

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
APPEAL NO. 20/2022/EZ



In The Matter of:
Anshul Snacks & Beverages Pvt. Ltd.

... Applicant

Versus

Bihar State Pollution Control Board
& Ors.

... Respondents

REJOINDER ON BEHALF OF THE APPELLANT

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Sibojyoti Chakrabarti

Filed by

SIBOJYOTI CHAKRABARTI

Advocate

For The Appellant

Email: subho.advocate@gmail.com

(M): 9007035534



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REJOINDER ON BEHALF OF THE APPELLANT

I, Sri Vikash Modi, S/o Late Prahalad Modi, aged about 46 years, by faith-Hindu and working for gain as the Director of M/s Anshul Snacks & Beverages Private Limited and residing at Flat No.902, Tower-3, Urbana, 783, Anandapur, P.S- Anandapur, Kolkata: 700107, do hereby solemnly affirm and submit as follows:

1. That at the outset it is submitted that the Environmental Compensation as has been calculated does not contain the break up and detailed calculation. That it is a settled principle of law that financial implications require to have a justification and/or break up but the same has not been given by the Bihar Pollution Control Board in computing the environmental compensation of the appellant and as such, such an action on their part is not maintainable and sustainable in law.

2. That the appellant had applied for 'Consent to Operate' with the Bihar State Pollution Control Board but the same was refused on the ground that the appellant unit could not produce permission from the Central Ground Water Authority.
3. But it is pertinent to mention at this juncture that the appellant unit had sought for requisite permission from the Central Ground Water Authority but the same was not granted vide email dated 11.02.2020 interalia stating that the unit falls within OCS (Over Exploited/Critical/Semi Critical) area as per Ground Water Resource Estimation 2013, however no inspection or hearing to the said effect was ever given by the Central Ground Water Authority, in complete violation of the principles of Natural Justice.

However though the same was refused but on 18.03.2024 the permission was granted by the Central Ground Water Authority on the same location guidelines without any alteration and/or conditions as such it is clear that the same was refused on the basis of a misconception and hence the same was a mistake on the part of the Central Ground Water Authority.

It is stated that such a misconception cannot be made a ground for the appellants to suffer for no fault on their part.

Copy of the Email dated 11.02.2020 sent by the Central Ground Water Authority and the permission granted by the Central Ground Water Authority are collectively annexed herewith and marked with the letter 'P-1'.

4. That this Rejoinder affidavit is being filed by the deponent in compliance to the Solemn Order dated 31.01.2024, passed by this Hon'ble Tribunal.



5. That with regard to the statements made in paragraphs 1 to 3, of the counter affidavit filed by the respondent number 1, this deponent does not comment on the same as those are matters of fact and record.
6. That with regard to the statements made in paragraphs 4 (i), of the counter affidavit filed by the respondent number 1, this deponent states the same is matter of record.
7. That with regard to the statements made in paragraphs 4 (ii), of the counter affidavit filed by the respondent number 1, this deponent states that the Appellant has also applied for 'Consent to Establish', before the Bihar State Pollution Control Board again along with all requisite documents and the said application has not been disposed off by the State Board till date.

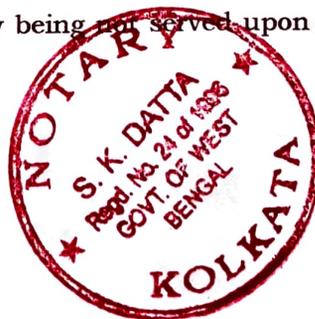
That vide letter dated 18.03.2023 the Appellants have also requested the State Board to grant 'Consent to Establish' to the Appellant subsequent to which the appellant may apply for 'Consent to Operate'.

Photocopy of the Application for Renewal of 'Consent to Establish' along with Payment receipts are collectively annexed herewith and marked with letter 'P-2'.

8. That with regard to the statements made in paragraphs 4 (iii), of the counter affidavit filed by the respondent number 1, this deponent denies and disputes in as much as only trial run has been done and that too after informing the State Board vide letter dated 18.03.2023 and that has been received by the State Board.
9. That with regard to the statements made in paragraphs 4 (iv) to (vi), of the counter affidavit filed by the respondent number 1, this deponent does not comment on the same being matters of record.



10. That with regard to the statements made in paragraphs 4 (vii), of the counter affidavit filed by the respondent number 1, this deponent states that the impugned notice issued by the State Board was received by the deponent on a later date and at that time the Appellant was busy with various commitments interalia including applying for bail, paying compensation in the account of the Deputy Commissioner of Labourers Cum Workmens Compensation Commissioner, of Rs 28,00,000/- (Rupees Twenty Eight Lakhs) as Muzzafurpur vide Demand Draft Number 508443 dated 04.02.2022 drawn on ICICI Bank and also Rs 5,14,513/- (Rupees Five Lakhs Fourteen Thousand Five Hundred and Thirteen) in the account of the Deputy Commissioner of Labourers Cum Workmens Compensation Commissioner.
11. That with regard to the statements made in paragraphs 4 (viii), of the counter affidavit filed by the respondent number 1, this deponent states that vide letter dated 11.03.2022 the Learned Advocate on behalf of the appellant interalia requested the State Board 15 (Fifteen) days time to verify the calculation of the Environmental Compensation of Rs 39, 25,000/- (Rupees Thirty Nine Lakhs and Twenty Five Thousand), and for which the break up of the calculation is absolutely necessary.
12. That with regard to the statements made in paragraphs 4 (ix) to (xiv), of the counter affidavit filed by the respondent number 1, this deponent states the same are matters of fact and record, but in as much as the aspect of copy being served upon the State Board is denied and disputed.



13. That with regard to the statements made in paragraphs 5, of the counter affidavit filed by the respondent number 1, this deponent states that vide letter dated 11.03.2022 has categorically stated that some time may be given to the appellant to verify the calculation of Environmental Compensation which itself crystallizes that the calculation made by the State Board.
14. That with regard to the statements made in paragraphs 6, of the counter affidavit filed by the respondent number 1, this deponent denies and disputes the same in as much as the Order was never made by consulting the appellant and after considering the appellant's views and financial circumstances and hence the same is not on the consent of the parties.
15. That with regard to the statements made in paragraphs 7, of the counter affidavit filed by the respondent number 1, this deponent states that the instant appeal may be allowed and the State Board may be directed to reconsider its decision of imposing Environmental Compensation to the tune of Rs 39,25,000/- upon the appellant with respect to the fact that the appellant already had given compensation had already been paid in the account of the Deputy Commissioner of Labourers Cum Workmens Compensation Commissioner, of Rs 28,00,000/- (Rupees Twenty Eight Lakhs) as Muzzafarpur vide Demand Draft Number 508443 dated 04.02.2022 drawn on ICICI Bank and also Rs 5,14,513/- (Rupees Five Lakhs Fourteen Thousand Five Hundred and Thirteen) in the account of the Deputy Commissioner of Labourers Cum Workmens' Compensation Commissioner.



16. That under the circumstances it is most humbly submitted that the valuation as determined by the Bihar State Pollution Control Board is not in accordance with the established principles of law and the same is not maintainable and sustainable in law and as such is liable to be set aside.

17. That the statements made in paragraphs 1 to 15, are true to my knowledge and belief from the records as available in the office of the deponent.

For Anshul Snacks & Beverages (P) Ltd.

(Signature)
Director

Deponent

Identified by me

Sibajyoti Chakrabarti
Advocate 20.03.2024



Solemnly Affirmed
&
Declared before me
on Identification of Advocate
SANTOSH KUMAR DATTA
NOTARY
20/1A, Hari Ghosh Street
Kolkata-700006
Regn. No.- 24 of 1996

(Signature)
S. K. DATTA
NOTARY

20.3.2024

20 MAR 2024



VERIFICATION

Verified at Kolkata by the deponent above named on this the 20th day of 1st March, 2024 and say that the contents of this affidavit made in paragraph nos. 1 is true to my knowledge and those made in paragraphs no. 2 to 13, are true to my information derived from records and rest are my respectful submission before this Hon'ble Tribunal.

Identified by me

Sibojyoti Chakrabarti
Advocate 20.03.2024

For Anshul Snacks & Beverages (P) Ltd.

(Signature)

Director
Deponent





भारत सरकार
जल शक्ति मंत्रालय
जल संसाधन, नदी विकास
और गंगा संरक्षण विभाग
केन्द्रीय भूमि जल प्राधिकरण
Government of India
Ministry of Jal Shakti
Department of Water Resources,
River Development & Ganga Rejuvenation
Central Ground Water Authority

(भूजल निकासी हेतु छूट प्रमाण पत्र)
Certificate of Exemption for Ground Water Withdrawal

Project Name:	Anshul Snacks And Beverages Private Limited		
Project Address:	Plotno-ns-06 Industrial Area Bela Muzaffarpur, Industrial Area Bela Muzaffarpur		
Town:	Muzaffarpur (m Corp.)	Block:	Mushahari
District:	Muzaffarpur	State:	Bihar
Pin Code:			
Communication Address:	Plot No-ns-06 Industrial Area Bela Muzaffarpur, Mushahari, Muzaffarpur, Bihar - 842005		
Address of CGWB Regional Office :	Central Ground Water Board Mid Eastern Region, 6th & 7th Floor, Lok Nayak Jai Prakash Bhawan, Frazer Road Dak Banglow, Patna, Bihar - 800011		

1. Application No.:	21-4/2188/BR/IND/2024	2. Category:	Over Exploited
		(GWRE 2023)	
3. Project Status:	New Project	4. Valid From	18/03/2024
5. Ground Water Abstraction Permitted:			
	Fresh Water	Saline Water	Dewatering
	m ³ /day	m ³ /year	m ³ /day
	m ³ /year	m ³ /day	m ³ /year
	5.00		

This is to certify that as per information furnished by the applicant, M/s ANSHUL SNACKS AND BEVERAGES PRIVATE LIMITED comes under Micro and Small Enterprises category and has ground water withdrawal of less than 10 cum/day. As per S.O. 3289(E) dated 24/09/2020 by Department Of Water Resources, River Development and Ganga Rejuvenation, guidelines to regulate and control ground water extraction in India, 2020 Micro and small Enterprises drawing ground water less than 10 cum/day are exempted.

The firm is exempted from seeking NOC. The firm shall install digital water flow meter on all ground water abstraction structures and maintain the logbook.

This certificate is system generated and based on information provided by the applicant. CGWA has not verified the claim made by applicant. Any false information furnished/ violation by the applicant, shall invite legal action against him/her as per S.O. 3289(E) dated 24/09/2020.

यह प्रमाणित किया जाता है कि आवेदक द्वारा दी गई सूचना के अनुसार मेसर्स सूक्ष्म और लघु उद्यम श्रेणी के अंतर्गत आता है और इसमें 10 m³ / दिन से कम भूजल निकासी है। जल संसाधन, नदी विकास और गंगा संरक्षण विभाग द्वारा दिनांक 24.09.2020 के SO 3289 (E) के अनुसार, भारत में भूजल निष्कर्षण को विनियमित और नियंत्रित करने के लिए दिशा-निर्देश, 2020 सूक्ष्म और लघु उद्यमों को 10 m³/दिन से कम भूजल खींचने वाले को छूट दी गई है।

फर्म को NOC लेने से छूट दी गई है। फर्म सभी भूजल निष्कर्षण संरचनाओं पर डिजिटल जल प्रवाह मीटर स्थापित करेगी और लॉगबुक बनाए रखेगी।

यह प्रमाण पत्र सिस्टम जनरेटेड है और आवेदक द्वारा प्रदान की गई जानकारी पर आधारित है। CGWA ने आवेदक द्वारा किए गए दावे का सत्यापन नहीं किया है। आवेदक द्वारा दी गई कोई भी गलत सूचना/उल्लंघन, एसओ 3289(ई) दिनांक 24/09/2020 के अनुसार उसके खिलाफ कानूनी कार्रवाई को आमंत्रित करेगा।

This is an auto generated document & need not to be signed.

18/11, जामनगर हाउस, मानसिंह रोड, नई दिल्ली - 110011 / 18/11, Jamnagar House, Mansingh Road, New Delhi-110011

Phone: (011) 23383561 Fax: 23382051, 23386743
Website: cgwa-noc.gov.in

पानी बचाये - जीवन बचाये
SAVE WATER - SAVE LIFE



vikash modi <modinamkeen@gmail.com>

Fwd: Your application no.21-4/535/BR/IND/2019 reg.

2 messages

R.D., CGWB, MER <rdmer-cgwb@nic.in>
To: modinamkeen@gmail.com

Tue, Feb 11, 2020 at 11:02 AM

Sir/Madam,

E-mail sent on 31.10.2019 is re-forwarded herewith, as per your request.

regards

CGWA
CGWB, MER, Patna.

From: no-reply@cgwa-noc.gov.in
To: modinamkeen@gmail.com, modinamkeen@gmail.com
Cc: rdmer-cgwb@nic.in
Sent: Thursday, October 31, 2019 11:13:29 AM
Subject: Your application no.21-4/535/BR/IND/2019 reg.

Sir/Madam,

Your unit is located in OCS (Over-Exploited/Critical/Semi-Critical) category as per groundwater Resource Estimation-2013. In compliance to the notice (25-23/CGWA/NOCAP/2018), dated 01.03.2019, received from CHQ, CGWA, New Delhi, put up on the website of CGWA, pursuant to the Order of Hon'ble National Green Tribunal (NGT) OA No. 176/2015 dt. 03.01.2019, NOC's for fresh groundwater withdrawal shall not be granted to industries/infrastructure/mining projects located in such areas except for drinking, domestic uses and for green belts till further orders.

regards

CGWA
CGWB MER, Patna.



vikash modi <modinamkeen@gmail.com>
To: Vishnu Verma <vk9122422012@gmail.com>

Tue, Feb 11, 2020 at 11:03 AM

(Quoted text hidden)

Anchal Snacks & Beverages Pvt. Ltd.

Director



BIHAR STATE POLLUTION CONTROL BOARD

PATNA - 800023

(TO BE SUBMITTED IN DUPLICATE)

APPLICATION CONTAINING INFORMATION FOR OBTAINING CONSENT TO ESTABLISH (NOC) U/S 25 & 26 OF THE WATER (PREVENTION AND CONTROL OF POLLUTION ACT,1974 & U/S 21 OF THE AIR(PREVENTION AND CONTROL OF POLLUTION)ACT,1981

1 General

(i) Name of Industry : Anshul Snacks and Beverages Private Limited

(ii) (a) Name & Address (with Pin code) of applicant: Vikash Modi
Address:KALI KOTHI LANE NO-02 DURGA ASTHAN ROAD
MUZAFFARPUR
District:MUZAFFARPUR
Block:MUSHAHARI

(b) Telephone No.(with code) 91- 9122422012 (c) Mobile No.: 9122422012

(iii) Location of the Project (attach location map): (See enclosure)
Place: PlotNo-NS-06 Industrial Area Bela Muzaffarpur,Muzaffarpur
P.O.: BELA
District: MUZAFFARPUR

(Information is also required if industry is located outside the Industrial Area)

Mauza: Industrial Area Bela Muzaffarpur
Khata No. : Industrial Area Bela Muzaffarpur
Khesra No. : Industrial Area Bela Muzaffarpur

(iv) At what distance (in metre) following are located from battery limit of the plant.

Name of Surrounding	Distance(in meters)	Description
---------------------	---------------------	-------------

(v) Present land use: Industrial

(vi) Tropography: Plane

(vii) prevalent wind directions: EAST TO WEST Speed : 70(in KM/hr)

(viii) Yearly average rainfall: 1760MM

2 BREAKUP OF PROPOSED LAND AT THE SITE

(i) Area for Plant= 35200Sq FT (Sq. Metre)

(ii) Area of Infrastructure= 35200Sq FT (Sq.Metre)

(iii) Area of Effluent Treatment= 100Sq FT (Sq.Metre)

(iv) Proposed width of plantation all around the plot in metre

North= SFT South= SFT East= SFT West= SFT

2.1 (i)Whether proposed to build captative colony: NO

(ii)Distance of the captative colony form plant site (in Km/hr):

(iii)Number of dwellers:

3 (RAW MATERIALS)

(i) List of raw Materials(MT/d)

List of Raw Materials
REFINE, CHIPS, MUDY, BESAN ETC.

(ii) List of Processing Chemicals (MT/d): NA

4 SOLID WASTES

(i) Solid wastes in (MT/d)

Type of Solid Waste	Description	Quantity(MT/d)
---------------------	-------------	----------------

(ii) Composition of wastes

Type of Solid Waste	Description/Composition
---------------------	-------------------------

(iii) Enclosed a writeup on Solid Waste Management (See enclosure)

5 PROCESS AND PRODUCTION

Enclose a copy of the Project Report with flow sheet: (See Enclosure)

(i) List of Products with daily capacity:(MT/d)

List of Products	Quantity(MT/d)	Unit
NAMKEEN	1.5	Metric Tonnes/Day

(ii) List of By-products with daily capacity (MT/d)

By-Products and Quantity
NA

(iii) State briefly the technology: (See Enclosure)

6 WATER REQUIREMENT

(i) Source of water supply:

Source Type	Source Name	Quantity(KL/D)
Other	Water not Required	0.0

(ii) Water requirements(Kl/d):-

Type of Effluent	Quantity of Effluent (Kl/d)
------------------	-----------------------------

7 WASTE WATER

(i) Quantity of Waste Water (KL/d):

Type of Effluent	Quantity of Effluent (KL/d)
------------------	-----------------------------

(ii) Trade Effluent quality(KL/d):

Quality Parameters	Before Treatment	After Treatment
--------------------	------------------	-----------------

(iii) Final discharge to:(Land/River/Lake/Municiple Drain/Industrial Area Drain)

Type of Effluent	Maximum Generation Quantity of Effluent(KL/D)	Effluent Recycle(KL/D)	Mode of Disposal	Effluent Disposal/Disc harge Quantity (KL/D)
------------------	---	------------------------	------------------	--

(iv) Quality of treatment effluent to be recycled

Type of Effluent	Maximum Generation Quantity of Effluent(KL/D)	Effluent Recycle(KL/D)	Mode of Disposal	Effluent Disposal/Disc harge Quantity (KL/D)
------------------	---	------------------------	------------------	--

(v) Enclosed a short write up on sludge management (See Enclosure)

8 ATMOSHPERIC EMISSIONS

(i) Stacks details

Total no. of stacks:	1
Attached to:	D. G. SET ,
Height above ground level(in metres):	3.5 ,
Height above factory room(in metres):	3 FT ,
Construction Material:	MS ,

(ii) Mandatory provision of Porthole and Platforms in Stack(s) :(See Enclosure)

(iii) Enclosed a short write up on air pollution control: (See Enclosure)

9 ENERGY

(i) Source of Energy :

Source of energy
D. G. SET

(ii) Fuel Consumption (MT/d)

Fuel Name	Fuel Consumption(MT/d)
DIESEL	5

10 OTHER POLLUTION

(i) Noise:

(a) Sound level: (in dB(A))

(b) Abatement measures:

(ii)&(iii)

Odour	Abatement measures
--------------	---------------------------

11 PROJECT COST IN LACS

Total capital investment is 1000.0 (in lakhs) and total capital investment of Plant and Machinery is 0.0(in lakhs)

payable to 'Bihar State Pollution Control Board' at Patna

Accompaniments-

1. Project Report² (Attached)
2. Location map (Attached)
3. Affidavit* (Attached)
4. Land document/lease document* (Attached)
5. Project Report* (Attached)
6. CTE Approval Certificate (Attached)

Place:Muzaffarpur

Date:18/08/2022

Vikash Modi
(Signature of Applicant)

(Official Seal)

NOTE:

- (a) In case of Major Pollution Industries,listed in Annexure III of related Guidelines,E.I.A and E.M.P are essential.
- (b) In case of Modernisation/expansion activity the project proponent shall submit a separate writeup indicating there is in exsiting and proposed pollution load .
- (c) Application shall be submitted to member secretary, Bihar State Pollution Control Board, Parivesh Bhawan, Plot No. NS-B/2 Patliputra Industrial Area, Patliputra, Patna (Bihar) - 800010 .

(d) NOC fee shall be accepted online (such as internet banking, Debit card, Credit card, Neft, RTGS) through bhocmms.nic.in portal. in following manner

(1) Investment of 1 Rs. To 25,00,000 Rs	5000/-
(2) Investment of More then 25,00,000 but upto 5 crores	15,000/-
(3) Investment of More then 5 crores but upto 10 crores	35,000/-
(4) Investment of More then 10 crores but upto 50 crores	75,000/-
(5) Investment of More then 50 crores	1,50,000/-

(e) For information relating to establishment of an industrial unit, Guildlines for siting may be obtained from the board.

Note:- All the correspondences in Online Consent Management Monitoring System (OCMMS) will be done online only, no hard copy letters/notices shall be sent separately. Therefore, you are requested to check the status of your application from time to time.

Receipt No. 459139273	Date : 27-11-2023
Depositor Name	Vikash Modi
Bank Name.	
Bank Id.	
Application Id.	6458357
Name and Address of Industry	Anshul Snacks and Beverages Private Limited, PlotNo-NS-06 Industrial Area Bela Muzaffarpur, MUSHAHARI, MUZAFFARPUR
Name of Regional Office	Group
Applied For	CTE - both - new
Payment Date	02-09-2022
Payment Details	
Env Compensation (Rs.)	35000.0
Total Amount Paid (Rs.)	35000.0
Transaction Status	Successfully Completed
Print	

Note:- All the correspondences in Online Consent Management Monitoring System (OCMMS) will be done online only, no hard copy letters/notices shall be sent separately. Therefore, you are requested to check the status of your application from time to time.

BEFORE THE HON'BLE NATIONAL
GREEN TRIBUNAL EASTERN ZONE
BENCH, KOLKATA

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REJOINDER ON BEHALF OF THE
APPELLANT

SIBOJYOTI CHAKRABARTI

Advocate

For The Appellant

Email: subho.advocate@gmail.com

(M): 9007035534.

