

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,  
PRINCIPAL BENCH IN NEW DELHI  
EA NO. 39 OF 2023  
IN  
OA NO. 400 OF 2019**

**IN THE MATTER OF:**

Social Action For Forest & Environment (SAFE)

...Applicant

Versus

Union of India & Ors.

...Respondents

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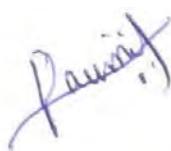
**NDoH: 05.07.2024**

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Place: New Delhi

Date: 04.07.2024

**DRAWN AND FILED BY:**



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**SETTLED BY:**

Mr. Sanjay Upadhyay

*[Senior Advocate]*

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**OBJECTIONS BY THE APPLICANT TO THE RESPONSE OF  
RESPONDENT NO. 2 – CENTRAL POLLUTION CONTROL BOARD  
DATED 20.03.2024 ALONGWITH AN ACCOMPANYING AFFIDAVIT**

**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 wherein the Applicant herein had raised the issue of mismanagement of End of Life Tyres/Waste Tyres generated in India as well as the issue of import of such tyres within the country. Further, a ban was sought on the indiscriminate use of waste tyres by the Pyrolysis Industry that operate in violation of environmental norms as under the Environment Protection Act, 1986, and the Rules made thereunder, the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016, Manufacture, Storage and Import of Hazardous Chemical Rules, 1989 (hereinafter Hazardous Chemical Rules, 1989), Central Pollution Control Board Guidelines for End of Life Vehicles 2016 and Ministry of Environment, Forest and Climate Change Standard Operating Procedure among others.
2. That while recognizing that none of its directions issued through its Final Order dated 07.11.2022 had been complied with, including finalization of the revised Standard Operating Procedure (SOP) and certainty in the

classification of Tyre Pyrolysis Plants, this Hon'ble Tribunal 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**”). Pertinently, this Hon'ble Tribunal had given a categorical direction on 07.11.2023 that the suggestions recorded in Para 4 of the said Order may be considered by the above said Respondent authorities at the time of finalizing the SOP.

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, this 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 such as a lack of any emphasis on State Pollution Control Boards (“**SPCBs**”)/Pollution Control Committees (“**PCCs**”) incorporating the requirement of Zero Liquid Discharge (“**ZLD**”) and emission standards while granting Consents to Operate under the Water (Prevention and Control of Pollution) Act, 1974 (“**Water Act, 1974**”), and the Air (Prevention and Control of Pollution) Act, 1981 (“**Air Act, 1981**”). Further, this Hon'ble Tribunal also noted that the SOP lacked any clarification regarding utilization of Tyre Pyrolysis Oil as fuel by industries and its consideration as an ‘Approved Fuel’ under the Air Act, 1981. That in view of the same, a further opportunity was granted to the Respondent No. 2, CPCB, for responding to the adverse observations made by this Hon'ble Tribunal in its Order dated 19.01.2024, as discussed above. Additionally, the Applicant was also given an opportunity to respond to the reports of the Respondent No. 1, MoEF&CC and Respondent No. 2, CPCB.

4. That, thereafter the Applicant filed its Common Objections dated 21.03.2024 to the Reply Affidavit of CPCB dated 18.01.2024 and Compliance Report of MoEF&CC dated 07.03.2024.
5. That on the same day, the CPCB filed its response dated 20.03.2024 in view to the observations made by Hon'ble Tribunal in Order dated 19.01.2024. That this Response of CPCB *inter alia* makes the below submissions:
  - a. On 23.02.2024, an E-mail was sent to all SPCBs/ PCCs for submission of information on quantity of TPO generated, industries using TPO oil and whether TPO is listed as "Approved Fuel" in their respective States.
  - b. As per the response of SPCBs where Tyre Pyrolysis Oil ("TPO") units exist, TPO is mostly used in aluminum and cement industries, furnace, and the energy sector. Further, as per the submission, TPO is not permitted to be used in Andhra Pradesh, J&K, Maharashtra, Uttarakhand and Delhi-NCR. Also, TPO is not listed as an approved fuel in any State/UT.
  - c. A Meeting held on 11.03.2024 with Expert Member from NEERI, Oil sector expert, officials from MoEF&CC, MoPNG, BIS, SPCB/PCCs and CPCB to discuss usage of TPO and status of inclusion in list of approved fuels as issued by SPCBs/PCCs. It stated that TPO can be compared with furnace oil. TPO has lower carbon and Sulphur content and lesser emission. TPO may be permitted in industries using furnace oil, and adequate air pollution control system has been installed to meet specified emission norms. Typical proposed specification of TPO given in Table – 1 – Annexure II of Enclosure – 3 arrived at after discussion among

experts. However, firm specifications for TPO to be developed by BIS

- d. Letter dated 20.03.2024 sent by CPCB to SPCBs/PCCs (**Enclosure – 4 Pg 767**) for implementation of revised SOP and ensuring ZLD and general gaseous emission standards while issuing CTE and CTO.
6. That thereafter on the last date of hearing 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 present Objections are being filed in reply to the Response Affidavit dated 20.03.2024 filed by the CPCB.
  7. That with regards to the submission of CPCB that TPO can be compared with furnace oil and the same may be permitted in industries using furnace oil, it is submitted that as per the Test Reports dated 11.10.2019 of Eko Pro Engineers Pvt. Ltd. (Environmental Consultants and Analytical Laboratory) which were brought on record by the Applicant under the Common Objections dated 22.05.2020 filed in O.A. 400 of 2019, it was found that hazardous substances in TPO is higher than Furnace Oil. The same is illustrated as below:
    - i. Lead content in Pyrolysis oil is 120.9 ppm and in furnace is 34.07 ppm; and
    - ii. Arsenic content in pyrolysis oil is 13.4 ppm and in furnace oil is less than 0.5 ppm.

Further, most of these parameters are even above the standards prescribed under the Hazardous Waste Rules 2016 for 'waste oil'. For instance, the standard for Polyaromatic carbon for waste oil is 6% maximum, whereas this parameter under Pyrolysis Oil was found to be 9.2%. Similarly, the

percentage of sediments in waste oil is prescribed to be 0.25% whereas in Pyrolysis Oil it was found to be 0.62% (mentioned in Paragraph 25 of the Common Objections dated 22.05.2020 filed in OA No. 400/2019, also annexed as Annexure A/10 at Page no. 301-302 of the Execution Application). Further, the reading of sediments found in Pyrolysis oil as per CPCB's Report is 0.01 Max and content of Sulphur is 1 Max (Page no. 766 of CPCB Response dated 21.03.2024). However, it is submitted that the Report filed by the Applicant reflect the reading of sediments to be 0.62 and Sulphur to be 3.9.

8. That TPO is frequently used in adulteration of diesel, furnace oil and other petroleum products as is evident from the 57<sup>th</sup> Minutes of the Meeting dated 19.10.2016 of the Technical Review Committee under Hazardous Waste Rules 2016 (Page no. 302, Paragraph 26 of the present EA at its Annexure A/10 – starting at Page 284). Therefore, it is evident that different reports are reflecting different findings, leading to a complete lack of clarity as to the actual situation on ground. It is apposite to state that the quality of the readings would depend on the technology being used, leading to varying findings. Consequently, in view of the above observations and examples, the Applicant humbly submits that there is an apprehension of how the CPCB/SPCBs will in fact successfully ensure that TPO produced in a unit meets the prescribed standards.
9. That the CPCB has also failed to establish the manner in which it intends to ensure prevention and control of pollution owing to the use of TPO in place of Furnace Oil and how the former will be better than the latter. This aspect is even more important to consider since there are few States where use of TPO is not allowed as per CPCB Response dated 20.03.2024 (Page no. 756, Point 2 of CPCB Response dated 20.03.2024) and whether such

an exemption would open the floodgates for States to also use TPO as a substitute for Furnace Oil.

10. That, by its own finding and admission, the Respondent No. 2, CPCB has clearly stated that TPO is not listed as an approved fuel in any State/UT. This itself is indicative of its potential to cause more damage to the environment than other fuel alternatives. Thus, it is shocking that the CPCB has thought it fit to categorize Tyre Pyrolysis Units producing such TPO as being 'Orange Category' rather than 'Red'. Such categorization by the CPCB is in clear dissonance from the stance taken by various States such as Punjab which have deemed it proper to categorize Pyrolysis Units as being a 'Red' Category industry, which invariably means 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). In the said case, the legality of a Notification issued by the MoEF&CC was challenged which exempted building and construction projects up to 1,50,000 Sq. mts. from the purview of Environmental law. However, this Hon'ble Tribunal directed the MoEF&CC to re-examine the impugned Notification, and rectify, delete and amend its clauses while highlighting that the Principle of Non-Regression means that environmental law should not be modified to the detriment of environmental protection.

11. That in respect of the latest SOP for Tyre Pyrolysis Plants issued by the CPCB, the Applicant humbly submits that the same has been issued without any endorsement of MoEF&CC and the same is supposed to supersede the older SOP for Tyre Pyrolysis Plants dated 24.11.2015

(Annexure A/9 at Page no. 170-175 of the OA No. 400/2019) which was infact issued by the MoEF&CC itself and finalized on the basis of recommendation of Technical Review Committee constituted under the then Hazardous Waste (management handling and transboundary) Rules, 2008 and has statutory backing. It is safe to state that an SOP, issued in the nature of a Guideline, has no force in law and would be of no substantive value in ensuring the regulation of TPO or Pyrolysis Units. Any such Guidelines therefore must be backed by a statutory provision either under Section 3 or Section 5 of the Environment Protection Act, 1986 for it to be legally enforceable.

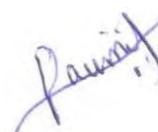
12. That with regards to the submission of CPCB related to Zero Liquid Discharge and Zero Emission Norm, it is submitted that the letter issued by the CPCB dated 20.03.2024 is not a statutory direction and further it does not provide for ensuring Zero Emission Norm as it only says ensuring general gaseous emission standards and there is no explanation provided as to why the units cannot be made a zero emission norms industry. Here again instead of such letters there should be Direction backed by a statutory provision either under Section 3 or Section 5 of the Environment Protection Act, 1986 for it to be legally enforceable.

13. 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.

Place: New Delhi

Date: 04.07.2024

**DRAWN AND FILED BY:**



Saumitra Jaiswal

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AFFIDAVIT

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

- 1. That I am fully conversant of the facts and circumstances of the matter and am competent to swear this Affidavit.
- 2. That the contents of the accompanying Objection along with accompanying Annexures have been drafted by my Counsel under my instructions and the contents are true and correct to the best of my knowledge and nothing material has been concealed therefrom.
- 3. That the accompanying Annexures to the present Objection are true and correct to the best of my knowledge.

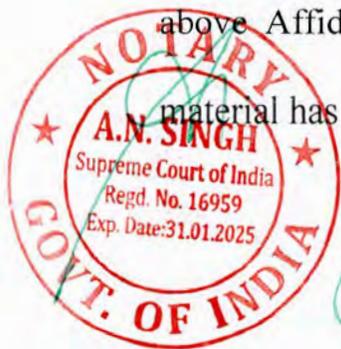
DEPONENT

04 JUL 2024

VERIFICATION:

Verified at New Delhi on this 04<sup>th</sup> day of July, 2024 that the contents of the above Affidavit are true and correct to my knowledge and belief and nothing material has been concealed there from.

*Shubham*  
D/4525/2024  
I identify the deponent who has signed/put T.I. in my presence



ATTESTED

A.N. Singh, Adv.  
Notary Public  
Govt. of India, New Delhi

04 JUL 2024

DEPONENT



785

ENVIRO LEGAL DEFENCE FIRM &lt;eldflegal@gmail.com&gt;

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**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>

Thu, Jul 4, 2024 at 11:00 AM

To: Raj Kumar &lt;advraj कुमार@gmail.com&gt;, "swatijindalgarg@gmail.com" &lt;swatijindalgarg@gmail.com&gt;

Cc: Saumitra Jaiswal &lt;SAUMITRA@eldfindia.com&gt;, Gitanjali Sanyal &lt;gitanjali@eldfindia.com&gt;, Surya Gupta &lt;surya@eldfindia.com&gt;

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 20.03.2024.

*Thanks & Regards*

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**Sameer Manher***Clerk**Enviro Legal Defence Firm**29, Presidential Estate LGF,**Nizamuddin East New Delhi – 110013**Ph. No. 011-40573181*

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 **Objection.pdf**  
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