

## BEFORE THE NATIONAL GREEN TRIBUNAL,

## PRINCIPAL BENCH, NEW DELHI

(Appeal under Section 16 read with Section 18 of the National Green Tribunal Act, 2010)

APPEAL NO. 36 OF 2020

IN THE MATTER OF:

Larsen &amp; Toubro Limited

....Appellant

Versus

Sanghi Industries Limited &amp; Ors.

....Respondents

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Through



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Place: New Delhi  
Dated: 21 .09.2021

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**REPLY / OBJECTIONS TO THE REPORT OF THE SPECIAL EXPERT  
COMMITTEE PREPARED IN TERMS OF ORDER DATED 21.01.2021**

1. That the present appeal has been filed by the Appellant seeking to challenge the Environment Clearance bearing no. SEIAA/GUJ/EC/3(b)/1155/2018 dated August 23<sup>rd</sup>, 2019 (Impugned EC) granted to the Respondent No.1 for its proposed project of 2.0 Million Metric Tonne Per Annum (TPA) Standalone Grinding Unit with bulk and bag packing plant at Hazira Industrial Zone, Survey No.125/1, 125/2, 126/1+2+3. Village Shivrampur, Tal Choryasi, District-Gujarat, Surat (Grinding Unit Project).
2. That vide its Order dated 21.09.2019, the Hon'ble Tribunal after completion of the pleadings, heard all the interested parties at length and on 21.01.2021, the Hon'ble Tribunal passed an order wherein the Hon'ble Tribunal referred the issue of assessment and evaluation of the Environment Impact Assessment (EIA) report prepared by the Project Proponent to the EAC of the MoEF&CC dealing with the cement plants along-with the representatives of CPCB, NEERI and IIT Mumbai.
3. That vide its Order dated 21.01.2021, the Hon'ble Tribunal the Impugned EC to be unsustainable, relevant extract of the order reproduced hereinbelow for ready reference:

*"21. As held in Hanuman Laxman Aroskar v. Union of India [(2019) 15 SCC 401], the object of EIA is to ensure that all concerns affecting the environment are duly taken care of. **Thus, the impugned EC cannot be sustained until the environmental concerns are duly addressed.** We are informed that the project has not yet commenced.*

*Even learned Counsel for the project proponent and the SEIAA fairly accepted this factual position.”*

4. In pursuance to the Order dated 21.01.2021 of Hon’ble NGT, meetings of the Expert Committee were convened by the Ministry of Environment, Forest and Climate Change (MoEF&CC) on 13.04.2021, 17.05.2021 & 12.07.2021 through Video-Conferencing (VC). The Expert Committee specially comprised for the purpose consisted of Expert Appraisal Committee of Industry 1 dealing with the Cement Sector, experts from Indian Institute of Technology, Mumbai and National Environmental Engineering Research Institute (NEERI), Nagpur along with the representative from Central Pollution Control Board (CPCB). The report was stated to be finalized in the meeting held on 12.07.2021 through video-conferencing. The meetings of the Special Committee were held under the Chairmanship of Dr. Chhavi Nath Pandey, Chairman of Expert Appraisal Committee of Industry 1 sector.

The Appellant herein, raises objections with respect to the conduct and the procedural propriety with the meetings and preparation of the report along with the failure on part of the Committee to deliver as per the scope defined by the Hon’ble Tribunal.

5. The Appellant has examined the Report and it is clear that the Report has been prepared without any ground-level assessment or examination of any of the concerns as highlighted by the Appellant. It is submitted that the Committee’s mandate was to evaluate the shortcomings in the EIA and the impact of such failure to disclose complete information, however the Committee has instead went on to recommend the project adding its own stipulations / conditions.
6. The report has multiple incorrect recordings and unsupported findings, inter-alia (i) The Panchayat Road is not 15mtr wide road as observed by the Committee rather its only 7.5mtr wide; (ii) The Committee failed to appreciate the Adverse impact on nearby villages due to proposed project; (iii) The Committee failed to appreciate that the Project Proponent has applied under the false / misleading category for seeking approval of SUDA; (iv) The Committee failed to appreciate that the Project Proponent did not disclose that the project site fell in the General Industrial Zone; (v) The Committee has erroneously assumed the Suvali Village does not fall on the transportation route and is not located in the downward

direction from the plant; (vi) The Committee erroneously discarded environmental concerns raised by the Counsel for the Suvali Gram Panchayat because the Counsel did not have any authorization from the specific village panchayat; (vii) The Committee provided no basis for observing that the land area of 4.856ha would be sufficient for the proposed project after increase in the green belt by 15mtr; (viii) Despite noting in para 8(viii), that the Project Proponent failed to address several aspects in its Form 1, the committee has failed to analyse the impact of such deliberate concealment; (ix) The issue of failure on part of the Project Proponent to evaluate the impact on environment in light of the fact that wetlands and mangroves are present in close proximity has not been dealt with by the Expert Committee.

7. That the Report as submitted by the Committee does not carry signatures of any of the members of the committee, including the chairman. Further no minutes of the meetings have been provided nor it is informed as to who all attended the meetings.
8. It is further submitted that in gross violation of the principles of natural justice of *audi alteram partem*, the Project Proponent has been unilaterally and without any intimation to the Appellant supplying submissions, written notes, reports and additional information to the Committee without even serving a copy to the Appellant. The parties involved in the matter i.e. the Appellant, Respondent No.1 and the Intervenor were heard on 13.04.2021 and thereafter SIL submitted documents as late as July 2021 (*Refer page no.293 to 297 of the Report*)
9. The Committee did not intimate the same to the Appellant nor did it even provide the opportunity to the Appellant to respond to the additional information supplied by the Project Proponent. The Committee instead made the Appellant to understand that all the parties were heard on 13.04.2021 and whatever additional information was to be sought was sought therein. However, as is now revealed post examination of the Committee Report, there was a unilateral exchange of emails from the Committee to the Project Proponent seeking notes and reports on various contested issues and the Appellant was given no intimation of the same.

10. Further, it may be noted that the Project Proponent relied on multiple reports however no copy of such reports was either filed before the NGT nor supplied to the Appellant. The Project Proponent has got evaluation done by its own experts and furnished those individual reports to the Committee. The Committee has also taken due note of such one-sided reports and given its finding on the basis of such reports.
11. That in lieu of the aforesaid, it is submitted that the said report is replete with errors and procedural improprieties and cannot be relied upon by the Hon'ble Tribunal as a substantive recommendation in terms of the Order dated 21.01.2021 of the Hon'ble Tribunal. Therefore, it is submitted that since the said report is highly unreliable, the matter can be decided in finality and the impugned EC may be quashed.
12. Without prejudice to any of the aforesaid submissions / preliminary objections on procedure of the Committee, it is submitted that even on merit, the Committee fails to make good the directions which were issued by this Hon'ble Tribunal. The Appellant herein will deal with each and every issue / environmental concern raised by the Appellant in its Appeal and the Committee's finding / observation with respect to the same along with the Objections of the Appellant therein-under.

#### **I. LOCATION OF THE CEMENT PLANT**

- 1.1 That the *Project Proponent/ SIL* is setting up a project of 2.0 Million Metric Tonne Per Annum (TPA) Standalone Grinding Unit with bulk and bag packing plant at Hazira Industrial Zone, Survey No.125/1, 125/2, 126/1+2+3. Village Shivrampur, Tal Choryasi, District-Gujarat, Surat (*hereinafter referred as "Cement Plant"*). The location map of the project site and the photographs are annexed herewith as **Annexure A (Colly)**.
- 1.2 It may be noted that the Hon'ble NGT vide its order dated 10.07.2019 identified Surat as a Polluted Industrial Area (PIA) where the Comprehensive Environmental Pollution Index (CEPI) score was 76.43. It may be noted that cement plants falls under red category industry due to their high pollution levels based on the CEPI score.

- 1.3 It is further to be noted that the project site is surrounded by so many villages and such large population that failure to adhere to the precautionary principles would severely affect the health and livelihood of the local population. It is to be noted that the project site for the cement plant is merely at a distance of less than a kilometre from a school where more than 1100 students are boarding. Moreover, there reside more than 3,000 to 5,000 people around the project site who will be severely affected by the emissions and pollution from the proposed cement plant.

#### **Finding of the Committee**

- i. As per the available records, Surat with the Comprehensive Environment Pollution Index (CEPI) of 76.43 falls under the category of critically polluted areas (Areas: Pandesara Cluster and Sachin cluster) The project site of M/s.SIL is located at a distance of 14 km from buffer zone of Pandesara Cluster and Sachin cluster. The Hon'ble Supreme Court vide its Order dated 22/09/2020 in Civil Appeal Diary number 19271/2020 imposed a stay on the operation of the impugned orders dated 10.07.2019, 23.08.2019 and 14.11.2019 passed by the National Green Tribunal, Principal Bench, New Delhi with respect to CEPI areas.
- ii. The Suvali village is located at a distance of 1.89 kms from the proposed SIL project site. It does not fall on the transportation route from highway to the SIL plant, nor located in downwind direction from the plant, hence is not likely to be affected by stack emissions from the plant.
- v. The learned counsel for Suvali panchayat also raised issues pertaining to concerns related to another village namely Shivarampur, but the learned counsel did not have any authorization from the village Panchayat to present their case.
- vi. The proposed project of M/s. SIL involves setting up of stand-alone cement grinding unit of 2 MTPA capacity. The major source of pollution from this unit will be particulate matter and fugitive dust emissions from handling raw materials which can be mitigated by adopting adequate environmental safeguards.

#### **Objections of the Appellant**

- 1.4 The Committee rejects the arguments made by the Counsel for the Suvali Gram Panchayat on the pretext that the Ld. Counsel did not have any authorization from the Shivrampur village Panchayat to present case. It is pertinent to highlight that in cases concerning the environment, the issues raised are *in rem* and not *in personam*. Furthermore, as per Section 16 of the NGT Act, 2010, "any person

aggrieved” can approach and invoke the appellate jurisdiction of the Hon’ble Tribunal. Further as per Section 19 of the Act, the Hon’ble Tribunal is not bound by the procedure laid down in the Civil Procedure Code, 1908 but shall be guided by principles of natural justice. Therefore, in case of environmental concerns the regulatory procedure provides sufficient space for accommodating all concerned and the Expert Committee could not have refused to entertain the submissions of the Counsel on the ground that he did not have authorization from the Shivrampur village panchayat.

- 1.5 The Committee in point (i) of Para 8 of its Report has rejected the submission of the Appellant that Surat falls under the category of critically polluted areas on an erroneous observation that Hon’ble Supreme Court vide its Order dated 22.09.2020 in Civil Appeal Diary Number 19271/2020 imposed a stay on the operation of the orders dated 10.07.2019, 23.08.2019 and 14.11.2019 passed by the NGT, Principal Bench, New Delhi.
- 1.6 It is submitted, that the Hon’ble Supreme Court had stayed a different aspect of the NGT Order that pertains to the setting up of the new industries, whereas the Appellant submission was restricted to highlight that Surat falls under the critically polluted areas and a cement plant in such an area would only aggravate the condition of the pollution in the area. The said submission remains unaffected by the Hon’ble Supreme Court Order dated 22.09.2020 and the said order has no bearing on the CEPI score of Surat. Therefore, it is highly erroneous and arbitrary on part of the Committee to vaguely reject the submission.
- 1.7 Further the Committee makes a vague observation that the Suvali Gram Panchayat does not fall on the route and that it is not located in the downward direction from the plant. It is pertinent to highlight that the Committee in its observations has reproduced the contents from the Notes submitted by the Project Proponent, no copy of which was served to the Appellant neither any opportunity was provided to rebut the same.
- 1.8 It may be noted that the Committee records its finding with respect to the modus operandi of the Project Proponent and observes in point (viii) of para 8 that PP has not failed to disclose the vital information in its Form 1, however makes no

operative direction pursuant to such observation. The said finding of the Committee is extracted hereinunder for ready reference:

*“PP has not addressed several aspects in the Form I inter-alia pre-construction site investigation, construction work, quantum of resources, solid and liquid waste generation, existence of vulnerable group and eco sensitive areas such as mangroves, hospitals in the study area with direction and distance, mitigation measures, occupational diseases etc.”*

However, despite making the aforesaid observation and finding qua the Project Proponent, the Committee has instead recommended the project.

- 1.9 That it is pertinent to highlight the neighbouring industries and relevant details as under:

S. No.	Name of Industry	Aerial Distance from Appellant's Armor Unit - KM	Direction	Note
1	L&T Defence (1983)	-	-	-
2	L&T Heavy Engineering (1983)	1.81 km	-	none of Appellant's units is using coal/pet coke etc. as fuel anywhere in process, All units are using fuels like electricity/PNG for manufacturing process where there is no emission of Particulate Matter (PM) affecting quality of Appellant's products.
3	L&T MHPS Turbine Generators Pvt. Ltd. (1983)	0.90 km		
4	L&T Special Steel and Heavy Forging (1983)	1.01 km		
5	L&T Piping (1983)	0.33km		
6	Reliance (1991)	3.25 km		
7	NTPC (1992)	4.70km	NE	Gas based thermal power plant hence there is no PM emission.
8	KRIBHCO (1983)	6.40km	ENE	Fertilizer manufacturing company
9	GAIL (1987)	6.00km	ENE	L P Gas Terminal and does not cause significant PM emission.
10	ONGC (1984)	8.70km	E	Oil & natural gas production company
11	CAIRN India (2002)	1.80km	N	Oil and gas exploration and production company and does not cause significant PM emission.
12	Adani Wilmar (2017)	1.30 km		Edible Oil manufacturing unit and does not cause significant PM emission.

13	Essar Steel (1989)	5.07 km	S	Primary Steel Manufacturing Company
14	Adani Port (2010)	7.20 km	S	Port and Harbour
15	Hazira LNG & Port (2005)	6.56 km	SSW	Port and Harbour
16	ABG Cement (2012 – closed since 3-4 years)	4.7 km	ENE	Cement Grinding unit
17	Ultratech Cement (1980 – 1985)	8.6 km	E	Cement Grinding unit
18	Ambuja Cement (1989)	9 km	E	Cement Grinding unit

1.10 It is further pointed out that huge protests are going on with respect to the AMNS Project of Essar, a public hearing for which was conducted by GPCB on 21<sup>st</sup> Sep 2021 wherein people from the surrounding villagers stated that people are dying of Cancer in their respective villages on account of the increasing pollution in the area. It is pertinent to highlight that the AMNS plant is merely 2-3 Km away from cement plant site of the Project Proponent.

**II. MISREPRESENTATION / CONCEALMENT BY PROJECT PROPONENT OF THE ENVIRONMENTAL SENSITIVITIES (INTER-ALIA MANGROVE, FOREST, WETLANDS, MIGRATORY BIRDS) IN THE PRE-FEASIBILITY REPORT, FORM-1, TERMS OF REFERENCE, ENVIRONMENT IMPACT ASSESSMENT REPORT AND IMPUGNED ENVIRONMENTAL CLEARANCE**

2.1 That the Project Proponent in Para 8 of its Pre-Feasibility Report (*Refer Pg. 743 of the Committee*) wherein it lays out the Environmental Management Plan, deliberately fails to disclose the presence of Mangrove Forest, Wetland, migratory Birds in the project area. It may be noted that the Form-1 filed by Project Proponent was supported by and based on its Pre-feasibility Report and both were filed together with the relevant authorities. The Project Proponent in its Form-1 states “*Proposed project will be established on the land of 12 acres already in possession of SIL acquired for the purpose. The proposed land was agriculture land and will be converted for industrial purpose.*”

2.2 Furthermore, the Project Proponent in Form-1 categorically denied the presence of sensitive flora and fauna species within 15 kms of the proposed project location boundary. The same can be seen from Heading (iii) of Form-1. (*Refer Pg. 771 of the Committee report*)

- 2.3 That despite there being a specific requirement under the Terms of Reference, the Project Proponent had intentionally failed to provide the environment sensitive information. That the Project Proponent deliberately did not mention presence of Mangroves, which are 2km from the project site. Thus, as a consequence, environment impact evaluation of the same was not evaluated. (*Refer Pg. 780 of the Committee report*)
- 2.4 That the Project Proponent, even in the summary and conclusion of the EIA, concealed the environment sensitive information. The actual Forest Area is actually 1.7 sq. km and is at a distance of 3kms, however, as per the Project Proponent, there is no forest within 10kms radius of the project site. That pursuant to the Wetland (Conservation and Management) Rules, 2010, which were subsequently modified in 2016, detailed procedure was laid out in order to set up an industry near a wetland. The Project Proponent has failed to demonstrate in its EIA or the presentation that it has acted in compliance with the said procedure or has taken any steps in order to conserve / protect the wetlands. Please note that 41.42% of the area surrounding the project site is wetland. It is further pertinent to note that the distance of the proposed cement plant is 3.62 from Arabian Sea and 0.89 from Tapi River, as stated by the Project Proponent himself in its Form-1. Reference may be made to judgment of the Hon'ble Supreme Court judgment in *M.K. Balakrishnan vs Union of India [2018 (2) SCJ 207]* wherein the Hon'ble Court dealt in detail with the Wetlands (Conservation and Management) Rules 2017 and the principles of Rule 4 of Wetlands (Conservation and Management) Rules 2010.
- 2.5 That the Environmental Sensitivity and other details were not considered in the prefeasibility report. Form-1, which accompanies the PFR, again does not disclose the Environmental Sensitivity of the area and particulars thereof. The ToR issued by SIEAC, however, mandated the PP to consider the environmental sensitivity as mentioned in para 4.5 above.
- 2.6 The EIA conveniently omits the presence and neglects to evaluate the adverse impact on mangroves, wetlands, forests and migratory birds. However, the presence thereof, in a cursory manner, is reflected in the tables possibly to avoid

the charge of concealment. The proposed plant is in violation of the Wetlands (Conservation and Management) Rules 2010 and 2017.

### **Findings in report by the Committee**

- viii. PP has not addressed several aspects in the Form I inter-alia pre-construction site investigation, construction work, quantum of resources, solid and liquid waste generation, existence of vulnerable group and eco sensitive areas such as mangroves, hospitals in the study area with direction and distance, mitigation measures, occupational diseases etc.
- xx. Mangroves exist at a distance of 1.4km from the project site on the other bank of Tapi river. As per the provisions of Coastal Regulation Zone (CRZ), 2019, Mangroves (in case mangrove area is more than 1000 square meters), a buffer of 50 meters along the mangroves is required to be provided. In the present case, the distance of 1.4km is much more than the required buffer zone of 50 meters.
- xxi. No evidence or credible document has been made available by representative of Suvali Gram Panchayat as well as L&T in support of their contentions with respect to existence of notified wetlands in the project area, pollution & health concerns and degradation of agricultural land due to the proposed standalone cement grinding unit of M/s. SIL.

### **Objections of the Appellant**

- 2.7 It is pertinent to note that the Appellant did not raise any issue on the construction activity within the activity within the CRZ. The issue raised was the environmental sensitivity of the area and what measure does the Pre-feasibility, Form -I, EIA mentions or the Project Proponent undertakes to address the same. It may be noted that the two issues are separate and the issues raised by the Appellant independent of that of the CRZ. The committee has impliedly held that the EIA evaluation of a project is to be limited only for wetlands that have been notified. The observation is contra the mandate of Hon'ble SC in Balakrishnan and the Wetland rules and guidelines thereunder

- 2.8 It is pertinent to highlight that the most important concern raised by the Appellant vide this present Appeal was that there are Mangroves at an aerial distance of 1.4kms from the proposed Cement Plant of the Project Proponent. However, the said concern is vaguely dealt by the Committee by merely recording that the buffer zone for mangroves should be 50metres and since the distance in the present case is 1.4km, there is no impediment to the setting up of the proposed cement plant. It was fallacious on part of the committee to apply a 50 metre buffer zone as provided under the CRZ Notification for evaluating the Environment Impact Assessment under the EIA Notification
- 2.9 The Committee has not scrutinized / evaluated the concealment and misrepresentation of the information in the Form-1 and pre-feasibility report submitted by SIL and consequently the impact of concealment of such information on the preparation of the EIA. This Hon'ble Tribunal in the case of *H.P.Rajanna vs Union of India [Appeal 54 of 2018]* while interpreting the judgement of the Hon'ble Supreme Court in *Hanuman Laskar Aroskar* provided its detailed observation on Form 1. The relevant extracts are annexed as **Annexure B**.

### **III. INADEQUATE LAND ALLOTMENT DONE BY THE PROJECT PROPONENT**

- 3.1 The EIA Report as submitted by the Project Proponent does not provide for finished products storage area, loading and unloading area, product transfer area, parking areas for the used trucks and other vehicles, canteen area, security office and other amenities. It may be noted that the land allocation as shown in the EIA Report of the Project Proponent allocates 0% land to any of the above facilities. The Factories Act, 1948, under various provisions clearly lays down the mandate to have such amenities in any industrial project/factory and allocating no land for the same, puts the Project Proponent in violation of the same. It is submitted that the storage and handling of 40,00,000 tons raw material / finished products is not feasible in a 12-acre plot of which 4 acres are to be kept for green belt, to provide storage of such huge quantities of raw material, finished product and parking space of 40 trucks of 34 tonnes each, with loading and unloading facilities, to squeezed in an area. (*Refer EIA @Pg.842 – Table 2.7, Table 2.2 @Pg.832 , Para 1.3.6 @Pg.835 , Layout Plan provided in the EIA @Pg.848 of the Committee Report*)

### **Findings in report by the Committee**

The Committee has simply stated in point (vii) of para 8 as the land area envisaged for the project is 4.856 ha and it is sufficient for the proposed project activity of M/s. SIL.

### **Objections of the Appellant**

3.2 The Committee has suggested to M/s SIL to develop a green belt of 15 meters width around the boundary limits of its factory by planting native and high foliage trees with a tree density of 2500 trees per hectare. However, neither any independent evaluation was done as to the land availability for the carrying out the aforesaid direction.

## **IV INCORRECT INFORMATION ON TRANSPORTATION, TRUCKS, ROADS**

4.1 It is pertinent to note that based on the incorrect numbers provided by the Project Proponent and the lack of environment impact evaluation of such huge numbers of truck plying on the kaccha road, the Impugned EC was issued which stated as under:

*“47. Number of Trips (in & out) shall not exceed 363 nos. per day for transport of cement and raw material during the operations of the grinding unit.”*

*(Refer EIA on Pg. 911 of the Committee Report) – Table 4.17.*

4.2 The project site is linked to the main road i.e., the National Highway (NH 53) by a panchayat road, the distance of which is around 2.2kms. It is highly pertinent to appreciate that the Panchayat road is a Kaccha Road and the same is clearly mentioned in the EIA prepared by the Project Proponent. *(Refer EIA @Pg.925– Table 5.1 – Serial No.7)*

4.3 That the Project Proponent has not evaluated the impact of hundreds of trucks deploying on a kaccha road and has instead completely ignored by stating that since the dust generated by manufacturing is primary source, they have taken measures for that. However, none for other sources of dust since they are secondary in nature, including the dust from the kaccha roads, have been

considered by the Project Proponent. (*Refer EIA @Pg.849 - Para 2.13.1 – Air Emission*)

- 4.4 It is submitted that the Panchayat Road which is merely 7.5m in width would not be able to handle 363 trucks of 34 tonnes taking two trips i.e., 726 trips per day. A normal 34 tonner trucks measures 11 x 2.4 x 3.4m (approx.) The EIA fails to take into consideration as to where the 363 [34] tonner trucks, each measuring 11 x 2.4 x 3.4 (approx.), would be parked before unloading / loading of raw material / finished product. The layout plan attached at Pg.378 with the EIA does not address the issue of parking. Larsen & Toubro apprehends that the trucks would eventually be parked on the Panchayat Kachha road and possibly even on the National Highway which would result in severely hampering of the normal movement of traffic and consequent pollution. The impugned EC on Point 47, (*Refer Page 993 of the Committee Report*) however, stipulates that only 363 in and out trips can be undertaken. In other words, even as per the impugned EC, only half the number of trucks are permissible to be used for transport. The EIA does not consider nor factor in the extent of pollution that will be caused by the movement of 726 [34] tonner trucks.

**Findings in report by the Committee**

- xiii. The impact can be further reduced by utilizing the trucks bringing clinker for cement dispatch to the sea route. As per the present market condition, about 118 trips can be reutilized (same truck will be used for clinker in up and cement in down) which will negate approx. 20 PCU per hour (actual 22). Thus only  $68-20 = 48$  PCU per hour will be the net impact as per the previous scenario of traffic. PP has also made a provision for parking of trucks and trailers. The trucks and trailers would be covered with tarpaulins as mentioned in the EC granted by SEIAA.
- xv. In addition to the written submission referred at point xiv above, another study report of M/s. Multimedia Consultants has been made available to the Committee on 1/07/2021. As per the said report (copy enclosed along with SIL written submission) and considering 10 years design life, vehicle damage factor of 2.89 and growth rate of 5 %, the resulting traffic will be 2 MSA (Million Standard Axle) which is a miniscule increase to the existing traffic.

- xvi. It has been reported that the Panchayat Road is found to be having a carrying capacity of 1250 PCU per hour on which an average 190 PCUs travel per hour. 48 PCU per hour will be the net additional impact on the existing traffic due to the SIL project. SIL has submitted a traffic management plan and presented that the approach road (Panchayat Road) is “Pucca” (Metal tarred) and having a current width of more than 15 meters throughout the entire 1.2 kms stretch from the Highway to the plant.
- xvii. The Panchayat Road of 1.2 km only, for which the load bearing capacity was impugned by the L&T, was constructed by L&T Limited itself pursuant to directions of the Hon’ble High Court of Gujarat in Special Civil Appeal No 10850/2009 titled as “Sukhabhai Bhikhabhai Aahir & 29 others. Vs. Principal Secretary & 3 others”. Furthermore, the Panchayat Road has been disclosed and sanctioned to be a 22-meter-long road under the sanctioned SUDA Development Plan. The Panchayat Road has been constructed pursuant to judicial directions and in accordance with applicable regulations and standards, is a ‘Pacca’ road and is in fact being used for movement of commercial vehicles such as the 34 tonner trucks proposed to be used by the SIL.
- xviii. The panchayat road under question is also being used by other industries existing in the area mentioned at paragraph 7(xvi) above for several years. It may be noted that this road is being used by heavy industries such as Larsen & Toubro.

#### **Objections of the Appellant**

- 4.5 It is submitted that there is absolutely no application of mind done by the Expert Committee, nor any independent evaluation done to find if the roads are actually 15m wide. The Committee has simply reproduced extracts from the Notes submitted by the Project Proponent. *(Refer Pg.286, 287 of the Committee Report)*
- 4.6 Further even assuming the observation to be fair and rational, if all the 15m space is consumed, there remain no space at all for parking. The transportation route is annexed as **Annexure C**.
- 4.7 It is further submitted that the Order granting EC is a non-speaking order. It does not disclose any reasons for granting it nor does it states the reasons for not

accepting the objections raised during the public hearing. That for the aforesaid submission, the Appellant relies on *Rajeev Suris – Central Vista case [2021 SCC Online SC 7, (para 710 – 714)]*; *Hanuman Laxman [2019 SCC 401 (paras 118, 123 – 129, 159-160)]* and *S.N. Mukharji v. Union of India [AIR 1990 SC 1984]*, which hold that administrative authorities and tribunals exercising quasi-judicial function can justify their existence and carry credibility with the people by inspiring confidence in the adjudicatory process. Unless reasons are disclosed, it is not possible to know whether the authority had applied its mind or not. Also giving of reasons minimizes chances of arbitrariness.

- 4.8 Further in point xv of the para 8 the Committee places reliance on some study report of M/s Multimedia Consultants submitted by the Project Proponent to render a finding that considering 10 years design life, vehicle damage factor of 2.89 and growth rate of 5 %, the resulting traffic will be 2 MSA (Million Standard Axle) which is a miniscule increase to the existing traffic. It is pertinent to highlight that the copy of the said report has not been supplied to the Appellant. It is submitted that an expert committee no independent evaluation has been done by the Committee and unilateral reliance on a report submitted by the Project Proponent is not only questionable but also untenable in law.
- 4.9 That the committee has erroneously placed unilateral reliance without any enquiry or conducting an independent evaluation of its own, on the report of Panchayat Road and its load bearing capacity. That the Committee has rendered its finding solely on the basis of what has been reported to it by the Project Proponent. It is submitted that the current width of the Panchayat Road is not 15 metres as observed by the Committee rather it is only 7.5 metres. Further, the Committee has ignored the fact that the Project Proponent itself refers to that road as Kachha Road in its EIA and is now submitting reports that it is a pucca road with the carrying capacity of 1250 PCU per hour on which an average 190 PCUs travel per hour.
- 4.10 The Committees observation in point (xvii) of para 8 are highly vague and misplaced. The alleged pucca road is not being used for movement of commercial vehicles such as 34 tonner trucks and is not in a condition to comply with the applicable standards or regulations. Moreover, it was absolutely incorrect on part of the Committee in point (xviii) to observe that the Panchayat Road is being used by

other industries existing in the area such as Larsen & Toubro. It is submitted that Larsen & Toubro does not use the said road and the Committee's incorrect observation only highlights its speculation in preparing its report. Moreover, the Appellant has not been asked about the same.

## V. COASTAL TRANSPORTATION

- 5.1 It is pertinent to note that the Respondent has only made a cursory mention that it intends to use coastal mode of transportation for supplying raw material and taking finished product. However, no evaluation of the same has been done in the EIA.

### *"2.6.3 - Sea / Coastal Transportation*

*The clinker shall be transported from Sanghipuram (IU) to Surat GU mainly by sea. Clinker shall be extracted from the Clinker load out silos at IU, transported to the captive Jetty of SIL by trucks and loaded on to the barges by grab cranes. Barges shall transport the Clinker to the ship stationed at high seas. At Surat, the Clinker shall be unloaded from the ship at nearest port and transported to the Surat GU site by trucks."*

*The company has planned Coastal Shipping of Cement, accordingly cement terminals have been developed at various locations. This will reduce the load on rail/road network /transportation. (Refer EIA @Pg.301 - Para 4.3.2- Air Environment)*

- 5.2 It is submitted that neither the PFR, nor the EIA or the impugned EC, has taken into consideration, the impact on the environment of transportation of raw material and finished product by Coastal mode of transportation.

### **Findings in report by the Committee**

No finding at all given by the Committee as to how will the impact on environment will be dealt with in such a scenario.

### **Objections of the Appellant**

- 5.3 It is to be noted that the Appellant highlighted the issue that the EIA deliberately fails to disclose or the environmental impact which the coastal transportation would have incase the project is permitted to come up. The Committee has miserably failed to take any note and makes no mention of how the EIA fails to address the issue and what remedial measures will be taken by the Project Proponent in order to address the same.

**VI CATEGORISATION OF INDUSTRIAL ZONES AS PER SURAT DEVELOPMENT AUTHORITY (SUDA)**

- 6.1 That on 12.10.2017, the Government of Gujarat issued a notification laying down the Comprehensive General Development Control Regulations, 2017 (CGDCR). It may be noted that Section C of the CGDCR, 2017 in its heading 7, provides for General Planning and Development Regulations, wherein para 7.1 provides Zone Classification wherein different zones and uses have been conceptualized in Table 7.1.1.
- 6.2 That Appendix C of the said Regulation gives “list of obnoxious and hazardous industries” wherein Cement is one of the obnoxious and hazardous industry. That on 08.10.2020, SUDA published the Sanctioned Development Plan, 2035 showing various categories including General Industrial Zone and Obnoxious / Hazardous Industrial Zone (Pink – General Industrial Zone and Dark Pink with Textures – Obnoxious / Hazardous Industrial Zone). It is important to note that the land where the Project Proponent intends to set-up the proposed cement project falls under the General Industrial Zone (shown in Pink colour in the map). Moreover, the concerned authorities at Surat Development Authority have, vide their Certificate dated 11.01.2021, confirmed and certified that the area of the proposed cement plant of the Project Proponent falls under General Industrial Zone and not Obnoxious and Hazardous Industrial Zone. The site for the cement plant of Project Proponent is falling at Revenue / Block Survey No.125 and 126.
- 6.3 After the notification of SUDA Development Regulations, in particular after the publication of the aforesaid map, it would be appropriate and in the interest of justice, if a red category cement plant (which process is infamous for dust pollution) is not permitted. However, even if it is assumed that the applicability of the master plan is prospective, it would be in the furtherance of the precautionary principle keeping in view the nature and extent of pollution that would be caused by a cement plant on the rapid expanding city of Surat, that such a plant is not permitted.

**Findings in report by the Committee**

- xi. As per the Surat Urban Development Authority (SUDA) notification dated 8/10/2020, the proposed cement grinding unit project site falls under the General Industrial Zone and red category industry is not allowed to be set up in the area. However, the EC to M/s. SIL was granted on 23/08/2019 which was prior to 8/10/2020 i.e. issuance of SUDA Notification. It may also be noted that the proposed unit is not an integrated cement plant. It is a grinding unit where, clinker (brought from outside), fly ash and slag (waste materials from power plants and steel plants) are ground and converted to a useful green cement. Clinkerization process makes the cement plants a red category industry due to pollution of particulate matter, SO<sub>2</sub>, NO<sub>x</sub> and Carbon Monoxide. In grinding units only particulate matter is emitted during grinding and that too much less than that in the clinkerization process.
- xii. PP has submitted an application to SUDA on 7/09/2019 for obtaining requisite permission as per the prevailing regulatory norms. The application is reportedly under process by SUDA and the approval is yet to be accorded.

### **Objections of the Appellant**

- 6.4 Application for SUDA dated 7.09.2019 - The above fact was never placed before the Hon'ble Tribunal nor before the SEIAA. In the WS filed by the SIL before the Committee, at page 289, the said purported Project Application Form is annexed. That the EC is merely a license and does not confer a right on a project opponent to carry out an activity which adds to environmental pollution. It is submitted that an activity leading to an environmental degradation / pollution is a pernicious activity and can be prohibited. The Appellant places reliance on case of Ivory Traders [AIR 1997 Delhi 267], reproduced hereinunder:

*“43. Undoubtedly the business which the petitioners in the instant case are pursuing is attended with danger to the community. Its evil effect is manifested by the depletion of the elephant population. The possession of an article made from ivory has been declared as a crime. There is no fundamental right to carry on business in crime. The legislature has stepped in to eliminate the killing of elephant. If the legislation in order to rectify the malady has made the possession of ivory or articles made therefrom an offence, it cannot be said that the legislation violates Article 19(i)(g) of the Constitution to carry on trade and business. **Such a pernicious activity cannot be taken to be as business or trade in the sense in which it is used in Article 19(1)(g) of the Constitution.**”*

- 6.5 Even this Hon'ble Tribunal in OA 249 of 2020, Tribunal on its own motion vs MOEF, (firecrackers case) prohibited sale of firecrackers by the Licensed retailers. wherein it held that since bursting of fire-crackers is a pollutive activity therefore it is irrespective if the petitioners obtained licenses to sell the same. The said license would not hold the ground in-case the activity in furtherance of execution of those license would cause pollution and environment degradation. Further reliance is placed on the 2004 case of *State of Punjab vs Devans Modern Brewries [(2004) 11 SCC 26]*
- 6.6 It was fallacious on part of the Committee to have observed that, "*clinkerization process makes the cement plants a red category industry....*". That CPCB in the norms prescribed for categorization of red category industry make no such distinction between cement plant per se and cement plant plus clinker manufacturing. The main health and environmental hazard is from the minute cement particulates, which are emitted during cement grinding and get embedded in the lungs.
- 6.7 It is pertinent to highlight that the purported application dated 7.09.2019 (*Refer page 290 of the Report*) stated to be filed by the Project Proponent before SUDA, the NIC Code mentioned in the application is 410 i.e. for Construction of Buildings. It is pertinent to highlight the fraudulent act of the Sanghi Cement Ltd. is evident from the aforesaid fact itself wherein the Project Proponent is seeking approval on false and misleading pretexts. The relevant extracts of the NIC Code are annexed herein as **Annexure D** wherein it is stated that cement manufacturing falls under code 2394 and 410 is a code for building erecting complexes and buildings.
- 6.8 It is therefore submitted that the Committee should have considered new norms of SUDA for evaluating the adverse impact of proposed project on the local villagers.
13. That the Pre-feasibility Report along with EIA Report are the building blocks for the grant of Environmental Clearance. The said reports are to be prepared after extensive research and ground tothing. The said reports are expected to honestly and truthfully reflect the ground topography and take into account all other relevant consideration particularly in relation to environment. In the present case, the said research is lacking in the report as detailed above and the concerned

authorities have neglected the same deliberately or otherwise. The Committee nor SEIAC, while considering the said reports, can substitute its wisdom without getting the correct research material and an honest ground tooting. Both Committee and SEIAC had merely called upon the Project Proponent to clarify its doubts, which clarification was obviously tailor-made in the interest of the Project Proponent without any material in support thereof.

14. The Committee instead of evaluating the factors and grounds where the EIA fell deficit, has instead undertaken the role of the Project Proponent and provided unsolicited suggestions and recommendation as to how the Cement Plant should be set up. It may be noted that the Hon'ble Tribunal acknowledged that the EIA failed to disclose the environmental sensitive information and thereby appointed the Committee to evaluate such failure and its impact on the environment. However, instead of providing the report on the aforesaid, the Committee finally decided the case by holding that the EC should be sustained subject to certain suggestions.
15. In view of the aforesaid objections, it is submitted that the Committee has failed to address the issues as directed by the Hon'ble Tribunal and the Report submitted by it cannot be relied upon. The Hon'ble Tribunal may therefore set aside the impugned Environmental Clearance.



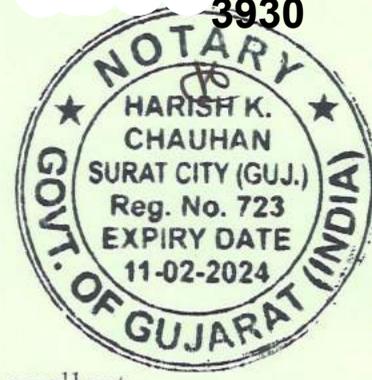
**DSK Legal**  
**Advocates and Solicitors**  
(Counsels for the Appellant)

Place: New Delhi  
Dated: 21.09.2021

First and Second Floor,  
ESC House, 155, Okhla Industrial Estate,  
Okhla Phase III, New Delhi, Delhi 110020  
Email: [mahip.singh@dsklegal.com](mailto:mahip.singh@dsklegal.com)

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BEFORE THE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI  
APPEAL NO. 36 OF 2020



**IN THE MATTER:**

Larsen and Toubro Limited

...Appellant

Versus

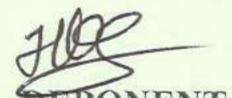
Sanghi Industries Limited and Ors

...Respondents

**AFFIDAVIT**

I, Hiren Shah, aged 45 years s/o Kiritbhai Shah address at Larsen & Toubro Limited, Hazira Manufacturing Complex, P.O.-Bhatha Dist-Surat 394510 authorized representative of the Appellant herein, do hereby solemnly affirm and declare as under:-

1. That I am the authorized representative of the Appellant herein and as such am duly competent to swear the present affidavit on behalf of the Appellant.
2. That I have read the contents of the accompanying Reply / Objections to Committee Report and state that the facts contained therein are true and correct and based on the records of the case as available with the Appellant and that the legal submissions made therein are based on legal advice received by me and believed to be true and correct and that nothing material has been concealed therefrom.
3. That the contents of the present affidavit are true to my best knowledge and belief. No parts of the same are false and nothing material or relevant has been concealed therefrom.

  
DEPONENT

\*

VERIFICATION

Verified at SURAT on this 21<sup>st</sup> day of Sept 2021 that the contents of the present affidavit are true to the best of my knowledge and belief. No parts of the same are false and nothing material or relevant has been concealed therefrom.

DEPONENT

Sr. No. 634/21  
Date 21 SEP 2021

*[Handwritten Signature]*

I Know the Signatory and identified by me

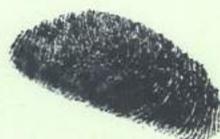
*[Handwritten Signature]*  
Advocate

**KISHOR C. RANA**

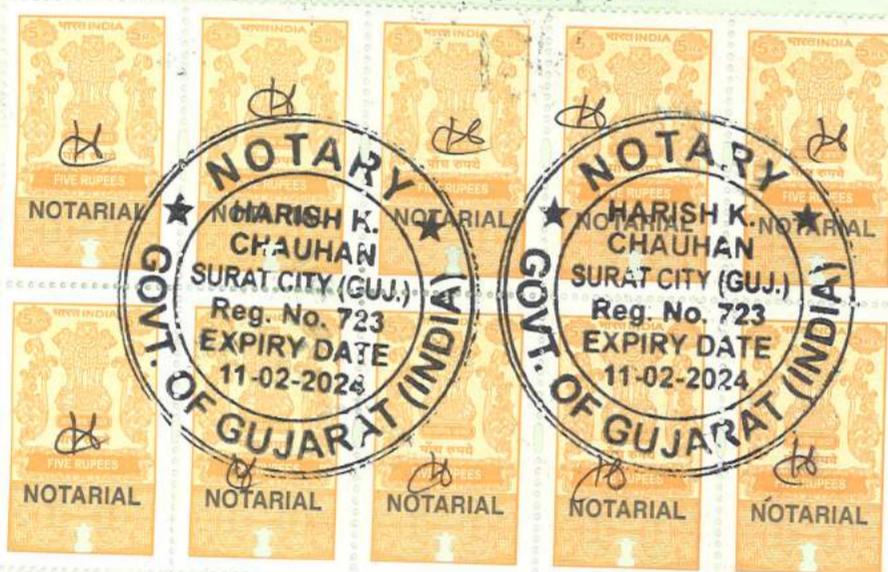
B.Co. I., LL.B.

**ADVOCATE**

34619, Main Road, Sagrapura, Sur



*[Handwritten Signature]*



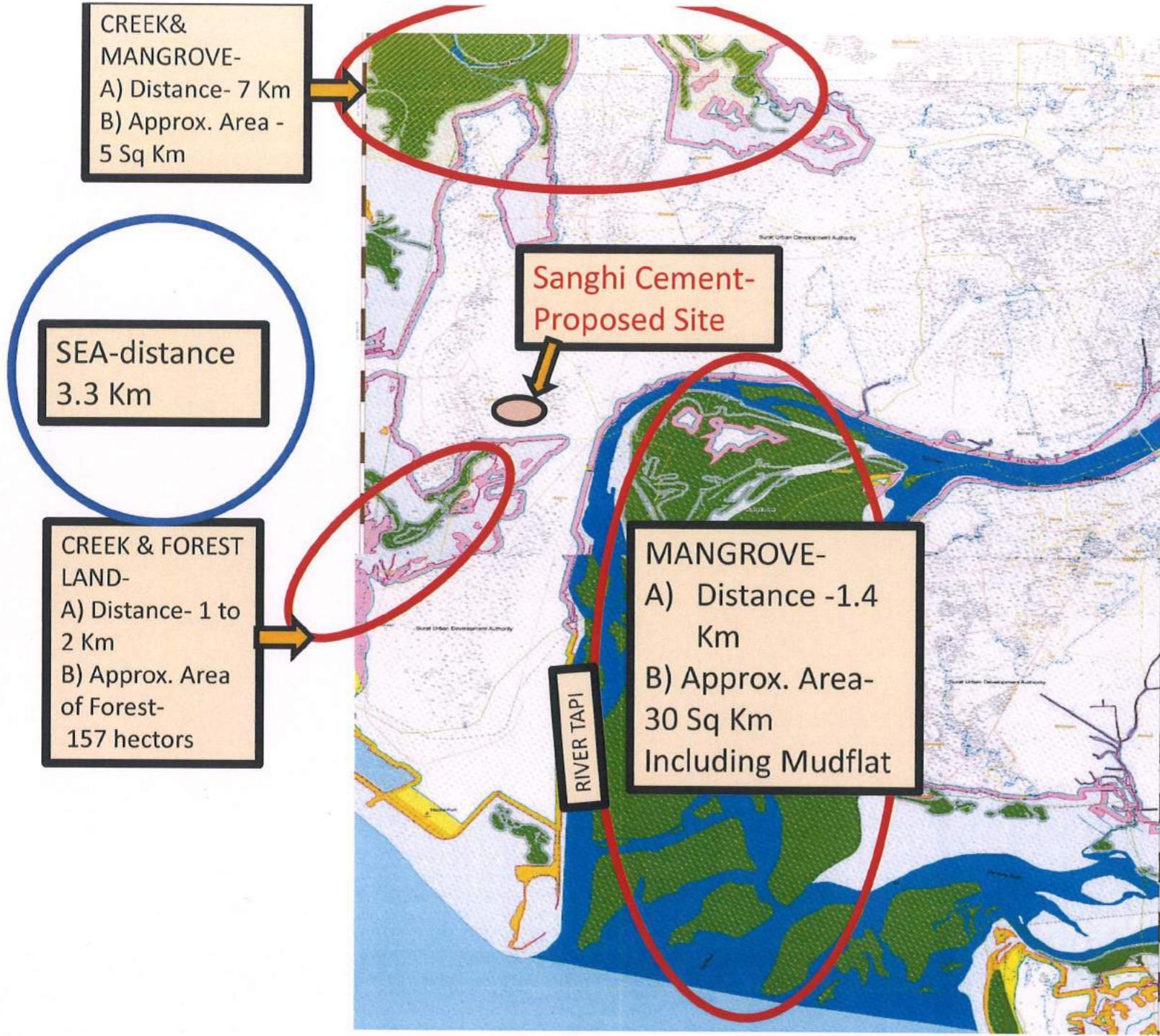
Solemnly affirmed before me by... Hiren Shah s/o Kishor who is identified by Shri... K. C. Rana (Advocate) whom I personally know.

**BEFORE ME**

*[Handwritten Signature]*  
21-09-2021  
**HARISH K. CHAUHAN**  
NOTARY  
SURAT CITY (GUJ.)  
GOVT. OF GUJARAT  
Page No 1/02

**Harish K. Chauhan**  
M. Com.: LL.B  
**ADVOCATE & NOTARY**  
5/120, A-1, Gymkhana Road,  
Near Kabir Mandir, Rander, SURAT-5  
Mob -98242-58803

ANNEXURE - A







**SANGHI CEMENT SITE LOCATED IN MIDST OF L&T COMPLEX LESS THAN 1 KM OF PERIPEHRY FROM ALL UNITS**



Towards Surat City, NH-48 & SH-168



L&T (WEST)

L&T Heavy Engineering

L&T (EAST)

PRIVATE LAND

L&T MHPs Boiler

Sanghi site

L&T (WEST)

RIVER TAPI

PRAWN FARMS, CREEK & FOREST LAND-0.5.Km

Panchayat Road

Towards Adani Port

**LEGEND**



L&T Boundary

Google

Imagery ©2020 CNES / Airbus, Maxar Technologies, Map data ©2020 India Ter



PRAWN FARMS,  
CREEK & FOREST  
LAND-0.5.Km  
FROM SANGHI  
SITE  
DOWNWIND

L&T (WEST)

L&T (WEST)

Piping & L&T

LEGEND



L&T  
Boundary

SANGHI SITE



L&T  
Piping



ANNEXURE-B

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

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**APPEAL NO. 54/2018**

**IN THE MATTER OF:**

**H.P. Ranjanna**

Aged about 59 years  
S/o Late Papa Reddy  
Residing at No. 1632,  
22<sup>nd</sup> Cross, 26<sup>th</sup> Main, 2<sup>nd</sup> Sector, HSR Layout,  
Bengaluru-560102, Karnataka

Appellant

Verses

**1. Union of India**

Through Secretary,  
Ministry of Environment, Forest & Climate Change,  
Indira Paryavaran Bhavan,  
Jor Bagh Road,  
New Delhi-110003

**2. The State of Karnataka**

Vidhana Soudha, Bangalore-560001  
Represented by its Chief Secretary

**3. Karnataka State Environment Impact Assessment Authority (SEIAA)**

Ambedkar Veedhi,  
Sampangi Rama Nagar,  
Bengaluru, Karnataka-560001  
Represented by its Member Secretary

**4. Bangalore Development Authority (BDA)**

T. Chowdaiah Road, Kumara Park West  
Bengaluru-560020  
Represented by its Commissioner

**5. Bruhat Bengaluru Mahanagara Palike (BBMP)**

N.R. Square, Corporation Circle,  
Bengaluru-560001  
Represented by its Commissioner

**6. The Karnataka State Pollution Control Board**

"Parisara Bhavan", #49, 4<sup>th</sup> and 5<sup>th</sup> Floor,  
Church Street, Bengaluru-560001  
Represented by its Chairman

**7. Karnataka State Fire & Emergency Services**

**8. Bangalore Electricity Supply Company (BESCOM)**

Corporate Office, K.R. Circle  
Bangalore-560001  
Represented by its Managing Director

**9. Bangalore Water Supply and Sewerage Board (BWSSB)**

Cauvery Bhavan, K.G. Road,  
Bangalore-560009  
Represented by its Chairman

**10. Lake Development Authority (LDA)**

Parisara Bhavan, No. 49, Second Floor, Church Street,  
Bangalore-560001  
Through its chief Executive Officer

**11. Wonder Projects Development Private Limited**

A Company Incorporated under the Companies Act, 2013  
Having Registered Office at  
Godrej One, 5<sup>th</sup> Floor, Pirojshanagar,  
Eastern Express Highway, Vikrohli (East)  
Mumbai-400079

**Having Regional Office at**

No. 80, Second Cross, Hulkul Ascent,  
Lavelle Road, Bangalore-560001  
Through its authorized Signatory

**12. Godrej Properties Ltd.**

A Company Incorporated under the Companies Act, 2013  
Having Registered Office at  
Godrej One, 5<sup>th</sup> Floor, Pirojshanagar,  
Eastern Express Highway, Vikrohli (East)  
Mumbai-400079

**Having Regional Office at**

No. 80, Second Cross, Hulkul Ascent,  
Lavelle Road, Bangalore-560001  
Through its authorized Signatory

Respondent(s)

With

**ORIGINAL APPLICATION NO. 602/2019****IN THE MATTER OF:****H.P. Rajanna**

Aged about 60 years  
S/o Late Papa Reddy  
Residing at No. 1632, 22<sup>nd</sup> Cross, 26<sup>th</sup> Main,  
2<sup>nd</sup> Sector HSR Layout Bengaluru-560102

- 1. Union of India**  
Through Secretary,  
Ministry of Environment, Forest & Climate Change (MoEF&CC)  
Regional Office, South Zone,  
Kendriya Sadan, 4<sup>th</sup> Floor, E&F Wings, 17<sup>th</sup> Main Road,  
Koramangala II Block,  
Bengaluru-560034
- 2. The State of Karnataka**  
Through its Chief Secretary  
Vidhana Soudha,  
Bangalore-560001
- 3. Karnataka State Environment Impact Assessment Authority (SEIAA)**  
Through its Member Secretary  
Ambedkar Veedhi,  
Sampangi Rama Nagar,  
Bengaluru-560001
- 4. Bruhat Bengaluru Mahanagara Palike (BBMP)**  
Through its Commissioner  
N.R. Square, Corporation Circle,  
Bangalore-560001
- 5. Karnataka State Pollution Control Board (KSPCB)**  
Through its Chairman,  
"Parisara Bhavan", #49, 4<sup>th</sup> and 5<sup>th</sup> Floor,  
Church Street, Bangalore-560001
- 6. Bangalore Water Supply and Sewerage Board (BWSSB)**  
Through its Chairman  
Cauvery Bhavan, KG Road,  
Bangaluru-560009
- 7. Bangalore Development Authority (BDA)**  
Through its chairman,  
Kumara Krupa West, T. Chowdaiah Road  
Bengaluru-560020
- 8. Karnataka State Fire & Emergency Services (KSFES)**  
Through its Director of Fire Services  
No. 1, Annaswamy Mudhaliar Road,  
Bangalore-560042
- 9. Wonder Projects Development Private Limited**  
Through its authorized Signatory  
No. 80, Second Cross, Hulkul Ascent,  
Lavelle Road, Bangalore-560001
- 10. Godrej Properties Ltd.**  
Through its authorized Signatory

1309

With

**ORIGINAL APPLICATION NO. 281/2019****IN THE MATTER OF:****Mahadevpura Parisara Samrakshane Mattu Abhivrudhi Samiti**  
(MAPSAS)Regd. Office: Incubex,  
#9/2, Coronet Green Commercial,  
(Above Big Bazar)  
Sarjapur Road, Bengaluru-560102  
Represented by its Managing Trustee  
Sri Subramanian Sankaran

Applicant

Verses

**1. Union of India**Indira Paryavaran Bhavan,  
Jor Bagh Road, New Delhi-110003  
Through the Ministry of Environment, Forest & Climate Change  
Represented by the Secretary**2. Karnataka State Environment Impact Assessment Authority (SEIAA)**Ambedkar Veedhi,  
Sampangi Rama Nagar,  
Bengaluru, Karnataka-560001  
Through its Member Secretary**3. Bangalore Development Authority (BDA)**T. Chowdaiah Road, Kumara Park West  
Bengaluru-560020  
Represented by its Commissioner**4. Bruhat Bengaluru Mahanagara Palike (BBMP)**N.R. Square, Corporation Circle,  
Bengaluru-560001  
Represented by its Commissioner**5. State of Karnataka**Vidhana Soudha,  
Bengaluru-560001  
Represented by its Chief Secretary**6. Karnataka State Pollution Control Board (KSPCB)**"Parisara Bhavan", #49, 4<sup>th</sup> and 5<sup>th</sup> Floor,  
Church Street, Bengaluru-560001  
Represented by its Chairman**7. Bangalore Electricity Supply Company (BESCOM)**

**8. Bangalore Water Supply and Sewerage Board (BWSSB)**

Cauvery Bhavan, KG Road,  
Bangalore-560009  
Represented by its Chairman

**9. Central Ground Water Authority (CGWA)**

30, Sector-5, RK Puram,  
New Delhi-110066  
Represented by its Chairman

**10. Sri. Ramesh Kumar**

S/o H. Srinivasa Reddy  
Aged about 38 years  
Residing at halanayakanahalli  
Carmelram Post,  
Bangalore-560039

Respondent(s)

**Counsel for Appellant(s)/Applicant(s):**

Mr. Raj Panjwani, Senior Advocate with Mr. Rahul Choudhary, Advocate  
(In Appeal No. 54/2018 and OA No. 602/2019)  
Mr. Ram Prasad, Advocate (In OA No. 281/2019)

**Counsel for Respondent(s):**

Mr. Pinaki Misra, Senior Advocate with Mr. V. D'Costa and Ms. Astha Ojha,  
Advocates for respondents-11 and 12  
Mr. Darpan KM, Advocate for State of Karnataka and BBMP  
Mr. Mukesh Kumar, Advocate for KSPCB  
Mr. H.K. Vasanth, Advocate for SEIAA, Karnataka

**ORDER****PRESENT:**

**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**

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**Reserved on: 22<sup>nd</sup> June, 2021**  
**Pronounced and uploaded on: 30<sup>th</sup> July, 2021**

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**BY HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER**

1. In these three matters, appellant/applicants have brought before us their apprehension which according to them is real, eminent and

Experts in the fields of Waste management (solid and liquid); Water conservation and management; Resource efficiency including Building materials; Energy Efficiency and renewable energy; Environmental planning including air quality management; and Transport planning and management. It also says that Cell shall induct at least two outside Experts as per the requirements and background of dedicated Experts. The function of Cell area is also mentioned therein.

185. Subsequent Notifications up to the period 14.10.2017, when PP in the present case submitted application for grant of 'Prior EC' are not relevant hence are not being referred.

186. Provisions of EIA Notification, 2006 and the process thereunder have been considered in detail, recently, by Supreme Court in **Hanuman Laxman Aroskar vs. Union of India, (supra)**. It was an appeal taken to Supreme Court, from a judgment/order dated 21.08.2018 passed by this Tribunal in **Appeal No. 5/2018** (earlier *Appeal No. 61/2015/WZ*), **Federation of Rainbow Warriors vs. Union of India & Ors. and Appeal No. 6/2018, Hanuman Laxman Aroskar vs. Union of India**, wherein grant of EC for development of green field International Airport at Mopa, Goa, was challenged. Project was in category 'A' hence as per EIA 2006 'Prior EC' was to be granted by MoEF. EC was granted on 28.10.2015. It was challenged by M/s. Federation of Rainbow Warriors in Appeal No. 61/2015 at Tribunal's Western Zonal Bench, Pune. Another Appeal No. 1/2016 was filed by Hanuman Laxman Aroskar at NGT, Western Zonal Bench, Pune. Both these appeals were transferred to Principal Bench at New Delhi and numbered as Appeal No. 5 and 6 of

Competent Authority for grant of EC; PP is duty bound to make a proper disclosure and highest level of transparency is required; and there was concealment of certain facts by leaving certain columns blank or by not giving required details. It was contended that for these reasons, application for EC ought to have been rejected.

187. Supreme Court considered scheme of EIA 2006 in detail. Going into historical backdrop of EIA 2006, Court said that by Constitution (Forty-second Amendment) Act 1976 w.e.f. 03.01.1977, Article 48A was inserted to the Constitution which mandates that State shall endeavor to protect and improve environment and safeguard forests and wildlife of the country; Article 51A(g) of Constitution places a corresponding duty on every citizen to protect and improve natural environment including forests, lakes, rivers and wild life and to have compassion for living creatures; following decisions taken at United Nations Conference on Human Environment held at Stockholm (Stockholm Conference) in June 1972, in which India also participated, Parliament enacted EP Act, 1986 to protect and improve environment and prevent hazards to human beings, other living creatures, plants and property; on 27.01.1994, MoEF&CC, in exercise of powers under Section 3(1) read with (2)(v) of EP Act, 1986 and Rule 5(3)(d) of EP Rules, 1986, issued notification, S.O. 60(E), 1974, imposing restrictions and prohibitions on the expansion and modernization of any activity or new project unless an EC was granted under the procedure stipulated in the notification; Notification contemplated that any person undertaking a new project or expanding and modernizing an existing project, would submit an application to the Secretary MoEF; application to be made in accordance with Schedule

'EMP') and other details as per the Guidelines issued by Government from time to time; Competent Impact Assessment Agency would then evaluate application and submit report; and if necessary, it is also empowered to constitute a Committee of Experts which would have a right of entry into and inspection of the site during or after the commencement of the preparations relating to the project; concealment of any factual data or submitting false or misleading information would make the application liable for rejection and would lead to cancellation of any EC already granted on that basis; EIA 1994 was superseded by EIA 2006; real distinction between EIA 1994 and EIA 2006 is that in the later EC must be granted by Regulatory Authority prior to commencement of any construction work or preparation of land; EIA 2006 divides all projects in Category A and Category B projects; under EIA 1994, PP was required to submit application along with all reports including EIA report but under EIA 2006 prior to preparation of EIA report by PP, the authority concerned would formulate comprehensive Terms of Reference (hereinafter referred to as 'ToR') on the basis of information furnished by PP addressing all relevant environmental concerns; this would form the basis for preparation of EIA Report; a pre-feasibility Report is also required to submit with the application unless exempted in the Notification; under EIA 1994, final approval was granted by Impact Assessment Authority but under Notification of 2006, final regulatory approval is granted by MoEF&CC or SEIAA, as the case may be; but approval is to be based on recommendations of EAC functioning in MoEF&CC or State Expert Appraisal Committees (SEACs) which are constituted for that specific purpose; thus the salient objective which

modernization of existing projects is envisaged; it imposes certain restrictions and prohibitions based on the potential environmental impact of projects unless 'Prior EC' has been granted by the authority concerned.

188. Supreme Court said that an application must be submitted prior to the commencement of any construction activity or preparation of the land at the site. The process to obtain EC comprised broadly 4 stages i.e. (i) Screening, (ii) Scoping, (iii) Public Consultation and (iv) Appraisal. The step of screening is restricted to Category B projects. It entails an examination of whether the proposed project or activity requires further environmental studies for preparation of an EIA for its appraisal prior to grant of EC. The projects requiring an EIA are further categorized as Category B1 projects and remaining projects are categorized as Category B2 projects. Category B2 projects do not require an EIA. The categorization is in accordance with the guidelines issued by MoEF&CC in this regard from time to time. The stage of scoping requires formulation of comprehensive ToR so as to address all relevant environmental concerns for the preparation of EIA. Amongst other things, information furnished by applicant in Form 1 and Form 1A along with the proposed ToR forms the basis for preparation of ToR. Public consultation at the third stage is attracted in all Category A and Category B1 projects. Summary of EIA is prepared in the format given in Appendix IIIA on the basis of ToR furnished to the applicant. This stage involves the process by which concerns of local affected persons and others who have plausible stake in the environmental impact of the project or activity are ascertained with a view of taking into account all the material

submitted by applicant for the grant of EC. The appraisal is carried out in a transparent manner in a process to which PP is also invited for furnishing clarification in person or through an authorized representative. The scheme requires Regulatory Authority to examine documents strictly with reference to ToR and if there is any inadequacy to communicate to EAC or SEAC within 30 days of receipt of the documents; recommendations made by EAC or SEAC are then required to be considered by MoEF&CC or concerned SEIAA who are supposed to communicate their decision to PP within 45 days of receipt of the recommendations. Ordinarily Regulatory Authorities are supposed to accept recommendations of EAC or SEAC. In case of disagreement, Regulatory Authority is required to seek a reconsideration of recommendations by the concerned recommending body. Importance of provisions of EIA 2006 in reference to protection of environment has been stressed upon by Supreme Court in **para 56** of the report (**SCC**) as under:

*“The 2006 notification embodies the notion that the development agenda of the nation must be carried out in compliance with norms stipulated for the protection of the environment and its complexities. It serves as a balance between development and protection of the environment: there is no trade-off between the two. **The protection of the environment is an essential facet of development. It cannot be reduced to a technical formula.** The notification demonstrates an increasing awareness of the complexities of the environment and the heightened scrutiny required to ensure its continued sustenance, for today and for generations to come. It embodies a commitment to sustainable development. In laying down a detailed procedure for the grant of an EC, the 2006 notification attempts to bridge the perceived gap between the environment and development.”*

189. Court also observed that under EIA 2006, process of obtaining an EC commences from the production of information stipulated in Form

applicant is required to address during the course of preparation of EIA.

Relevant observations in para 60 of judgment are as under:

*“60. Under the 2006 Notification, the process of obtaining an EC commences from the production of the information stipulated in Form 1/Form 1A.*

*.....*

*.....*

*Some of the information sought is produced thus:*

**60.1. Construction, operation or decommissioning of the project involving actions, which will cause physical changes in the locality (topography, land use, changes in water bodies, etc.).**

**60.2. Use of natural resources** for construction or operation of the project (such as land, **water**, materials or energy, especially any resources which are non- renewable or in short supply).

**60.3. Use, storage, transport, handling or production of substances or materials, which could be harmful to human health or the environment or raise concerns about the actual or perceived risks to human health.**

**60.4 Production of solid wastes during construction, operation or decommissioning.**

**60.5. Release of pollutants or any hazardous, toxic or noxious substances to air.**

**60.6. Generation of noise and vibration, and emissions of light and heat.**

**60.7. Risks of contamination of land or water from releases of pollutants into the ground or into sewers, surface waters, groundwater, coastal waters or the sea.**

**60.8. Risk of accidents during construction or operation of the project, which could affect human health or the environment.**

**60.9. Environment sensitivity which includes, amongst other things, the furnishing of the following details:**

**60.9.1. Areas protected under international and national legislation.**

**60.9.33 Areas used by protected, important or sensitive species of flora or fauna.”**

*(Emphasis added)*

190. The importance of correctness and transparency of the information and that any false statement or concealment of the same would be fatal, was particularly stressed by Court in para 62 of judgment, observing:

**“62. The information provided in Form 1 serves as a base upon which the process stipulated under the 2006 notification rests. An applicant is required to provide all material information stipulated in the form to enable the authorities to formulate comprehensive ToR and enable persons concerned to provide comments and representations at the public consultation stage. The depth of information sought in Form 1 is to enable the authorities to evaluate all possible impacts of the proposed project and provide the applicant an opportunity to address these concerns in the subsequent study. Missing or misleading information in Form 1 significantly impedes the functioning of the authorities and the process stipulated under the notification. For this reason, any application made or EC granted on the basis of a defective Form 1 is liable to be rejected immediately. Clause (vi) of paragraph 8 of the notification provides thus:**

*“Deliberate concealment and/or submission of false or misleading information or data which is material to screening or scoping or appraisal or decision on the application shall make the application liable for rejection, and cancellation of prior environmental clearance granted on that basis. Rejection of an application or cancellation of a prior environmental clearance already granted, on such ground, shall be decided by the regulatory authority, after giving a personal hearing to the applicant, and following the principles of natural justice.”*

*(Emphasis added)*

191. Supreme Court also referred and approved two judgments of this Tribunal in **Save Mon Region Federation vs. Union of India, 2013 (1) All India NGT Reporter 1** and **Shreeranganathan K P vs. Union of India 2014 SCC online NGT 15** wherein, on the basis of information furnished in Form 1, the deficiencies in EIA Report, process of appraisal

**Lafarge Umiam Mining Private Limited vs. Union of India 2011 (7)**

**SCC 338** observing that it was the case under EIA 1994 when provisions of EIA 2006 were not applicable. Court said that decision was based on facts of that case, summarized by Court in **Hanuman Laxman Aroskar (supra)** in para 138 of judgment. It was also held that, relevant material, if has been excluded for consideration or extraneous circumstances were brought in mind, there was a failure to observe binding norms under EIA 2006 and consequential serious flaw in the decision-making process, would amount to an illegal exercise and failure of statutory duty, so as to vitiate EC. In para 157 of judgment, importance of the correct and complete disclosure of information by PP in his application, Form 1 and Form 1A, and further consideration by Competent Authority has been discussed, as under:

*“The 2006 Notification must hence be construed as a significant link in India’s quest to pursue the SDGs. Many of those goals, besides being accepted by the international community of which India is a part, constitute a basic expression of our own constitutional value system. Our interface with the norms which the international community has adopted in the sphere of environmental governance is hence as much a reflection of our own responsibility in a context which travels beyond our borders as much as it is a reflection of the aspirations of our own Constitution. **The fundamental principle which emerges from our interpretation of the 2006 Notification is that in the area of environmental governance, the means are as significant as the ends. The processes of decision are as crucial as the ultimate decision. The basic postulate of the 2006 Notification is that the path which is prescribed for disclosures, studies, gathering data, consultation and appraisal is designed in a manner that would secure decision making which is transparent, responsive and inclusive.**”*

(Emphasis Added)

192. Further, in para 158 of the judgment, in **Hanuman Laxman Aroskar (supra)**, Court observed:

*“Repeatedly, it has been urged on behalf of the State of Goa,*

*policy. The role of the decision-makers entrusted with authority over the EIA process is to ensure that every important facet of the environment is adequately studied and that the impact of the proposed activity is carefully assessed. **This assessment is integral to the project design because it is on that basis that a considered decision can be arrived at as to whether necessary steps to mitigate adverse consequences to the environment can be strengthened.***

(Emphasis Added)

193. Supreme Court ultimately held that report of EIA based on incomplete information supplied by PP is vitiated. In para 159, it is said:

*“In the present case, as our analysis has indicated, **there has been a failure of due process commencing from the non-disclosure of vital information by the project proponent in Form 1. Disclosures in Form 1 are the underpinning for the preparation of the ToR. The EIA report, based on incomplete information has suffered from deficiencies which have been noticed in the earlier part of this judgment including the failure to acknowledge that within the study area contemplated by the Guidance manual, there is a presence of ESZs.**”*

(Emphasis Added)

194. Manner in which application submitted for grant of EC has to be dealt with by SEIAA or MoEF, has been considered in ***Bengaluru Development Authority v. Sudhakar Hegde & Ors.; (2020) 15 SCC 63***. Supreme Court had an appeal arising from NGT’s judgment dated 08.02.2019, whereby EC granted to appellant (BDA) for development of an eight lane Peripheral Ring Road connecting Tumkur Road to Hosur Road, a length of 65 kilometers was quashed, on the ground that report was based on primary data collected more than three years prior to submission to SEIAA. Tribunal directed that PP will not proceed on the basis of EC, which was quashed. Three issues were raised before Supreme Court. For our purpose, relevant question is, “whether EIA 2006 was followed or not” In para 87 of judgment Court said that

**EIA report submitted by applicant for grant of an EC.** Court also said that upon completion of appraisal processes, SEAC makes “categorical recommendations” to SEIAA either for grant of a ‘Prior EC’ on stipulated terms and conditions or rejection of the application. **The recommendations made by the SEAC for the grant of EC, are normally accepted by the SEIAA and must be based on “reasons”.**”

(Emphasis Added)

195. Court further said that reasons furnished by SEAC must be assessed with reference to the norm that it is required to submit reasons for its recommendations. Court found that SEAC, in that case, analyzed the matter perfunctory and fails to disclose reasons upon which it made recommendation to SEIAA for grant of EC. It merely proceeds on the reply submitted by PP. In para 89 of judgment, Court said:

**“SEAC is under an obligation to record the specific reasons upon which it recommends the grant of an EC.** The requirement that the SEAC must record reasons, besides being mandatory under the 2006 Notification, is of significance for two reasons: (i) The SEAC makes a recommendation to the SEIAA in terms of the 2006 Notification. The regulatory authority has to consider the recommendation and convey its decision to the project proponent. The regulatory authority, as para 8(ii) of the 2006 Notification provides, shall normally accept the recommendations of the EAC. Thus, **the role of the SEAC in the grant of the EC for a proposed project is crucial;** and (ii) The grant of an EC is subject to an appeal before the NGT under Section 16 of the NGT Act 2010. **The reasons furnished by the SEAC constitute the link upon which the SEIAA either grants or rejects the EC.** The reasons form the material which will be considered by the NGT when it considers a challenge to the grant of an EC”.

(Emphasis added)

196. Approving judgment of this Tribunal in **Shreeranganathan K P v Union of India; (2014) SCC Online NGT 15**, Supreme Court said:

**“EAC had not conducted a proper appraisal given its failure to consider the available material and objections before it.** The EAC had thus failed to conduct a proper evaluation of the project prior to forwarding to the regulatory authority its recommendation”.

(Emphasis added)

**“SEAC, as an expert body, must speak in the manner of an expert. Its remit is to apply itself to every relevant aspect of the project bearing upon the environment and scrutinize the document submitted to it. The SEAC is duty bound to analyze the EIA report. ....The SEAC is not required to accept either the EIA report or any clarification sent to it by the project proponent. In the absence of cogent reasons by the SEAC for the recommendation of the grant of EC, the process by its very nature, together with the outcome, stands vitiated.”**

(Emphasis added)

198. Reiterating on importance of protection of environment, Supreme Court said:

**“protection of the environment is premised not only on the active role of Courts, but also on robust institutional frameworks within which every stakeholder complies with its duty to ensure sustainable development. A framework of environmental governance committed to the rule of law requires a regime which has effective, accountable and transparent institutions. Equally important is responsive, inclusive, participatory and representative decision making. Environmental governance is founded on the rule of law and emerges from the values of our Constitution. Where the health of the environment is key to preserving the right to life as a constitutionally recognized value under Article 21 of the Constitution, proper structures for environmental decision making find expression in the guarantee against arbitrary action and the affirmative duty of fair treatment under Article 14 of the Constitution. Sustainable development is premised not merely on the redressal of the failure of democratic institutions in the protection of the environment, but ensuring that such failures do not take place.”**

(Emphasis added)

199. We may now refer to the information furnished by PP in the application, Form 1; (page 2139). Some informations, relevant for our purpose, disclosed by PP, are:

“

APPENDIX 1  
(See Paragraph -6)  
FORM 1

(I) **Basic Information**

		Project of M/s Wonder Projects Development Pvt. Ltd.
2.	Sr. No. in the schedule	8(a) <b>Category B2-Building and Construction project</b>
3.	Proposed capacity/area/length/tonnage to be handled/command area/lease area/number of wells to be drilled	Total Plot area: 50,382.91 Sqm (12.45 Acres) <b>Total Built-up Area: 1,28,193.9 Sqm</b>
4.	New/ <b>Expansion/Modernization</b>	New Residential units
5.	Existing Capacity/Area etc.	Plot area:50,382,91 Sqm (12.45 Acres)
6.	Category of Projects i.e. 'A' or 'B'	<b>Category B-Building and Construction project for BUA area &gt;20,000 Sqm &lt; 1, 50,000 Sqm.</b>
9.	Location	Sy. Nos. <b>61/2, 62, 63/2</b> of Kasavanahalli Village, Varthur Hobli, Bengaluru East Taluk, Bengaluru. <u>Geological Coordinates</u> Latitude : 12°54'38.21"N Longitude: 77°40'08.52"E
22.	Forest land involved (hectares)	No forest land is involved

**(II) Activity**

1. Construction, operation or decommissioning of the Project involving actions, which will cause physical changes in the locality (**topography, land use, changes in water bodies, etc.**)

Sl. No.	Information/checklist confirmation	Yes /No	Details thereof (with approximate quantities/rates, wherever possible) with source of information on data
1.1	Permanent or temporary change in land use, land cover or topography including increase in intensity of land use (with respect to local land use plan)	Yes	The proposed project is being developed on a plot of land measuring about 50,382.91 Sqm. Presently the land is vacant & the proponent proposes to develop residential apartment. <b>The contour plan has been enclosed as Drawings along with the EMP report.</b>
1.2	Clearance of existing land, vegetation and buildings?	Yes	The proposed project site/land doesn't require any extensive clearance of vegetation. The existing trees will be retained in green belt development plan within the project site.
1.5	Construction works?	Yes	<b>As per conceptual plan only.</b>
1.7	Temporary sites used for construction works or Housing of construction workers?	Yes	Temporary sheds will be provided for storing of construction materials.

1.8	Above ground buildings, structures or Earthworks including linear structures, cut and fill or excavations.	Yes	Excavation work will be carried out for foundation of buildings and basements. The total <b>excavated quantity of earth will be approx. 50,000 m<sup>3</sup> for phase 1 and 85,000 m<sup>3</sup> for phase 2.</b>
1.14	Facilities for storage of goods or materials?	Yes	During construction phase the <b>construction materials</b> will be stored in the <b>temporary sheds within the site.</b>  During operation phase, <b>DG lube oil will be stored in a designated place</b> and the <b>diesel will be stored in a leak proof tank.</b> Waste oil from DG sets will be stored in leak proof containers on impervious floors in a <b>designated place within the site premises.</b>
1.21	Impoundment, damming, culverting, realignment or other changes to the hydrology of watercourses or aquifers?	No	<b>No such proposals</b> of impoundment, damming, culverting, realignment or <b>other changes to the hydrology of watercourses</b> or aquifers shall be done at the project site.
1.22	Stream crossings?	Yes	A primary nala connecting to Kaikodrahalli lake is crossing across the project site. 50 m buffer on both side are provided as per the NGT specifications.
1.23	Abstraction or transfers of water from	No	Construction phase: <b>Tertiary treated water will be used</b> for curing and dust suppression during construction phase. Concreting and Domestic <b>water requirements during construction shall be met by external authorized supplier.</b>  <b>Operation phase:</b> Water requirements will be met by BWSSB & <b>treated water from STP of capacity 210 KLD and 280 KLD.</b>
1.24	<b>Changes in water bodies or the land surface affecting drainage or run-off?</b>	Yes	<b>Runoff will increase due to increased paved surface.</b> Hence the runoff from the project site will be recharged to ground water aquifer by implementing well designed Rain water harvesting system.

<b>Sl. No.</b>	<b>Information/checklist confirmation</b>	<b>Yes/ No</b>	<b>Details thereof (with approximate quantities/rates, wherever possible) with source of information on data</b>
2.1	Water (expected source & competing users) unit KLD	Yes	<b>Construction phase:</b> Approx: <b>150 KLD</b> Source: <b>Tanker/Treated water.</b>

4. Production of solid wastes during construction or operation or decommissioning (MT/month)

<b>Sl. No.</b>	<b>Information/ checklist confirmation</b>	<b>Yes/ No</b>	<b>Details thereof (with approximate quantities/rates, wherever possible) with source of information on data</b>
4.1	Soil, overburden or mine wastes	No	<b>Excavated earth will be reused for backfilling and landscape development.</b>
4.7	Construction or demolition wastes	Yes	Construction waste such as excavated Earth (soil & rock); 50,000 cum and 80,000 Cum generated for block 1 and block 2 out of which 14,900 Cum and 20,000 Cum will be used within the project site for backfilling for block 1 and block 2 respectively. Non-recyclable waste such as concrete waste, etc. will be used for road construction and all the recyclable wastes such as steel, other metal scrap, etc. will be sold to recyclers/scrap dealers.

(III) Environmental Sensitivity

<b>Sl. No.</b>	<b>Information/checklist confirmation</b>	<b>Yes/ No</b>	<b>Details thereof (with approximate quantities/rates, wherever possible) with source of information on data</b>
1	Areas protected under international conventions, national or local legislation for their ecological, landscape, cultural or other related value.	No	<b>Not applicable</b>

	<i>water bodies, coastal zone, biospheres, mountains, forests.</i>		<i>Lake" at a distance of 0.800KM</i>
3	<i>Areas used by protected, important or sensitive species of flora or fauna for breeding, nesting, foraging, resting, over wintering, migration.</i>	No	<i>Not applicable</i>

200. Several information given, we find are either incorrect or incomplete and some information not given. However, we propose to deal his aspect in detail, after referring to documents of other authorities.

**Development Plan:**

201. The application submitted by PP for sanction of Development Plan in not on record. A copy of the map/DP is part of record on page 270 filed as annexure R-3 with reply of respondent-11 and 12. It was approved by BDA vide Resolution dated 09.11.2017. Residential Development Plan Work Order was issued on 07.03.2018. It shows total site area 51698.16 square meters, kharab area 1315.21 square meters and site area for development 50382.95 square meters. Gross built up area shown was 169000 square meters. Further details of area, as per Zoning Regulation and Plan, are as under:

<b>Sl. No.</b>	<b>Particulars</b>	<b>As per Zoning Regulation</b>	<b>As per Plan</b>
1.	Park and Open Space	5038.29 square meters (10.00%)	5093.87 square meters (10.11%)
2.	Civic Amenities	2519.14 square meters (5%)	2540.66 square meters (5.04%)
3.	Site area (area considered for FAR)	—	<b>47842.29 square meters</b> (the area considered for <b>FAR</b> is site area for development-area for civic amenities)
4.	Coverage	50%	<u>10842.17</u> 47842.29=22.66% < 50.00%

Sanghi Transportation Route as shown in EIA ANNEXURE - C



LEGEND

-  Sanghi Transportation Route
-  L&T Boundary

SUVALI -1.8 km from Sanghi

SHIVRAMPUR -1.3 km from Sanghi

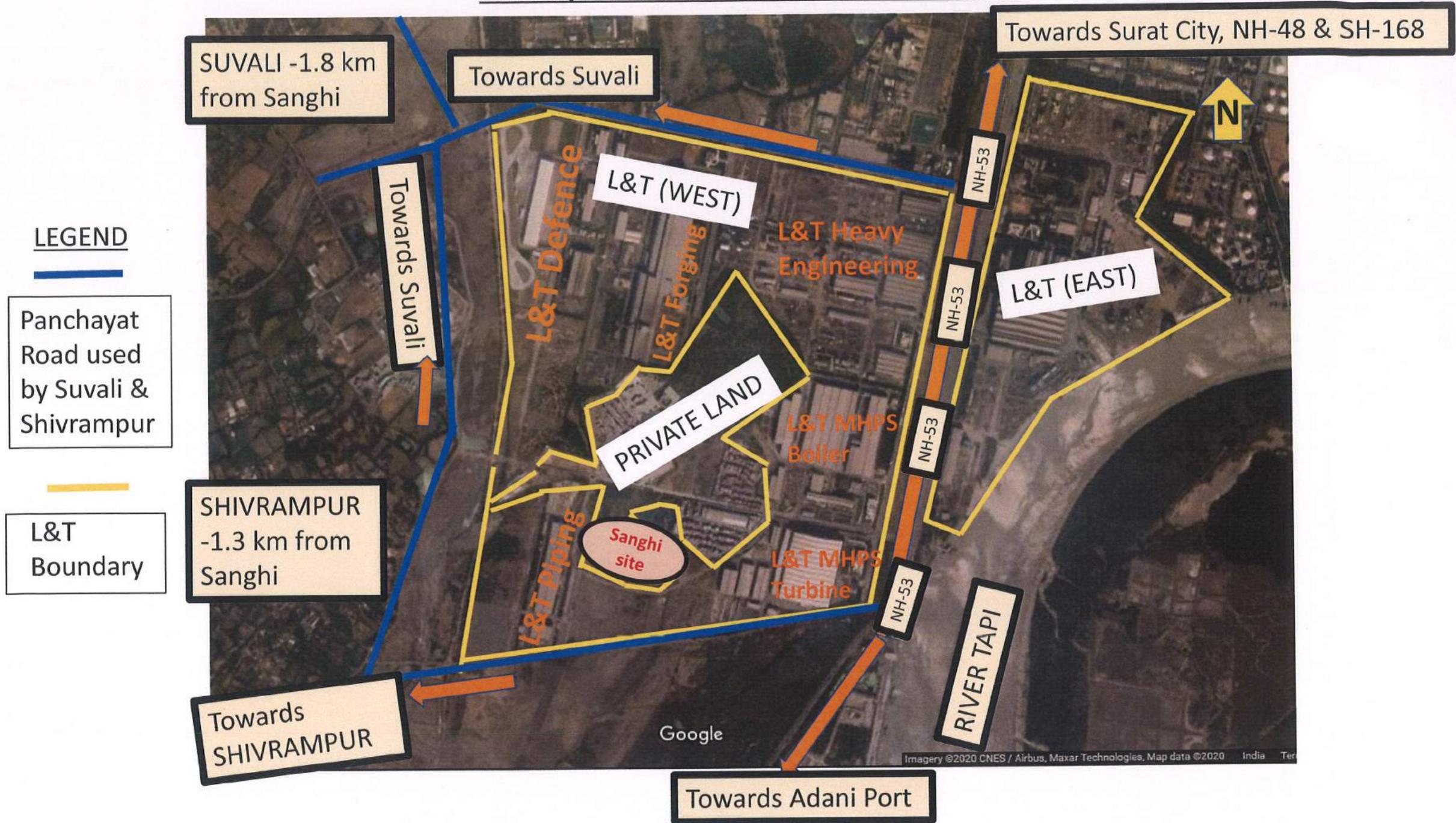
Towards Surat City, NH-48 & SH-168

Towards Adani Port

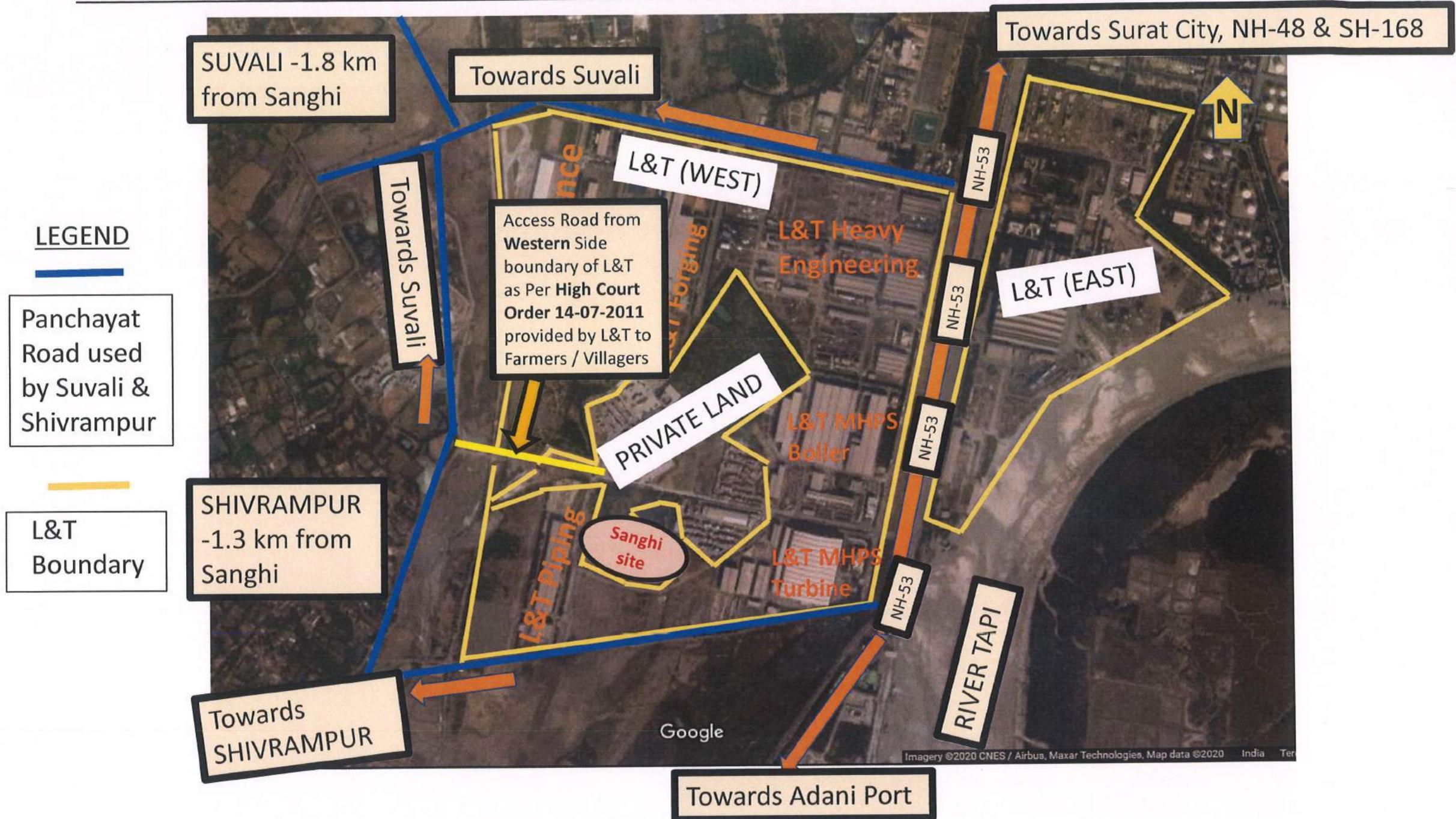
### L&T Transportation Route



### Panchayat Road used by Suvali & Shivrampur



**Access Road Given by L&T To Farmers / Villagers As Per High Court Order 14-07-2011 under SCA 10850 of 2009**



ANNEXURE-D

# National Industrial Classification

(ALL ECONOMIC ACTIVITIES)

2008



सत्यमेव जयते

CENTRAL STATISTICAL ORGANISATION  
Ministry of Statistics and Programme Implementation  
Government of India, New Delhi  
Website: [www.mospi.nic.in](http://www.mospi.nic.in)

# **National Industrial Classification**

**[All Economic Activities)**

## **2008**

**Central Statistical Organisation  
Ministry of Statistics and  
Programme Implementation  
Government of India  
New Delhi  
India**

Group	Class	Sub-class	Description
239			<b>Manufacture of non-metallic mineral products n.e.c.</b>
	2391		<b>Manufacture of refractory products</b>
		23911	Manufacture of refractory mortars, concretes etc.
		23912	Manufacture of refractory bricks, blocks tiles and similar refractory ceramic constructional goods
		23913	Manufacture of refractory ceramic products
		23919	Manufacture of other refractory articles n.e.c.
	2392		<b>Manufacture of clay building materials</b>
			This class excludes:
			- manufacture of artificial stone (e.g. cultured marble), see 2220
			- manufacture of refractory ceramic products, see 2391
		23921	Manufacture of bricks
		23922	Manufacture of non-refractory ceramic sanitary wares: sinks, baths, water-closet pans, flushing cistern etc.
		23923	Manufacture of non-refractory ceramic pipes, conduits, guttering and pipe fittings
		23929	Manufacture of other clay building materials
	2393		<b>Manufacture of other porcelain and ceramic products</b>
			This class excludes:
			- manufacture of artificial stone (e.g. cultured marble), see 2220
			- manufacture of refractory ceramic goods, see 2391
			- manufacture of ceramic building materials, see 2392
			- manufacture of ceramic sanitary fixtures, see 2392
			- manufacture of imitation jewellery, see 3212
			- manufacture of ceramic toys, see 3240
			- manufacture of artificial teeth, see 3250
		23931	Manufacture of articles of porcelain or china, earthenware, imitation porcelain or common pottery, including earthen statues
		23932	Manufacture of ceramic tableware and other domestic or toilet articles
		23933	Manufacture of statuettes and other ornamental ceramic articles
		23934	Manufacture of electrical insulators and insulating fittings of ceramics
		23935	Manufacture of ceramic laboratory, chemical and industrial products
		23939	Manufacture of ceramic products n.e.c.
	2394		<b>Manufacture of cement, lime and plaster</b>
			This class excludes:
			- manufacture of refractory mortars, concrete etc., see 2391
			- manufacture of articles of cement, see 2395
			- manufacture of articles of plaster, see 2395
			- manufacture of ready-mixed and dry-mix concrete and mortars, see 2395
			- manufacture of cements used in dentistry, see 3250
		23941	Manufacture of clinkers and cement
		23942	Manufacture of portland cement, aluminous cement, slag cement and similar hydraulic cement
		23943	Manufacture of asbestos cement

Group	Class	Sub-class	Description
		23944	Manufacture of quicklime, slaked lime and hydraulic lime (excluding chewing lime)
		23945	Manufacture of plasters of calcined gypsum or calcined sulphate
		23949	Manufacture of other cement and plaster n.e.c.
	2395		<b>Manufacture of articles of concrete, cement and plaster</b> This class excludes: - manufacture of refractory cements and mortars, see 2391
		23951	Manufacture of plaster statues and other plaster products
		23952	Manufacture of articles articles of concrete, cement or artificial stone (tiles, bricks etc.)
		23953	Manufacture of asbestos sheets
		23954	Manufacture of R.C.C. bricks and blocks
		23955	Manufacture of hume pipes and other pre-fabricated structural components of cement and/or concrete for building or civil engineering
		23956	Manufacture of insulation boards of vegetable fibre, straw or wood waste, agglomerated with cement & other mineral binders.
		23959	Manufacture of other cement and asbestos cement products n.e.c.
	2396		<b>Cutting, shaping and finishing of stone</b> This class includes cutting, shaping and finishing of stone for use in construction, in cemeteries, on roads, as roofing etc. This class excludes: - production of rough cut stone, i.e. quarrying activities, see 0810 - production of millstones, abrasive stones and similar products, see 2399 - activities of sculptors, see 9000
		23960	Cutting, shaping and finishing of stone
	2399		<b>Manufacture of other non-metallic mineral products n.e.c.</b> This class excludes: - manufacture of glass wool and non-woven glass wool products, see 2310
		23991	Manufacture of worked mica and mica products
		23992	Manufacture of gypsum boards
		23993	Manufacture of millstones, sharpening or polishing stones and natural or artificial abrasive products, including abrasive powder or grain on a base of textile material, paper, paper board or other material
		23994	Manufacture of graphite products other than electrical articles
		23999	Manufacture of other non-metallic mineral products n.e.c. (includes asbestos yarn and fabric, and articles of asbestos yarn and fabric such as clothing, headgear, footwear, cord, string, paper o felt; friction material with a basis of asbestos or other mineral substances or of cellulose including unmounted articles such as friction material; mineral insulating material (slag wool, rockwool and similar mineral wools, exfoliated vermiculite, expanded clays and similar insulating material); products of glass wool for heat-insulating; articles of asphalt or of similar material (e.g. coal tar pitch), gypsum and articles of other mineral substances)
<b>DIVISION 24 : MANUFACTURE OF BASIC METALS</b>			
241			<b>Manufacture of basic iron and steel</b>
	2410		<b>Manufacture of basic iron and steel</b> This class excludes:

Group	Class	Sub-class	Description
		38300	<ul style="list-style-type: none"> <li>- treatment and disposal of transition radioactive waste from hospitals etc., see 3822</li> <li>- treatment and disposal of toxic, contaminated waste, see 3822</li> <li>- dismantling of automobiles, computers, televisions and other equipment to obtain and re-sell usable parts, see section G</li> <li>- wholesale of recoverable materials, see 4669</li> </ul> Materials recovery
<b>DIVISION 39: REMEDIATION ACTIVITIES AND OTHER WASTE MANAGEMENT SERVICES</b>			
390	3900		<b>Remediation activities and other waste management services</b> <b>Remediation activities and other waste management services</b> This includes cleanup of contaminated buildings and sites, soil, surface or ground water and other specialized pollution-control activities This class excludes: <ul style="list-style-type: none"> <li>- treatment and disposal of non-hazardous waste, see 3821</li> <li>- treatment and disposal of hazardous waste, see 3822</li> <li>- outdoor sweeping and watering of streets etc., see 8129</li> </ul>
		39000	Remediation activities and other waste management services
<b>SECTION F : CONSTRUCTION</b>			
<b>DIVISION 41 : CONSTRUCTION OF BUILDINGS</b>			
410	4100		<b>Construction of buildings</b> <b>Construction of buildings</b> This class excludes: <ul style="list-style-type: none"> <li>- erection of complete prefabricated constructions from self-manufactured parts not of concrete, see divisions 16 and 25</li> <li>- construction of industrial facilities, except buildings, see 4290</li> <li>- architectural and engineering activities, see 7110</li> <li>- project management activities related to construction, see 7110</li> </ul>
		41001	Construction of buildings carried out on own-account basis or on a fee or contract basis
		41002	Activities relating to alteration, addition, repair, maintenance carried out on own-account basis or on a fee or contract basis
		41003	Assembly and erection of prefabricated constructions on the site
<b>DIVISION 42 : CIVIL ENGINEERING</b>			
421	4210		<b>Construction roads and railways</b> <b>Construction roads and railways</b> This class excludes: <ul style="list-style-type: none"> <li>- installation of street lighting and electrical signals, see 4321</li> <li>- architectural and engineering activities, see 7110</li> <li>- project management activities related to civil engineering works, see 7110</li> </ul>
		42101	Construction and maintenance of motorways, streets, roads, other vehicular and pedestrian ways, highways, bridges, tunnels and subways
		42102	Construction and maintenance of railways and rail-bridges