



# SHREE ULKA LLP

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To,  
Consultant (Judicial)  
National Green Tribunal (PB)  
New Delhi

Date 10 March 2023

**Sub: In response to the Compliance of NGT Order dated 02.12.2022 in Original Application No. 285/2022**

**Reference: Letter No. NGT (PB)/Judicial-1/OA 285-2022/2092**

Respected Sir/Ma'am,

With respect to the details mentioned in the reference above we would like submit the response as follows

- Response to the points observed by the Department of factories and Boilers
- Compliance report of the CFO
- Compliance report to the points suggested by the NGT Committee.

Thank you

Yours Faithfully,

Raju Rohakale  
Managing Partner  
Shree Ulka LLP



Copy to: Regional Office  
The Environmental Officer,  
Parisara Bhavana, 10B, Baikampady Industrial Area,  
Mangalore - 575011



Ld. R. G.  
16-03-2023  
169/23/Envl. Com. (P)  
17/03/23

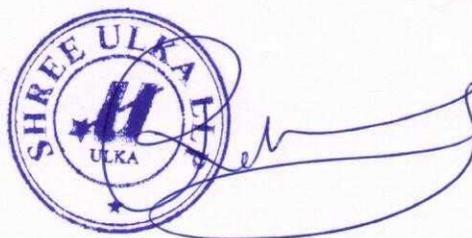
OA 285/2022  
R. Rohakale

17/3  
Mr. Manoj

**Response Submitted to the Department of Factory and Boilers to the probable cause of Incidence as per the Investigation Officer is as follows:**

It is submitted that deceased workers Mirajul Islam, Nijamuddin Sahaji, Sarafat Ali, Md Samiul Islam and injured workers Md. Karibulla, Azan Ali, and Hapjul Mallik were contract workers employed under contractor Late Omor Faruk, who was one of the deceased person of the accident. These workers were working under contractor Omor Faruk and were responsible for raw material (Chilled fish boxes) unloading, loading of the fish waste boxes in waste carrying vehicle and cleaning of their respective sections. The factory was not in operations at the time of accident. It is true that instructions were given to contractor Omor Faruk for the cleaning of the waste fish loading area premises and collection tank. The premises cleaning is instructed to be done manually using wipers and Jet pumps whereas collection tanks are instructed to be cleaned through sludge pumps. The tank was located beside the waste fish loading dock.

They were asked to empty the tank through pumps and separate the solid waste with the help of the mechanical rotary screens. The solid waste is supposed to be collected in waste boxes and loaded in waste carrying trucks. They started to empty the tanks through sludge pumps and in order to escalate the pumping process the contractor instructed one of his worker, Md Samiul Islam to get down in the tank through the safety ladder and push further the sludge so that the work would get completed faster. He fainted while working and fell in the tank. Omor Faruk went for his rescue through the safety ladder placed the tanks however fainted himself and fell in the tank. For their rescue other workers went and in the struggles they in turn fainted and fell in tank. One of the contract worker with the help of safety belts rescues all of them and they were rushed the A.J. Hospital for immediate treatment.



- 2. Omor Faruk and his contract worker had complete knowledge of working and cleaning of tanks , but due to their negligence and haste they increased the risk involved in carrying out the task and were liable for dangerous consequences. It is denied that Omor Faruk and his contract workers not provided for information, instruction and training which are necessary to ensure safety of the workers at work. Hence we do not admit that the occupier and the manager have contravened the provision of Section 7A2(c) of the factories act 1948.
- 3. All the places of work in factory are in safe and risk free conditions. All the necessary places are equipped with safety gears such as metal guards on motors, machinery, safety ladders, safety equipment, fire extinguishers at their respective designated area. Hence we do not admit that the occupier and manager have contravened the provisions of Section 7A 2(d) of the factory act 1948
- 4. The working environment is safe and without any risk to health. All the necessary places are equipped with safety gears such as metal guards on motors, machinery, safety ladders, safety equipment, fire extinguishers at their respective designated area and constant supervision is employed for continuous monitoring of the assigned work. Therefore, we do not admit that the occupier and manager have contravened the provisions of Section 7A 2(e) of the factory act 1948
- 5. We had already given specific instructions to the incharge of that section to periodically clean the tank and maintain the permissible level of effluent in the tank to prevent the formation of gases. Therefore, we do not admit that the manager and occupier has contravened the provisions of sub rule 2 of the Rule 131 A of the Karnataka Factories Rules 1969
- 6. A certificate of fitness is granted to Md Samiul Islam and upon the verification of the same he was employed to do menial (low skilled) jobs in that section. As the manager was arrested the fitness certificate could not be produced at the time of investigation. The copy of fitness certificate



granted to him has been enclosed for your kind reference. Hence, we do not admit that the Occupier or the manager has contravened with the section 69 of the factories act 1948

7. The Notice of Period of work for Adult workers in Form 10 is displayed in the entrance of factory for the convenience of the workers, the supporting pictures enclosed for your reference. Therefore, we do not admit the occupier and the manager has contravened Section 61(1) of the factory act 1948, read with the Rule 111 of the Karnataka Factories Rules 1969
8. The register of adult worker maintained in Form 11 was in custody of the manager and contractor. As the contractor is one of the deceased in the accident and manager was in Police custody on 18<sup>th</sup>, 19<sup>th</sup> and 20<sup>th</sup>, so, register of the adult workers was not made available to you on demand during the course of inspection. The same was submitted to your good office with other set of documents on 6<sup>th</sup> May. Therefore, we do not admit manager has contravened Section 62 (1) of the Factories Act 1948
9. The register of leave was maintained by the manager. As the manager was in Police custody on 18<sup>th</sup>, 19<sup>th</sup> and 20<sup>th</sup>, so, the register of the leave was not made available to you on demand during the course of inspection. Hence, we do not admit manager has contravened Rule 119 & 120 of the Karnataka Factories Rules 1969.
10. The register of Accidents & dangerous occurrence maintained in Form 23 was in custody of the manager and as the manager was in Police custody on 18<sup>th</sup>, 19<sup>th</sup> and 20<sup>th</sup>, register of Accidents & dangerous occurrence was not made available to you on demand during the course of inspection. The same was submitted to your good office with other set of documents on 6<sup>th</sup> May. Therefore, we do not admit manager has contravened Rule 138 of the Karnataka Factories Rules 1969.
11. It is denied that the occupier and the manager has contravened the provisions of Section 51 of the Factories Act 1948 as management has not



engaged its worker in overtime work, for a period exceeding the prescribed weekly hours.

- ✚ 12. It is denied that the occupier and the manager has contravened the provisions of Section 54 of the Factories Act 1948 as management has not engaged its worker in overtime work, for a period exceeding the prescribed weekly hours.
- ✚ 13. The collection tanks are underground tanks and are free of FSI. Moreover we had declared the outside factory premises but it was not included and partial drawing of our factory was approved. Hence the occupier and manager have not contravened the provision of Rule 3(1) of the Karnataka Factories Rules 1969.

We admit that form no 17 was not submitted to the office within the stipulated time as per law as all the managerial staff was taken into police custody since the day of the accident hence there was delay in submitting form no. 17 to the department of factories and Boilers.

- ✚ 14. We admit that information was not provided to the inspector within the prescribed time as all the managerial staff was taken into police custody since the day of the accident hence there was delay in submitting information sought to the concerned inspector.
- ✚ 15. The annual returns for the year ending 2021 is being submitted to the department of factories and Boilers.



**COMPLIANCE REPORT**

A.	<b>TREATMENT AND DISPOSAL OF EFFLUENTS UNDER THE WATER ACT:</b>	
1	The discharge from the premises of the occupier shall pass through the terminal manhole/manholes where from the Board shall be free to collect samples in accordance with the provisions of the Act/Rules made there under	Yes, provisions are made accordingly.
2(a)	The sewage/domestic effluent shall be treated in septic tank and with soak pit. No overflow from the soak pit is allowed. The septic tank and soak pit shall be for IS 2470 part-1 & part-2.	Yes, in compliance to the mentioned.
2(b)	The treated sewage effluent discharge shall conform to the standards specific in Annexure-1.	We agree that the discharge will be in conformity to the standards in Annexure 1
3(a)	The trade effluent generated in the industry shall be treated in the ETP and treated effluent shall confirm to the standards stipulated by the Board in Annexure-1.	We agree that the treated effluent will be in conformity to the standards in Annexure 1
3(b)	The trade effluent shall be handed over to CETP and maintain logbook of effluent generated & sent every day.	We are in agreement regarding the maintenance of the log book.
4	The occupier shall install flow measuring /recording devices to record the discharge quantity and maintain the record	Ultrasonic / Electromagnetic Flow meter installed for recording quantity.
5	The occupier shall not change or alter either the quality or the quantity or the place of discharge or temperature or the point of discharge without the previous consent/ permissions of the Board.	We Agree not to make any changes without board approval.
6	The Occupier shall not allow discharge from the other premises to mix with the discharge from his premises. Storm water shall not be allowed to mix with the effluents on the upstream of the terminal manhole where the measuring devices are installed.	Yes, necessary arrangements shall be made to avoid the said instances.
B.	<b>EMISSIONS:</b>	
1	The discharge of emissions from the premises of the applicant shall through the air pollution control equipment and discharged through stacks/chimney mentioned in Annexure-2 where from the Board shall be free to the samples of the Act and rules made there under.	Yes, provisions are made accordingly.
2	The occupier shall provide port holes for sampling of emission, access platforms for carrying out stack sampling, electrical points and other necessary arrangements including ladder as indicated in Annexure-2	Yes, provisions are made accordingly.
3	The occupier shall upgrade/modify/replace the control equipment with prior permission of the Board.	We agree to the needful.
C.	<b>MONITORING &amp; REPORTING:</b>	
1	The occupier shall get the samples of effluents & emissions collected and get them analysed once a month/ indicated in Annexure for the parameters.	We agree to the needful.



<b>D.</b>	<b>SOLID WASTE (OTHER THAN HAZARDOUS WASTE) DISPOSAL:</b>	
<b>1</b>	The Occupier shall segregate solid waste from Hazardous Waste, Municipal Solid Waste and store it properly till treatment/disposal without causing pollution to the surrounding Environment.	We agree to the needful.
<b>2</b>	The solid waste generated shall be handled & disposed by scientific method without causing eye sore to the general public and to the surrounding environment.	We agree to the needful.
<b>E</b>	<b>NOISE POLLUTION CONTROL:</b>	
<b>1</b>	The industry shall ensure that the ambient noise levels within its premises shall not exceed the limits i.e 75 dB(A) Leq during day time and 70 dB(A) Leq during night time as specified in the Environment (Protection) Rules.	We agree to the needful.
<b>F</b>	<b>GENERAL CONDITIONS:</b>	
<b>1</b>	The Board reserves the right to review, impose additional conditions, revoke, change or alter terms and conditions of this consent.	We are in agreement
<b>2</b>	The Occupier shall forthwith keep the Board informed of any accidental discharge of emissions/effluents into the atmosphere in excess of the standards laid down by the Board. The applicant shall also take corrective steps to mitigate the impact.	We agree to keep the Board informed in case of any such instance and shall immediately take necessary corrective steps to mitigate the impact.
<b>3</b>	The Occupier shall provide alternative power supply sufficient to operate all Pollution control equipments.	Yes, provisions are made accordingly.
<b>4</b>	The entire premises shall always be kept clean. The effluent holding area, inspection chambers, outlets, flow measuring points should made easily approachable.	We agree to the needful.
<b>5</b>	The Occupier shall display the consent granted in a prominent place for perusal of the inspecting officers of the Board.	We agree to the needful.
<b>6</b>	The Occupier his heirs, legal representatives or assigns shall have no claims what so ever to the continuation or renewal of this consent after expiry of the validity of consent.	We are in agreement
<b>7</b>	The Occupier shall make an application for consent at least 45 days before expiry of this consent.	We agree to the needful.
<b>8</b>	The occupier shall maintain register recording the ambient air quality and stack monitoring. The register shall be open for inspection by the Board Officers at all time.	Yes, we will make the required provisions



**Status of Payment of Compensation:**

A full and final compensation has been paid to the legal heirs of the deceased workers. The details of the transfer is attached for your kind reference.

**Regarding Environmental Safety**

We have taken corrective measures to close the tank with RCC top cover and the tank cleaning is conducted in mechanised manner using Vacuum pumps. We have also appointed a Safety Officer who ensures that all the operations in the factories are conducted in risk free, without health hazard and in the safest manner possible.

**Regarding the measures suggested for preventing such occurrence in future:**

- ✦ We hereby confirm that we shall send online effluents directly to CETP after Pre- treatment as per the CFO conditions issued by KSPCB, We shall not hold the effluent in tank for longer periods.
- ✦ The cleaning and maintenance shall be undertaken under the supervision of trained technical manpower and the on duty Safety Officer.
- ✦ Personal protective equipment's (PPEs) is provided to all the workers with periodic training of its application and usage. It shall be certainly insisted while at work.
- ✦ Periodic Training is provided by the Safety Officer to all the workers regarding environmental health and Safety.
- ✦ We hereby confirm that all the provisions outlined in the Factory Act, 1948 shall be duly followed.
- ✦ We have signed an contract with Ambulance service provider to arrange ambulance at the time of emergency and made provisions of adequate First Aid at the Security cabin and appointed Safety officer is a certified First Aider.



- ✚ CCTV maintenance has been conducted of the ETP area and is under constant monitoring while flowmeter is available at discharge points to CETP.
- ✚ We have appointed qualified Environmental engineer to look after the Environmental aspects in the premises
- ✚ We certainly conduct assessment of the operation and maintenance of the ETP and risk assessment report is prepared by the Safety Officer. Workers are not be allowed to commence the maintenance without necessary safety precautions as recommended in the risk assessment report.
- ✚ Our environmental engineer monitors the concentration of hazardous gases present in the ETP tanks
- ✚ Our Safety officer makes sure that appropriate measures are taken before commencement of maintenance and is carried out in his presence.
- ✚ We have mechanised facility such as vacuum pumps and rotary screens for the cleaning activity in factory and treatment unit
- ✚ We have applied for the NOC from Fire and Emergency Service and in under process and we have signed a MOU with Mangalore Special Economic Zone to provide emergency services from their Fire station at times of crisis.

