:

The Respondent No. 2, CPCB has categorized TPO Plants as an ‘Orange’ Category Industry. However, no explanation has been provided for the

basis of such assessment, especially in light of this Hon'ble Tribunal's observation regarding the highly polluting nature of such industry. CPCB also failed to consider that the majority of the States i.e. 12 out of 17 had classified TPOs as a 'Red' Category industry. No consideration of the parameters adopted by these SPCBs has been taken into consideration while evaluating the pollution potential of TPO Units. It is humbly submitted that TPO Units, being a highly polluting industry, shall have to be categorized as 'Red' to ensure enhanced reporting requirements and stringency in terms of compliance. Such a move also goes against the Principle of Non-Regression, as explained by this Hon'ble Tribunal in its Order dated 08.12.2017 in the case of Society for Protection of Environment and Biodiversity (SPENBIO) v. Union of India (OA No. 677 of 2016, MA No. 148/2017). The scoring provided by the CPCB in its letter dated 30.11.2023 (Annexure V, Page 867-869 of its Response dated 23.09.2024) for Pyrolysis Units is without any rationale as no score has been given for 'Water Pollution' even though Pyrolysis Plants produce sludge and require an Effluent Treatment Plant (ETP). That photographs of such units discharging sewage and wastewater into drains directly were provided by the Applicant in the Original Application dated 15.04.2019 (Annexure A/17 to A/19 Pg 187-189 of O.A.). Further, even under the earlier SOP dated 24.11.2015 of the MoEF&CC required wastewater and sludge to be properly dealt with. In fact, even the revised SOP dated 16.01.2024, requires TPO Units to ensure that treated water is re-used and there is zero effluent discharge and that the unit shall comply with effluent standards prescribed by SPCB/PCC in the CTO. These facts show that the process involves wastewater discharge thus a score for water pollution ought to have been evaluated by the CPCB which has not been done.

- X. **Issue of import of waste tyres remains undiscussed:** This issue has not been discussed by the CPCB despite its issuance of a Section 5 direction dated 04.12.2019 to SPCBs/PCCs for ensuring that import of polluting hazardous waste material be strictly regulated as per Hazardous and Other Waste (Management & Transboundary Movement) Rules, 2016 and amendments thereof. Even today, waste tyres are being imported in India by importers which are being channeled to other units such as Pyrolysis Plants. The Applicant has filed its I.A. No. 469/2024 and I.A. No. 470/2024 in this regard which shows that imported waste tyres are being illegally channelized by importers under the guise of “used tyre scrap crumb rubber” to Pyrolysis Units.
- XI. **No view from the Ministry of Petroleum and Natural Gas (MoPNG) has been sought:** Despite TPO units being covered by the Manufacture, Storage and Import of Hazardous Chemical Rules, 1989, MoPNG’s view remains absent in the averments made by the CPCB.
- XII. **The detailed recommendations of the Applicant made in its representation to CPCB dated 10.08.2019 have not been properly considered for its adoption and implementation:** That the Applicant had submitted its recommendation dated 10.08.2019 to CPCB which ought to have been considered by the CPCB. The Annexure - I, Pg 801-805 in Response dated 23.09.2024 of CPCB addresses some of the recommendations but not all. In fact, there are several recommendations towards which no finding has been provided which shows that the same were hastily addressed by CPCB. Few unaddressed recommendations have been illustrated below:
- a. Maintenance of inventory of occupiers of waste tyres which are not covered by the 21.07.2022 Notification of MoEF&CC laying down

the Extended Producers Responsibility (EPR) mechanism. The sub-classifications provided under the EPR Mechanism are limited to Recyclers, Retreaders and Producers. However, under the recommendations of Applicant it includes any occupiers of waste tyres which involves stakeholder beyond the scope of Recyclers, Retreaders and Producers and who ought to be regulated too.

- b. The above recommendation also provides that the categorization under Red/ Orange, Green or White as per CPCB's Classification shall be recorded in the online inventory. The same is not provided for under the EPR mechanism.
- c. Categorization of stakeholders as per their hierarchy under Rule 4(1) has also not been addressed in the EPR mechanism for waste tyres.

Therefore, the CPCB ought to have examined each recommendation adequately which has not been done. Accordingly, it is prayed that the CPCB shall be directed to consider each recommendation appropriately to ensure its adoption and implementation.

XIII. The discrepancies highlighted by the Applicant in his Common Objections dated 22.05.2020 to the CPCB Reports dated 31.07.2019, 18.12.2019 and 03.01.2020 have not been considered by CPCB: That under the said Common Objection, the Applicant raised various discrepancies which strike at the root of the problem regarding illegally operating Tyre Pyrolysis Plants and will prove to be an effective and efficacious remedy to save the environment, if implemented. These include:

- a. directing CPCB to submit details of each Pyrolysis Unit alongwith the details of the consents issued to them;

- b. providing their status of compliance of norms under Hazardous waste Rules 2016;
 - c. details of compliance towards submission of Annual Environment Statement under Environment Protection rules 1986;
 - d. compliances of Hazardous Chemical Rules, 1989;
 - e. submit status of compliance of clause 2.1.1 and 2.1.13 of the SoP of Ministry of Environment, Forest and Climate Change (MoEF&CC);
 - f. identifying all Pyrolysis Units operating illegally; and
 - g. procuring details of each Pyrolysis Unit such as their Capital and revenue expenditures, capacity of plant, total area of their location, total sale in the last three years, GST among others.
7. That, in view of the submissions made and the objections raised hereinabove by the Applicant, it is humbly submitted that the issue of mismanagement of waste tyres and use of waste tyres by Pyrolysis Units continues to persist unabatedly, all to the detriment of the environment. And more importantly addressing the issues outlined above will help redress the menace of illegal pyrolysis plants and more importantly the source of such pollution-waste tyres.

Date: 18.01.2025

Place: New Delhi

DRAWN & FILED BY:

Saumitra Jaiswal, Gitanjali Sanyal & Surya Gupta
Advocates for the Applicant
29, LGF, Presidential Estate,
Nizamuddin East, New Delhi – 110013
Email: eldflegal@gmail.com; +91- 8851323704

SETTLED BY:

Shri Sanjay Upadhyay

[Senior Advocate]

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E.A. NO. 39 OF 2023

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Versus

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AFFIDAVIT

I, Vikrant Tongad, S/o Shri Balijeet Singh, aged about 33 years, President of the Applicant Organization, Office at A-93, Sector – 36, Greater Noida – 201310, presently at New Delhi do hereby solemnly affirm and declare as under:

1. That I am full conversant of the facts and circumstances of the matter and am competent to swear this Affidavit.
2. The contents of the accompanying Objections have been drafted by the counsel under my instructions and the contents of the same are true and correct to my knowledge and no part of it is false and no material has been concealed therefrom.
3. That the accompanying Annexures to the present Objections are true and correct to the best of my knowledge.

I identified the deponent who has signed in my presence

VERIFICATION:

Verified at New Delhi on this ____ day of ____ 2025 that the contents of the above affidavit are true and correct to my knowledge and belief and nothing material has been concealed there from.


DEPONENT

18 JAN 2025



ATTESTED
 NOTARY (Govt. of India)
 Neelam Sharma
 Advocate
 21 No 1st Fl., Gate No. 10, 11,
 Patiala House Courts,
 New Delhi-110001
 (M): 9899408301
 18 JAN 2025


DEPONENT



Service in SAFE Vs. Union of India & Ors. [EA. No. 39 of 2023 in OA. No. 400 of 2019]

1 message

ELDF <eldflegal@gmail.com>

Sat, Jan 18, 2025 at 2:42 PM

To: Raj Kumar <advrajkumar@gmail.com>, "swatijindalgarg@gmail.com" <swatijindalgarg@gmail.com>, pradeepmisra@yahoo.com, daleepdhayani@yahoo.co.in

Cc: Saumitra Jaiswal <SAUMITRA@eldfindia.com>, Gitanjali Sanyal <gitanjali@eldfindia.com>, Surya Gupta <surya@eldfindia.com>

Dear Sir/Ma'am

Please find the attached copy of the Objections by the Applicant to the Response of Respondent No. 2 – Central Pollution Control Board dated 23.09.2024 in the abovementioned case.

Thanks & Regards
Sameer

--

Sameer Manher

Clerk

Enviro Legal Defence Firm

29, Presidential Estate LGF,

Nizamuddin East New Delhi – 110013

Ph. No. 011-40573181

**2025.01.18 - Objection to CPCB Report - FINAL.pdf**

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