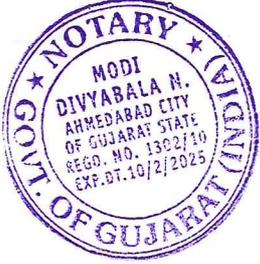


**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
WESTERN ZONE BENCH, PUNE
AT PUNE**



APPEAL No.15 OF 2024 (WZ)

RSPL LIMITED

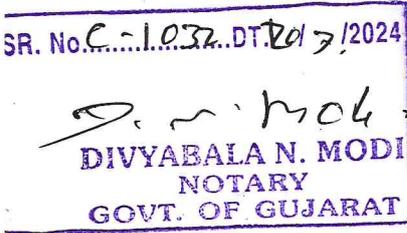
...APPELLANT

V/s

STATE OF GUJARAT & ANR

...RESPONDENTS

**REJOINDER AFFIDAVIT
ON BEHALF OF APPELLANT - RSPL Ltd.**



I, Harish Ramchandani, son of Late Mangharam

Ramchandani, do hereby solemnly affirm and state on oath as under:

1. I have read a copy of the above captioned appeal as well as its annexures as well as other relevant documents relating to the subject matter. Accordingly, I am conversant with the facts and circumstances of the present case and am also competent to make the present affidavit.
2. I am making the present affidavit only for the limited purpose of dealing with the contents of the affidavit in reply filed by the Respondent No.6 Bhayabhai Vershibhai Luna in the subject appeal and in view of the limited purpose of present affidavit, I would not deal with each and every averments and

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allegations, either in seriatim or in detail at this stage. I, however, reserve my right to make a further and detailed affidavit if and when it becomes necessary.

3. At the outset, I deny all the averments, allegations and submissions made in affidavit in reply under consideration which are contrary to and inconsistent with the record of the appellant and/or what is stated in present reply affidavit, as if they all are individually and specifically dealt with and traversed, save and except those which may be expressly admitted herein below. I humbly submit that none of the allegations and/or averments and/or contentions in the affidavit in reply may be presumed as admitted merely because any of them is not expressly dealt with or replied.

4. I humbly submit that the contents and submissions of the Respondent no.6 in the affidavit in reply is misconceived, devoid of merits do not deserve to be entertained.

5. That the Respondent no.6 has raised a preliminary contention in respect of the maintainability of the appeal of the appellant. The same is stated in para 4 and 4.1 to 4.9 of the affidavit in reply. In this regard, it is submitted as follows:

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- a) That while granting stay of the closure order by way of the order dated 12.02.2024, this Hon'ble Tribunal has in para 2 noted that the closure order is issued under Section 33(A) of the Water (prevention and control of pollution) Act, 1974 ("**Water Act**" for short) and Section 31(A) of the AIR (prevention and control of pollution) Act, 1981 ("**AIR Act**" for short) but the impugned order doesn't mentioned of any violation under 31 (A) of the Air Act.
- b) That the appeal has been preferred pursuant to the directions of the Hon'ble Gujarat High Court in the order dated 05.02.2024 in R/Special Civil Application No.1706 of 2024 preferred by the present appellant wherein the present appellant has been directed by the Hon'ble Gujarat High Court to take recourse to the remedy of appeal available under the afore stated Acts before the Appellate Authority.
- c) That a reading of the closure order it clearly show that the closure order and the non-compliances of the directions of the Respondent GPCB are essentially and undeniably under the provisions of the Water Act and not under the AIR Act. The same is evident from the non-

compliances mentioned in the closure order which are as follows:

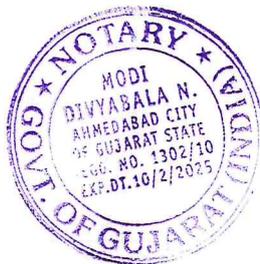
"a) Failed to remove salt containing top soil layer from the survey no.540 & 606 under the supervision of District Agricultural Department or its authorized expert institute/ officer or Schedule-I auditor.

b) Failed to construct water retaining wall at the common boundary of industry and survey no.540 & 606 to prevent water seepages/leakages/overflow from the industry even during unforeseen situation under the supervision of authorized expert institute/ officer in Civil Engineering field.

c) Failed to provide surface gradient towards survey no.540 & 606 which is to be changed at appropriate location or a trench at the boundary of the premises within premises to be provided in order to divert surface runoff required precautionary measures for future release of water/ waste water from the industry leading to survey no.540 & 606 etc.

d) Failed to submit work completion certificate from related expert authorized institute separately for each work or consolidated from GPCB recognized schedule - 1 Environment Auditor."

d) That it is evident that all the non-compliances which are the core of the closure order are relatable to alleged violation under the Water Act for which the remedy lies before this Hon'ble Tribunal and the appeal is maintainable and has been rightly entertained by this Hon'ble Tribunal wherein the same has been admitted by



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way of the order dated 12.02.2024 while granting stay against the closure order.

- e) That merely stating a provision would not lead to any inference that the appeal becomes non-maintainable in view thereof more particularly when the crux of the matter is in respect of the alleged violation under the Water Act and not under the AIR Act.



- f) That therefore the contention of the Respondent no.6 regarding the maintainability of the present appeal is based on irrelevant considerations and is without any merit.

- g) That over and above the aforesaid, the present appellant has filed an affidavit dated 03.07.2024 wherein the appellant has placed on record the relevant aspects in respect of the alleged / so-called non-compliance which have led to the issuance of the closure order by Respondent GPCB which closure order was in fact illegal and unsustainable considering the fact that the appellant was directed to enter third-party lands to undertake remediation measures and other works for which, the appellant was willing to undertake however, the present

Respondent and other the Respondents did not agree and grant permission to undertake the said work. It is also on record that the appellant requested the Respondent GPCB to get permission from the owners / third-parties which the Respondent GPCB could not obtain. Be that as it may, the directions of the Hon'ble Gujarat High Court which have been placed on record clearly direct the Respondent GPCB to undertake the said work of remediation in the land of the owners / third-parties / private Respondents which also include the present Respondent no.6 who owns survey no. 540/1 and the said work is undertaken by Respondent GPCB on directions of the Hon'ble Gujarat High Court and the appellant has deposited the entire amount towards the cost of remediation work as directed by the Hon'ble Gujarat High Court. The rest of the directions also stand complied for which, the said affidavit dated 03.07.2024 has been submitted by the appellant in the present proceedings and considering the fact situation which prevails as of now, the impugned closure notice dated 12.01.2024 becomes redundant and stands altered in view of the directions contained in the order dated 27.03.2024 in SCA No.6970 of 2023 and the closure



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notice is required to set-aside and the appeal is required to be allowed by this Hon'ble Tribunal.

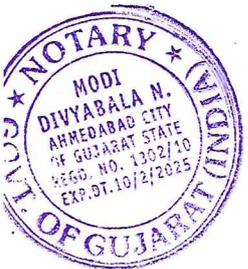
- h) That the judgments relied upon by the Respondent no.6 are not applicable to the facts of the present case. Without prejudice, there is no element of alleged violation of the AIR Act in the closure notice which is evident from the so-called grounds / non-compliances due to which, the closure notice has been issued by the Respondent GPCB. This Hon'ble Tribunal has the jurisdiction and has rightly entertained the appeal and admitted the same and granted stay of the operation of the impugned order and therefore the contention regarding the maintainability of the appeal is required to be rejected as being untenable.



6. That the contention of the Respondent no.6 in para 5 and 5.1 to 5.3 is denied and not admitted. The contention regarding non-production of documents as stated in para 5.1 is without any basis. The said documents, according to the appellant, do not assist in the adjudication of the issue in the subject appeal however, if the Hon'ble Tribunal as and when requires, the same will be placed on record for the perusal of the Hon'ble Tribunal. That Dharamsinh Desai University is a Schedule I auditor under provisions of the Environment Act and as per the

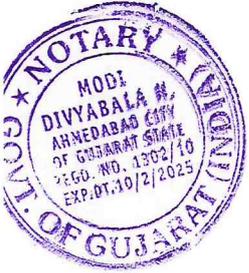


directions of the Hon'ble Gujarat High Court in the order dated 27.03.2024 in SCA NO.6970 of 2023, the recommendation of the institution has been directed to be implemented by the GPCB for soil remediation which includes the work to be carried out in the survey number of the Respondent no.6 i.e. survey no.540/1. The contents of para 5.3 are completely out of context and hold no merit as far as the present issue is concerned. The aspersions against DDU, Nadiad are sought to be cast on completely irrelevant considerations which have no basis and/or logic.



7. That the contentions of the Respondent no.6 in paras 6.1 6.6 are denied and not admitted. It is respectfully submitted that the contentions of the Respondent No.6 that the Appellant has not come with clean hands before this Hon'ble Tribunal is denied and not admitted. It is denied that the NOD / Instructions issued by the authority have been violated by the Appellant. The contents of para 6.2 and para 6.3 are denied and whatever is reiterated in the para under reply of the Appeal which are denied in the Affidavit of the Respondent No.6 are reiterated. The instructions for carrying out the work in the Survey numbers belonging to the private Respondents or the remediation measures in their Survey numbers is an

impossibility since despite repeated requests, no permission was given by the private Respondent and even Respondent GPCB's request to permit the Appellant to carry out the said work was not responded to. The contention regarding discharge or release of salt containing water from the unit to Survey No.540 or 606 is a false statement. As far as high TDS level is concerned, the Survey numbers being close to the sea / adjoining to the sea are bound to have high salinity ingress. The Appellant has undertaken all the instructions issued by the Respondent GPCB from time to time, which is on record and as far as the remediation measures or the gradient is concerned, the same could not be undertaken due to the permission not being granted to enter the land of the private Respondents. It is again denied that the Appellant has not acted upon the notice of direction or instructions issued by the Respondent GPCB from time to time. The CCTV camera has been installed and is properly functioning. The entry to the Survey numbers of the private Respondents not being granted by them now pales into insignificance since before the Hon'ble Gujarat High Court, the Respondent has agreed or the said remediation measures and has not objected to same, which is recorded in the order of the Hon'ble Gujarat High Court, wherein the Respondent GPCB has been directed to undertake the said work and not the present



Appellant essentially modifying the said direction to the Appellant. The drain / peripheral wall has been constructed as per the directions of the Respondent GPCB. The contents of paras 6.4, 6.5 and 6.6 are denied and whatever is stated in the Appeal is reiterated.

8. With regard to the contents of paras 6.7 to 6.9 and para 7 are denied and not admitted. It is denied that the Appellant has tried to mislead the Hon'ble Tribunal or has suppressed material facts. The contents of para 8 are denied and not admitted. The contents of paras 9 to 11 are denied and not admitted. It is denied that the Appellant has violated any environmental laws or any NOD / instructions issued by the Board from time to time or norms fixed by the Respondent GPCB. The reliance placed on the decision of the Hon'ble Supreme Court in case of Vedanta Limited vs. State of Tamil Nadu is not applicable to the present matter or the facts of the present case. The grievance of the Respondent No.6 has been redressed in view of the order of the Hon'ble Gujarat High Court and in such circumstances, the captioned Appeal is required to be allowed and the closure order is required to be quashed and set aside. The aforesaid submissions are without prejudice to the submissions of the Appellants in the Additional Affidavit

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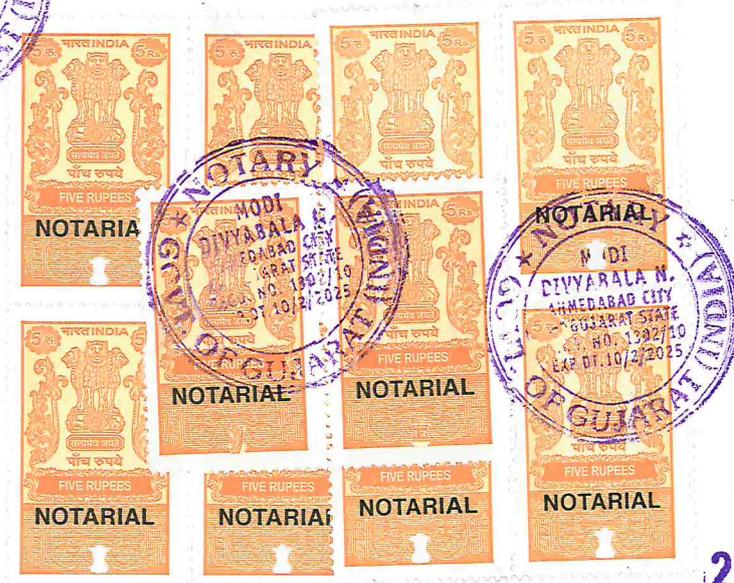
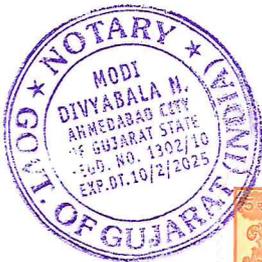
filed before this Hon'ble Tribunal and the fact that the closure order, in effect, has become infructuous and is required to be quashed and set aside.

What is stated hereinabove is true to the best of my knowledge, information and belief and I believe the same to be true.

Solemnly affirmed at Ahmedabad on 20th day of July, 2024.

For, RSPL LIMITED
Sign
(Authorised Signatory)

DEPONENT



20 JUL 2024

SOLEMNLY AFFIRMED
BEFORE ME
Divyabala N. Modi
DIVYABALA N. MODI
NOTARY
GOVT. OF GUJARAT