

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, AT NEW DELHI**

ORIGINAL APPLICATION NO. 706 OF 2022

IN THE MATTER OF:

ASGAR AHMAD NAJAR

...APPLICANT

Versus

MINISTRY OF ENVIRONMENT, FOREST AND
CLIMATE CHANGE & ORS.

...RESPONDENTS

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PLACE: 25/03/25
DATED: NEW DELHI

KNM & PARTNERS LAW OFFICES
VIJAY NAIR/ MANORANJAN SHARMA/ KARAN RAJPUROHIT
COUNSELS FOR THE RESPONDENT NO. 8
1ST FLOOR, THE GREAT EASTERN CENTRE,
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**BRIEF RESPONSE CUM OBJECTIONS ON BEHALF OF THE RESPONDENT NO. 8 /
PROJECT PROPONENT TO THE COMPLIANCE REPORT DATED 03.02.2025
SUBMITTED BY "JAMMU & KASHMIR POLLUTION CONTROL COMMITTEE" AND
AFFIDAVIT DATED 04.02.2025 FILED BY "DEPUTY COMMISSIONER, RAMBAN"**

1. The Original Application is pending before the Hon'ble Tribunal and is scheduled for final hearing on 24.04.2025.
2. During the hearing on 12.02.2025, the Hon'ble Tribunal upon taking on record the Compliance Report dated 03.02.2025 submitted by Jammu and Kashmir Pollution Control Committee (J&KPCC) and the Affidavit dated 04.02.2025 filed by the Deputy Commissioner, Ramban, had granted the parties liberty to file objections, if the parties so desire.
3. In terms of the liberty granted, the Project Proponent hereby submits the response cum objections to the aforesaid report and affidavit.
4. **Summary of the J&KPCC report and Deputy Commissioner's Affidavit is set forth below for the convenience of this Hon'ble Tribunal:**
 - 4.1 J&KPCC report and the Deputy Commissioner's affidavit were prepared in compliance with the Hon'ble Tribunal's order dated 09.12.2024. They addressed three key issues:
 - Compensation for damages to agricultural crops and structures.
 - Remedial actions already taken by the Project Proponent.
 - Future remedial measures using any Environmental Compensation funds.

4.2 Following a field inspection by the Revenue Expert Committee, the following lands were identified to assess ownership, damage, and compensation:

- Khasra No. 582 (State Land).
- Khasra Nos. 210, 211, 212 (Proprietary land of the Applicant and co-sharers).
- Khasra No. 214 (State Land under Section 4 of the Jammu and Kashmir Agrarian Reforms Act, 1976).

4.3 Findings included:

- No damage to crops or structures in Khasra Nos. 210, 211, 212.
- Project Proponent has constructed retaining walls and other protective measures at the site.

4.4 Recommendations for future remedial actions included:

- Soil stabilization and green cover.
- Erosion control through the construction of gabion walls, check dams, etc.
- Restoration of aquatic habitats through the creation of fishponds or water harvesting tanks.
- Planting of tree species that enhance biodiversity and improve soil health.

5. **Short Response and Objections on behalf of the Project Proponent:**

5.1 The construction work for the balance of Tunnel T-77D in the Banihal Section of the USBRL Project was awarded by IRCON International Ltd. (Respondent No. 7) to the Project Proponent on 18.12.2019. The Project Proponent completed the work and handed over the site to IRCON on 03.12.2023.

5.2 IRCON, after verifying and certifying the work, issued a satisfaction certificate to the Project Proponent on 19.08.2024, confirming the commencement, completion, and handing over of the project.

5.3 During the course of hearing of the captioned Original Application, a joint committee, as directed by this Hon'ble Tribunal, conducted several inspections of the project site and its adjacent lands.

- 5.4 Based on the findings of the joint committee, the Project Proponent complied with their suggestions and recommendations and reported the compliance to the Hon'ble Tribunal to the satisfaction of the joint committee and other authorities.
- 5.5 The compliances made by the Project Proponent were duly acknowledged by the joint committee, including in the present report submitted by J&KPCC and the affidavit filed by the Deputy Commissioner, Ramban.
- 5.6 Although the remedial measures now suggested by the expert committee and the Deputy Commissioner lacks any basis or justification, as no negative findings were made against the Project Proponent, despite the same the Project Proponent is ready and willing to deposit the already determined compensation amount of Rs. 3,62,478/- (Rupees Three Lakhs Sixty-Two Thousand Four Hundred Seventy Eight Only) as returned by Ld. SDM, Banihal before this Hon'ble Tribunal for utilization towards the suggested remedial measures.
- 5.7 The Project Proponent has already proactively taken steps for soil stabilization, erosion control, and construction of gabion walls and retaining walls, in line with previous recommendations of the joint committee.
- 5.8 Furthermore, the Project Proponent has deposited an amount of Rs. 30 lakhs to IRCON, which was subsequently paid by IRCON to Fisheries Department for a rehabilitation package addressing the loss of aquatic fauna due to mining activities. The said amount towards rehabilitation package was deposited in respect of construction of the Project T-74R and T-77D and the same is evident from a letter dated 06.07.2021 addressed by IRCON to the Assistant Director, Fisheries Department, Ramban, J&K. Therefore, the Project Proponent has already implemented several remedial measures, consistent with the present recommendations of J&KPCC and the Deputy Commissioner, Ramban. Copy of the letter dated 06.07.2021 issued by IRCON to Fisheries Department and the bills

evidencing the amounts deposited by the Project Proponent with IRCON are annexed hereto and marked as **Annexure A-1 (Colly.)**.

6. In light of the above response cum objections, the Project Proponent seeks permission of this Hon'ble Tribunal to deposit the amount of Rs. 3,62,478/- (Rupees Three Lakhs Sixty Two Thousand Four Hundred Seventy Eight Only) before the Registrar General of this Hon'ble Tribunal, which may be utilized for rehabilitation purposes as per the Tribunal's directions. It is humbly prayed, that the present application may be disposed of accordingly.
7. The Applicant's prayers may be rejected, as the captioned O.A. has been filed out of malice, spite, and a personal vendetta against the Project Proponent. The Applicant is not a bonafide litigant and has approached this Hon'ble Tribunal with unclean hands, thus he is not entitled to the reliefs sought. Therefore, the Application may accordingly be dismissed with heavy costs.


RESPONDENT NO. 8
(Project Proponent)

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KNM & PARTNERS LAW OFFICES
 VIJAY NAIR/ MANORANJAN SHARMA/ KARAN RAJPUROHIT
 COUNSELS FOR THE RESPONDENT NO. 8
 1ST FLOOR, THE GREAT EASTERN CENTRE,
 70, NEHRU PLACE, BEHIND IFCI TOWER
 NEW DELHI-110019
 EMAIL: krajpurohit@knm.in

PLACE: 25/03/25
DATED: NEW DELHI

VERIFICATION:

I, Jodhraj Baid, S/o. Sh. Peer Chand Baid, authorised representative of the Respondent No. 8/ the Project Proponent, do hereby verify that the contents of this reply cum objections are true to the best of my knowledge, belief and information as derived from the records available with the Respondent No. 8 and nothing material has been concealed therefrom.

Verified at New Delhi on this 25 day of March 2025.



RESPONDENT NO. 8

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
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ORIGINAL APPLICATION NO. 706 OF 2022

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...RESPONDENTS

AFFIDAVIT

I, Jodhraj Baid, S/o. Sh. Peer Chand Baid, aged about 70 years, authorized representative of Respondent No. 8, available at B-5 / 86, Safdarjung Enclave, Delhi-110029, do hereby solemnly affirm and state as under:

1. I say that I am the authorized representative of Respondent No. 8 abovenamed, and I am duly authorized vide Board Resolution dated 10.11.2022 and aware of the facts of the instant reply cum objections based on the records of the Respondent No. 8 in its regular course of business and hence, competent to swear and affirm the instant affidavit.
2. I have read through and understood the contents of the accompanying reply and state that the contents thereof have been drafted under my instructions and that the same are true and correct to the best of my knowledge and belief based on the records maintained by the Respondent No. 8 in its regular course of business.



Jodhraj Baid

DEPONENT

VERIFICATION:

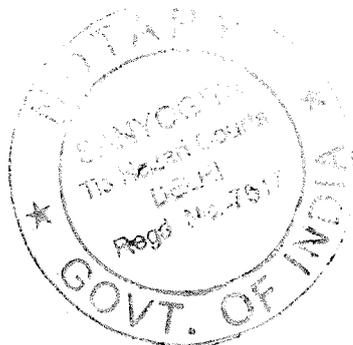
I, Jodhraj Baid, the above-named deponent, do hereby solemnly affirm that the contents of the above affidavit are true and correct to the best of my knowledge as derived from the records of Respondent No. 8, no part of it is false or incorrect and nothing material has been concealed therefrom.

Verified at New Delhi on this 25 day of March 2025.

DEPONENT

Koram
S/11658/16

I identified the executant who has signed in my presence



ATTESTED

NOTARY PUBLIC DELHI

25 MAR 2025

BILL PASS ORDER

Bill No	CC - 9th RA Bill (Bal)	Dated: 01.09.2021
Name of Contractor	M/s ABCI Infrastructure Pvt. Ltd.	204648
Name of the Work	Construction of balance work for Tunnel T-77d (km 146.60 to 148.36 approx) on the western side	
Work Order No	IRCON/J&K CELL/JAT/14/1014/K-B/T-77D-R/420/5264 dt 25.07.2019	
Agreement Value (Rs.)	1,698,946,009.00	14.00%
DOC	18-12-19	Performance Guarantee 5% of CV
Due Date of Completion	17-03-21	OGT0015200040076, dated 16.01.2020 Rs.50968381/- valid 31.05.2022
Time Extension	09.03.2022	
Date of Measurement	12.08.2021	

	Total Recovery	Already Deducted	Amount in Rs.
Gross Amount upto 9th RA bill			243,077,398.00
Gross Amount upto 8th RA bill			224,625,477.00
Gross Amount for this bill		"B"	18,451,921.00
Gross Amount		'A'	16,474,929.00
Add: CGST @ 6%	988,496.00	739,286.00	249,210.00
Add: SGST @ 6%	988,496.00	739,286.00	249,210.00
Net Payable before deduction			16,973,349.00
Less Deductions :-			
S. No	Description	Total Recovery	Already Deducted
1	TDS @ % on "A"	329,499.00	-
2	CGST TDS @ 1% on "A"	164,749.00	-
3	SGST TDS @ 1% on "A"	164,749.00	-
4	B. Cess @ 1% on 'A'	164,749.00	123,214.00
5	SD @ 10% on "B"	1,845,192.00	1,232,143.00
7	Adhoc Payment-9th RA Bill	12,321,429.00	
8	Recovery for Rock Bolt failure	200,000.00	-
9	Recovery against advance payment made to fisheries Department	1,500,000.00	
10	Recovery against FD & BG to Mining Department	100,000.00	
	Total Deduction	16,790,367.00	1,355,357.00
	Net Payable in Rupees		1,538,339.00

Net Amt payable Rs.15,38,339/- (Rupees Fifteen Lakh Thirty-Eight Thousand Three hundred Thirty-Nine only)

Sumit

BILL PASS ORDER

571

25/09/21
216
25/09/21
25.09.2021

Bill No	CC - 47 RA Bill (Balance)	203170
Name of Contractor	M/s ABCI Infrastructure Pvt. Ltd.	
Name of the Work	Construction of Tunnel of T-74R balance work at North Portal from KM 130/950 to 133/910 on K-	
Work Order No	IRCON/J&K CELL/JAT/14/1014/K-B/T-74R B(N)/342/8525 dt 25.07.2016	
Agreement Value (Rs.)	2,564,115,604.70	3,183,218,092.00 76.46%
DOC	25-07-2016	Performance Guarantee 5% of CV
Due Date of Completion	24-05-2018	BG190GM01163370001,2&4 Rs. 12,82,05,781/- valid 30.06.2022
Time Extension	31.12.2021	
Date of Measurement	31.08.2021	

Particulars	Total Recovery	Adhoc	Amount in Rs.
Gross Amount Upto 47th RA Bill			2,433,963,546.00
Less : Gross Amount Upto Previous Bill			2,389,092,920.00
Gross Amount of 47th RA Bill		"B"	44,870,626.00
Gross amount with GST		"C"	3,073,905.00
Balance Gross amount with WCT		"D"=B-C	41,796,721.00
Gross Amount after offsetting 12.6%		E=D/1.126	37,119,646.00
Gross Amount after offsetting 5% on		F=E*.95	35,263,664.00
Tax reimbursed for NS-5 (Steel Fiber)RA37 to 46 (110768371/1.126*.95-110768371/1.12)*1.12)		G	6,099,146.00
Gross bill With GST		H=C+G	9,173,051.00
Gross Amount excluding GST@12%		I=H/1.12	8,190,224.00
Gross Amount		"A"=I+F	43,453,888.00
Add: CGST @ 6%	2,607,233.00	2,024,867.00	582,366.00
Add: SGST @ 6%	2,607,233.00	2,024,867.00	582,366.00
Net Payable before deduction			44,618,620.00

Less Deductions :-

S. No	Description	Total Recovery	Already Deducted	
1	TDS @ 2% on 'A'	869,078.00		869,078.00
2	B. Cess @ 1% on 'A'	434,539.00	337,478.00	97,061.00
3	CGST TDS @ 1% on 'A'	434,539.00		434,539.00
4	SGST TDS @ 1% on 'A'	434,539.00		434,539.00
5	47th RA adhoc	33,747,780.00		33,747,780.00
6	Withheld against poor finish of lining concrete	785,000.00		785,000.00
7	LD recovery	1,230,775.00	1,230,775.00	-
8	Recovery against advance payment made to fisheries	1,500,000.00	1,500,000.00	-
9	Recovery against FD & BG to Mining Department	100,000.00	100,000.00	-
10	Recovery against Fees Paid to Mining & Pollution	23,230.00	23,230.00	-
11	Recovery of HSD (Diesel)	574,989.00	574,989.00	-
	Total Deduction	40,134,469.00	3,766,472.00	36,367,997.00
	Net Payable			8,250,623.00

Net Payable in Rs. 82,50,623/- (Rupees Eighty-Two Lakh Fifty Thousand Six Hundred Twenty three Only)



इरकॉन इन्टरनेशनल लिमिटेड
(भारत सरकार का उपक्रम)

Sent by *...* on *...*
5 by post

IRCON INTERNATIONAL LIMITED

(A GOVT. OF INDIA UNDERTAKING)
An Integrated Engineering and Construction Company

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Banihal Office :
USBRL Project,
Vill-Krawah, Post-Banihal,
Distt-Ramban, J&K-182146
Tele Fax : 01998-255708

Jammu Office :
USBRL Project Office
Satyam Complex, Marble Market,
Jammu-180011.
Tel : 0191-2484842, Fax : 0191-2484812

No. IRCON/1014/J&K/14/ 564

Date: 06.07.2021

The Assistant Director
Fisheries Department,
Ramban, J&K.

Sub: Issuance of NOC in favour of IRCON INTERNATIONAL LIMITED (A Govt. of India Undertaking) for Mining at Katra Banihal section of USBRL-Project J&K – Construction of Tunnel T-74R/T-77D and T-49B.

- I. (Khasra No.1019 in area Gund Adalkote between Chamalwas to Banihal with an area of 2.0 ha.)
- II. Adjoining area of Mahu-Manget Nallah from above Kundan Bridge to Foot Bridge Kundan having an area of 1.25 ha.)

Reg: Depositing an amount of Rs. 30.0 lacs in favour of Fisheries department for rehabilitation package against the losses of aquatic fauna due to Mining /Extraction of Boulders from Mining Block located at Mahu Mangat Nallah, Khari.

- Ref: 1. Your office NOC no:DOF/Tech/20/3489-92, dated 07.11.2020.
2. Asstt. Director Fisheries, Ramban letter no. ADF/Rbn/636-38, dated 11.01.2021.
3. Director Fisheries letter no: DOF/Plan/2021/1083-86, Dated: 02.06.2021..

In reference to your NOC cited at s.no. (1) above, issued for the Mining Block at Mahu Mangat Nallah, Khari, Distt. Ramban, vide your letter under ref. (2) above. As per the terms & conditions of NOC IRCON has to deposit an amount of Rs. 60.0 lacs (Rupees Sixty Lacs) in favour of Fisheries Department for construction of Trout Fish Farm under Rehabilitation Package against the above mentioned two number mining Blocks.

In this regard, payment of Rs. 30.0 lacs has been made by IRCON through RTGS vide UTR No: ICICR52021061800788276 on 18-06-2021 to your department account number as communicated by your office letter dated: 02.06.2021 cited at s.no. (iii) above, against one Mining Block at Mahu Mangat Nallah, Khari and the balance amount Rs. 30.0 lacs against second Mining Block at Gund Adalkote shall be deposited at the earliest.

This is for information please.

For & On behalf of,
Ircan International Limited

A.K. Singh
(A.K. Singh)
GM/T-49B

Copy to: CGM/Banihal: for kind information please.

रजि. कार्यालय : सी-4, डिस्ट्रिक्ट सेंटर, साकेत, नई दिल्ली – 110017, भारत
Regd. Office : C-4, District Centre, Saket, New Delhi-110017, INDIA
Tel.: +91-11-29565666 Fax : +91-11-26854000, 26522000
E-mail : info@ircon.org, Web.: www.ircon.org
CIN - L45203DL1976GOI008171



6/19/2021

<https://mail-attachment.googleusercontent.com/attachment/?ui=2&ik=...>


ICICI Bank account Statement from 18-06-2021 to 18-06-2021 .

Account Number	Tran Date	Value Date	Cheque No	Particulars	Dr_Amt	Cr_Amt	Balance Amount	Deposit Branch
264405000117	18-JUN-2021			B/F			502700.26	
264405000117	18-Jun-2021	18-06-2021	000912	RTGS*ICICR52021061800788276/JAKA0SBOARD/ACCOUNTS OFFICER FISHERIES	3000000.00	0.00	-2497299.74	RAMBAN
264405000117	18-Jun-2021	18-06-2021	000913	NEFT*000105700945/JAKA0TUNNEL/KISHAN DUTT SHARMA	5000.00	0.00	-2502299.74	RAMBAN
264405000117	18-Jun-2021	18-06-2021		RTGS*ICICR52021061800825676/IOBA0001431/IRCON INTERNATIONAL LIMITED	70000000.00	0.00	-72502299.74	RAMBAN
264405000117	18-Jun-2021	18-06-2021		264410000270* Rev Sweep From	0.00	68400000.00	-4102299.74	RAMBAN
264405000117	18-Jun-2021	18-06-2021		264410000262* Rev Sweep From	0.00	4595000.00	492700.26	RAMBAN
264405000117	18-Jun-2021	18-06-2021		264410000269* Rev Sweep From	0.00	10000.00	502700.26	RAMBAN
264405000117	18-Jun-2021	18-06-2021		264410000262* Closure Proceeds	0.00	5665.00	508365.26	RAMBAN
264405000117	18-Jun-2021	18-06-2021		264410000269* Closure Proceeds	0.00	4.00	508369.26	RAMBAN

Closing Balance as on 19-06-2021 05:42:38 is INR.508369.26 includes Uncleared Funds of INR.0.00