

BEFORE THE HONORABLE NATIONAL GREEN TRIBUNAL WZ, PUNE

AT WESTERN ZONE BENCH PUNE

IN THE ORIGINAL APPLICATION NO 32/2023

Raju @ Devappa Shetty & Others

Applicant

V/S

Shri Dutt India Private Ltd

Respondent

INDEX IN RESPECT OF RESPONDANT NO .1

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FOR RESPONDENT NO 1.

OBJECTIONS ON BEHALF OF M/S. SHRI DUTT INDIA PRIVATE LIMITED TO THE REPLY AFFIDAVIT OF MAHARASHTRA POLLUTION CONTROL BOARD (MPCB) DATED 16-02-2024 FOR IMPOSITION OF ENVIRONMENTAL COMPENSATION (E.C.) IN ORIGINAL APPLICATION NO. 32 OF 2023.

BEFORE THE NATIONAL GREEN TRIBUNAL, WESTERN ZONE BENCH, PUNE, AT -- PUNE.

Original Application No. 32 of 2023 (Western Zone)

Raju Alias Devavappa Anna Shetty & Others.

.....} Applicants

VERSUS

M/s. Shri Dutt India Private Limited & Others.

.....} Respondents

Objections to the Reply filed by the Respondent No. 2- MPCB dated 16-02-2024 for imposition of Environmental Compensation E.C. without following Principles of Natural Justice by Not Extending Opportunity of Hearing & providing details of Assessment.

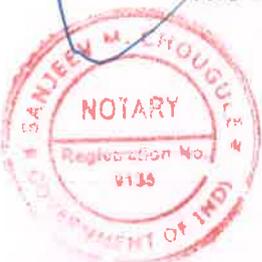
I, Sharad Suresh More, General Manager of Shri Dutt India Private Limited, having office at post-Madhavnagar, Taluka-Miraj, District-Sangli – 416 406, do hereby state on solemn affirmation and filing strong objections against the imposition of Environmental Compensation (E.C.) of Rs. 42,30,000/- without following the Principles of Natural Justice by not extending Opportunity of hearing & providing details of Assessment. There has been no such order in the Order dated 29.11.2023 by this Hon'ble National Green Tribunal to levy such sums in the name and style of "Total Environmental Damage Compensation (EDC)" as has been provided by means of an affidavit by the Sub-Regional Officer, MPCB. A copy of the EDC- Assessment Letter dated 15-02-2024 is enclosed herewith & marked as an Annexure-I. The Objections thereto are filed on the following grounds:

1. At the outset, it is submitted most respectfully that the Respondent No. 1 has already filed its objections and detailed Affidavit in reply dated 10-08-2023 to the Application no. 32 of 2023, specifically pointing out that we do not have any arrangement for discharge of untreated /or treated or undertreated effluent outside disposal area or into environment, nor have we/will we ever compromise on the environmental norms. On the contrary, no adverse impact on crops has



been shown either in the Joint Committee Report or MPCB-Reports. The Respondent No. 1 would like to rely upon the Affidavit in reply dated 10-08-2023.

2. The Applicant has deliberately concealed the material facts of the fish-killing incident and not brought on record the correct facts for reasons best known to them. Respondent No. 1 has pointed out in Para-11 (b) ii & iv of the earlier Affidavit in reply dated 10-08-2023 that some adjoining Distillery's disposal & non-compliance of other contributing industries & local bodies were not taken into consideration. (Page-34 of earlier our Affidavit dated 10-08-2023).
3. This Hon'ble Tribunal also by its Order dated 29-11-2023 observed and recorded that the fish-killing incident that occurred at Krishna River first arose from the activity of one M/s. Swapnapurti Sugar Ltd., Distillery, which has not been impleaded as Respondent in the present application by the Applicant and asked the Applicant to do needful and thus, the Applicant had to explain to the Tribunal why it did not make them a party to the proceeding and implead them at the earliest. MPCB also pointed out that the Joint Committee has not made a calculation of EDC and therefore Respondent No. 2 - MPCB is to make the calculation of EDC and submit the report within 2 weeks to file an objection against the same. A copy of the Order dated 29-11-2023 is already enclosed to the MPCB-Reply dated 16-02-2024.
4. Unfortunately, MPCB though calculated the EC against M/s. Swapnapurti Sugar Ltd., which has been stated that they are mainly responsible for Fish killing incident, very nominal compensation EDC of Rs. 3,60,000/- (Rupees Three Lakhs Sixty Only) is imposed, just for the sake of showing it, that too because of Joint Committee Observation and because of actual non-compliance by disposal of highly polluted effluent observed by it.
5. It is surprising that in spite of knowing the facts that the effluent of M/s. Swapnapurti Sugar Ltd. found its way into the Respondent No. 1 industry, the Applicant & Respondent No. 2 are trying to make the escape of M/s. Swapnapurti Sugar Ltd., either by way of first not making it as the necessary Respondent or then by the imposition of nominal EDC.
6. The Respondent No. 2 has recently imposed an unreasonable EDC of Rs. 42,30,000/- (Rupees Forty Two Lakhs Thirty Thousand Only) without extending any opportunity of being heard by violating



the principles of natural justice and not making available details of any calculations in what manner and for which non-compliances & period EDC of Rs. 42,30,000/- (Rupees Forty -Two Lakhs Thirty Thousand Only) assessed. Respondent No. 1 has already communicated its objections to the MPCB vide Letter dated 15-02-2024. A copy of the said Reply is enclosed and marked as an Annexure- II.

7. Hence, it is prayed that the MPCB may kindly be directed to review its EDC-Assessment by providing details of how and in what manner the assessment is being done and granting an opportunity of being heard and then either do a fresh unbiased assessment or wait for this Hon'ble Tribunal to pronounce its decision in the matter. For this act of kindness, the Respondent No. 1 remains grateful forever.

Solemnly affirmed on this 17th day of February, 2024 at Sangli.

For Respondent No.1
Affiant

Authorized Signatory



VERIFICATION

I, Sharad Sureshram More, the Authorized Signatory of this Respondent hereby state that the contents of the above paragraph Nos. 1 to 7 are true and correct to the best of my knowledge & belief and all the Annexures enclosed are true photocopies of documents available with this Respondent.

Dated this 17th day of February, 2024 at Sangli.

Authorized Signatory

Noted Register
Serial Number... 684/2024

Solemnly affirmed
BEFORE ME

Adv. S. M. Chougule
Notary Government of India
Dist Sangli Reg. No. 9135

7 FEB 2024



**MAHARASHTRA POLLUTION CONTROL BOARD
REGIONAL OFFICE, KOLHAPUR.**

Tel. No. (0231) 2652952,
2660448
Fax No. (0231) 2652952
E-mail:
rokolhapur@mpcb.gov.in



Udyog Bhavan,
Near Collector Office,
Kolhapur - 416 003.
Website: <http://mpcb.mah.nic.in>

"Your Service is Our Duty"

No. MPCB/RO/KOP/NGT-32/2023(WZ)/EC/ FTS- 0207

Date: 14/02/2024.

To,
M/s Shri Dutt India Pvt. Ltd.
(Operator of M/s. Vasantdada Shetkari Sahakari Sakhar Karkhana Ltd.)
173/156/167/188, A/p-Madhavnagar Road, Sangli,
Tal. Miraj, Dist. Sangli.

Sub: Environmental Compensation as per NGT Order dated 29.11.2023.

Ref: 1. NGT Order Dated 29.11.2023 in the Original application No.
32/2023 (WZ)
2. Approval received from competent authority.

Sir,

With reference to above subject Order No. 32/2023 (WZ) has been passed by Honourable NGT dated 29.11.2023. In the last order passed, NGT has directed to levy Environmental Compensation & penalty to your unit. Environmental Compensation has been calculated by MPCB.

In view of the above you are directed to deposit the amount of **Rs. 42,30,000/- (Forty Two Lakh Thirty Thousand Only)** to the Maharashtra Pollution Control Board within 15 days. The details of Account of Maharashtra Pollution Control Board is as below

Bank Name and address : State Bank Of India. Kolhapur Treasury.
Ashish Chambers, 398/B/E ward, Shahupuri, Kolhapur
Account Number : 37822828958
IFSC Code : SBIN0007249

Failure on your part to comply with this Directions Board will take necessary steps for recovery of the said amount which please be noted.

This is issued with the approval of competent Authority.

(J.S. Salunkhe)

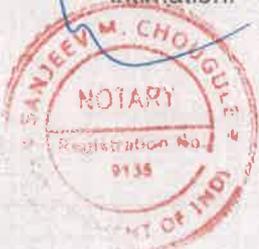
Regional Officer, MPCB Kolhapur.

Copy submitted to

1. Member Secretary, MPCB, Mumbai.
2. Joint Director (WPC), MPCB, Mumbai
3. Law Division, MPCB, Mumbai.

Copy for further follow up:

Sub Regional Officer, MPCB, Kolhapur.- Please go through the NGT order dtd. 29.11.2023 & submit Action Taken Report to HOD with copy to this office for necessary record under intimation.



Report on Environmental Compensation to be levied on **M/s Shri Dutt India Pvt. Ltd. (Operator of M/s. Vasantdada Shetkari Sahakari Sakhar Karkhana Ltd). 173/156/167/188, A/P-Madhavnagar Road, Miraj, Sangli**, in compliance with order dated 29-11-2023 of Hon'ble National Green Tribunal in the matter of Original Application No. 32 of 2023 (WZ), titled Raju alias Devavappa Anna Shetty & Ors. Vs M/s Shri Dutt India Pvt. Ltd. & Ors..

1. Background

In the matter of Original Application No. 32 of 2023 (WZ), titled Raju alias Devavappa Anna Shetty & Ors. Vs M/s Shri Dutt India Pvt. Ltd. & Ors. As per order Dated 31/03/2023 of the Hon'ble NGT is about the respondent No.1 industry i.e. M/s.Shri Dutt India Pvt. Ltd., Madhavnagar, Tal. Miraj, Dist. Sangli not maintaining their effluent treatment plant (ETP) because of which the effluent is being discharged outside the industry premises, which joins to Krishna River; resulting into death of large number of fishes. Accordingly the Joint Committee has visited & inspected the industry on 29/05/2023 & submitted the joint committee report to Hon'ble National Green Tribunal.

Considering the above non-compliances, MPCB has issued the Proposed directions u/s 33A of the Water (P & CP) Act, 1974, dated 10/03/2023 followed by closure directions u/s 33A of the Water (P & CP) Act, 1974, dated 13/03/2023. The copies of the directions are enclosed collectively **Annexure-I & II**.

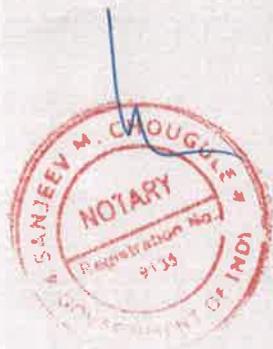
As per Hon'ble NGT order dated 29-11-2023 directed to make the calculation of EDC and submit its report within a period of two weeks. Copy of the said order dated 29/08/2023 is enclosed at **Annexure-III**.

This report is about the calculation of environmental compensation applicable on the said unit in compliance of the aforesaid order dated 29/11/2023 of the Hon'ble Tribunal.

2. Environmental Compensation

Environmental Compensation for Discharges in violation of consent conditions, mainly prescribed standards / consent limits. Accidental discharges lasting for short durations resulting into damage to the environment. Intentional discharges to the environment i.e. land, water and air resulting in acute injury or damage to the environment.

Methodology recommended in "Report of the CPCB In-house Committee on Methodology for Assessing Environmental Compensation and Action Plan to Utilize the Fund" which has also been referred by the Hon'ble National Green Tribunal in its order (para 14 to 16) dated 28/8/2019 in the matter of Original Application No. 593/2017 titled Paryavaran Suraksha Samiti & Anr. Versus Union



J.F.-

of India & Ors., may be used to calculate Environmental Compensation on the unit for illegal untreated effluent discharge and without any treatment into the environment.

Considering that the unit were discharging effluent in violation of provisions of the Water (Prevention & Control of Pollution) Act, 1974 and also not imparting any treatment to the effluent, the following formula, as referred in the aforesaid report of the CPCB In-house Committee, may be used for levying Environmental Compensation on the unit taking case (a) among the various cases of the said report:

Environmental Compensation (EC) in Rupees = $PI \times N \times R \times S \times LF$

Where,

The unit is under Red Category No. R-60 as per Modified Directions of CPCB dated 07/03/2016, Annexure-IV.

PI = Pollution index of industrial sectors.

The unit falls under Red category, hence **PI = 80**

N = Number of days violation took place.

N = 141 days. (Season 2022- 2023)

R is a factor in Rupees, which may be a minimum of 100 and maximum of 500. The aforesaid report also suggests considering R as 250 as the Environmental Compensation in cases of violation. Hence, **R = 250**

S = Factor for the scale of operation.

The unit being Large Scale unit, **S=1.5**

LF = Location factor.

LF is presumed as 1 for city/town having population less than one million. **LF = 1.0**

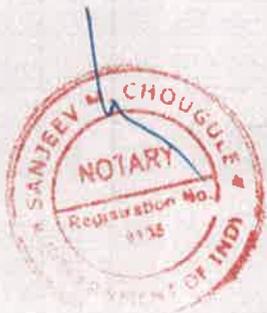
Therefore, Environmental Compensation (EC) in Rupees.

= $80 \times 141 \times 250 \times 1.5 \times 1.0$

= Rs. 42,30,000/- (Rs. Fourty-two lakh Thirty Thousand Only)

3. Environmental Compensation for extraction of ground water:

As industry utilizes the water from Krishna River water supply, hence environmental compensation for extracting ground water may not be applicable to the unit.



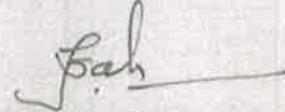
J.-

4. Conclusions

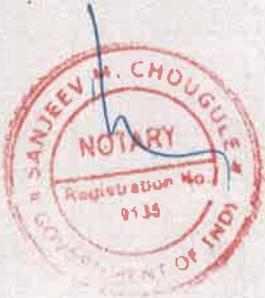
(i) The environmental compensation applicable on the unit is:

Environmental Compensation for violation of consent conditions & discharge of effluent into the environment is **Rs. 42,30,000/- (Rs. Forty-two lakh Thirty Thousand Only)** Environmental compensation for extracting ground water may not be applicable to the unit.

Total environmental compensation applicable on the unit is Rs. 42,30,000/- (Rs. Forty-two lakh Thirty Thousand Only)



(J. S. Salunkhe)
Regional Officer,
M.P.C. Board, Kolhapur.





Shri Dutt India Private Limited

Letter Head S/n : 2023-24 / 207 **189**

(Operator of Vasantdada S.S.S.K. Ltd. Sangali)

Madhavnagar Road, Sangli - 416416. Tel. No. 9112688888, 9112788888

Ref.No.SDIPL/ENV/ 119 /2023-24

Date :15.02.2024

THE REGIONAL OFFICER,
Maharashtra Pollution Control Board,
Kolhapur

Sub :- Environmental Compensation as per NGT order Dt.29.11.23

Your Ref No. -MPCB/RO/KOP/NGT-32/2023WZ/ECF15-0207 dt.14.2.24

Respected Sir,

This is with reference to the above mentioned subject and your letter referred above, which we received on 15.2.24. We would like to respectfully submit the following for your kind consideration ----

- 1) You have referred the Hon'ble NGT WZ order dt. 29.11.2023, wherein, while going through the order contents, it is observed that **Hon'ble NGT WZ has so far not directed MPCB to calculate compensation against Shri Dutt India P. Ltd, Madhavnagar, Sangli.** (COPIES OF ORDERS IN THIS REGARD ARE ATTACHED FOR READY REFERENCE.) In the order dt.29.11.23, Hon'ble NGT has directed to make 'Swapnapurti Sugar Ltd-Distillery Industry' who are original violators, as party and **fix compensation on the said industry.** It is therefore hard to understand that why instead; MPCB chose to issue our industry the compensation notice.
- 2) We further pray that You have not given us any opportunity of hearing ,and no details of calculations in what manner you have calculated this compensation are given to us.
- 3) We would further like to respectfully submit that we do not accept imposition of EC without providing any opportunity of hearing and without making available any copy of assessment of damages, which shall amount to action against us without following principles of natural justice.

We therefore request you to please make us available your calculations and also grant us opportunity of hearing before imposition of compensation if applicable to us.

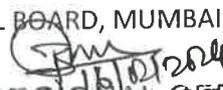
Dated 15th February, 2024 at Madhavnagar

For & On behalf of M/s SHRI DUTT INDIA PVT. LTD


Authorized Signatory

COPY RESPECTFULLY SUBMITTED, WITH COMPLIMENTS:

- 1) THE MEMBER SECRETARY, MAHARASHTRA POLLUTION CONTROL BOARD, MUMBAI
- 2) THE SUB REGIONAL OFFICER, M.P.C.B., SANGLI


REGIONAL OFFICE
M. P. C. BOARD
UDYOG BHAVAN
GR. FLOOR NEAR COLLECTOR OFFICE
KOLHAPUR - 416 008

Regd. Office : No. 205, Second Floor, P S Aviator, New Town Road,
Atghora Chinar Park, Rajarhat, Kolkata WB 700136 India
Email : office@shridutt.com, Tel.: 033 4005 1466 CIN : U15100WB2012PTC184651



Recd
16/02/2024
श्रीदुत इंडिया प्राइवेट लिमिटेड,
महानगर रोड, सांगली, महाराष्ट्र

Item No.11

(Pune Bench)

**BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE**

THROUGH PHYSICAL HEARING (WITH HYBRID OPTION)

Original Application No.32/2023(WZ)

Raju alias Devavappa Anna Shetty & Ors.

.....Applicant(s)

Versus

M/s Shri Dutt India Pvt. Ltd. & Ors.

....Respondent(s)

Date of hearing: 29.11.2023

**CORAM: HON'BLE MR. JUSTICE DINESH KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. VIJAY KULKARNI, EXPERT MEMBER**

Applicant : Mr. Asim Sarode, Advocate
Respondent(s) : Mr. Dattatray Devale, Advocate for R-1/PP
Mr. Vilas Jadhav, Advocate for R-2/MPCB
Ms. Supriya Dangare, Advocate for R-3/SMKMC

ORDER

1. From the side of applicants, learned counsel Mr. Asim Sarode has appeared.
2. In compliance with our previous order dated 29.08.2023, respondent No.1- M/s. Shri Dutt India Pvt. Ltd./Project Proponent, who was being represented by the learned counsel Mr. Dattatray Devale, was granted time of two weeks to file objection against the Joint Committee Report, but the learned counsel says that he would not like to file the same as he has already filed reply affidavit.
3. From the side of respondent No.2/MPCB, learned counsel Mr. Vilas Jadhav has appeared, who apprised us that the Joint Committee Report mentions at page no.37 of the paper book that upon detailed survey of the area under reference and also based on the report of the MPCB dated 10.03.2023 & 11.03.2023, it was observed that the occurrence of fish kill

at Krishna River first arose from the activity of M/s. Swapnapurti Sugar Ltd.- distillery industry, which has not been impleaded as respondent in the present application by the applicant. We asked the learned counsel for applicants as to why the said unit was not impleaded as one of the respondents in the present application because it had been issued proposed directions by the MPCB on 11.03.2023, which is annexed at page nos.157-158 of the paper book and a closure order was also passed on 12.03.2023, which is annexed at page nos.159-160 of the paper book. He states that he would now implead the said unit as one of the respondents in the present application. We direct him to move an application seeking impleadment of the said unit as respondent No.4 in the present application.

4. We direct the Registry to issue notice to the said newly impleaded respondent, returnable within four weeks.

5. Applicant is directed to take necessary steps for service to the respondents by both ways (Dasti as well as by Registered Post) and also on available e-mail/WhatsApp and submit service affidavit within one week.

6. Applicant is also directed to provide copy of the application and relevant documents to the said newly impleaded respondent within a week.

7. The newly impleaded respondent is directed to submit their reply affidavit within three weeks and also circulate the same to the applicant as also other respondents by available e-mail.

8. Rejoinder, if any, is directed to be submitted within one week thereafter.

9. From the side of respondent No.3/Sangli Miraj Kupwad Municipal Corporation, learned counsel Ms. Supriya Dangare has appeared, who was allowed time of two weeks to file reply affidavit but the same could not be filed. She submits that in the connected Original Application No.69/2022(WZ), she has already filed reply affidavit and the same may be treated to have been filed in the present matter also. We direct her that a copy of the said reply affidavit be also filed in the present case for record.

10. From the side of respondent No.2/MPCB, it is also pointed out by the learned counsel that the Joint Committee has not made any calculation of the EDC with respect to the pollution caused by M/s. Swapnapurti Sugar Ltd.- distillery industry. Therefore, we direct the respondent No.2/MPCB to make the calculation of EDC and submit its report within a period of two weeks with the direction that a copy of the same shall be served upon all other parties, who may file objection against the same, if any, within one week thereafter.

Put up this matter for final hearing on 19.02.2024

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

November 29, 2023
Original Application No.32/2023(WZ)
P.Kr

Item No.5 (Pune Bench)

**BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE**

THROUGH PHYSICAL HEARING (WITH HYBRID OPTION)

Original Application No.32/2023(WZ)

Raju alias Devavappa Anna Shetty & Ors.

.....Applicant(s)

Versus

M/s Shri Dutt India Pvt. Ltd. & Ors.

....Respondent(s)

Date of hearing: 29.08.2023

**CORAM: HON'BLE MR. JUSTICE DINESH KUMAR SINGH, JUDICIAL
MEMBER**

HON'BLE DR. VIJAY KULKARNI, EXPERT MEMBER

Applicant : Mr. Asim Sarode, Advocate

Respondent(s) : Mr. Dattatray Devale, Advocate for R-1/PP

Mr. Vilas Jadhav, Advocate for R-2/MPCB

Ms. Supriya Dangare, Advocate for R-3/SMKMC

ORDER

1. From the side of applicants, learned Counsel learned Counsel Mr. Asim Sarode has appeared.

2. From the side of Respondent No.1-M/s. Shri Dutt India Pvt. Ltd./Project Proponent, learned Counsel Mr. Dattatray Devale has appeared, who apprised us that reply affidavit has already been filed. He further apprised us that he has received Joint Committee Report yesterday only, against which he prays that he may be allowed two weeks' time to file objection, the same is allowed.

3. From the side of respondent No.2/MPCB, learned Counsel Mr. Vilas Jadhav has appeared, who apprised us that reply affidavit as well as Joint Committee Report have already been filed from its side.

4. From the side of respondent No.3/Sangli Miraj Kupwad Municipal Corporation, learned Counsel Ms. Supriya Dangare has appeared, who submits that she has received the Joint Committee Report and after evaluation of the same, she would be filing reply affidavit, for which she prays that two weeks' time may be allowed to file the same, we allow the same.

5. The learned Counsel for applicants submits that he has not received a copy of the Joint Committee Report, the same shall be served today only by the learned Counsel for respondent No.2/MPCB and within two weeks thereafter, objection against the same, if any, may be filed by the learned Counsel for applicants.

Put up this matter for final hearing on 29.11.2023

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

August 29, 2023

Original Application No.32/2023(WZ)

P.Kr