

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

APPEAL NO. 28 OF 2025

IN THE MATTER OF:

M/S BAJAJ HINDUSTHAN SUGAR LIMITED

... APPELLANT

Versus

MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE
CHANGE (MOEF & CC) & ANR.

...RESPONDENTS

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FILED BY:



[SANJEEV KUMAR SINGH & BHISHM PRATAP SINGH]

ADVOCATES FOR THE APPELLANT

G-27, FIRST FLOOR,

JANGPURA EXTENSION,

NEW DELHI-110014

PH: 011-43580335

EMAIL: legalvibes.lawfirm@gmail.com

NEW DELHI

DATED: 19.01.2026

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**REJOINDER AFFIDAVIT ON BEHALF OF THE APPELLANT TO
THE REPLY DATED 17.11.2025 FILED BY THE RESPONDENT
NO. 2/CENTRAL POLLUTION CONTROL BOARD.**

I, Amit Kumar Pandey, S/o Sh. Suresh Pandey, aged about 44 years working with M/s Bajaj Hindusthan Sugar Limited, Bajaj Bhawan, B-10, Sector-3, Noida, Uttar Pradesh, India, 201301, presently residing at New Delhi, and do hereby solemnly affirm and state on oath as under:

1. I am the Authorized Signatory of the Appellant Company in the instant case and am conversant with the facts of the present case and hence I am fully competent to swear this rejoinder affidavit.
2. That the present Rejoinder Affidavit is being filed by the Appellant Company in response to the Reply dated 17.11.2025 filed by the Respondent No. 2/Central Pollution Control Board (hereafter referred as "CPCB Reply dated 17.11.2025" for the sake of brevity). At the very outset, the Appellant Company denies all the averments and/or contentions made by the Respondent No. 2 in its Reply in its entirety except to the extent that it may be matter of record or has been specifically admitted hereunder.
3. That the Appellant Company has narrated the facts on the basis of which the present Appeal arises in its Appeal, which is narrative and exhaustive in nature and as such the



Appellant Company craves leave of this Hon'ble Tribunal to refer and rely on the contents thereof, as the same are not repeated herein for the sake of brevity and verbosity. Further, the contents of the Appeal may kindly be read as a part and parcel of this Rejoinder Affidavit being filed by the Appellant Company.

4. That I have understood the contents of the Reply dated 17.11.2025 filed on behalf of the Respondent No. 2/Central Pollution Control Board. The Reply is vague, evasive, repetitive and non-informative, and fails to specifically traverse the factual and legal assertions made by the Appellant Company in the Appeal and as such, I am filing Rejoinder Affidavit to the Reply dated 17.11.2025. The submissions made hereunder are in the alternative and without prejudice to each other.

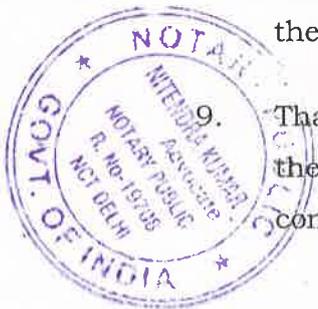
PRELIMINARY SUBMISSIONS/OBJECTIONS:

5. It is humbly submitted that the impugned direction dated 31.10.2019 (***Annexure-A-1 of the Appeal @ Pg 43-47***), whereby, CPCB has purported to demand a sum of ₹ 6,90,000/- towards Environmental Compensation, which is wholly without jurisdiction, arbitrary, and *non-est* in the eyes of law. The Section 5 of the Environment (Protection) Act, 1986 confers power only to issue regulatory directions, such as closure of industry, regulation of process, or stoppage of utilities, and does not in any manner authorize the imposition of pecuniary liabilities. The settled law, as enunciated by the Hon'ble Supreme Court in *Shree Bhagwati Steel Rolling Mills v. CCE (2016) 3 SCC 643, Khemka & Co. v. State of Maharashtra (1975) 2 SCC 22, and Delhi Pollution Control Committee vs. Lodhi Property Co. Ltd. Etc. Civil appeal No. 757-760 of 2023*; is that pecuniary penalties or liabilities cannot be imposed without express statutory sanction. In order to impose, levy, calculate or collect either compensation of restorative nature, or penalty for violation an express statutory mandate is an



essential prerequisite however, Section 5 of the Environment (Protection) Act, 1986 does not specifically authorize the imposition of pecuniary liabilities. Thus, the demand in question is *ex-facie ultra vires*.

6. It is humbly submitted that the Respondent No.2/CPCB, notwithstanding the serious nature of the allegations levelled by it and the heavy monetary liability purportedly imposed upon the Appellant Company, has deliberately chosen not to disclose the material particulars of its actions, nor has it furnished the documents foundational to its case. Such evasive and mechanical responses amount to a non-reply in the eyes of law.
7. It is respectfully submitted that the entire edifice of the Respondent No.2/CPCB's action rests on sampling exercises and inspection findings which are not shown to be in conformity with the mandatory statutory procedure, and on an Environmental Compensation (EC) computation which is entirely arbitrary, non-speaking and unsubstantiated.
8. It is further submitted that the Respondent No.2/CPCB has failed to produce any of the statutory documents required under the Environment (Protection) Act, 1986, particularly those required under Section 11, despite repeated assertions by the Appellant that such documents form an indispensable basis for any lawful sampling and testing. The absence of statutory notices, sealing records, forwarding memos, chain-of-custody documents, Government Analyst certifications and laboratory reports renders the entire sampling process *void ab initio* and incapable of sustaining any further action, including the imposition of EC.



9. That the CPCB, throughout its Reply, attempts to characterize the Appellant as a "habitual offender", without producing any continuous, present or scientific evidence, and while ignoring

the fact that CPCB itself has repeatedly issued revocation orders, permitted resumption of operations upon compliance, and relied on independent assessments such as National Sugar Institute, Kanpur. Such branding is not supported by any current data and appears to be a prejudicial assertion intended to colour the proceedings rather than assist this Hon'ble Tribunal.

10. That while the statutory existence of the Respondent No.2/CPCB is not disputed, the mere statement that the CPCB is empowered under the Water Act, 194, the Air Act, 1981 and the EP Act, 1986 does not dispense with the obligation to demonstrate that the actions complained of were carried out strictly in conformity with law. It is most humbly submitted that the statutory authority cannot cure procedural illegality. It is further submitted that the CPCB has neither disclosed the statutory notice preceding sample collection, nor shown compliance with the minimum requirements of Section 11 EP Act, nor produced any contemporaneous documents evidencing lawful sampling.
11. That the Respondent No.2/CPCB relies upon general directions of this Hon'ble Tribunal in OA No.593/2017 and on the so-called "NGT methodology" for imposing Environmental Compensation. However, the Respondent No.2/CPCB has completely omitted the critical fact that the directions dated 30.05.2019 predates the issuance of the methodology dated 04.09.2019. It is most humbly submitted that no methodology in existence at the relevant time has been disclosed, nor has the Respondent No.2/CPCB shown that any formula, committee assessment, flow volume determination, parameter exceedance computation or duration-of-violation analysis was undertaken, consequently, the EC order is devoid of any legal or factual foundation.



12. That the Respondent No.2/CPCB, in its chronology, places reliance upon various inspections conducted in the year 2018 and 2019. It is most humbly submitted that these inspection notes, even if accepted at face value, cannot constitute valid sampling records. It is further submitted that they do not reveal the statutory safeguards mandated under Section 11; further, they are merely field notes lacking evidentiary value. The Respondent No.2/CPCB has not disclosed the sampling slips, labels, sample identification tags, signatures of officers, independent witnesses or the Appellant's representative, nor any proof of preservation or transport of samples to the laboratory. It is submitted that in the absence of these documents, the inspection notes cannot be treated as legally admissible material.
13. It is evident that the Respondent No.2/CPCB's sampling was done from drains and external water channels whose origin, hydrological connectivity and physical linkage with the Appellant's outlet have not been demonstrated. It is pertinent to mention here that in the present case, the Respondent No.2/CPCB has failed to produce any engineering diagram, GPS-based mapping, tracer analysis or technical material establishing that the sampled water originated from the Appellant's premises.
14. That the sampling undertaken by the Respondent No.2/CPCB suffers from fatal statutory defects. It is most humbly submitted that the Respondent No.2/CPCB has not produced any notice indicating that the Appellant was informed of the sample collection. It is further submitted that the Appellant's representative was not present at the time of sampling. It is a well-settled principle, as laid down by the Hon'ble Supreme Court in *Triveni Engineering & Industries Ltd. v. State of Uttar Pradesh, Civil Appeal Nos. 8119-8120 of 2022*, that non-compliance with the mandatory sampling protocol vitiates the entire testing process. Any test result obtained in breach of



such prescribed procedure is rendered unreliable and legally unsustainable, and therefore cannot form the basis of any penal, coercive, or adverse action, being inadmissible in law. Further, no sealing of samples in the presence of the Appellant is shown nor have sample slips bearing signatures of the Appellant been disclosed. It is germane to point out here that no chain-of-custody or forwarding memo to the laboratory has been annexed. It is further submitted that the Respondent No.2/CPCB has not filed even a single Government Analyst's report or certificate under Section 11(4). That in the light of this, the very foundation of the alleged non-compliance is irreparably defective.

15. That the Respondent No.2/CPCB, instead of producing statutory documents, relies solely on narrative inspection notes which cannot, by any stretch, satisfy the strict statutory requirements enacted for ensuring integrity of environmental sampling. It is pertinent to mention here that the silence of the Respondent No.2/CPCB in its Reply on each of these specific mandatory procedural safeguards tantamount to an admission of non-compliance. In such circumstances, the sampling is *non est* and the same cannot be relied upon for imposing EC or any other coercive measure.
16. That the Respondent No.2/CPCB has not identified the precise sampling point or demonstrated that the location accords with the legally recognized discharge point. It is humbly submitted that the sampling appears to have been carried out from open drains, which are susceptible to run-off, agricultural discharges, upstream contamination and third-party waste. It is pertinent to mention here that in the absence of hydrological connectivity, the Respondent No.2/CPCB cannot attribute the drain samples to the Appellant.



17. That the Environmental Compensation (EC) imposed by the Respondent No.2/CPCB suffers from extreme arbitrariness. That the order dated 30.05.2019 imposing a staggering EC of Rs. 1,36,50,000/- (Rupees One Crore Thirty-Six Lakhs Fifty Thousand only), while the subsequent impugned order dated 31.10.2019 inexplicably reducing this amount to Rs. 6,90,000/- (Rupees Six Lakhs Ninety Thousand only). It is pertinent to mention here that the Respondent No.2/ CPCB has not disclosed any formula, calculation sheet, parameter values, flow volume, duration of alleged violation or committee proceedings that led to either determination. Further, this unexplained and drastic variation reveals the complete absence of transparency, application of mind or objective of determination as such, the Appellant is in loss to understand as to how it would challenge each of the specific parameters separately. Further the entire basis and accounting of the imposition of first penalty of Rs. 1,36,50,000/- and reimposition of the amended/reduced impugned penalty has to be given. This has not been done.

18. That the impugned imposition of Environmental Compensation is *ex facie* violative of Article 14 of the Constitution of India, as the Respondent No. 2/CPCB has failed to disclose any intelligible differentia or objective criteria for determining either the liability or the quantum of EC. The Applicant has not been informed as to the basis on which it has been classified or distinguished from other similarly situated entities. In the absence of any disclosed classification founded on the nature of activity, scale of operations, duration of alleged violation, or extent of environmental impact, the exercise of power by the Respondent remains unguided, arbitrary, and constitutionally impermissible.

That even otherwise, the impugned action fails to satisfy the mandatory requirement of proportionality. The Respondent No.



2/CPCB has not demonstrated any rational nexus between the alleged violation and the quantum of Environmental Compensation imposed. No scientific assessment, environmental impact study, or quantification of damage has been undertaken or placed on record. The drastic and unexplained variation in the EC amount from Rs. 1,36,50,000/- to Rs. 6,90,000/- without any intervening factual determination or change in circumstances, conclusively establishes that the compensation was never proportionately linked to the alleged environmental harm and was determined in a wholly *ad hoc* manner.

20. That the conduct of the Respondent No. 2/CPCB in imposing and subsequently revising the Environmental Compensation, without disclosure of reasons, methodology, or supporting material, reflects a complete lack of application of mind and a colourable exercise of power. A regulatory authority vested with significant coercive powers is duty-bound to act with transparency, fairness, and accountability. The impugned orders, marked by opacity, inconsistency, and absence of reasoned justification, undermine the principles of natural justice and erode the credibility of the regulatory framework itself.
21. That the impugned orders, viewed cumulatively, are arbitrary, unreasonable, and punitive in nature, and amount to an abuse of discretion under the guise of environmental regulation. The failure of the Respondent No. 2/CPCB to adhere to settled principles governing environmental compensation, constitutional equality, and proportionality renders the impugned action unsustainable in law. The same is therefore liable to be quashed and set aside, with all consequential reliefs in favour of the Applicant.



22. That it is settled principle that an administrative order imposing monetary liability must be supported by reasons, especially when environmental compensation is claimed. It is most humbly submitted that the impugned orders are not only non-speaking, cryptic but the same are bereft of any reasoning too. Further, they not only violate the principles of natural justice by failing to disclose the basis of computation or to provide the Appellant an opportunity to respond but the same contravene the mandate of Article 14 by adopting an arbitrary and irrational approach.
23. That this Hon'ble Tribunal in *OA No. 593 of 2017 titled as "Paryavaran Suraksha Samiti & Anr. Vs. Union of India & Ors."* explicitly empowered the Respondent No. 2/CPCB to assess and recover compensation for environmental damage. However, the authority to levy penalties resides solely with the NGT, as it functions as the adjudicating body in such matters and the Respondent No. 2/CPCB's role, as specified, is limited to assessing damage and recovering compensation, without overstepping into penalty imposition.
24. That a significant portion of the CPCB's Reply consists of non-responsive statements such as "reiterated", "no comments", "already submitted" and "matter of record". None of these constitute a specific traverse of the Appellant's averments. As per well-settled principles, vague denials and evasive replies are deemed admissions. The CPCB, therefore, must be taken to have admitted the Appellant's assertions regarding non-compliance with statutory procedure, illegality of sampling, absence of notice, absence of section 11 compliance and arbitrariness in EC calculation.
25. It is humbly submitted that if CPCB's interpretation is accepted, it would result in a dangerous precedent whereby regulators, without any statutory backing, may impose multi-core liabilities on industries at their own discretion. This



would amount to rewriting Section 5 of the EP Act, converting it from a regulatory power into a penal provision, which is impermissible in law. The Hon'ble Tribunal must guard against such regulatory overreach and ensure that penalties or compensations are imposed only under lawful authority and through judicial adjudication.

REPLY TO PRELIMINARY SUBMISSIONS:

26. That the contents of para 1 of the Reply are introductory in nature and relating to the description of Respondent No.2/CPCB as a statutory body, are a matter of record. However, it is most respectfully submitted that mere statutory existence does not exempt Respondent No.2/CPCB from compliance with mandatory statutory procedure, principles of natural justice and constitutional safeguards, which form the subject matter of challenge in the present Appeal. It is further submitted that while Respondent No.2/CPCB may perform functions under the Water Act, Air Act and the Environment (Protection) Act, 1986, the exercise of such functions must strictly conform to the express provisions of the respective statutes, including, inter alia, compliance with Section 11 of the Environment (Protection) Act, 1986 in matters relating to sampling and analysis, and the obligation to pass speaking orders after affording due opportunity of hearing. It is further submitted that any action taken in derogation thereof is liable to be declared arbitrary, illegal and unsustainable in law.
27. That the contents of para 2 of the Respondent No.2/CPCB's Reply, wherein Respondent No.2/CPCB has sought to issue a blanket and omnibus denial of all claims, contentions, allegations and averments made in the Appeal, are denied as the same being vague, evasive and legally untenable. It is most humbly submitted that such sweeping disclaimers, unsupported by specific rebuttal of material facts pleaded in the Appeal, do not constitute a valid traverse in the eyes of law.



It is further submitted that the law requires a clear and specific denial of factual assertions; failure to do so renders the Reply deficient and liable to be read against Respondent No.2/CPCB. It is further submitted that the Respondent No.2/CPCB has failed to specifically deny or rebut the Appellant's averments with supporting material, such averments are liable to be treated as admitted. Moreover, without prejudice to the above, it is reiterated that each and every material averment made in the Appeal stands independently substantiated by facts, documents and law, and the mere insertion of a blanket denial clause by Respondent No.2/CPCB cannot cure the substantive infirmities in its actions or justify the impugned orders.

28. That the contents of Para 3 of the Reply, wherein Respondent No.2/CPCB states that this Hon'ble Tribunal, vide orders dated 21.04.2025 and 21.08.2025, sought a reply from CPCB in the present matter, are a matter of record. It is admitted to the extent that the Reply has been filed pursuant to the said directions. However, it is respectfully submitted that the mere filing of a reply pursuant to the directions of this Hon'ble Tribunal does not dispense with the obligation of Respondent No.2/CPCB to file a reply which is complete, specific, supported by primary records and responsive to the material issues raised in the Appeal. It is further submitted that compliance with a procedural direction to file a reply cannot cure substantive deficiencies in the contents of the Reply itself. It is further submitted that although the Reply has been filed pursuant to the aforesaid orders, Respondent No.2/CPCB has failed to place on record the original documents, statutory records and material evidence forming the basis of the impugned actions. Consequently, the Reply, notwithstanding its filing in compliance with the Tribunal's directions, remains inadequate and does not meet the standards of disclosure required in proceedings involving serious civil and financial consequences.



29. That the contents of Para 4 of the Respondent No.2/CPCB's Reply are a matter of record. However, it is most respectfully submitted that while Respondent No.2/CPCB has filed the present Reply, it has failed to comply with the second and substantive direction contained in the said order, namely, the production of the complete original record forming the basis of the impugned order. It is pertinent to mention here that the Reply does not annex nor disclose the contemporaneous statutory records, inspection reports, sampling documents, analysis reports, internal notes, computation sheets or any other primary material relied upon for passing the impugned order. It is further submitted that non-production of the original record, despite a specific direction of this Hon'ble Tribunal, seriously prejudices the Appellant and vitiates the defense sought to be raised by the Respondent No.2/CPCB. It is further submitted that the Respondent No.2/CPCB's failure to place the original record on record reinforces the Appellant's challenge to the legality and arbitrariness of the impugned order.

30. That the contents of Para 5 of the Reply, consisting of a tabular statement purportedly setting out inspection dates, alleged findings, regulatory actions and Environmental Compensation, are categorically denied as misleading, incomplete, legally unsustainable and incapable of being relied upon. It is humbly submitted that the said table is a selective compilation of assertions, unsupported by primary evidence, and has been prepared with a view to giving a misleading impression of continuous non-compliance, while deliberately suppressing material facts favourable to the Appellant.

29.1 At the outset, it is submitted that the table reproduced in Para 5 does not disclose the statutory basis of the alleged findings. While inspection dates and alleged observations are tabulated, the Respondent No.2/CPCB has conspicuously failed to annex or refer to any legally



admissible sampling records corresponding to the entries in the table. It is pertinent to mention here that no notice of sampling, no presence of the Appellant's representative, no sample sealing records, no forwarding memos, no chain-of-custody documents and no Government Analyst reports under Section 11 of the Environment (Protection) Act, 1986 have been disclosed in respect of any entry in the table. In the absence of such foundational documents, the tabular assertions are devoid of evidentiary value. It is humbly submitted that the contents of Para No.7 of this Rejoinder are being reiterated and the same are not being repeated for the sake of verbosity and prolixity.

29.2 The Appellant herein humbly submits that the table is misleading by design, inasmuch as it merely lists inspection observations without disclosing whether the alleged samples were collected from the authorized discharge outlet of the Appellant. It is pertinent to mention here that the table does not identify the sampling points, does not disclose GPS coordinates, does not establish hydraulic connectivity between the sampling locations and the Appellant's unit, and does not rule out external sources such as agricultural runoff, rainwater accumulation or third-party drains. It is further submitted that mere tabulation of alleged parameters, without establishing source attribution, cannot be used to fasten liability.

29.3 It is further submitted that the table in Para 5 suppresses material regulatory developments, particularly the fact that closure directions referred to therein were subsequently revoked after compliance, and the Appellant was permitted to resume operations. It is pertinent to mention here that the selective extraction of adverse events, while omitting revocation orders, compliance reports and validation by expert institutions, renders the table incomplete and misleading. It is humbly submitted that the Respondent



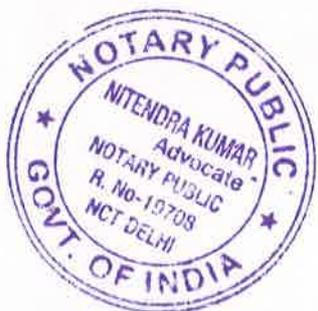
No.2/CPCB cannot approbate and reprobate by relying on closure orders while ignoring revocation orders passed by competent authorities.

29.4 The Appellant further submits that the tabular representation falsely creates an impression of repetitive or continuous violation. While, in reality, the table merely aggregates historical, isolated and resolved events spanning several years. The law does not permit resolved past issues to be mechanically compiled and portrayed as present or continuing violations. It is humbly submitted that the absence of any current or contemporaneous violation renders the tabular narrative legally irrelevant.

29.5 That with respect to the Environmental Compensation (EC) figures reflected in the table, it is submitted that the table fails to disclose how such figures were arrived at. It is most humbly submitted that no computation sheet, formula, flow data, duration of alleged violation, parameter exceedance analysis or committee recommendation has been placed on record. It is further submitted that the drastic variation in EC amounts reflected in the table itself demonstrates arbitrariness and lack of application of mind.

29.6 It is also submitted that the table does not disclose whether any show-cause notice proposing Environmental Compensation was issued prior to the passing of the orders reflected therein, nor does it disclose whether the Appellant was afforded any opportunity of hearing. It is most humbly submitted that the absence of such procedural safeguards vitiates every consequential action recorded in the table.

29.7 That the Appellant most humbly submits that the tabular statements, howsoever neatly presented, cannot override statutory requirements. It is further submitted that a table cannot cure illegality and unless each entry in the table is



supported by contemporaneous, statutory, legally admissible documents, the table remains a mere assertion and cannot be treated as proof of violation.

29.8 The Appellant further submits that a similar approach was adopted by Respondent No.2 in proceedings relating to the Appellant's Gola Unit, where tabular allegations were made without lawful sampling or technical substantiation. It is most humbly submitted that such repeated conduct demonstrates a pattern of mechanical enforcement rather than evidence-based regulation.

29.9 In view of the foregoing, Para 5 of the Reply and the table contained therein are denied in entirety. It is most humbly submitted that the table is misleading, incomplete, unsupported by statutory evidence and legally unsustainable, and therefore deserves to be ignored by this Hon'ble Tribunal.

30. That the contents of Para 6 of the Reply filed by the Respondent No.2/CPCB are misleading and incomplete hence the same are denied. It is denied that the Respondent No.2/CPCB has submitted copies of the "original record" forming the basis of the impugned order dated 30.05.2019. At the outset it is most humbly submitted that the documents annexed by Respondent No.2/CPCB do not constitute the complete original record as directed by this Hon'ble Tribunal vide order dated 21.08.2025, nor do they disclose the foundational material necessary to justify the impugned action. It is further submitted that Respondent No.2/CPCB has itself qualified its disclosure by stating that only such records "as currently available with CPCB" are being submitted. It is pertinent that such an admission clearly establishes that the entire original record relied upon for passing the impugned order has not been produced. Further, partial disclosure of selective documents cannot be equated with



compliance of a judicial direction to place the original record on record.

With respect to Annexures II and VI, being closure directions dated 19.03.2018 and 30.05.2019 respectively, it is submitted that the said directions are consequential orders and not foundational records. It is reiterated that the Respondent No.2/CPCB has failed to place on record the internal notes, technical evaluations, parameter exceedance analysis, computation sheets or any committee recommendations on the basis of which such drastic directions were issued. Further, mere annexing of closure orders, without the underlying decision-making record, does not satisfy the requirement of producing the original record.

With respect to Annexures III and IX, being revocation directions dated 22.10.2018 and 30.10.2019, it is submitted that the said documents unequivocally demonstrate that the alleged non-compliances were not found or were found to have been rectified and that the Appellant was permitted to resume operations. However, the Respondent No.2/CPCB has selectively relied upon closure orders while failing to explain how, despite revocation and compliance verification, the same alleged deficiencies were resurrected to justify the impugned order.

With respect to Annexure V, being CPCB Circular dated 15.05.2019, and Annexure VII, being CPCB Environmental Compensation Policy dated 04.09.2019, it is humbly submitted that these are general policy documents and cannot retrospectively validate the impugned order dated 30.05.2019. It is further submitted that in any event, policy documents cannot substitute compliance with statutory procedure, nor can they dispense with the requirement of reasoned, case-specific determination.

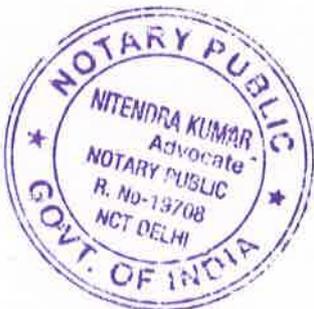


With respect to Annexure VIII, being a Counter Affidavit filed before the Hon'ble Supreme Court of India dated 02.12.2019, it is humbly submitted that pleadings filed in an unrelated proceeding do not form part of the original record of the present impugned order and are wholly irrelevant for the purpose of justifying the action under challenge in the present Appeal.

It is therefore submitted that Respondent No.2/CPCB has failed to place on record the complete original file, including but not limited to sampling records under Section 11 of the EP Act, laboratory analysis reports, internal correspondence, technical notes, EC computation sheets and approval notings. It is further submitted that non-production of such material, despite a specific direction of this Hon'ble Tribunal, renders the impugned order unsustainable and warrants drawing of an adverse inference against Respondent No.2/CPCB.

REPLY TO REPLY ON MERIT:

31. That the contents of Para 1 of the Reply on Merit are denied, save and except to the limited extent that closure directions dated 30.05.2019 were issued and were subsequently revoked, and that Environmental Compensation (EC) was recalculated and communicated vide directions dated 31.10.2019. The remaining assertions, including the allegation of "repeated non-compliance" and the justification of EC, are incorrect, misleading and legally unsustainable. At the outset, it is humbly submitted that the allegation of "repeated non-compliance" is a bald assertion unsupported by legally admissible evidence. It is reiterated that the Respondent No.2/CPCB has failed to place on record any lawful sampling and analysis conducted in accordance with Section 11 of the Environment (Protection) Act, 1986, or any contemporaneous technical material demonstrating persistent violation attributable to the Appellant. It is further submitted that the drastic reduction of EC from Rs. 1,36,50,000/- to Rs.



6,90,000/- conclusively demonstrates the arbitrariness and non-application of mind in the original assessment. Moreover, such a steep recalculation, without any disclosure of a reasoned computation, parameter-wise analysis, duration of violation or flow data, renders the entire EC exercise vulnerable and unsustainable in law. Without prejudice, it is most humbly submitted that even the recalculated EC of Rs. 6,90,000/- is unsupported by a speaking order. It is pertinent to that the Respondent No.2/CPCB has not disclosed any computation sheet, methodology application, committee recommendation, or unit-specific reasoning demonstrating how the EC amount was arrived at. Mere communication of a figure does not satisfy the requirements of transparency, proportionality and reasoned decision-making.

- a. That the contents of sub-para (i), wherein Respondent No.2 relies upon orders dated 31.08.2018 passed by the Hon'ble NGT in *Paryavaran Suraksha Samiti & Anr. v. Union of India & Ors.*, O.A. No. 593/2017, are misconceived and misapplied to the facts of the present case. It is most humbly submitted that the said orders confer a general regulatory power upon the Respondent No.2/CPCB to assess and recover environmental compensation subject to compliance with law, and do not authorize arbitrary, mechanical or retrospective imposition of EC without adherence to statutory procedure, principles of natural justice and case-specific determination. It is further submitted that the reliance placed on *Paryavaran Suraksha Samiti* is further misplaced as the said proceedings dealt with systemic non-functioning of STPs/CETPs/ETPs at a macro level, whereas the present case concerns a unit-specific action which must stand on its own factual and legal footing.
- b. That the contents of sub-para (ii), wherein Respondent No.2/CPCB has relied upon the order dated 19.02.2019



and the "Methodology for assessing penalty and environmental compensation," are denied to the extent they are sought to be applied mechanically and retrospectively to the Appellant. It is humbly submitted that the methodology referred to therein is an enabling framework and not a substitute for statutory compliance. Moreover, the Respondent No.2/CPCB has failed to demonstrate how any of the listed categories namely discharge in violation of consent conditions, non-compliance with directions, or data manipulation - are factually established against the Appellant through lawful and contemporaneous evidence.

It is pertinent to mention here that in particular, the Respondent No.2/CPCB has not established any violation of consent conditions through legally valid sampling, nor any intentional avoidance or manipulation of data. Mere reproduction of categories from a methodology document, without correlating them to proven facts of the present case, cannot justify imposition of EC. Further, the Respondent No.2/CPCB has failed to demonstrate such application in the present case, rendering the reliance on the methodology illusory and untenable.

In view of the foregoing, the assertions made in the Para 1 of the Reply on Merit (including sub-paras (i) and (ii)) are denied in entirety. It is reiterated that the impugned action of Respondent No.2/CPCB, including the levy of Environmental Compensation, is not only arbitrary, unsupported by statutory evidence but contrary to settled principles of law and the same is liable to be set aside.

32. That the contents of Para 2 of Reply on Merit, wherein Respondent No.2 has stated that "no comments are needed" on sub-paras (i) to (v) of Para 2 of the Appeal under the heading *Factual Matrix*, are denied as evasive and legally insufficient. It is most humbly submitted that the said sub-paras contain



material facts forming the foundational background of the dispute, and Respondent No.2/CPCB was duty-bound to specifically admit or deny the same. Moreover, a plea of “no comments” does not amount to a valid traverse and the averments contained in sub-paras (i) to (v) of Para 2 of the Appeal are therefore liable to be treated as admitted. It is further submitted that the Respondent No.2/CPCB cannot avoid responding to material facts by labelling them as “introductory in nature,” particularly when such facts directly relate to the regulatory history, compliance status and actions taken by various authorities. Consequently, the failure to specifically rebut the said averments further strengthens the Appellant’s case and undermines the credibility of the Reply.

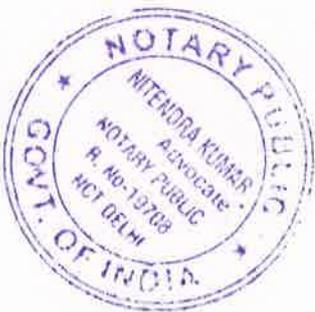
33. That the contents of Para 3 of the Reply on Merit, wherein Respondent No.2/CPCB has offered “no comments” on sub-para (vi) of Para 2 of the Appeal referring to UPPCB letter dated 13.10.2025, are not only misconceived but are untenable too hence denied. It is most humbly submitted that the said letter is a material document relied upon by the Appellant and bears directly upon the issues in controversy. It is further submitted that Respondent No.2/CPCB has neither disputed the authenticity of the UPPCB letter dated 13.10.2025 nor placed any contrary material on record. It is pertinent that in the absence of any specific denial or rebuttal, the contents and implications of the said letter stand uncontroverted and must be read as admitted.

34. That the contents of the Para 4 of the Reply on Merit, wherein Respondent No.2/CPCB has sought to address sub-paras (vii) to (xi) of Para 2 of the Appeal by referring to a tabulation at Serial Nos. 6 and 12 of an “above Table,” are denied as vague, evasive and legally unsustainable. It is most humbly submitted that mere reference to a tabular summary does not amount to a valid or substantive reply to detailed factual averments raised in the Appeal. It is reiterated that the



Respondent No.2/CPCB has failed to explain how the Environmental Compensation (EC) reflected at Serial Nos. 6 and 12 was computed, the factual basis thereof, the duration of alleged violation, the parameters allegedly exceeded, or the methodology actually applied to the Appellant's case. It is further submitted that a tabular compilation, without supporting primary documents, reasoned analysis or unit-specific findings, cannot override or displace detailed pleadings supported by facts and documents. Further, the Respondent No.2/CPCB has failed to meet the averments made in sub-paras (vii) to (xi) of Para 2 of the Appeal in the manner required by law. In view of the above, the reliance placed by Respondent No.2/CPCB on the said table is misconceived, and the averments made in sub-paras (vii) to (xi) of Para 2 of the Appeal stand unrebutted and are liable to be accepted. That the Appellant in para 2(ix) of the Appeal had pointed out serious procedural lapses at the part of authorized officer assigned to collect water samples from the Appellant's unit and the said para is being extracted herein for the convenience of this Hon'ble Tribunal:

"...2...(ix) It is humbly submitted that there are serious procedural lapses at the part of authorized officer assigned to collect water samples from the Appellant's unit for the purpose of analysis. It is pertinent to mention here that any inspection carried out and report prepared would be void ab initio in contravention of the specified provisions under Section 11 of the Environment (Protection) Act, 1986, which outlines that the Central Government or an authorized officer must follow a strict procedure for sampling and analysing air, water, soil, or other substances. This includes serving notice to the occupier or person in charge, collecting the sample in their presence, marking and sealing the sample containers with signatures from both parties, and promptly sending the samples to a government-recognized laboratory. Furthermore, in cases of wilful absence or refusal to sign by the occupier or their agent, the person collecting the sample must mark, seal, and send the containers for analysis while informing the Government Analyst in writing. Any deviation from these prescribed steps renders the inspection and subsequent report inadmissible in legal proceedings, thereby nullifying their validity from the outset..."



However, the Respondent No. 2 in its reply instead of refuting to the serious lapses chose to remain silent, which makes it evident there were lapses on the part of Respondent No. 2 while conducting the inspection. The rebuttal to para 2(ix) of the Appeal is being extracted herein for the convenience of this Hon'ble Tribunal:

"...4. That, with respect to the averments made in sub-para (vii) to (xi) of Para 2 under Factual Matrix, this answering respondent submits that the details of the Environmental Compensation levied by CPCB have been tabulated at SI No 6 & 12 of above Table mentioning the chronological summary..."

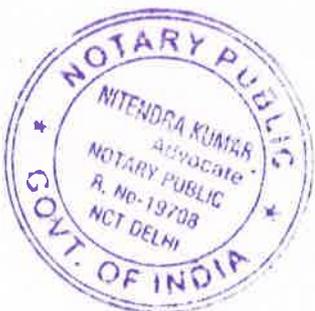
35. That the contents of the Para 5 of the Reply on Merit are denied in entirety to the extent they relate to sub-paras (xii) to (xvii) of Para 2 of the Appeal, save and except to the limited extent of inspection and issuance of closure directions. The remaining assertions, particularly those alleging discharge of untreated wastewater and parameter exceedance, are incorrect, incomplete, misleading and legally untenable.

a. It is denied that the allegations recorded in sub-para (a) establish any legally sustainable violation by the Appellant. It is most respectfully submitted that the Respondent No.2/CPCB has failed to disclose that the alleged findings of inspection dated 04.01.2017 are not supported by any lawful sampling and analysis conducted in accordance with Section 11 of the Environment (Protection) Act, 1986. It is pertinent to mention here that no notice of sampling, no presence of the Appellant's authorized representative, no sample sealing record, no forwarding memo to a Government laboratory, and no analyst report have been placed on record. Further, in the absence of compliance with the mandatory statutory procedure, the alleged parameter values of BOD, TSS and MLSS are legally unenforceable and cannot be relied upon to fasten liability. It is further denied that Respondent No.2/CPCB has established any scientific or technical nexus between the Appellant's unit



and the alleged discharge into river Amedhi or the downstream water bodies. Moreover, no site plan, hydraulic connectivity study, outlet identification, or geospatial data has been produced to attribute the alleged discharge to the Appellant's unit, particularly in an area containing multiple drainage sources.

- b. It is admitted that closure directions dated 05.06.2017 were issued under Section 5 of the Environment (Protection) Act, 1986; however, it is submitted that the said directions were interim, preventive and non-penal in nature, issued pending verification of compliance and adequacy of remedial measures. It is further submitted that the issuance of closure directions, by itself, does not constitute a finding of guilt or establish a concluded violation, particularly when such directions were subsequently reconsidered and revoked after technical scrutiny. Moreover, the Respondent No.2/CPCB cannot rely upon an interim regulatory measure while ignoring the outcome of the subsequent compliance process.
- c. That it is submitted that sub-para (c) itself demolishes the case sought to be set up by the Respondent No.2/CPCB. It is most humbly submitted that the validation of adequacy reports by NSI, Kanpur, followed by examination by a three-member expert committee comprising representatives of the Respondent No.2/CPCB, MoEF & CC and NMCG, and the recommendation dated 24.10.2017 permitting resumption of operations, clearly establishes that the unit's ETP system and proposed corrective measures were found technically acceptable. Further, the recommendation of the expert committee and the consequential directions dated 08.11.2017 permitting resumption of operations, subject to implementation and verification of recommendations, demonstrate that the



Respondent No.2/CPCB was satisfied with the corrective steps undertaken by the Appellant. Moreover, in such circumstances, the Respondent No.2/CPCB cannot retrospectively rely upon the initial inspection of January 2017 to allege continuing or repeated non-compliance. It is further submitted that the Respondent No.2/CPCB has not placed on record any material to show that the Appellant failed to implement the committee's recommendations or that the performance assessment subsequently carried out revealed persistent deficiencies.

36. That the contents of Para 6 of the Respondent No.2/CPCB's Reply, insofar as they relate to sub-paras (xviii) to (xxiii) of Para 2 of the Appeal under the Factual Matrix, are denied in toto, save and except to the limited extent that inspections and subsequent directions were issued as a matter of record. The assertions contained therein, including those alleging non-compliance, bypass of untreated effluent, inadequacy of the ETP, and elevated parameter values, are misleading, incomplete, and unsupported by legally admissible evidence.
- a. In respect to sub-para (a), it is denied that the inspection conducted on 31.01.2018 established any legally enforceable violation by the Appellant. It is most humbly submitted that the findings recorded by CPCB, namely partial operation of the ETP, absence of observed discharge, a blocked inlet, empty lagoon, and elevated BOD/COD values, are unsupported by statutory sampling under Section 11 of the Environment (Protection) Act, 1986. Further, no notice of sampling was served, no representative of the Appellant was present, no sample sealing or forwarding documentation was produced, and no Government Analyst report has been annexed. It is further denied that the observed "closed circular channel" and the analysis results derived from it can be attributed to the Appellant's unit. It is however



submitted that the Respondent No.2/CPCB has failed to establish hydraulic connectivity between the channel and the Appellant's outlet, nor has it ruled out the possibility of contamination from third-party sources, agricultural runoff, or rainwater accumulation. It is pertinent to mention here that in the absence of scientific or engineering proof of source, the sample results from the channel cannot be relied upon to establish violation. It is further submitted that allegations such as a deliberately blocked ETP inlet or an empty lagoon are conjectural and not corroborated by any contemporaneous photographic, video-graphic, logbook, or laboratory evidence. It is further submitted that the assertions rely solely on field notes without statutory validation and cannot serve as a basis for closure or penalty.

- b. In respect to sub-para (b), it is admitted that closure directions dated 19.03.2018 were issued; however, it is respectfully submitted that such directions were interim and preventive in nature, intended to ensure that remedial measures were implemented and verified. It is further submitted that the issuance of closure directions, without lawful and verified evidence of violation, cannot be treated as a conclusive finding against the Appellant.
- c. In respect to sub-para (c) of Para 6, it is most humbly submitted that adequacy reports and implementation status of the "Charter for Effluent Treatment by Sugar Factories situated in River Ganga basin" through letters dated 07.05.2018, 20.07.2018, and 24.09.2018. Further, these reports were examined by the Three-Member Committee, which included representatives of the Respondent No.2/CPCB, MoEF & CC, and NMCG, at the meeting held on 04.10.2018. It is pertinent to mention here that the committee, after due consideration of the Appellant's submissions and supporting documents,



recommended that the unit may resume operations. Further, the said recommendation is indicative of technical acceptance and regulatory satisfaction with the remedial measures undertaken by the Appellant. It is further submitted that the examination by the Three-Member Committee involved scrutiny of actual implementation, performance assessment of the ETP, and verification of compliance with prescribed standards. It is further submitted that in such circumstances, the Respondent No.2/CPCB cannot retrospectively rely upon earlier alleged deficiencies as continuing violations.

- d. In respect to the sub-para (d), it is admitted that revocation directions dated 22.10.2018 were issued permitting the unit to resume operations, subject to obtaining valid consent from the Uttar Pradesh Pollution Control Board. It is most respectfully submitted that the issuance of revocation directions conclusively demonstrates that the Appellant had addressed all identified deficiencies to the satisfaction of the regulatory authorities. Moreover, any attempt to rely upon historical inspection findings in isolation, without reference to subsequent compliance and regulatory verification, is misleading, arbitrary, and legally unsustainable. The inspections, closure and revocation process demonstrate that the Appellant herein undertook corrective action, complied with expert committee recommendations, and obtained regulatory approval before resumption of operations.
37. That the contents of Para 7 of the Reply, wherein Respondent No.2/CPCB seeks to address sub-para (xxiv) of Para 2 of the Appeal by merely reiterating the comments made in Para 1 of the Reply, are denied to the extent they seek to avoid specific response to material averments. It is however submitted that the reliance on a general reference to Para 1 does not



constitute a substantive reply. It is further submitted that each material averment in the Appeal, including sub-para (xxiv), is required to be specifically traversed with supporting documents or factual rebuttal. It is reiterated that the failure to provide such specific reply renders the assertions in sub-para (xxiv) unchallenged and liable to be treated as admitted.

38. That the contents of Para 8 of the Reply, wherein Respondent No.2 addresses sub-paras (xxv) to (xxix) of Para 2 of the Appeal by merely reiterating the preliminary submissions, are denied. It is submitted that preliminary submissions, which are general in nature, cannot substitute for a material, fact-specific, and legally reasoned reply to detailed averments. It is reiterated that the allegations made in sub-paras (xxv) to (xxix) stand uncontroverted and, in the absence of specific denial or rebuttal, are to be taken as admitted in law. Further, it is submitted that Respondent No.2/CPCB's attempt to rely on general statements made under preliminary submissions does not address the factual and documentary evidence submitted by the Appellant. Moreover, mere repetition of general statements without engaging with the Appellant's specific averments constitutes an evasive and inadequate reply.

39. That the contents of Para 9 of the Reply, wherein the Respondent No.2/CPCB states that no comments are offered over sub-paras (xxx) to (xxxix) of Para 2 of the Appeal on the ground that they are "matters of record," are denied to the extent they seek to avoid specific traverse. It is submitted that the Respondent No.2/CPCB was nonetheless required to specifically confirm, deny, or qualify each such averment to comply with the rules of pleading. It is further submitted that the failure to do so renders the Reply incomplete and leaves the corresponding averments of the Appellant unrebutted and legally unchallenged. It is further submitted that "matter of record" cannot be used as a blanket shield to avoid addressing allegations which directly bear upon the legality, validity, and



computation of Environmental Compensation or alleged non-compliance. Further, each matter of record raised in the Appeal, including the documents and dates mentioned in sub-paras (xxx) to (xxxix), is therefore taken to be admitted unless specifically denied by production of contrary evidence.

REPLY TO REPLY ON GROUNDS:

40. That the contents of Para 10 of the Respondent No.2/CPCB's Reply, wherein the same has sought to address para A under the heading *Grounds of the Appeal* by merely reiterating preliminary submissions, are denied to the extent they avoid specific, fact-based responses. It is most humbly submitted that mere repetition of preliminary submissions cannot constitute a substantive reply. Further, the averments in para A of the Appeal stand un rebutted and are therefore admitted in law.
41. That the contents of Para 11 of the Reply, wherein no comments are offered over paras B to O of the Appeal, are denied as legally inadequate. It is most humbly submitted that by failing to traverse each of these paras, Respondent No.2 has left the averments unchallenged. It is settled law that failure to specifically deny factual assertions results in admission thereof.
42. That the contents of Para 12 of the Reply, wherein the Respondent No.2/CPCB asserts that paras P and Q demonstrate that the unit is a "habitual offender," are denied as misconceived, arbitrary, and unsustainable. It is most humbly submitted that the Respondent No.2/CPCB's allegation of being a "habitual offender" is not substantiated with evidence of continuous or current non-compliance. It is further submitted that past issues, which were examined, remediated, and resolved, cannot be mechanically relied upon to brand the Appellant as a habitual offender.



43. That the contents of Para 13 of the Reply, wherein Respondent No.2/CPCB asserts that Environmental Compensation (EC) was imposed on the basis of inspections dated 31.01.2018 and 26.03.2019, are denied to the extent they imply lawful compliance with statutory procedure. It is most humbly submitted that the inspections were not conducted in accordance with Section 11 of the Environment (Protection) Act, 1986, and the alleged findings are unsupported by lawful sampling, chain-of-custody records, Government Analyst certificates, or technical verification, consequently, the EC levy cannot be legally sustained.
44. That the contents of Para 14 of the Reply, wherein Respondent No.2/CPCB has reiterated preliminary submissions in relation to para T of the Appeal, are denied as evasive and inadequate. It is most humbly submitted that a reiteration of preliminary submissions without addressing specific allegations does not meet the standard required to traverse material facts.
45. That the contents of Para 15 of the Reply, wherein the Respondent No.2/CPCB asserts that the unit has a legal obligation to run operations and is correspondingly bound to comply with environmental standards, are admitted only in the limited sense of acknowledging statutory obligations. However, it is denied that the Appellant failed to comply or that any violation alleged is factually or legally established. It is most humbly submitted that the compliance with environmental standards must be determined based on lawful sampling, proper inspection, and verification by competent authorities, all of which are absent in this case.
46. That the contents of Para 16 of the Respondent No.2/CPCB's Reply, wherein no comments are offered over para V of the Appeal, are denied as insufficient. It is most respectfully submitted that by failing to traverse the material allegations contained therein, the Respondent No.2/CPCB leaves the



averments unchallenged, which may be considered as admitted.

47. That the contents of Para 17 of the Respondent No.2/CPCB's Reply, wherein no comments are offered over paras 3 to 6 of the Appeal, are denied. It is most humbly submitted that the failure to specifically reply to the said paras, which contain material factual averments and documentary references, constitutes an admission of the same.
48. That the contents of Para 18 of the Respondent No.2/CPCB's Reply, wherein the prayer of the Appellant is denied, are denied to the extent that the Appellant's prayers are legally and factually sustainable. In this regard, it is most humbly submitted that the prayer seeks relief in respect of EC imposed on the basis of non-compliant, procedurally defective inspections, which cannot be sustained under law. Accordingly, the denial of the prayer by the Respondent No.2/CPCB is misplaced and without merit.
49. That the contents of Para 19 of the Respondent No.2/CPCB's Reply, wherein leave has been sought to file additional reply in the future, are noted. It is submitted that the Appellant reserves the right to object to any such supplementary submissions, including on the grounds of relevancy, sufficiency of evidence, and procedural compliance.
50. That the contents of Para 20 of the Reply, wherein the Respondent No.2/CPCB prays for dismissal of the Appeal with costs, are denied. It is most humbly submitted that the Appeal raises substantial questions of law and fact regarding statutory compliance under Section 11 of the Environment (Protection) Act, 1986, the legality and arbitrariness of Environmental Compensation, and the procedural irregularities in inspection and sampling. It is further submitted that the dismissal sought by the Respondent



No.2/CPCB is wholly unsustainable. It is further submitted that the present Appeal is well-founded, maintainable.

51. The Appellant Company further craves leave to file an additional affidavit along with all such other documents as may be required to further elaborate and buttress its submissions if required by this Hon'ble Tribunal.

52. That the untenable and misleading objections raised by the Respondent in its Reply dated 17.11.2025 are liable to be rejected and this Hon'ble Tribunal may be pleased to allow the present Appeal and pass appropriate and necessary orders in the interest of justice.

AP
DEPONENT

VERIFICATION:

I, the deponent the abovenamed do hereby verify that the contents of my above affidavit are true and correct to best of my knowledge and beliefs and nothing material has been concealed therefrom. That the contents of the affidavit are true and correct, and the legal submissions are on legal advice received and believed to be correct and no part of it is false and nothing material has been concealed therefrom.

Verified at New Delhi on this ____ day of January, 2026.

16 JAN 2026

AP
DEPONENT

R. Khosla
I Identified the deponent who has signed in my presence



CERTIFIED THAT DEPONENT	
Sh./Ms.....	Age.....
S/o, W/o, D/o.....	<i>Ant Law per</i>
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Shyam Doul