

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

**INTERLOCUTORY APPLICATION NO.421 OF 2025 (WZ) IN
APPEAL NO.30 OF 2025 (WZ) WITH
I.A. NO.78 OF 2025 IN APPEAL NO.30 OF 2025 (WZ)**

IN THE MATTER OF:

M/s. Reactive Polymers Ltd.

.....Applicant

Versus

**The Appellate Authority,
Department of Environment
and Forest and Anr.**

.....Respondents

**REPLY AFFIDAVIT ON BEHALF OF GUJARAT POLLUTION
CONTROL BOARD**

I, Dr. S. N. Agravat Adult, having my office at Paryavaran Bhavan, Sector 10-A, Gandhinagar, do hereby solemnly affirm and state an oath as under:

1. I am presently serving as Senior Environmental Scientist [Unit Head – Bharuch] with Gujarat Pollution Control Board (hereafter referred as “GPCB or Board”). I have perused the record pertaining to the case available in my office and am conversant with the facts of the case. I am authorized to swear the present affidavit on behalf of the GPCB and am otherwise competent to make the present affidavit.
2. At the outset, I say that the Appeal, as filed by the Appellant is not maintainable and deserves to be dismissed with costs.
3. The Appeal, as filed, is based on suppression of material facts from this Hon'ble Tribunal and therefore also, the same is not maintainable and deserves to be dismissed with costs.



following an incident of fire in the Appellant's premises resulting in dense smoke emissions, deployment of 22 fire tenders, and substantial combustion of foam/PU material, which is a hazardous air pollutant. The EDC and Bank Guarantee were imposed in accordance with the GPCB Guidelines, Clause 4 (Industrial Accidents), considering the gravity of the incident. The Appellate Authority's order dated 30.12.2024, while not interfering, practically confirms the legality and propriety of the directions. Hence, the appeal is without cause of action.

10. The contents of Para 4 are not true and are denied. The claim that the unit is a "green" unit with "no discharge" is denied as misleading. The unit handles combustible foam and PU-based raw materials, which are polluting and hazardous in case of combustion. The fire incident of 03.09.2023 led to acute air emissions of toxic gases, causing environmental impact. Compliance with consent conditions and risk management duties under the Air Act is continuous; the incident reflects deficiency in preventive and fire-safety measures, hence warranting EDC. Ambient air quality readings at a later time cannot erase acute pollution at the time of incident.

11. The contents of Para 5-6 are also false. The Plea that EDC is arbitrary, imposed after 5 months, is misleading and misconceived and is thus, denied. The allegation of "afterthought" is denied. The Board undertook inspection, evidence collection, and application before quantifying interim EDC. Administrative time for assessment does not vitiate legality. The Appellant's financial status or scale cannot absolve statutory liability. The Polluter Pays Principle applies universally.

12. It is humbly submitted that as per the Power under Section 31A, GPCB is empowered to issue any direction



Agns.r

necessary to prevent or control air pollution, including interim compensatory directions. The ₹10 lakh demand is compensatory, not punitive. It is provisional, subject to adjustment after final quantification. The incident's scale, material involved, and emergency response justify the modest interim sum.

13. The contents of para 7 to 9, pertain to the factual aspects and documents and the same are not disputed so far as the same are not contrary to it. However, anything stated in the para under reference which is contrary to the true and correct facts and the documents, its interpretation etc., is not true and is denied.
14. The contents of para 10, so far as the averment that the notice was issued despite the Appellant taking reasonable steps and precautions, the same is not true.
15. The contents of para 11 and 12 are a matter of records and are thus, not disputed. However, anything stated in the paragraph under reference which is contrary to the records or its interpretation, is not true and is denied.
16. The so called grounds, as sought to be raised by the Appellant are not legally valid and tenable grounds and are thus, denied.
17. It is not true that the imposition of EDC as done in the present case is unjust, improper, as alleged or otherwise. The contention that the occurrence of the fire was due to an accident and not due to any negligence and that heavy EDC should not be levied for accidents over which the Appellant has no control is denied. The Appellant, as occupier, bears strict and absolute responsibility under the Polluter Pays and Precautionary Principles. Environmental compensation is not contingent on negligence; it is imposed for actual damage or risk caused. Industrial operations involving foam/PU



materials carry inherent fire and emission hazards requiring stringent preventive and containment measures. The occurrence of fire indicates inadequate risk management, hence the imposition of interim EDC is justified.

18. The so called ground that No fatality or injury occurred, the fire was controlled immediately, all fire safety precautions were taken is false. Merely avoiding fatalities does not absolve environmental liability. The fire led to acute air pollution and required 22 fire tenders. Even short-term emission of toxic fumes (e.g. from PU combustion) constitutes environmental harm under the Air Act. "Precautionary Principle" mandates restitution irrespective of human casualties.

19. So far as the ground that, No proper methodology or breakdown of EDC provided is concerned, it is submitted that the EDC was computed under GPCB's Environmental Compensation Guidelines (Clause 4 - Industrial Accidents) considering scale, pollutant nature, and emergency response magnitude. The Guidelines permits summary interim assessment. Detailed breakdown will be provided at final adjudication; current levy is provisional and rational.

20. The contention while raising the ground that no opportunity of hearing was given and that the EDC is too high, is not true and and is denied. Under Section 31A, GPCB may issue immediate remedial directions to address pollution. Interim measures can precede hearing where urgency exists. The Appellant was free to represent or seek reconsideration; the subsequent Appellate Authority order (30.12.2024) confirms fair consideration. Hence, no procedural infirmity. Sympathy for small scale cannot override environmental law. The Polluter Pays principle applies equally to all classes of industry. ₹10,00,000 is a



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modest sum relative to the gravity of emissions and response mobilization. Economic size is irrelevant to liability.

21. In the present case, no closure order was issued; only interim EDC and bank guarantee were directed. Any operational decision by Appellant is voluntary. Compliance with environmental obligations is a precondition to lawful operation. The order is legal, proportionate, and reasoned, passed under statutory authority and confirmed on appeal. No ground for quashing is made out. The averment regarding limitation is formally denied to the extent inconsistent. Without admitting delay, the Respondent submits that the appeal is otherwise devoid of merit and liable to dismissal.

No reliefs, as prayed for deserve to be granted.

In light of the above, it is most respectfully prayed that this Hon'ble Tribunal may be pleased to Dismiss the present appeal as devoid of merit and Pass such other orders as deemed just and proper. What is stated hereinabove is true and correct.

Solemnly affirmed at Gandhinagar on this 6th day of October, 2025.



[Signature]
DEPONENT

SOLEMNLY AFFIRMED
BEFORE ME
[Signature]
(C. M. RAVAL)
NOTARY
GOVT. OF GUJARAT
6 OCT 2025

Entered in Notary Register at
Serial No. 416 Vol. No. I
[Signature]
C. M. RAVA ADVOCATE & NOTARY
GANDHINAGAR
6 OCT 2025

ANNEXURE-A**GPCB Environmental Compensation Guidelines**

Hon'ble National Green Tribunal (NGT) has issued the direction in several cases to impose the penalty on the non-complying polluting units to GPCB and also directed Central Pollution Control Board (CPCB) to take penal action for failure and recover the compensation for damage to the environment.

Following the directions, CPCB, New Delhi has issued "Report of the Methodology for Assessing Environmental Compensation and Action Plan to Utilize the Fund" (CPCB Methodology).

Further for the Bio-Medical Waste Management Rules, 2016, the CPCB has published Guidelines for "Imposition of Environmental Compensation Charges against Healthcare Facilities and Common Biomedical Waste Treatment Facilities".

Gujarat Pollution Control Board's Environmental Compensation Guidelines to be followed in the Gujarat State are as under:

1. Cases to be considered for levying Environmental Compensation (EC):

- a) Discharges in violation of consent conditions, mainly prescribed standards/ consent limits.
- b) Not complying with the directions issued, such as direction for closure due to non-installation of OCEMS, non-adherence to the action plans submitted etc.
- c) Intentional avoidance of data submission or data manipulation by tampering the Online Continuous Emission / Effluent Monitoring systems.
- d) Accidental discharges lasting for short durations resulting into damage to the environment.
- e) Intentional discharges to the environment -- land, water and air resulting into acute injury or damage to the environment. (Here, it also includes discharge of spent acid, hazardous wastes or untreated effluent through tanker or other media into water body, dumping of hazardous wastes etc.)

- f) Injection of treated/partially treated/ untreated effluents to ground water. (here, it also includes illegal discharge of effluent or hazardous wastes into underground water strata i.e. through wells, bore-well, reverse boring etc) excluding permitted activity.

2. Assessment for levying EC for cases mentioned at point no. 1(a) to 1(c):

- 2.1 For the cases mentioned at point number a) to c) of point no.1, assessment of Environmental Compensation shall be calculated as per formula as mentioned in Para number 1.3 of CPCB Methodology, which is as under:

$$EC = PI \times N \times R \times S \times LF$$

Where,

EC is Environmental Compensation in Rs.

PI = Pollution Index of industrial sector

N = Number of days of violation took place

(here, factor "N" = Number of Days

Starting from the date of inspection based on which direction issued or the due date of directions,

Ending to the date of inspection of compliance verification or date of power disconnection, whichever is earlier)

R = A factor in Rupees (Rs.) for EC

S = Factor for scale of operation

LF = Location factor *(Here, Regional officer shall mention Location factor (LF) in their inspection report of revocation.)*

- 2.2 Assessment of EC as per formula at 2.1 and amount of applicable BG as per the BG scheme, out of these **whichever is higher, shall be considered** for deciding final EC amount.

3. Assessment for levying EC for cases mentioned at point no. 1(d) to 1(f):

For the cases mentioned at point number d) to f) of cases mentioned at point no. 1, assessment of Environmental Compensation shall be calculated as under in two parts:

3.1 Interim Environmental Compensation:

Interim Environmental Compensation shall be levied as suggested by Hon'ble NGT in its order No.95 of 2018 dated 11.01.2019 as under:

1. Rs. 1 Crore for large scale industry,
2. Rs. 50 Lakh for medium scale industry,
3. Rs. 25 Lakh for small scale industry.

3.2 Additional Environmental Compensation:

Additional Environmental Compensation shall be levied as per the para 1.3.2. of CPCB Methodology. i.e. Based on detailed investigations from expert institutions/organizations based on which environmental compensation will be decided.

4. Assessment for levying EC in case of industrial accident:

In case of industrial emission due to industrial accident, Environmental Compensation shall be levied as per status of Air Quality:

State/status of Air Quality	Environmental Compensation		
	Large scale	Medium Scale	Small scale
Severe +/- Emergency	Rs. 1.0 Cr	Rs. 50 Lakh	Rs. 25 Lakh
Severe	Rs. 50 Lakh	Rs. 25 Lakh	Rs. 10 Lakh
Very Poor	Rs. 25 Lakh	Rs. 10 Lakh	
Moderate to Poor	Rs. 10 Lakh		

Here,

1. State/status of air quality shall be defined and reported by the Regional Office based on the situation of the site and analytical results/photographs.
2. In case of accident having causality, it shall be considered as severe/emergency.

5. Assessment for levying EC from transporter in case of illegal discharge/transportation through vehicle:

The case of illegal discharge/transportation through vehicle i.e. tankers/ trucks/tractor, Environmental Compensation of Rs. 25 Lakh shall be levied.

6. Assessment for levying EC for non-compliances under Biomedical Waste Rules:

For levying Environmental Compensation if non-compliance observed under the Bio-Medical Waste Management Rules, 2016 and amendment thereof, the CPCB Guidelines for “Imposition of Environmental Compensation Charges against Healthcare Facilities and Common Biomedical Waste Treatment Facilities” shall be followed.

6.1 Applicable EC shall not be less than applicable BG as per prevailing BG policy.

7. Assessment for levying EC for non-compliances under Plastic Waste Rules:

In case closure direction issued for following non-compliances under the Plastic Waste Management Rules, 2016:

1. Manufacturing of plastic bags, sheets or like of thickness less than 50 micron.
2. Non submission of EPR Action plan for Back collection of post consumer plastic waste.
3. Operating without registration,

Environmental Compensation shall be levied as under:

Sr. No.	Type of Industry	Environmental Compensation (Rs. in Lakh)
A	Small Scale	0.50
B	Medium Scale	0.75
C	Large Scale	1.00

8. Assessment for levying EC under Solid Waste Rules:

In case of open burning of solid waste on land, including at landfill sites, for each such incident or default, violators including the project proponent, concessionaire, ULB, any person or body responsible for such burning, shall be liable to pay environmental compensation as under as per Para 20 of Point No. 8 of Hon'ble NGT order dated 26/03/2019 in the matter of O.A. No. 606/2018:

- Simple burning - Rs. 5,000/-
- Bulk waste burning- Rs. 25,000 /-

9. Assessment for levying EC for illegal activities not mentioned herein above:

In cases where industry/ activity which cannot be permitted/not mentioned herein above points like illegal activities. Environmental Compensation of Rs. 25 Lakh shall be levied at the time of issuing closure direction.

10. Repeated violation:

In case of repetition of similar violation within a year from the date of the first violation, the amount of EC shall be doubled in amount.

11. Applicability of Scheme:

- i. The EC scheme is applicable to all cases to which closure direction or trial run or revocation order is issued on and after 01/01/2020.
- ii. In cases where trial run is issued before 31.12.2019 and EC had already been levied, this scheme shall not be applicable.

- iii. In cases where trial run is issued before 31.12.2019 and EC had not been levied, in such cases, this scheme shall be applicable and EC shall be levied at time of further extension of trial run or permanent revocation.
- iv. In cases where Specific directions issued regarding EC by Hon. NGT /Supreme Court/ High Court , in such cases this scheme is not applicable.
- v. This scheme is subject to amendment/ changes if any new guidelines provided by CPCB or any directions from Hon'ble Courts.
- vi. EC amount to be levied from Industry/person shall be decided at the time of closure direction, except for cases covered under point no. 2 above (EC shall be decided at the time of revocation).
- vii. Revocation order shall be issued only on receipt of EC amount by the Board.

12. Decision of the Hon'ble Chairman shall be considered as final.

Comments:

- Whether BG scheme to be continued or abolished or If BG is to be forfeited can be adjusted towards EC.
- In case of repetition of violation within a year from the date of the first violation, the amount of EC shall be doubled in amount is to be considered or not.