

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
WESTERN ZONE, PUNE**

Execution Application No. 10/ 2022

IN

Original Application No. 69/2021

MR. MAHENDRA GOVIND HASBNIS

Age about -59 years, Occup- Agriculturist and Business

Residing at Survey No. 408/7,

Limbata, Mumbai- Pune Road,

Talegaon Dabhade, Taluka Maval,

District Pune- 410506

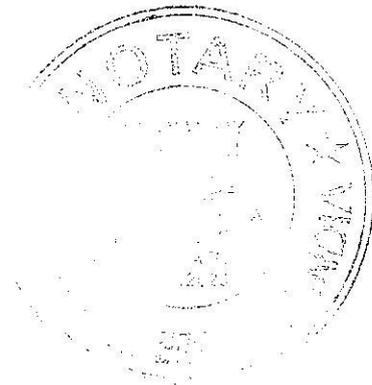
Contact No. - +917083426105

Email- mahendrasahabnis30@gmail.com **...APPLICANT**

V/S

1. CIKAUTXO INDIA PVT. LTD.

A Private Limited Company incorporated





Under the provisions of the
Indian Companies Act, 1956
Having its registered address at:
Survey No. 662, Pune- Mumbai Road,
Talegaon- Dabhade, Pune- 410506
Email- cikautxo@cikautxo.com

2. ALEJANDRO ARANZABAL GOMTEZ
Email- mmendibe@cikautxo.com

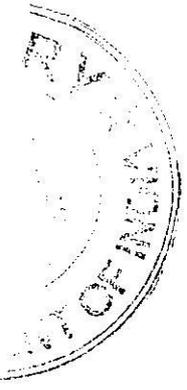
3. JOSE ALBERTO AGIRREGOMEZKORTA ARANTZETA
Email- mmendibe@cikautxo.com

4. INIGO EDUARDO LASCURAIN PAGEEGUI
Email- mmendibe@cikautxo.com

5. MIGUEL ANGEL MENDIVE AURRECOECHEA
Email- mmendibe@cikautxo.com

6. ANTARA NANDI
Email- mmendibe@cikautxo.com

No. 2 to 6 are the Directors of Cikautxo India Pvt ltd
Having their Office at Survey No. 662, Pune- Mumbai Road,
Talegaon- Dabhade, Pune- 410506
Email- cikautxo@cikautxo.com



7. THE SECRETARY

Ministry of Environment, Forest and Climate Change,
Having office at Indira Paryavaran Bhavan,
Jorbagh Road, New Delhi 110003
Email- manju.pandey@nic.in

8. PRINCIPAL SECRETARY

Environment Departement,
Government of Maharashtra, Mumbai 400032
Email- mah.env@nic.in

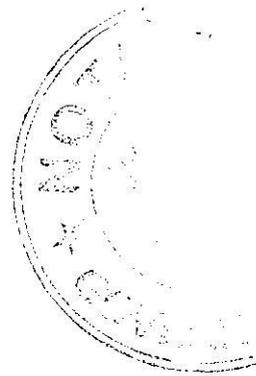
9. THE MEMBER SECRETARY,

Maharashtra Pollution Control Board,
Having its office at- Kalpataru Point, 3rd Floor,
Opp. Cineplanet, Sion East, Mumbai- 40022
Email- ms@mpcb.gov.in

10. REGIONAL OFFICER PUNE II,

Jog Centre, 3rd Floor, Wakdewadi,
Old- Pune Mumbai Highway, Pune- 411003
Email- ropune@mpcb.gov.in

...RESPONDENTS



REJOINDER IN REPLY

I/ We, Tilak Agrawal, Age 34 years, Occupation Service, Authorised representative of the Respondent No.1, O/at Survey No. 662, Pune-Mumbai Road, Talegaon Dabhade, Pune- 410506, do hereby state on solemn affirmation as under: -

1. I state that I am working as Head- Finance with the Respondent No. 1 company w.e.f. August 2011. I have gone through the entire record in connection with the matter. I state that I am duly authorised to depose on behalf of the Respondent No.1. I am therefore deposing before this Hon'ble Tribunal.
2. I say that I have been duly authorized to depose on behalf of the Respondent No. 1 to 6.
3. I state that the contents of the Affidavit in reply filed by Respondent No. 9 and 10 are not true and correct. I state that as per the directions to this Hon'ble Tribunal vide its order dated 17/1/2022 in OA No. 69/2021 (WZ), the State Pollution Control Board was required to make realistic assessment of the compensation and damages after giving due opportunities to the parties to the said application. I state that the MPCB was also required to come up with a remedial action plan for prevention of pollution of environment. The entire action was required to be completed within 3 months from the date of passing of the order. I state that in pursuance to the said order



the company has complied with the direction and has deposited an amount of Rs. 5,00,000/- vide cheque No. 003925 drawn on HDFC Bank dated 21/2/2022 in favor of the MPCB.

4. I state that it is only on 7/2/2023 that the MPCB called up the officer of the company at the office of the MPCB to show the formula based on which the MPCB has wrongly assessed environmental compensation to the tune of Rs. 1,02,56,250/- (Rupees One Crore Two Lakhs Fifty-Six Thousand Two Hundred and Fifty Only).

5. I state that the order for assessment of environmental compensation has never been passed by the Board. Furthermore, there has been no opportunity that has been provided for the company to defend itself while determining compensation. Furthermore the methodology for assessment of environmental compensation used by the MPCB is per say, erroneous and is based upon the formula set out by the MPCB in connection with a matter OA No. 593/2017 in Paryavaran Suraksha Samiti Vs Union of India dated 28/8/2019. I state that as per the affidavit in reply the methodology adopted by the MPCB is erroneous. The formula adopted by MPCB is restricted to NCR Delhi. The indices and factors are region specific and not in connection with the matter under consideration. I further state that the MPCB ought to have taken a thorough assessment of the extent of the actual

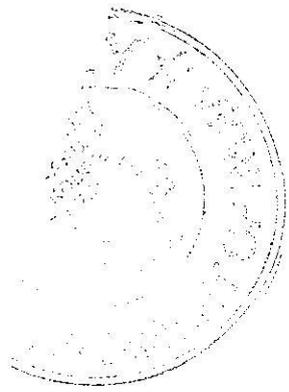
pollution that has caused. The MPCB also ought to have taken into consideration the location of the plant which is situated adjacent to the Highway. Respondent No. 1 Industry has provided 2 nos of boilers, out of 2, one boiler is used and another is kept as standby. These boilers are LPG fired boilers and provided with scrubber system with one common stack of 30 Mtrs height and that the said boiler is running on LPG on regular basis and industry has stopped using Furnace Oil as fuel to the boilers. It is also pertinent to mention that the company has never contravened the consent order issued by the MPCB.

6. I state that the per se entire assessment is null and void. There is no formal order that has been passed by the MPCB . Furthermore the assessment is purely based on the norms adapted by the MPCB for calculation is as such erroneous and cannot be made applicable in the given set of circumstances. I further state that the assessment undertaken is erroneous and deserves to be rejected in the given set of circumstances.
7. Without prejudice to what has been stated hereinabove the Respondents no. 1 to 6 wishes to give its para wise reply to the Affidavit in reply filed by Respondent No. 9 & 10 dated 7/2/2023 as under.

8. With respect to the contents of the Affidavit, I state that the contents therein are not true and correct. Whatever is not specifically admitted shall be deemed to be denied in toto.
9. With respect to contents of Para No.1 & 2 of the Application, I that the contents therein are part of record.
10. With respect to the contents of Para No.3 of the Affidavit I state that the contents therein are not true and correct. I state that it is only on 7/2/2023 that the MPCB called up the officer of the company at the office of the MPCB to show the formula based on which the MPCB has purportedly assessed environmental compensation to the tune of Rs. 1,02,56,250/- (Rupees One Crore Two Lakhs Fifty Six Thousand Two Hundred and Fifty Only) without issuing a formal order. I state that the order for assessment of environmental compensation has never been passed by the Board and/ or never been served on these Respondents. Furthermore, there has been no opportunity that has been provided to the company to defend itself while determining compensation. Furthermore, the methodology for assessment of environmental compensation used by the MPCB is per se, erroneous and is based upon the formula set out by the MPCB in connection with a matter OA No. 593/2017 in Paryavaran Suraksha Samiti Vs Union of India dated 28/8/2019. I state that per say the methodology adopted by the MPCB is erroneous. The formula adapted by MPCB is restricted to NCR

Delhi. The indices and factors are region specific and not in connection with the matter under consideration. I further state that the MPCB ought to have taken a thorough assessment to the extent of the actual pollution that has caused. The MPCB also ought to have taken into consideration the location of the plant which is situated adjacent to the Highway. Respondent No. 1 Industry has provided 2 nos of boilers, out of 2, one boiler is used and another is kept as standby. These boilers are LPG fired boilers and provided with scrubber system with one common stack of 30 Mtrs height and that the said boiler is running on LPG since June 2021 on regular basis and industry has stopped using Furnace Oil as fuel to the boilers. The Respondent No. 1 Industry has provided 2 D.G. sets each of 500 KVA capacity with acoustic enclosure and APC system to each. It is also pertinent to mention that the company has never contravened the consent order issued by the MPCB and there was never actual emission of carbon through the chimney. I state that the environmental compensation purportedly assessed is to the tune of Rs.1,02,56,250/- (Rupees One Crore Two Lakhs Fifty Six Thousand Two Hundred and Fifty Only) is erroneous and there is no formal order of assessment. Rest of the contents of this para are denied.

11. With respect to the contents of Para No.4 of the Affidavit, I state that the contents therein are not true and correct. I state that there has been no formal assessment process. There has been no hearing that is contemplated by Law. The MPCB has



given mere intimation on 7/2/2023 regarding the formula it has used without having formal hearing or sending a notice for assessment of environmental compensation.

12. With respect to the contents of para No.5 of the Affidavit in reply, I state that it is true that the company is shifted to LPG from furnace oil for its boilers. I further state that there shall never be emission of carbon/ soot particles and thereby causing pollution.

13. I therefore state that the execution application may kindly be dismissed.

Whatever is stated hereinabove is true and correct to the best of my knowledge believe and information and I have put my signature hereunder at Pune on this 24th day of February 2023.



Ashutosh Agrawal

Affiant

CIKAUTOXO INDIA PVT. LTD.
S.No. 662, Mumbai-Pune Road,
Talegaon Dabhade, Pune-410 506.

BEFORE ME

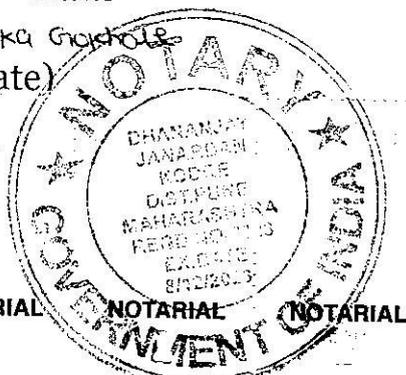
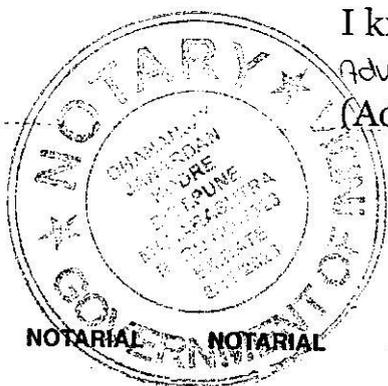
DHANANJAY JANARDAN KODRE
ADVOCATE & NOTARY GOVT. OF INDIA
Mun. Ward Mandli, Church, Puchwar Path,
778 No. 6478, Ujjaneta, Suburb to Marol Mandli Road
Talegaon Dabhade, Tal. Maval Dist. (Pune)-410506

NOTED AND REGISTERED
AT SERIAL NO 300 / 2023
ON

24 FEB 2023

S. Sanika Ghoshale
I know Affiant

Adv. Sanika Ghoshale
(Advocate)



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WESTERN ZONE, PUNE**

Execution Application No. 10/ 2022

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Original Application No. 69/2021

MR. MAHENDRA GOVIND HASBNIS

...Applicant

v/s

CIKAUTXO INDIA PVT. LTD.

...Respondents

REJOINDER IN REPLY

Dated this on 24th February 2023

VARUN R. JOSHI

Advocate For Respondent No. 1 to 6

MAH/2882/2010

#9881149148

27B Shri Chaitanya Complex,

Opp. Muktangan English School ,

Pune - 411009

Email - varunrjoshi@gmail.com

Mobile # 9881149148

(Advocate Code: 6567)