

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



I.A No. of 2024  
(Condonation of Delay)  
In  
Appeal No. 09/2024

M/s. Lavino-Kapur Cottons Pvt Ltd ... ...Applicant  
( Orig Appellant )

In

Lavino - Kapur Cottons Pvt Ltd .....Appellant  
Vs  
MPCB & 1 other .... Respondents

**REPLY AFFIDAVIT ON BEHALF OF RESPONDENT NO. 1,  
MAHARASHTRA POLLUTION CONTROL BOARD :-**

I, Kiran Hasabnis, Aged-Adult, Occupation-Service,  
the Regional Officer of the Maharashtra Pollution Control  
Board at Thane i.e. Respondent No. 2, having office at Plot  
No. P 30, 5th Floor, Office Complex Building, Wagle  
Industrial Estate, Mulund Check Naka, Thane (West) 400604,  
do hereby solemnly affirm and state as under :-

1. I say that I am the Regional Officer Of Respondent  
No.2-MPCB and am authorised to affirm the present

reply affidavit on its behalf. I have examined the relevant records available in my office in respect of the above matter and am affirming the present Reply Affidavit based on the same. Nothing in the present Reply Affidavit may be deemed to be an admission of any of the contents of the above-captioned Application. Nothing in the above-captioned Application may be deemed to have been admitted for mere want of specific denial.

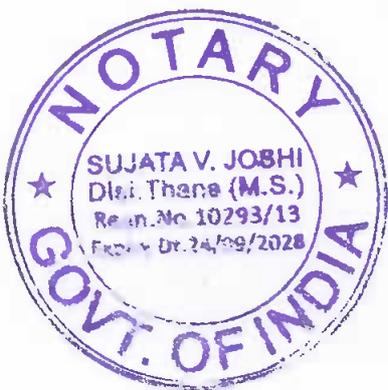
2. At the outset , it is submitted that the present Appeal has been filed with multiple prayers which are not related to each other and seeking quashing of the Direction dated 23/10/2020 which was issued pursuant to the Expert Committee's meeting which was constituted vide Hon'ble NGT's PB order dated 26/9/2019 in O.A No.64/2016 filed by one Akhil Bhartiya Mangela Samaj against MPCB & Others before the Hon'ble NGT for seeking direction to close the polluting industries discharging effluents to the Arabian Sea etc. I say that the said Commiittee was





constituted to take various steps for preventing damage to the environment and for its restoration .

3. I say that the present Appeal is completely time barred as the Appellant is now in the year 2024 contending that since they are having their own ETP, they are not entitled to make the payments towards default of the CETP. I say that the Respondent Board has granted Consent to Operate i. e MPCB/PCI-III/EIC No.TN-1505-07/CC-195, dtd. 18/07/2008, the Appellant were aware of the condition that the treated trade effluent shall be connected to sewer system provided by MIDC/ CETP. I say that the Appellants have failed to challenge any of the Consent to Operate with the above condition mentioned till date, which is a proof enough to establish that filing of this Appeal challenging the Environmental Compensation, which was directed to be paid on 23/10/2020 alongwith the present I.A for Dealy Condonation is purely the afterthought to avoid making payment towards Environmental Compensation.



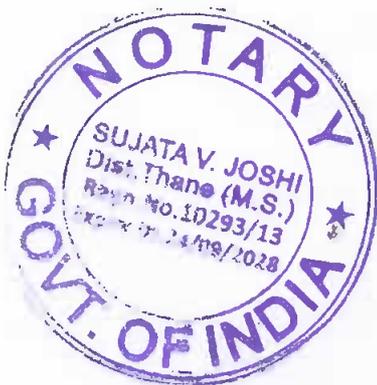
4. I say that it is an admitted fact the the Appellants are making continuous payment towards the contribution to the CETP to the present Respondent to the MIDC. I say that only to avoid making payment towards the Environmental Compensation, the Appellants have filed this time barred Appeal . I say the Appellant is the member of the CETP since 06/06/2005.

5. I say that the Appellant under the garb of challenging the Direction dated 23/10/2020 imposing the Environmental Compensation of Rs. 77.513 lakh is also indirectly challenging the Closure Notices issued by the present Respondent dated 17/5/2017 & 08/08/2018, which were based on the different grounds altogether and for other non-compliances of the consent conditions by the Appellant. I say that the Appellant can not challenge those Closure Notices in the year 2024 as they were never challenged by them at the concerned timeframe . I say that only to reinforce the Appellant's case , those Closure Notices have got



mentioned in the body of the Appeal as well as in the present I.A.

6. I say that the Appellants are alleging that the Expert Committee, which was constituted vide Hon'ble NGT's PB order dated 26/9/2019 had acted in undue haste by not granting the Appellant reasonable opportunity of hearing. I say that the Hon'ble NGT directed the Committee to take steps for preventing damage to the environment and for its restoration and the restoration measures will include improvement of the quality of environment. The amount assessed be recovered and if, there is non payment, the statutory regulatory bodies will be free to take coercive measures, including closures of the pollution activities and the same may be utilised for restoration of environment. Accordingly, as decided by the Committee, the Respondent Board vide directions dated 23/10/2020 directed to deposit the environment compensation amount of Rs. 77.513 lakhs for 408 days.



7. I say that the Appellant is relying upon the Judgement of the Hon'ble Supreme Court passed in Suo Moto Petition (civil) No. 3 of 2020 in Re: " Cognizance for extension of limitation " and taking shelter under the same conveniently bypassing the crux of the Section 16 of the NGT Act , 2010 which confers upon the Tribunal the appellate jurisdiction against certain orders or directions or decisions under Water Act,1974 etc. as specified in the aforesaid clause and Schedule III to the Act. I say that it further provides a time of thirty days within which the appeals may be filed before the Tribunal .It also empowers the Tribunal to allow such appeals to be filed within a further period not exceeding sixty days , if it is satisfied that the applicant was prevented by sufficient cause from filing the application within the said period. I say that admittedly the present Appeal has been filed on 1/6/2021 which is beyond the period mentioned under section 16 of the NGT Act, 2010. Therefore the onus is still on the Appellants to satisfy this Hon'ble Tribunal on the point of the sufficient cause for non filing of the present



Appeal within the further period of sixty days . I say that also it is a fact to consider why the present Appeal which was filed by the Appellant on 1/6/2021 has not pressed by the Appellant till the year 2024 .

- 8. In light of the above it is most humbly prayed that the present I.A for Delay Condonation be decided appropriately by the Hon'ble Tribunal .

Solemnly affirmed on this 2<sup>nd</sup> of April, 2024 at Thane.

For and on behalf of Maharashtra  
Pollution Control Board,



(Kiran Hasabnis)

Regional Officer- Thane

**Regional Officer**  
M.P.C.Board, Thane



**BEFORE ME  
NOTARY**



**SUJATA V JOSHI**  
**ADVOCATE & NOTARY**  
101/102, Vishal Bldg., Station Road,  
Kahwa (W), Thane-400 605.

**NOTED & REGISTERED**  
No. **7086/2024**

- 2 APR 2024

