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**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
WESTERN ZONE BENCH
AT PUNE
APPEAL No. 09/2024**

LAVINO KAPUR COTTONS PVT LTD

..... APPELLANT

VS

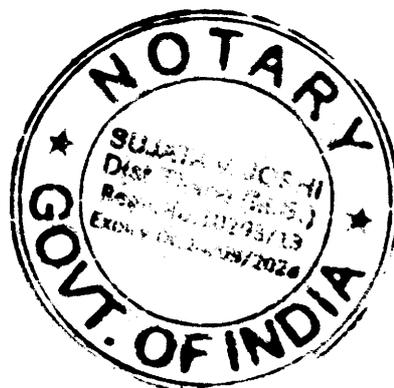
MAHARASHTRA POLLUTION CONTROL
BOARD & ORS.

.... 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.111 having office at Plot No.P-30, 5th Floor, Office Complex Building, Wagle Industrial Estate, Mulund Checknaka, Thane(West)-400 604, do hereby solemnly affirm and state as under:

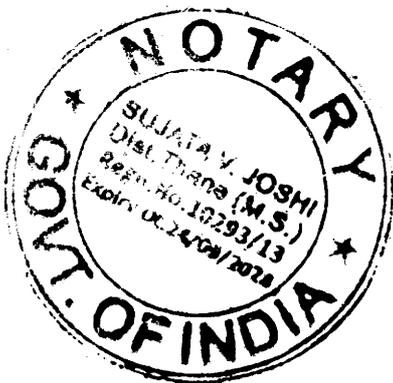
1. I say that I am the Regional Officer of Respondent No.1- Maharashtra Pollution Control Board(MPCB) and am authorised to affirm the present reply affidavit on its behalf. I





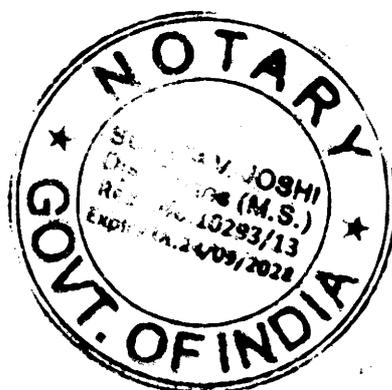
have examined the relevant records available in my office in respect of the above matter and am affirming the present Reply Affidavit based on the same. Nothing in the present Reply Affidavit may be deemed to be an admission of any of the contents of the above-captioned Appeal. Nothing in the above-captioned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

2. At the outset, I say that the present Appeal has been filed challenging and quashing of the directions under section 33A of the Water Act 1974 and under section 31A of the Air Act 1981 dated 23rd October 2020 which is annexed at Annexure A1 to the Appeal. I say that I am filing this Reply Affidavit pursuant to the order dated 02/05/2024 whereby this Hon'ble Tribunal has condoned the delay in filing of the present Appeal only with respect to the order dated 23/10/2020 (impugned order) passed by the present Respondent and has only condoned the delay as far as prayer clause (a) is concerned and not with respect to the prayers which are mentioned under clause (b) in the present Appeal. I say that therefore this reply is only restricted to prayer clause (a) of the present Appeal.
3. I say that one Akhil Bharatiya Mangela Samaj and others had filed the Original Application bearing No. 64/2016 against MPCB and Ors before the Hon'ble NGT for seeking directions



to close polluting industries discharging effluents in the Arabian Sea and for direction not to grant permission for new industries till CETP norms are complied with.

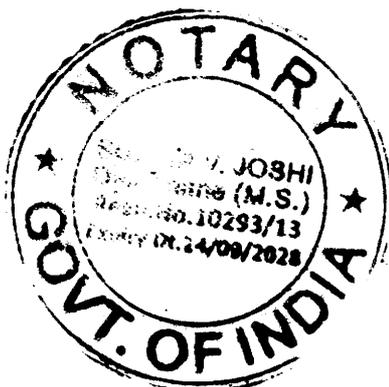
4. I say that to oversee the remedial measures, the Hon'ble NGT in OA No. 64/2016 had constituted a committee vide order dated 26/09/2019 which was continued vide order dated 17/09/2020.
5. I say that the Hon'ble NGT directed the committee to take steps for preventing damage to the environment and for its restoration. Restoration measures would include improvement of the quality of environment as well as remedying the health of the inhabitants including providing health care to the affected individuals. I say that it was also directed that the amount to be assessed and recovered from the polluting units and in case of non payment, the statutory regulatory body will be free to take coercive measures including closure of the polluting activities and the same may be utilised for restoration of the environment. I say that the said order dated 17/09/ 2020 is annexed at Annexure 24 to the Appeal. I say that the Hon'ble Principal Bench has observed in the same order that there is no reason to reject the expert committee report along with its conclusions and recommendations. It is also specifically observed that application of precautionary principle which is a part of "sustainable development ", requires anticipatory action and





scientific certainty. Once an expert committee has found that there is continuous violation of environmental norms causing harm to the environment and health, credentials of the committee members and their expertise on the subject is beyond question. The Hon'ble Principal Bench, while passing the above order, did not find any merit in the objections of the contesting CETP and industries and accepted the committee report.

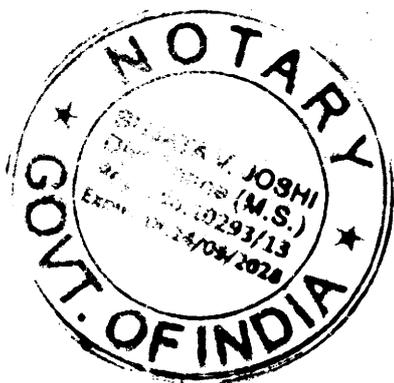
6. I say that while passing the order dated 02/05/2024, this Hon'ble Tribunal has observed that the reasons mentioned by the Appellant in the present Appeal appear to be far-fetched but proceeded to condone the delay only looking at the fact that the Registry of this Hon'ble Tribunal had not placed this matter for hearing after expiry of the period of 30 days from the date when the defects were pointed out.
7. I say that the impugned direction dated 23/10/2020 was issued in pursuance of the previous directions issued by the Answering Respondent, the order of the Hon'ble Principal Bench in OA 64/2016 filed by Akhil Bharatiya Mangela Samaj and others Vs MPCB & Ors and as decided in the joint committee meeting mentioned in paragraph 5 above wherein compensation was assessed for the damage caused by the Appellant industry to the environment to the tune of Rs. 77.513 lakhs for a period of 408



days. A copy of the Assessment Sheet is enclosed herewith and marked as an Annexure-‘I’.

8. I say that notice of hearing dated 23/01/2020 was duly served on the Appellant and the same is not denied by the Appellant. I say that the committee conducted the hearing on 27/01/2020 and the Appellant was directed to attend the hearing with all relevant information and documents. It was also conveyed to the Appellant that the hearing to be conducted on 27/01/2020 is in compliance of the order of the Tribunal dated 26/09/2019. I say and submit that there was a no denial of reasonable opportunity granted to the appellant as alleged by them in the present Appeal. I say that Appellant chose not to remain present on 27/01/2020. I say that the only reason that was given by the Appellant was pandemic because of which they could not seek legal opinion. However, it may kindly be noted that there was no pandemic in January 2020 when the notice for hearing was issued. I deny that there was a breach of principles of natural justice and intention of denial of reasonable opportunity.

9. I say that pursuant of the Hon’ble NGT Order dtd.26/09/2019, some of the industries have deposited the amount of Environment Compensation to the Respondent Board. I crave leave to submit the list of industries as and when required.





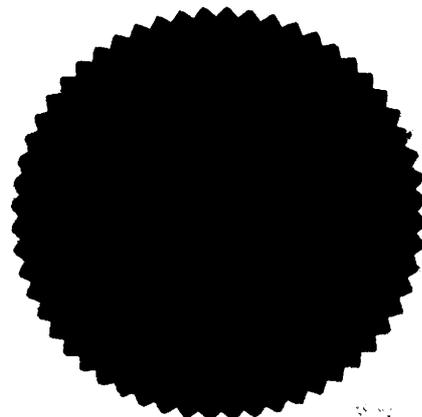
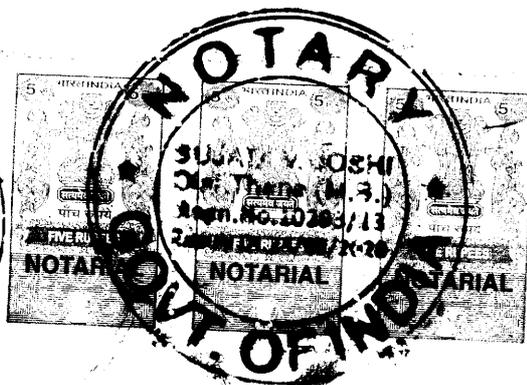
10.I say that the Appellant has to pay the above mentioned amount towards the assessment of damage already caused to the environment and recovery of environmental compensation as per 'Polluter Pays' principle.

11.In view of the aforesaid, it is most humbly submitted that the above-captioned Appeal filed by the Appellant above-named deserves to be rejected.

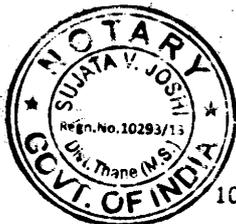
Solemnly affirmed on this 25th of July, 2024 at Thane.

For and on behalf of
Maharashtra Pollution Control
Board,

(Kiran Hasabnis)
Regional Officer-Thane



BEFORE ME
NOTARY



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

NOTED & REGISTERED
Sr. No. 5106/2024

5 JUL 2024

25 JUL 2024

Annexure-I

Sr. No	Item	Details
1.	Name of Industry	Lavino Kapoor Cottons Pvt. Ltd., Plot No.-H-1, MIDC Tarapur
2.	Year of Establishment/Commissioning	1990
3.	Product Type	Cotton
4.	Category	Red
5.	Scale	LSI
6.	Discharge Quantity as per the Consent in cubic meter/day (CMD)	1380
7.	Date of Inspection	12.05.2017
8.	Date of Closure Order	17.05.2017 08.08.2018
9.	Effective date of Closure of the unit	11.08.2018
10.	Unconditional re-start Order date	
11.	Conditional re-start order date	24.08.2018
12.	Date of inspection when the conditions at SI. No. 11 was verified as compliance	26.09.2019
13.	Period of non-compliance (no. of days)	9+399=408
	Reason for Closure/non-compliance	Discharge of substandard Effluent having COD 740 mg/L
15.	Liabile for Compensation	Yes
16.	Accountability in terms of recovery cost in meeting the environmental damage cost and restoration cost	77.513 Lakh INR (Distribution Recovery Cost Factor = 0.0048433)
17.	Date of Hearing	30.11.2019

