

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH AT NEW DELHI  
APPEAL NO. 18 OF 2024

**IN THE MATTER OF:**

WelcomHotel The Savoy (ITC Hotels)

...Appellant

Versus

Uttarakhand Pollution Control Board

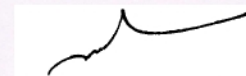
...Respondent

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New Delhi  
Date: 18.12.2024

**FILED BY:**



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18/1/24

**REJOINDER AFFIDAVIT TO THE RESPONSE AFFIDAVIT FILED BY THE RESPONDENT**

**MOST RESPECTFULLY SHOWETH:**

I, Zahid Khan S/o. Late Sh. A.W. Khan, aged about 40 years Authorized signatory of WelcomHotel The Savoy having office at Library Bazaar, Gandhi Chowk, Post Office Savoy Mussoorie- 248719, Uttarakhand do hereby solemnly affirm and state as follows:-

1. That I am the Authorized representative of the Appellant in the captioned matter and thus fully conversant with the facts & circumstances to swear this affidavit on their behalf as well and as such I am competent to swear this Affidavit.
2. That the present appeal has been filed by the appellant being aggrieved by the illegal demand notice No. 191/2024/1406 dated 13.02.2024 issued by the Respondent. That the Respondent without considering the Reply of the Appellant, passed a non-speaking order without justifiable ground and without any basis imposed an environmental compensation of Rs. 50,00,000/- (Rs. Fifty Lakh Only) upon the appellant.
3. That this Hon'ble Tribunal upon hearing the present appeal was pleased to grant stay of the demand order dated 13.02.2024 subject to the payment of Rs. 15,00,000/- (Rs. Fifteen Lakh only) with the Respondent within 2 weeks from the passing of the order dated 13.02.2024. That in compliance of the order passed by this Hon'ble Tribunal the Appellant had deposited a sum of Rs. 15,00,000/- (Rs. Fifteen Lakh only) with the



Respondent vide Demand Draft No. 014344 dated 26.03.2024, Axis Bank payable at Dehradun.

4. At the very outset, it is submitted that the basis of computing compensation as held in para 10 of O.A. No. 353/2022 titled as *Kartik Sharma v. State of Uttarakhand* dated 21.04.2023 is based on the order dated 17.10.2022 passed in O.A No. 438/2018 titled as *Arti v. CWGA & Ors.* It is submitted that the order dated 17.10.2022 passed in O.A No. 438/2018 by this Hon'ble tribunal has been stayed by the Hon'ble Supreme Court vide order dated 22.09.2023 passed in Civil Appeal (Diary) No. 25711/2023. It is submitted when the basis of the computation has been stayed by the Hon'ble Supreme Court on 22.09.2023, the Demand Notice dated 13.02.2024 is illegal and is liable to be set aside.

True copy of the order dated 22.09.2023 passed by the Hon'ble Supreme Court in Civil Appeal (Diary) No. 25711/2023 is marked & annexed herewith as **ANNEXURE- A/14 (Pg. 4 to 6 )**.

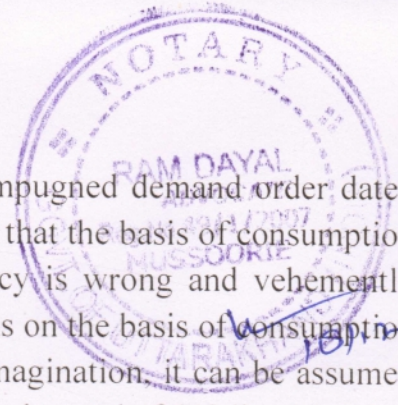
### REJOINDER TO THE PARAWISE REPLY

1-2 That the contents of para 1-2 are formal in nature and hence warrant no reply.

3 (i-iii). That the contents of para 3 (i-iii) needs no reply.

3 (iv, v & vi). That the allegations contained in Para 3 (iv, v & vi) are wrong and denied. It is submitted that the Hon'ble Supreme Court vide order dated 22.09.2023 has stayed the order dated 17.10.2022 passed in O.A No. 438/2018 which, is the basis of order passed in the case of *Kartik Sharma (Supra)*. Thus, when the basis of the computation of the compensation is itself is in question, the demand notice dated 13.02.2024 is illegal and liable to be set aside. Furthermore, it is vehemently denied that 56 KLD water is being taken from natural spring by the Appellant's hotel. There is no basis, document or material before the Joint Committee to give a finding that 56 KLD of water was consumed from the natural water springs or additional water requirement during the peak periods was provided through natural water spring through water tankers during night hours. These above 2 findings in the report of the joint committee is wrong and denied being without any basis or material. Therefore, there is no material or basis to arrive on a finding that the appellant has violated the provisions of Water (Prevention





and Control of Pollution) Act, 1974 and therefore the impugned demand order dated 13.02.2024 is liable to be set aside. It is further submitted that the basis of consumption of 640 litres per room per day having double occupancy is wrong and vehemently denied. Therefore, the computation of 87 number of rooms on the basis of consumption of water is erroneous and unjustified. By no stretch of imagination, it can be assumed that a room in a hotel having double occupancy will have a demand of 640 litres per day.

3 (vi &vii). That the contents of Para 3 (vi &vii) are wrong and denied. It is vehemently denied that there was any justification for issuing the show cause notice dated 06.11.2023 as there was no violation by the appellant of the provisions of Water (Prevention and Control of Pollution) Act, 1974. It is further submitted, that the reply of the appellant to the show cause notice was not at all considered by the appellant. It is vehemently denied that the respondent found the appellant's response unsatisfactory. It is submitted that the demand notice dated 13.02.2024 is completely baseless, illegal, arbitrary, unjustified and has been passed without application of mind and without considering the reply of the respondent. Therefore, the illegal unsubstantiated and non-speaking show cause notice and demand notice are liable to be quashed by this Hon'ble Tribunal.

3(ix-x). That the contents of Para 3(ix & x) need no reply.

3(xi-xv). That the allegation contained Para 3(xi- xv) are wrong, false and vehemently denied. That the contents of the reply in the aforesaid paras may kindly be read as part and parcel of reply under this Para.

4. That the contents of para 4 are wrong false and denied.

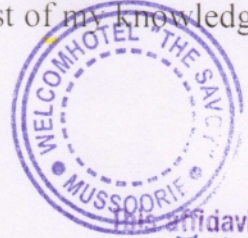
5. Therefore, in the light of above stated facts and circumstances, it is most respectfully prayed that the impugned show-cause notice dated 06.11.2023 and demand notice dated 13.02.2024 issued by the Respondent is arbitrary and liable to be set aside.

DEPONENT



**VERIFICATION:**

Verified at Mussoorie on this 10 day of December, 2024 that the contents of the above affidavit are true and correct to the best of my knowledge and belief and nothing material has been concealed therefrom.



DEPONENT

This affidavit is sworn before me by  
Shri. Zehra Khan  
who is identified by Zehra Khan  
Sawal

This affidavit is sworn before me by  
Shri. Zehra Khan  
who is identified by Shri. Sawal

18/11/24  
MUSSOORIE (UK)

RAM DAYAL  
Advocate/Notary  
Reg. No. 49/1/2007  
MUSSOORIE (U.K.)

ITEM NO.7

COURT NO.1

SECTION XVII

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

CIVIL APPEAL Diary No(s).25711/2023

(Arising out of impugned final judgment and order dated 01-02-2023 in RA No. 05/2023, 17-01-2023 in IA No. 339/2022 and 17-10-2022 in OA No. 438/2018 passed by the National Green Tribunal)

M/S. HOTEL RISHABH & ORS.

Petitioner(s)

VERSUS

ARTI & ORS.

Respondent(s)

(WITH IA No.180706/2023-CONDONATION OF DELAY IN FILING and IA No.180704/2023-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.180705/2023-STAY APPLICATION and IA No.180700/2023-EXEMPTION FROM FILING O.T. and IA No.181555/2023-INTERVENTION/IMPLEADMENT and IA No.180699/2023-PERMISSION TO FILE APPEAL and IA No.180707/2023-CONDONATION OF DELAY IN REFILEING / CURING THE DEFECTS and IA No.180701/2023-PERMISSION TO FILE LENGTHY LIST OF DATES and IA No.181553/2023-APPROPRIATE ORDERS/DIRECTIONS and IA No.180696/2023-PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 22-09-2023 These appeals were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE  
HON'BLE MR. JUSTICE J.B. PARDIWALA  
HON'BLE MR. JUSTICE MANOJ MISRA

For Petitioner(s) Mr. Kavin Gulati, Sr. Adv.  
Mr. Avi Tandon, Adv.  
Ms. Meghna Tandon, Adv.  
Mr. Anish Agarwal, AOR  
Mr. Sumit Tandon, Adv.  
Mr. Srinivas Vishven, Adv.

For Respondent(s)

**UPON hearing the counsel the court made the following  
O R D E R**

1 In Civil Appeal No 2864 of 2022, on 13 April 2022, the following order was passed (Annexure A-25):

“1. Taking into consideration the Joint Inspection Report dated 24.12.2022, which is duly signed by the members of the Committee including the representatives of the U.P. Pollution Control Board, we are inclined to admit the appeal.

2 The appeal is admitted.

3 Until further orders, the operation of the impugned order as well as the proceedings before the learned Tribunal shall stand stayed.”

2 Thereafter, in the same matter, on 25 April 2022, the following order (Annexure A-21) was passed:

“Issue notice.

There shall be stay of following directions issued by the National Green Tribunal, Principal Bench, New Delhi:

(a) Respondent 1 i.e. M/s. C L Gupta Exports Pvt. Ltd. shall deposit environmental compensation of Rs.50 crores with CPCB within two months and

(f) The Enforcement Directorate may examine the matter in the light of the observations made in the judgment along with provisions of PMLA Act, 2002, wherein environmental laws, i.e., Water Act, 1974 and EP Act, 1986 have been included in Part-A of Schedule I and take appropriate action.”

3 In Civil Appeal No 2901 of 2022, on 19 May 2022, stay of the impugned order was granted (Annexure A-22).

4 In Civil Appeal No 5517-5519 of 2022, on 29 August 2022, the following order was passed (Annexure A-23):

“Issue Notice. To be heard along with Civil Appeal No.2901/2022. There shall be interim stay.

5 In view of the above, the following order is passed:

6 Delay condoned.

7 Issue notice.

8 Pending further orders, there shall be a stay of the operation of the impugned orders dated 17 October 2022, 17 January 2023 and 1 February 2023 of the National Green Tribunal in OA 438 of 2018, IA 339 of 2022 in OA 438 of 2018 and Review Application No 5 of 2023, respectively.

9 Tag with Civil Appeal No 2864 of 2022.

**(SANJAY KUMAR-I)**  
**DEPUTY REGISTRAR**

**(SAROJ KUMARI GAUR)**  
**ASSISTANT REGISTRAR**



TRUE COPY



Ritik Dwivedi &lt;ritikkumardwivedi@gmail.com&gt;

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**Advance service on behalf of Appellant in Appeal No. 18/2024**

1 message

**Ritik Dwivedi** <ritikkumardwivedi@gmail.com>

Wed, Dec 18, 2024 at 1:03 PM

To: Mukesh Verma &lt;mvermadv@gmail.com&gt;, msukpcb@yahoo.com

Cc: Vivek Singh &lt;sinviv@gmail.com&gt;

Dear Sir,

Please find attached the Advance service of Rejoinder affidavit filed by the appellant in Appeal No. 18/2024 titled as Welcome Hotel The Savoy (ITC Hotels) v. U.P.C.B.

Thanks &amp; Regards

Ritik Dwivedi

From the Office of Mr. Vivek Singh

Advocate-On-Record

**Rejoinder NGT-WelcomHotel.pdf**

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