

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

Appeal No. 25 of 2023 (WZ)

**M/s. STERLING AUXILIARIES PVT LTD                      ...APPLICANT**

**VERSUS**

**GUJARAT POLLUTION CONTROL BOARD      ...RESPONDENT**

**REJOINDER ON BEHALF OF APPELLANT TO**  
**THE REPLY OF THE RESPONDENT**

**MAY IT PLEASE THE HON'BLE TRIBUNAL**

The Rejoinder on behalf of the Appellant to the Reply filed by the Respondent is as under:-

01. At the outset, the contents of the reply filed by the Respondent dated 28.07.2023 are not admitted by this Appellant and are denied in toto except so far as these are expressly admitted herein.
02. The Appellant herein had filed the present Appeal, challenging the order dated 25.04.2023, to the limited extent of imposing of Environmental Damage Compensation amount to Rs.59,10,000/- . This Hon'ble has admitted the said Appeal tribunal vide its order dated 29.05.2023 and that the Respondent has filed its response in pursuance to the order of this Hon'ble Tribunal.

03. It is submitted that the Respondent herein has issued first Closure Order dated 03.06.2021. In the said Closure Order, the Respondent herein had observed certain non-compliances upon compliance of the said non-compliances, the stay order to the said Closure Order dated 03.06.2021 was issued on 13.08.2021. The Respondent herein demanded EDC of Rs.19,80,000/- on 16.10.2021 and the same was paid by the Appellant on the same date itself. The Appellant herein had also submitted a Bank Guarantee on 13.08.2021 amounting to Rs.15 Lacs, which was invoked and claimed on 15.12.2021. Copy of invocation of the said bank guarantee is annexed hereto and marked as ANNEXURE – A-1.
04. It is submitted that, the Respondent in its entire body of Reply has not mentioned the invocation of the Bank Guarantee dated 13.8.2021 amounting to Rs.15 Lacs. The Respondent has also not given any reasoning, as to why the said BG has been invoked, despite the payment of EDC of Rs.19,80,000/-.
05. The Appellant further submits that, the Respondent herein has issued second Closure Order dated 04.12.2021 by pointing out certain non-compliances. The Appellant further submits that, after satisfying of the compliances on the part of the Appellant, the Stay order on the Closure Order dated 04.12.2021 was issued on

31.12.2021. The Respondent herein demanded EDC to the tune of Rs.61,80,000/-.The Appellant herein had paid EDC of Rs.30,90,000/- on 30.12.2021. The Respondent herein invoked the Bank Guarantee amounting to Rs.30 Lacs on 13.12.2021. Copy of invocation of the said bank guarantee is annexed hereto and marked as ANNEXURE – A-2.

06. The Respondent thereafter issued the third Closure Order dated 26.04.2022 and pointed out certain non-compliances. The said non-compliances were complied with and further stay order dated 17.05.2022 was issued by the Respondent.
07. The Respondent thereafter demanded EDC to the tune of Rs.61,80,000/- and the Appellant herein has paid an amount of Rs.30,90,000/- on 17.05.2022.
08. The Appellant thereafter, approached this Hon'ble Tribunal by preferring an Appeal No.24 of 2022 and this Hon'ble Tribunal was pleased to disposed of the said Appeal vide its order dated 19.09.2022 by directing the Respondent to grant an opportunity of hearing to the Appellant while determining the final Environmental Damage Compensation.
09. The Respondent herein has annexed the guidelines of the Central Pollution Control Board giving the methodology of accessing the

compensation in respect of the cases, which are considered for levying the Environmental Compensation. It is pertinent to mention herein that, in the said guidelines it is mentioned that, The committee decided to list the instances for taking cognizance of cases fit for violation and levy environmental compensation (EC) which are as under:-

- a) Discharges in violation of Consent conditions, mainly prescribed standards/consent
  - b) Not complying with the directions issued, such as directions for closure due to non-installation of OCEMS, Non-adherence to the action plan submitted etc.
  - c) Intentional avoidance of data submission or data manipulation by tampering the online continuous/effluent monitoring system.
  - d) Intentional discharges lapsing for short durations resulting into the damage to the Environment.
  - e) Intentional discharges to the environment – land, water, and air resulting into acute injury or damage to the environment.
  - f) Injunction of treated, partially treated, untreated effluent to the ground water.
10. It is by the Appellant submitted that in the order issued by the Respondent till date, none of the six factors are covered as violation on the part of the Appellant herein. The Respondent herein has proceeded to issue stay orders to the closure orders issued by them on observation of compliances on the part of the

Appellant. In the order dated 25.04.2023 the Respondent has not mentioned about any violation on the part of the Appellant herein. The Respondent has also not commented on the reply given by the Appellant vide its letter dated 30.04.2022, which was mentioned in the Appeal No.24 of 2022 and the same is mentioned in the present Appeal more specifically in **Para 14 as Annexure A-11 at Page 67 of the present Appeal paper book**. The Respondent has also not stated about the encashment of two Bank Guarantees of Rs.15 Lacs and Rs.30 Lacs against the final EDC amount and hence, the Reply of the Respondent is filed by suppressing material facts of the case.

11. It is further submitted that, the power to levy the compensation is not stated under the provisions of Sec.33-A of the Water Act, 1974. The Hon'ble Delhi High Court in the Judgement of '*Splendour Landbase Vs. Delhi Pollution Control Committee*' has held that, the Pollution Control Board does not have the powers to levy any penalty from the Project Proponent under the provisions of said Section. The said Judgement has been challenged before the Hon'ble Supreme Court and the Hon'ble Supreme Court has granted no stay to the said Judgement. Hence, the same holds to be the law of land even today. The Hon'ble Tribunal being a statutory

Tribunal cannot go beyond the purview of the Judgement of the Constitutional Court.

12. In the present circumstances, it is thus, submitted that the impugned order dated 25.04.2023 may be quashed and set aside to the limit that it demands EDC from the Appellant herein and the present Appeal may kindly be allowed.

PUNE  
DATE 21/09/2023

A handwritten signature in blue ink, appearing to read 'S. S. Chavhan', with a horizontal line underneath.

ADVOCATE FOR THE APPELLANT





**GUJARAT POLLUTION CONTROL BOARD**  
**PARYAVARAN BHAVAN**

Sector-10-A, Gandhinagar-382 015

Phone : (079) 23226229

Fax : (079) 2323215

Website : www.gpcb.gov

BY R.P.A.D

**STAY OVER DIRECTION UNDER SECTION 33-A OF THE WATER (PREVENTION AND CONTROL OF POLLUTION) ACT-1974.**

WHEREAS you are having an industrial plant situated at Plot No: 12/A-2, GIDC Dahej, At: Ambheta Tal: Vagra, Dist: Bharuch.

AND WHEREAS GPCB has issued closure direction under Section-33 A of the Water Act-1974 for the closure of your industrial plant vide letter No. GPCB/BRCH-B/ CCA-1089(7)/ID-30402/595244, dated 16/07/2021 for the reasons stated therein which was revoked on 13/08/2021 for 03 months and GPCB has again issued closure direction under Section-33 A of the Water Act-1974 for the closure of your industrial plant vide letter No. GPCB/BRCH-B/ CCA-1089(8)/ID-30402/ 608023, dated 04/12/2021 for the reasons stated therein.

AND WHEREAS you have submitted undertaking dated 09/10/2021 ensuring that you have complied directions issued to you by the Board and also will comply CCA conditions.

AND WHEREAS earlier, you have submitted the Bank Guarantee of Rs.15,00,000/- of HDFC Bank valid up to 30/09/2022 which is forfeited by the Board.

AND WHEREAS you have submitted the Bank Guarantee of Rs. 30,00,000/- of HDFC Bank valid up to 09/12/2022.

AND WHEREAS authorized officer of the board had visited your industry on 14/12/2021 and observed that:

- 1) Previously observed huge acidic wastewater ponding on road (open area) between plant-3 and plant-4 is taken into ETP through pump for treatment and now there is no ponding of wastewater at this location.
- 2) Previously observed Alkaline wastewater ponding on road (open area) between plant-3 and tank farm area is taken into ETP for treatment and now there is no ponding of wastewater at this location.
- 3) Earlier observed about 100 to 150 nos. of HDPE drums are partly stored in temporary storage area and partly stored in ware house. No drums are stored in open area during inspection.
- 4) Housekeeping is found satisfactory.
- 5) Unit has submitted application on dated 03.11.2021 for revocation of closure order dated 16/07/2021.
- 6) No waste water is observed flowing out of the premises into storm water drain of the GIDC.
- 7) Overflow of chamber behind aeration tank area is not observed. Also ponding near the chamber and near the boundary wall is not observed.
- 8) ETP is observed in operation.
- 9) Unit has provided Lime dosing system with coal feeding in the Coal fired boiler and TFH.



**GUJARAT POLLUTION CONTROL BOARD**  
**PARYAVARAN BHAVAN**

Sector-10-A, Gandhinagar-382 010

Phone : (079) 23226297

Fax : (079) 2323215

Website : www.gpcb.gov

No: GPCB/BRCH-B/CCA-1089(8)/ID-30402/610272

Date: 31/12/2021

**Issued To:**

M/s. Sterling Auxiliaries Pvt Ltd,

Plot No: 12/A-2,

GIDC Dahej, At: Ambheta,

Tal: Vagra, Dist: Bharuch.

**Copy To:**

**1) The Superintendent Engineer (O&M)**

Circle Office

Dakshin Gujarat Vij Co Ltd

Maktampur Road,

Bharuch.

**2) The Executive Engineer (O&M)**

Circle Office

Dakshin Gujarat Vij Co Ltd

Maktampur Road, Bharuch.

**3) The Deputy Engineer (O&M)**

Circle Office

Dakshin Gujarat Vij Co Ltd

Maktampur Road,

**Bharuch** ..... I am directed to request you to **RE-CONNECT** supply of **ELECTRICITY** of M/s. Sterling Auxiliaries Pvt Ltd, Plot No: 12/A-2, GIDC Dahej, At: Ambheta, Tal: Vagra, Dist: Bharuch for **3 MONTHS** from the date of issue of this order.

**4) Regional Officer**

Gujarat pollution Control Board,

Regional Office,

Bharuch..... to follow up for compliance of above & send IR/AR.

FOR AND ON BEHALF OF  
 GUJARAT POLLUTION CONTROL BOARD

(IRFAN KAGZI)

DY. ENVIRONMENT ENGINEER





## GUJARAT POLLUTION CONTROL BOARD

PARYAVARAN BHAVAN

Sector-10-A, Gandhinagar-382 015

Phone : (079) 2322623

Fax : (079) 2323216

Website : www.gpcb.gov

BY R.P.A.D.

SUB: FORFEIT OF BANK GUARANTEE.

M/s. Sterling Auxiliaries Pvt Ltd, Plot No. 12/A-2, GIDC Dahej, At: Ambheta, Tal: Vagra, Dist: Bharuch was issued a Closure Order under Section 33-A of The Water Act- 1974, on subsequently, the industrial units had submitted Bank Guarantee of Total Rs. 30, 00,000/- valid up to 09/12/2022.

This Bank Guarantee is submitted for due compliance of directions as suggested by Gujarat Pollution Control Board vide letter no. GPCB/ BRCH-B/ CCA-1089(8)/ ID-30402/608023, dated on: 04/12/2021 as required under the provisions of various environmental laws.

In the above Circumstances, as the industrial unit has violated the conditions of consent, it has been decided to forfeit the bank guarantee of Rs. 30,00,000/- (Rs. Thirty lacs only) drawn of HDFC Bank Limited, 127 Alfa Society, Link Road, Bharuch-392001, Gujarat. Bank Guarantee No: 240GT02213470006 issued dated 13-12-2021, valid up to 09/12/2022 submitted by the industrial unit.

This letter is issued with the approval of competent authority of the Board.

FOR AND ON BEHALF  
GUJARAT POLLUTION CONTROL BOARD

(IRFAN KAGZI)  
ENVIRONMENT ENGINEER

NO. GPCB/BRCH-B/CCA-1089(9)/ID-30402/60605

Date: 28/04/2022

To,  
M/s. Sterling Auxiliaries Pvt Ltd.  
Plot No. 12/A-2,  
GIDC Dahej, At: Ambheta,  
Tal: Vagra, Dist: Bharuch.

COPY TO:

1. The Account Officer, Account Branch, Head Office, GPCB, Sector-10/A, Gandhinagar - with a request to collect the amount of Bank Guarantee from the bank and deposit with the Board's account/ Encl. Original Bank Guarantee Worth Rs.30,00,000/-.
2. Branch Manager of HDFC Bank Limited, 127 Alfa Society, Link Road, Bharuch-392001, Gujarat ... For information.
3. The Legal Officer, Legal Branch, Head Office, GPCB, Sector-10/A, Gandhinagar... for Information.

