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**BEFORE THE HON'BLE GREEN TRIBUNAL
WESTERN ZONE BENCH AT PUNE
ORIGINAL APPLICATION NO.101 OF 2019 (WZ)**

IN THE MATER OF

MR. SAYYED MOHAMMED SABIR USMAN&ANR ...APPLICANTS

VERSUS

UNION OF INDIA THROUGH SECRETARY,

MoEFCC & ORS.

... RESPONDENTS

**OBJECTION ON BEHALF OF THE ORIGINAL APPLICANT TO THE IA.
NO. 13 OF 2023, 14 OF 2023, 27 OF 2023, 36 OF 2023, 76 OF 2023 AND 79 OF
2023 FILED BY RESPONDENT NO. 18, 17, 20, 16, 19 AND 22
RESPECTIVELY**

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The Applicant most respectfully submits that:-

1. The original Application filed to raise the primary issue of alleged illegal mining of limestone being carried out by Respondent Nos. 25 to 64 in the State of Gujarat. The Original Applicant has also stated that Respondent Nos. 14 to 24 including Respondent No.18, 17, 20, 16, 19 and 22 (hereinafter referred to as "**Said Respondents**") are promoting illegal mining activity by consumption of such illegally mined limestone in their industry.
2. That the contents of para 1 are self-explanatory notes and do not require reply.
3. That the Hon'ble Tribunal vide Order dated 17.03.2020 issue notice to the issue regarding the illegal mining of limestone by Respondent No.25 to 64. The Hon'ble Tribunal also stated that " ... *There are also other ancillary questions raised but, we need not enter into those for the moment as we are satisfied prime-facie that substantial question relating to the environment arises in this case which require consideration.*" The Hon'ble Tribunal can consider the ancillary question relating to the promoting illegal mining activity by the Respondent No.14 to 24 by consumption of illegally mined material

at the later stage of hearing therefore the contents of the Para 2 of abovementioned IAs are not true and misleading.

4. That contents of the Para 3 of abovementioned IAs are true to the extent of that said Respondents are engaged in the manufacturing of Cement. That the said Respondents did not produce any document to deny the supply of limestone to the said respondents for manufacturing of Cement. The said Respondents did not provide any details of supplier of limestone as to ascertain that Respondent no.25 to 64 did not supply limestone to the said Respondents. Therefore the contents of the Para 3 of abovementioned IAs are not true and misleading.
5. That contents of the Para 4 of abovementioned IAs are self-explanatory and did not require reply.
6. That contents of the Para 5 of abovementioned IAs are not true and misleading. The said Respondent are having knowledge that the suppliers of limestone are illegally mining the limestone without requisite permission from authorities as well as causing serious damage to the environment. Despite the knowledge of illegally mined material said Respondents continues to purchase the limestone from the said Respondents even after filing and admission of present OA. Which shows the utter negligence of said respondents towards the environment. Therefore the said Respondents cannot called themselves as bonafide purchaser. The said Respondents may be directed to produce details of its limestone suppliers from the inception of operation of cement manufacturing plants of said Respondents.
7. The MMDR Act does not imposes any civil liability on the bonafide purchaser but considering the abovementioned conduct of the said respondents, said Respondents cannot be called as bonafide Purchaser. The Hon'ble Tribunal is empowered under Section 17 (2) to apportion the liability for relief or compensation amongst those who are responsible for such activities, operations and processes on equitable basis which causes the death, of or injury to any person (other than workmen) or damage to any property or environment. This provision of the NGT Act, 2010 shows the intent of legislature to penalise the violators and the hon'ble Tribunal is empowered to implement the same. The said Respondents are as equally liable as Respondent no. 25 to 64 for causing enormous damage and degradation of environment in the ecologically

sensitive area by promoting illegal mining by purchasing the illegally mined limestone. Therefore the contents of the Para 6 of abovementioned IAs are not true and misleading.

8. Though the Rule 21 of the Gujrat Mineral (Prevention of Illegal Mining, Transportation and Storage) Rules, 2017 are framed to the limited scope illegal mining, its transportation and storage, hence it does not impose strict obligation on the end user. the end user is required to conduct due diligence as it obligated the end user under rule 10 (6) that at the time off registration, certify and declare the source, quantity and quality of minerals stored. The said Respondents are required to maintain the register of stored minerals, therefore the same record may be directed to produce before the Hon'ble Tribunal to ascertain the role of said Respondents in promotion of illegal mining in ecologically sensitive area. Therefore the contents of the Para 7 of abovementioned IAs are not true and misleading.
9. That the OA 58 of 2018 disposed by the hon'ble Tribunal vide judgement dated 14.11.2022 by imposing huge amount of compensation on firms, entities, companies who were illegally mining the limestone. The end user companies were not made party to the OA 58 of 2018. Therefore it is to fit to impose compensation on end user which are ultimate beneficiary of illegally mined mineral and manufacturer of cement as there activity are directly causing damages to environment. The Respondent 48 to 58 and 60 to 62 found guilty for carrying out mining operation without EC and compensation imposed on them and those Respondent were deleted as party vide Order dated 21.03.2023 passed by Hon'ble Tribunal in the IA no.200 of 2022 as filed in the present OA. Therefore the contents of the Para 8 of abovementioned IAs are not true and misleading.
10. That Therefore the contents of the Para 9 of abovementioned IAs are true. It also can be noted that the operation of cement and other plants of said Respondents are causing the pollution and irreparable damage to environment as the due diligence is not followed by the said Respondents while purchasing the limestone for manufacturing of cement.
11. That the contents of para 10 are strongly denied by the Original applicant the contention of said respondents that it will cause absurdity by penalising the purchaser of the cement manufactured from such illegally

mined limestone. The Activity, operation, process conducted by the said respondents are directly making impact on mining of limestone and the negligence of the said Respondents towards the protection of environment is visible through the non-diligence of said Respondents in purchase of limestone.

12. That if the section 411 of IPC- dishonestly receiving of stolen property will make applicable to the present case then the dishonest intention of the said respondents can be seen only after the details of purchase of limestone will be made available which includes the details of purchase after filing and admission of present OA. Therefore the compensation/penalty can also be taken from the person whose operations are causing damage to the environment. Therefore the contents of the Para 11 of abovementioned IAs are not true and misleading.
13. That the contents of the Para 12 of abovementioned IAs are not true and misleading. The Original Applicant is not making any general averment to impose the compensation/penalty on the said respondents, the Original applicant cannot obtain the information in respect of quantity and quality of mineral purchased and stored by the said Respondents. Therefore the said Respondents may be directed to produce such information which is also obligatory to maintain under the Gujrat Mineral (Prevention of Illegal Mining, Transportation and Storage) Rules, 2017, which will Therefore the contents of the Para 12 of abovementioned IAs are not true and misleading.
14. The contents of the Para 13 of abovementioned IAs are not true and misleading. The cause of action arises every time when illegal mining without EC and requisite permissions from the concerned authorities and the said Respondents are the ultimate beneficiary of the illegal mining.
15. The contents of the Para 14 of abovementioned IAs are not true and misleading. This IAs are not in interest of the justice therefore they should be dismissed.
16. Hence this are the objection to the abovementioned IA.

Date: 23.05.2023

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Place Pune

Original Applicant

Through



NITIN LONKAR
(ADVOCATE FOR APPLICANTS)