

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
Principal Bench, New Delhi**

Appeal No. 45/2022

Chhattisgarh State Industrial Development
Corporation Ltd.

Appellant

Versus

Central Pollution Control Board & Anr.

Respondent(s)

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(B. Vinod Babu)

Scientist F

Central Pollution Control Board

Delhi-110032

Date: 13.01.2023

Place: Delhi

**BEFORE THE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI**

**IN
APPEAL NO. 45 OF 2022**

**Chhattisgarh State Industrial Development
Corporation Ltd.**

Appellant

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Central Pollution Control Board & Anr.

Respondents

Reply on behalf of Respondent No. 1, Central Pollution Control Board (CPCB).

I, B. Vinod Babu, S/o B. Kameswara Rao, aged about 57 years working as Scientist-F in Central Pollution Control Board, Delhi, do hereby solemnly affirm and state on oath as under:

1. That I am fully conversant with the facts and circumstances of the present case and am duly authorized to affirm and swear this affidavit on behalf of the Central Pollution Control Board, Delhi (hereinafter referred to as CPCB) before this Hon'ble Court.
2. That the Central Pollution Control Board has been created under section 3 of the Water (Prevention & Control of Pollution) Act, 1974. Vide section 4 of the Air (Prevention & Control of Pollution) Act, 1981 the provisions of this Act are also exercised by Central Pollution Control Board. After enactment of the Environment (Protection) Act,



1986, which is an Umbrella Act for abatement of pollution and matter related to environment, the Central Pollution Control Board has been delegated powers to regulate the provisions of this Act also. However, within the federal structure in the Country, there are State Pollution Control Boards/Pollution Control Committees in every state/Union Territory constituted under section 4 of the Water (Prevention and Control of Pollution) Act, 1974 and section 6 of the Air (Prevention and Control of Pollution) Act, 1981 and are responsible for implementation of the provisions of both the Acts.

PARAWISE REPLY

3. That averments made in Para 1 refers to the fact regarding notification of Hazardous and Other Wastes (Management & Transboundary Movement) Rules, 2016 (hereafter referred as HOWM Rules, 2016) by Government of India. In this regard, it is submitted that for effective management of Hazardous waste, Ministry of Environment Forest and Climate Change has re notified Hazardous and Other Wastes (Management and Transboundary Movement) (HOWM) Rules, 2016 vide G.S.R No. 395 (E) on 04/04/2016, in suppression of previous Rules of 2008 & 1989. As per the prevailing HOWM Rules, 2016, CPCB has been entrusted with responsibility for preparation and updating of guidelines/SOPs for management of Hazardous waste, while State Pollution Control Board/Committee is the prescribed authority for Monitoring of compliance of various provisions under the Rules.
4. That averments made in Para 2-4 refers to the action taken by Hon'ble National Green Tribunal in OA 804/2017, the matters under WP(C) No. 657/1995 transferred by Hon'ble Supreme Court to Hon'ble



Committee submitted its reports to Hon'ble National Green Tribunal in January, 2019 and July, 2019.

5. That averments made in Para 5-11 refers to the steps taken for setting up of TSDF by the Government of Chhattisgarh which includes constitution of Nodal Committee (Comprising of officials from various State Government agencies including Chhattisgarh State Industrial Development Corporation (hereafter referred as CSIDC)), publication of proposal for seeking "Expression of Interest" (EOI) and re-invitation of EOI. Hence calls no comments from this answering respondent.
6. That averments made in Para 12-13 refers to imposition of Model Code of Conduct by Election Commission of India due to General Election 2019 and directions sought from Chief Election Officer, Chhattisgarh for issuing Request for Proposal (RFP) again. Hence calls no comments from this answering respondent.
7. That averments made in Para 14-17 refers to the identification of new site for setting up of common Treatment Storage and Disposal Facility (hereinafter referred as TSDF) due to various constrains at pre-decided site and Administrative approval of the Request for Proposal by State Government of Chhattisgarh. Hence calls no comments from this answering respondent.
8. That averments made in Para 18 refers to the Hon'ble National Green Tribunal orders dated 26/08/2019 in the O.A No. 804/2017 regarding setting up of TSDF by 31/03/2020 and imposition of penalty of Rs. 10 lakhs/month thereafter.



National Green Tribunal and the Monitoring Committee constituted by Hon'ble National Green Tribunal on compliance of HOWM Rules, 2016. In this regard, it is submitted that Hon'ble National Green Tribunal vide its orders dated 30/07/2018 directed that:

"... (i) All the States, where the hazardous waste is being generated must set up Treatment, Storage and Disposal Facility (TSDF) facility of adequate capacity at appropriate locations within three months from today and forthwith imitate action against erring units.

(ii) Central Government and Central Pollution Control Board must forthwith monitor the compliance of the rules by reviewing the need for action in all the states.

(iii) The Central Pollution Control Board may forthwith constitute a monitoring Committee for the purpose it may appoint a Nodal Officer exclusively to oversee the compliance of the rules. The Member Secretary CPCB may act as a Nodal Officer till a substitute is found. The action taken must be placed on the website of the Central Pollution Control Board within 3 months from today. Compliance report be filed before this Tribunal on or before 30th November, 2018, which will be treated as a separate application. "

The Copy of Hon'ble NATIONAL GREEN TRIBUNAL orders dated 30/07/2018 is appended as **Annexure-I**.

In compliance to the aforesaid orders dated 30/07/2018 of Hon'ble Tribunal, Central Pollution Control Board (hereafter referred as CPCB) constituted a Monitoring Committee vide office orders No. B-29016/C-08/18/WM-II Div/9791-9794 dated 09/08/2018. Copy of office order is appended as **Annexure-II**. The said Monitoring



In the above Order, Hon'ble National Green Tribunal directed that

"....., all the States which have not set up TSDF may do so and the States which fail to set up the same up to 31.03.2020, will be liable to pay environmental compensation of Rs. 10 lakh per month. However, with regard to States which may be categorized as small States, having regard to the quantum and nature of generation of hazardous waste, the liability to pay compensation will start from 01.01.2021." Further, Hon'ble National Green Tribunal directed CPCB to categorize states based on threshold limit of generation of hazardous waste.

The Copy of Hon'ble National Green Tribunal orders dated 26/08/2019 is appended as **Annexure-III**.

Accordingly, CPCB prepared Report on categorisation of States as Small States based on threshold limit of generation of hazardous waste As per the said report, States/UTs generating 5000 MT/Annum of land fillable HW shall take immediate actions for setting up of TSDF.

Accordingly, the State of Chhattisgarh generating about 11900 metric Tonnes of land-fillable hazardous waste, was required to set up TSDF by 31/03/2020. The said report was communicated to all the SPCBs/PCCs vide letter dated 30/09/2019. Copy of the letter issues is appended as **Annexure-IV**.

9. That averments made in Para 19-25 refers to the steps taken for award of project for in setting up of TSDF which includes re-publication of Request for Proposal in newspaper and website; conducting pre-bid meeting; proposal to state government by appellant for alternate site, issuance of Letter of Acceptance to M/s Ramky Environ Engineers Ltd



(herein after referred as Operator of TSDF) and acceptance of same by it.

Hence, calls for no comments from this answering respondent.

10. That averments made in Para 26 refers to the Hon'ble National Green Tribunal orders dated 07/07/2020 in the O.A No. 804/2017 directing CPCB to recover compensation. In regard to said Order, it is submitted that Hon'ble National Green Tribunal while referring its earlier order dated 26/08/2019, directed that

"..... CPCB to take further steps for compliance by issuing appropriate directions and also to enforce its directions for recovery of compensation for the continuing damage to the environment on 'Polluter 21 Pays' principle. CPCB and PCBs/PCCs may not permit any new industry having potential to generate hazardous waste till facilities for disposal of such waste are ensured...".

The Copy of Hon'ble National Green Tribunal orders dated 07/07/2020 is appended as **Annexure-V**.



11. That averments made in Para 27-33 refers to the meeting held between CSIDC & Operator of the Facility, and the letter sent by CSIDC to Operator of the Facility for expediting efforts for setting up of TSDF and Communications made between them regarding execution of Joint Venture. Hence, calls for no comments from this answering respondent.
12. That averments made in Para 34 refers to the CPCB letter dated 23/11/2020 for deposition of Environmental Compensation of Rs. 10

lakhs/month in compliance of Hon'ble National Green Tribunal orders dated 07/07/2020.

In this regard, it is submitted that, CPCB in compliance of the Hon'ble National Green Tribunal orders dated 26/08/2019 and 07/07/2020 had directed the State Government and its departments for depositing the Environmental Compensation vide its letter dated 06/08/2020 and 09/09/2020 and reminder letters were sent from time to time including the letter dated 23/11/2020 and thereafter.

Copy of the letters issued to Chhattisgarh State government and its agencies is appended as **Annexure-VI**

Further, a meeting with SPCBs/PCCs were also conducted on 16/03/2022 to review the status of setting up of TSDF. During the said meeting Chhattisgarh Environment Conservation Board and CSIDC informed that;

- (i) A site has been selected and the Public hearing has been conducted and grant on Environmental Clearance is awaited from MoEF&CC. Further it was informed that, establishment of TSDF will take 15 months from grant of EC;
- (ii) They will be approaching Hon'ble Supreme Court and Hon'ble NATIONAL GREEN TRIBUNAL for relief from Environmental Compensation levied for delay in setting up of TSDF.

Copy of Minutes of Meeting is appended as **Annexure-VII**.

This respondent has issued another **reminder letter** to CSIDC on 28/04/2022 for deposition of Environmental compensation in compliance of Hon'ble National Green Tribunal orders dated 07/07/2020. The copy of the letter is appended as **Annexure-VIII**.



13. That averments made in Para 25-37 refers to the meeting held between CSIDC & Operator of the Facility, letters sent by CSIDC to the said Operator of the facility for expediting efforts for setting up of TSDF and Communications made between them regarding execution of Joint Venture Agreement. Hence, calls for no comments from this answering respondent.
14. That averments made in Para 38 refers to the Hon'ble NATIONAL GREEN TRIBUNAL orders dated 29/01/2021 **directing** CPCB to impose compensation on the States/UTs which **fail to set up TSDF** or make other alternative arrangement for management of hazardous waste as per Rules. This refers to orders of Hon'ble National Green Tribunal hence call for no comments from this answering respondent.
15. That averments made in Para 39-43 refers to the M.A No. 22 of 2021; 23 of 2021 and 34 of 2021 filled by appellant in the O.A No. 804/2017 under section 16 read with section 18 of National Green Tribunal Act, 2010 and interpretation of the appellant on the Order of Hon'ble National Green Tribunal dated 19/05/2021; that levying of penalty by CPCB was independent application of its mind, not following the constituted proceeding under S.16, National Green Tribunal Act.

In this regard, it is submitted that, Hon'ble National Green Tribunal in its Order dated 19/05/2021 referred its order dated 05/04/2021 while dismissing M.A No. 22 of 2021; 23 of 2021, wherein recorded the following:

“...There can be no dispute that the Rules are mandatory and compliance is required for protection of environment and public



quantum of compensation or the due process followed by CPCB for which statutory remedy of appeal is available, if there are any valid grounds.

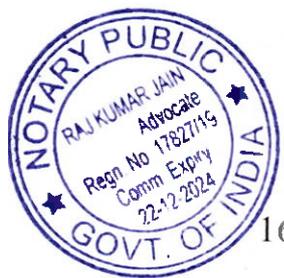
Accordingly, we do not find any merit in the applications which stand dismissed”

Further, Hon'ble National Green Tribunal vide orders dated **19/05/2021** dismissed M.A No. 34/2021 also after recording that;

“...Even though the applications were duly considered, in view of averments that the Counsel wanted to appear and could not appear on account of some glitch in connectivity, we have heard the Counsel again in support of M.A. Nos. 22 and 23 of 2021. No argument has been raised in support of prayer for modification of the order of this Tribunal dated 07.07.2020. Grievance is in respect of action of the Pollution Board which is beyond the scope of MA, seeking modification of an order of this Tribunal.

The applications are accordingly dismissed...”

Copy of Hon'ble National Green Tribunal orders dated 05/04/2021 & 19/05/2021 are appended as **Annexure-IX & Annexure-X** respectively.



16. That averments made in Para 44 refers to the registration of Joint venture between the appellant and Operator of the Facility on 23.06.2021. Hence, calls for no comments from this answering respondent.
17. That averments made in Para 45, 47 and 48 refers to the proposal of Chhattisgarh Environment Conservation Board (CECB) for disposal of

health and also in terms of binding orders of the Hon'ble Supreme Court. Polluter pays principle is part of 'sustainable development' which is part of right to life under article 21 of the Constitution. The violator has thus to pay such compensation. Violation remains undisputed. Grounds for challenge to the demand of compensation are untenable. Compensation has been wrongly described as 'penalty' and the same is challenged on the ground that failure was inspite of efforts without realizing that the matter is governed not by fault but absolute liability. As already mentioned, failure of setting up TSDF is not disputed. The same is sought to be defended on the basis of Section 18 of the Environment (Protection) Act, 1986 (EP Act) to the effect that no legal action can be taken against any Government employee for anything done under the said Act. The plea is patently absurd and based on ignorance of law. The said provision is defence for implementing the law and not for violating the same. In view of failure on the part of the applicant in setting up TSDF, resulting in continued violation of norms for hazardous waste scientifically, compensation cannot be avoided. The same has to be spent for restoration of environment as already directed. If the plea of the appellant is to be accepted, it will amount to saying that violate the law and there is no accountability for such violation. This is neither conducive to the Rule of Law nor to Sustainable Development which is part of Right to Life. Failure of the applicant is causing hazard not only to the environment but also to public health. Such failure is criminal offence punishable under the law of the land with prison sentence, apart from liability to pay compensation for restoration of the environment. There is no challenge to



hazardous waste generated in Chhattisgarh in a TSDF located in the State of Madhya Pradesh, and acceptance of the proposal by Madhya Pradesh Pollution Control Board on 01/09/2021.

In this regard, it is submitted that the initiative taken by the CECB was in line with orders dated 29/01/2021 of Hon'ble NGT, for making alternative arrangement for management of hazardous waste as per Rules as the common TSDF is not yet available in the State.

However, this Respondent was not informed about such arrangement, and the same was not mentioned by CECB in the meeting taken by this Respondent with them and other SPCBs on 16/03/2022.

Further the annual inventory reports of CECB and MPPCB for the year 2021-2022 indicates that about 51MT of incinerable hazardous waste got disposed through Common TSDF located at Pithampur in MP State. However, as per the said annual reports of both States, land fillable hazardous waste was not yet sent to MP State for disposal.

18. That averments made in Para 46 refers to the CPCB letter dated 24/08/2021 directing to deposit environmental compensation of Rs. 1.7 Crores. In this regard, it is submitted that CPCB, in compliance of the orders dated 07/07/2022 and 29/01/2021 of the Hon'ble National Green Tribunal in the O.A No. 804/2017 has been continuously issuing letters to the concerned agencies of State Government of Chhattisgarh for deposition of Environmental Compensation of Rs. 10 lakhs/month with effect from 01/04/2020, as directed by Hon'ble National Green Tribunal and to submit expected date of completion and commissioning of TSDF.



19. That averments made in Para 47-48 refers to the no-objection by MPPCB on request of CECB for disposal of waste and sanctioning of disposal of land-fillable waste at TSDF located in Pithampur, Madhya Pradesh in September, 2021. In this regard, submissions made by this respondent at Para 17 above may kindly be referred.

20. That averments made in Para 49-51 refers to the communications made by the Operator of the facility and Appellant to Ministry of Environment, Forests and Climate Change (hereafter referred as MoEF&CC), Respondent No. 02 for issuance of Environmental Clearance.

In this regard, this Answering Respondent submits that the MoEF&CC, that is Respondent No. 2 is the prescribed Authority for grant of Environmental Clearance as per EIA Notification, 2006, for a Common TSDF having both secured landfill and incinerator or common incinerator alone.

Hence, the averments made on Environmental Clearance pertains to Respondent No. 2.



That averments made in Para 52 refers to the dismissal of Civil Appeal No. 6738-6740/2021 pertaining to the appellant, by Hon'ble Supreme Court vide its orders dated 19/05/2021.

Hence, calls for no comments from this answering respondent.

22. That averments made in Para 53-55 refers to the communications made by CECB with the operator of the facility as well as MoEF&CC regarding clarification on Environmental Clearance and also letter

issued by Appellant to MoEF&CC requesting to expedite the process of granting Environmental Clearance.

Hence this respondent may have no comments to offer in this regard.

That averments made in Para 56 refers to the CPCB letter dated 28/04/2022 for deposition of environmental compensation of Rs. 2.4 Crores for delay in construction of TSDF at the rate of Rs. 10 Lakh per month from April 2020 to March 2022 and deposition of said amount by appellant to CPCB.

In this regard, it is submitted that, this Respondent has received the environmental compensation of rupees 2.4 crores from the appellant on 23/06/2022, for their failure in setting up TSDF within the time line specified by Hon'ble NGT.

23. That averments made in Para 57-58 refers to the inability of the appellant in starting construction of TSDF due to pendency of grant of Environmental Clearance with MoEF&CC and communications made by the appellant to MoEF&CC seeking expeditious approval of the Environmental Clearance.

In this regard, it is submitted that the averments made are related to Respondent No. 02 that is MoEF&CC as submitted at para 20 above.

24. That averments made in Para 59 refers to the grounds on which the appeal has been made before the Hon'ble NGT.

In this regards para-wise comments on the grounds raised in the appeal are as below:



a. That averments made in Para 59 (A- E) refer to the interpretation of the Hon'ble National Green Tribunal orders dated 19/05/2021 by the appellant that the said order was not binding in nature and CPCB had to impose environmental compensation after assessing the damage and passing direction under section 5 of Environment (Protection) Act, 1986 as CPCB has limited power conferred under the statute for which appellant has referred judgment of the Hon'ble Supreme Court in Sukhdev Singh v. Bhagatram, (1975) 1 SCC 421, 15 and under the statute there is no provision of law that empowers the CPCB to levy compensation without any genuine assessment of damage to the environment. Further, appellant states that the penalty levied by CPCB is illegal in law as the Appellant for no fault of its own and delay has been attributed by MoEF&CC.

In this regard, it is submitted that the as per provisions laid down under the HOWM Rules, 2016 as re-notified, State government has the responsibility for identification and setting up of facility for treatment, storage and disposal of the hazardous and other waste in the State which are required to be complied with. The said provisions were also laid down in the rules notified since the year 2008.

Further, the Hon'ble Tribunal vide its orders dated 30/07/2018 has directed the State Governments for establishment of TSDF within 03 months and same was extended till 31/03/2020 by further vide its orders dated 26/08/2019. After the failure of the State in setting up of the TSDF within the timeline prescribed by Hon'ble NGT, the Hon'ble National Green Tribunal passed orders directing CPCB to impose environmental compensation of Rs. 10 lakhs/month vide its orders dated 07/07/2020.



The Hon'ble Tribunal while dismissing the appeal in the said matters in its order dated 05/04/2021 has recorded that no dispute has been made on the facts that Rules are mandatory and compliance is required for protection of environment and public health and there is failure in setting up of TSDF which has been on part of the appellant which is causing hazard not only to environment but also to the public health.

Further Hon'ble National Green Tribunal recorded that if relief is granted, the same will indicate that there is no accountability for violating the regulations which is neither conducive to the Rule of Law nor to Sustainable Development which is part of Right to Life.

- b. That averments made in para 59 F refers to the orders of the Hon'ble Supreme Court in the matter of MC Mehta v. Kamal Nath & Ors., (2000) SCC 213 regarding the sine qua non for the punishment of fine is a fair trial in a competent court, and that the punishment of fine can be imposed only after the person is found guilty.

In this regard, it is submitted that Environmental Compensation has been imposed by Hon'ble National Green Tribunal vide its orders dated 07/07/2020 in view of failure to setup TSDF within the timeline specified by Hon'ble National Green Tribunal and this Respondent duly followed upon the Order of Hon'ble National Green Tribunal to ensure compliance.

- c. That averments made in para 59 G refers to the powers conferred under Environment (Protection) Act, 1986 to CPCB to levy penalty only upon a breach of the directions under section 5 of the EPA and without any direction u/s 5, there is no jurisdiction to levy the penalty under S.17 of the Act and in this case no direction under



In the said order Hon'ble Tribunal has itself directly imposed Environmental Compensation on the States which have failed to setup TSDF within stipulated timeline and directed CPCB to recover the said Environmental Compensation.

Further while disposing the matter in OA 804 of 2017, vide Order dated 29/01/2021, Hon'ble Tribunal directed CPCB to impose compensation on the States/UTs which fail to set up TSDF or make other alternative arrangement for management of hazardous waste as per Rules. It is pertinent to mention that Hon'ble National Green Tribunal has not directed CPCB to use its statutory powers to impose Environmental Compensation, however the Tribunals Orders direct CPCB to recover Environmental Compensation.

Therefore, in compliance of Hon'ble National Green Tribunal orders dated 07/07/2020, the present Respondent (CPCB) has been issuing letter to the Government of Chhattisgarh and its Agencies for complying with order of Hon'ble National Green Tribunal for depositing of Environmental Compensation as the State was yet to be setup Common TSDF in the State of Chhattisgarh. In the said letters, this Respondent has also requested the concerned agencies to provide Status of setting up common TSDF in the State.

Further, it is pertinent to mention that appellant has approached Hon'ble Supreme Court and Hon'ble National Green Tribunal to obtain same as has been prayed by way of the present appeal for relief from the Environmental Compensation as imposed by Hon'ble National Green Tribunal vide its orders dated 07/07/2020.

In the said matters, both Hon'ble Supreme Court and Hon'ble Tribunal have dismissed the appeals of the Appellant.



section 5 was issued. In this regard, it is submitted that this Respondent (CPCB) had issued letters to the Government of Chhattisgarh and its Agencies for complying with order of Hon'ble National Green Tribunal by deposition of Environmental Compensation as the State was yet to be setup Common TSDF in the State of Chhattisgarh, in doing so this Respondent duly followed upon the Order of Hon'ble National Green Tribunal to ensure compliance.

- d. That averments made in para 59(H-K) refers to the orders passes by Hon'ble Supreme Court in the matters of Vellore Citizens' Welfare Forum v. Union of India, (1996) 5 SCC 647. ¶25(2) on principles for the levy of environmental compensation as per the polluter pays principle and precautionary principle only through expert opinion; Institute of Chartered Accountants v. LK Ratna, (1986) 4 SCC 537, ¶16 on principles of natural justice which must be read into the unoccupied interstices of the statute unless there is a clear mandate to the contrary; CB Gautam v. Union of India & Ors., (1993) 1 SCC 78, ¶28 on providing reasonable opportunity of being heard before an order by the court which would have adverse civil affect on the parties; ECIL Vs. B Karunakar, (1993) 4 SCC 727,61 on principle of natural justice being the integral part of Article 14. In this regard, this answering respondent may have no comments to offer in the judgments of Hon'ble Courts.

However, it is submitted the Hon'ble National Green Tribunal has imposed the environmental compensation in view of failure for setting up the TSDF facility within the timeline provided by the Hon'ble NGT.



Further, this answering respondent has been abiding to the orders of the Hon'ble National Green Tribunal by issuing letters to the concerned State agencies for deposition of environmental compensation.

- e. That averments made in para 59L refers to the orders passed by Hon'ble Supreme Court in the matter of Indian Council for Environmental Action v. Union of India, (1996) 3 SCC 212, 67 directing that contours of the 'Polluter Pays' principle and held that compensation for environmental damage must be recoverable only from the entity causing the damage and also outlining that the Under the principle it is not the role of government to meet the costs involved in either prevention of such damage, or in carrying out remedial action, because the effect of this would be to shift the financial burden of the pollution incident to the taxpayer.

Further, submission of the appellant that polluter pays principle cannot be levied on the Appellant, who is neither the polluter nor the authority responsible for the collection of waste.

In this regard, submission made by this answering respondent at para 23 (a & b) above may be referred.

25. That averments made in para 59M refers to the permission sought by the appellant for raising other grounds at time of hearing.

Hence, calls for no comments from this answering respondent.

26. That averments made in para 60 refers to the filing of this appeal within the period of limitation; escalation of environmental compensation at rate of Rs. 10 lakh/month while the cause of action is renewed every



month and appellant seeking direction from this Hon'ble Tribunal to Respondent No. 02 for grant of Environmental Clearance.

In this regard, it is submitted that as per the Orders of Hon'ble National Green Tribunal in OA 804/2017 dated 29/01/2021, if the State of Chhattisgarh ensures alternative arrangement by sending both landfillable and incinerable hazardous waste being generated, to the State of Madhya Pradesh, temporarily till the time the State of Chattisgarh sets-up its own common TSDF; till such arrangement, monthly Environmental compensation may not be applicable.

Further, it is submitted that the matter related to Environmental Clearance may pertain to Respondent 2 that is MoEF&CC.

PRAYER

In view of the above, it is humbly submitted that this answering Respondent No. 1, CPCB shall abide by any order passed by the Hon'ble Tribunal.



DEPONENT

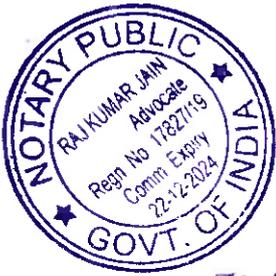
बी. विनोद बाबू / B. Vinod Babu
वैज्ञानिक "एफ" / Scientist "F"
केन्द्रीय प्रदूषण नियंत्रण बोर्ड
Central Pollution Control Board
पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय, भारत सरकार
Mo Envi. Forest & Climate Change, Govt. of India
परिवेश भवन, पूर्वी अर्जुन नगर
Parivesh Bhawan, East Arjun Nagar
दिल्ली / Delhi-110032

VERIFICATION

I,..... do hereby verify that the contents of this reply affidavit is true to my knowledge and beliefs and that knowingly no material and facts have been concealed.


DEPONENT

बी. विनोद बाबू / B. Vinod Babu
वैज्ञानिक "एफ" /Scientist "F"
केन्द्रीय प्रदूषण नियंत्रण बोर्ड
Central Pollution Control Board
पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय, भारत सरकार
M/o Env't. Forest & Climate Change, Govt. of India
परिवेश भवन, पूर्वी अर्जुन नगर
Parivesh Bhawan, East Arjun Nagar
दिल्ली / Delhi-110032



ATTESTED

NOTARY PUBLIC
GOVT. OF INDIA

3 JAN 2023

<p>Item No. 07</p> <p>July 30, 2018</p> <p>ss</p>	<p><i>of rules to collect, transport, disposed of and the process of the hazardous wastes.</i></p> <p>3. <i>What is the capacity of the plants which have been given due authorization for that purpose.</i></p> <p>4. <i>What happens and how the remnant hazardous waste is being dealt with.</i></p> <p>5. <i>The members who have been allotted any of the authorized plants and are not sending hazardous waste to those plants. What action the concerned authorities i.e. the State Government and the respective States and State Pollution Control Boards have taken so far, against such members. These details should be filed within one week from today.”</i></p> <p>2. The matter was thereafter registered as Original Application No. 804 of 2017. On 15th January, 2018, this Tribunal considered the report of the joint inspection team dated 12th December, 2017. The Tribunal noted that M/s. Rathi Steel was abstracting water through borewell without authorisation. The Rathi Steel was required to respond and the Central Ground Water Authority was directed to dispose of the pending application of M/s. Rathi Steel.</p> <p>3. Thereafter, the States of Uttar Pradesh, Rajasthan, Haryana, Delhi and Uttarakhand have filed their respective status reports which have been subject matter of consideration before this Tribunal on several earlier hearings. Today, we propose to dispose of the matter of consideration of the said reports.</p> <p>4. First of all we have taken up for consideration the latest status report filed by the State of Haryana on 07th September, 2017. The report states that there is only one Common Treatment, Storage and Disposal Facility (CTSDF) in district Faridabad. The CTSDF has been authorized to process 50000 MTA Hazardous Waste for</p>
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	<p>Item No. 07</p> <p>July 30, 2018</p> <p>ss</p>	<p>Processing as fuel in Cement Industries. Apart from the said facility, 108 units have been authorised to process recyclable hazardous waste. The capacity of secured landfill for hazardous waste is 32 years and incineration capacity is 7040 MTA. Learned counsel for the State of Haryana states that the units which were found to be non-compliant have been closed.</p> <p>5. The stand of the State of Uttar Pradesh is that 1835 units are operating as on 13th September, 2017, and all the said units are complying with the rules.</p> <p>6. The stand of the State of Rajasthan is that 35 units are violating the rules for which Show Cause Notice had been issued, but no action has been taken as on 21st September, 2017.</p> <p>7. The stand of the NCT Delhi is that 1100 units are operating as on 23rd March, 2018. All the 1100 units are operating without complying with the rules.</p> <p>8. The stand of the State of Uttarakhand is in the status report filed on 06th March, 2018 is that directions have been issued for closure of 5 units and the other units were found to be compliant with the rules.</p> <p>9. The stand of Central Pollution Control Board is that it has no role to play as action under the rules is to be taken by the State Boards.</p> <p>10. The question which arises for consideration is whether the Central Pollution Control Board and the State Pollution Control Boards have performed their duties. Rules 20 of the rules requires returns to be filed by the occupiers handling hazardous and other wastes. The State</p>
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	<p>Item No. 07</p> <p>July 30, 2018</p> <p>ss</p>	<p>Pollution Control Boards have to submit report by 30th September every year to the Central Pollution Control Board. The Central Pollution Control Board has to prepare a consolidated review report every year. There is nothing to indicate that Central Pollution Control Board has prepared such reports, as no affidavit have been filed by the Central Pollution Control Board though the Central Pollution Control Board is party to the proceedings.</p> <p>11. From the information furnished by the Delhi Pollution Control Committee, it is patent that there is flagrant violation of the rules and hazardous waste is being generated for which no action is being taken. Rule 7 permits suspension and cancellation of authorization and if there is no authorization the same is certainly in violation of Environment (Protection) Act, 1986 for which action can be taken apart from action for violation of Rule 8 and 9. The Central Government as well as the Central Pollution Control Board under section 18 of the Water (Prevention and Control of Pollution) Act can direct the State Boards to take action and in default can take over the State Board. Action can also be taken under rule 23 for recovering the financial penalty for violation of the rules. Needless to say that those units which are found to be non-compliant must be forthwith closed, apart from action taken and not allowed to operate till they become compliant.</p> <p>12. We accordingly direct as follows:-</p> <p>(i) All the States, where the hazardous waste is being generated must set up Treatment, Storage and Disposal Facility (TSDF) facility of adequate</p>
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	<p>Item No. 07</p> <p>July 30, 2018</p> <p>ss</p>	<p>capacity at appropriate locations within three months from today and forthwith imitate action against erring units.</p> <p>(ii) Central Government and Central Pollution Control Board must forthwith monitor the compliance of the rules by reviewing the need for action in all the states.</p> <p>(iii) The Central Pollution Control Board may forthwith constitute a monitoring Committee for the purpose it may appoint a Nodal Officer exclusively to oversee the compliance of the rules. The Member Secretary CPCB may act as a Nodal Officer till a substitute is found. The action taken must be placed on the website of the Central Pollution Control Board within 3 months from today. Compliance report be filed before this Tribunal on or before 30th November, 2018, which will be treated as a separate application.</p> <p>The application stands disposed of.</p> <p>....., CP (Adarsh Kumar Goel)</p> <p>....., JM (Dr. Jawad Rahim)</p> <p>.....,JM (S.P. Wangdi)</p> <p>.....,EM (Dr. Nagin Nanda)</p> <p style="text-align: right;">30.07.2018</p>
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OFFICE ORDER

F.No.B-29016/C-08/18/WM-II Div./

9791-9794

August 09, 2018

Sub.: Constitution of Monitoring Committee to monitor the compliance of the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 and need for action in all the States."

The Hon'ble National Green Tribunal, Principal Bench, New Delhi in the matter of OA No. 804/2017: Rajiv Narayana & Anr. Vs Union of India & Ors. has passed the following orders on 30/07/2018:

"...*(i) All the States, where the hazardous waste is being generated must set up Treatment, Storage and Disposal Facility (TSDF) facility of adequate capacity at appropriate locations within three months from today and forthwith imitate action against erring units.*

(ii) Central Government and Central Pollution Control Board must forthwith monitor the compliance of the rules by reviewing the need for action in all the states.

(iii) The Central Pollution Control Board may forthwith constitute a monitoring Committee for the purpose it may appoint a Nodal Officer exclusively to oversee the compliance of the rules. The Member Secretary CPCB may act as a Nodal Officer till a substitute is found. The action taken must be placed on the website of the Central Pollution Control Board within 3 months from today. Compliance report be filed before this Tribunal on or before 30th November, 2018, which will be treated as a separate application..."

In compliance to the aforesaid order of Hon'ble NGT, Principal Bench, New Delhi, a Monitoring Committee is being constituted herewith comprising the following:

1.	Dr. Ajay A. Deshpande, Former Expert Member, National Green Tribunal, Govt. of India, Flat A-101, Pristine Privilege, Opposite Prism, Near Rohan Nilay, Behind Spicer College, Audh. Pune- 411067 (Maharashtra)	Chairman
2.	Representative from Ministry of Environment, Forest & Climate Change, Govt. of India	Member
3..	Dr D. C Sharma, Prof. Department of Civil Engineering, Raja Rajeswari Group of Institutions, Bangalore (Former Additional Director, CPCB)	Member
4..	Dr A. N Vaidya, Chief Scientist & Head, Solid and Hazardous Waste Management Division, National Environmental Engineering Research Institute (NEERI), Nagpur	Member
5..	Member Secretary, Gujarat Pollution Control Board	Member
6..	Dr A. Manoharan, Former Senior Scientist, CPCB, # 24, HIG Flats, 475, Anna salai, Nandanam, Chennai- 600 035	Member
7.	Shr. Bharat K Sharma, AD & Head, WM-II Div., CPCB, and nodal officer appointed by CPCB in compliance with the Hon'ble NGT orders dated 30/07/2018	Member Convenor

Contd/-2

Terms of reference (ToR) of Monitoring Committee (TEC)

- i. To monitor the compliance of the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016.
- ii. To review the need for action in all the States for effective implementation of the Rules.
- iii. To recommend measures for compliance of the HOWM Rules, 2016 and CPCB guidelines
- iv. The Committee, if required will make site visits for assessment of the issues pertaining to management of hazardous and other wastes.
- v. The Committee may invite other experts as "Invitee Member" for the purpose of executing its work.
- vi. The Committee shall meet as and when necessary.

Tenure of Technical Expert Committee:

The tenure of the said Committee is till 30/11/2018 which may further be extended by CPCB, if required.

Reimbursement of TA/DA and Sitting fee:

- (a) The following fee, in accordance with the orders dated 20/04/2017 of the Hon'ble NGT, Principal Bench, New Delhi in the matter of O.A No. 24 of 2011, would be paid:
1. The Chairmen/Expert Members, whether in service or retired or are operating as consultant independently: -
 - (i) Chairman of the Committees would be paid a sum of Rs. 5,500/- per meeting.
 - (ii) Non-official Members of the Committees would be paid a sum of Rs. 5,000/- per meeting.
 2. Members who are retired and are not presently working in any Government organization or institute, would be termed as non-official members.
 3. Members of the Committee who are in service either in the Government or institute, bodies, instrumentalities of the State would be paid a sum of Rs. 2,500/- per meeting.
 4. Members who are in service will not be provided any TA/DA once the payment is made in terms of this order.
 5. All the members would be provided with car facility for travel. If there are outstation members, they would be paid first class rail fare or economy air fare for coming to Delhi or the place where the meetings are fixed.
 6. All the secretarial services would be provided to them and if they are required to incur expenses for the secretarial services, the same shall be reimbursed to them.
- (b) The expenditure in this regard will be met from the budget head " NGT 25 %" at CPCB.

(Dr. Prashant Gargava)
Member Secretary

Copy to:

- 1) PS to CCB : for kind information of CCB, please.
- 2) I/c F&A
- 3) All Members of the Committee (list enclosed)

(Dr. Prashant Gargava)

List of Members

1. Dr. Ajay A. Deshpande
Former Expert Member, National Green Tribunal, Govt. of India,
Flat A-101, Pristine Privilege, Opposite Prism, Near Rohan Nilay,
Behind Spicer College, Audh. Pune- 411067
2. Dr. D. C Sharma
Prof. Department of Civil Engineering,
Raja Rajeswari Group of Institutions,
202, Kambipura, Mysore Road
Bangalore-560074
3. The Joint Secretary (HSMD)
Ministry of Environment, Forests & Climate Change
2nd Floor, Jal Wing, Indira Paryavaran Bhawan,
Aliganj, Jor Bagh Road, New Delhi-110003
4. The Member Secretary,
Gujarat Pollution Control Board
Paryavaran Bhawan, Sector 10-A,
Gandhi Nagar – 382 010
5. Dr A. Manoharan,
Former Senior Scientist, CPCB,
24, HIG Flats, 475, Anna salai,
Nandanam, Chennai- 600 035
6. Dr. A. N Vaidya
Chief Scientist & Head, Solid and Hazardous Waste Management Division,
National Environmental Engineering Research Institute (NERRI)
Nehru Marg, Nagpur, 440020, In

Item No. 01

Court No. 1

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

Original Application No. 804/2017

Rajiv Narayan & Anr.

Applicant(s)

Versus

Union of India & Ors.

Respondent(s)

Date of hearing: 26.08.2019

CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE S.P. WANGDI, JUDICIAL MEMBER
HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER

For Applicant(s):

Mr. Raj Panjwani, Sr. Advocate and Mr. Rahul Choudhary, Advocate

For Respondent (s):

Mr. Raj Kumar, Advocate for CPCB
Mr. Manish Kumar, Advocate for State of HP
Mr. Anuj Chaturvedi, Advocate for DSIIDC
Ms. K. Enatoli Sema, Advocate for State of Nagaland
Mr. Rahul Verma, AAG for State of Uttarakhand
Mr. Amit Tiwari, Advocate for State of UP
Mr. Pradeep Misra and Mr. Daleep Dhyani, Advocates for UPPCB
Mr. Mukesh Verma, Advocate for UEPPCB & MPCB
Mr. Rahul Khurana, Advocate for State of Haryana and HSPCB

ORDER

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I. Preface

1. The matter has been taken up in continuation of order dated 12.04.2019 on the subject of review of compliance of the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 (HOWM Rules).
2. Due to alarming situation created by generation and unscientific dumping of hazardous waste resulting in serious and irreversible damage to the environment and public health, the issue was considered by the Hon'ble Supreme Court *inter alia* in *Writ Petition No. 657/1995, The Research Foundation for Science, Technology and Natural Resource Policy Vs. Union of India & Ors., (2005) 10 SCC 510*. Directions were issued for preparation of a comprehensive report on illegal hazardous waste dump sites, inventory of generation of such waste, National Inventory for Rehabilitation of Hazardous Waste Dump Sites and Regulation of Import etc. The Hon'ble Supreme Court referred to Basel Convention and MARPOL Convention and also considered and accepted the recommendation of the High Powered

Committee on the subject of handling of hazardous waste generated by the ship breaking process and also the waste oil or such other material. MoEF&CC was directed to consider making a provision for bank guarantee by the importers using used oil, furnace oil and zinc waste to regulate illegal transboundary movement of hazardous waste. Directions were also issued for publication of toxic inventory and community participation. Timelines were prescribed for twenty nine specified activities to be undertaken by MoEF&CC, CPCB, SPCBs/PCCs. The matter was disposed of vide judgment dated 06.07.2012 reported in (2012) 7 SCC 769 reiterating continued compliance of earlier directions with further directions for scientific handling of hazardous waste including ship breaking, banning import of hazardous waste and reviewing and revising Hazardous Waste (Management and Handling) Rules, 1989 to cover the aspects not satisfactorily dealt with and also to provide adequate protection to the workers and the public.

II. Proceedings before the Tribunal

3. We may note the background of proceedings of this matter in this Tribunal. The Original Application (O.A No. 36/2012) sought regulation of polluting activities in Ghaziabad in the light of newspaper reports that Ghaziabad was topping the list of polluted areas. The application was disposed of on 13.01.2015 with certain directions. Thereafter while considering various reports on environmental pollution vide order dated 29.08.2017, scope of

proceedings was extended to all the states in the country relating to compliance of HOWM Rules, with following direction:

1. *“As to what is the total generation of hazardous waste in their respective States.*
 2. *Which agencies have been authorized in terms of rules to collect, transport, disposed of and the process of the hazardous wastes.*
 3. *What is the capacity of the plants which have been given due authorization for that purpose.*
 4. *What happens and how the remnant hazardous waste is being dealt with.*
 5. *The members who have been allotted any of the authorized plants and are not sending hazardous waste to those plants. What action the concerned authorities i.e. the State Government and the respective States and State Pollution Control Boards have taken so far, against such members. These details should be filed within one week from today.”*
4. Thereafter vide order dated 25.10.2017 the Tribunal disposed off the application with liberty to file independent application on the subject of HOWM Rules. This led to application being assigned new O.A No. 804/2017.
5. In the course of consideration of the said matter on 30.07.2018 the Tribunal noted the status of compliance of the HOWM Rules in various states and directed as follows:

“(i) All the States, where the hazardous waste is being generated must set up Treatment, Storage and Disposal Facility (TSDF) facility of adequate capacity at appropriate locations within three months from today and forthwith imitate action against erring units.

(ii) Central Government and Central Pollution Control Board must forthwith monitor the compliance of the rules by reviewing the need for action in all the states.

(iii) The Central Pollution Control Board may forthwith constitute a monitoring Committee for the purpose it may appoint a Nodal Officer exclusively to oversee the compliance of the rules. The Member Secretary CPCB may act as a Nodal Officer till a substitute is found. The action taken must be placed on the website of the

Central Pollution Control Board within 3 months from today. Compliance report be filed before this Tribunal on or before 30th November, 2018, which will be treated as a separate application.”

6. On 18.07.2018, the Hon'ble Supreme Court considered the prayer to deal with the issues which according to the applicant had not been earlier covered. The said issues were transferred to this Tribunal. The application mentioned the said issues to be as follows:

- A. Preparation of a National Inventory of Hazardous wastes;*
- B. Complete identification and registration of Hazardous wastes generating units in the country;*
- C. Construction of TSDF/Land fills;*
- D. Hazardous Waste Dump Sites;*
- E. Waste oil/used oil read with the order dated 23.10.2007;*
- F. Setting up of laboratories at the dock/ports;*
- G. Institutional Reforms in MoEF, CPCB, SPCB, PCC;*
- H. National policy documents on Hazardous Wastes as well as cleaner technology;*
- I. Regarding workers handling hazardous wastes.”*

7. In pursuance of the above M.A No. 1302/2018 was filed before this Tribunal. Vide order dated 05.12.2018, this Tribunal directed that the issues being connected to the implementation of judgment dated 06.07.2012 of the Hon'ble Supreme Court may be considered by the Committee constituted by the CPCB in pursuance of order of this Tribunal dated 30.07.2018 on 09.08.2018.

III. Constitution of Committee by CPCB and Direction to SPCBs/PCCs

8. We may note that the CPCB in compliance of the order of this Tribunal constituted a Monitoring Committee on 09.08.2018 and issued directions on 30.01.2019 to all the SPCBs/PCCs as follows:

“a) Ensure that all the solvent recovery industries in the state have mandatory Authorisation for the same in compliance with the SOP and Checklist issued by CPCB for solvent recovery units, within one month. The said SOP and checklist have been circulated to all SPCBs/PCCs vide letter no. B29016/(SC)/1(55-IV)/17-18/WMII/18152-86 dated 08/3/2018 and is also available at CPCB website http://cpcb.nic.in/uploads/hwmd/utilizaionspent_solvent.pdf.

b) Ensure that these solvent recovery industries shall immediately follow the SOP, for safe and scientific spent solvent handling, processing and storage.

c) Ensure that such solvent recovery units shall comply with the provisions of HOWM Rules, 2016, in terms of interstate transport of Hazardous waste and manifest document prescribed under Rule 18 and 19 of the HOWM Rules, 2016, with immediate effect. Stringent action be taken against the erring industries who are giving the spent solvent to such recycling industries without following the manifest systems.

d) Conduct industry interaction programs within a month to create awareness and sensitization on HOWM Rules, 2016 with all the stakeholder industries of Spent Solvent generation/utilization.

e) Prepare an inventory of such solvent recovery units and publish the same on their website for information of all, stakeholders within one month with copy to CPCB within one month.”

**IV. Reports of the Committee, Action by the SPCBs/PCCs Further
Reports of the CPCB and consideration by this Tribunal**

9. **Interim Report dated 29.01.2019 by the Monitoring Committee -**

The Monitoring Committee gave its interim report dated 29.01.2019 under the following headings:

1. *Hazardous waste identification: - Uniformity in assessment, Byproducts and solvents (Details in Chapter 4 – Section 4.1.1)*
2. *Grant of Authorisation by SPCBs/PCCs (Details in Chapter 4 – Section 4.1.2)*
3. *Inventory (Details in Chapter 4 – Section 4.2)*
4. *Enforcement actions. (Details in Chapter 5)*
5. *Hazardous waste utilisation and recycle. Issues and need of improvements (Details in Chapter 4 – Section 4.3)*
6. *Common Treatment, Storage and Disposal facilities: reporting. (Details in Chapter 4 – Section 4.5)*
7. *Contaminated sites: Status, identification, need of urgent action, investment, capacity building, guidelines. (Details in Chapter 4 – Section 4.7)*
8. *Impact of other regulations (Details in Chapter 4 – Section 4.2)*
9. *Import and export. (Details in Chapter 4 – Section 4.6)*
10. *Capacity building in CPCB and SPCBs/PCCs and other agencies (trained adequate manpower, laboratory, budget) (Details in Chapter 4 – Section 4.7 and 4.8)*
11. *Duties performed by State/UT Govt. as stipulated under the HOWM Rules, 2016 (Details in Chapter 5)*

On each of the above subjects, the Committee made recommendations for time bound action.

10. **Order of the Tribunal dated 12.04.2019**- The report was considered by the Tribunal on 12.04.2019. The Tribunal accepted the recommendations and directed the Chief Secretaries of the States at the State level and Ministry of Environment, Forest and Climate Change (MoEF&CC) and CPCB at the national level to monitor the compliance of the recommendations. The Committee was directed to complete its remaining task within three months. The CPCB was to complete its report on the regime of compensation for violation of the HOWM Rules.

11. **Report of CPCB on Compensation regime** - Learned Counsel for the CPCB states that as per order of this Tribunal dated 12.04.2019, report dated 10.05.2019 has been prepared on the subject of compensation regime and will be filed, if the same has not been earlier filed.

12. **Final Report of the Committee dated 23.07.2019**- The CPCB has also filed "Final Report of Monitoring Committee on Management of Hazardous Waste" on 23.07.2019. The issues dealt with in the report are:

- I. Contaminated Sites and Related Issues
- II. Import and Export of Hazardous Wastes and Issues
- III. Waste Reception Facilities for wastes generated from ships and issues
- IV. Impact of HW on Workers' Health
- V. Status of compliance of issues with regard to orders of Hon'ble Supreme Court dated 14.10.2003

The committee has suggested disposal of accumulated waste through Treatment, Storage and Disposal Facilities (TSDFs) or on-site secured landfilling (SLF), preparation of guidelines for identification and assessment of contaminated sites, capacity building programme for officials of SPCBs/PCCs to deal with the subject, assessment of 195 sites for probable contamination, resolution of issues relating to financial arrangement between Central-State Government for remediation of contaminated sites, revising policy framework, speedy disposal of confiscated consignments imported illegally, upgrading the laboratories, finalizing procedure for taking bank guarantee from importers to safeguard against illegal import of hazardous waste, strengthening risk management systems while verifying documents for import of waste, laying down requirement of reception facilities at each cargo loading and unloading port, terminal and ship repair ports providing safeguards for the workers handling the waste, institutional reforms and finalizing a national policy for effective enforcement of the HOWM Rules. Summary of observations and recommendations of the Committee are as follows:

Sl. No.	Observations	Proposed Actions (Responsible Agency and timeline of action)
I. CONTAMINATED SITES AND RELATED ISSUES		
1	<p>Disposal of hazardous wastes accumulated at identified sites:</p> <p>(i) The Committee has observed that there are several contaminated dumpsites in various parts of country where hazardous and other wastes were</p>	<p>(i) CPCB/SPCBs/PCCs to ensure that the hazardous waste accumulated at all such identified sites shall be disposed of either through Treatment, Storage and Disposal Facilities (TSDFs) or on-site secured landfilling (SLF) on</p>

	dumped historically, which resulted in contamination of soil, groundwater and surface water thereby posing health and environmental risks.	priority to stop further contamination (CPCB/ SPCBs/PCCs: 06 months)
2	Guidelines for Identification and Assessment of Contaminated Sites: (i) The Committee notes that CPCB is working on standard uniform identification and assessment guidelines for the probable contaminated sites and any new additional sites, such guidelines will bring a consistency and uniformity in dealing with the contaminated sites issues.	(i) For a consistent and uniform application and approach across the country, guidelines for identification and assessment of contaminated sites shall be published. (CPCB: 03 months)
3	Assessment and remediation of Contaminated sites: (i) The Committee has observed that there is a need of awareness and capacity building in SPCBs/PCCs on the entire remediation process including identification, detailed assessment, DPR preparation and execution of remediation. (ii) Further, the committee notes with regret that even today there are about 195 probable contaminated sites (329- 134) which needs a thorough assessment for its confirmation as contaminated site or otherwise. Though the DPRs of 17 sites out of 21 are prepared under NCEF Project and the same have been forwarded to respective State Governments and State Boards. However, no remediation efforts have been initiated at such sites.	(i) Capacity building program for officials of SPCBs/PCCs on the entire process of remediation, which may include practical training on use of tools for soil and groundwater screening such as hand-held XRF instruments, Colorimeter, PID for VOCs/ SVOCs, hand operated augers, groundwater pumps, level meters, etc. shall be organized by CPCB. (CPCB: 06 months) (ii) Assessment of about 195 probable contaminated sites and any new additional sites recommended by CPCB/SPCBs/PCCs shall be completed within period of 1 year after publication of such guidance document by CPCB. (CPCB/SPCBs/PCCs: 1 year) (III) For effective implementation of the remediation plan at State level, Empowered Monitoring Committee chaired by Principal Secretary, Department of Environment having

		<p>representatives from department of Industries, SPCB/PCC, Ground water development agency, etc. shall be constituted.</p> <p>(State Govt: 04 months)</p>
4	<p>Financial Arrangements for remediation of contaminated sites:</p> <p>(i) The Committee while taking note of public trust doctrine read with provisions of section 9 of E (P) Act, it is the duty of the Govt. both Central and State to protect environment by taking remedial measures irrespective of the financial arrangements which seems to be a matter of ongoing deliberations.</p>	<p>(i) Financial arrangements between Central-State Governments for the proposed remediation projects shall be resolved immediately so that the remediation works as proposed in DPRs can be undertaken on priority. These DPRs (2017-18 and 2018-19) may need to be revisited if no action is taken in a reasonable time for execution of remediation works.</p> <p>(ii) Govt. should take up on priority not only remediation projects at the sites where DPRs have been prepared but also the assessment of about 195 sites, besides any new addition of potentially contaminated site, if any. (MoEF&CC/State Govt.: 06 months)</p>
5	<p>Networking of Academic and Research Institutes:</p> <p>(i) Execution of remediation program would require necessary interdisciplinary expertise at the SPCBs/PCCs. The CPCB/SPCBs/PCCs may find it difficult to work on these aspects unilaterally and therefore there has to be coordination and information sharing among these agencies beside developing a network of academic and research institutes which can help in creating an "Expertise Pool". (ii) The committee also notes that a part of such capacity building efforts specific action research programs can be initiated by these agencies and more particularly</p>	<p>(i) MoEF&CC/CPCB/SPCBs/PCCs shall undertake action research and also promote academic courses on this subject in association with academic and research institutions. (MoEF&CC/CPCB/ SPCBs/PCCs: 06 months)</p>

	<p>professional courses on remediation and restoration can be sponsored at academic/research institution which will help to create a critical mass of expertise in this subject.</p>	
<p>II. IMPORT AND EXPORT OF HAZARDOUS WASTES AND ISSUES</p>		
5	<p>Disposal of illegally imported consignments:</p> <p>(i) In case of confiscated items, responsibility to dispose lies with Customs. CBIC vide Circular No.31/2004- Cus, dated 26-4-2004 has referred to the orders of the Hon'ble Supreme Court in the matter of WP(C) 657/1995 for disposal of hazardous waste. The committee observed that the above circular needs to be amended for disposal of hazardous waste including allocation of fund by the concerned agency for bearing the cost of disposal.</p> <p>(ii) The committee observed that in case of unclaimed/uncleared consignments (where the claimants of the goods/wastes are nontraceable), disposal is to be carried out by port authorities/ICDs (custodian of the unclaimed/uncleared consignments) in consultation with customs and considerable delay in clearing those consignments lying in ICDs/CFSS is a major concern as also referred in the CAG Report.</p>	<p>(i) The customs circular dated 26-4-2004 requires amendment by Central Board of Indirect Taxes and Customs (CBIC) and it is recommended that CBIC to also devise policy framework for speedy disposal and bearing the cost of disposal of confiscated consignments (illegal / banned and non-conformity to the specifications of the products as applicable / as per Schedule V of HOWM Rules, 2016).</p> <p style="text-align: center;">(CBIC: 03 months)</p> <p>(ii) Port authorities/ICDs may also devise a policy, if necessary, in consultation with customs, to ensure HW disposal and its cost so as to expedite the disposal all the unclaimed cargo lying at various ports (and CFSS)/ICDs in a time bound manner.</p> <p style="text-align: center;">(Port Authorities: 03 months)</p>
6	<p>Laboratory Upgradation in Ports/Docks:</p> <p>(i) For upgradation and setting up of laboratories at various docks/ports to prevent entry of hazardous waste, Customs have informed that the revenue</p>	<p>(i) The committee is of the opinion that list of equipments as provided by CBIC for upgradation shall also be provided at major ports, with import and export facilities by CBIC. However, at other ports, arrangements for analysis of</p>

	<p>laboratories at 05 zones (Chennai, Delhi, Kandla, Kolkata and Mumbai) were identified for upgradation for testing of Hazardous waste as per the directions of the Hon'ble Supreme Court on 11.06.2004. Process of replacing nonfunctional equipments required for testing of Hazardous Waste is being further undertaken with the latest configuration/specification and technology. Further details of the laboratory facilities available in customs for analysis of hazardous materials in those five locations were also provided by customs.</p>	<p>relevant parameters with EPA/NABL accredited laboratories having minimum requisite laboratory infrastructure/equipment can be put in place in advance by CBIC.</p> <p style="text-align: center;">(CBIC: 03 months)</p>
7	<p>Bank Guarantee procedure:</p> <p>(i) Para 2.35 of Foreign Trade Policy 2015-20 stipulates that wherever any duty free import is allowed or where otherwise specifically stated, importer shall execute, Legal undertaking (LUT) / Bank Guarantee (BG) / Bond with the customs authority, as prescribed, before clearance of goods. However, execution of the same has not been clarified by DGFT and Customs.</p>	<p>(i) Applicability of bank guarantee for the list or category of items and procedure of executing BG by importer/PSIAs, as applicable, need to be specified by DGFT.</p> <p style="text-align: center;">(DGFT: 03 months)</p> <p>(ii) Procedure of executing bank guarantee by PSIAs and importer in case of import of restricted items (including hazardous wastes specified under Schedule III and VIII) and other items respectively, be devised and mandated by DGFT.</p> <p style="text-align: center;">(DGFT: 03 months)</p>
8	<p>Verification of documents for HW in Part D:</p> <p>(i) Schedule VIII of HOWM Rules, 2016 lays down list of documents for verification by customs for import of other wastes (specified in Part D of Schedule III of the said Rules). For instance, in the CAG report, it has been reported that 49 consignments of restricted goods viz., steel sheets, steel melting scrap etc. were cleared by Customs in four ICDs (viz.,</p>	<p>(i) CBIC shall strengthen their Risk Management System (RMS) for improved vigilance while verifying documents for import of other wastes (Part D of Schedule III of HOWM Rules, 2016) especially those goods/wastes that are similar to hazardous wastes (regulated or banned/prohibited for import), as there is a possibility that prohibited wastes are imported under the other wastes category.</p>

	Chennai, Marmagoa, Ahmedabad and Shillong) for importation without proper documents such as clearance from MoEF, conditions as specified in Schedule 1 and 2 of ITC(HS) policy etc.	(CBIC: immediate)
9	<p>RMS system:</p> <p>(i) The customs authorities use the risk management system (RMS) to enable low risk consignments to be cleared based on the acceptance of the importer's self-assessment and without examination. Roughly 30 percent of containers covered under risk management out of which 10 percent are physically verified. There are different types of waste streams which have not been integrated in the RMS. There is a need to review the import/export data of various waste streams and include them in RMS. Further, waste streams in Schedule III – Parts A, B and D and Schedule VI that are often mis-declared by importers need to be identified and added to the RMS.</p> <p>(ii) RMS has to be made robust so as to cover all the hazardous goods or consignments listed with HS code classification in accordance with ITC (HS) policy, 2017 for complete verification and testing of the consignments.</p>	<p>(i) There is need to synchronize Basel code and HS codes to cover all scheduled items as per HW rules in customs verification and control more effectively.</p> <p>(MoEF&CC, Custom and Port Authorities: 06 months)</p> <p>(ii) In order to tackle illegal import of HW consignments (misdeclaration) and those similar to unrestricted items without HS code, such items need to be identified and classified with HS code and brought under the ambit of RMS for stringent verification and testing procedure (for example 'other' waste oil, 'other' oils, furnace oil, Rubber/Tyre oil, Lead / Zinc scrap etc. with hazardous characteristics beyond the limits specified in the HOWM Rules, 2016 be classified with HS Code).</p> <p>(CBIC and DGFT: 06 months)</p> <p>(iii) This process is a continuous process and the monitoring committee recommends that this compliance be reviewed jointly by MoEF&CC and Customs in their coordination meetings.</p> <p>(MoEF&CC, Custom authority: on a regular basis)</p>
10	<p>DGFT license in public domain:</p> <p>(i) Details of licenses issued to import restricted items not placed on DGFT website, which may require to be communicated to the</p>	<p>(i) Details of licenses issued to import restricted items be placed on DGFT website so as to keep the concerned agencies such as Customs and MoEF&CC informed.</p>

	concerned agencies such as Customs and MoEF&CC.	(DGFT: 03 months)
11	<p>Harmonization of 'other' category in line with HWM Rules, 2016:</p> <p>(i) Harmonization of Basel codes with ITC (HS codes): The Ministry (MOEF) provides permission on the basis of Basel codes while DGFT uses HS codes. There is a need to synchronize the two codes to avoid confusion.</p> <p>(ii) Import of items under 'other' waste oil (ITC code: 2710 99 00) are restricted, however these items are not clearly specified. As the item 'other' (ITC code: 2710 19 90) along with certain list of oils are allowed freely, so there is a possibility of import of used/waste oil under the garb of oil under the 'other' category.</p> <p>(iii) No HS code has been specified categorically for any of the hazardous and other wastes except for metal scrap and waste oil.</p>	<p>(i) Items that require to be provided with HS code under the classification of oils be specified categorically under the 'other' class in consultation with MoEF&CC.</p> <p>(DGFT: 06 months)</p> <p>(ii) HS code for all the hazardous and other wastes listed in Part A, Part B and Part D of Schedule III of the Rules be specified by DGFT and Customs. The Committee recognizes that notifying HS code is an elaborate and time consuming procedure which requires international deliberations and confirmation and therefore the committee recommends to strengthen the RMS which can provide an expeditious alternative safeguard mechanism.</p> <p>(DGFT and Customs: 03 months)</p>
12	<p>Pre-shipment Inspection Agency (PSIAs) for certain category of oils as per Annexure 13 of the ASG Report:</p> <p>(i) Pre-shipment Inspection Agencies (PSIA) notified by DGFT are available for metal scrap wastes only and there is a need for pre-shipment inspection for certain category of oils (i.e. list of oils suggested for pre-shipment inspections certificate for imports in the Recommendations of the former ASG, Sh Gopal Subramaniam.</p>	<p>(i) Initiatives similar to that of metallic scrap wastes be taken by DGFT for notifying PSIAs for certain category of oils suggested for pre-shipment inspections certificate for imports in the Recommendations of the former ASG, Sh Gopal Subramaniam.</p> <p>(ii) Once the PSIAs procedure are specified, the same must be shared with MoEF&CC, CPCB/SPCBs/PCCs and other regulatory authorities.</p> <p>(DGFT: 06 months)</p>

13	<p>Penal Action against the defaulters in case illegal import:</p> <p>(i) Section 135 of Customs Act lays down provisions for prosecution of importer for the offences such as mis-declaration of value or fraudulent evasion or attempt at evasion of any duty or any prohibition, where the person is liable to be punished with imprisonment for a term exceeding up to seven years and with fine. Violations with regard to prohibited goods, namely, hazardous and other wastes are not categorically notified under section 135.</p>	<p>(i) As a means to improve traceability of importers, the Customs authorities could make the registration process of importers more stringent as there have been cases where importers have never been able to be traced when their illegal imports were intercepted. All incidences of illegal import of HW shall be immediately reported to MoEF & CC as per provisions of the Rules.</p> <p>(MoEF&CC, DGFT, Custom and Port authorities: 03 months)</p> <p>(ii) In case of illegal import of hazardous wastes, MoEF&CC may consider delegation of power vested under section 19 of the Environment (Protection) Act, 1986 to CBIC, to enable them to take credible action against such violators under the E(P) Act, 1986.</p> <p>(MoEF&CC: 06 months)</p>
14	<p>Re-export of illegal consignments after confiscation:</p> <p>(i) With regard to re-export of illegally imported items DGFT has referred to a recent order of Hon'ble High Court of Kerala, where in the case pertaining to import of Multifunctional Devices (MFDs) without permission/license from DGFT, the Hon'ble High Court had directed that the powers to direct importers to re-export lies with the DGFT under FT (D&R) Act, 1992 and not with the customs authorities.</p>	<p>(i) As of now, DGFT can take action against the erring importers as per the provisions of Foreign Trade (Development & Regulation) Act, 1992, since the feasibility of delegating such powers to the Customs Authorities is being examined in DGFT. The committee recommends to expedite the process in a time bound manner (preferably within 3 months) so as to ensure speedy disposal of consignments lying in ICDs/CFSs.</p> <p>(DGFT: within 03 months)</p>
15	<p>Clearance of Waste Oil/Sludge from Ships:</p> <p>(i) Used/ Waste Oil generated from</p>	<p>(i) Used/ Waste Oil generated from ships collected by the reception facilities of various ports shall be covered under Authorisation by</p>

	<p>ships are collected by the reception facilities of various ports without authorization by concerned SPCBs/PCCs.</p> <p>(ii) Therefore, Waste oils may get disposed illegally in the garb of waste oil from ships under the obligation of MARPOL.</p>	<p>SPCBs/PCCs for its designated disposal and facilitate tracking of waste under HOWM Rules, 2016.</p> <p>(Port Authorities/ SPCBs/PCCs: Immediate)</p>
16	<p>Findings of CAG Report:</p> <p>(i) Findings and recommendations of Report No. 16 of 2018 of the Comptroller and Auditor General of India on 'Performance Audit of Inland Container Depots (ICDs) and Container Freight Stations (CFSs)' needs to addressed by concerned agencies such as port authorities and customs.</p>	<p>(i) CBIC shall prepare annual inventory of the illegally imported consignments stored in Ports/ICDs/CFSs and submit the same to CPCB and MoEF&CC by 30th September of every year and publish on its website.</p> <p>(ii) Wherever importer of illegally imported consignments is traceable, importer shall not be allowed to import/export, directly or indirectly any material until illegally imported consignments is safely disposed off scientifically as per HOWM Rules, 2016.</p> <p>(Customs, Port Authorities and DGFT: 03 months)</p>
17	<p>Authorization under HWM Rules, 2016 from concerned SPCB/PCC:</p> <p>(i) Custom and Port authorities have not obtained requisite authorization for handling, storage, transportation, recycling, utilization, offering for sale, transfer or disposal, as the case may be, from the State Pollution Control Board.</p>	<p>(i) Necessary authorization for handling, storage, transportation, recycling, utilization, offering for sale, transfer or disposal, as the case may be obtained by Customs and Port authorities to deal with the hazardous wastes that are confiscated and waste from ships respectively.</p> <p>(Port authorities and Customs: Immediate)</p>
18	<p>Collaboration between regulating authorities:</p> <p>(i) The committee observed that regulatory agencies such as Ministry of Environment, Forest and Climate Change, CPCB,</p>	<p>(i) Regular interaction between the Ministry of Environment, Forest and Climate Change, CPCB, SPCBs/PCCs, customs and ports authorities should take place with frequent consultative meetings and trainings in order to avoid working</p>

	SPCBs/PCCs, customs and ports authorities do not interact on a regular basis.	in silos. (MoEF&CC, CPCB, SPCBs/PCCs, customs and ports authorities: On a regular basis)
III. WASTE RECEPTION FACILITIES IN PORTS TO DEAL WITH WASTES GENERATED FROM SHIPS (MARPOL)		
19	<p>Availability of Waste Reception Facilities at ports:</p> <p>(i) In accordance with the orders of the Hon'ble SC, the Ministry of Shipping has to notify availability of reception facilities as per MARPOL Convention. No clear information could be received from DG(shipping) who represented Ministry of Shipping in the interactions with the committee.</p> <p>(ii) According to notification dated 07th Jan 2010 of Department of Shipping the Central Government is required to determine the types of facilities required for the purpose of provision of reception facilities at each cargo loading and unloading port, terminal and ship repair port and notify the organization thereof.</p>	(i) Ministry of Shipping needs to urgently prescribe requirement of reception facilities at each cargo loading and unloading port, terminal and ship repair ports preferably within 06 months, if not done earlier, and such reception facilities shall be provided by such authorities within a period of one year thereafter. (Ministry of Shipping: 06 months and 01 year)
20	<p>Authorization for the waste reception facilities and ports:</p> <p>(i) The committee observed that Port authorities have not obtained authorization under HW rules for waste reception facilities in ports to deal with wastes generated from ships. The annual report of wastes generated and disposed are not reported to concerned SPCBs/PCCs. Concerned SPCBs/PCCs need to enforce provisions of HOWM Rules, 2016.</p>	(i) State Pollution Control Boards shall enforce provisions of HW Rules, 2016 for grant of authorisation and manifest submissions at such waste reception facilities as well as port operations. SPCBs shall ensure that the HW handled at such facilities and ports should be covered in the Annual report to be prepared as per HOWM Rules, 2016. (SPCBs/PCCs and Port Authority: with immediate effect)
21	<p>Swachh sagar portal:</p> <p>(i) DG(S) has developed</p>	(i) The committee recommends Ministry of Shipping to ensure that

	<p>Centralized port reception facility portal: Swachh sagar which is an online system to facilitate early information sharing of waste category and quantity by ships to the port authorities. The committee was informed that this online information management system is not widely and regularly used at several ports.</p>	<p>all the major and nonmajor ports utilize the Swachh sagar online portal immediately which will ensure better HW management. The MoEF&CC/CPCB/SPCBs should also have an access to this portal for enforcement purpose.</p> <p>(Ministry of Shipping: 03 months)</p>
IV. IMPACT OF HW ON WORKERS' HEALTH		
22	<p>Coverage of all workers under ESI act, 1948:</p> <p>(i) The Special Committee constituted by Apex Court has recommended all workers (covered under ESI Act, 1948 and not covered under ESI Act, 1948) to get medical benefits and compensation under ESI Act, 1948. However, the recommendations of the Report of the Special Committee, May 2004 has not been implemented.</p>	<p>(i) The committee recommends that all the workers engaged in HW handling, storage, transport, preprocessing, utilisation and disposal (covered under ESI Act, 1948 and not covered under ESI Act, 1948) need to get medical benefits and compensation under ESI Act, 1948 as per the recommendations of the Report of the Special Committee, May 2004 and the same be implemented on priority.</p> <p>(Ministry of Labour & Employment: 03 months)</p>
23	<p>Implementation of Rule 5(2) of HOWM Rules, 2016:</p> <p>(i) The committee regrets to note that most of the State Labour Departments are not fully aware of the responsibility cast upon them under Rule 5(2) of HW Rules, 2016 and have not complied with.</p>	<p>(i) The committee recommends Hon'ble Tribunal to direct Chief Secretaries of States to ensure effective and urgent implementation of the provisions of the rules as stipulated under Rule 5(2) of HOWM Rules, 2016 by Department of Labour. (Department of Labour, Respective State/UT Government: Immediate)</p>
24	<p>Unauthorized industries be brought under the ambit of ESI Act, 1948:</p> <p>(i) It is a known fact that there are several unauthorized industries involved in hazardous waste handling like EWaste processing, battery recycling, solvent reuse</p>	<p>(i) Ministry of Labour need to devise a scheme similar to the provisions of ESI Act, 1948 to cover the workers employed in unorganized sector. (Ministry of Labour & Employment : 06 months)</p>

	<p>etc., which employ significant number of workers. It is necessary that all such industries need to be regulated by concerned SPCB/State labour department so that the workers employed therein are brought under the ambit of health and other social support scheme similar to the provisions of ESI Act, 1948.</p>	
25	<p>Implementation of provisions of statute for safety and health of all workers handling HW:</p> <p>(i) The scope of Rule 5(2) of Hazardous Waste (Management and Transboundary Movement) Rules, 2016 is restricted to only workers involved in Recycling, Preprocessing and other utilization activities. As per recommendations of Expert Committee constituted by Apex court, the scope of such health related considerations need to be for all persons handling hazardous waste.</p>	<p>(i) The Monitoring committee is of the view that even at HW generating industry/activity, the workers involved in HW handling including storage and transportation and also in-plant reuse/ recycle/ reutilization will also be exposed to similar environmental health risks. Therefore, the committee recommends that MoEF&CC may examine the same and may consider amendment of the ambit of Rule 5(2) of HOWM Rules, 2016.</p> <p>(MoEF&CC: 06 months)</p>
26	<p>DISPLAY OF INFORMATION OUTSIDE THE FACTORY GATE:</p> <p>(i) The committee notes with regret that many of the SPCBs/PCCs have not responded to the correspondence of CPCB in this regard.</p> <p>(ii) The committee has also observed non-compliances with regard to display of information outside the factory gate in most of the States/UTs inspected by CPCB.</p>	<p>(i) Considering the orders of the Hon'ble Apex court and also the need of information sharing with the local community the committee recommends that the SPCBs need to ensure the compliance of the directions of the Hon'ble Apex court on regular basis rather than a onetime compliance.</p> <p>(ii) The verification of the updation of display board should be an integral part of any inspection carried out by CPCB/SPCBs/PCCs without exception. In case of noncompliance the concerned officer should be subjected to departmental actions.</p> <p>(CPCB/SPCBs/PCCs: Immediate)</p>
27	<p>INSTITUTIONAL REFORMS:</p>	<p>(i) Capacity building in CPCB and</p>

	<p>(i) The committee is of the opinion that there is an urgent need to develop an appropriate and sound institutional framework at SPCBs consisting sound policies, trained and experienced manpower, necessary infrastructure including the laboratories besides having proper enforcement protocol at the State and Central Board level for the effective enforcement of the HW rules.</p> <p>(ii) The committee is of the opinion that there is a need of impetus for action research specifically in the areas of green chemistry, cleaner technology, waste minimization, circular economy and LCA by SPCB/CPCB. It is also necessary that findings of such research shall be shared among all the stakeholders so that there can be environmental benchmarking of the relevant processes across the country.</p>	<p>SPCBs/PCCs and other agencies (viz., trained adequate manpower, laboratory, budget etc.) shall be expedited as recommended in the orders of Hon'ble NGT dated 12.04.2019.</p> <p>(CPCB, SPCBs/PCCs, MoEF&CC and State/UT Government: Immediate)</p> <p>(ii) The committee recommends that CPCB/SPCBs/PCCs shall take efforts similar to that of the State of Gujarat where a separate institution named Gujarat Cleaner Production Centre (GCPC) which conducts such action research supported by adequate information dissemination program and advocacy programs for promoting the cleaner technology.</p> <p>(iii) CPCB/SPCBs/PCCs shall proactively engage in research and development activities by supporting research in clean technology and cleaner production and also, awareness program for the purpose.</p> <p>(CPCB and SPCBs/PCCs: Immediate)</p>
28	<p>NATIONAL POLICY:</p> <p>(i) HW management is a complex technical and scientific subject which require a multidisciplinary approach for the effective management and enforcement of HOWM Rules, 2016. There is a continuously improving understanding and knowledge about the impacts of Hazardous material at the national and international level. India is also an important stakeholder in many international treaties and conventions in the field of Hazardous chemicals and wastes</p>	<p>(i) MoEF&CC can examine the need of having specialized HW policy which can be appropriately aligned with the National Environment Policy (NEP), 2006 which will promote use of Clean Technology and also ensure sufficient financial allocations for technology research and information sharing resulting into improved HW management.</p> <p>(MOEF&CC: 06 months)</p>

	<p>besides other environmental issues. There is a need of further documentation as well as policy framework for promotion of Clean Technology, financial incentives and research.</p>	
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13. **Report dated 14.08.2019 by the CPCB with reference to compliance by the SPCBs/PCCs-**

An action taken report on implementation of recommendation of the Monitoring Committee of Management of Hazardous Waste has also been filed by the CPCB in terms of order dated 12.04.2019 on 14.08.2019 on the subject of compliance of the directions with regard to solvent recovery units.

The recommendations of the CPCB are as follows:

“Recommendations:

1. *It is recommended that SPCBs/PCCs (namely Assam, Bihar, Delhi, Haryana, Jammu & Kashmir, Lakshadweep, Manipur, Tripura, Uttar Pradesh, Uttarakhand and DDD&NH) may be directed to submit the compliance status on the directions issued by CPCB as the same has not received from these SPCBs/PCCs*
2. *SPCBs/PCCs of Goa, Karnataka, Maharashtra and Odisha, to ensure that that all the authorized solvent recovery units in States are verified for compliance to CPCB’s SOP.*
3. *It is recommended that SPCBs of Andhra Pradesh, Goa, Karnataka, Madhya Pradesh, Maharashtra, Odisha, Punjab, Rajasthan, Telangana and West Bengal to ensure enforcement of manifest system as per the provisions of HOWM Rules, 2016 and initiate action against the erring units.*
4. *SPCBs of Himachal Pradesh, Madhya Pradesh and Rajasthan to immediately prepare inventory of Spent Solvent Recovery Unit available in their States and publish*

the same on their website. Further, all the SPCBs/PCCs having Spent Solvent recovery units to ensure updation and publishing of the inventory at their website on regular basis.

5. *It is recommended that SPCBs/PCCs of Rajasthan, Odisha, Goa and Punjab, shall immediately conduct interaction programs to create awareness and sensitization on HOWM Rules, 2016 with stakeholders of Spent Solvent generation/utilisation.”*

14. It may be noted that the directions of the CPCB dated 30.01.2019 on the subject are as follows:

- a) *Ensure that all the solvent recovery industries in the state have mandatory Authorization for the same in compliance with the SOP and Checklist issued by CPCB for solvent recovery units, within one month. The said SOP and checklist have been circulated to all SPCBs/PCCs vide letter no. B-29016/(SC)/1(55-IV)/17- 18/WM-II/18152-86 dated 08/3/2018 and is also available at CPCB website http://cpcb.nic.in/uploads/hwmd/utilizaion_spent_solvent.pdf.*
- b) *Ensure that these solvent recovery industries shall immediately follow the SOP, for safe and scientific spent solvent handling, processing and storage.*
- c) *Ensure that such solvent recovery units shall comply with the provisions of HOWM Rules, 2016, in terms of interstate transport of Hazardous waste and manifest document prescribed under Rule 18 and 19 of the HOWM Rules, 2016, with immediate effect. Stringent action be taken against the erring industries who are giving the spent solvent to such recycling industries without following the manifest systems.*
- d) *Conduct industry interaction programs within a month to create awareness and sensitization on HOWM Rules, 2016 with all the stakeholder industries of Spent Solvent generation/utilization.*
- e) *Prepare an inventory of such solvent recovery units and publish the same on their website for information of all*

stakeholders within one month with copy to CPCB within one month.”

15. The report finds following deficiencies in compliance of recommendations of the Committee and orders of this Tribunal by the States, the CPCB and the SPCBs/PCCs:

“4.1. BY STATE/UT DEPARTMENTS

- I. Recommendation No. 6.4: It is necessary that the Hon’ble NGT orders dated 30/07/2018 with regard to setting up of TSDF and taking imitate actions against erring units be strictly complied with by the concerned State/UT Government and SPCBs/PCCs. (State/UT Governments and SPCBs/PCCs: immediate).*
- II. Recommendation No. 7.5: In case of the contaminated sites where the polluter is not identified, the State/UT Government would be required to finance remediation of such sites to safeguard the people living in contaminated areas from adverse health effects, in terms of their constitutional responsibility to protect and improve the environment. (States/UTs Government and SPCBs/PCCs)*
- III. Recommendation no. 10.3: SPCBs/PCCs and CPCB needs capacity building in terms of qualified and experienced manpower and also, tools and techniques for effective governance. Committee is informed about steps being taken by SPCBs and would review the same in detail. (MoEF&CC, State/UT Government, CPCB and SPCBs / PCCs: Immediate)*
- IV. Recommendation no. 11.1: There is need to sensitize State/UT Govts. about duties required to be performed by the concerned department/agency as stipulated under Rule 5(1), 5(2), 5(3) and Schedule VII of the HOWM Rules, 2016. Hon’ble NGT may issue appropriate directions in this regard. (All State/UT Govts.: Immediate)*

4.2. BY CENTRAL POLLUTION CONTROL BOARD (CPCB)

- I. Recommendation no. 1.1: There is a need to urgently prepare a guidelines or protocol on how to decide the by-*

product on specific criteria. This can be done based on chemical process involved in order to bring consistency in approach. (MoEF&CC and CPCB: 06 months)

- II. *Recommendation no. 1.4: Pan India IT based solution is suggested for tracking HW. Such integrated data handling and management solution is under implementation by CPCB which the committee would like to review in next phase.*
- III. *Recommendation no. 3.1: Standard guidelines and protocol based on scientific fundamentals for preparation of inventory should be prepared by CPCB and strictly followed by the SPCBs/PCCs to ensure reliable and credible inventory. (SPCBs/PCCs and CPCB/inventory of 2018-19 onwards).*
- IV. *Recommendation no. 3.5: The timelines for inventory preparation as envisaged in Rules be strictly complied with by SPCBs/PCCs. Preparation of country's inventory by CPCB is dependent on such timely submission by SPCBs/PCCS. (SPCBs/PCCs and CPCB).*
- V. *Recommendation no. 4.1: SPCBs/PCCs shall invoke the powers conferred under clause 23(1) and (2) of the Rules, related to all damages caused to the environment or third party due to improper handling and management of the hazardous and other wastes, and non-compliance respectively. CPCB has already issued guidelines for Liability assessment, for invoking clause 23(1) and (2) of HW Rules. CPCB shall also take consequential actions under clause 23 (1) as per the said guidelines noticing environmental damages. (SPCBs/PCCs and CPCB: Immediate).*
- VI. *Recommendation no. 4.4: Urgent updation of concerned websites of SPCBs/PCCs/CPCB with respect to all enforcement actions along with details of industries and action taken. (SPCBs/PCCs/ CPCB: Immediate).*
- VII. *Recommendation no. 4.5: There is need to have an enforcement framework for effective enforcement of Rules based on principle of proportionality and also, precautionary principle. Such framework will remove ambiguity in*

regulatory actions and bring transparency, predictability and consistency in enforcement for actions. (SPCBs/PCCs/CPCB: within 06 months).

VIII. *Recommendation no. 8: SPCBs/PCCs and CPCB need to take cognizance of these aspects (i.e. HW resulting from enforcement of other regulations) while enforcing the relevant rules and also, preparation of HW inventory and other interventions. (SPCBs/PCCs and CPCB).*

IX. *Recommendation no. 10.3: SPCBs/PCCs and CPCB needs capacity building in terms of qualified and experienced manpower and also, tools and techniques for effective governance. Committee is informed about steps being taken by SPCBs and would review the same in detail. (MoEF&CC, State/UT Government, CPCB and SPCBs / PCCs: Immediate)*

1.3. *BY STATE POLLUTION CONTROL BOARDS/ POLLUTION CONTROL COMMITTEES (SPCBS/PCCS)*

I. *Recommendation No. 1.2: Other waste is presently missing from all the regulatory actions, including inventory. It is necessary to bring such waste in regulatory domain, as envisaged in the rules (SPCBs/PCCs: inventory of 2018-19 onwards)*

II. *Recommendation No. 1.3: SPCBs/PCCs need to take steps to ensure closing of the manifests received and reconcile the HW handling data. This work is humungous and need support in terms of software and online submissions. (SPCBs/PCCs)*

III. *Recommendation No. 1.5: The pre-processing and recycling/utilisation facilities need to be treated as critical environmental infrastructure facilities for sound environmental management of hazardous waste so as to ensure enhanced level and frequency of enforcement and environmental monitoring. Elaborate protocols are needed to be developed. (SPCBs/PCCs: continuous activity)*

IV. *Recommendation No. 1.6: According to Rules, the identification and quantification of the hazardous waste generation is to be done at the authorization stage itself and*

therefore, it is necessary that SPCBs shall adopt the scientific principles as enumerated for such identification and quantification of HW. (SPCB/PCCs: Immediate)

- V. Recommendation No. 2.1: Uniform format for visits and inspections of HW handling facilities is necessary to ensure comprehensive inspections as per the provisions of the Rules. A format is proposed by the Committee.
- VI. Recommendation No. 2.2: The authorization document should clearly stipulate respective mode of management (such as common or captive incineration/secured landfilling or pre-processing or recycling or utilization or export or captive storage, as applicable) for each category of HW being generated. (SPCBs/PCCs: immediate)
- VII. Recommendation No. 3.2: SPCBs/PCCs shall verify and scientifically validate the HW data and facilities before grant or renewal of authorization. (SPCBs/PCCs: inventory of 2018-19 onwards)
- VIII. Recommendation No.3.3: There is an emergent need to develop sectoral process based reasonable HW generation range to have uniformity in assessing the HW generation from industries and benchmarking the same with its peers, rather than solely depending on industry data. (SPCBs/PCCs: continuous activity)
- IX. Recommendation No. 3.4: All occupiers who have authorizations shall submit the Annual report and in case of non-compliance, action needs to be taken by SPCB/PCC. (SPCBs/PCCs: inventory of 2018-19 onwards)
- X. Recommendation No. 4.1: SPCBs/PCCs shall invoke the powers conferred under clause 23 (1) and (2) of the Rules, related to all damages caused to the environment or third party due to improper handling and management of the hazardous and other wastes, and non-compliance respectively. CPCB has already issued guidelines for Liability assessment, for invoking clause 23(1) and (2) of HW Rules. CPCB shall also take consequential actions under clause 23 (1) as per the said guidelines wherever directions under section 5 of the E(P) Act have been issued

by CPCB, noticing environmental damages. (SPCBs/PCCs and CPCB: Immediate)

- XI. Recommendation No. 4.2: The habitual and serious defaulters shall be prosecuted under provisions of the Environment (Protection) Act, 1986. Other alternative regulatory actions including refusal and revocation of Authorization can also be explored following the due process. (SPCBs/PCCs: Immediate)
- XII. Recommendation No. 4.3: Non-compliance to be documented while processing authorization for renewal or inspections in order to invoke powers of refusal or revocation of Authorization as per Rules. (SPCBs/PCCs: Immediate)
- XIII. Recommendation No. 4.4: Urgent updation of concerned websites of SPCBs/PCCs/CPCB with respect to all enforcement actions along with details of industries and action taken. (SPCBs/PCCs/ CPCB: Immediate)
- XIV. Recommendation No. 4.5: There is need to have an enforcement framework for effective enforcement of Rules based on principle of proportionality and also, precautionary principle. Such framework will remove ambiguity in regulatory actions and bring transparency, predictability and consistency in enforcement for actions. (SPCBs/PCCs/CPCB: within 06 months)
- XV. Recommendation No. 5.1: The inventory data needs to be verified and validated before accepting the same. The states shall adopt the proposed guidelines immediately while preparation of HW inventory. (SPCBs/PCCs: Immediate)
- XVI. Recommendation No. 5.2: There is emergent need of consistent approach in recycle and utilisation of HW in terms waste management hierarchy mandated in the rules across all the States in order to ensure the level playing field for the industry. This can be achieved by advocacy programme such as concept of waste exchange banks, know your waste programme, circular economy, documentation of the success stories along with regulatory interventions wherever required. (SPCBs/PCCs)

- XVII. *Recommendation No. 5.3: It is also necessary to develop certain benchmarks/guidelines for the possibilities of HW recycle/utilisation on case to case basis. For example, for co-processing at Cement plants the Thermal Substitution Ratio (TSR) can be an objective criterion to decide the potential to use HW for utilization purpose. The range of TSR at different cement plants can be collated to develop a database for sound co-processing practices. (SPCBs/PCCs)*
- XVIII. *Recommendation No. 5.4: The concept of environmental benchmarking among the similar industries generating HW can be useful to ensure consistency and uniformity. The emerging trend of circular economy would be a key intervention for rationalizing the HW generation and reuse/utilization. (SPCBs/PCCs: continuous activity)*
- XIX. *Recommendation No. 6.1: The practice of returning the HW consignment needs to be immediately stopped and the consignment needs to be stored within the TSDF with information to the waste generator and also the concerned SPCB. The TSDF shall take appropriate measures to dispose this waste at the risk and cost of the waste generator under due information to the SPCB immediately on priority. Though the present guidelines prescribed that the waste shall be sent back to the waste generators, this practice needs to be immediately discontinued in view of non-accounting of the waste once it is out of manifest protocol and the associated environmental risks. (SPCBs/PCCs/TSDFs: immediate)*
- XX. *Recommendation No. 6.2: SPCBs/PCCs shall conduct environmental audit including the site selection criteria, design and layout for the TSDFs in next one year. They can engage expert institutes for the purpose and seek CPCB's technical advice on the ToR of the study, if required. (SPCBs/PCCs: 01 year)*
- XXI. *Recommendation No. 6.3: All the Common SLF shall disclose the mandatory amount deposited in Escrow Account annually to SPCB/PCC, CPCB and display on their website. SPCB/PCC to take action in case of non-compliance (SPCBs/PCCs: immediate)*

XXII. Recommendation No. 6.4: It is necessary that the Hon'ble NGT orders dated 30/07/2018 with regard to setting up of TSDF and taking imitate actions against erring units be strictly complied with by the concerned State/UT Government and SPCBs/PCCs. (State/UT Governments and SPCBs/PCCs: immediate)

XXIII. Recommendation No. 8.0: SPCBs/PCCs and CPCB need to take cognizance of these aspects while enforcing the relevant rules and also, preparation of HW inventory and other interventions. (SPCBs/PCCs and CPCB)

XXIV. Recommendation No. 10.1: Each of the SPCBs/PCCs/Custom/TSDF, as listed in report, need to have at least one laboratory where all HW parameters as required under the Rules can be analysed. (SPCBs/PCCs/Custom/TSDF: 06 months)

XXV. Recommendation No. 10.3: SPCBs/PCCs and CPCB needs capacity building in terms of qualified and experienced manpower and also, tools and techniques for effective governance. Committee is informed about steps being taken by SPCBs and would review the same in detail (MoEF&CC, State/UT Govt, CPCB and SPCBs/PCCs: Immediate)"

16. Recommendations of the CPCB to rectify above deficiencies are:

“6.1. RECOMMENDATIONS:

1. It is recommended that 05 SPCBs/PCCs (namely Dadar Nagar Haveli& Daman & Diu; Haryana; Lakshadweep; Manipur and Nagaland) directed to submit the status on implementation of recommendations made by the Monitoring Committee in its interim report, as CPCB has not received any information from these SPCBs/PCCs.
2. SPCBs/PCCs need to implement 25 action points, out of which 11 action points needs to be implemented immediately and other 14 in regular and nonimmediate manner. It is recommended that SPCBs/PCCs which are not complying with the recommendations made by Monitoring Committee should submit the status report to CPCB immediately.
3. It is recommended that till National Hazardous Waste Tracking System (NHWTS) which is being developed by

CPCB is made functional, SPCBs/PCCs may be directed to ensure and verify reconciliation of manifest.

6. *SPCBs/PCCs shall strictly follow the guidelines for inventorization of hazardous and other waste issued by CPCB and ensure verification and validation of the annual returns submitted by the occupiers/recycler/pre-processor/utilizer/coprocessor operator of disposal facilities including submission of the annual inventory to CPCB within the stipulated time period.*

5. *It is recommended that SPCBs/PCCs (namely Himachal Pradesh, Sikkim, Punjab, Kerala and Jharkhand) which have reported non-compliance but not taken any action shall be directed to take action against such violators as per provisions of HOWM Rules, 2016.*

Further, it is also recommended that SPCBs/PCCs may be directed to initiate actions against all such units which are violating one or other provisions of HOWM Rule, 2016 including non-compliance to the documenting submission such annual returns, manifest document, etc.

6. *It is recommended that the timeline provided by the SPCBs/PCCs with regard to adopting waste management hierarchy (as stipulated in the HOWM Rules) to ensure the level playing for the industries shall be strictly adhere to.*

Further, SPCBs/PCCs shall also initiate development of certain benchmarks/guidelines for the possibility of hazardous waste recycling/ utilization on case to case to basis as most of the SPCBs/PCCs have not taken any initiative on the same.

7. *It is recommended that SPCBs/PCC may be directed to initiate development of sectoral process based HW generation range to have uniformity in assessing the HW generation from industries and benchmarking the same.*

8. *It is recommended that SPCBs/PCCs of (Karnataka, Maharashtra, Rajasthan, Kerala and Uttarakhand) having Common TSDF to immediately open the Escrow Account as per O.M of MoEF&CC including deposition of mandatory amount.*

Further, SPCBs/PCCs of Gujarat, Jharkhand, Karnataka, Odisha, Rajasthan, Tamil Nadu and West Bengal shall

take action against the Common TSDF(s) for not displaying the details of mandatory amount deposited in the Escrow Account on their website.

9. *SPCBs/PCCs may be directed to expedite conducting of environment audit of the Common/Captive SLFs in the time bound manner as specified in the Interim Report of the Monitoring Committee Report.*
10. *SPCBs/PCCs have reported that out of 30 SPCBs/PCCs only 19 are having laboratory facilities for analysis of all hazardous waste parameters as required under HOWM Rules, 2016. Therefore, it is recommended that all the remaining 11 SPCBs/PCCs (Andaman and Nicobar Islands, Arunachal Pradesh, Delhi, Goa, Jammu & Kashmir, Jharkhand, Meghalaya, Odisha, Puducherry, Sikkim and Uttarakhand) should be equipped with all the facilities for analysis of all hazardous waste parameters as required under HOWM Rules, 2016.*
11. *It is recommended to direct States/UTs (namely Andaman and Nicobar Islands, Assam, Arunachal Pradesh, Bihar, Chhattisgarh, Chandigarh, Delhi, Goa, Jammu & Kashmir, Lakshadweep, Manipur, Meghalaya, Mizoram, Nagaland, Puducherry, Tripura and Sikkim) where common TSDF is not available to immediately set up adequate number/capacity of Common TSDFs in such States/UT.*
12. *All the Chief Secretaries of the States/UTs may be directed to submit biannually compliance report to CPCB by collecting information from the State Government/ Departments like Labour/ Industries/ Environment and SPCBs/PCCs.”*

V. Consideration by this Tribunal and Directions

17. We have given due consideration to the report of the Committee as well as the report of the CPCB on the follow up action. We do not see any objection to the recommendations being accepted. No objection has been raised by any of the parties. Accordingly, the recommendations are accepted..

18. The States/UTs, CPCB/SPCBs/PCCs, Central Board of Indirect Taxes and Customs (CBIC), the Port Authorities, the DGFT, the MoEF&CC, the Ministry of Shipping, Ministry of Labour and Employment and the Department of Labour of all the concerned States/UTs may take necessary steps in terms of the recommendations of the Committee within the timelines specified. If there is any default, the Tribunal may consider requiring environmental compensation to be paid by the defaulting parties.
19. Hazardous waste being highly toxic in nature, having potential for irreversible damage to the environment and public safety, scientific handling of such waste has to be ensured.

VI. Directions

20. In the light of above, the States/UTs, CPCB/SPCBs/PCCs, the Central Board of Indirect Taxes and Customs (CBIC), the Port Authorities, the DGFT, the MoEF&CC, the Ministry of Shipping, Ministry of Labour and Employment and the Department of Labour of all the concerned States/UTs may take necessary steps in terms of the recommendations of the Committee within the timelines specified. If there is any default, the Tribunal may consider requiring environmental compensation to be paid by the defaulting parties.

While doing so following specific steps may be ensured:

- i. Hazardous waste inventory be updated and verified by way of test checks to ensure that the same is credible, reliable and robust in terms of contents and scope, as already recommended in the interim report of the Monitoring

Committee dated 29.01.2019 which was accepted by the Tribunal on 12.04.2019.

- ii. Since it has been reported that State Boards/PCCs of Dadra & Nagar Haveli, Haryana, Daman & Diu, Manipur, Lakshadweep and Nagaland have not furnished the relevant data, the said States/UTs may furnish the data within one month to the CPCB, failing which they will be liable to pay a sum of Rs, 1 lakh per month with effect from 01.10.2019.
- iii. As already directed, all the States which have not set up TSDF may do so and the States which fail to set up the same up to 31.03.2020, will be liable to pay environmental compensation of Rs. 10 lakh per month. However, with regard to States which may be categorized as small States, having regard to the quantum and nature of generation of hazardous waste, the liability to pay compensation will start from 01.01.2021. The categorization based on threshold limit of generation of hazardous waste be made by the CPCB within one month from today and placed on its website.
- iv. 126 sites which have already been identified as contaminated may be cleared of the hazardous waste within six months so that remediation process may start. The remediation work may start at the 55 sites for which DPRs have been completed within the timelines specified in the DPRs. For the remaining 71 sites, DPRs may be completed expeditiously but not later

than one year and thereafter remediation may be done as per the timelines in the DPRs.

- v. Failure to remove the waste from the 126 identified sites, will result in environmental compensation to be paid at the rate of Rs. 10 lakhs per site from 01.04.2020 by the concerned SPCBs/PCCs to the CPCB. Same rate will apply in respect of such of the 195 sites as are identified as contaminated with effect from 01.01.2021.
- vi. With regard to 195 probable contaminated sites, the assessment may be completed within six months and thereafter the waste may be removed within next six months from sites cleared by the CPCB to be contaminated.
- vii. The clearance of site by way of disposal or transfer should be strictly as per the HOWM Rules, to be monitored by the CPCB. The cost of removal of waste may be first paid out of the environment funds/consent funds available with the State PCBs/PCCs and thereafter recovered from the persons concerned.
- viii. Whenever any difficulty arises, the CPCB may, on being so satisfied, allocate funds from environment funds available with it, which may thereafter be recovered from the concerned defaulters.

- ix. The recommendations of the CPCB with regard to the compensation regime on the subject may be adopted, subject to further consideration of orders.
- x. The CPCB may oversee the compliance of these directions compile data from all quarters and furnish an interim compliance report before 15.04.2020 by email at judicial-ngt@gov.in.

List for further consideration on 28.04.2020

Adarsh Kumar Goel, CP

S.P. Wangdi, JM

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

August 26, 2019
Original Application No. 804/2017
AK

SPEED POST

NGT MATTER

F.No. B-29016-NGT/C-08/2019/WM-II Div./

September 30, 2019

To,

The Member Secretary,
SPCBs/PCCs (as per list enclosed)

Sub: Compliance of the Hon'ble NGT orders dated 26.08.2019 with regard to categorization of states based on threshold limit of generation of hazardous waste and setting up of TSDF thereof-reg.

Ref: Orders of Hon'ble NGT dated 26.08.2019 in the matter of O.A no. 804/2017, Rajiv Narayan & Anr Vs. Union of India & Ors.

Sir,

This has reference to the above referred orders dated 26.08.2019 of the Hon'ble NGT, Principle Bench, New Delhi in the matter of O.A no. 804/2017, Rajiv Narayan & Anr Vs. Union of India & Ors., wherein it was directed that

"...As already directed, all the States which have not set up TSDF may do so and the States which fail to set up the same up to 31.03.2020, will be liable to pay environmental compensation of Rs. 10 lakh per month. However, with regard to States which may be categorized as small States, having regard to the quantum and nature of generation of hazardous waste, the liability to pay compensation will start from 01.01.2021. The categorization based on threshold limit of generation of hazardous waste be made by the CPCB within one month from today and placed on its website..."

In compliance of the aforesaid orders, "Categorisation of States as Small States based on threshold limit of generation of hazardous waste" has been prepared by CPCB and is available on CPCB website at https://cpcb.nic.in/uploads/hwmd/Report_HW_25.09.2019.pdf.

It is therefore, requested to ensure that the setting up of TSDF as per categorization of your state within the timeline stipulated by Hon'ble Tribunal in aforesaid orders dated 26.08.2019 be complied with.

It may please be noted that failing to comply with the timelines specified by the Hon'ble Tribunal, State may be liable to pay Environmental Compensation of Rs. 10 lakh per month.

Yours faithfully


(Abhey S. Soni)

Additional Director & Divisional Head
Waste Management-II

o/c

List of States not having TSDF

1.	The Member Secretary Arunachal Pradesh Pollution Control Board Department of Environment & Forests, Paryavaran Bhawan, Yupia Road, Papu Nalah, Naharlagun- 791110	10.	The Member Secretary Andaman & Nicobar Pollution Control Committee Dept. Of Sc. and Technology Dollygunj Van Sadan, Haddo P.O. Port Blair – 744 102
2.	The Member Secretary Assam Pollution Control Board Bamunimaiden, Guwahati – 781021	11.	The Member Secretary Nagaland Pollution Control Board Signal Point, Dimapur, Nagaland - 797112
3.	The Member Secretary Bihar Pollution Control Board Parivesh Bhawan, Plot No. NS-B/2 Patliputra Industrial Area, Patliputra, Patna (Bihar)-800023	12.	The Member Secretary Lakshadweep Pollution Control Committee Lakshadweep Administration, Dept. Of Sc. and Technology & Environment Kavaratti Island-682 555
4.	The Member Secretary Chhattisgarh Environment Conservation Board Paryavas Bhawan, North Block Sector-19, Naya Raipur (C.G.)- 490099	13.	The Member Secretary Delhi Pollution Control Committee 4th Floor, ISBT Building, Kashmere Gate, Delhi - 110006.
5.	The Member Secretary Goa Pollution Control Board Dempo Tower, 1st Floor, EDC Patto Plaza, Panaji, Goa - 403 001.	14.	The Member Secretary Chandigarh Pollution Control Committee Paryavaran Bhawan, Ground Floor Madhya Marg, Sector C19-B, Chandigarh – 160 019
6.	The Member Secretary J&K State Pollution Control Board Parivesh Bhawan, Shiekh-ul-Campus, behind Govt. Silk Factory, Raj Bagh, Srinagar(J&K)	15.	The Member Secretary Sikkim Pollution Control Board Forest, Environment Wildlife Management Department, Government of Sikkim, Forest Secretariat Annex I, Ground Floor, Deorali, Gangtok -737102 East Sikkim
7.	The Member Secretary Manipur Pollution Control Board Near Imphal West D.C. Office Complex, Lamphelpat, Imphal – 795 004.	16.	The Member Secretary Tripura Pollution Control Board, Parivesh Bhawan, Pandit Nehru Complex, Gorkhabasti P.O. Kunjaban, Agartala Tripura – 799 006,
8.	The Member Secretary Meghalaya Pollution Control Board Arden, Lumpyngngad, Shillong – 793 014	17.	The Member Secretary Puducherry Pollution Control Committee Department of Science, Technology and Environment III rd floor, PHB Building, 5, Anna Nagar, Puducherry – 605005
9.	The Member Secretary Mizoram Pollution Control Board New Secretariat Complex, Khatla, Thlanmual Peng, Aizawl, Mizoram - 796001		

Item No. 04

Court No. 1

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

(By Video Conferencing)

Original Application No. 804/2017
(Earlier O.A. No. 36/2017)

Rajiv Narayan & Anr.

Applicant(s)

Versus

Union of India & Ors.

Respondent(s)

Date of hearing: 01.07.2020

Date of uploading of order 07.07.2020

**CORAM:HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE S. P. WANGDI, JUDICIAL MEMBER
HON'BLE Dr. SATYAWAN SINGH GARBYAL, EXPERT MEMBER**

ORDER

1. The matter has been put up for consideration of report filed by the Central Pollution Control Board ("CPCB") on 24.06.2020 in response to the directions of this Tribunal vide order dated 26.08.2019 on the subject of compliance of the Hazardous and Other Waste (Management and Transboundary Movement Rules, 2019 ("HOWM Rules").

2. Due to alarming situation created by generation and unscientific dumping of hazardous waste resulting in serious and irreversible damage to the environment and public health, the issue was considered by the Hon'ble Supreme Court *inter alia* in *Writ Petition No. 657/1995, The Research Foundation for Science, Technology and Natural Resource Policy Vs. Union of India & Ors.,(2005) 10 SCC 510*. Directions were issued for preparation of a comprehensive report on illegal hazardous waste dump

sites, inventory of generation of such waste, National Inventory for Rehabilitation of Hazardous Waste Dump Sites and Regulation of Import etc. The Hon'ble Supreme Court referred to Basel Convention and MARPOL Convention and also considered and accepted the recommendation of the High Powered Committee on the subject of handling of hazardous waste generated by the ship breaking process and also the waste oil or such other material. MoEF&CC was directed to consider making a provision for bank guarantee by the importers using used oil, furnace oil and zinc waste to regulate illegal transboundary movement of hazardous waste. Directions were also issued for publication of toxic inventory and community participation. Timelines were prescribed for twenty nine specified activities to be undertaken by MoEF&CC, CPCB, SPCBs/PCCs. The matter was disposed of vide judgment dated 06.07.2012 reported in (2012) 7 SCC 769 reiterating continued compliance of earlier directions with further directions for scientific handling of hazardous waste including ship breaking, banning import of hazardous waste and reviewing and revising Hazardous Waste (Management and Handling) Rules, 1989 to cover the aspects not satisfactorily dealt with and also to provide adequate protection to the workers and the public.

3. This Tribunal while considering the compliance of order dated 13.01.2015 in O.A. No. 36/2012 relating to pollution at Ghaziabad, vide order dated 29.08.2017 considered the issue of compliance of HOWM Rules seeking information with reference to the following questions:-

- “(a) As to what is the total generation of hazardous waste in their respective States.*
- (b) Which agencies have been authorized in terms of rules to collect, transport, disposed of and the process of the hazardous wastes.*

- (c) *What is the capacity of the plants which have been given due authorization for that purpose.*
- (d) *What happens and how the remnant hazardous waste is being dealt with.*
- (e) *The members who have been allotted any of the authorized plants and are not sending hazardous waste to those plants. What action the concerned authorities i.e. the State Government and the respective States and State Pollution Control Boards have taken so far, against such members. These details should be filed within one week from today.”*

4. The present Original Application was registered after considering the status of compliance. Vide order dated 30.07.2018, This Tribunal directed constitution of a Monitoring Committee by the CPCB to compile information about the status of compliance of the HOWM Rules. Further orders was passed on 05.12.2018 in the light of the order of the Hon’ble Supreme Court dated 18.07.2018 transferring consideration of prayers before the Hon’ble Supreme Court on the following issues:-

- “(a) Preparation of a National Inventory of Hazardous wastes;*
- (b) Complete identification and registration of Hazardous wastes generating units in the country;*
- (c) Construction of TSDF/Land fills;*
- (d) Hazardous Waste Dump Sites;*
- (e) Waste oil/used oil read with the order dated 23.10.2007;*
- (f) Setting up of laboratories at the dock/ports;*
- (g) Institutional Reforms in MoEF, CPCB, SPCB, PCC;*
- (h) National policy documents on Hazardous Wastes as well as cleaner technology;*
- (i) Regarding workers handling hazardous wastes.”*

5. CPCB constituted a Monitoring Committee on 09.08.2018 and issued following directions to all PCBs and PCCs:-

- “(a) Ensure that all the solvent recovery industries in the state have mandatory Authorisation for the same in compliance with the SOP and Checklist issued by CPCB for solvent recovery units, within one month. The said SOP and checklist have been circulated to all SPCBs/PCCs vide letter no. B29016/(SC)/1(55-IV)/17-18/WMII/18152-86 dated 08/3/2018 and is also available at CPCB website http://cpcb.nic.in/uploads/hwmd/utilizaionspent_solvent.pdf.*

(b) Ensure that these solvent recovery industries shall immediately follow the SOP, for safe and scientific spent solvent handling, processing and storage.

(c) Ensure that such solvent recovery units shall comply with the provisions of HOWM Rules, 2016, in terms of interstate transport of Hazardous waste and manifest document prescribed under Rule 18 and 19 of the HOWM Rules, 2016, with immediate effect. Stringent action be taken against the erring industries who are giving the spent solvent to such recycling industries without following the manifest systems.

(d) Conduct industry interaction programs within a month to create awareness and sensitization on HOWM Rules, 2016 with all the stakeholder industries of Spent Solvent generation/utilization.

(e) Prepare an inventory of such solvent recovery units and publish the same on their website for information of all, stakeholders within one month with copy to CPCB within one month.”

6. In the light of the interim report of the Monitoring Committee, the Tribunal passed order dated 12.04.2019 directing the Chief Secretaries of the States at the State level and Ministry of Environment, Forest and Climate Change (MoEF&CC) and CPCB at the national level to monitor the compliance of the recommendations. The Committee was directed to complete its remaining task within three months. The CPCB was to complete its report on the regime of compensation for violation of the HOWM Rules.

7. Thereafter, vide order dated 26.08.2019, the Tribunal considered the report of the Monitoring Committee dated 23.07.2019 and report of the CPCB dated 14.08.2019 under the following headings:-

- “(i) Contaminated Sites and Related Issues*
- (ii) Import and Export of Hazardous Wastes and Issues*
- (iii) Waste Reception Facilities for wastes generated from ships and issues*
- (iv) Impact of HW on Workers’ Health*
- (v) Status of compliance of issues with regard to orders of Hon’ble Supreme Court dated 14.10.2003.”*

8. The observation of the Monitoring Committee and action proposed have been extracted in the said order but to avoid long quotation, the table is separately appended to this Order as **Appendix - A**. The recommendations of CPCB in its report dated 14.08.2019 are appended to this Order as **Appendix - B**. The deficiencies in compliance noted by CPCB, recommendation by States/UTs Department, CPCB and response of the CPCB and further recommendations of CPCB are appended to this Order as **Appendix - B1**.

9. The Tribunal accepted the recommendations of the Committee and the CPCB and directed follow up action. The operative part of the directions is quoted below:-

“20. In the light of above, the States/UTs, CPCB/SPCBs/PCCs, the Central Board of Indirect Taxes and Customs (CBIC), the Port Authorities, the DGFT, the MoEF&CC, the Ministry of Shipping, Ministry of Labour and Employment and the Department of Labour of all the concerned States/UTs may take necessary steps in terms of the recommendations of the Committee within the timelines specified. If there is any default, the Tribunal may consider requiring environmental compensation to be paid by the defaulting parties. While doing so following specific steps may be ensured:

- i. Hazardous waste inventory be updated and verified by way of test checks to ensure that the same is credible, reliable and robust in terms of contents and scope, as already recommended in the interim report of the Monitoring Committee dated 29.01.2019 which was accepted by the Tribunal on 12.04.2019.***
- ii. Since it has been reported that State Boards/PCCs of Dadra & Nagar Haveli, Haryana, Daman & Diu, Manipur, Lakshadweep and Nagaland have not furnished the relevant data, the said States/UTs may furnish the data within one month to the CPCB, failing which they will be liable to pay a sum of Rs, 1 lakh per month with effect from 01.10.2019.***
- iii. As already directed, all the States which have not set up TSDF may do so and the States which fail to set up the same up to 31.03.2020, will be liable to pay environmental compensation of Rs. 10 lakh per month. However, with regard to States which may be categorized as small States, having regard to the quantum and nature of generation of hazardous***

waste, the liability to pay compensation will start from 01.01.2021. The categorization based on threshold limit of generation of hazardous waste be made by the CPCB within one month from today and placed on its website.

- iv. **126 sites which have already been identified as contaminated may be cleared of the hazardous waste within six months** so that remediation process may start. The remediation work may start at the 55 sites for which DPRs have been completed within the timelines specified in the DPRs. For the remaining 71 sites, DPRs may be completed expeditiously but not later than one year and thereafter remediation may be done as per the timelines in the DPRs.
- v. Failure to remove the waste from the 126 identified sites, will result in environmental compensation to be paid at the rate of Rs. 10 lakhs per site from 01.04.2020 by the concerned SPCBs/PCCs to the CPCB. Same rate will apply in respect of such of the 195 sites as are identified as contaminated with effect from 01.01.2021.
- vi. **With regard to 195 probable contaminated sites, the assessment may be completed within six months** and thereafter the waste may be removed within next six months from sites cleared by the CPCB to be contaminated.
- vii. **The clearance of site by way of disposal or transfer should be strictly as per the HOWM Rules, to be monitored by the CPCB.** The cost of removal of waste may be first paid out of the environment funds/consent funds available with the State PCBs/PCCs and thereafter recovered from the persons concerned.
- viii. Whenever any difficulty arises, the CPCB may, on being so satisfied, allocate funds from environment funds available with it, which may thereafter be recovered from the concerned defaulters.
- ix. The recommendations of the CPCB with regard to the compensation regime on the subject may be adopted, subject to further consideration of orders.
- x. The CPCB may oversee the compliance of these directions compile data from all quarters and furnish an interim compliance report before 15.04.2020 by email at judicial-ngt@gov.in.”

10. It is in the above background that the present report dated 24.06.2020 has been filed by the CPCB. In short, the report deals with the compliance status as to updating of Hazardous Waste (“HW”)

inventory, status of setting up of TSDFs, remediation of contaminated sites, completing the process of identification of remaining 'probably' contaminated sites and their remediation and recovery of compensation.

11. We have heard Shri Raj Panjwani, Senior Advocate for the Applicant and Shri Rajkumar, Advocate for the CPCB.

12. The stand of the States PCBs/PCCs and States/UTs is already reflected in the report. Summary of status of compliance with reference to the directions of this Tribunal has been provided by the CPCB as follows:-

“The point wise action taken and status on the directions dated 26/08/2019 of the Hon’ble NGT is as below:

S. No.	Direction of Hon’ble NGT	Status of Compliance
i.	<i>Hazardous waste inventory be updated and verified by way of test checks to ensure that the same is credible, reliable and robust in terms of contents and scope, as already recommended in the interim report of the Monitoring Committee dated 29/01/2019 which was accepted by the Tribunal on 12.04.2019.</i>	<ul style="list-style-type: none"> • <i>CPCB has prepared guidelines for “Preparation of Inventory on Hazardous and Other Waste Generation and their Management” and circulated to all SPCBs/PCCs for preparation and submission of annual inventory vide letter dated 25/06/2019. Same is placed on CPCB website.</i> • <i>The above guidelines outline the methodology for preparation of inventory; identification of hazardous and other waste generating facilities; collection and interpretation of data; criteria for selection of units for random verification of hazardous and other waste generation and their management; etc.</i> • <i>With regard to Annual Inventory for 2018-19:</i> <ul style="list-style-type: none"> ✓ <i>Out of 35 SPCBs/PCCs, 33 SPCBs/PCCs (except Arunachal Pradesh and DDD&NH) submitted the inventory report.</i>

		<ul style="list-style-type: none"> ✓ Various gaps (such as mismatch in hazardous waste generated/ managed/ received/sent/no. of recyclers/utilizers, authorized capacity and quantity recycled/utilized) have been identified by CPCB in the said annual inventory of SPCBs/PCCs and same were communicated to respective SPCBs/PCCs. ✓ <i>Of 33, only 25 SPCBs/PCCs have submitted the revised annual inventory report, however, few gaps have still not been clarified</i> ✓ <i>Based on the information provided by 33 SPCBs/PCCs, CPCB has prepared National Inventory Report on Hazardous and Other Waste Generation and its Management (2018-19).</i> <p><i>Findings of National inventory on Generation and Management of Hazardous waste is appended as Appendix A and State-wise inventory report on generation and management of hazardous and other wastes is appended at Annexure- 2 of CPCB report -June, 2020.</i></p> <ul style="list-style-type: none"> ✓ CPCB is in the process of verification (random test checks) of annual inventory submitted by SPCBs/PCCs through government institutes/organisations
ii.	<p><i>Since it has been reported that State Boards/PCCs of Dadra & Nagar Haveli, Haryana, Daman & Diu, Manipur, Lakshadweep and Nagaland have not furnished the relevant data, the said States/UTs may furnish the data within one month to the CPCB, failing which they will be liable to pay a sum of Rs, 1 lakh per month with effect from</i></p>	<ul style="list-style-type: none"> ➤ <i>Except Lakshadweep, all the 04 SPCBs/PCCs (Haryana, Manipur, Nagaland and DDN&NH) submitted their reports within the timeline.</i> ➤ <i>However, in view of no response from Lakshadweep, CPCB vide its letter dated 04/10/2019 followed by reminder letter dated 19/12/2019 directed for submission of report and deposition of penalty of Rs. 03 lakhs (i.e. Rs 01 lakh per month w.e.f. 01/10/2019).</i>

	01.10.2019.	<ul style="list-style-type: none"> ➤ Lakshadweep vide its letter dated 25/12/2019 submitted its report along with penalty of Rs. 03 lakhs to CPCB.
iii.	<p>As already directed, all the States which have not set up TSDF may do so and the States which fail to set up the same up to 31.03.2020, will be liable to pay environmental compensation of Rs. 10 lakhs per month. However, with regard to States which may be categorized as small States, having regard to the quantum and nature of generation of hazardous waste, the liability to pay compensation will start from 01.01.2021. The categorization based on threshold limit of generation of hazardous waste be made by the CPCB within one month from today and placed on its website.</p>	<ul style="list-style-type: none"> ➤ CPCB has prepared a document on Categorization of States as small states based on Threshold Limit of Generation of Hazardous Waste and placed on the CPCB website The same has also been submitted to Hon'ble NGT on 26/09/2019. <p>“Conclusion/Recommendations of the document:</p> <ul style="list-style-type: none"> ➤ The development of common TSDF is a must for treatment and disposal of atleast for landfillable hazardous waste regardless of where the TSDF is located or going to be located; ➤ States/UTs generating 5000 MTA or more of the landfillable hazardous waste need to take immediate action for commissioning of common TSDF ➤ States/UTs generating more than 500 MTA or less than 5000 MTA of landfillable hazardous waste may be categorized as Small States for the purpose of taking of action proposed in the order of the Hon'ble NGT and ➤ States/UT generating less than 500 MTA of landfillable hazardous waste may be permitted for the inter-state transport of hazardous waste for its treatment and disposal and making sharing arrangement with the authorized common TSDF of the neighboring States/UT.” <p>The aforesaid document is appended at Annexure- 3 of CPCB report -June, 2020.</p> <ul style="list-style-type: none"> ➤ On the basis of aforesaid categorization, of the 17 States/UTs

		<p>(not having Common TSDF), Chhattisgarh and Assam to setup TSDF by 31/03/2020 and Delhi & Goa by 01/01/2021.</p> <p>➤ Assam and Chhattisgarh, both the States have identified the land. Further, Assam has to finalize Expression of Interest for inviting bids and Chhattisgarh to finalize the Bidder for award of work w.r.t setting up of TSDF.</p> <p>Status on Setting up of TSDF is appended at Appendix B and details provided in Chapter 2 of the CPCB report- June 2020.</p>
iv-viii	<p>Status of compliance on Contaminated sites is given below: (details may refer at page 225 at Chapter-8 of status report of CPCB)</p>	

Hon'ble NGT orders dated 26.08.2019 pertains to "Contaminated Sites" as reproduced below:

"..... iv. **126 sites** which have already been identified as contaminated may be cleared of the hazardous waste within six months so that remediation process may start. The remediation work may start at the **55 sites** for which DPRs have been completed within the timelines specified in the DPRs. For the **remaining 71 sites**, DPRs may be completed expeditiously but not later than one year and thereafter remediation may be done as per the timelines in the DPRs.

v. Failure to remove the waste from the **126 identified sites** will result in environmental compensation to be paid at the **rate of Rs. 10 lakhs per site from 01.04.2020 by the concerned SPCBs/PCCs to the CPCB. Same rate will apply in respect of such of the 195 sites as are identified as contaminated with effect from 01.01.2021.**

vi. With regard to **195 probable contaminated sites**, the **assessment may be completed within six months** and thereafter the waste may be removed within next six months from sites cleared by the CPCB to be contaminated.

vii. The clearance of site by way of disposal or transfer should be strictly as per the HOWM Rules, to be monitored by the CPCB. The cost of removal of waste may be first paid out of the environment funds/consent funds available with the State PCBs/PCCs and thereafter recovered from the persons concerned....."

In compliance to order of Hon'ble NGT dated 26.08.2019, actions initiated by CPCB:

(i)	CPCB communicated aforesaid order of Hon'ble NGT to 21 SPCBs/PCCs for taking necessary action and submission of Action taken reports on 'Assessment of Contaminated Sites'	letter dated 06.09.2019
(ii)	CPCB reminder along Guidance document on "Assessment and remediation of contaminated sites" issued by MoEF&CC was communicated to 21 SPCBs/PCC	03 letters and 06 e-mails
(iii)	To review the compliance to aforesaid directions of Hon'ble NGT, interactive meeting was organized with the officials of SPCBs/PCCs at CPCB Delhi	3rd - 4th February, 2020

In response to CPCB letters and email communications, **19 out of 21 SPCBs/PCC** have submitted their information/Status Report on Action Taken/Initiated for "Assessment of contaminated sites" till 22.06.2020. However, no information received from **Chhattisgarh & Rajasthan SPCBs**.

State wise Compliance status on Action taken/initiated by SPCBs/PCCs is given at **Section-C & D of Chapter 8** (pls refer **page 228** of status report of CPCB).

Overall summary of contaminated sites in India

S. No.	Name of the States/UT	Total sites submitted before NGT in 2019	No. of active sites* till date	126 Contaminated Sites list submitted before Hon'ble NGT	
				55 sites (DPRs/ Remediation completed/on-going)	71 sites (DPR required)
1.	Andhra Pradesh (AP)	3	3*	1**	
2.	Assam (AS)	4	4		1
3.	Delhi (DL)	26	26		4
4.	Goa (GA)	2	2		1
5.	Gujarat (GJ)	23	23*	1***	7
6.	Haryana (HR)	17	17		3
7.	Himachal Pradesh	6	6		1
8.	Jharkhand (JH)	14	14		2
9.	Karnataka (KA)	25	25		5
10.	Kerala (KL)	13	10	4 (1## & 1###)	2
11.	Madhya Pradesh (MP)	20	20*	4 (1###)	2
12.	Maharashtra (MH)	5	6*	1***	1
13.	Odisha (OD)	31	32*	4(3##)	18
14.	Punjab (PB)	9	9		6
15.	Tamil Nadu (TN)	14	11	3 (2***)	3
16.	Telangana (TS)	9	9	1	1
17.	Uttar Pradesh (UP)	40	42*	8 (2*** & 2##)	10
18.	Uttarakhand (UK)	9	9		1
19.	West Bengal (WB)	35	7	27 (1**, 1## & 25###)	
20.	Chhattisgarh (CH)	5	5		2
21.	Rajasthan (RJ)	11	11	1	1
	Total	321	291	55	71

<p>Note:</p> <p>(a) Contaminated sites – 126 (55+71) sites</p> <p>(b) Probable sites – 195 sites</p> <p>(c) New sites* - 7 sites (AP-1, GJ-1, MH-1, MP-1, OD-1, UP-2)</p> <p>(d) De-listed – 37 sites (AP-1, KL-3, GJ-1, MP-1, TN-3, WB-28)</p>	<p>Till June, 2020</p> <p>Total sites: 291 sites</p> <p>(PCS-175 and CS-116)</p>
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A. Summary of 55 sites:

** Remediation completed	2 sites: AP-1# & WB-1#
*** Remediation on-going	6 sites: GJ-1, MH-1, TN-2 & UP-2
## Remediation about to initiate	7 sites: KL-1, OD-3, UP-2 & WB-1
### Remediation not required	27 KL-1# , MP-1# & WB-25#
Assessment completed	1 site: RJ-1
DPR about to complete	3 sites: MP-3
Remediation work couldn't initiated due to court	1 site: TS-1
DPR prepared, remediation not yet initiated	8 sites: KL-2, OD-1, TN-1 & UP-4
(#de-listed site)	

Further, HW still lying at the sites (as per detailed investigation report/DPR prepared) **8 sites:** KL-1, MP-1, OD-4, TN-1 & UP-1

Wherein proposal for lifting and disposal of HW through TSDF/SLF by State/SPCBs/Responsible Party **5 sites:** MP-1, OD-3 & UP-1

B. Summary of 71 sites:

Preliminary Assessment done (#de-listed site)	41 sites: AS-1, GJ-7, HR-3, HP-1, KL-2 (1#), MP-2, OD-17, PB-3, TN-2 & UP-3
Preliminary Assessment on-going	1 site: JH-1
Only site inspection carried out, however sampling not done	15 sites: KA-5, MH-1, OD-1, TN-1 & UP-7
Remedial action initiated	1 site: JH-1
Remedial action proposed	1 site: TS-1
Information not received from SPCBs/PCC	12 sites: CH-2, DL-4, GA-1, PB-3 RJ-1 & UK-

Further as per preliminary assessment report, HW lifted/removed **2 sites:** GJ-01 & UP-1

HW not observed **11 sites:** HP-1, KA-1, TN-2 & UP-3

C. Summary of 195 Probable sites:

Preliminary Assessment done	95 sites: AP-1, AS-3, DL-9, GA-1, GJ-15, HR-14, HP-5, JH-3, KA-1, KL-4(1#), MP-14, OD-6, PB-1, TN-5 (3#), UP-8 & UK-5
Preliminary Assessment on-going	8 sites: JH-8

Only site inspection carried out, however sampling not done	66 sites: AP-1, DL-13, JH-1, KA-18, KL-3, TN-3, TS-7, UP-12 & WB-8 (2#)
Preliminary Assessment about to start	3 sites: MH-3
Remediation on-going	1 site: KA-1
Sampling not carried out as GPS location was not matched with the site	4 sites: OD-3 & UK-1
Information not received from SPCBs/PCC	18 sites: CH-3, PB-2, RJ-9, UP-2 & UK-2

Further as per preliminary assessment report, HW lifted/removed from the sites

4 sites: DL-1, GA-1, **GJ-1** & UP-1

HW not observed

33 sites: HR-8, HP-5, TN-1, TS-5 & UP-15

D. Status of 07 new sites (AP-1, GJ-1, MP-1, MH-1, OD-1 & UP-2):

<i>Preliminary Assessment done by CPCB</i>	1 site: UP-1
<i>Assessment on-going</i>	3 sites: AP-1, MP-1 & OD-1
<i>Only site inspection carried out, & HW lifted/ removed from the sites; however, sampling not done</i>	2 sites: MH-1 & UP-1
<i>No information from SPCB</i>	1 site: GJ-1

Observations:-

Action taken reports submitted by the SPCBs/PCC are examined by CPCB and following observations are made as below:

i. SPCBs/PCC have carried out only few sampling of limited matrices for most of the sites. Therefore, conclusion may not be drawn whether the site is contaminated or not, even if the concentrations levels reported within the standards/levels.

ii. Few SPCBs/PCC have carried out only site inspection. However, no sampling was done.

iii. Majority of the SPCBs/PCC, except AP, Assam, Gujarat, Haryana, HP, Kerala, MP & Odisha have not submitted proper inspection reports along with analysis results and site visit photographs for most of the sites.

iv. Few sites were found at/nearby Temples, residential colonies and where construction of flyover activities were already done, etc.

v. None of the states/UT, except Odisha has constituted Empowered Monitoring Committee (EMP) for monitoring of Remediation Plans.

Recommendations

S. No.	Activity	Target
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i.	<p>In case of Probable contaminated sites, SPCBs/PCC shall carry out.</p> <p>Preliminary site investigation as per “Reference document on Identification, Inspection and Assessment of Contaminated Sites” prepared by CPCB.</p> <p>Site investigation report as per prescribed format may be submitted to CPCB for further assessment.</p>	45 days
ii.	<p>In case of contaminated sites, SPCBs/PCC shall carry out detailed site investigation, as per “Reference document on Identification, Inspection and Assessment of Contaminated Sites” prepared by CPCB and “Guidance document on Assessment and Remediation of contaminated sites in India” issued by MoEF&CC.</p> <p>Detailed investigation report may be submitted to CPCB.</p>	3 months
	<p>If Remediation needed, SPCBs/PCC may take necessary and submit remediation plan to CPCB for further course of action.</p>	Within 45 days (after completion of investigation study)
iii.	<p>SPCBs shall ensure lifting of hazardous waste still accumulated at sites, wherein DPRs already prepared under NCEF Project.</p>	3 months
iv.	<p>SPCBs/PCCs to ensure that the hazardous waste accumulated/lying at all such identified sites/any new sites shall be disposed off either through TSDF or on-site SLF on priority to stop further contamination.</p> <p>Wherein, HW is lifted/removed from the site, SPCB/PCC shall carryout detailed investigation followed by remediation, if needed (as above ii)</p>	3 months
v.	<p>SPCBs/PCCs to ensure that the hazardous waste accumulated/lying at all such identified sites/any new sites shall be disposed off either through TSDF or on-site SLF on priority to stop further contamination.</p> <p>Wherein, HW is lifted/removed from the site, SPCB/PCC shall carryout detailed investigation followed by remediation, if needed (as above ii)</p>	1 month
vi.	<p>Financial supports for execution of project on remediation of the contaminated sites may be arranged to SPCBs/PCC so that the detailed investigation studies followed by remediation works can be undertaken on priority - By State/Central Govts.</p>	4 months

Note: Preliminary sites investigation/detailed investigation followed by Remediation may be carried out – By SPCBs/PCC by engaging reputed Remediation Consultants.

Way Forward:

- i) Need of National Policy on Management of contaminated sites.
- ii) Need to update Inventory of contaminated sites.
- iii) Immediate remedial actions for priority contaminated sites.
- iv) Remediation of orphan sites through funding from State/Central Govts.

v) Compliance status on Recommendations of the Monitoring Committee related to Contaminated sites are as below:

S. No.	Recommendations of the Committee	Compliance status
1.	Disposal of hazardous wastes accumulated at identified sites:	
	<p>(i) CPCB/SPCBs/PCCs to ensure that the hazardous waste accumulated at all such identified sites shall be disposed of either through Treatment, Storage and Disposal</p> <p>Facilities (TSDFs) or onsite secured landfilling (SLF) on priority to stop further contamination</p> <p>(CPCB/ SPCBs/PCCs: 06 months)</p>	<p>Detailed information is given at Section-C & D of Chapter 8 (page 228 to 308) for kind reference.</p>
2.	Guidelines for Identification and Assessment of Contaminated Sites:	
	<p>(i) For a consistent and uniform application and approach across the country, guidelines for identification and assessment of contaminated sites shall be published.</p> <p>(CPCB: 03 months)</p>	<p>Guidance document on Assessment and remediation of Contaminated Sites in India issued by MoEF&CC, communicated to 21 SPCBs/PCC. Based on this guidance document, a "Reference document on identification inspection and assessment of contaminated sites in India" has been prepared by CPCB is given at Annexure-XIII (page 421) for kind reference.</p>
3.	Assessment and remediation of Contaminated sites:	
	<p>(i) Capacity building program for officials of SPCBs/PCCs on the entire process of remediation,</p> <p>(CPCB: 06 months)</p> <p>(ii) Assessment of about 195 probable contaminated sites and any new additional sites recommended by CPCB/ SPCBs/PCCs shall be completed within period of 1 year after publication of such guidance document by CPCB.</p>	<p>(i) MoEF&CC sponsored "Five – Day International Seminar/workshop on Contaminated Sites; and Demonstration Sessions / Workshop on Environmental Subsurfa Investigations" was organized by IIT Delhi during 17-21 February, 2020 for the officials of MoEF&CC/CPCB/SPCBs, Academic, etc. is given at Annexure-XIV (page 458) for kind reference. CPCB has proposed a 3 separate training programs on identification and assessment of contaminated</p>
	Recommendations of the Committee	Compliance status

<p>(CPCB/SPCBs/PCCs: 1 year)</p> <p>(iii) For effective implementation of the remediation plan at State level, Empowered Monitoring Committee chaired by Principal Secretary Department of Environment having representatives from department of Industries, SPCB/PC, Groundwater development agency, etc. shall be constituted.</p> <p>(State Govt: 04 months)</p>	<p>Sites for the officials of SPCBs/PCCs for the financial year 2020-21.</p> <p>(i) Detailed progress on assessment of probable contaminated sites under taken by SPCBs/PCCs is given at Section-C of Chapter 8 for kind reference.</p> <p>(ii) Odisha SPCB has informed vide its letter dated 19.05.2020 that at State level Empowered Monitoring Committee (EMC) has been constituted.</p>
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<p>4. Financial Arrangements for remediation of contaminated sites:</p>	
<p>(i) Financial arrangements between Central-State Governments for the proposed remediation projects shall be resolved immediately so that the remediation works as proposed in DPRs can be undertaken on priority. These DPRs (2017-18 and 2018-19) may need to be revisited in no action is taken in a reasonable time for execution of remediation works.</p> <p>(ii) Govt. should take up on priority not only remediation projects at the sites where DPRs have been prepared but also the assessment of about 195 sites, besides any new addition of potentially contaminated site, if any.</p> <p>(MoEF&CC/State Govt.: 06 months)</p>	<p>It is humbly submitted that MoEF&CC has sanctioned central share under National Clean Energy Fund (NCEF) scheme of Rs. 15.5 crore for preparation of DPRs for 08 areas contaminated (containing 21 sites) for remediation.</p> <p>Further, it is humbly submitted that there is no funding for execution of remediation works, since NCEF scheme has been discontinued by Govt. of India. The DPRs along with templates of bidding have been forwarded to concerned State Govts and SPCBs with request to implement remediation works.</p>
<p>5. Networking of Academic and Research Institutes:</p>	
<p>(i) MoEF&CC/CPCB/ SPCBs/PCCs shall undertake action research and also promote academic courses on this subject in association with academic and research institutions.</p> <p>(MoEF&CC/CPCB/SPCBs/PCCs: 06 months)</p>	<p>(i) A project sponsored by MoEF&CC at IIT Delhi, a National Network of Experts and Resources for Subsurface Investigations and Remediation of Contaminated Sites (NERCS) has been formed. In this regard, Web page of NERCS is given at Annexure-XV (page 507) for kind reference.</p>

Table-8.1 Summary of state wise site distribution as per action taken report submitted by SPCBs/PCC (Ref: **page 227** of CPCB status report)

S. No.	States/UTs	Status submitted before the Hon'ble NGT	Updated status as on June, 2020			Proposed De-listed sites	DPRs and Remediation completed	On-going Assessment/ Remediation works	HW still lying at the site (as per DPR prepared by CPCB)	HW not observed (as per site inspection by SPCBs)	HW removed/ lifted from the sites
			Total Sites (PCS +CS)	Total Sites*	Probable Sites						
1	Andhra Pradesh	3 (2+1)	3*	3	0	1	1	1			
2	Assam	4 (3+1)	4	2	2						
3	Chhattisgarh	5 (3+2)	5	3	2						
4	Delhi (NCR)	26 (22+4)	26	14	12						
5	Goa	2 (1+1)	2		2						1
6	Gujarat	23 (15+8)	23*	15	8	1		1			2
7	Haryana	17 (14+3)	17	13	4					8	
8	Himachal Pradesh	6 (5+1)	6	5	1					6	
9	Jharkhand	14 (12+2)	14	12	2			10			
10	Karnataka	25 (20+5)	25	19	6			1			
11	Kerala	13 (7+6)	10	6	4	3	4		1		
12	Madhya Pradesh	20 (14+6)	20*	16	4	1	4		1		1
13	Maharashtra	5 (3+2)	6*	3	3			1			1
14	Odisha	31 (9+22)	32*	9	23		4		4		
15	Punjab	9 (3+6)	9	3	6						
16	Rajasthan	11 (9+2)	11	9	2						
17	Tamil Nadu	14 (8+6)	11	5	6	3	1	2	1	3	
18	Telangana	9 (7+2)	9	7	2		1			5	
19	Uttar Pradesh	40 (22+18)	42*	17	25		7	2	1	18	3
20	Uttarakhand	9 (8+1)	9	8	1						
21	West Bengal	35 (8+27)	7	6	1	28	27				
Total		321 (195+126)	291*	175	116	37	48	18	8	40	8

Note:* including new 07 sites

ix.	<p>The recommendations of the CPCB with regard to the compensation regime on the subject may be adopted, subject to further consideration of orders.</p>	<p>----</p>
x.	<p>The CPCB may oversee the compliance of these directions compile data from all quarters (i.e. recommendations of Monitoring Committee) and furnish an interim compliance report...</p>	<p>In compliance of the aforesaid orders, CPCB has submitted “<i>Status Report on Compliance of Recommendations of the Monitoring Committee on Management of Hazardous Waste and Directions of the Hon’ble Tribunal</i>” on 24/06/2020. dated 30/01/2019 incase of Spent solvent recovery units on the basis of responses received from units on the basis of responses received from SPCBs/PCCs, the status is given at Appendix C and details provided in Chapter 4 of CPCB report- June 2020.</p> <p>Compliance of Recommendations in Interim Report:-</p> <p>> CPCB formulated a format (incorporating key indicators) and forwarded the same to all SPCBs/PCCs for submission of quarterly implementation status on the recommendations made by Monitoring Committee in its interim report.</p> <p>> Further, CPCB continuously followed up with the SPCBs/PCCs for submission of the quarterly information. On the basis of the information Submitted by SPCBs/PCCs, CPCB has compiled quarterly compliance status and submitted the same before Hon’ble NGT on 24/06/2020. The overall status is appended at Appendix D and details are provided in Chapter 5 of CPCB report- June 2020.</p> <p>Compliance of Recommendations in Final Report:</p> <p>> CPCB conducted two interactive meetings with various organizations viz., CBIC, DGFT, DG(S), SPCBs/PCCs, MoEF&CC, followed by field visits to two Ports & one Waste Oil Recycler in Maharashtra, besides forwarding questionnaire to the concerned organizations/departments for ensuring compliance with rigorous follow ups.</p>

	<p>> With regard to recommendations related to impact of hazardous wastes on workers' health and waste reception facility to deal with ship generated wastes progressive steps have been taken by the concerned organizations (viz., Ministry of Shipping Ministry of Environment, Forest and Climate Change and Ministry of Labour) to ensure compliance. Whereas, recommendations pertaining to SPCBs/PCCs, Port Authorities and Department of Labour of States/UT Government needs to be addressed on a continuous basis.</p> <p>With regard to import/export of hazardous wastes, further actions are required to be taken by Central Board of Indirect Taxes and Customs (CBIC), Directorate General of Foreign Trade (DGFT) and Port Authorities with review by Ministry of Environment, Forest and Climate Change on a regular basis to ensure compliance of the Hon'ble NGT dated 26.08.2019.</p> <p>>CPCB has constituted a National Expert Committee to devise National Hazardous Waste Management Policy covering the aspects related to strengthening of institutional framework of regulatory agencies and Research & Development initiatives including Clean Technology besides hazardous waste management issues.</p> <p>>On the basis of the information submitted by the concerned organizations, CPCB has prepared compliance status report and submitted the same before Hon'ble NGT on 24.06.2020. The overall compliance status of various organizations is appended at Appendix E and details are provided in Chapter 6 of CPCB report- June 2020.</p> <p>The way forward and recommendations based on the compliance status submitted by concerned stakeholders, have been given in Appendix F and also given in Chapter 7 of</p>
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13. Shri Panjwani has referred to certain parts of the report to show that timelines for remediation have not been given, information of land fill sites is not complete, ground water and soil testing have not been done and that there are huge gaps in compliance of the Rules but no adequate action has been taken against the violations in the form of

recovery and compensation or otherwise. He pointed out that, vide order dated 26.08.2019, this Tribunal had directed that States which do not set up TSDF by 31.03.2020 will be liable to pay compensation @ Rs. 10 lakh per month and in view of failure of the States of Assam and Chhattisgarh or any other State, CPCB may recover such compensation. He further submitted that the State PCB should carryout inspection and conduct chemical analysis tests on all parameter of soil, surface, ground water, sedimentation etc. of the contaminated sites and submit said reports within 4 weeks to the CPCB, failing which they should be liable to pay compensation. PCBs may also provide information about the quantum of waste removed from 126 contaminated sites and the cost incurred which may be recovered from the generators of such waste. PCBs may also provide information about DPRs for 71 confirmed contaminated sites. Compensation may also be recovered from the States who failed to clear the hazardous waste sites in terms of directions of this Tribunal. Further submission is that CPCB and PCBs/PCCs may invoke their powers under the Rules to recover compensation for improper handling and management of waste, prosecute defaulters, document non-compliances and update their websites giving (a) details of industries, (b) date of inspection including collection of effluent or other samples, (c) whether unit is compliant or not, (d) if non-compliant then action taken including the date of notice if any sent to defaulter. CPCB may develop framework for enforcement of the Rules. Let these aspects be looked into by CPCB and response included in next report.

14. We direct CPCB to take further steps for compliance by issuing appropriate directions and also to enforce its directions for recovery of compensation for the continuing damage to the environment on 'Polluter

Pays' principle. CPCB and PCBs/PCCs may not permit any new industry having potential to generate hazardous waste till facilities for disposal of such waste are ensured. Apart from this, following specific directions may be complied with:

- i. CPCB may set up a system to cross verify the status of hazardous waste generating industries (at least 10% in each State) and also direct SPCBs/PCCs to impose environmental compensation against delinquent industries.
- ii. Regarding remediation of contaminated sites, immediately 5 sites should be taken for remediation and executed within a period of six months. Environmental damages caused by such sites and loss in terms of monetary resources may also be estimated .

15. We direct all the States/UTs and PCBs/PCCs to comply with observations and recommendations in the report and furnish their compliance reports by 31.10.2020 to the CPCB. The Chief Secretaries of the States at the State level and the Ministry of Environment, Forest and Climate Change (MoEF&CC) and the CPCB at the national level may monitor compliance. At the national level, coordination with Central Ministries may be involved which MoEF&CC may look into followed up by the CPCB. Further action taken report in the matter be furnished by CPCB after four months by 30.11.2020 by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF.

List for further consideration on 08.12.2020.

Adarsh Kumar Goel, CP

S. P. Wangdi, JM

Satyawan Singh Garbyal, EM

July 07, 2020
Original Application No. 804/2017
A

Appendix – A

Sl. No.	Observations	Proposed Actions (Responsible Agency and timeline of action)
I. CONTAMINATED SITES AND RELATED ISSUES		
1.	<p>Disposal of hazardous wastes accumulated at identified sites:</p> <p>(i) The Committee has observed that there are several contaminated dumpsites in various parts of country where hazardous and other wastes were dumped historically, which resulted in contamination of soil, groundwater and surface water thereby posing health and environmental risks.</p>	<p>(i) CPCB/SPCBs/PCCs to ensure that the hazardous waste accumulated at all such identified sites shall be disposed of either through Treatment, Storage and Disposal Facilities (TSDFs) or on-site secured land filling (SLF) on priority to stop further contamination</p> <p>(CPCB/ SPCBs/PCCs: 06 months)</p>
2.	<p>Guidelines for Identification and Assessment of Contaminated Sites:</p> <p>(i) The Committee notes that CPCB is working on standard uniform identification and assessment guidelines for the probable contaminated sites and any new additional sites, such guidelines will bring a consistency and uniformity in dealing with the contaminated sites issues.</p>	<p>(i) For a consistent and uniform application and approach across the country, guidelines for identification and assessment of contaminated sites shall be published.</p> <p>(CPCB: 03 months)</p>
3.	<p>Assessment and remediation of Contaminated sites:</p> <p>(i) The Committee has observed that there is a need of awareness and capacity building in SPCBs/PCCs on the entire remediation process including identification, detailed assessment, DPR preparation and execution of remediation.</p> <p>(ii) Further, the committee notes with regret that even today there are about 195 probable contaminated sites (329- 134) which needs a thorough assessment for its confirmation as contaminated site or otherwise. Though the DPRs of 17 sites out of 21 are prepared under NCEF Project and the same have</p>	<p>(i) Capacity building program for officials of SPCBs/PCCs on the entire process of remediation, which may include practical training on use of tools for soil and groundwater screening such as hand-held XRF instruments, Colorimeter, PID for VOCs/ SVOCs, hand operated augers, groundwater pumps, level meters, etc. shall be organized by CPCB.</p> <p>(CPCB: 06 months)</p> <p>(ii) Assessment of about 195 probable contaminated sites and any new additional sites recommended by CPCB/SPCBs/PCCs shall be completed within period of 1 year</p>

	<p>been forwarded to respective State Governments and State Boards. However, no remediation efforts have been initiated at such sites.</p>	<p>after publication of such guidance document by CPCB.</p> <p>(CPCB/SPCBs/PCCs: 1 year)</p> <p>(III) For effective implementation of the remediation plan at State level, Empowered Monitoring Committee chaired by Principal Secretary, Department of Environment having representatives from department of Industries, SPCB/PCC, Ground water development agency, etc. shall be constituted.</p> <p>(State Govt: 04 months)</p>
4.	<p>Financial Arrangements for remediation of contaminated sites:</p> <p>(i) The Committee while taking note of public trust doctrine read with provisions of section 9 of E (P) Act, it is the duty of the Govt. both Central and State to protect environment by taking remedial measures irrespective of the financial arrangements which seems to be a matter of ongoing deliberations.</p>	<p>(i) Financial arrangements between Central-State Governments for the proposed remediation projects shall be resolved immediately so that the remediation works as proposed in DPRs can be undertaken on priority. These DPRs (2017-18 and 2018-19) may need to be revisited if no action is taken in a reasonable time for execution of remediation works.</p> <p>(ii) Govt. should take up on priority not only remediation projects at the sites where DPRs have been prepared but also the assessment of about 195 sites, besides any new addition of potentially contaminated site, if any. (MoEF&CC/State Govt.: 06 months)</p>
5.	<p>Networking of Academic and Research Institutes:</p> <p>(i) Execution of remediation program would require necessary interdisciplinary expertise at the SPCBs/PCCs. The CPCB/SPCBs/PCCs may find it difficult to work on these aspects unilaterally and therefore there has to be coordination and information sharing among these agencies beside developing a network of academic and research institutes which can help in creating an “Expertise Pool”. (ii) The committee also notes that a part of such capacity building efforts</p>	<p>(i) MoEF&CC/CPCB/SPCBs/PCCs shall undertake action research and also promote academic courses on this subject in association with academic and research institutions. (MoEF&CC/CPCB/ SPCBs/PCCs: 06 months)</p>

	<p>specific action research programs can be initiated by these agencies and more particularly professional courses on remediation and restoration can be sponsored at academic/research institution which will help to create a critical mass of expertise in this subject.</p>	
II. IMPORT AND EXPORT OF HAZARDOUS WASTES AND ISSUES		
<p>5.</p>	<p>Disposal of illegally imported consignments:</p> <p>(i) In case of confiscated items, responsibility to dispose lies with Customs. CBIC vide Circular No.31/2004-Cus, dated 26-4-2004 has referred to the orders of the Hon'ble Supreme Court in the matter of WP(C) 657/1995 for disposal of hazardous waste. The committee observed that the above circular needs to be amended for disposal of hazardous waste including allocation of fund by the concerned agency for bearing the cost of disposal.</p> <p>(ii) The committee observed that in case of unclaimed/uncleared consignments (where the claimants of the goods/wastes are non traceable), disposal is to be carried out by port authorities/ ICDs (custodian of the unclaimed/uncleared consignments) in consultation with customs and considerable delay in clearing those consignments lying in ICDs/CFSs is a major concern as also referred in the CAG Report.</p>	<p>(i) The customs circular dated 26-4-2004 requires amendment by Central Board of Indirect Taxes and Customs (CBIC) and it is recommended that CBIC to also devise policy framework for speedy disposal and bearing the cost of disposal of confiscated consignments (illegal / banned and non-conformity to the specifications of the products as applicable / as per Schedule V of HOWM Rules, 2016).</p> <p style="text-align: center;">(CBIC: 03 months)</p> <p>(ii) Port authorities/ICDs may also devise a policy, if necessary, in consultation with customs, to ensure HW disposal and its cost so as to expedite the disposal all the unclaimed cargo lying at various ports (and CFSs)/ICDs in a time bound manner.</p> <p style="text-align: center;">(Port Authorities: 03 months)</p>
<p>6.</p>	<p>Laboratory Upgradation in Ports/Docks:</p> <p>(i) For upgradation and setting up of laboratories at various docks/ports to prevent entry of hazardous waste, Customs have informed that the revenue laboratories at 05 zones (Chennai, Delhi, Kandla, Kolkata and Mumbai) were identified for upgradation for testing of Hazardous waste as per the directions of the Hon'ble Supreme Court on</p>	<p>(i) The committee is of the opinion that list of equipments as provided by CBIC for upgradation shall also be provided at major ports, with import and export facilities by CBIC. However, at other ports, arrangements for analysis of relevant parameters with EPA/NABL accredited laboratories having minimum requisite laboratory infrastructure/equipment can be</p>

	11.06.2004. Process of replacing nonfunctional equipments required for testing of Hazardous Waste is being further undertaken with the latest configuration/specification and technology. Further details of the laboratory facilities available in customs for analysis of hazardous materials in those five locations were also provided by customs.	put in place in advance by CBIC. (CBIC: 03 months)
7.	Bank Guarantee procedure: (i) Para 2.35 of Foreign Trade Policy 2015-20 stipulates that wherever any duty free import is allowed or where otherwise specifically stated, importer shall execute, Legal undertaking (LUT) / Bank Guarantee (BG) / Bond with the customs authority, as prescribed, before clearance of goods. However, execution of the same has not been clarified by DGFT and Customs.	(i) Applicability of bank guarantee for the list or category of items and procedure of executing BG by importer/PSIAs, as applicable, need to be specified by DGFT. (DGFT: 03 months) (ii) Procedure of executing bank guarantee by PSIAs and importer in case of import of restricted items (including hazardous wastes specified under Schedule III and VIII) and other items respectively, be devised and mandated by DGFT. (DGFT: 03 months)
8.	Verification of documents for HW in Part D: (i) Schedule VIII of HOWM Rules, 2016 lays down list of documents for verification by customs for import of other wastes (specified in Part D of Schedule III of the said Rules). For instance, in the CAG report, it has been reported that 49 consignments of restricted goods viz., steel sheets, steel melting scrap etc. were cleared by Customs in four ICDs (viz., Chennai, Marmagoa, Ahmedabad and Shillong) for importation without proper documents such as clearance from MoEF, conditions as specified in Schedule 1 and 2 of ITC(HS) policy etc.	(i) CBIC shall strengthen their Risk Management System (RMS) for improved vigilance while verifying documents for import of other wastes (Part D of Schedule III of HOWM Rules, 2016) especially those goods/wastes that are similar to hazardous wastes (regulated or banned/prohibited for import), as there is a possibility that prohibited wastes are imported under the other wastes category. (CBIC: immediate)
9.	RMS system: (i) The customs authorities use the risk management system (RMS) to enable low risk consignments to be cleared based on the acceptance of	(i) There is need to synchronize Basel code and HS codes to cover all scheduled items as per HW rules in customs verification and control more effectively.

	<p>the importer's self-assessment and without examination. Roughly 30 percent of containers covered under risk management out of which 10 percent are physically verified. There are different types of waste streams which have not been integrated in the RMS. There is a need to review the import/export data of various waste streams and include them in RMS. Further, waste streams in Schedule III – Parts A, B and D and Schedule VI that are often mis-declared by importers need to be identified and added to the RMS.</p> <p>(ii) RMS has to be made robust so as to cover all the hazardous goods or consignments listed with HS code classification in accordance with ITC (HS) policy, 2017 for complete verification and testing of the consignments.</p>	<p>(MoEF&CC, Custom and Port Authorities: 06 months)</p> <p>(ii) In order to tackle illegal import of HW consignments (misdeclaration) and those similar to unrestricted items without HS code, such items need to be identified and classified with HS code and brought under the ambit of RMS for stringent verification and testing procedure (for example 'other' waste oil, 'other' oils, furnace oil, Rubber/Tyre oil, Lead / Zinc scrap etc. with hazardous characteristics beyond the limits specified in the HOWM Rules, 2016 be classified with HS Code).</p> <p>(CBIC and DGFT: 06 months)</p> <p>(iii) This process is a continuous process and the monitoring committee recommends that this compliance be reviewed jointly by MoEF&CC and Customs in their coordination meetings.</p> <p>(MoEF&CC, Custom authority: on a regular basis)</p>
10.	<p>DGFT license in public domain:</p> <p>(i) Details of licenses issued to import restricted items not placed on DGFT website, which may require to be communicated to the concerned agencies such as Customs and MoEF&CC.</p>	<p>(i) Details of licenses issued to import restricted items be placed on DGFT website so as to keep the concerned agencies such as Customs and MoEF&CC informed.</p> <p>(DGFT: 03 months)</p>
11.	<p>Harmonization of 'other' category in line with HWM Rules, 2016:</p> <p>(i) Harmonization of Basel codes with ITC (HS codes): The Ministry (MOEF) provides permission on the basis of Basel codes while DGFT uses HS codes. There is a need to synchronize the two codes to avoid confusion.</p> <p>(ii) Import of items under 'other' waste oil (ITC code: 2710 99 00) are restricted, however these items are not clearly specified. As the item 'other' (ITC code: 2710 19 90) along</p>	<p>(i) Items that require to be provided with HS code under the classification of oils be specified categorically under the 'other' class in consultation with MoEF&CC.</p> <p>(DGFT: 06 months)</p> <p>(ii) HS code for all the hazardous and other wastes listed in Part A, Part B and Part D of Schedule III of the Rules be specified by DGFT and Customs. The Committee recognizes that notifying HS code is an elaborate and time consuming procedure which requires</p>

	<p>with certain list of oils are allowed freely, so there is a possibility of import of used/waste oil under the garb of oil under the 'other' category.</p> <p>(iii) No HS code has been specified categorically for any of the hazardous and other wastes except for metal scrap and waste oil.</p>	<p>international deliberations and confirmation and therefore the committee recommends to strengthen the RMS which can provide an expeditious alternative safeguard mechanism.</p> <p>(DGFT and Customs: 03 months)</p>
12.	<p>Pre-Shipment Inspection Agency (PSIAs) for certain category of oils as per Annexure 13 of the ASG Report:</p> <p>(i) Pre-shipment Inspection Agencies (PSIA) notified by DGFT are available for metal scrap wastes only and there is a need for pre-shipment inspection for certain category of oils (i.e. list of oils suggested for pre-shipment inspections certificate for imports in the Recommendations of the former ASG, Sh Gopal Subramaniam.</p>	<p>(i) Initiatives similar to that of metallic scrap wastes be taken by DGFT for notifying PSIAs for certain category of oils suggested for pre-shipment inspections certificate for imports in the Recommendations of the former ASG, Sh Gopal Subramaniam.</p> <p>(ii) Once the PSIAs procedure are specified, the same must be shared with MoEF&CC, CPCB/SPCBs/PCCs and other regulatory authorities.</p> <p>(DGFT: 06 months)</p>
13.	<p>Penal Action against the defaulters in case illegal import:</p> <p>(i) Section 135 of Customs Act lays down provisions for prosecution of importer for the offences such as mis-declaration of value or fraudulent evasion or attempt at evasion of any duty or any prohibition, where the person is liable to be punished with imprisonment for a term exceeding up to seven years and with fine. Violations with regard to prohibited goods, namely, hazardous and other wastes are not categorically notified under section 135.</p>	<p>(i) As a means to improve traceability of importers, the Customs authorities could make the registration process of importers more stringent as there have been cases where importers have never been able to be traced when their illegal imports were intercepted. All incidences of illegal import of HW shall be immediately reported to MoEF& CC as per provisions of the Rules.</p> <p>(MoEF&CC, DGFT, Custom and Port authorities: 03 months)</p> <p>(ii) In case of illegal import of hazardous wastes, MoEF&CC may consider delegation of power vested under section 19 of the Environment (Protection) Act, 1986 to CBIC, to enable them to take credible action against such violators under the E(P) Act, 1986.</p> <p>(MoEF&CC: 06 months)</p>
14.	<p>Re-export of illegal consignments</p>	<p>(i) As of now, DGFT can take action against the erring importers as per</p>

	<p>after confiscation:</p> <p>(i) With regard to re-export of illegally imported items DGFT has referred to a recent order of Hon'ble High Court of Kerala, where in the case pertaining to import of Multifunctional Devices (MFDs) without permission/license from DGFT, the Hon'ble High Court had directed that the powers to direct importers to re-export lies with the DGFT under FT (D&R) Act, 1992 and not with the customs authorities.</p>	<p>the provisions of Foreign Trade (Development & Regulation) Act, 1992, since the feasibility of delegating such powers to the Customs Authorities is being examined in DGFT. The committee recommends to expedite the process in a time bound manner (preferably within 3 months) so as to ensure speedy disposal of consignments lying in ICDs/CFSs.</p> <p>(DGFT: within 03 months)</p>
15.	<p>Clearance of Waste Oil/Sludge from Ships:</p> <p>(i) Used/ Waste Oil generated from ships are collected by the reception facilities of various ports without authorization by concerned SPCBs/PCCs.</p> <p>(ii) Therefore, Waste oils may get disposed illegally in the garb of waste oil from ships under the obligation of MARPOL.</p>	<p>(i) Used/ Waste Oil generated from ships collected by the reception facilities of various ports shall be covered under Authorisation by SPCBs/PCCs for its designated disposal and facilitate tracking of waste under HOWM Rules, 2016.</p> <p>(Port Authorities/ SPCBs/PCCs: Immediate)</p>
16.	<p>Findings of CAG Report:</p> <p>(i) Findings and recommendations of Report No. 16 of 2018 of the Comptroller and Auditor General of India on 'Performance Audit of Inland Container Depots (ICDs) and Container Freight Stations (CFSs)' needs to addressed by concerned agencies such as port authorities and customs.</p>	<p>(i) CBIC shall prepare annual inventory of the illegally imported consignments stored in Ports/ICDs/CFSs and submit the same to CPCB and MoEF&CC by 30th September of every year and publish on its website.</p> <p>(ii) Wherever importer of illegally imported consignments is traceable, importer shall not be allowed to import/export, directly or indirectly any material until illegally imported consignments is safely disposed off scientifically as per HOWM Rules, 2016.</p> <p>(Customs, Port Authorities and DGFT: 03 months)</p>
17.	<p>Authorization under HWM Rules, 2016 from concerned SPCB/PCC:</p> <p>(i) Custom and Port authorities have not obtained requisite authorization for handling, storage, transportation, recycling, utilization, offering for</p>	<p>(i) Necessary authorization for handling, storage, transportation, recycling, utilization, offering for sale, transfer or disposal, as the case may be obtained by Customs and Port authorities to deal with the</p>

	sale, transfer or disposal, as the case may be, from the State Pollution Control Board.	hazardous wastes that are confiscated and waste from ships respectively. (Port authorities and Customs: Immediate)
18.	Collaboration between regulating authorities: (i) The committee observed that regulatory agencies such as Ministry of Environment, Forest and Climate Change, CPCB, SPCBs/PCCs, customs and ports authorities do not interact on a regular basis.	(i) Regular interaction between the Ministry of Environment, Forest and Climate Change, CPCB, SPCBs/PCCs, customs and ports authorities should take place with frequent consultative meetings and trainings in order to avoid working in silos. (MoEF&CC, CPCB, SPCBs/PCCs, customs and ports authorities: On a regular basis)
III. WASTE RECEPTION FACILITIES IN PORTS TO DEAL WITH WASTES GENERATED FROM SHIPS (MARPOL)		
19.	Availability of Waste Reception Facilities at ports: (i) In accordance with the orders of the Hon'ble SC, the Ministry of Shipping has to notify availability of reception facilities as per MARPOL Convention. No clear information could be received from DG(shipping) who represented Ministry of Shipping in the interactions with the committee. (ii) According to notification dated 07th Jan 2010 of Department of Shipping the Central Government is required to determine the types of facilities required for the purpose of provision of reception facilities at each cargo loading and unloading port, terminal and ship repair port and notify the organization thereof.	(i) Ministry of Shipping needs to urgently prescribe requirement of reception facilities at each cargo loading and unloading port, terminal and ship repair ports preferably within 06 months, if not done earlier, and such reception facilities shall be provided by such authorities within a period of one year thereafter. (Ministry of Shipping: 06 months and 01 year)
20.	Authorization for the waste reception facilities and ports: (i) The committee observed that Port authorities have not obtained authorization under HW rules for waste reception facilities in ports to deal with wastes generated from ships. The annual report of wastes generated and disposed are not	(i) State Pollution Control Boards shall enforce provisions of HW Rules, 2016 for grant of authorisation and manifest submissions at such waste reception facilities as well as port operations. SPCBs shall ensure that the HW handled at such facilities and ports should be covered in the

	reported to concerned SPCBs/PCCs. Concerned SPCBs/PCCs need to enforce provisions of HOWM Rules, 2016.	Annual report to be prepared as per HOWM Rules, 2016. (SPCBs/PCCs and Port Authority: with immediate effect)
21.	Swachhsagar portal: (i) DG(S) has developed Centralized port reception facility portal: Swachhsagar which is an online system to facilitate early information sharing of waste category and quantity by ships to the port authorities. The committee was informed that this online information management system is not widely and regularly used at several ports.	(i) The committee recommends Ministry of Shipping to ensure that all the major and non-major ports utilize the Swachhsagar online portal immediately which will ensure better HW management. The MoEF&CC/CPCB/SPCBs should also have an access to this portal for enforcement purpose. (Ministry of Shipping: 03 months)
IV. IMPACT OF HW ON WORKERS' HEALTH		
22.	Coverage of all workers under ESI act, 1948: (i) The Special Committee constituted by Apex Court has recommended all workers (covered under ESI Act, 1948 and not covered under ESI Act, 1948) to get medical benefits and compensation under ESI Act, 1948. However, the recommendations of the Report of the Special Committee, May 2004 has not been implemented.	(i) The committee recommends that all the workers engaged in HW handling, storage, transport, preprocessing, utilisation and disposal (covered under ESI Act, 1948 and not covered under ESI Act, 1948) need to get medical benefits and compensation under ESI Act, 1948 as per the recommendations of the Report of the Special Committee, May 2004 and the same be implemented on priority. (Ministry of Labour & Employment: 03 months)
23.	Implementation of Rule 5(2) of HOWM Rules, 2016: (i) The committee regrets to note that most of the State Labour Departments are not fully aware of the responsibility cast upon them under Rule 5(2) of HW Rules, 2016 and have not complied with.	(i) The committee recommends Hon'ble Tribunal to direct Chief Secretaries of States to ensure effective and urgent implementation of the provisions of the rules as stipulated under Rule 5(2) of HOWM Rules, 2016 by Department of Labour. (Department of Labour, Respective State/UT Government: Immediate)
24.	Unauthorized industries be brought under the ambit of ESI Act, 1948: (i) It is a known fact that there are several unauthorized industries involved in hazardous waste	(i) Ministry of Labour need to devise a scheme similar to the provisions of ESI Act, 1948 to cover the workers employed in unorganized sector. (Ministry of Labour & Employment : 06 months)

	<p>handling like E-Waste processing, battery recycling, solvent reuse etc., which employ significant number of workers. It is necessary that all such industries need to be regulated by concerned SPCB/State labour department so that the workers employed therein are brought under the ambit of health and other social support scheme similar to the provisions of ESI Act, 1948.</p>	
25.	<p>Implementation of provisions of statute for safety and health of all workers handling HW:</p> <p>(i) The scope of Rule 5(2) of Hazardous Waste (Management and Transboundary Movement) Rules, 2016 is restricted to only workers involved in Recycling, Preprocessing and other utilization activities. As per recommendations of Expert Committee constituted by Apex court, the scope of such health related considerations need to be for all persons handling hazardous waste.</p>	<p>(i) The Monitoring committee is of the view that even at HW generating industry/activity, the workers involved in HW handling including storage and transportation and also in-plant reuse/ recycle/ reutilization will also be exposed to similar environmental health risks. Therefore, the committee recommends that MoEF&CC may examine the same and may consider amendment of the ambit of Rule 5(2) of HOWM Rules, 2016.</p> <p>(MoEF&CC: 06 months)</p>
26.	<p>DISPLAY OF INFORMATION OUTSIDE THE FACTORY GATE:</p> <p>(i) The committee notes with regret that many of the SPCBs/PCCs have not responded to the correspondence of CPCB in this regard.</p> <p>(ii) The committee has also observed non-compliances with regard to display of information outside the factory gate in most of the States/UTs inspected by CPCB.</p>	<p>(i) Considering the orders of the Hon'ble Apex court and also the need of information sharing with the local community the committee recommends that the SPCBs need to ensure the compliance of the directions of the Hon'ble Apex court on regular basis rather than a onetime compliance.</p> <p>(ii) The verification of the updation of display board should be an integral part of any inspection carried out by CPCB/SPCBs/PCCs without exception. In case of noncompliance the concerned officer should be subjected to departmental actions.</p> <p>(CPCB/SPCBs/PCCs: Immediate)</p>
27.	<p>INSTITUTIONAL REFORMS:</p> <p>(i) The committee is of the opinion that there is an urgent need to develop an appropriate and sound institutional framework at SPCBs</p>	<p>(i) Capacity building in CPCB and SPCBs/PCCs and other agencies (viz., trained adequate manpower, laboratory, budget etc.) shall be expedited as recommended in the</p>

	<p>consisting sound policies, trained and experienced manpower, necessary infrastructure including the laboratories besides having proper enforcement protocol at the State and Central Board level for the effective enforcement of the HW rules.</p> <p>(ii) The committee is of the opinion that there is a need of impetus for action research specifically in the areas of green chemistry, cleaner technology, waste minimization, circular economy and LCA by SPCB/CPCB. It is also necessary that findings of such research shall be shared among all the stakeholders so that there can be environmental benchmarking of the relevant processes across the country.</p>	<p>orders of Hon'ble NGT dated 12.04.2019.</p> <p>(CPCB, SPCBs/PCCs, MoEF&CC and State/UT Government: Immediate)</p> <p>(ii) The committee recommends that CPCB/SPCBs/PCCs shall take efforts similar to that of the State of Gujarat where a separate institution named Gujarat Cleaner Production Centre (GCPC) which conducts such action research supported by adequate information dissemination program and advocacy programs for promoting the cleaner technology.</p> <p>(iii)CPCB/SPCBs/PCCs shall proactively engage in research and development activities by supporting research in clean technology and cleaner production and also, awareness program for the purpose.</p> <p>(CPCB and SPCBs/PCCs: Immediate)</p>
28.	<p>NATIONAL POLICY:</p> <p>(i) HW management is a complex technical and scientific subject which require a multidisciplinary approach for the effective management and enforcement of HOWM Rules, 2016. There is a continuously improving understanding and knowledge about the impacts of Hazardous material at the national and international level. India is also an important stakeholder in many international treaties and conventions in the field of Hazardous chemicals and wastes besides other environmental issues. There is a need of further documentation as well as policy framework for promotion of Clean Technology, financial incentives and research.</p>	<p>(i) MoEF&CC can examine the need of having specialized HW policy which can be appropriately aligned with the National Environment Policy (NEP), 2006 which will promote use of Clean Technology and also ensure sufficient financial allocations for technology research and information sharing resulting into improved HW management.</p> <p>(MOEF&CC: 06 months)</p>

Appendix – B

Recommendations of CPCB of its report dated 14.08.2019

1. *It is recommended that SPCBs/PCCs (namely Assam, Bihar, Delhi, Haryana, Jammu & Kashmir, Lakshadweep, Manipur, Tripura, Uttar Pradesh, Uttarakhand and DDD&NH) may be directed to submit the compliance status on the directions issued by CPCB as the same has not received from these SPCBs/PCCs*
2. *SPCBs/PCCs of Goa, Karnataka, Maharashtra and Odisha, to ensure that that all the authorized solvent recovery units in States are verified for compliance to CPCB's SOP.*
3. *It is recommended that SPCBs of Andhra Pradesh, Goa, Karnataka, Madhya Pradesh, Maharashtra, Odisha, Punjab, Rajasthan, Telangana and West Bengal to ensure enforcement of manifest system as per the provisions of HOWM Rules, 2016 and initiate action against the erring units.*
4. *SPCBs of Himachal Pradesh, Madhya Pradesh and Rajasthan to immediately prepare inventory of Spent Solvent Recovery Unit available in their States and publish the same on their website. Further, all the SPCBs/PCCs having Spent Solvent recovery units to ensure updation and publishing of the inventory at their website on regular basis.*
5. *It is recommended that SPCBs/PCCs of Rajasthan, Odisha, Goa and Punjab, shall immediately conduct interaction programs to create awareness and sensitization on HOWM Rules, 2016 with stakeholders of Spent Solvent generation/utilisation.*

Appendix – B1

Deficiencies in compliance noted by the CPCB

“4.1. BY STATE/UT DEPARTMENTS

- I. *Recommendation No. 6.4: It is necessary that the Hon’ble NGT orders dated 30/07/2018 with regard to setting up of TSDF and taking imitate actions against erring units be strictly complied with by the concerned State/UT Government and SPCBs/PCCs. (State/UT Governments and SPCBs/PCCs: immediate).*
- II. *Recommendation No. 7.5: In case of the contaminated sites where the polluter is not identified, the State/UT Government would be required to finance remediation of such sites to safeguard the people living in contaminated areas from adverse health effects, in terms of their constitutional responsibility to protect and improve the environment. (States/UTs Government and SPCBs/PCCs)*
- III. *Recommendation no. 10.3: SPCBs/PCCs and CPCB needs capacity building in terms of qualified and experienced manpower and also, tools and techniques for effective governance. Committee is informed about steps being taken by SPCBs and would review the same in detail. (MoEF&CC, State/UT Government, CPCB and SPCBs / PCCs: Immediate)*
- IV. *Recommendation no. 11.1: There is need to sensitize State/UT Govts. about duties required to be performed by the concerned department/agency as stipulated under Rule 5(1), 5(2), 5(3) and Schedule VII of the HOWM Rules, 2016. Hon’ble NGT may issue appropriate directions in this regard. (All State/UT Govts.: Immediate)*

4.2. BY CENTRAL POLLUTION CONTROL BOARD (CPCB)

- I. *Recommendation no. 1.1: There is a need to urgently prepare guidelines or protocol on how to decide the by-product on specific criteria. This can be done based on chemical process involved in order to bring consistency in approach. (MoEF&CC and CPCB: 06 months)*
- II. *Recommendation no. 1.4: Pan India IT based solution is suggested for tracking HW. Such integrated data handling and management solution is under implementation by CPCB which the committee would like to review in next phase.*
- III. *Recommendation no. 3.1: Standard guidelines and protocol based on scientific fundamentals for preparation of inventory should be prepared by CPCB and strictly followed by the SPCBs/PCCs to*

ensure reliable and credible inventory. (SPCBs/PCCs and CPCB/inventory of 2018-19 onwards).

- IV. *Recommendation no. 3.5: The timelines for inventory preparation as envisaged in Rules be strictly complied with by SPCBs/PCCs. Preparation of country's inventory by CPCB is dependent on such timely submission by SPCBs/PCCS. (SPCBs/PCCs and CPCB).*
 - V. *Recommendation no. 4.1: SPCBs/PCCs shall invoke the powers conferred under clause 23(1) and (2) of the Rules, related to all damages caused to the environment or third party due to improper handling and management of the hazardous and other wastes, and non-compliance respectively. CPCB has already issued guidelines for Liability assessment, for invoking clause 23(1) and (2) of HW Rules. CPCB shall also take consequential actions under clause 23 (1) as per the said guidelines noticing environmental damages. (SPCBs/PCCs and CPCB: Immediate).*
 - VI. *Recommendation no. 4.4: Urgent updation of concerned websites of SPCBs/PCCs/CPCB with respect to all enforcement actions along with details of industries and action taken. (SPCBs/PCCs/ CPCB: Immediate).*
 - VII. *Recommendation no. 4.5: There is need to have an enforcement framework for effective enforcement of Rules based on principle of proportionality and also, precautionary principle. Such framework will remove ambiguity in regulatory actions and bring transparency, predictability and consistency in enforcement for actions. (SPCBs/PCCs/CPCB: within 06 months).*
 - VIII. *Recommendation no. 8: SPCBs/PCCs and CPCB need to take cognizance of these aspects (i.e. HW resulting from enforcement of other regulations) while enforcing the relevant rules and also, preparation of HW inventory and other interventions. (SPCBs/PCCs and CPCB).*
 - IX. *Recommendation no. 10.3: SPCBs/PCCs and CPCB needs capacity building in terms of qualified and experienced manpower and also, tools and techniques for effective governance. Committee is informed about steps being taken by SPCBs and would review the same in detail. (MoEF&CC, State/UT Government, CPCB and SPCBs / PCCs: Immediate)*
- 1.3. BY STATE POLLUTION CONTROL BOARDS/ POLLUTION CONTROL COMMITTEES (SPCBS/PCCS)**
- I. *Recommendation No. 1.2: Other waste is presently missing from all the regulatory actions, including inventory. It is necessary to bring*

such waste in regulatory domain, as envisaged in the rules (SPCBs/PCCs: inventory of 2018-19 onwards)

- II. *Recommendation No. 1.3: SPCBs/PCCs need to take steps to ensure closing of the manifests received and reconcile the HW handling data. This work is humungous and need support in terms of software and online submissions. (SPCBs/PCCs)*
- III. *Recommendation No. 1.5: The pre-processing and recycling/utilisation facilities need to be treated as critical environmental infrastructure facilities for sound environmental management of hazardous waste so as to ensure enhanced level and frequency of enforcement and environmental monitoring. Elaborate protocols are needed to be developed. (SPCBs/PCCs: continuous activity)*
- IV. *Recommendation No. 1.6: According to Rules, the identification and quantification of the hazardous waste generation is to be done at the authorization stage itself and therefore, it is necessary that SPCBs shall adopt the scientific principles as enumerated for such identification and quantification of HW. (SPCB/PCCs: Immediate)*
- V. *Recommendation No. 2.1: Uniform format for visits and inspections of HW handling facilities is necessary to ensure comprehensive inspections as per the provisions of the Rules. A format is proposed by the Committee.*
- VI. *Recommendation No. 2.2: The authorization document should clearly stipulate respective mode of management (such as common or captive incineration/secured landfilling or pre-processing or recycling or utilization or export or captive storage, as applicable) for each category of HW being generated. (SPCBs/PCCs: immediate)*
- VII. *Recommendation No. 3.2: SPCBs/PCCs shall verify and scientifically validate the HW data and facilities before grant or renewal of authorization. (SPCBs/PCCs: inventory of 2018-19 onwards)*
- VIII. *Recommendation No.3.3: There is an emergent need to develop sectoral process based reasonable HW generation range to have uniformity in assessing the HW generation from industries and benchmarking the same with its peers, rather than solely depending on industry data. (SPCBs/PCCs: continuous activity)*
- IX. *Recommendation No. 3.4: All occupiers who have authorizations shall submit the Annual report and in case of non-compliance, action needs to be taken by SPCB/PCC. (SPCBs/PCCs: inventory of 2018-19 onwards)*

- X. *Recommendation No. 4.1: SPCBs/PCCs shall invoke the powers conferred under clause 23 (1) and (2) of the Rules, related to all damages caused to the environment or third party due to improper handling and management of the hazardous and other wastes, and non-compliance respectively. CPCB has already issued guidelines for Liability assessment, for invoking clause 23(1) and (2) of HW Rules. CPCB shall also take consequential actions under clause 23 (1) as per the said guidelines wherever directions under section 5 of the E(P) Act have been issued by CPCB, noticing environmental damages. (SPCBs/PCCs and CPCB: Immediate)*
- XI. *Recommendation No. 4.2: The habitual and serious defaulters shall be prosecuted under provisions of the Environment (Protection) Act, 1986. Other alternative regulatory actions including refusal and revocation of Authorization can also be explored following the due process. (SPCBs/PCCs: Immediate)*
- XII. *Recommendation No. 4.3: Non-compliance to be documented while processing authorization for renewal or inspections in order to invoke powers of refusal or revocation of Authorization as per Rules. (SPCBs/PCCs: Immediate)*
- XIII. *Recommendation No. 4.4: Urgent updation of concerned websites of SPCBs/PCCs/CPCB with respect to all enforcement actions along with details of industries and action taken. (SPCBs/PCCs/ CPCB: Immediate)*
- XIV. *Recommendation No. 4.5: There is need to have an enforcement framework for effective enforcement of Rules based on principle of proportionality and also, precautionary principle. Such framework will remove ambiguity in regulatory actions and bring transparency, predictability and consistency in enforcement for actions. (SPCBs/PCCs/CPCB: within 06 months)*
- XV. *Recommendation No. 5.1: The inventory data needs to be verified and validated before accepting the same. The states shall adopt the proposed guidelines immediately while preparation of HW inventory. (SPCBs/PCCs: Immediate)*
- XVI. *Recommendation No. 5.2: There is emergent need of consistent approach in recycle and utilisation of HW in terms waste management hierarchy mandated in the rules across all the States in order to ensure the level playing field for the industry. This can be achieved by advocacy programme such as concept of waste exchange banks, know your waste programme, circular economy, documentation of the success stories along with regulatory interventions wherever required. (SPCBs/PCCs)*

- XVII. *Recommendation No. 5.3: It is also necessary to develop certain benchmarks/guidelines for the possibilities of HW recycle/utilisation on case to case basis. For example, for co-processing at Cement plants the Thermal Substitution Ratio (TSR) can be an objective criterion to decide the potential to use HW for utilization purpose. The range of TSR at different cement plants can be collated to develop a database for sound co-processing practices. (SPCBs/PCCs)*
- XVIII. *Recommendation No. 5.4: The concept of environmental benchmarking among the similar industries generating HW can be useful to ensure consistency and uniformity. The emerging trend of circular economy would be a key intervention for rationalizing the HW generation and reuse/utilization. (SPCBs/PCCs: continuous activity)*
- XIX. *Recommendation No. 6.1: The practice of returning the HW consignment needs to be immediately stopped and the consignment needs to be stored within the TSDF with information to the waste generator and also the concerned SPCB. The TSDF shall take appropriate measures to dispose this waste at the risk and cost of the waste generator under due information to the SPCB immediately on priority. Though the present guidelines prescribed that the waste shall be sent back to the waste generators, this practice needs to be immediately discontinued in view of non-accounting of the waste once it is out of manifest protocol and the associated environmental risks. (SPCBs/PCCs/TSDFs: immediate)*
- XX. *Recommendation No. 6.2: SPCBs/PCCs shall conduct environmental audit including the site selection criteria, design and layout for the TSDFs in next one year. They can engage expert institutes for the purpose and seek CPCB's technical advice on the ToR of the study, if required. (SPCBs/PCCs: 01 year)*
- XXI. *Recommendation No. 6.3: All the Common SLF shall disclose the mandatory amount deposited in Escrow Account annually to SPCB/PCC, CPCB and display on their website. SPCB/PCC to take action in case of non-compliance (SPCBs/PCCs: immediate)*
- XXII. *Recommendation No. 6.4: It is necessary that the Hon'ble NGT orders dated 30/07/2018 with regard to setting up of TSDF and taking imitate actions against erring units be strictly complied with by the concerned State/UT Government and SPCBs/PCCs. (State/UT Governments and SPCBs/PCCs: immediate)*
- XXIII. *Recommendation No. 8.0: SPCBs/PCCs and CPCB need to take cognizance of these aspects while enforcing the relevant rules*

and also, preparation of HW inventory and other interventions. (SPCBs/PCCs and CPCB)

XXIV. Recommendation No. 10.1: Each of the SPCBs/PCCs/Custom/TSDF, as listed in report, need to have at least one laboratory where all HW parameters as required under the Rules can be analysed. (SPCBs/PCCs/Custom/TSDF: 06 months).

Recommendation No. 10.3: SPCBs/PCCs and CPCB needs capacity building in terms of qualified and experienced manpower and also, tools and techniques for effective governance. Committee is informed about steps being taken by SPCBs and would review the same in detail (MoEF&CC, State/UT Govt., CPCB and SPCBs/PCCs: Immediate).

Recommendations of the CPCB to rectify above deficiencies are:

“6.1. RECOMMENDATIONS:

- 1. It is recommended that 05 SPCBs/PCCs (namely Dadar Nagar Haveli& Daman & Diu; Haryana; Lakshadweep; Manipur and Nagaland) directed to submit the status on implementation of recommendations made by the Monitoring Committee in its interim report, as CPCB has not received any information from these SPCBs/PCCs.*
- 2. SPCBs/PCCs need to implement 25 action points, out of which 11 action points needs to be implemented immediately and other 14 in regular and non immediate manner. It is recommended that SPCBs/PCCs which are not complying with the recommendations made by Monitoring Committee should submit the status report to CPCB immediately.*
- 3. It is recommended that till National Hazardous Waste Tracking System (NHWTS) which is being developed by CPCB is made functional, SPCBs/PCCs may be directed to ensure and verify reconciliation of manifest.*
- 4. SPCBs/PCCs shall strictly follow the guidelines for inventorization of hazardous and other waste issued by CPCB and ensure verification and validation of the annual returns submitted by the occupiers/recycler/pre-processor/utilizer/coprocessor operator of disposal facilities including submission of the annual inventory to CPCB within the stipulated time period.*
- 5. It is recommended that SPCBs/PCCs (namely Himachal Pradesh, Sikkim, Punjab, Kerala and Jharkhand) which have reported non-compliance but not taken any action shall be directed to take action against such violators as per provisions of HOWM Rules, 2016.*

Further, it is also recommended that SPCBs/PCCs may be directed to initiate actions against all such units which are violating one or other provisions of HOWM Rule, 2016 including non-compliance to the documenting submission such annual returns, manifest document, etc.

6. *It is recommended that the timeline provided by the SPCBs/PCCs with regard to adopting waste management hierarchy (as stipulated in the HOWM Rules) to ensure the level playing for the industries shall be strictly adhere to.*

Further, SPCBs/PCCs shall also initiate development of certain benchmarks/guidelines for the possibility of hazardous waste recycling/ utilization on case to case to basis as most of the SPCBs/PCCs have not taken any initiative on the same.

7. *It is recommended that SPCBs/PCC may be directed to initiate development of sectoral process based HW generation range to have uniformity in assessing the HW generation from industries and benchmarking the same.*
8. *It is recommended that SPCBs/PCCs of (Karnataka, Maharashtra, Rajasthan, Kerala and Uttarakhand) having Common TSDF to immediately open the Escrow Account as per O.M of MoEF&CC including deposition of mandatory amount.*

Further, SPCBs/PCCs of Gujarat, Jharkhand, Karnataka, Odisha, Rajasthan, Tamil Nadu and West Bengal shall take action against the Common TSDF(s) for not displaying the details of mandatory amount deposited in the Escrow Account on their website.

9. *SPCBs/PCCs may be directed to expedite conducting of environment audit of the Common/Captive SLFs in the time bound manner as specified in the Interim Report of the Monitoring Committee Report.*
10. *SPCBs/PCCs have reported that out of 30 SPCBs/PCCs only 19 are having laboratory facilities for analysis of all hazardous waste parameters as required under HOWM Rules, 2016. Therefore, it is recommended that all the remaining 11 SPCBs/PCCs (Andaman and Nicobar Islands, Arunachal Pradesh, Delhi, Goa, Jammu & Kashmir, Jharkhand, Meghalaya, Odisha, Puducherry, Sikkim and Uttarakhand) should be equipped with all the facilities for analysis of all hazardous waste parameters as required under HOWM Rules, 2016.*
11. *It is recommended to direct States/UTs (namely Andaman and Nicobar Islands, Assam, Arunachal Pradesh, Bihar, Chhattisgarh, Chandigarh, Delhi, Goa, Jammu & Kashmir, Lakshadweep, Manipur, Meghalaya, Mizoram, Nagaland, Puducherry, Tripura and*

Sikkim) where common TSDF is not available to immediately set up adequate number/capacity of Common TSDFs in such States/UT.

- 12. All the Chief Secretaries of the States/UTs may be directed to submit biannually compliance report to CPCB by collecting information from the State Government/ Departments like Labour/Industries/ Environment and SPCBs/PCCs.*

Details of Appendix

(as referred in para 12 at page no 8-19 in the Hon'ble NGT orders dated 07/07/2020 in O.A No 804/2017)

Appendix A: Findings of National inventory on Generation and Management of Hazardous waste.

Appendix B: Status on Setting up TSDF.

Appendix C: Compliance on the directions issued by CPCB vide dated 30/01/2019 incase of Spent solvent recovery units.

Appendix D: Overall compliance status based on information provided by SPCBs/PCCs on implementation of recommendations of Interim report of the Monitoring Committee.

Appendix E: Overall compliance status of various organizations on the basis of the information submitted by the concerned organizations on recommendations of Final report of the Monitoring Committee.

Appendix F: The way forward and recommendations based on the compliance status submitted by concerned stakeholders.

Appendix-A

Findings of the National Inventory report of 2018-19

1.	Total number of hazardous waste generating units	:	68, 949
2.	Quantity of hazardous waste generated during the financial year	:	8.64 Million MT
3.	Quantity of hazardous waste stored at occupiers' s premises at the beginning of financial year	:	1.86 Million MT
4.	Quantity of HW disposed		3.38 Million MT
	(i) Common SLF	:	2.28 Million MT
	(ii) Common Incinerator	:	0.18 Million MT
	(iii) Captive SLF	:	0.79 Million MT
	(iv) Captive Incinerator	:	0.13 Million MT
5.	Quantity of HW Recycled/ Utilized		4.85 Million MT
	(i) Recycling of commonly recyclable Hazardous wastes (Schedule IV listed wastes under the HOWM Rules, 2016)	:	1.30 Million MT
	(ii) Co-processing in Cement Kilns	:	1.38 Million MT
	(iii) Captive utilization		0.88 Million MT
	(iv) Non-captive utilization (other than (ii) above) under Rule 9 of the HOWM Rules, 2016	:	1.29 Million MT
6.	Quantity of hazardous waste stored at occupiers' s premises at the end of financial year	:	3.79 Million MT
7.	Number of common TSDFs (in 18 States/UT)		45 (18 integrated TSDFs having both Secured Landfills and Incinerators; 12 common incinerators, and, 15 Common Secured Landfills)
8.	Number of captive TSDFs (in 19 States/UTs)		131 (09 integrated TSDFs having both Secured Landfills and Incinerators; 82 common incinerators, and, 40 Common Secured Landfills)
9.	Number of authorized recyclers	:	2117
10.	Number of authorized utilizers	:	526

Status on Setting up of TSDF

Of the 17 States/UTs not having Common TSDF:

1. 03 SPCBs/PCCs (namely Arunachal Pradesh, Andaman & Nicobar Island, and Meghalaya) have not submitted status report on setting up of TSDF.
2. Assam and Chhattisgarh are required to setup TSDF by 31/03/2020, however, only land has been identified by both States. Further, Assam has to finalize Expression of Interest for inviting bids and Chhattisgarh to finalize the Bidder for award of work w.r.t setting up of TSDF.
3. Goa and Delhi require to establish TSDF by 01/01/2021. CTE has been granted for constructed of TSDF by Goa PCB and procedure for conducting Public hearing has been started by DPCC which could not be carried out by DPCC due to outbreak of Covid-19 pandemic for which DPCC has sought clarification/guidance from MOEF&CC.
4. Among the remaining 10 SPCBs/PCCs (namely Bihar, Chandigarh, J&K, Lakshadweep, Mizoram, Manipur, Nagaland, Puducherry, Sikkim and Tripura), 02 SPCBs/PCC (Chandigarh and Puducherry) have made sharing arrangements for disposal of landfillable hazardous waste (generated in their States/UT) with TSDF of neighbouring States and others 08 SPCBs/PCCs are at various stages of setting up of TSDFs including Puducherry also.

Status on the compliance of the CPCB’s directions issued under section 5 of Environment (Protection) Act, 1986, to deal with urgent issue i.e. Enforcement of HOWM Rules, 2016, in Spent solvent recovery units

Based on information provided by 34 SPCBs/PCCs (except Uttar Pradesh), status on the compliance of the CPCB’s directions issued vide 30/01/2019 under section 5 of Environment (Protection) Act, 1986, to deal with urgent issue i.e. enforcement of HOWM Rules, 2016, in spent solvent recovery units is as given below:

- 19 SPCBs/PCCs (namely Andaman & Nicobar, Arunachal Pradesh, Assam, Chandigarh, Chhattisgarh, DD&DNH, Delhi, Haryana, Jammu & Kashmir, Jharkhand, Kerala, Lakshadweep, Manipur, Mizoram, Meghalaya, Nagaland, Sikkim, Tripura and Uttarakhand) have informed that no spent solvent recovery units are available in their State/UT.
- Himachal Pradesh PCB has no standalone spent solvent recovery unit in the state, however, 04 units generating Spent solvent are involved in spent solvent recovery as part of the manufacturing process and have mandatory pre-requisites.
- The status on the compliance by remaining 14 SPCBs/PCCs are given below in the table:

S. No.	Details of Directions	Status on Action taken			
		Yes	No	Partial	Information not provided
1.	All the solvent recovery industries in the state have mandatory Authorization for the same in compliance with the SOP and Checklist issued by CPCB for solvent recovery units, within one month.	Bihar Goa Gujarat Madhya Pradesh Maharashtra Odisha Puducherry Rajasthan Tamil Nadu Telangana West Bengal	-	Andhra Pradesh Punjab Karnataka	-
2.	These solvent recovery industries shall immediately follow the SOP, for safe and scientific spent solvent handling, processing and storage.	Bihar Goa Gujarat Madhya Pradesh Maharashtra Odisha Puducherry Punjab Rajasthan Tamil Nadu Telangana West Bengal	-	Andhra Pradesh Karnataka	-
3.	Such solvent recovery units shall comply with the provisions of HOWM Rules, 2016, in terms of interstate transport of Hazardous waste and manifest document prescribed under Rule 18 and 19 of the HOWM Rules, 2016, with immediate effect. Stringent action	Bihar Goa Gujarat Madhya Pradesh Maharashtra Odisha Puducherry Telangana West Bengal	-	Andhra Pradesh Karnataka Punjab Rajasthan Tamil Nadu	-

S. No.	Details of Directions	Status on Action taken			
		Yes	No	Partial	Information not provided
	be taken against the erring industries who are giving the spent solvent to such recycling industries without following the manifest systems.				
4	Conduct industry interaction programs within a month to create awareness and sensitization on HOWM Rules, 2016 with all the stakeholder industries of Spent Solvent generation/utilization.	Andhra Pradesh Gujarat Karnataka Madhya Pradesh Maharashtra Odisha Punjab Puducherry Tamil Nadu Telangana West Bengal	Bihar Goa	-	Rajasthan
5.	Prepare an inventory of such solvent recovery units and publish the same on their website for information	Goa Gujarat Karnataka Madhya Pradesh Maharashtra Odisha Punjab Tamil Nadu West Bengal	Bihar	Andhra Pradesh Puducherry Telangana	Rajasthan

Status on implementation of recommendations of the Interim Report of the Monitoring Committee

There are 40 action points recommended in the Interim report of the Monitoring Committee for various stakeholders (i.e. SPCBs/PCCs/CPCB/MoEF&CC/State Govt. (Department of Environment/Department of Industries/Department of Labour)/Custom Dept. /Operator of common TSDF)

However, the action points pertaining to contaminated sites; Import/Export of hazardous and other waste; capacity building/institutional reforms and duties assigned to Department of Labour/Industries have been covered in detail in the Final report of the Monitoring Committee for which recommendations on the above specific issues have been outlined in the said Final report. Thus, the revised action points for implementation of recommendations of Interim report of the Monitoring Committee are:

- SPCBs/PCCs - 26 action points (13 immediate/time bound action points and 13 non-immediate/continuous action points);
- CPCB - 08 action points (05 immediate/time bound action points and 03 non-immediate/continuous action points);
- MoEF&CC - 01 action point (immediate/time bound action point)

The point wise compliance status submitted by the 31 SPCBs/PCCs (except 04 SPCBs namely Andaman & Nicobar Islands, Arunachal Pradesh, Karnataka and Meghalaya) after the orders dated 26/08/2019 of the Hon'ble Tribunal is as below:

S. No.	Details of recommendations/action points as per order dated 12/04/2019	Status of Action Taken
1.	Recommendation no. 1.1: <i>There is a need to urgently prepare a guidelines or protocol on how to decide the by-product on specific criteria. This can be done based on chemical process involved in order to bring consistency in approach. (MoEF&CC and CPCB: 06 months)</i>	Yes CPCB has prepared "Framework on Identification of Materials Generated from Industrial Processes as Wastes or By-products" and MoEF&CC has also accorded approval to the same.
2.	Recommendation No. 1.2: <i>Other waste is presently missing from all the regulatory actions, including inventory. It is necessary to bring such waste in regulatory domain, as envisaged in the rules. (SPCBs/PCCs: inventory of 2018-19 onwards)</i>	Yes- 22 SPCBs (viz., Andhra Pradesh, Assam, Bihar, Chhattisgarh, DD&DNH, Delhi, Goa, Gujarat, Haryana, Himachal Pradesh, Jammu & Kashmir, Kerala, Madhya Pradesh, Maharashtra, Punjab, Puducherry, Rajasthan, Tamil Nadu, Telangana, Uttar Pradesh, Uttarakhand and West Bengal). No- 09 SPCBs/PCCs viz. Chandigarh, Jharkhand, Lakshadweep, Manipur, Mizoram, Nagaland, Odisha, Sikkim and Tripura.

S. No.	Details of recommendations/action points as per order dated 12/04/2019	Status of Action Taken
3.	Recommendation No. 1.3: <i>SPCBs/PCCs need to take steps to ensure closing of the manifests received and reconcile the HW handling data. This work is humungous and need support in terms of software and online submissions. (SPCBs/PCCs)</i>	<p>Yes-22 SPCBs/PCCs namely (Andhra Pradesh, Assam, Chandigarh, Chhattisgarh, DD&DNH, Goa, Gujarat, Haryana, Himachal Pradesh, Jharkhand, Kerala, Madhya Pradesh, Odisha, Puducherry, Punjab, Rajasthan, Sikkim, Tamil Nadu, Telangana, Tripura, Uttar Pradesh and West Bengal)</p> <p>No-08 States /UTs (viz., Bihar, Delhi, Lakshadweep, Maharashtra, Manipur, Mizoram, Nagaland and Uttarakhand).</p> <p>INP (Information not provided)-Jammu & Kashmir</p>
4.	Recommendation no. 1.4: <i>Pan India IT based solution is suggested for tracking HW. Such integrated data handling and management solution is under implementation by CPCB which the committee would like to review in next phase.</i>	<p>No</p> <p>The details on the progress made so far on development of NHWTS is given at Annexure-4 of the CPCB report- June 2020.</p>
5.	Recommendation No. 1.5: <i>The pre-processing and recycling/utilisation facilities need to be treated as critical environmental infrastructure facilities for sound environmental management of hazardous waste so as to ensure enhanced level and frequency of enforcement and environmental monitoring. Elaborate protocols are needed to be developed. (SPCBs/PCCs: continuous activity)</i>	<p>Yes-20 SPCBs/PCCs namely Andhra Pradesh, Assam, Goa, Gujarat, Haryana, Himachal Pradesh, Jammu and Kashmir, Jharkhand, Madhya Pradesh, Maharashtra, Manipur, Odisha, Puducherry, Punjab, Rajasthan, Tamil Nadu, Telangana, Uttar Pradesh, Uttarakhand and West Bengal.</p> <p>No-02 PCCs namely DD&DNH and Lakshadweep.</p> <p>No with timeline-07 SPCBs/PCCs namely Bihar, Chandigarh, Chhattisgarh, Kerala, Mizoram, Nagaland and Tripura.</p> <p>Not applicable- 02 SPCB/PCC of Delhi and Sikkim</p>
6.	Recommendation No. 1.6: <i>According to Rules, the identification and quantification of the hazardous waste generation is to be done at the authorization stage itself and therefore, it is necessary that SPCBs shall adopt the scientific principles as enumerated for such identification and quantification of HW. (SPCBs/PCCs: Immediate)</i>	<p>Yes-26 SPCBs/PCCs namely Andhra Pradesh, Assam, Bihar, Chandigarh, Chhattisgarh, Delhi, DD&DNH, Goa, Gujarat, Himachal Pradesh, Jammu and Kashmir, Kerala, Jharkhand, Madhya Pradesh, Maharashtra, Manipur, Mizoram, Odisha, Puducherry, Punjab, Sikkim, Telangana, Tripura, Uttar Pradesh, Uttarakhand and West Bengal.</p> <p>No-Lakshadweep</p> <p>No with timeline-04 SPCBs/PCCs namely Haryana, Nagaland, Rajasthan and Tamil Nadu.</p>

S. No.	Details of recommendations/action points as per order dated 12/04/2019	Status of Action Taken
7.	Recommendation No. 2.1: <i>Uniform format for visits and inspections of HW handling facilities is necessary to ensure comprehensive inspections as per the provisions of the Rules. A format is proposed by the Committee.</i>	<p>Yes-26 SPCBs/PCCs namely Andhra Pradesh, Assam, Bihar, Chandigarh, Chhattisgarh, Delhi, Goa, Gujarat, Haryana, Himachal Pradesh, Jammu & Kashmir, Kerala, Madhya Pradesh, Maharashtra, Mizoram, Nagaland, Odisha, Puducherry, Punjab, Rajasthan, Sikkim, Telangana, Tripura, Uttar Pradesh, Uttarakhand and West Bengal.</p> <p>No- 03 SPCBs/PCCs namely Jharkhand, Lakshadweep and Manipur.</p> <p>No with timeline-Tamil Nadu</p> <p>INP-DD&DNH</p>
8.	Recommendation No. 2.2: <i>The authorization document should clearly stipulate respective mode of management (such as common or captive incineration/secured landfilling or pre-processing or recycling or utilization or export or captive storage, as applicable) for each category of HW being generated. (SPCBs/PCCs: Immediate)</i>	<p>Yes-30 SPCBs/PCCs namely Andhra Pradesh, Assam, Bihar, Chandigarh, Chhattisgarh, DD&DNH, Delhi, Goa, Gujarat, Haryana, Himachal Pradesh, Jammu & Kashmir, Jharkhand, Kerala, Madhya Pradesh, Maharashtra, Manipur, Mizoram, Nagaland, Odisha, Punjab, Puducherry, Rajasthan, Sikkim, Tamil Nadu, Telangana, Tripura, Uttar Pradesh, Uttarakhand and West Bengal.</p> <p>No-Lakshadweep</p>
9.	Recommendation No. 3.1: <i>Standard guidelines and protocol based on scientific fundamentals for preparation of inventory should be prepared by CPCB and strictly followed by the SPCBs/PCCs to ensure reliable and credible inventory. (SPCBs/PCCs and CPCB: inventory of 2018-19 onwards)</i>	<p>Yes-CPCB and 30 SPCBs/PCCs namely Andhra Pradesh, Assam, Bihar, Chandigarh, Chhattisgarh, Delhi, Goa, Gujarat, Haryana, Himachal Pradesh, Jammu & Kashmir, Jharkhand, Kerala, Lakshadweep, Madhya Pradesh, Maharashtra, Manipur, Mizoram, Nagaland, Odisha, Punjab, Puducherry, Rajasthan, Sikkim, Tamil Nadu, Telangana, Tripura, Uttar Pradesh, Uttarakhand and West Bengal.</p> <p>No-DD&DNH</p>
10.	Recommendation No. 3.2: <i>SPCBs/PCCs shall verify and scientifically validate the HW data and facilities before grant or renewal of authorization. (SPCBs/PCCs: inventory of 2018-19 onwards)</i>	<p>Yes-24 SPCBs/PCCs of Andhra Pradesh, Assam, Bihar, Chandigarh, Chhattisgarh, DD&DNH, Goa, Gujarat, Haryana, Himachal Pradesh, Jammu & Kashmir, Jharkhand, Kerala, Madhya Pradesh, Maharashtra, Mizoram, Odisha, Puducherry, Punjab, Rajasthan, Tamil Nadu, Uttar Pradesh, Uttarakhand and West Bengal.</p> <p>No-04 SPCBs/PCCs namely Lakshadweep, Manipur, Nagaland and Tripura.</p> <p>Not applicable- 03 SPCBs/PCCs of Delhi, Sikkim and Telangana</p>

S. No.	Details of recommendations/action points as per order dated 12/04/2019	Status of Action Taken
11.	Recommendation No. 3.3: <i>There is an emergent need to develop sectoral process based reasonable HW generation range to have uniformity in assessing the HW generation from industries and benchmarking the same with its peers, rather than solely depending on industry data. (SPCBs/PCCs: continuous activity)</i>	<p>Yes-05 SPCBs (namely Gujarat, Maharashtra, Mizoram, Nagaland and Tamil Nadu).</p> <p>No-04 SPCB/PCCs namely DD&DNH, Delhi, Lakshadweep and Uttar Pradesh.</p> <p>No with timeline-22 States/UTs namely (Andhra Pradesh, Assam, Bihar, Chandigarh, Chhattisgarh, Goa, Haryana, Himachal Pradesh, Jammu & Kashmir, Jharkhand, Kerala, Madhya Pradesh, Manipur, Odisha, Puducherry, Punjab, Rajasthan, Sikkim, Telangana, Tripura, Uttarakhand and West Bengal).</p>
12.	Recommendation No. 3.4: <i>All occupiers who have authorizations shall submit the Annual report and in case of non-compliance, action needs to be taken by SPCB/PCC. (SPCBs/PCCs: inventory of 2018-19 onwards)</i>	<p>Yes-20 SPCBs/PCCs namely Assam, Bihar, Chandigarh, DD&DNH, Delhi, Goa, Gujarat, Himachal Pradesh, Jammu & Kashmir, Jharkhand, Kerala, Madhya Pradesh, Maharashtra, Odisha, Puducherry, Punjab, Rajasthan, Telangana, Uttar Pradesh and West Bengal.</p> <p>No-07 state/UT namely Andhra Pradesh, Chhattisgarh, Haryana, Lakshadweep, Nagaland, Tamil Nadu and Uttarakhand.</p> <p>Not applicable-04 SPCBs/PCCs namely Manipur, Mizoram, Sikkim and Tripura.</p>
13.	Recommendation No. 3.5: <i>The timelines for inventory preparation as envisaged in Rules be strictly complied with by SPCBs/PCCs. Preparation of country's inventory by CPCB is dependent on such timely submission by SPCBs/PCCS. (SPCBs/PCCs and CPCB)</i>	<p>Yes-CPCB and 21 SPCBs/PCCs namely Assam, Bihar, Chandigarh, Chhattisgarh, Delhi, Gujarat, Goa, Himachal Pradesh, Jammu & Kashmir, Jharkhand, Kerala, Manipur, Madhya Pradesh, Maharashtra, Mizoram, Puducherry, Sikkim, Tripura, Uttar Pradesh, Uttarakhand and West Bengal.</p> <p>No- 10 SPCBs/PCCs (namely Andhra Pradesh, Haryana, Karnataka, Lakshadweep, Nagaland, Odisha, Punjab, Rajasthan, Tamil Nadu and Telangana).</p>
14.	Recommendation No. 4.1: <i>SPCBs/PCCs shall invoke the powers conferred under clause 23 (1) and (2) of the Rules, related to all damages caused to the environment or third party due to improper handling and management of the hazardous and other wastes, and non-compliance respectively. (SPCBs/PCCs and CPCB: Immediate)</i>	<p>Yes-CPCB and 11 SPCBs/PCCs namely Assam, Chhattisgarh, Delhi, Goa, Gujarat, Kerala, Madhya Pradesh, Maharashtra, Manipur, Punjab and Tamil Nadu.</p> <p>No-09 SPCBs/PCCs namely Bihar, DD&DNH, Haryana, Himachal Pradesh, Jammu & Kashmir, Jharkhand, Puducherry, Rajasthan and Telangana.</p> <p>Not applicable-11 SPCBs/PCCs namely Andhra Pradesh, Chandigarh, Lakshadweep, Mizoram, Nagaland, Odisha, Sikkim, Tripura, Uttar Pradesh, Uttarakhand and West Bengal.</p>
15.	Recommendation No. 4.2: <i>The habitual and serious defaulters shall be prosecuted under provisions of the Environment (Protection) Act, 1986. Other alternative</i>	Yes-07 SPCBs/PCCs namely Assam, Gujarat, Madhya Pradesh, Maharashtra, Puducherry, Punjab and Tamil Nadu.

S. No.	Details of recommendations/action points as per order dated 12/04/2019	Status of Action Taken
	<i>regulatory actions including refusal and revocation of Authorization can also be explored following the due process. (SPCBs/PCCs: Immediate)</i>	<p>No- DD&DNH</p> <p>Not applicable-22 SPCBs/PCCs namely Andhra Pradesh, Bihar, Chandigarh, Chhattisgarh, Delhi, Goa, Haryana, Himachal Pradesh, Jammu & Kashmir, Jharkhand, Kerala, Lakshadweep, Mizoram, Nagaland, Odisha, Rajasthan, Sikkim, Telangana, Tripura, Uttar Pradesh, Uttarakhand and West Bengal.</p> <p>INP-Manipur</p>
16.	Recommendation No. 4.3: <i>Non-compliance to be documented while processing authorization for renewal or inspections in order to invoke powers of refusal or revocation of Authorization as per Rules. (SPCBs/PCCs: Immediate)</i>	<p>Yes-15 SPCBs/PCC namely Assam, Chhattisgarh, DD&DNH, Gujarat, Haryana, Kerala, Madhya Pradesh, Maharashtra, Manipur, Puducherry, Punjab, Rajasthan, Tripura, Telangana and Uttar Pradesh.</p> <p>No-05 SPCBs/PCCs namely Bihar, Goa, Himachal Pradesh, Jharkhand and Tamil Nadu.</p> <p>Not applicable-11 SPCBs/PCCs namely Andhra Pradesh, Chandigarh, Delhi, Jammu & Kashmir, Lakshadweep, Mizoram, Nagaland, Odisha, Sikkim, Uttarakhand and West Bengal.</p>
17.	Recommendation No. 4.4: <i>Urgent updation of concerned websites of SPCBs/PCCs/CPCB with respect to all enforcement actions along with details of industries and action taken. (SPCBs/PCCs/CPCB: Immediate)</i>	<p>Yes-CPCB and 20 SPCBs/PCCs namely, Andhra Pradesh, Chhattisgarh, Delhi, Gujarat, Haryana, Himachal Pradesh, Jharkhand, Kerala, Madhya Pradesh, Maharashtra, Manipur, Odisha, Puducherry, Punjab, Rajasthan, Tamil Nadu, Telangana, Tripura, Uttarakhand and West Bengal.</p> <p>No-11 SPCBs/PCCs namely Assam, Bihar, Chandigarh, DD&DNH, Goa, Jammu & Kashmir, Lakshadweep, Mizoram, Nagaland, Sikkim and Uttar Pradesh.</p>
18.	Recommendation No. 4.5: <i>There is need to have an enforcement framework for effective enforcement of Rules based on principle of proportionality and also, precautionary principle. Such framework will remove ambiguity in regulatory actions and bring transparency, predictability and consistency in enforcement for actions. (SPCBs/PCCs/CPCB: within 06 months)</i>	<p>Yes-CPCB and 16 SPCBs/PCCs namely Chandigarh, DD&DNH, Delhi, Goa, Gujarat, Himachal Pradesh, Jharkhand, Kerala, Madhya Pradesh, Maharashtra, Odisha, Puducherry, Punjab, Telangana, Uttar Pradesh and West Bengal.</p> <p>No-07 SPCBs/PCCs namely Haryana, Lakshadweep, Nagaland, Rajasthan, Tamil Nadu, Tripura and Uttarakhand.</p> <p>No with timeline-08 SPCBs/PCCs namely Andhra Pradesh, Assam, Bihar, Chhattisgarh, Jammu & Kashmir, Manipur, Mizoram and Sikkim.</p>
19.	Recommendation No. 5.1: <i>The inventory data needs to be verified and validated before accepting the same. The states shall adopt the proposed guidelines</i>	Yes- 27 SPCBs/PCCs namely Andhra Pradesh, Assam, Bihar, Chhattisgarh, Chandigarh, DD&DNH, Delhi, Gujarat, Haryana, Himachal Pradesh, Jammu &

S. No.	Details of recommendations/action points as per order dated 12/04/2019	Status of Action Taken
	<i>immediately while preparation of HW inventory. (SPCBs/PCCs: Immediate)</i>	Kashmir, Jharkhand, Kerala, Madhya Pradesh, Maharashtra, Mizoram, Nagaland, Odisha, Puducherry, Punjab, Rajasthan, Sikkim, Tamil Nadu, Tripura, Uttar Pradesh, Uttarakhand and West Bengal. No-04 SPCB/PCC of namely Goa, Lakshadweep, Manipur and Telangana.
20.	Recommendation No. 5.2: <i>There is emergent need of consistent approach in recycle and utilisation of HW in terms waste management hierarchy mandated in the rules across all the States in order to ensure the level playing field for the industry. This can be achieved by advocacy programme such as concept of waste exchange banks, know your waste programme, circular economy, documentation of the success stories along with regulatory interventions wherever required. (SPCBs/PCCs)</i>	Yes-08 SPCBs/PCCs namely Andhra Pradesh, Gujarat, Maharashtra, Puducherry, Punjab, Telangana, Tripura and Uttar Pradesh. No-09 SPCBs/PCCS namely Assam, DD&DNH, Delhi, Lakshadweep, Manipur, Mizoram, Nagaland, Sikkim and Uttarakhand. No with timeline-14 SPCBs/PCCs namely Bihar, Chandigarh, Chhattisgarh, Goa, Haryana, Himachal Pradesh, Jammu & Kashmir, Jharkhand, Kerala, Madhya Pradesh, Odisha, Rajasthan, Tamil Nadu and West Bengal.
21.	Recommendation No. 5.3: <i>It is also necessary to develop certain benchmarks/guidelines for the possibilities of HW recycle/utilisation on case to case basis. For example, for co-processing at Cement plants the Thermal Substitution Ratio (TSR) can be an objective criterion to decide the potential to use HW for utilization purpose. The range of TSR at different cement plants can be collated to develop a database for sound co-processing practices. (SPCBs/PCCs)</i>	Yes-06 SPCBs/PCCs namely Andhra Pradesh, Gujarat, Maharashtra, Odisha, Puducherry and Uttar Pradesh. No-10 SPCBs/PCCs namely Assam, Delhi, Jharkhand, Lakshadweep, Manipur, Nagaland, Rajasthan, Tamil Nadu, Tripura and Uttarakhand. No with timeline-14 SPCBs/PCCs namely Bihar, Chandigarh, Chhattisgarh, Goa, Haryana, Himachal Pradesh, Jammu & Kashmir, Kerala, Madhya Pradesh, Mizoram, Punjab, Sikkim, Telangana and West Bengal. INP-DD&DNH
22.	Recommendation No. 5.4: <i>The concept of environmental benchmarking among the similar industries generating HW can be useful to ensure consistency and uniformity. The emerging trend of circular economy would be a key intervention for rationalizing the HW generation and reuse/utilization. (SPCBs/PCCs: continuous activity)</i>	Yes-11 SPCBs/PCCs namely Andhra Pradesh, Chhattisgarh, Goa, Gujarat, Madhya Pradesh, Maharashtra, Odisha, Puducherry, Tamil Nadu, Telangana and Uttar Pradesh. No-08 SPCBs/PCCs namely Assam, Delhi, Haryana, Lakshadweep, Manipur, Rajasthan, Uttarakhand and West Bengal. No with timeline-11 SPCBs/PCCs namely Bihar, Chandigarh, Himachal Pradesh, Jammu & Kashmir, Jharkhand, Kerala, Mizoram, Nagaland, Punjab, Sikkim and Tripura.

S. No.	Details of recommendations/action points as per order dated 12/04/2019	Status of Action Taken
		INP-DD&DNH
23.	<p>Recommendation No. 6.1: <i>The practice of returning the HW consignment needs to be immediately stopped and the consignment needs to be stored within the TSDF with information to the waste generator and also the concerned SPCB. The TSDF shall take appropriate measures to dispose this waste at the risk and cost of the waste generator under due information to the SPCB immediately on priority. Though the present guidelines prescribed that the waste shall be sent back to the waste generators, this practice needs to be immediately discontinued in view of non-accounting of the waste once it is out of manifest protocol and the associated environmental risks. (SPCBs/PCCs/TSDFs: immediate)</i></p>	<p>Yes-14 SPCBs/PCCs namely Andhra Pradesh, DD&NH, Gujarat, Himachal Pradesh, Jharkhand, Kerala, Madhya Pradesh, Maharashtra, Odisha, Punjab, Rajasthan, Tamil Nadu, Telangana, and West Bengal.</p> <p>No- 03 SPCBs namely Haryana, Uttar Pradesh and Uttarakhand</p> <p>(18 States/UT have common TSDFs)</p> <p>Not applicable-14 SPCBs/PCCs of Assam, Sikkim, Bihar, Goa, Puducherry, Nagaland, Manipur, Tripura, Lakshadweep, Delhi, Chandigarh, Jammu & Kashmir, Mizoram and Chhattisgarh.</p>
24.	<p>Recommendation No. 6.2: <i>SPCBs/PCCs shall conduct environmental audit including the site selection criteria, design and layout for the TSDFs in next one year. They can engage expert institutes for the purpose and seek CPCB's technical advice on the ToR of the study, if required. (SPCBs/PCCs: 01 year)</i></p>	<p>Yes-11 SPCBs of Gujarat, Himachal Pradesh, Kerala, Madhya Pradesh, Maharashtra, Odisha, Punjab, Tamil Nadu, Telangana, Uttarakhand and West Bengal.</p> <p>No-07 SPCBs/PCC of Andhra Pradesh, Assam, Chhattisgarh, Goa, Haryana, Jharkhand and Uttar Pradesh.</p> <p>No with timeline- 02 SPCBs of DD&DNH and Rajasthan</p> <p>Not applicable-11 SPCBs/PCCs of Bihar, Chandigarh, Delhi, Jammu & Kashmir, Lakshadweep, Manipur, Mizoram, Nagaland, Puducherry, Sikkim and Tripura.</p>
25.	<p>Recommendation No. 6.3: <i>All the Common SLF shall disclose the mandatory amount deposited in Escrow Account annually to SPCB/PCC, CPCB and display on their website. SPCB/PCC to take action in case of non-compliance.</i></p>	<p>Yes- 17 States/UT of Andhra Pradesh, DD&DNH, Gujarat, Haryana, Himachal Pradesh, Jharkhand, Kerala, Madhya Pradesh, Maharashtra, Odisha, Punjab, Rajasthan, Tamil Nadu, Telangana, Uttar Pradesh, Uttarakhand and West Bengal.</p> <p>Not applicable-14 SPCBs/PCCs of Assam, Sikkim, Bihar, Goa, Puducherry, Nagaland, Manipur, Tripura, Lakshadweep, Delhi, Chandigarh, Jammu & Kashmir, Mizoram and Chhattisgarh.</p>

S. No.	Details of recommendations/action points as per order dated 12/04/2019	Status of Action Taken
26.	Recommendation No. 6.4: <i>It is necessary that the Hon'ble NGT orders dated 30/07/2018 with regard to setting up of TSDF and taking imitate actions against erring units be strictly complied with by the concerned State/UT Government and SPCBs/PCCs. (State/UT Governments and SPCBs/PCCs: immediate)</i>	<p>Yes- All 14 States/UTs not having common hazardous waste TSDF namely Bihar, Chandigarh, Delhi, Assam, Sikkim, Manipur, Mizoram, Nagaland, Tripura, Jammu & Kashmir, Lakshadweep, Chhattisgarh, Goa and Puducherry have initiated action in this regard.</p> <p>The status on setting up of common TSDF is detailed in Chapter 3 of this report.</p> <p>Not applicable-17 States/UT of Andhra Pradesh, DD&DNH, Gujarat, Haryana, Himachal Pradesh, Jharkhand, Kerala, Madhya Pradesh, Maharashtra, Odisha, Punjab, Rajasthan, Tamil Nadu, Telangana, Uttar Pradesh, Uttarakhand and West Bengal.</p>
27.	Recommendation No. 8: <i>SPCBs/PCCs and CPCB need to take cognizance of these aspects (i.e. HW resulting from enforcement of other regulations) while enforcing the relevant rules and also, preparation of HW inventory and other interventions. (SPCBs/PCCs and CPCB)</i>	<p>Yes-CPCB and 17 SPCBs/PCCs (namely Andhra Pradesh, Assam, Chandigarh, Gujarat, Haryana, Himachal Pradesh, Jharkhand, Kerala, Madhya Pradesh, Maharashtra, Manipur, Nagaland, Puducherry, Rajasthan, Tamil Nadu, Telangana and West Bengal).</p> <p>No-13 SPCBs/PCCs namely Bihar, Chhattisgarh, Delhi, Goa, Jammu & Kashmir, Lakshadweep, Mizoram, Odisha, Punjab, Sikkim, Tripura, Uttar Pradesh and Uttarakhand.</p> <p>INP-DD&DNH</p>
28.	Recommendation No. 10.1: <i>Each of the SPCBs/PCCs/Custom/TSDF, as listed in report, need to have at least one laboratory where all HW parameters as required under the Rules can be analysed. (SPCBs/PCCs/Custom/TSDF: 06 months)</i>	<p>Yes-14 SPCBs/PCC of Andhra Pradesh, Chandigarh, Chhattisgarh, Goa, Gujarat, Himachal Pradesh, Madhya Pradesh, Maharashtra, Odisha, Tamil Nadu, Telangana, Tripura, Uttar Pradesh and West Bengal.</p> <p>No-05 SPCBs/PCCs of DD&DNH, Lakshadweep, Manipur, Puducherry and Uttarakhand.</p> <p>No with timeline-12 SPCBs/PCCs (namely Assam, Bihar, Delhi, Haryana, Jammu & Kashmir, Jharkhand, Kerala, Mizoram, Nagaland, Punjab, Rajasthan and Sikkim).</p>

Overall Compliance status of recommendations made in Final Report		
Sr. No.	Action points (Responsible Agency and timeline of action)	Compliance Status
8.	<p>Verification of documents for HW in Part D:</p> <p>(i) CBIC shall strengthen their Risk Management System (RMS) for improved vigilance while verifying documents for import of other wastes (Part D of Schedule III of HOWM Rules, 2016) especially those goods/wastes that are similar to hazardous wastes (regulated or banned/prohibited for import), as there is a possibility that prohibited wastes are imported under the other wastes category.</p> <p>(CBIC: immediate)</p>	CBIC- Partially Complied
9.	<p>RMS system:</p> <p>(i) There is need to synchronize Basel code and HS codes to cover all scheduled items as per HW rules in customs verification and control more effectively.</p> <p>(MoEF&CC, Custom and Port Authorities: 06 months)</p> <p>(ii) In order to tackle illegal import of HW consignments (mis-declaration) and those similar to unrestricted items without HS code, such items need to be identified and classified with HS code and brought under the ambit of RMS for stringent verification and testing procedure (for example 'other' waste oil, 'other' oils, furnace oil, Rubber/Tyre oil, Lead / Zinc scrap etc. with hazardous characteristics beyond the limits specified in the HOWM Rules, 2016 be classified with HS Code)</p> <p>(CBIC and DGFT:06 months)</p> <p>(iii) This process is a continuous process and the monitoring committee recommends that this compliance be reviewed jointly by MoEF&CC and Customs in their coordination meetings.</p> <p>(MoEF&CC, Custom authority: on a regular basis)</p>	<p>MoEF&CC- Partially Complied</p> <p>CBIC- Partially Complied</p> <p>Port Authorities- Complied</p> <p>CBIC- Partially Complied</p> <p>DGFT- Not Complied</p> <p>MoEF&CC and CBIC- Partially Complied</p>
10.	<p>DGFT license in public domain:</p> <p>(i) Details of licenses issued to import restricted items be placed on DGFT website so as to keep the concerned agencies such as Customs and MoEF&CC informed.</p> <p>(DGFT: 03 months)</p>	DGFT-Partially Complied
11.	<p>Harmonization of 'other' category in line with HWM Rules, 2016:</p> <p>(i) Items that require to be provided with HS code under the classification of oils be specified categorically under the 'other' class in consultation with MoEF&CC.</p> <p>(DGFT: 06 months)</p> <p>(ii) HS code for all the hazardous and other wastes listed in Part A, Part B and Part D of Schedule III of the Rules be specified by DGFT and Customs. The Committee recognizes that notifying HS code is an</p>	<p>DGFT-Not Complied</p> <p>DGFT and CBIC- Not Complied</p>

Overall Compliance status of recommendations made in Final Report		
Sr. No.	Action points (Responsible Agency and timeline of action)	Compliance Status
	<p>elaborate and time consuming procedure which requires international deliberations and confirmation and therefore the committee recommends to strengthen the RMS which can provide an expeditious alternative safeguard mechanism.</p> <p>(DGFT and Customs: 03 months)</p>	
12.	<p>Pre-Shipment Inspection Agency (PSIAs) for certain category of oils as per Annexure 13 of the ASG Report:</p> <p>(i) Initiatives similar to that of metallic scrap wastes be taken by DGFT for notifying PSIAs for certain category of oils suggested for pre-shipment inspections certificate for imports in the Recommendations of the former ASG, Sh Gopal Subramaniam.</p> <p>(ii) Once the PSIAS procedure are specified, the same must be shared with MoEF&CC, CPCB/SPCBs/PCCs and other regulatory authorities.</p> <p>(DGFT: 06 months)</p>	DGFT-Not Complied
13.	<p>Penal Action against the defaulters in case illegal import:</p> <p>(i) As a means to improve traceability of importers, the Customs authorities could make the registration process of importers more stringent as there have been cases where importers have never been able to be traced when their illegal imports were intercepted. All incidences of illegal import of HW shall be immediately reported to MoEF & CC as per provisions of the Rules.</p> <p>(MoEF&CC, DGFT, Custom and Port authorities: 03 months)</p> <p>(ii) In case of illegal import of hazardous wastes, MoEF&CC may consider delegation of power vested under section 19 of the Environment (Protection) Act, 1986 to CBIC, to enable them to take credible action against such violators under the E(P) Act, 1986.</p> <p>(MoEF&CC: 06 months)</p>	<p>DGFT - Not Complied</p> <p>Customs - Partially Complied</p> <p>Port Authorities- Partially Complied</p> <p>MoEF&CC- Partially Complied</p>
14.	<p>Re-export of illegal consignments after confiscation:</p> <p>(i) As of now, DGFT can take action against the erring importers as per the provisions of Foreign Trade (Development & Regulation) Act, 1992, since the feasibility of delegating such powers to the Customs Authorities is being examined in DGFT. The committee recommends to expedite the process in a time bound manner (preferably within 3 months) so as to ensure speedy disposal of consignments lying in ICDs/CFSS.</p> <p>(DGFT: within 03 months)</p>	DGFT- Partially Complied
15.	<p>Clearance of Waste Oil/Sludge from Ships:</p> <p>(i) Used/ Waste Oil generated from ships collected by the reception facilities of various ports shall be covered under Authorisation by</p>	Port Authorities- Partially Complied

Overall Compliance status of recommendations made in Final Report		
Sr. No.	Action points (Responsible Agency and timeline of action)	Compliance Status
	SPCBs/PCCs for its designated disposal and facilitate tracking of waste under HOWM Rules, 2016. (Port Authorities/ SPCBs/ PCCs: Immediate)	SPCBs/PCCs- Partially Complied
16.	Findings of CAG Report (i) CBIC shall prepare annual inventory of the illegally imported consignments stored in Ports/ICDs/CFSS and submit the same to CPCB and MoEF&CC by 30 th September of every year and publish on its website. (ii) Wherever importer of illegally imported consignments is traceable, importer shall not be allowed to import/export, directly or indirectly any material until illegally imported consignments is safely disposed off scientifically as per HOWM Rules, 2016. (Customs, Port Authorities and DGFT: 03 months)	CBIC - Not Complied Port Authorities- Not Complied DGFT- Not Complied
17.	Authorization under HWM Rules, 2016 from concerned SPCB/PCC: (i) Necessary authorization for handling, storage, transportation, recycling, utilization, offering for sale, transfer or disposal, as the case may be obtained by Customs and Port authorities to deal with the hazardous wastes that are confiscated and waste from ships respectively. (Port authorities and Customs: Immediate)	Port Authorities - Partially Complied Customs- Partially Complied
18.	Collaboration between regulating authorities: (i) Regular interaction between the Ministry of Environment, Forest and Climate Change, CPCB, SPCBs/PCCs, customs and ports authorities should take place with frequent consultative meetings and trainings in order to avoid working in silos. (MoEF&CC, CPCB, SPCBs /PCC, Customs and ports authorities: On a regular basis)	MoEF&CC - Complied CPCB-Complied CBIC - Partially Complied Port Authorities - Partially Complied SPCBs/PCCs- Partially Complied
II. WASTE RECEPTION FACILITIES IN PORTS TO DEAL WITH WASTES GENERATED FROM SHIPS (MARPOL)		
19.	Availability of Waste Reception Facilities at ports: (i) Ministry of Shipping needs to urgently prescribe requirement of reception facilities at each cargo loading and unloading port, terminal and ship repair ports preferably within <u>06 months</u> , if not done earlier, and such reception facilities shall be provided by such authorities	MoS- Partially Complied

Overall Compliance status of recommendations made in Final Report		
Sr. No.	Action points (Responsible Agency and timeline of action)	Compliance Status
	within a period of <u>one year</u> thereafter. <i>(Ministry of Shipping: 06 months and 01 year)</i>	
20.	Authorization for the waste reception facilities and ports: (i) State Pollution Control Boards shall enforce provisions of HW Rules, 2016 for grant of authorisation and manifest submissions at such waste reception facilities as well as port operations. SPCBs shall ensure that the HW handled at such facilities and ports should be covered in the Annual report to be prepared as per HOWM Rules, 2016. <i>(SPCBs/PCCs and Port Authority: with immediate effect)</i>	SPCBs/PCCs - Partially Complied Port Authorities- Partially Complied
21.	Swachh sagar portal: (i) The committee recommends Ministry of Shipping to ensure that all the major and non-major ports utilize the Swachh sagar online portal immediately which will ensure better HW management. The MoEF&CC/CPCB/SPCBs should also have an access to this portal for enforcement purpose. <i>(Ministry of Shipping: 03 months)</i>	MoS- Partially Complied
III. IMPACT OF HW ON WORKERS' HEALTH		
22.	Coverage of all workers under ESI act, 1948 (i) The committee recommends that all the workers engaged in HW handling, storage, transport, preprocessing, utilisation and disposal (covered under ESI Act, 1948 and not covered under ESI Act, 1948) need to get medical benefits and compensation under ESI Act, 1948 as per the recommendations of the Report of the Special Committee, May 2004 and the same be implemented on priority. <i>(Ministry of Labour & Employment: 03 months)</i>	MoLE- Partially Complied
23.	Implementation of Rule 5(2) of HOWM Rules, 2016: (i) The committee recommends Hon'ble Tribunal to direct Chief Secretaries of States to ensure effective and urgent implementation of the provisions of the rules as stipulated under Rule 5(2) of HOWM Rules, 2016 by Department of Labour. <i>(Department of Labour, Respective State/UT Government: Immediate)</i>	DoL of State/UT Government- Partially Complied
24.	Unauthorized industries be brought under the ambit of ESI Act, 1948: (i) Ministry of Labour need to devise a scheme similar to the provisions of ESI Act, 1948 to cover the workers employed in unorganized sector. <i>(Ministry of Labour & Employment : 06 months)</i>	MoLE- Partially Complied
25.	Implementation of provisions of status for safety and health of all workers handling HW: The Monitoring committee is of the view that even at HW generating	MoEF&CC – Complied

Overall Compliance status of recommendations made in Final Report		
Sr. No.	Action points (Responsible Agency and timeline of action)	Compliance Status
	<p>industry/activity, the workers involved in HW handling including storage and transportation and also in-plant reuse/ recycle/ reutilization will also be exposed to similar environmental health risks. Therefore, the committee recommends that MoEF&CC may examine the same and may consider amendment of the ambit of Rule 5(2) of HOWM Rules, 2016.</p> <p>(MoEF&CC: 06 months)</p>	
26.	<p>DISPLAY OF INFORMATION OUTSIDE THE FACTORY GATE:</p> <p>(i) Considering the orders of the Hon'ble Apex court and also the need of information sharing with the local community the committee recommends that the SPCBs need to ensure the compliance of the directions of the Hon'ble Apex court on regular basis rather than a onetime compliance.</p> <p>(ii) The verification of the updation of display board should be an integral part of any inspection carried out by CPCB/SPCBs/PCCs without exception. In case of non-compliance the concerned officer should be subjected to departmental actions.</p> <p>(CPCB/SPCBs/PCCs: Immediate)</p>	<p>CPCB – Complied</p> <p>SPCBs/PCCs – Partially Complied</p>
27.	<p>INSTITUTIONAL REFORMS</p> <p>(i) Capacity building in CPCB and SPCBs/PCCs and other agencies (viz., trained adequate manpower, laboratory, budget etc.) shall be expedited as recommended in the orders of Hon'ble NGT dated 12.04.2019.</p> <p>(CPCB, SPCBs/PCCs, MoEF&CC and State/UT Government: Immediate)</p> <p>(ii) The committee recommends that CPCB/SPCBs/PCCs shall take efforts similar to that of the State of Gujarat where a separate institution named Gujarat Cleaner Production Centre (GCPC) which conducts such action research supported by adequate information dissemination program and advocacy programs for promoting the cleaner technology.</p> <p>(iii) CPCB/SPCBs/PCCs shall proactively engage in research and development activities by supporting research in clean technology and cleaner production and also, awareness program for the purpose.</p> <p>(CPCB and SPCBs/PCCs: Immediate)</p>	<p>MoEF & CC – Partially Complied</p> <p>CPCB- Partially Complied</p> <p>SPCBs/PCCs – Partially Complied</p> <p>State /UT Government- Not Complied</p>
28.	<p>NATIONAL POLICY</p> <p>(i) MoEF&CC can examine the need of having specialized HW policy which can be appropriately aligned with the National Environment Policy (NEP), 2006 which will promote use of Clean Technology and also ensure sufficient financial allocations for technology research and information sharing resulting into improved HW management.</p> <p>(MOEF&CC: 06 months)</p>	<p>MoEF&CC – Partially Complied</p> <p>CPCB- Partially Complied</p>

A. RECCOMENDATIONS on the issues covered in the Interim report of the monitoring committee vis-à-vis orders DATED 12/04/2019 of the HON'BLE NGT

Based on status of implementation (on the action points given in Interim report of the Monitoring Committee) submitted by SPCBs/PCCs, following are the recommendations:

1. 05 SPCBs/PCCs (Andaman & Nicobar Islands, Arunachal Pradesh, DD&DNH, Karnataka, and Meghalaya) be directed to submit the quarterly compliance status report on implementation of recommendations made by the Monitoring Committee in its Interim report, as CPCB has not received status report for the 2nd, 3rd and 4th quarters from these SPCBs/PCCs.

Further, Uttar Pradesh may also be directed to submit the compliance status on the directions issued by CPCB vide dated 30/01/2019 in case of Spent Solvent Recovery Units.

2. As per categorization made by CPCB, since SPCBs of Assam and Chhattisgarh have not set-up TSDf within the timeline (i.e. upto 31/03/2020) stipulated by the Hon'ble Tribunal vide its order dated 26/08/2019, the Hon'ble Tribunal may direct accordingly for imposition of environmental compensation in accordance with the said order.
3. SPCBs/PCCs shall ensure timely submission of annual returns by all occupiers and in case of non-compliances (i.e. for non-submission/after lapse of timeline) action may be taken in accordance with the provisions laid down under the HOWM Rules, 2016.
4. SPCBs/PCCs shall prepare annual inventory report on hazardous and other waste generation and its management, as per CPCB's guidelines and ensure submission of same within stipulated timeframe as laid down under HOWM Rules, 2016.
5. SPCBs/PCCs to ensure verification and reconciliation of closing of manifest document for all the cases in Hazardous waste handling/generating units.
6. SPCBs/PCCs of 23 States/UTs shall initiate action on development of sectoral process based reasonable HW generation range/ environmental benchmarking/guidelines for HW recycling/utilization and approach for waste management hierarchy and submit the progress report on the same within 06 months to CPCB.
7. SPCBs/PCCs to ensure regular updation of website with respect to all enforcement actions along with details of industries and action taken thereof.
8. SPCBs/PCCs (of States/UT having spent solvent recovery units) shall ensure implementation of the CPCB directions dated 30/01/2019 and submit the compliance report annually to CPCB.

Apart from above general recommendations, state-wise recommendations are given as below:

S. NO.	STATE/UT	RECOMMENDATIONS
1.	Andaman & Nicobar	i. Board shall take necessary action for compliance to the HOWM Rules, 2016 and recommendations of the Monitoring Committee and

		<ul style="list-style-type: none"> ii. Board shall be directed to submit the 2nd, 3rd and 4th quarter compliance report. iii. Board shall be directed to submit the status on setting up of TSDF or sharing arrangement with authorized common TSDFs of neighboring states.
2.	Andhra Pradesh	<ul style="list-style-type: none"> i. Develop enforcement framework document for effective enforcement of Rules within one month. ii. Expedite conducting of environmental audit of common/captive TSDFs available in the State and submit the audit report to CPCB. iii. Develop sectoral process based reasonable HW generation range to have uniformity in assessing the HW generation from industries and benchmarking the same with its peers. iv. Immediately open escrow account in the remaining TSDF also and ensure verification of same by board and display on website of operator. v. Andhra Pradesh PCB to ensure all the Spent solvent recovery units operating in the State have mandatory authorization, following manifest system and have been verified for compliance of CPCB's SoP. Further, Board to initiate action against the erring units. vi. Board shall immediately update inventory of Spent Solvent Recovery Units available in their States on Board's website and provide the link of same.
3.	Arunachal Pradesh	<ul style="list-style-type: none"> i. Board shall take necessary action for compliance to the HOWM Rules, 2016 and recommendations of the Monitoring Committee. ii. Board shall be directed to submit the 2nd, 3rd and 4th quarter compliance report. iii. Board shall be directed to submit the status on setting up of TSDF or sharing arrangement with authorized common TSDFs of neighboring states.
4.	Assam	<ul style="list-style-type: none"> i. Immediately adopt the identification and quantification of HW based on scientific principal; inclusion of mode of management of each hazardous waste generated in the authorization document. ii. Develop elaborate protocol for environmental monitoring of recyclers/utilizers within one month. iii. Take initiative for development of centralized laboratory for north-east region and commissioning of same within 06 months. iv. Develop enforcement framework document for effective enforcement of Rules within one month.

		<ul style="list-style-type: none"> v. Board shall immediately update website with respect to all enforcement actions along with details of industries and action taken. vi. Expedite conducting of environmental audit of captive TSDFs available in the State and submit the audit report to CPCB. vii. Immediately set up TSDF in their State as the timeline for compliance has already been lapsed.
5.	Bihar	<ul style="list-style-type: none"> i. Board shall invoke the powers conferred under clause 23 (1) and (2) of the Rules, related to all damages caused to the environment or third party due to improper handling and management of the hazardous and other wastes, and non-compliance respectively. ii. Board shall expedite the development of elaborate protocols to ensure enhanced level and frequency of enforcement and environmental monitoring of recycling/utilisation facilities. iii. Non-compliance to be documented while processing authorization for renewal or inspections in order to invoke powers of refusal or revocation of authorization as per Rules. iv. Board shall immediately update website with respect to all enforcement actions along with details of industries and action taken. v. Board needs to take cognizance of aspects while enforcing the relevant rules (w.r.t. domestic hazardous waste and hazardous waste generated from e-waste rules like fluorescent lamp other mercury containing lamp) and also, preparation of HW inventory and other interventions. vi. Board shall immediately upgrade the existing laboratory where all HW parameters as required under the Rules can be analysed. vii. Board shall immediately update inventory of Spent Solvent Recovery Unit available in their States on Board's website and provide the link of same. viii. Board shall expedite setting up the TSDF in the State and submit the status.
6.	Chandigarh	<ul style="list-style-type: none"> i. Chandigarh PCC to bring other waste in regulatory domain and also report the same in its inventory report. ii. Chandigarh PCC shall expedite the development of elaborate protocols to ensure enhanced level and frequency of enforcement and environmental monitoring of recycling/utilisation facilities. iii. Chandigarh PCC shall immediately update website with respect to all enforcement actions along with details of industries and action taken.

7.	Chhattisgarh	<ul style="list-style-type: none"> i. Board shall expedite the development of elaborate protocols to ensure enhanced level and frequency of enforcement and environmental monitoring of recycling/utilisation facilities ii. Board shall initiate action for conducting environmental audit of captive TSDFs and submit the audit report to CPCB. iii. Board needs to take cognizance of aspects while enforcing the relevant rules (w.r.t. domestic hazardous waste and hazardous waste generated from e-waste rules like fluorescent lamp other mercury containing lamp) and also, preparation of HW inventory and other interventions. iv. Board shall develop laboratory where all HW parameters as required under the HOWM Rules can be analysed. v. Immediately set up TSDF in their State as the timeline for compliance has already been lapsed.
8.	Delhi	<ul style="list-style-type: none"> i. DPCC shall expedite setting up the TSDF in the UT and shall strictly comply with the timeline provided for setting up of common TSDF in the UT. ii. DPCC shall immediately upgrade the laboratory facility where all HW parameters as required under the Rules can be analysed. iii. DPCC needs to take cognizance of aspects while enforcing the relevant rules (w.r.t. domestic hazardous waste and hazardous waste generated from e-waste rules like fluorescent lamp other mercury containing lamp) and also, preparation of HW inventory and other interventions.
9.	DD&DNH	<ul style="list-style-type: none"> i. The Committee shall invoke the powers conferred under clause 23 (1) and (2) of the Rules, related to all damages caused to the environment or third party due to improper handling and management of the hazardous and other wastes, and non-compliance respectively. ii. The committee shall prosecute habitual and serious defaulters under provisions of Environment (Protection) Act, 1986. iii. The Committee shall immediately update website with respect to all enforcement actions along with details of industries and action taken. iv. Initiate action for development of elaborate protocols for pre-processing and recycling/utilization facilities for sound environmental management of HW.

		<ul style="list-style-type: none"> v. The committee shall develop laboratory where all HW parameters as required under the HOWM Rules can be analysed. vi. Expedite conducting of environmental audit of common/captive TSDFs available in the State and submit the audit report to CPCB.
10.	Goa	<ul style="list-style-type: none"> i. Board shall expedite the setting up of common TSDF and strictly comply with the timeline provided for setting up of common TSDF in the State. ii. Board shall ensure that non-compliance to be documented while processing authorisation for renewal or inspections in order to invoke powers of refusal or revocation of authorisation as per Rules. iii. Board shall immediately update website with respect to all enforcement actions along with details of industries and action taken. iv. Board shall verify and validate the inventory data before accepting the same and adopt the CPCB's guidelines while preparation of HW inventory report. v. Board needs to take cognizance of aspects while enforcing the relevant rules (w.r.t. domestic hazardous waste and hazardous waste generated from e-waste rules like fluorescent lamp other mercury containing lamp) and also, preparation of HW inventory and other interventions. vi. Expedite conducting of environmental audit of captive TSDFs available in the State and submit the audit report to CPCB.
11.	Gujarat	<ul style="list-style-type: none"> i. Board shall submit the environmental audit of all common/captive TSDFs exist in the state to CPCB.
12.	Haryana	<ul style="list-style-type: none"> i. Board shall immediately invoke the powers conferred under clause 23 (1) and (2) of the Rules, related to all damages caused to the environment or third party due to improper handling and management of the hazardous and other wastes, and non-compliance respectively. ii. Board shall immediately direct all the operator of common TSDFs that not to return the HW consignment and the consignment needs to be stored within the TSDF with information to the waste generator and also the SPCB. iii. Board shall initiate action for the identification and quantification of the hazardous waste generation at the authorisation stage itself and therefore shall adopt the scientific principles as enumerated for such identification and quantification of HW. iv. Expedite conducting of environmental audit of common/captive TSDFs available in the State and submit the audit report to CPCB.

		<p>v. Board shall immediately upgrade the laboratory facility where all HW parameters as required under the Rules can be analysed</p>
13.	Himachal Pradesh	<p>i. Board shall immediately invoke the powers conferred under clause 23 (1) and (2) of the Rules, related to all damages caused to the environment or third party due to improper handling and management of the hazardous and other wastes, and non-compliance respectively.</p> <p>ii. Board shall ensure that non-compliance to be documented while processing authorization for renewal or inspections in order to invoke powers of refusal or revocation of authorization as per Rules.</p> <p>iii. Board shall submit the environmental audit of all common/captive TSDFs available in the state to CPCB.</p>
14.	Jammu & Kashmir	<p>i. Board shall immediately invoke the powers conferred under clause 23 (1) and (2) of the Rules, related to all damages caused to the environment or third party due to improper handling and management of the hazardous and other wastes, and non-compliance respectively.</p> <p>ii. Develop framework for effective enforcement of Rules based on proportionality and precautionary principle. Also, ensure updation of website w.r.t. enforcement actions along with details of industries and action taken.</p> <p>iii. Board needs to take cognizance of aspects while enforcing the relevant rules (w.r.t. domestic hazardous waste and hazardous waste generated from e-waste rules like fluorescent lamp other mercury containing lamp) and also, preparation of HW inventory and other interventions.</p> <p>iv. Board shall immediately upgrade the laboratory facility where all HW parameters as required under the Rules can be analysed</p> <p>v. Board shall expedite setting up of TSDF in the state.</p>
15.	Jharkhand	<p>i. Jharkhand PCB shall bring other waste in regulatory domain and also report in its inventory report.</p> <p>ii. Adopt uniform inspection format for visits and inspection of HW handling facilities to ensure comprehensive inspection as per the provisions of the Rules.</p> <p>iii. Board shall immediately invoke the powers conferred under clause 23 (1) and (2) of the Rules, related to all damages caused to the environment or third party due to improper handling and management of the hazardous and other wastes, and non-compliance respectively.</p>

		<ul style="list-style-type: none"> iv. Board shall ensure that non-compliance to be documented while processing authorization for renewal or inspections in order to invoke powers of refusal or revocation of authorization as per Rules. v. Expedite conducting of environmental audit of common/captive TSDFs available in the State and submit the audit report to CPCB. vi. Develop enforcement framework for effective enforcement of Rules based on the principle of proportionality and also precautionary principle. vii. Board shall immediately upgrade the laboratory facility where all HW parameters as required under the Rules can be analysed.
16.	Karnataka	<ul style="list-style-type: none"> i. Board shall take necessary action for compliance to the HOWM Rules, 2016 and recommendations of the Monitoring Committee and ii. Board shall be directed to submit the 2nd, 3rd and 4th quarter compliance report. iii. Board shall ensure compliance of directions issued by CPCB vide dated 30/01/2019 in case of all spent solvent recovery units available in the State.
17.	Kerala	<ul style="list-style-type: none"> i. Board shall expedite the development of elaborate protocols to ensure enhanced level and frequency of enforcement and environmental monitoring of recycling/utilisation facilities ii. Initiate action for development laboratory where all HW parameters as required under the HOWM Rules can be analysed. iii. Expedite conducting of environmental audit of common/captive TSDFs available in the State and submit the audit report to CPCB.
18.	Lakshadweep	<ul style="list-style-type: none"> i. Shall initiate action for identifying hazardous waste generating unit and grant authorization to such units available in the UT. ii. Take necessary action for compliance to the HOWM Rules, 2016 and recommendations of the Monitoring Committee. iii. Shall also ensure compliance to the action points suggested by Monitoring committee and submit report to CPCB in prescribed format. iv. Board shall be directed to submit the status on setting up of TSDF or sharing arrangement with authorized common TSDFs of neighboring states.
19.	Manipur	<ul style="list-style-type: none"> i. Manipur PCB shall bring other waste in regulatory domain and also report in its inventory report.

		<ul style="list-style-type: none"> ii. Develop enforcement framework for effective enforcement of Rules based on the principle of proportionality and also precautionary principle. iii. The Board shall adopt uniform inspection format for visits and inspections of HW handling facilities. iv. The Board shall scientifically verify and validate the HW data and facilities before grant/renewal of authorization. v. Board shall verify and validate the inventory data before accepting the same and adopt the CPCB's guidelines while preparation of HW inventory report vi. Initiate action for development laboratory where all HW parameters as required under the HOWM Rules can be analysed. vii. Board shall be directed to submit the status on setting up of TSDF or sharing arrangement with authorized common TSDFs of neighboring states.
20.	Madhya Pradesh	<ul style="list-style-type: none"> i. Board shall submit the environmental audit of all common/captive TSDFs exist in the state to CPCB.
21.	Maharashtra	<ul style="list-style-type: none"> i. Board shall submit the environmental audit of all common/captive TSDFs exist in the state to CPCB. ii. Board shall verify the mandatory amount deposited by all TSDFs in Escrow Account. iii. Board shall provide specific link of inventory of spent solvent recovery units published on its website.
22.	Mizoram	<ul style="list-style-type: none"> i. Mizoram PCB shall bring other waste in regulatory domain and also report in its inventory report. ii. Board shall expedite the development of elaborate protocols to ensure enhanced level and frequency of enforcement and environmental monitoring of recycling/utilisation facilities iii. Board shall immediately update website with respect to all enforcement actions along with details of industries and action taken iv. Board needs to take cognizance of aspects while enforcing the relevant rules (w.r.t. domestic hazardous waste and hazardous waste generated from e-waste rules like fluorescent lamp other mercury containing lamp) and also, preparation of HW inventory and other interventions. v. Develop framework for effective enforcement of Rules based on proportionality and precautionary principle. Also, ensure updation of website w.r.t. enforcement actions along with details of industries and action taken.

		<ul style="list-style-type: none"> vi. Board shall immediately upgrade the laboratory facility where all HW parameters as required under the Rules can be analysed vii. Board shall be directed to submit the status on setting up of TSDf or sharing arrangement with authorized common TSDfS of neighboring states.
23.	Meghalaya	<ul style="list-style-type: none"> i. Board shall take necessary action for compliance to the HOWM Rules, 2016 and recommendations of the Monitoring Committee. ii. Board shall be directed to submit the 2nd, 3rd and 4th quarter compliance report. iii. Board shall be directed to submit the status on setting up of TSDf or sharing arrangement with authorized common TSDfS of neighboring states.
24.	Nagaland	<ul style="list-style-type: none"> i. Develop framework for effective enforcement of Rules based on proportionality and precautionary principle. Also, ensure updation of website w.r.t. enforcement actions along with details of industries and action taken. ii. Nagaland PCB shall bring other waste in regulatory domain and also report in its inventory report. iii. Board shall expedite the development of elaborate protocols to ensure enhanced level and frequency of enforcement and environmental monitoring of recycling/utilisation facilities. iv. Board shall initiate action for the identification and quantification of the hazardous waste generation at the authorisation stage itself and therefore shall adopt the scientific principles as enumerated for such identification and quantification of HW. v. The Board shall scientifically verify and validate the HW data and facilities before grant/renewal of authorization. vi. Board shall immediately update website with respect to all enforcement actions along with details of industries and action taken vii. Board shall immediately upgrade the laboratory facility where all HW parameters as required under the Rules can be analysed. viii. Board shall be directed to submit the status on setting up of TSDf or sharing arrangement with authorized common TSDfS of neighboring states.
25.	Odisha	<ul style="list-style-type: none"> i. Board shall submit the environmental audit of all common/captive TSDfS exist in the state to CPCB. ii. Odisha PCB shall bring other waste in regulatory domain and also report in its inventory report.

		<ul style="list-style-type: none"> iii. Board needs to take cognizance of aspects while enforcing the relevant rules (w.r.t. domestic hazardous waste and hazardous waste generated from e-waste rules like fluorescent lamp other mercury containing lamp) and also, preparation of HW inventory and other interventions.
26.	Puducherry	<ul style="list-style-type: none"> i. Board shall immediately invoke the powers conferred under clause 23 (1) and (2) of the Rules, related to all damages caused to the environment or third party due to improper handling and management of the hazardous and other wastes, and non-compliance respectively. ii. Initiate action for development laboratory where all HW parameters as required under the HOWM Rules can be analysed. iii. Board shall be directed to expedite setting up of TSDF and submit the status.
27.	Punjab	<ul style="list-style-type: none"> i. The Board shall adopt uniform inspection format for visits and inspections of HW handling facilities. ii. Board shall submit the environmental audit report of all common/captive TSDFs exist in the state to CPCB. iii. Board needs to take cognizance of aspects while enforcing the relevant rules (w.r.t. domestic hazardous waste and hazardous waste generated from e-waste rules like fluorescent lamp other mercury containing lamp) and also, preparation of HW inventory and other interventions. iv. Board shall immediately upgrade the laboratory facility where all HW parameters as required under the Rules can be analysed. v. Board shall ensure compliance of directions issued by CPCB vide dated 30/01/2019 in case of all spent solvent recovery units available in the State.
28.	Rajasthan	<ul style="list-style-type: none"> i. Board shall immediately invoke the powers conferred under clause 23 (1) and (2) of the Rules, related to all damages caused to the environment or third party due to improper handling and management of the hazardous and other wastes, and non-compliance respectively. ii. Rajasthan PCB shall develop framework for effective enforcement of Rules based on proportionality and precautionary principle. iii. Board shall initiate action for the identification and quantification of the hazardous waste generation at the authorisation stage itself and therefore shall adopt the scientific principles as enumerated for such identification and quantification of HW.

		<ul style="list-style-type: none"> iv. Expedite conducting of environmental audit of the all common/captive TSDFs available in the State and submit to CPCB v. Board shall verify the mandatory amount deposited by all TSDFs in Escrow Account. vi. Board shall expedite development of laboratory where all HW parameters can be analyzed. vii. Rajasthan PCB shall initiate action to bring other waste in regulatory domain and also report in its inventory report. viii. Board shall submit the compliance status w.r.t. spent solvent recovery unit in the prescribed format as the details on action taken on erring units, inventory, interaction programme, etc. have not be submitted by Board.
29.	Sikkim	<ul style="list-style-type: none"> i. Board shall immediately update its website with respect to all enforcement actions along with details of industries and action taken. ii. Board shall immediately prepare enforcement framework for effective enforcement of Rules based on principle of proportionality and also, precautionary principle. iii. Board shall take necessary action to bring other waste in regulatory domain, as envisaged in the rules and also report the same in the inventory report on hazardous and other waste management. iv. Board needs to take cognizance of aspects while enforcing the relevant rules (w.r.t. domestic hazardous waste and hazardous waste generated from e-waste rules like fluorescent lamp other mercury containing lamp) and also, preparation of HW inventory and other interventions. v. Board shall immediately upgrade the laboratory facility where all HW parameters as required under the Rules can be analysed. vi. Board shall be directed to submit the status on setting up of TSDF or sharing arrangement with authorized common TSDFs of neighboring states.
30.	Tamil Nadu	<ul style="list-style-type: none"> i. Board shall initiate action for the identification and quantification of the hazardous waste generation at the authorisation stage itself and therefore shall adopt the scientific principles as enumerated for such identification and quantification of HW. ii. Board shall ensure documentation of non-compliance while processing authorisation for renewal or inspections in order to invoke powers of refusal or revocation of authorisation as per Rules.

		<ul style="list-style-type: none"> iii. Board shall immediately prepare enforcement framework for effective enforcement of Rules based on principle of proportionality and also, precautionary principle. iv. Board shall ensure adoption of Uniform format for visits and inspections of HW handling facilities. v. Expedite conducting of environmental audit of common/captive TSDFs available in the State and submit the audit report to CPCB. vi. Board shall provide specific link of inventory of spent solvent recovery units published on its website.
31.	Telangana	<ul style="list-style-type: none"> i. Board shall immediately invoke the powers conferred under clause 23 (1) and (2) of the Rules, related to all damages caused to the environment or third party due to improper handling and management of the hazardous and other wastes, and non-compliance respectively. ii. Expedite conducting of environmental audit of common/captive TSDFs available in the State and submit the audit report to CPCB. iii. Board shall verify and validate the inventory data before accepting the same and adopt the CPCB's guidelines while preparation of HW inventory report. iv. Board immediately update inventory of Spent Solvent Recovery Unit available in their States on Board's website and provide the link of same.
32.	Tripura	<ul style="list-style-type: none"> i. Board shall immediately prepare enforcement framework for effective enforcement of Rules based on principle of proportionality and also, precautionary principle. ii. Board shall take necessary action to bring other waste in regulatory domain, as envisaged in the rules and also report the same in the inventory report on hazardous and other waste management. iii. Board shall expedite the development of elaborate protocols to ensure enhanced level and frequency of enforcement and environmental monitoring of recycling/utilisation facilities iv. Board shall verify and scientifically validate the HW data and facilities before grant or renewal of authorization

		<ul style="list-style-type: none"> v. Board needs to take cognizance of aspects while enforcing the relevant rules (w.r.t. domestic hazardous waste and hazardous waste generated from e-waste rules like fluorescent lamp other mercury containing lamp) and also, preparation of HW inventory and other interventions vi. Board shall be directed to submit the status on setting up of TSDF or sharing arrangement with authorized common TSDFs of neighboring states.
33.	Uttar Pradesh	<ul style="list-style-type: none"> i. Board shall immediately update website with respect to all enforcement actions along with details of industries and action taken. ii. Board shall immediately direct all the operator of common TSDFs not to return the HW consignment and the consignment needs to be stored within the TSDF with information to the waste generator and also the SPCB. iii. Expedite conducting of environmental audit of common/captive TSDFs available in the State and submit the audit report to CPCB. iv. Board needs to take cognizance of aspects while enforcing the relevant rules (w.r.t. domestic hazardous waste and hazardous waste generated from e-waste rules like fluorescent lamp other mercury containing lamp) and also, preparation of HW inventory and other interventions. v. Board shall submit the compliance status on the directions issued by CPCB vide dated 30/01/2019 on Spent Solvent Recovery units, as the same has not received by CPCB.
34.	Uttarakhand	<ul style="list-style-type: none"> i. Board shall immediately direct operator of common TSDF for not returning the hazardous waste consignment and the same shall be stored within the premises with information to generating unit and board. ii. Board shall immediately prepare enforcement framework for effective enforcement of Rules based on principle of proportionality and also, precautionary principle. iii. Board shall also initiate action for upgradation of laboratory, where all parameters listed under rules, can be analysed. iv. Board needs to take cognizance of aspects while enforcing the relevant rules (w.r.t. domestic hazardous waste and hazardous waste generated from e-waste rules like fluorescent lamp other

		mercury containing lamp) and also, preparation of HW inventory and other interventions.
		v. Expedite conducting of environmental audit of common/captive TSDFs available in the State and submit the audit report to CPCB.
35.	West Bengal	i. Expedite conducting of environmental audit of common/captive TSDFs available in the State and submit the audit report to CPCB. ii. Board shall provide specific link of inventory of spent solvent recovery units published on its website.

Thus, the above state-wise compliance of the recommendations may be monitored by CPCB and be submitted annually (on financial year basis) by SPCBs/PCCs to CPCB. Further, CPCB to ensure the following:

1. Development of National Hazardous Waste Tracking System for effective enforcement of rules including verification and reconciliation of manifest system for movement of hazardous waste.
2. Evaluation and strengthening of laboratory facilities available with SPCBs/PCCs for analysis of all parameters specific under HOWM Rules.
3. Verification of inventory report submitted by SPCBs/PCCs by way of test checks to ensure that the same is credible, reliable and robust in terms of contents and scope.

B. POINT-WISE RECCOMENDATIONS ON THE ISSUES COVERED IN THE FINAL REPORT OF THE MONITORING COMMITTEE VIS-À-VIS ORDERS DATED 26/08/2019 OF THE HON'BLE NGT:

Sr. No.	Action points (Responsible Agency and timeline of action)	Recommendations
I. IMPORT AND EXPORT OF HAZARDOUS WASTES AND ISSUES		
5.	<p>Disposal of illegally imported consignments:</p> <p>(i) The customs circular dated 26-4-2004 requires amendment by Central Board of Indirect Taxes and Customs (CBIC) and it is recommended that CBIC to also devise policy framework for speedy disposal and bearing the cost of disposal of confiscated consignments (illegal / banned and non-conformity to the specifications of the products as applicable / as per Schedule V of HOWM Rules, 2016).</p> <p>(CBIC: 03 months)</p> <p>(ii) Port authorities/ICDs may also devise a policy, if necessary, in consultation with customs, to ensure HW disposal and its cost so as to expedite the disposal all the</p>	<p>(i) CBIC and Port authorities have to jointly devise a policy and mechanism for disposal of confiscated and unclaimed/uncleared cargo lying at various ports. The policy/mechanism has to cover the details of bearing cost for disposal of such consignments.</p> <p>(CBIC and Port Authorities : 05 months)</p>

	<p>unclaimed cargo lying at various ports (and CFSs)/ICDs in a time bound manner.</p> <p>(Port Authorities: 03 months)</p>	
6.	<p>Laboratory Upgradation in Ports/Docks:</p> <p>(i) The committee is of the opinion that list of equipments as provided by CBIC for upgradation shall also be provided at major ports, with import and export facilities by CBIC. However, at other ports, arrangements for analysis of relevant parameters with EPA/NABL accredited laboratories having minimum requisite laboratory infrastructure/equipment can be put in place in advance by CBIC.</p> <p>(CBIC: 03 months)</p>	<p>(i) CBIC to further extend and enhance the laboratory infrastructure in all the major ports and other non-major ports to prevent entry of hazardous wastes. Otherwise, arrangements for analysis of relevant parameters with EPA/NABL accredited laboratories having minimum requisite laboratory infrastructure/equipment can be put in place in advance by CBIC.</p> <p>(CBIC: 05 months)</p>
7.	<p>Bank Guarantee procedure</p> <p>(i) Applicability of bank guarantee for the list or category of items and procedure of executing BG by importer/PSIAs, as applicable, need to be specified by DGFT.</p> <p>(DGFT: 03 months)</p> <p>(ii) Procedure of executing bank guarantee by PSIAs and importer in case of import of restricted items (including hazardous wastes specified under Schedule III and VIII) and other items respectively, be devised and mandated by DGFT.</p> <p>(DGFT:03 months)</p>	<p>(i) Procedure of executing bank guarantee by PSIAs and importer in case of import of restricted items (including hazardous wastes specified under Schedule III and VIII) and other items as recommended by Monitoring committee be devised and mandated by DGFT.</p> <p>(DGFT: 05 months)</p>
8.	<p>Verification of documents for HW in Part D:</p> <p>(i) CBIC shall strengthen their Risk Management System (RMS) for improved vigilance while verifying documents for import of other wastes (Part D of Schedule III of HOWM Rules, 2016) especially those goods/wastes that are similar to hazardous wastes (regulated or banned/prohibited for import), as there is a possibility that prohibited wastes are imported under the other wastes category.</p> <p>(CBIC: immediate)</p>	<p>(i) CBIC shall address the issue of strengthening of RMS for improved vigilance adequately, while verifying documents for import of other wastes (Part D of Schedule III of HOWM Rules, 2016), especially those that are similar to hazardous wastes (regulated or banned/prohibited for import).</p> <p>(CBIC: 05 months)</p>
9.	<p>RMS system:</p> <p>(i) There is need to synchronize Basel code and HS codes to cover all scheduled items as per HW rules in customs verification and control more effectively.</p>	<p>(i) Central Board of Indirect Taxes and Customs (CBIC) and DGFT shall jointly identify and classify HS code to cover all scheduled items as per HW rules and be brought under the ambit of RMS for</p>

	<p>(MoEF&CC, Custom and Port Authorities: 06 months)</p> <p>(ii) In order to tackle illegal import of HW consignments (mis-declaration) and those similar to unrestricted items without HS code, such items need to be identified and classified with HS code and brought under the ambit of RMS for stringent verification and testing procedure (for example 'other' waste oil, 'other' oils, furnace oil, Rubber/Tyre oil, Lead / Zinc scrap etc. with hazardous characteristics beyond the limits specified in the HOWM Rules, 2016 be classified with HS Code)</p> <p>(CBIC and DGFT:06 months)</p> <p>(iii) This process is a continuous process and the monitoring committee recommends that this compliance be reviewed jointly by MoEF&CC and Customs in their coordination meetings.</p> <p>(MoEF&CC, Custom authority: on a regular basis)</p>	<p>stringent verification and testing procedure. Notification of HS code for the HW consignments (mis declared) and those similar to unrestricted items be expedited by CBIC and DGFT.</p> <p>(CBIC and DGFT: 05 months)</p> <p>(ii) Implementation of HS Codes and monitoring of compliance have to be reviewed jointly by MoEF&CC and Customs on a regular basis. (MoEF&CC: on a regular basis)</p>
<p>10.</p>	<p>DGFT license in public domain:</p> <p>(i) Details of licenses issued to import restricted items be placed on DGFT website so as to keep the concerned agencies such as Customs and MoEF&CC informed.</p> <p>(DGFT: 03 months)</p>	<p>(i) DGFT license issued to hazardous and other wastes related items may be brought under a separate exclusive section of the minutes of the EFC meeting for special emphasis.</p> <p>(DGFT: immediate)</p>
<p>11.</p>	<p>Harmonization of 'other' category in line with HWM Rules, 2016:</p> <p>(i) Items that require to be provided with HS code under the classification of oils be specified categorically under the 'other' class in consultation with MoEF&CC.</p> <p>(DGFT: 06 months)</p> <p>(ii) HS code for all the hazardous and other wastes listed in Part A, Part B and Part D of Schedule III of the Rules be specified by DGFT and Customs. The Committee recognizes that notifying HS code is an elaborate and time consuming procedure which requires international deliberations and confirmation and therefore the committee recommends to strengthen the</p>	<p>(i) To ensure harmonization of 'other' category in line with HWM Rules, 2016, CBIC and DGFT shall jointly notify HS code for all hazardous and other wastes listed in Part A, B and D of Schedule III of HOWM Rules including the items 'oils' under the 'other' class categorically.</p> <p>(CBIC and DGFT: 05 months)</p>

	RMS which can provide an expeditious alternative safeguard mechanism. (DGFT and Customs: 03 months)	
12.	Pre-Shipment Inspection Agency (PSIAs) for certain category of oils as per Annexure 13 of the ASG Report: (i) Initiatives similar to that of metallic scrap wastes be taken by DGFT for notifying PSIAs for certain category of oils suggested for pre-shipment inspections certificate for imports in the Recommendations of the former ASG, Sh Gopal Subramaniam. (ii) Once the PSIAs procedure are specified, the same must be shared with MoEF&CC, CPCB/SPCBs/PCCs and other regulatory authorities. (DGFT: 06 months)	(i) Initiatives be taken similar to that of metallic scrap wastes by DGFT for notifying PSIAs for certain category of oils suggested for pre-shipment inspections certificate for imports in the Recommendations of the former ASG, Sh Gopal Subramaniam expeditiously. (DGFT: 05 months)
13.	Penal Action against the defaulters in case illegal import: (i) As a means to improve traceability of importers, the Customs authorities could make the registration process of importers more stringent as there have been cases where importers have never been able to be traced when their illegal imports were intercepted. All incidences of illegal import of HW shall be immediately reported to MoEF& CC as per provisions of the Rules. (MoEF&CC, DGFT, Custom and Port authorities: 03 months) (ii) In case of illegal import of hazardous wastes, MoEF&CC may consider delegation of power vested under section 19 of the Environment (Protection) Act, 1986 to CBIC, to enable them to take credible action against such violators under the E(P) Act, 1986. (MoEF&CC: 06 months)	(i) CBIC, DGFT and Port Authorities have to report the incidences of illegal import of HW to Ministry of Environment, Forest and Climate Change (MoEF&CC) as per provisions of the HOWM Rules. 2016 on a regular basis. (CBIC, Port Authorities and DGFT : on a regular basis) (ii) Ministry of Environment, Forest and Climate Change (MoEF&CC) have to expedite the process of delegation of power vested under Section 19 of the Environment (Protection) Act, 1986 to CBIC, to enable them to take credible action against such violators under the E(P) Act, 1986. (MoEF&CC : 03 months)
14.	Re-export of illegal consignments after confiscation: (i) As of now, DGFT can take action against the erring importers as per the provisions of Foreign Trade (Development & Regulation) Act, 1992, since the feasibility of delegating such powers to the Customs Authorities is	(i) DGFT to expedite the process of notifying for delegating such powers to the Customs Authorities to take action against the erring importers. (DGFT: 03 months)

	<p>being examined in DGFT. The committee recommends to expedite the process in a time bound manner (preferably within 3 months) so as to ensure speedy disposal of consignments lying in ICDs/CFSS.</p> <p>(DGFT: within 03 months)</p>	
15.	<p>Clearance of Waste Oil/Sludge from Ships:</p> <p>(i) Used/ Waste Oil generated from ships collected by the reception facilities of various ports shall be covered under Authorisation by SPCBs/PCCs for its designated disposal and facilitate tracking of waste under HOWM Rules, 2016.</p> <p>(Port Authorities/ SPCBs/ PCCs : Immediate)</p>	<p>(i) Concerned SPCBs/PCCs or Port Authorities of State/UT to grant/obtain necessary authorization to cover hazardous wastes generated from both normal port operations/activities and all ship generated wastes (MARPOL annexes) (e.g in case of used/waste Oil authorization for Cat. No. 5 and Cat. No. 3 of HOWM Rules, 2016). The same be also covered in the annual report submitted as per HOWM Rules, 2016.</p> <p>(SPCBs/PCCs and Port Authorities: 05 months)</p> <p>(ii) SPCBs/PCCs shall ensure that all the ports (including minor ports), ICDs/CFSS have mandatory authorization as per HOWM Rules, 2016. The said authorization shall be granted by the SPCB/PCC after due scientific evaluation.</p> <p>(SPCBs/PCCs: 05 months)</p>
16.	<p>Findings of CAG Report</p> <p>(i) CBIC shall prepare annual inventory of the illegally imported consignments stored in Ports/ICDs/CFSS and submit the same to CPCB and MoEF&CC by 30th September of every year and publish on its website.</p> <p>(ii) Wherever importer of illegally imported consignments is traceable, importer shall not be allowed to import/export, directly or indirectly any material until illegally imported consignments is safely disposed off scientifically as per HOWM Rules, 2016.</p> <p>(Customs, Port Authorities and DGFT: 03 months)</p>	<p>(i) CBIC, DGFT and Port Authorities have to provide updated complete status of the findings of CAG Report to CPCB and MoEF&CC. Compliance status of action taken against those traceable illegal importers by not allowing import/export directly/indirectly until such consignments are safely disposed off as per HOWM Rules, 2016 be also provided.</p> <p>(CBIC, DGFT and Port Authorities: 05 months)</p> <p>(ii) CBIC, shall prepare annual inventory of the illegally stored in ports/ICDs/CFSS for every financial year and submit to CPCB and MoEF&CC by 30th September every year.</p> <p>(CBIC: 03 months)</p>

<p>17.</p>	<p>Authorization under HWM Rules, 2016 from concerned SPCB/PCC:</p> <p>(i) Necessary authorization for handling, storage, transportation, recycling, utilization, offering for sale, transfer or disposal, as the case may be obtained by Customs and Port authorities to deal with the hazardous wastes that are confiscated and waste from ships respectively.</p> <p>(Port authorities and Customs: Immediate)</p>	<p>(i) CBIC to provide action taken w.r.t authorization for handling, storage, transportation, recycling, utilization, offering for sale, transfer or disposal, to deal with the hazardous wastes that are confiscated. Further, a Standard Operating Procedure for obtaining authorization for hazardous goods/wastes that are confiscated may be developed by CBIC in consultation with SPCBs/PCCs. (CBIC: 05 months)</p> <p>(ii) The Ports shall obtain authorization for ship generated wastes of MARPOL annexes, in addition to the one obtained for normal port operations/activities within the timeline prescribed. (Port Authorities: 05 months)</p>
<p>18.</p>	<p>Collaboration between regulating authorities:</p> <p>(i) Regular interaction between the Ministry of Environment, Forest and Climate Change, CPCB, SPCBs/PCCs, customs and ports authorities should take place with frequent consultative meetings and trainings in order to avoid working in silos.</p> <p>(MoEF&CC, CPCB, SPCBs /PCC, customs and ports authorities: On a regular basis)</p>	<p>(i) SPCBs/PCCs along with Customs and Port authorities to ensure regular interaction among themselves for better compliance of import and export related issues and management of ship wastes.</p> <p>(MoEF&CC, CPCB, SPCBs /PCC, Customs and Ports Authorities: On a regular basis)</p>
<p>II. WASTE RECEPTION FACILITIES IN PORTS TO DEAL WITH WASTES GENERATED FROM SHIPS (MARPOL)</p>		
<p>19.</p>	<p>Availability of Waste Reception Facilities at ports:</p> <p>(i) Ministry of Shipping needs to urgently prescribe requirement of reception facilities at each cargo loading and unloading port, terminal and ship repair ports preferably within <u>06 months</u>, if not done earlier, and such reception facilities shall be provided by such authorities within a period of <u>one year</u> thereafter.</p> <p>(Ministry of Shipping: 06 months and 01 year)</p>	<p>(i) DG(S) may expedite the process of notifying the draft 'Mandatory requirements concerning port reception facilities for the delivery of waste from ships and disposal of such wastes' and shall place it on its website for inviting comments from concerned stakeholders and ensure its implementation through port authorities.</p> <p>(ii) DG(S) may be given appropriate powers to implement the said notification on 'Mandatory requirements concerning port reception facilities for the delivery of waste from ships and disposal of such wastes' in all ports. Port authorities may be directed to provide the compliance status to DG(S) for enabling the Directorate in preparation of consolidated status on availability of Port Reception Facilities and submission to CPCB. (DG(S) and Port Authorities: 05 months)</p> <p>(iii) SPCBs/PCCs may coordinate with DG(S) and Port Authorities for implementation of</p>

		the aforesaid notification for environmentally sound management and disposal of ship wastes. (SPCBs/PCCs: 05 months)
20.	Authorization for the waste reception facilities and ports: (i) State Pollution Control Boards shall enforce provisions of HW Rules, 2016 for grant of authorisation and manifest submissions at such waste reception facilities as well as port operations. SPCBs shall ensure that the HW handled at such facilities and ports should be covered in the Annual report to be prepared as per HOWM Rules, 2016. (SPCBs/PCCs and Port Authority: with immediate effect)	(i) SPCBs/PCCs may be directed to issue authorization to all port authorities on the basis of inventory of ship generated wastes in coordination with port authorities and preparation of annual report in accordance with HOWM Rules, 2016. (ii) SPCBs/PCCs shall ensure authorization is granted to Ports and Waste reception facility available at all ports and all the provisions of HOWM Rules, 2016 (i.e. authorization, manifest system, inventorization etc.) are being followed by Ports and Waste Reception Facilities. (SPCBs/PCCs : 05 months)
21.	Swachh sagar portal: (i) The committee recommends Ministry of Shipping to ensure that all the major and non-major ports utilize the Swachh sagar online portal immediately which will ensure better HW management. The MoEF&CC/CPCB/SPCBs should also have an access to this portal for enforcement purpose. (Ministry of Shipping: 03 months)	(i) DG(S) shall expedite the process of enabling access by regulatory authorities to swachh sagar portal for enforcement purposes in consultation with CPCB. (DG(S): 05 months)
III. IMPACT OF HW ON WORKERS' HEALTH		
22.	Coverage of all workers under ESI act, 1948 (i) The committee recommends that all the workers engaged in HW handling, storage, transport, preprocessing, utilisation and disposal (covered under ESI Act, 1948 and not covered under ESI Act, 1948) need to get medical benefits and compensation under ESI Act, 1948 as per the recommendations of the Report of the Special Committee, May 2004 and the same be implemented on priority. (Ministry of Labour & Employment: 03 months)	(i) Appropriate directions may be issued to Ministry of Labour and Employment to expedite publication of the Draft Code on Social Security, 2019. (Ministry of Labour and Employment: 06 months)
23.	Implementation of Rule 5(2) of HOWM Rules, 2016: (i) The committee recommends Hon'ble Tribunal to direct Chief Secretaries of	(i) States/UTs who have not responded is required to provide compliance status within three months, otherwise Hon'ble NGT may consider imposing environmental compensation,

	<p>States to ensure effective and urgent implementation of the provisions of the rules as stipulated under Rule 5(2) of HOWM Rules, 2016 by Department of Labour.</p> <p>(Department of Labour, Respective State/UT Government: Immediate)</p>	<p>appropriately, as per directions of the Orders dated 26.08.2019.</p> <p>(State Government /UT Administration: 03 months)</p> <p>(ii) States/UTs who have responded is required to ensure strengthening of institutional capacities for effective implementation of the Rule 5 followed by monitoring through Chief Secretaries of State Government /UT administration.</p> <p>(State Government / UT Administration: 05 months)</p>
24.	<p>Unauthorized industries be brought under the ambit of ESI Act, 1948:</p> <p>(i) Ministry of Labour need to devise a scheme similar to the provisions of ESI Act, 1948 to cover the workers employed in unorganized sector.</p> <p>(Ministry of Labour & Employment : 06 months)</p>	<p>(i) Appropriate directions may be issued to Ministry of Labour and Employment to expedite publication of the Draft Code on Social Security, 2019.</p> <p>(Ministry of Labour and Employment: 06 months)</p>
26.	<p>DISPLAY OF INFORMATION OUTSIDE THE FACTORY GATE:</p> <p>(i) Considering the orders of the Hon'ble Apex court and also the need of information sharing with the local community the committee recommends that the SPCBs need to ensure the compliance of the directions of the Hon'ble Apex court on regular basis rather than a onetime compliance.</p> <p>(ii) The verification of the updation of display board should be an integral part of any inspection carried out by CPCB/SPCBs/PCCs without exception. In case of non-compliance the concerned officer should be subjected to departmental actions.</p> <p>(CPCB/SPCBs/PCCs: Immediate)</p>	<p>(i) SPCBs/PCCs shall ensure that verification of installation/updation of display boards at all the Hazardous waste generating units on a continuous basis.</p> <p>(SPCBs/PCCs : 05 months)</p>
27.	<p>INSTITUTIONAL REFORMS</p> <p>(i) Capacity building in CPCB and SPCBs/PCCs and other agencies (viz., trained adequate manpower, laboratory, budget etc.) shall be expedited as recommended in the orders of Hon'ble NGT dated 12.04.2019.</p> <p>(CPCB, SPCBs/PCCs,</p>	<p>(i) SPCBs/PCCs shall ensure that adequate manpower is available with the PCB/PCC, training shall be regularly provided with emphasis on scientific evaluation and management of hazardous waste.</p> <p>(ii) SPCBs/PCCs should have adequate laboratory infrastructure for analysis of HW parameters.</p>

	<p>MoEF&CC and State/UT Government: Immediate)</p> <p>(ii) The committee recommends that CPCB/SPCBs/PCCs shall take efforts similar to that of the State of Gujarat where a separate institution named Gujarat Cleaner Production Centre (GCPC) which conducts such action research supported by adequate information dissemination program and advocacy programs for promoting the cleaner technology.</p> <p>(iii) CPCB/SPCBs/PCCs shall proactively engage in research and development activities by supporting research in clean technology and cleaner production and also, awareness program for the purpose.</p> <p>(CPCB and SPCBs/PCCs: Immediate)</p>	<p>(iii) R&D work shall be regularly carried out by the SPCBs/PCCs either individually, in collaboration with other SPCBs/PCCs and expert technical Institutes/agencies. Continuous dissemination of information and awareness programs shall be carried out by the SPCBs/PCCs.</p> <p>(SPCBs/PCCs : 05 months)</p>
<p>28.</p>	<p>NATIONAL POLICY</p> <p>(i) MoEF&CC can examine the need of having specialized HW policy which can be appropriately aligned with the National Environment Policy (NEP), 2006 which will promote use of Clean Technology and also ensure sufficient financial allocations for technology research and information sharing resulting into improved HW management.</p> <p>(MOEF&CC: 06 months)</p>	<p>(i) National Hazardous Waste Management Policy as per Hon'ble NGT Orders dated 26.08.2019 shall be prepared and circulated to concerned stakeholders within four months.</p> <p>(MoEF&CC and CPCB: 04 months)</p>

NGT MATTERSPEED POST

F. No. B-29016-NGT/C-08//20/WM-II Div/DK

August 06, 2020

To

1. **The Member Secretary**
Assam Pollution Control Board
Bamunimaiden, Guwahati – 781021

2. **The Member Secretary**
Chhattisgarh Environment Conservation Board
Paryavas Bhawan, North Block Sector-19,
Naya Raipur (C.G.)- 490099

Sub: Environmental Compensation of Rs. 10 lakh/month in compliance of Hon'ble National Green Tribunal orders dated 07/07/2020 in O.A 804/2017 -reg.

Ref: (i) Orders of the Hon'ble NGT dated 07/07/2020 in O.A. No. 804/2017 in the matter of Rajiv Narayan & Anr vs. Union of India & Ors.
(ii) CPCB letter no. B-29016-NGT/C-08/20/WM-II Div./I dated 20/07/2020

Sir,

This has reference to above mentioned orders dated 07/07/2020 of the Hon'ble National Green Tribunal, Principal Bench, New Delhi, in the matter of O.A No 804/2017 and our subsequent letter dated 20/07/2020 for taking necessary action for compliance to the said orders.

The Hon'ble Tribunal vide its aforesaid orders has directed CPCB to recover compensation @ Rs. 10 lakhs per month from the States of Assam and Chhattisgarh (in view of failure to set-up TSDF by 31/03/2020 as directed vide earlier orders dated 26/08/2019 of the Hon'ble NGT). Also, directed that CPCB and PCBs/PCCs may not permit any new industry having potential to generate hazardous waste till facilities for disposal of such waste are ensured.

In view of above, compensation of **Rs. 50 lakhs (for 05 months i.e. April, 2020-August, 2020 @ Rs. 10 lakh/month) be deposited in favour of CPCB-NGT-EC 75 A/c No. 532702010009078 (Bank Name: Union Bank of India, IP Extension Branch, Vikas Marg Extn, Delhi; IFSC: UBIN0553271) or through Demand Draft within 15 days (i.e.; by 18.08.2020)**. Thereafter, compensation of Rs. 10 lakh/month also be submitted till compliance to the directions of the Hon'ble Tribunal.

Further, as per the said directions of Hon'ble NGT, Assam PCB is also directed not to permit any new unit (having potential to generate hazardous waste) till the facility for disposal (i.e TSDF) of such waste is ensured and revoke the permission granted to any new unit after 08/07/2020.

Status of setting up of TSDF with expected date of completion of setting up of TSDF may also be submitted to CPCB.

Yours faithfully,


(Abhey Singh Soni)
Additional Director & Divisional Head
Waste Management-II Division

o/c



केन्द्रीय प्रदूषण नियंत्रण बोर्ड
CENTRAL POLLUTION CONTROL BOARD

(पर्यावरण एवं वन मंत्रालय, भारत सरकार)
(MINISTRY OF ENVIRONMENT & FORESTS, GOVT. OF INDIA)

NGT MATTER

SPEED POST

F. No. B-29016-NGT/C-08//20/WM-II Div/DK

September 09, 2020

To

The Chief Secretary,
Government of Chhattisgarh,
Mahanadi Bhawan, Mantralaya, Naya Raipur-492002

Sub: Imposing of compensation in compliance of Hon'ble NGT orders dated 07.07.2020 in the matter of O.A No 804/2017 -reg.

Ref: (i) Orders dated 07/07/2020 of the Hon'ble NGT in O.A. No. 804/2017: Rajiv Narayan & Anr vs. Union of India & Ors.
(ii) CPCB letter F. No. B-29016-NGT/C-08//20/WM-II Div/DK dated 06/08/2020 (copy enclosed)
(iii) CECB letter No. 4437/H.O/HW/CECB/2020 dated 25/08/2020

Sir,

I am directed to refer the above mentioned orders dated 07/07/2020 of the Hon'ble NGT regarding compliance of the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016. The Hon'ble Tribunal at para 13 of the aforesaid orders directed that "...vide order dated 26.08.2019, this tribunal had directed that states which do not setup TSDF by 31.03.2020 will be liable to pay compensation @ Rs. 10 lakhs per month and in view of failure of the States of Assam and Chhattisgarh or any other State, CPCB may recover compensation..."

In this regard, CPCB vide its letter dated 06/08/2020 directed Chhattisgarh Environment Conservation Board (CECB) to deposit compensation. However, Chhattisgarh Environment Conservation Board vide its letter dated 28/08/2020 has apprised that as per Rule 16(1) of Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016, the State Government, occupier, operator of a facility or any association of occupiers shall individually or jointly or severally is responsible for identification of sites for establishing the facility for treatment, storage and disposal of the hazardous and other waste in the State. Copy of the Chhattisgarh Environment Conservation Board letter dated 25/08/2020 is enclosed herewith for ready reference.

In view of above, you may direct the concerned department (responsible for setting up of TSDF in Chhattisgarh) to deposit penalty of Rs. 60 lakhs (for 06 months i.e. April, 2020- September, 2020 @ Rs. 10 lakh/month) in favour of CPCB-NGT-EC 75 A/c No. 532702010009078 (Bank Name: Union Bank of India, IP Extension Branch, Vikas Marg Extn, Delhi; IFSC: UBIN0553271) or through Demand Draft within 15 days (i.e.; by 25.09.2020). Thereafter, compensation of Rs. 10 lakhs/month also be submitted till compliance to the directions of the Hon'ble Tribunal. Further, the status of setting up of TSDF with expected date of completion of the same may also be provided to this office.

Encl: As Above

Yours faithfully,

(Abhey Singh Soni)

Additional Director & Divisional Head
Waste Management-II Division

परिवेश भवन, पूर्वी अर्जुन नगर, दिल्ली-110032
Parivesh Bhawan, East Arjun Nagar, Delhi-110032
दूरभाष/Tel. : 2225792, 2222073, 2222856, 2226127, 2222978, 2221699, 2432717
फैक्स/Fax : 2225793, 2217079, 2411539, 2451932
टेलैक्स/Telex : 031-66440 PCON IN ; तार/Gram : "CLEENVIRON"
ई-मेल/e-mail : cpcb@alpha.nic.in; cpcb@sansad.nic.in

Copy to:

1. **Member Secretary,**
Chhattisgarh Environment Conservation Board,
Prayavas Bhawan, North Block, Sector-19, Nava Raipur, Atal Nagar, Raipur -492002
2. **The Secretary,**
Department of Housing and Environment, Govt. of Chhattisgarh, Mantralaya, Mahanadi Bhawan, Nava Raipur, Atal Nagar, District-Raipur
3. **The Principal Secretary,**
Department of Commerce and Industries, Govt. of Chhattisgarh, Mantralaya, Mahanadi Bhawan, Nava Raipur, Atal Nagar, District-Raipur

:
With request to follow-up and ensure to deposit compensation and compliance of the aforesaid orders.
:


(Abhey Singh Soni)



केन्द्रीय प्रदूषण नियंत्रण बोर्ड
CENTRAL POLLUTION CONTROL BOARD
पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय भारत सरकार
MINISTRY OF ENVIRONMENT, FOREST & CLIMATE CHANGE GOVT. OF INDIA

REMINDER-I
MOST URGENT
NGT MATTER

SPEED POST

F.No. B-29016-NGT/C-08/20/MM-II Div./DK/

November 23, 2020

To

✓ **The Chief Secretary,**
Government of Chhattisgarh,
Mahanadi Bhawan, Mantralaya,
Naya Raipur-492002, Chhattisgarh.

Sub: Compliance of Orders of the Hon'ble NGT regarding setting up of TSDF in the State.-reg.

Ref: (i) Orders of the Hon'ble NGT dated 07/07/2020 in O.A. No. 804/2017 in the matter of Rajiv Narayan and Anr. Vs Union of India and Ors.
(ii) CPCB letter no. B-29016-NGT/C-08/20/MM-II Div./DK dated 06/08/2020.
(iii) CPCB letter no. B-29016-NGT/C-08/20/MM-II Div./DK dated 09/09/2020.

Sir,

This is in continuation to our referred letter dated 09/09/2020 requesting to direct the concerned department (responsible for setting up of TSDF in Chhattisgarh) to deposit the compensation of Rs. 10 lakhs per month (in view of failure for setting up of TSDF by 31/03/2020) till compliance of directions of the Hon'ble NGT and as per the orders dated 07/07/2020 of the Hon'ble NGT in the matter of O.A No 804/2017. However, the said compensation has not been submitted so far.

In view of above, it is once again requested to direct the concerned department (responsible for setting up of TSDF in Chhattisgarh) to deposit penalty of Rs. 80 lakhs (for 08 months i.e. April, 2020- November, 2020 @ Rs. 10 lakh/month) in favour of CPCB-NGT-EC 75 A/c No. 532702010009078 (Bank Name: Union Bank of India, IP Extension Branch, Vikas Marg Extn, Delhi; IFSC: UBIN0553271) or through Demand Draft immediately. Thereafter, compensation of Rs. 10 lakhs/month also be submitted till compliance to the directions of the Hon'ble Tribunal. Further, the status of setting up of TSDF with expected date of completion of the same may also be provided to this office.

The status on compensation recovered and setting up of TSDF is required to be submitted before the Hon'ble Tribunal on or before 30/11/2020.

Yours faithfully,

(Abhey S. Soni)

Additional Director and Head
Waste Management-II Division

Speed Post

REMINDER-IV
NGT MATTER

F.No. B-29016-NGT/C-08/20/WM-II Div./DK

August 24, 2021

To

The Managing Director
Chhattisgarh State Industrial Development Corporation
Udyog Bhawan, Ring Road No-1
Telibandha, Raipur-492006, Chhattisgarh

Sub: Environmental Compensation of Rs. 10Lakh/month in compliance of Hon'ble National Green Tribunal (NGT) orders dated 26/08/2019, 07/07/2020 and 29/01/2021 in O. A. No. 804/2017 -reg;

- Ref: (i) CPCB letter no. B-29016-NGT/C-08/20/WM-II Div/DK dated 06/08/2020
(ii) CPCB letter no. B-29016-NGT/C-08/20/WM-II Div/DK dated 09/09/2020
(iii) CPCB letter no. B-29016-NGT/C-08/20/, WM-II Div/DK dated 23/11/2020
(iv) CPCB letter no. B-29016-NGT/C-08/20/WM-II Div/DK dated 26/02/2021
(v) CPCB letter no. B-29016-NGT/C-08/20/WM-II Div/DK dated 29/06/2021

Sir,

This has reference to letters cited above requesting to direct the concerned department responsible for setting up of TSDF in the state of Chhattisgarh to deposit environmental compensation of ₹ 1.5 Crore (for 15 months i.e. April, 2020-June, 2021 @10 lakh per month) in favour of CPCB for not setting up of TSDF within the stipulated time (i.e. 31/03/2020) as per the orders of the Hon'ble NGT in the matter of O. A. No. 804/2017.

Subsequently, Chhattisgarh Environment Conservation Board vide letter dated 28/06/2021 requested Chhattisgarh State Industrial Development Corporation to deposit environmental compensation of ₹. 1.10 Crore in the account of CPCB, Delhi. However, the compensation amount is not received at CPCB.

As you are aware, the compensation amount increases at the rate of ₹ 10 lakh per month and it stands at ₹ 1.7 crore as on August, 2021.

In view of above, it is requested to deposit environmental compensation of ₹. 1.7 Crore in favour of CPCB-NGT-EC 75 A/c No. 532702010009078 (Bank Name: Union Bank of India, IP Extension Branch, Vikas Marg Extn, Delhi; IFSC: UBIN0553271) or through Demand Draft at an early date. The actual amount of compensation shall be calculated at the rate of ₹. 10 lakh/month till TSDF is setup in the State.

Further, it is also requested to provide present status on setting up of TSDF along with expected date of completion and commissioning.

Yours faithfully,



(A. Sudhakar)
Division Head
Waste Management-II

Copy to:

- The Member Secretary**
Chhattisgarh Environment Conservation Board
Paryavas Bhavan, North Block Sector-19,
Naya Raipur, Chhattisgarh



(A. Sudhakar)

o/c

SPEED POST

NGT MATTER

F.No. CM-13011/38/2022-WM-II-HO-CPCB-HO

March 30, 2022

To

The Member Secretary
(Goa PCB, Assam PCB, CECB, & DPCC)

Sub: Meeting to discuss the status of setting up of TSDF and deposition of Environment Compensation in the Hon'ble National Green Tribunal (NGT) matter of O. A. No. 804/2017-reg.

Sir/Madam,

This has reference to virtual meeting conducted on 16/03/2022 with SPCBs/PCC of Assam, Chhattisgarh, Delhi and Goa along-with the concerned state departments to discuss the current status on setting up of TSDF and deposition of environmental compensation in compliance to the orders of the Hon'ble Tribunal. Please find enclosed minutes of the said meeting for taking necessary action at your end.

Yours faithfully,



(Arekatla Sudhakar)
Division Head
Waste Management-II

o/c

Minutes of the meeting to discuss the status of setting up of TSDF and deposition of Environment Compensation in the Hon'ble National Green Tribunal (NGT) matter of O. A. No. 804/2017.

1. A virtual meeting with SPCBs/PCC of Assam, Chhattisgarh, Delhi and Goa along-with the concerned state departments for setting up of TSDF was conducted on 16/03/2022 to discuss the current status of setting up of TSDF and deposition of environmental compensation in compliance to the orders of the Hon'ble Tribunal. List of participants is at *Annexure-I*.
2. Sh. A. Sudhakar, DH, Waste Management-II Division welcomed all the officials from State Boards/Committee and representatives from State/UT government. He informed that the purpose of the meeting is to know the current status of setting up of TSDF including deposition of environmental compensation as per the Hon'ble NGT order.
3. Thereafter, Ms. Deepti Kapil, Scientist D, Waste Management-II Division presented the background and status on setting up of TSDF in 04 States/UT. She informed that Assam, Chhattisgarh and Goa have approached the Hon'ble Tribunal for waiver of EC in the said matter and the same was dismissed by the Hon'ble Tribunal.

She also informed that Delhi and Goa have set-up the common TSDF after the timeline (i.e. 31/12/2020) stipulated by the Hon'ble Tribunal.

4. MS, Assam PCB informed that TSDF in the State is yet to be established and the activities related to the same are under progress. However, specific date/timeline for commissioning of TSDF was not provided by the Board. The State Environment Department, Assam had filed case before the Hon'ble Supreme Court for waiving off EC and decision of the Hon'ble Court is awaited.
5. Thereafter, Chhattisgarh Environment Conservation Board (CESB) along with Chhattisgarh State Industrial Development Corporation (CSIDC) informed about progress made by them with regard to setting up of TSDF. It was informed that land has been identified for setting up of TSDF, bidding process completed and Public hearing has also been conducted, however, grant of environmental clearance is awaited from MoEF&CC. also informed that the establishment of TSDF will be completed within 15 months after getting environmental clearance.

Further, CSIDC informed that the Hon'ble Tribunal and Hon'ble Supreme Court were approached for waiving of environmental compensation and the application were dismissed without relief. CSIDC has again appealed before the Hon'ble Court for waiving of EC and decision is awaited. Environmental compensation will be deposited by CSIDC based on judgment/order passed by the Hon'ble Supreme Court.

6. MS, DPCC informed that TSDF in Delhi has been established and Consent to Operate has been granted to M/s Tamilnadu Waste Management in the month of November, 2021 for SLF and for operation of Incinerator in the month of March, 2022. Further, Delhi State Industrial Development corporation (DSIDC) has requested for waiver of compensation as setting up of TSDF delayed due to delay in grant of Environmental Clearance by MoEF&CC. As informed during meeting, an appeal will be made before the Hon'ble Court/Tribunal for waiving of environmental compensation.

7. MS, Goa PCB informed that setting up the TSDF has been completed and Consent to Operate has been granted to M/s Ponda Envocare Limited on 31/03/2021 with validity for six months for the trial operation of the facility and the same was renewed in November, 2021.
8. After detailed deliberation and discussion following decision taken:
- a) SPCBs of Assam and Chhattisgarh shall provide the status on setting up of TSDF in chronological order and expected date of completion of work;
 - b) SPCBs/PCC shall provide:
 - i. the details on court cases filed before the Hon'ble Supreme Court/ NGT along with judgment/order passed and
 - ii. status on deposition of environmental compensation



List of participants

1. Member Secretary, Assam PCB
2. Member Secretary, Delhi PCC
3. Officials from Chhattisgarh PCB
4. Member Secretary, Goa PCB
5. Representative from DSIDC
6. Representative from CSIDC
7. Representative from Goa Waste Management
8. Representative from Tamilnadu Waste Managemnt
9. Sh. A. Sudhakar, Head, Waste Management-II Division
10. Ms. Deepti Kapil, Scientist D, Waste Management-II Division
11. Ms. Vineeta, Scientist B, Waste Management-II Division



Annexure-VIII

Speed Post

NGT MATTER

F.No. B-29016-NGT/C-08/20/WM-II Div./DK

April 28, 2022

To

The Member Secretary
Chhattisgarh Environment Conservation Board
Paryavas Bhavan, North Block Sector-19,
Naya Raipur, Chhattisgarh

Sub: Environmental Compensation of Rs. 10Lakh/month in compliance of Hon'ble National Green Tribunal (NGT) orders dated 26/08/2019, 07/07/2020 and 29/01/2021 in O. A. No. 804/2017 -reg;

Ref: (i) CPCB letter no. CM-13011/38/2022-WM-II-HO-CPCB-HO dated 30/03/2022.

Sir,

This has reference to virtual meeting conducted on 16/03/2022 and minutes communicated vide above referred letter dated 30/03/2022 for providing the status on setting up of TSDF in chronological order and expected date of completion of work; details on court cases files before the Hon'ble Supreme Court/NGT along with judgment/order passed and status on deposition of environmental compensation. However, said details have not been received by this office till date.

In the absence of above details, Chhattisgarh State Industrial Development Corporation may be directed to deposit environmental compensation of Rs. 2.4 Crores (for 24 months i.e. April, 2020-March, 2022 @10 lakhs per month) by 20/05/2022 in favour of CPCB (CPCB-NGT-EC 75 A/c No. 532702010009078 (Bank Name: Union Bank of India, IP Extension Branch, Vikas Marg Extn, Delhi; IFSC: UBIN0553271) or through Demand Draft) for not setting up of TSDF within the stipulated time (i.e. 31/03/2020). The actual amount of compensation shall be calculated at the rate of Rs. 10 lakh/month till TSDF is setup in State.

Further, it is also requested to please provide present status on setting up of TSDF along with expected date of completion and commissioning.

Yours faithfully,



(A. Sudhakar)
Division Head
Waste Management-II

Copy to:

1. **Chhattisgarh The Managing Director**
Chhattisgarh State Industrial Development Corporation
Udyog Bhawan, Ring Road No-1
Telibandha, Raipur-492006, Chhattisgarh



(A. Sudhakar)

o/c

Copy to:

1. **Member Secretary,**
Chhattisgarh Environment Conservation Board,
Prayavas Bhawan, North Block, Sector -19,
Nava Raipur, Atal Nagar, Raipur-492002
2. **The Secretary,**
Department of Housing and Environment,
Govt. of Chhattisgarh, Mantralaya, Mahanadi
Bhawan, Naya Raipur-492002, Chhattisgarh
3. **The Principal Secretary,**
Department of Commerce and Industries,
Govt. of Chhattisgarh, Mantralaya, Mahanadi
Bhawan, Naya Raipur-492002, Chhattisgarh.

: *With request to follow-up and ensure to deposit and compliance of the aforesaid orders.*


(Abhey S. Soni)

Item No. 02

Court No. 1

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

(By Video Conferencing)

M.A. Nos. 22-23/2021

In

Original Application No. 804/2017

(Earlier O.A. No. 36/2012)

Rajiv Narayan & Anr.

Applicant(s)

Versus

Union of India & Ors.

Respondent(s)

Chhattisgarh State Industrial
Corporation Ltd. (CSIDC)

Applicant in M.A.
Nos. 22 & 23 of 2021

Date of hearing: 05.04.2021

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE SHEO KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

Applicant: Mr. Raj Panjwani, Senior Advocate with Mr. Rahul Choudhary, Advocate
for Original Applicant – Opposite party in the MAs

ORDER

1. These applications have been filed, in a decided matter, by the Chhattisgarh State Industrial Corporation Ltd. (CSIDC) for modification of order of this Tribunal dated 07.07.2020 (wrongly mentioned as dated 1.7.2020) and also for stay of order dated 23.11.2020 passed by the CPCB, in the light of the said order.

2. We may first refer to the order in question which dealt with the issue of remedial action against non-compliance of Hazardous and Other Waste (Management and Transboundary Movement) Rules, 2019 (HOWM Rules). The Tribunal referred to the alarming situation created by

unscientific dumping of hazardous waste, as noticed by the Hon'ble Supreme Court in *The Research Foundation for Science, Technology and Natural Resource Policy v. UOI & Ors.*¹ read with further order dated 06.07.2012 reported in (2012) 7 SCC 769. By further order of the Hon'ble Supreme Court dated 18.07.2018, the Tribunal was required to deal with the matter, though some aspects were already being dealt with. Under the orders of this Tribunal, the status of compliance of the HOWM Rules was compiled. The Tribunal directed all PCBs/PCCs to take steps in the matter for ensuring compliance. Vide further order dated 12.04.2019, Chief Secretaries of all the States at the State-level and MoEF&CC and CPCB at Central-level were to monitor compliance of recommendations of the Expert Committee referred to in the order of the Tribunal. The CPCB was required to determine the scale of compensation to be recovered for violations and such scale was laid down with the assistance of the experts on the principle of cost of restoration of the damage. Reports dated 23.07.2019 and 14.08.2019 from the Monitoring Committee and CPCB on the subject were considered on 26.08.2019 and directions were issued. Thereafter, compliance report dated 24.06.2020 was considered vide order dated 07.07.2020. All the States/UTs were directed to take remedial steps accordingly and give their respective reports to the CPCB and CPCB was to file consolidated report before the Tribunal. Finally, the matter was considered on 29.01.2021 in the light of the consolidated report dated 27.01.2021 filed by the CPCB. Operative directions of this Tribunal are:-

*“14. We have considered the report of the CPCB and appreciate the efforts in compiling all the relevant information on this important subject and **direct that observations/suggestions of the CPCB with reference to the compliance by the State PCBs/PCCs may now be duly complied expeditiously, which may be further overseen by the CPCB. The CPCB may assess compensation if***

¹(2005) 10 SCC 510

the State PCBs/PCCs neglect compliance, following due process, which may be recovered and utilized for restoration of the environment, by preparing an action plan to be approved by the Chairman, CPCB. Even though the report of the CPCB is exhaustive for all the States, we take on record the report furnished by the Oversight Committee for State of UP filed on 10.09.2020. As directed earlier, the MoEF&CC may follow up compliance of steps to be taken by the Central Ministries, for which purpose the CPCB may coordinate with the MoEF&CC. CPCB may impose compensation, if necessary, on the States/UTs which fail to set up TSDF or make other alternative arrangement for management of hazardous waste as per Rules. CPCB may also notify the contaminated sites, having potential for damage to the environment, in public domain, along with damage caused and the studies undertaken. CPCB may also ensure that hazardous waste generators/recycles/operators of TSDF follow safety protocols, undertake periodical audits, have onsite and offsite emergency plans to avert accidents and fire and other environmental damage.

15. In view of the exhaustive report and having issued directions for compliance and further monitoring, we do not find it necessary to keep the matter pending with the Tribunal. The proceedings before the Tribunal are accordingly closed, with further monitoring being done at the level of the CPCB and the MoEF&CC, as already directed.”

3. There can be no dispute that the Rules are mandatory and compliance is required for protection of environment and public health and also in terms of binding orders of the Hon'ble Supreme Court. Polluter pays principle is part of 'sustainable development' which is part of right to life under article 21 of the Constitution. The violator has thus to pay such compensation. Violation remains undisputed. Grounds for challenge to the demand of compensation are untenable. Compensation has been wrongly described as 'penalty' and the same is challenged on the ground that failure was inspite of efforts without realizing that the matter is governed not by fault but absolute liability. As already mentioned, failure of setting up TSDF is not disputed. The same is sought to be defended on the basis of Section 18 of the Environment (Protection) Act, 1986 (EP Act) to the effect that no legal action can be taken against any Government employee for anything done under the said Act. The plea is patently absurd and based on ignorance of law. The

said provision is defence for implementing the law and not for violating the same. In view of failure on the part of the applicant in setting up TSDF, resulting in continued violation of norms for hazardous waste scientifically, compensation cannot be avoided. The same has to be spent for restoration of environment as already directed. If the plea of the appellant is to be accepted, it will amount to saying that violate the law and there is no accountability for such violation. This is neither conducive to the Rule of Law nor to Sustainable Development which is part of Right to Life. Failure of the applicant is causing hazard not only to the environment but also to public health. Such failure is criminal offence punishable under the law of the land with prison sentence, apart from liability to pay compensation for restoration of the environment. There is no challenge to quantum of compensation or the due process followed by CPCB for which statutory remedy of appeal is available, if there are any valid grounds.

Accordingly, we do not find any merit in the applications which stand dismissed.

Adarsh Kumar Goel, CP

S.K. Singh, JM

Dr. Nagin Nanda, EM

April 5, 2021
M.A. Nos. 22/2021 & 23/2021
In
Original Application No. 804/2017
A

Item No. 03

(Court No. 1)

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

(By Video Conferencing)

M.A. No. 33/2021 & 34/2021
IN
Original Application No. 804/2017

Rajiv Narayan & Anr.

Applicant

Versus

Union of India & Ors.

Respondent(s)

State of Assam & Ors.

.....

Applicant in M.A. No. 33/2021

Chhattisgarh State Industrial Corp. Ltd.

Applicant in M.A. No. 34/2021

Date of hearing: 19.05.2021

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE MR. JUSTICE M. SATHYANARAYANAN, JUDICIAL MEMBER
HON'BLE MR. JUSTICE BRIJESH SETHI, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

Applicant: Mr. Raj Panjwani, Senior Advocate with Mr. Rahul Choudhary,
Advocate for Original Applicant – Opposite party in the MAs

Respondents: Mr. Shuvodeep Roy, Advocate for Applicant in MA No. 33/2021 -
State of Assam
Mr. Avi Singh and Mr. Shiven Varma, Advocates for Applicant in
MA No. 34/2021 - Chhattisgarh State Industrial Corp. Ltd.

ORDER

M.A. No. 33/2021

1. This application is in the nature of review of earlier orders of this Tribunal dated 26.08.2019 and 07.07.2020 directing Central Pollution Control Board (CPCB) to recover compensation from the States which failed to comply with the statutory obligation of setting up Treatment Storage and Disposal Facility (TSDF), under the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016

(HoWM Rules). The Tribunal considered the matter in the light of directions of the Hon'ble Supreme Court in (2005) 10 SCC 510 and (2012) 7 SCC 769 and further order of the Hon'ble Supreme Court dated 18.07.2018 in *The Research Foundation for Science, Technology and Natural Resource Policy Vs. Union of India & Ors.*, whereby the proceedings were transferred to this Tribunal. The Tribunal constituted a Monitoring Committee for compliance of the HoWM Rules which suggested various measures to be taken by the concerned authorities in view of continuing violation of the Rules preventing damage to the environment. The Tribunal accordingly issued directions in the light of the said recommendations inter alia as follows:

“VI. Directions:

20. xxxxxx.....xxx

- i. xxxxxx.....xxx
- ii. xxxxxx.....xxx

iii. As already directed, all the States which have not set up TSDF may do so and the States which fail to set up the same up to 31.03.2020, will be liable to pay environmental compensation of Rs. 10 lakh per month. However, with regard to States which may be categorized as small States, having regard to the quantum and nature of generation of hazardous waste, the liability to pay compensation will start from 01.01.2021. The categorization based on threshold limit of generation of hazardous waste be made by the CPCB within one month from today and placed on its website.”

2. Since the State of Assam has been required to pay compensation in pursuance of above directions, it has filed the present application to the effect that TSDF could not be set up on account of delay in taking several steps.

3. We do not find any merit in the application. Admittedly, TSDF has still not been set up, as statutorily mandated though the rules have been

in place atleast for the last five years and directions of the Hon'ble Supreme Court are even earlier. In absence, there is continuing violation of the statutory rules, framed under the Environment (Protection) Act, 1986 and consequential damage to the environment. In these circumstances, prayer for waiver of compensation for admitted violation cannot be entertained.

The application is dismissed.

M.A. No. 34/2021

4. This application is for rehearing of M.A. Nos. 22 and 23 of 2021 earlier filed by the applicant which were dismissed on 05.04.2021 as follows:

“1. These applications have been filed, in a decided matter, by the Chhattisgarh State Industrial Corporation Ltd. (CSIDC) for modification of order of this Tribunal dated 07.07.2020 (wrongly mentioned as dated 1.7.2020) and also for stay of order dated 23.11.2020 passed by the CPCB, in the light of the said order.

*2. We may first refer to the order in question which dealt with the issue of remedial action against non-compliance of Hazardous and Other Waste (Management and Transboundary Movement) Rules, 2019 (HOWM Rules). The Tribunal referred to the alarming situation created by unscientific dumping of hazardous waste, as noticed by the Hon'ble Supreme Court in *The Research Foundation for Science, Technology and Natural Resource Policy v. UOI & Ors.*¹ read with further order dated 06.07.2012 reported in (2012) 7 SCC 769. By further order of the Hon'ble Supreme Court dated 18.07.2018, the Tribunal was required to deal with the matter, though some aspects were already being dealt with. Under the orders of this Tribunal, the status of compliance of the HOWM Rules was compiled. The Tribunal directed all PCBs/PCCs to take steps in the matter for ensuring compliance. Vide further order dated 12.04.2019, Chief Secretaries of all the States at the State-level and MoEF&CC and CPCB at Central-level were to monitor compliance of recommendations of the Expert Committee referred to in the order of the Tribunal. The CPCB was required to determine the scale of compensation to be recovered for violations and such scale was laid down with the assistance of the experts on the principle of cost of restoration of the damage. Reports dated 23.07.2019 and 14.08.2019 from the Monitoring Committee and CPCB on the subject were considered on 26.08.2019 and directions were issued.*

¹ (2005) 10 SCC 510

Thereafter, compliance report dated 24.06.2020 was considered vide order dated 07.07.2020. All the States/UTs were directed to take remedial steps accordingly and give their respective reports to the CPCB and CPCB was to file consolidated report before the Tribunal. Finally, the matter was considered on 29.01.2021 in the light of the consolidated report dated 27.01.2021 filed by the CPCB. Operative directions of this Tribunal are:-

“14. We have considered the report of the CPCB and appreciate the efforts in compiling all the relevant information on this important subject and **direct that observations /suggestions of the CPCB with reference to the compliance by the State PCBs/PCCs may now be duly complied expeditiously, which may be further overseen by the CPCB. The CPCB may assess compensation if the State PCBs/PCCs neglect compliance, following due process, which may be recovered and utilized for restoration of the environment, by preparing an action plan to be approved by the Chairman, CPCB.** Even though the report of the CPCB is exhaustive for all the States, we take on record the report furnished by the Oversight Committee for State of UP filed on 10.09.2020. As directed earlier, the MoEF&CC may follow up compliance of steps to be taken by the Central Ministries, for which purpose the CPCB may coordinate with the MoEF&CC. CPCB may impose compensation, if necessary, on the States/UTs which fail to set up TSDF or make other alternative arrangement for management of hazardous waste as per Rules. CPCB may also notify the contaminated sites, having potential for damage to the environment, in public domain, along with damage caused and the studies undertaken. CPCB may also ensure that hazardous waste generators/recycles/operators of TSDF follow safety protocols, undertake periodical audits, have onsite and offsite emergency plans to avert accidents and fire and other environmental damage.

15. In view of the exhaustive report and having issued directions for compliance and further monitoring, we do not find it necessary to keep the matter pending with the Tribunal. **The proceedings before the Tribunal are accordingly closed, with further monitoring being done at the level of the CPCB and the MoEF&CC, as already directed.”**

3. There can be no dispute that the Rules are mandatory and compliance is required for protection of environment and public health and also in terms of binding orders of the Hon'ble Supreme Court. Polluter pays principle is part of 'sustainable development' which is part of right to life under article 21 of the Constitution. The violator has thus to pay such compensation. Violation remains undisputed. Grounds for challenge to the demand of compensation are untenable. Compensation has been wrongly described as 'penalty' and the same is challenged on the ground that failure was in spite of efforts without realizing that the matter is governed not by fault but absolute liability. As already mentioned, failure of setting up TSDF is not disputed. The same is sought to be defended on the basis of Section 18 of the Environment (Protection) Act, 1986 (EP Act) to the effect that no legal action can be taken against any

Government employee for anything done under the said Act. The plea is patently absurd and based on ignorance of law. The said provision is defence for implementing the law and not for violating the same. In view of failure on the part of the applicant in setting up TSDF, resulting in continued violation of norms for hazardous waste scientifically, compensation cannot be avoided. The same has to be spent for restoration of environment as already directed. If the plea of the appellant is to be accepted, it will amount to saying that violate the law and there is no accountability for such violation. This is neither conducive to the Rule of Law nor to Sustainable Development which is part of Right to Life. Failure of the applicant is causing hazard not only to the environment but also to public health. Such failure is criminal offence punishable under the law of the land with prison sentence, apart from liability to pay compensation for restoration of the environment. There is no challenge to quantum of compensation or the due process followed by CPCB for which statutory remedy of appeal is available, if there are any valid grounds.

Accordingly, we do not find any merit in the applications which stand dismissed.”

5. Even though the applications were duly considered, in view of averments that the Counsel wanted to appear and could not appear on account of some glitch in connectivity, we have heard the Counsel again in support of M.A. Nos. 22 and 23 of 2021. No argument has been raised in support of prayer for modification of the order of this Tribunal dated 07.07.2020. Grievance is in respect of action of the Pollution Board which is beyond the scope of MA, seeking modification of an order of this Tribunal.

The applications are accordingly dismissed.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

M. Sathyanarayanan, JM

Brijesh Sethi, JM

Dr. Nagin Nanda, EM

May 19, 2021
M.A. No. 33/2021 & M.A. No. 34/2021
IN Original Application No. 804/2017
DV

Item No. 04

Court No. 1

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

Appeal No. 45/2022

Chhattisgarh State Industrial
Development Corporation Ltd.

Appellant

Versus

Central Pollution Control Board & Anr.

Respondent(s)

Date of hearing: 06.12.2022

**CORAM: HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE PROF. A. SENTHIL VEL, EXPERT MEMBER**

Appellant: Mr. Avi Singh & Mr. Karan Dhalla, Advocates

ORDER

1. This is an appeal filed under Section 16(g) of National Green Tribunal Act, 2010 (hereinafter referred to as 'NGT Act, 2010'), challenging order dated 28.04.2022 issued by Central Pollution Control Board - Respondent No. 1 stating that for not setting up of TSDF within stipulated time, environment compensation @ Rs. 10 lakhs per month shall be imposed.

2. Learned Counsel for appellant submitted that delay is actually attributable to MoEF&CC since matter is pending before Respondent No. 2 for almost a year and neither they have taken any decision nor passed any order in the matter. No order has been passed for grant of Environmental Clearance by Respondent No. 2 till date causing delay in setting up of TSDF by appellant.

3. Issue notice to respondents. They may file response in the matter within one month from today. The appellant may file rejoinder, if any, within a week thereafter.

4. List for further consideration on 16.01.2023.

Sudhir Agarwal, JM

Prof. A. Senthil Vel, EM

December 06, 2022
Appeal No. 45/2022
DV