

**BEFORE THE NATIONAL GREEN TRIBUNAL  
(WESTERN BENCH) PUNE**

**Appeal No. 32/2021**

**In the matter of:**

M/s Triumph Reality Pvt. Ltd.

...Appellant

Versus

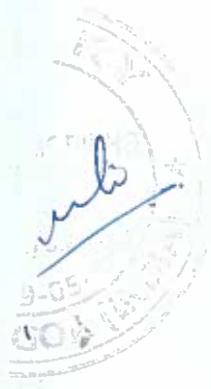
Goa State Pollution Control Board

...Respondent

**REPLY AFFIDAVIT ON BEHALF OF RESPONDENT GOA  
STATE POLLUTION CONTROL BOARD (GSPCB)**

I, Dr. Shamila Monteiro, daughter of Shri. Augusto Monteiro aged about 50 years, Indian National, residing at House No. 5, Uttam Darshan, Opp. Sai Baba Temple, Kadamba Plateau, Chimbél, Tiswadi –Goa, do hereby solemn affirmation, state and submit as under:

1. I am presently working as the Member Secretary, Goa State Pollution Control Board, and the Respondent herein. I have been authorised to file the present Affidavit in reply on behalf of the Respondent.
2. The Respondent has received a notice issued by this Hon'ble Tribunal in the above matter returnable on 08.10.2021 along with memo of appeal and documents annexed thereto and is filing its response by way of this reply.
3. That the Respondent Board is filing the present reply affidavit to the Appeal instead of a paragraph wise reply and craves liberty of this Hon'ble Tribunal to file a detailed further affidavit if so required or as directed by this Hon'ble Tribunal.

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4. That vide order dated 06.10.2021 passed in the present matter this Hon'ble Tribunal was pleased to direct the Respondent Board to file a Reply Affidavit in the matter with supporting documents before 29.10.2021 i.e. the next date of hearing.
  5. That the Respondent Board had issued the Appellants Hotel unit Consent to Operate under section 25/26 of the Water (Prevention and Control of Pollution) Act, 1974, vide order dated 31/10/2018 which has expired on 28/09/2020. The Appellant has submitted an application for renewal of the said Consent to Operate to the Respondent Board on 05/07/2021.
  6. That condition no.3(vii), of the aforesaid Consent Order dated 31/10/2018 stipulates as follows:

*3(vii) – Bio degradable waste to be composted within premises.*

**Annexed herewith and marked as EXHIBIT R-1 is a copy of the Consent to Operate order dated 31/10/2018.**
  7. The issue of collection, transportation and treatment of waste generated in the State of Goa is otherwise subjudice before the Hon'ble High Court of Bombay at Goa in Suo Motu Writ Petition No.2/2007. The Hon'ble High Court from time to time has issued directions to this Respondent and other statutory bodies in this regard.
  8. The Hon'ble High Court from time to time issued orders and directions to this Respondent to take appropriate steps to ensure installation and operation of composting facilities within the units premises that generates more than 100 kg of solid waste per day.
  9. That in this regard the Respondent Board through its officials had conducted site inspections of the Appellant Unit on 20.01.2021 for verification of the installation and operation of the Organic Waste

Treatment/Disposal facility by the unit. During the course of the said inspection it was observed that the Appellant's organic waste composter was not installed. **Annexed herewith and marked as EXHIBIT R-2 is a copy of the Report of inspection conducted on 20.01.2021.**

10. The Hon'ble High Court vide its order dated 04.03.2020, had directed this Respondent to take appropriate action against the Hotel units that are found to have not installed/operated such Organic Waste Treatment/Disposal facility. **Annexed herewith and marked as EXHIBIT R-3 is a copy of order dated 04.03.2021 passed in Suo Motu Writ Petition No.2/2007.**

11. Pursuant to the said inspection, the Respondent Board issued the Appellant Unit a Show Cause Notice dated 05.02.2021 directing it to Show Cause as to why a Penalty under the Polluter Pays Principal should not be levied against it for non-operation of the Organic Waste Composter. **Annexed herewith and marked as EXHIBIT R-4 is the copy of Show Cause Notice dated 05.02.2021**

12. Thereafter the Respondent Board was in receipt of a reply from the Appellant Unit dated 09.04.2021, wherein the Appellant unit admitted that due to Covid-19 pandemic impact, the hotel was closed. The Appellant unit admitted that the operation of the hotel started only in end of 2020. **Annexed herewith and marked as EXHIBIT R-5 is the copy of reply dated 09.04.2021.**

13. The Board after considering the reply filed by the Appellant re-inspected the hotel unit on 11.03.2021 to verify the exact position of the composting facility. During the inspection the Appellant unit provided information to the inspecting Officer that the composting facility has commenced operation from 01.10.2020.



Pursuant to the second inspection and upon consideration of the information provided by the Appellant during the course of inspection it was established that the Appellant had commenced operation of the hotel unit from 01.10.2020 and that the appellant was not operating the composting facility from 01.10.2020 to 10.03.2021 that is for a period of 163 days. **Annexed herewith and marked as EXHIBIT R-6 is the copy of report dated 11.03.2021.**

14. The Board after considering the reply and findings recorded in the inspection report dated 11.03.2021 issued further directions under section 33(A) of the Water Act and directed the Appellant unit to pay Rs.10,18,750/- as a Penalty towards Environmental Compensation under the Polluter Pays Principle within a period of 15 days from the date of receipt of the said direction. The direction dated 12.03.2021 recorded that the Appellant unit was not operating the composting facility which is in clear violation of the conditions of Consent to Operate order dated 31.10.2018. The Board has followed the formula for assessing environmental compensation. The formula adopted by the Board for assessing environmental compensation of Rs.10,18,750/- was also provided to the Appellant along with the direction dated 12.03.2021. **Annexed herewith and marked as EXHIBIT R -7 collectively is the copy of direction dated 12.03.2021 along with the enclosures.**

15. Thereafter the Respondent Board afforded the unit an opportunity of personal hearing in the matter and the Appellant was heard on 26.05.2021.

16. On proper consideration of the submissions made by the unit vide its replies and the personal hearing, the Board concluded that the unit had not operated the composting facility at its premises from 01.10.2020 to 10.03.2021 and as such had violated the condition

no. 3(vii) as contained in the Consent to Operate Order dated 31.10.2018 issued to the unit by the Board.

17.The Board vide further Directions dated 19.07.2021 reiterated the directions to the unit to pay an amount of \_\_\_\_\_ Rs. 10,18,750/- as Environmental Compensation that was imposed upon the unit as a Penalty under the Polluter Pays Principal.

18.The Board vide its Directions dated 19.07.2021 specifically informed the Appellant unit that the Principal Bench of this Hon'ble Tribunal vide orders passed in OA 606/2018 has directed State Pollution Control Boards to initiate action against the units in the matter of violation in the management of solid waste which includes recovery of environmental compensation through the imposition of the penalties under Polluter Pays Principal. The direction further put the Appellant on notice that failure to comply with the directions of this Board would compel the Board to initiate stringent legal action against the unit which will include issuance of closure directions.

19.In so far as the issue of imposition of Penalty under the Polluter Pays Penalty is concerned the Board has considered the following:

- a) Report of the CPCB in house committee on Methodology for Assessing Environmental Compensation and Action Plan to Utilize the Fund.
- b) Decisions taken by the GSPCB at its 144<sup>th</sup> Board Meeting Held on 06.07.2020.

**Annexed herewith and marked as EXHIBIT R-8 collectively are the copies of the Report of the CPCB and Board Meeting Held on 06.07.2020.**

20.That the Board in the present case has adopted the following formula while computing the penalty of \_\_\_\_\_ Rs.

10,18,750/- that was imposed upon the Appellant vide the Directions:

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

Here, *EC* = Environmental compensation in Rs.

*PI* = Pollution Index of industrial factor

(For Red, *PI* = 80, Orange, *PI* = 50, Green, *PI* = 30)

*N* = No. of days violation took place

*R* = 250 (Factor in Rs. For *EC*)

*S* = Factor of scale of operation,

(For Small scale, *S* = 0.5, for Medium, *S* = 1.0, Large, *S* = 1.5)

*LF* = 1.0 (Location factor)

*N* is an actual number of days, the hotel unit has not operated the composting facilities.

In the instant case the days are considered from the date on which the hotel unit had resumed its operation post Covid'19 lockdown / restrictions till the date either on which the respective hotel unit has started operating its composting facilities or the date on which GSPCB inspected the respective hotel units for verification of the operation of the composting facilities.

**In the instant case concerning the present appellant;**

$$\begin{aligned} EC &= PI \times N \times R \times S \times LF \\ &= 50 \times 163 \times 250 \times 0.5 \times 1.0 \\ &= \text{Rs. } 10,18,750/- \end{aligned}$$

*N* = 163 days, is considered from 01/10/2020 (date of resumption of operation of the hotel unit post Covid'19 lock down / restriction) to 10/03/2021 (date of inspection for verification).

21. That in light of the aforesaid submissions, the Impugned Order warrants no interference from this Hon'ble Tribunal and the Appeal is liable to be dismissed outrightly with costs.

22. That the annexures are all true copies of their respective originals.



*[Signature]*

**DEPONENT**

Member Secretary  
Goa State Pollution Control Board

**Verification:**

Verified in Panaji-Goa on this 27<sup>th</sup> day of October, 2021 that the contents of the above affidavit are true and correct to the best of my knowledge and as per the records duly maintained. No part of it is false and nothing material has been concealed therefrom.

*[Signature]*

**DEPONENT**

Member Secretary  
Goa State Pollution Control Board

Filed by:

Counsel for GSPCB

Dated: 27/10/2021

SOLEMNLY AFFIRMED AND VERIFIED BEFORE ME  
Dr. Sharmila Monteiro  
WHO IS IDENTIFIED BEFORE ME  
BY ME .....  
WHOM I SAW personally  
SERIAL NO. 9259 DATED 27.10.2021  
VALID UPTO 19-05-2024  
JOAQUIM GODINHO-NOTARY-PANAJI-GOA



*[Signature]*  
27.10.2021

**JOAQUIM GODINHO**  
B. Com., LL.B  
Advocate High Court  
& Notary  
Navelkar Trade Centre  
C/S-3, 2nd Floor, M.G. Road,  
Panjim-Goa. Ph.: 2422113

# GOA STATE POLLUTION CONTROL BOARD

## गोंय राज्य प्रदुशण नियंत्रण मंडळ

(An ISO 9001-2008 Certified Board)

Phone Nos : 91-832-2438567, 2438528  
2438563, 2438550

Tel / Fax No. : 0832-2438528



Email id's :

Member Secretary, GSPCB - ms-gspcb.goa@nic.in  
Environment Engineer, GSPCB - ee-gspcb.goa@nic.in  
Scientist, GSPCB - scientist-gspcb.goa@nic.in  
Asst. Env Engineer, GSPCB - aee-gspcb.goa@nic.in  
Asst. Law Officer, GSPCB - alo-gspcb.goa@nic.in

No.5/5541/12-PCB/CI-4853

Date: 31/10/2018

**Consent to Operate under Section 25/26 of the Water (Prevention & Control of Pollution) Act, 1974 & under Section 21 of the Air (Prevention & Control of Pollution) Act, 1981 and Authorization under Rule 6(i) of the Hazardous and other Wastes (Management and Transboundary Movement) Amended Rules 2018.**

[To be referred as Water Act, Air Act and HW (M & T) Rules respectively]

**CONSENT TO OPERATE AND AUTHORISATION is hereby granted to:**

**M/s. TRIUMPH REALTY PVT LTD**

(Azaya Beach Resort).  
(Orange Category)

Survey No:336/1-A,  
Callvado, Benaulim,  
Salcete Goa.

Located in the area declared under the provisions of the Water Act, Air Act and Authorisation under the provisions of HW (M & T) Rules, subject to the provisions of the Act and the Rules and the Orders that may be made further and subject to the following terms and conditions:

1. This Consent to operate and Authorisation is issued is valid upto 28/09/2020.

2. This Consent to operate and Authorisation is valid for the operation of:

Sr. No	Description	Capacity
1.	Hotel	115 rooms
2.	Restaurant	76 persons (seating capacity)
3.	SPA	01 No

3. **CONDITIONS REQUIRED TO BE COMPLIED UNDER THE WATER ACT:**

(i) The daily quantity of effluent from the hotel & restaurant (sewage & sullage) shall not exceed 67.0 K.L.D.

*Handwritten signature*

(ii) **Sewage Treatment Plant:**

The Hotel unit shall provide comprehensive sewage treatment plant (Capacity 100 KLD) consisting of primary/ secondary and/ or tertiary treatment as is warranted with reference to influent quality and operate and maintain the same continuously so as to achieve the quality of the treated effluent to the following standards: -

pH	Between	5.5 & 9.0
Suspended Solids	Not to exceed	100 mg/l
BOD, 3 days, 27° C	Not to exceed	30 mg/l
COD	Not to exceed	250 mg/l
Oil & Grease	Not to exceed	10mg/l

- (iii) In view of the directions issued by the Central Pollution Control Board vide order File No. A19014/43/06 – Mon dated 21<sup>st</sup> April 2015, the unit is required to upgrade its sewage treatment plant within five years from the date of the directions issued, ie 21<sup>st</sup> April 2015, to achieve following standards and submit the plan of action regarding the same, within six months from the date of issue of this consent.

pH	Between	5.5 & 9.0
Suspended Solids	Not to exceed	Not more than 20
BOD, 3 days, 27° C	Not to exceed	10 mg/l
COD	Not to exceed	50 mg/l
Oil & Grease	Not to exceed	10mg/l
NH4-N	Not to exceed	5mg/l
N-total	Not to exceed	10mg/l
Fecal Coliform	Less than	100mg/l
Bio-assay test		90% survival of fish after 96hours in 100%effluent

(iv) **Sewage Disposal:**

The treated effluent shall be recycled to the maximum extent and remaining shall be used on land for gardening. There shall not be any discharge outside the hotel premises.

- (v) The unit shall install a proper Oil and Grease Trap for effluent arising from its kitchen and shall have to comply with the 'General Standards for Discharge of Environmental Pollutants Part-A: Effluents' notified under Schedule-VI within 3 months from the date of issue of consent and thereafter submit a compliance report to this office.

- (vi) A good house-keeping shall be maintained within the hotel premises. All pipes, valves and drains shall be maintained in leak-proof condition. Floor washings shall be maintained to the effluent collection system only and shall not be allowed to find way in open areas.

15/04

(Sanjeev Joglekar)  
Environmental Engineer  
Goa State Pollution Control Board

(vii) **Non-Hazardous Solid Waste:**

All the Solid wastes arising in the hotel premises shall be properly classified and disposed off to the satisfaction of the Board

The total quantity shall be segregated and treated as follows:

Sr. no.	Type of segregated solid waste	Quantity	Disposal
1	Wet waste	3.0 tons/month	Compost within premises
2.	Dry Waste	1.0 tons/month	handed over to scrap dealers

(viii) The applicant should upload monthly statement (below format) regarding the solid waste generation online.

Sr. No.	Date	Quantity of wet/dry waste	Name of agency collecting the wet/ dry waste	Authorized Signatory

#### 4. **CONDITIONS REQUIRED TO BE COMPLIED UNDER THE AIR ACT**

(i) The hotel unit shall maintain and operate air pollution control system of adequate capacity for the following equipments

Sr. No.	Name of Equipments/ Installation	No of Installation	Capacity	SO <sub>2</sub> Kg/Hr	NO <sub>x</sub>	HC	CO	PM
1.	D.G. set	02	750 KVA	5.4	9.2	1.3	3.5	0.3

(ii) The hotel unit shall erect the chimney(s) of the following specifications:

Sr. No	Chimney attached to	Height
1.	D.G. set (750 KVA)	10 mtrs

(iii) The hotel unit shall observe the following standards:-

Sr. No	Type of fuel	Quantity /hr
1.	H.S.D. (for D.G. set of 750 KVA)	75 ltrs/hr

(iv) The Stack Port Hole and Platform is to be designed as per CPCB guidelines Method 1 Part 1 of Stack Monitoring –Material & methodology for isokinetic sampling.

(v) The hotel unit should comply with all the standards for D.G. Sets prescribed at Sr. no. 94, 95 and 96 of Schedule I of the Environment (Protection) Rules, 1986.

(vi) The hotel unit should carry out emission monitoring from the stacks connected to D.G. set once a year from a laboratory recognized by Ministry of Environment and Forest under the Environment Protection Act, 1986 and the result shall be submitted to this Board by the 15<sup>th</sup> of subsequent month.

  
 (Sanjeev Joglekar)  
 Environmental Engineer  
 Goa State Pollution Control Board

- (vii) The hotel unit shall take adequate measures for control of noise levels from its own sources within the premises in respect of noise. The limits are as follows

Category of Area/ Zone	Limits in dB (A) Leq	
	Day time	Night time
Industrial Area	75	70
Commercial Area	65	55
Residential Area	55	45
Silence Zone	50	40

Day time is reckoned between 6 a.m. to 10 p.m. and night time is reckoned between 10 p.m. to 6 a.m.

**5. CONDITIONS REQUIRED TO BE COMPLIED UNDER THE HAZARDOUS AND OTHER WASTES (MANAGEMENT AND TRANSBOUNDARY MOVEMENT) AMENDED RULES 2018**

- (i) The hotel unit is hereby granted authorization to operate a facility for collection, storage and disposal of hazardous wastes as specified below:

Sr. No.	Category	Type of waste	Quantity	Mode of disposal
1.	5.1	Used/Spent oil	0. 800 MT/annum	To recycler registered with CPCB and having valid authorization of SPCB

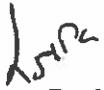
- (ii) The authorization shall comply with the provisions of the Environment (Protection) Act, 1986 and the rule made there under.
- (iii) The person authorized shall not rent, lend, sell or transfer or otherwise transport the hazardous waste without obtaining prior permission of the Goa State pollution Control Board.
- (iv) Any unauthorized change in personnel, equipment or working conditions as mentioned in the hotel unit by the person authorized shall constitute a breach of his authorization.
- (v) It is a duty of the authorized person to take permission of the Goa State Pollution Control Board to close down the facility.
- (vi) The inner bottom surfaces of the tank shall be impervious enough to prevent leakage or seepage of these wastes into the sub surface soil or ground water.
- (vii) The occupier shall maintain a manifest system as per Rule 19 for disposal of hazardous wastes to ensure that these wastes are delivered to the designated facility preventing pilferage and clandestine disposal due to unforeseen events that may occur during transit.
- (viii) The manifest shall be endorsed by the dispatcher, transporter and receiver of hazardous wastes. The endorsed copy shall be furnished to the Goa State Pollution Control Board.
- (ix) Under any circumstances the hazardous waste shall not be disposed to unauthorized facilities.

  
 (Sanjeev Joglekar)  
 Environmental Engineer  
 Goa State Pollution Control Board

- (x) The occupier shall maintain the records for collection, storage and disposal of hazardous waste in Form 3 of as per Hazardous and other Wastes (Management and Transboundary Movement) Rules 2016.
- (xi) The occupier shall furnish monthly returns for collection, storage and disposal of hazardous waste through online XGN systems.
- (xii) The hotel unit shall put up an online board (minimum size 6x4 Feet) at prominent location near the main gate providing details as follows in English and Konkani languages:-
- Hazardous Waste category number.
  - Hazardous Waste quantity number.
  - Treatment facility for each category.
  - Mode of disposal for each category.
  - Hazardous Waste Authorization number, date and validity period.
  - Water Consent number, date and validity period.
  - Air Consent number, date and validity period.
  - Quantity and Nature of Hazardous Chemicals being used.
- (xiii) The occupier shall ensure that the Hazardous Wastes are not allowed to be stored for more than 90 days.
- (xiv) The unit shall submit annual returns in prescribe format to the Board for financial year by 30<sup>th</sup> June of every year for the previous financial year.

#### 6 GENERAL CONDITIONS:

- (i) The hotel unit shall not change or alter the quantity, quality of discharge, temperature or the mode of the effluent/ emission or hazardous wastes or control equipments provided for without previous permission of the Board.
- (ii) The hotel unit shall provide facility for collection of samples of effluent, air emissions and hazardous wastes to the Board staff.
- (iii) An application in prescribed form along with the prescribed fees for renewal of Consent shall be submitted at least 60 days before the expiry of validity of this Consent. An application for renewal of Consent submitted after expiry of the validity shall accompany with penalty of 50% of the Consent fees in addition to the prescribed consent fees.
- (iv) The Board shall be forthwith informed of any accident or unforeseen event involving discharge of any poisonous, noxious or polluting matter into a stream or well or on land or into the atmosphere, as result of such discharge water/ air is being polluted.
- (v) This Consent to operate is granted without any prejudice to any of the permission(s) required under any law, by laws and regulations in force and this Consent to Operate is confined to matters arising out of the Air Act and Water Act only.

  
 (Sanjeev Joglekar)  
 Environmental Engineer  
 Goa State Pollution Control Board

- (vi) The Board reserves the right to amend or add any conditions in this consent and the same shall be binding on the applicant.
- (vii) The hotel unit shall submit to this office, the Environmental Statement Report in Form V for the Financial Year ending April to March by 30<sup>th</sup> September of the succeeding year as per the provisions of the rule 14 of the Environment (Protection) (Second Amendment) Rules, 1992.
- (viii) Reliable flow meter shall be installed to maintain record of water consumption/waste water generation per day. The records so maintained shall be made available to the Board officials whenever required.
- (ix) The unit shall bear the cost of analysis / monitoring in case of complaints received by the Board/ reinspections due to non compliances observed by the Board & monitoring carried by the Board.
- (x) The unit shall submit the details of the Public Liability Insurance Policy under the PLI Act 1991, to the Board office as applicable.
- (xi) The unit shall submit returns for disposal of batteries under the Batteries (Management & Handling) Rules 2011, if applicable.
- (xii) The unit shall submit returns for disposal of e - waste under the E- Waste (Management) Amended Rules 2018, if applicable.
- (xiii) The unit shall submit returns for disposal of plastic waste under the Plastic Waste (Management) Amended Rules 2018, if applicable.
- (xiv) The unit shall comply to the Guidelines and DUST Mitigation measures in handling Construction material and C & D waste issued by central Pollution Control Board and are placed on Board website goaspcb.gov.in

To,  
**M/s. TRIUMPH REALTY PVT LTD**  
 (Azaya Beach Resort).  
 Plot No:336/1-A,  
 Callvado Benaulim,  
 Salcete Goa.

  
 (Sanjeev Joglekar)  
 Environmental Engineer  
 Goa State Pollution Control Board

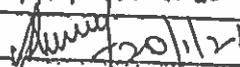
- Copy to:-1. The Member Secretary,  
Goa Coastal Zone Management Authority.  
C/o. Department of Science, Technology & Environment,  
Opposite Saligao Seminary,  
Saligao, Bardez - Goa.
2. The Director,  
Department of Tourism,  
Paryatan Bhavan, Patto,  
Panaji - Goa
3. Accounts Section  
4. Concerned File  
5. Guard File

Received Consent fee of: **The capital Investment of the unit is Rs. 36.10 Crs**

Challan no.	Amount	Date
-----	Rs. 114000/- (Air & Water Consent fees)	28/09/2017

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<i>[Signature]</i>	<i>[Signature]</i>

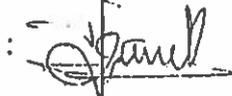
*[Signature]*  
(Sanjeev Joglekar)  
Environmental Engineer  
Goa State Pollution Control Board

Inspection of Hotels for verification of organic waste treatment/ disposal		
Ref:- Order dated 11/7/2016 passed by Hon'ble High Court of Bombay at Goa in SMWP/2/2007		
Sr.No.	Description	Details
1	Name of Hotel	M/s Triumph Realty Pvt Ltd (Azaya Beach Resort)
2	Address	Sy-no. 336/1-A, Calluado, Benaulim, Salcete ga.
3	Consent validity	28.09.2020
4	Daily quantity of Bio-degradable and Non-biodegradable waste generated.	Biodegradable = 70 kg/day Non biodegradable = 20 kg/day
5	Mode of treatment/disposal of Non-biodegradable waste.	collected by private Agency Recycle waste management services
6.	Mode of treatment/disposal of biodegradable waste i.e Whether Organic waste is composted (Yes/No)	collected by private Agency. Mr. Organic waste composter is not installed.
7	If not, mode of treatment/ disposal of organic waste.	collected by private Agency. Mr.
8	If so, make of the composting facility	Composting facility not installed.
9	Capacity in kg/day	—
10	Whether operational during inspection	Organic waste composter not installed.
11	Whether log book maintained, and is in confirmation with waste generated	Log maintained.
12	Any other observations	Mixed dry waste was observed within the premises. Dry waste segregation not done.
13	Name and designation of the unit representative present during inspection	Shaji Unni AM-Finance
14	Signature of unit representative	 20/11/21

Name of the inspecting team

: Sebastian Bandt

Signature

: 

Date of the inspection

: 20/11/2021

EXHIBIT - R3

1

SMWP 2/2007

IN THE HIGH COURT OF BOMBAY AT GOA

SUO MOTU WRIT PETITION NO. 2 OF 2007

.... Petitioner

Versus

STATE OF GOA THROUGH CHIEF  
SECRETARY AND 44 ORS.,

.... Respondents

\*\*\*

Ms. Norma Alvares, Amicus Curiae.

Mr. A. Talaulikar, Additional Government Advocate for the State in  
WP No. 935 of 2017.

Mr. Pravin Faldessai, Additional Government Advocate for the State in  
SMWP No.2 of 2007.

Mr. Shailesh Redkar, Additional Government Advocate for the State in  
PILWP No.39 of 2018.

Mr. Sagar Dhargalkar, Additional Government Advocate for the State  
in PILWP No.20 of 2017.

Mr. S.P. Munj, Additional Government Advocate for the State in CP  
No. 31 of 2010.

Ms. Sulekha Kamat, Additional Government Advocate for the State in  
CP No. 43 of 2017.

Mr. Geetesh Shetye, Additional Government Advocate for the State in  
PIL WP No. 4/2007.

Mr. A. D. Bhoje with Ms. K. Govekar, Advocates for Respondent  
Nos. 11, 15 in SMWP No. 2 of 2007, for Respondent Nos. 1 and 2 in  
CP No. 43 of 2017, PILWP No. 4 of 2007, for Respondent No.2 in  
PILWP No.20 of 2017, for the Petitioner in WP No.935 of 2017.

Mr. Z. D'Souza, Advocate for Respondent Nos. 35 and 36.

Mr. S.D. Padiyar with Mr. P. Shirodkar, Advocates for Respondent  
Nos. 14, 19 and 47.

Mr. Amey Kakodkar, Advocate for Respondent No.49.

Mr. Somnath Karpe with Mr. Abhishek Sawant, Advocates for  
Respondent No.16.

Mr. H. D. Naik, Advocate for Respondent No.10.  
Mr. D. Lawande with Mr. P. Dangui, Advocates for the GSPCB.  
Mr. Sudesh Usgaonkar with Ms. Maria Rosette Pereira, Advocates for Respondent No.27.  
Mr. A. Palekar, Advocate for Respondent Nos. 29,30,31,34 and 35.  
Ms. Susan Linhares, Advocate holding for Ms. Anita Thorat, Advocate for Respondent No. 37.  
Mr. D. Naik, Advocate for Respondent No. 48.  
Mr. Vinoj Daniel, Advocate for V.P., Savordem and for Respondent No. 51.  
Mr. P. A. Kamat, Advocate for Respondent No. 53.  
Mr. Kapil Kerkar, Advocate for Village Panchayat of Colvale.  
Mr. Nikhil D. Pai with Mr. Rohit Shirodkar, Advocates for Respondent No. 26.  
Mr. Byron Rodrigues, Advocate for Respondent No. 2.  
Mr. V.V. Pednekar, Advocate for Respondent No. 9.  
Mr. Aires Rodrigues, Petitioner in CP No. 43/2017.  
Mr. Galileo Teles, Advocate for Respondent No. 32.

Coram:- M.S. SONAK &  
SMT. M.S. JAWALKAR, JJ.

Date:- 4<sup>th</sup> March, 2020

P.C.

Mr. Lawande, the learned Counsel for the GSPCB states that the Village Panchayats of Calangute and Velguem had in fact made applications for establishment of Material Recovery Facilities (MRF). However, by inadvertence, a statement was made on the previous occasion that these Panchayats had failed to apply. On the basis of such statement, we had issued notices to the Sarpanch and the

Secretary of the Village Panchayat of Calangute and further, directed the Director of Panchayats to issue notices to the Sarpanch and Deputy Sarpanch of the Village Panchayat of Velguem.

2. Now that the aforesaid position is clarified, we recall the notices issued to the Sarpanch and the Secretary of the Village Panchayat of Calangute, by our order dated 12.02.2020. Similarly, we recall our direction to the Director of Panchayats to issue notices to the Sarpanch, Deputy Sarpanch or Secretary of these two Panchayats.

3. Mr. Faldessai, the learned Additional Government Advocate pointed out that before our order dated 12.02.2020 was modified, notices have been issued to the Secretaries of about 69 Panchayats by Director of Panchayats. There is no question of taking any action against the Secretaries of the Panchayats by resort to Section 50(4) of the Panchayat Raj Act. However, since, it is pointed out that notices have been issued to the Secretaries under the CCS (Conduct) Rules, such notices can be disposed off in accordance with law, depending upon the responses of the Secretaries.

4. Similarly, notices issued to the Sarpanches and Deputy Sarpanches under Section 50(4) of the Panchayat Raj Act will also have to be disposed off by the Director of Panchayats in accordance with law and on their own merits, depending upon the explanation

furnished by such Sarpanches and Deputy Sarpanches.

5. This exercise of disposal of show cause notices to be completed by the Director of Panchayats, within six months from the date of issue of the notices.

6. Mr. Bhobe, the learned Counsel for M.K. Aromatics states that necessary undertaking to furnish bank guarantee by 15.03.2020 has already been filed. He states that M.K. Aromatics consistent with their undertaking will furnish the bank guarantee by 15.03.2020.

7. Mr. Faldessai, the learned Additional Government Advocate states that the Director of Panchayats, Director of Municipal Administration has already written to the Village Panchayats and the Municipal Councils/ City Corporation of Panaji (CCP) to prevail upon the five agencies to apply for authorization from the GSPCB. Mr. Lawande, the learned Counsel for the GSPCB states that he will file the status report within a period of two weeks from today.

8. Mr. Lawande, the learned Counsel for the GSPCB states that he will also file status report in relation to composting facilities of local bodies for wet waste, within two weeks from today.

9. Mr. Lawande, the learned Counsel for the GSPCB states that inspection of units, which *prima facie* generate waste of more than 100 kgs. per day was undertaken and the details of such inspection have been set out in the status report today filed before us. In fact, such details are to be found at Annexure-E of the status report. On perusal of the same, we find that inspection has been carried out of all 44 units and some of establishments have not installed the waste composting units.

10. Mr. Lawande, the learned Counsel for the GSPCB states that notices/directions have already been issued to the establishments, which have not installed such facilities or where such facilities is not found in operation. He states that these notices/directions will be taken to its logical conclusion and further status report will be filed within four weeks from today.

11. On the next occasion, the GSPCB to also report on the issue of dry waste generated by these 44 establishments referred to in Annexure-E.

12. The learned Counsel appearing on behalf of Village Panchayat of Assagao, Calangute and Colva state that black spots within their jurisdiction have been duly cleared. Compliance report on

behalf of Village Panchayat of Calangute and Colva are being filed today. Mr. Somnath Karpe, the learned Counsel appearing for Village Panchayat of Assagao states that compliance report will be filed during the course of this week.

13. Mr. Faldessai, the learned Additional Government Advocate states that officials and the BDO have verified the position and they have reported that there are no black spots within the jurisdiction of these three Panchayats.

14. Mr. Faldessai, the learned Additional Government Advocate states that even a mechanism has been developed for surprise check so that the black spots do not recur. Mr. Faldessai, the learned Additional Government Advocate also pointed out that service of order upon these three Panchayats as well as on other Panchayats is complete.

15. The concerned Deputy Collector to file affidavit regards dumping of construction debris within the jurisdiction of St-Cruz Village Panchayat. This is in context of our earlier directions issued to the Deputy Collector. Such affidavit along with photographs to be filed within one week from today. If the Deputy Collector notices any unauthorized dumping or unauthorized construction, then, the Deputy Collector to indicate action, if any, taken in the matter.

16. Insofar as KTC bus stand at Panaji is concerned, Mr. Bhobe, the learned Counsel for the CCP states that the Directorate of Transport has entered into an agreement with the CCP. Mr. Bhobe, the learned Counsel for the CCP states that CCP will take steps to ensure that KTC bus stand is not littered with garbage/waste.

17. Mr. H.D. Naik, who appears for Mapusa Municipal Council states that necessary affidavit will be filed on the next date with regard to the issue of garbage/waste at Mapusa market.

18. Mr. Byron Rodrigues, the learned Counsel for Village Panchayat of Sancoale states that some steps will be taken for removal of waste/garbage dumped along the side of NH-17A within the jurisdiction of the Village Panchayat of Sancoale. He states that necessary affidavit will be filed in this regard including explaining the use of pits around this stretch for dumping garbage.

19. Mr. Faldessai, the learned Additional Government Advocate also states that the Goa Waste Management Corporation (GWMC) has appointed an agency to ensure that the highways are maintained litter free.

20. Leave is granted to file affidavits.

21. Stand over to 15.04.2020.

SMT. M.S. JAWALKAR, J.

M. S. SONAK, J.

EV

# GOA STATE POLLUTION CONTROL BOARD

## गोंय राज्य प्रदूषण नियंत्रण मंडळ

(An ISO 9001-2015, ISO 14001:2015, OHSAS 18001:2007 Certified Board)

Phone Nos. : 0832-2407700  
2407701, 2407702  
2407703

Tel/Fax No. : 0832-2407700



Email Ids:  
Chairman, GSPCB: chairman-gspcb.goa@nic.in  
Member Secretary GSPCB: ms-gspcb.goa@nic.in  
Environment Engineer, GSPCB: ee-gspcb.goa.nic.in  
Scientist, GSPCB: scientist-gspcb.goa@nic.in  
Office: goapcb@gspcb.in

No.10/1/20-PCB/leg/19886

By Regd. A.D.

Date: 05/02/2021

### SHOW CAUSE NOTICE

WHEREAS, the Hon'ble High Court of Bombay at Goa vide order dated 11/07/2019 passed in Sou Motu Writ Petition no. 02 of 2007 has issued the Goa State Pollution Control Board (hereinafter referred to as the "Board", in short) the following directions amongst others;

*" (xiii) In the meantime, the Pollution Control Board itself would formulate, based on the verification carried out by it, requisite directions to be issued to individual local bodies with a view to see that the directions of this Court and various statutory provisions bearing on the subject of solid waste disposal are complied with. This exercise shall be completed by the Pollution Control Board within a period of four weeks of the verification referred to above;"*

WHEREAS, in this regard the officials of the Board carried out inspections of hotels on 19/01/2021 and 20/01/2021 for verification of organic waste treatment/ disposal in terms of the directions of the Hon'ble High Court as aforesated.

WHEREAS, during the course of the said inspection, the Board inspected the unit M/s. Triumph Reality Pvt. Ltd., (Azaya Beach Resort), Plot No.336/1-A, Callvado, Benaulim, Salcete Goa and it was observed that organic waste composter was not installed.

NOW THEREFORE, in exercise of the powers vested with the undersigned under section 33(A) read with section 25/26 of the Water (Prevention and Control of Pollution) Act, 1974, and under section 31(A) read with section 21 of the Air (Prevention and Control of Pollution) Act, 1981, notice is hereby served on M/s. Triumph Reality Pvt. Ltd., (Azaya Beach Resort), Plot No.336/1-A, Callvado, Benaulim, Salcete Goa to show cause within a

period of 7 days from the date of receipt of this notice as to why the Polluter Pay Principle Fine should not be levied against you for non -installation of the Organic Waste Composter.

**TAKE NOTE**, that failure to comply with the aforesaid show cause notice will compel the Board to initiate stringent legal action against you under the provisions of the said Act.

Issued on this 05<sup>th</sup> -day of February, 2021.

J. Singh

(Sanjeev Joglekar)  
Environmental Engineer  
For Goa State Pollution Control Board

To,  
M/s. Triumph Reality Pvt. Ltd.,  
(Azaya Beach Resort),  
Plot No.336/1-A, Callvado, Benaullim,  
Salcete Goa

Copy to:-

- 1) The Collector (South), South Goa District, Collectorate Building, Margao Goa.
- 2) The Secretary, Village Panchayat Benaullim, Salcete Goa.
- 3) Office copy.
- 4) Guard file.

**TRIUMPH REALTY PRIVATE LIMITED**

Regd Off.: Plot No.2, Vasant Kunj Phase-II, Nelson Mandela Road, New Delhi-110 070, Phone: 011-2670 5002  
 Email: [ralesh.rustaal@unisonhotels.com](mailto:ralesh.rustaal@unisonhotels.com) CIN NO. U45400DL2007PTC228325

TO,

MR. SANJEEV JOGLAKAR (ENVIRONMENTAL ENGINEER)  
 GOA POLLUTION CONTROL BOARD  
 SALICAO BARDEZ GOA - 403511  
 Dear Madam/ Sir,

This in reference to the Hearing dated 26-05-2021 held via video conferencing regarding Show Cause Notice dated 30/03/2021, No – 5/5541/12-PCB/Tech/24233 & Directions Under Section 33(A) Of the Water ( Prevention and control of pollution) Act, 1974 dated 12-03-2021, Ref No – 5/5541/12-PCB/Tech/688 .

The hotel stated and shared with GSPCB (Goa State Pollution Control Board) that there was no condition to install an OWC machine in the unit as per Consent to Operate and Authorization Granted to Triumph Realty Private Limited (Azaya Beach Resort) (Orange Category) vide the GSPCB approval no. 5/5541/12-PCB/CI-4853 dt.31.10.2018 (copy enclosed for ready reference).

The GSPCB was duly informed about the non existence of any condition in our Consent to Operate letter as above in February 2020.

As you aware of fully aware that due to Pandemic of COVID-19 the Government of India declared the complete lockdown from the month of March 2020, accordingly the operation of the hotels were completely closed in compliance of the aforesaid direction. Kindly note that Hotel Industry is worsely effected due to the COVID-19 and Lockdown. As stated in the yesterday' s hearing, the unit/hotel would able to start its part operation in October 2020 and merely able to achieve the occupancy of 8% in October 2020 and the same was slightly improved on the average occupancy level of 28% November and December 2020 and even with this not even able meet its operational expenses.

From and per  
~~Sanjeev~~  
 Sanjeev

3228

# TRIUMPH REALTY PRIVATE LIMITED

Regd Off.: Plot No.2, Vasant Kunj Phase-II, Nelson Mandela Road, New Delhi-110 070, Phone: 011-2670 5002  
Email: [rajesh.rustaq@unisonhotels.com](mailto:rajesh.rustaq@unisonhotels.com) CIN NO. U45400DL2007PTC228325

---

Inspite of the very difficult time in our Hotel Industry and unprecedented pandemic of COVID-19 we have able to place the order for installation of new Organic Waste Composure Machine (OWCM) and requested the time till December 2020 the details of all the supporting documents was duly submitted to your office copy are again enclosed for your ready reference.

As confirmed that we have now already installed (OWCM) at our hotel and it is duly functioning since April 2021. Therefore, we would hereby again request you to please waive the full penalty imposed on us.

As you the hotel operations are again shut due to the very worse prevailing conditions on account of the 2 COVID-19 wave having very high mortality rate. Keeping in view of the above would appreciate an early confirmation for waiver of the full penalty levied on us, we will also assure you to ensure always the compliance of all the prevailing BI Laws in future as well.

Your Sincerely,

For TRIUMPH REALTY PRIVATE LIMITED

Authorised Signatory Signatory(ies)

---

INSPECTION OF VARIOUS HOTEL UNITS IN THE HON'BLE HIGH COURT MATTER, 2/2007 W. R. T. VERIFICATION OF PRESENT STATUS OF OPERATION OF THE COMPOSTING FACILITIES.

The inspection of the various hotel units were carried out by the undersigned, Mr. Sebastiao Barreto, EA, in Hon'ble High Court matter w. r. t. verification of present status of operation of the composting facilities on 11/03/2021. The unit wise observations are as follows.

1. M/s. The Golden Crown Hotel and Spa., Colva, Goa.

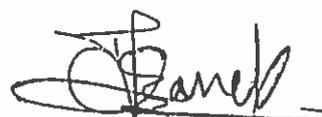
The unit was in operation. The unit has started the operation (only with 10 rooms) from 1<sup>st</sup> Janaury, 2021 Kitchen and Restaurant not in operation. Since no wet waste generated, OWC is not operated. Occupancy was nil on the day of inspection. As per the information provided by the unit official the dry waste generated is handed over to private vendor. As per the information provided by the unit official the unit has commenced its operation from 01/01/2021

2. M/s. Triumph Reality Pvt. Ltd(Azaya Beach Rresort), Benaulim, Goa.

The unit was in operation. The unit has not installed OWC. The earlier composting facility has been removed. Wet and dry waste generated is disposed through private vendor. As per the information provided by the unit official the unit has commenced its operation from 01/10/2020

3. M/s. Prestige Holiday Resorts Pvt. Ltd.(Haathi Mahal), Cavelossim

The unit was in operation. The unit has provided OWC and was found to be in operation during the inspection. As per the information provided by the unit official the unit has commenced its operation from 01/11/2020 . The composting facility is started from 10/02/2021



(Sebastiao Barreto)

Engineering Asistant

## GOA STATE POLLUTION CONTROL BOARD

गोंय राज्य प्रदूषण नियंत्रण मंडळ

(An ISO 9001-2015, ISO 14001:2015. OHSAS 18001:2007 Certified Board)

Phone Nos. : 0832-2407700  
2407701, 2407702  
2407703

Tel/Fax No. : 0832-2407700



Email Ids:  
Chairman, GSPCB: chairman-gspcb.goa@nic.in  
Member Secretary GSPCB: ms-gspcb.goa@nic.in  
Environment Engineer, GSPCB: ee-gspcb.goa.nic.in  
Scientist, GSPCB: scientist-gspcb.goa@nic.in  
Office: goapcb@gspcb.in

No.5/5541/12-PCB/Tech/688

By Regd A.D.

12 /03/2021

DIRECTIONS UNDER SECTION 33(A) OF THE WATER  
(PREVENTION AND CONTROL OF POLLUTION) ACT, 1974

Ref: - Show Cause Notice bearing no . 10/1/20-PCB/Leg/19886 dated  
05/02/2021

WHEREAS, vide Show Cause Notice bearing no. 10/1/20-PCB/Leg/19886 dated 05/02/2021 your unit namely M/s. Triumph Reality Pvt. Ltd., (Azaya Beach Resort), Plot No.336/1-A, Callvado, Benaulim, Salcete Goa, was directed by the Goa State Pollution Control Board (herein after referred to as 'the Board' in short) to Show Cause within a period of 7 days from the date of receipt of the Notice as to why a Polluter Pays Fine/Penalty should not be levied against you for non-installation of the Organic Waste Composter.

WHEREAS, you have failed to reply to the aforesaid Show Cause Notice dated 5/2/2021 till date.

WHEREAS, upon perusal of your reply as aforesaid officials of the Board have conducted a site inspection at your unit on 10/03/2021. During the course of the said site inspection it was observed as follows:-

1. The unit started on 1/10/2020 (post covid 19 lockdown).
2. The composting facility installed earlier has been removed.

Copy of the Report of inspection conducted on 10/03/2021 is enclosed.

**WHEREAS**, the observations as above indicate that you have not commenced operation of the composting facility at your unit till date. You have failed to commence operation of the composting facility or make any arrangements for treatment of wet waste generated at your unit in terms of the Consent to Operate order issued to you by this Board under the Water Act till date.

**WHEREAS**, the aforesaid observations further indicate that your reply to the Show Cause Notice dated 5/2/2021 issued to you by the Board is unsatisfactory and that your delayed operation of the composting facility at your unit / failure to operate the composting facility at your unit till date amounts to a violation of the Consent to Operate order dated 31/10/2018 issued to your unit under the Water Act.

**WHEREAS**, such delayed operation of the composting facility at your unit/ failure to operate the composting facility at your unit till date amounts to a violation of the conditions as contained in the Consent to Operate Order dated 31/10/2018 issued to your unit by the Board and also amounts to violation by you in the management of Solid waste generated by your unit.

**WHEREAS**, the Principal Bench of the National Green Tribunal vide orders passed in OA/606/2018 has directed the State Pollution Control Boards to initiate action in the matter of violations by various units/establishments etc. in the management of Solid Waste that include recovery of Environmental Compensation through the imposition of Penalties under the Polluter Pays Principal upon such violators.

**WHEREAS**, in this regard the Board at its 144<sup>th</sup> meeting held on 06/07/2020 has established the procedure to be followed by it for the imposition of Penalties under the Polluter Pays Principal, to violators.

Copy of the decision taken by the Board in this regard is enclosed.

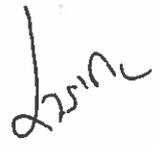
**WHEREAS**, in this regard and on account of the aforesaid violation by you, the Board has calculated the amount of environmental compensation to be paid by your unit to the Board as a penalty under the Polluter Pays Principal, that amounts to Rs.10,18,750/- (Ten Lakhs Eighteen Thousand Seven Hundred and Fifty Only) for delayed operation of the composting facility at your unit/ failure to operate the composting facility at your unit till date.

A copy of the document indicating the aforesaid computation is enclosed.

**NOW THEREFORE** in light of the above and in exercise of the powers vested with the Board under section 33(A) of the Water (Prevention and Control of Pollution) Act, 1974 and as delegated to the undersigned by the Board vide resolution dated 8/5/2019 passed by Board at its 139<sup>th</sup> meeting held on 8/5/2019 ; the management of M/s. Triumph Reality Pvt. Ltd., (Azaya Beach Resort), Plot No.336/1-A, Callvado, Benaullim, Salcete Goa is hereby directed to pay an amount of Rs.10,18,750/- (Ten Lakhs Eighteen Thousand Seven Hundred and Fifty Only) to the Board as Environmental Compensation, that is imposed upon you as a Penalty under the Polluter Pays Principal, within a period of 15 days from the date of receipt of this Direction.

**TAKE NOTE** that failure to comply with the aforesaid directions within the stipulated time period will compel the Board to initiate stringent legal action against you that will include issue of closure directions to your unit without any further notice.

Issued on this 12 day of March 2021.

  
(Sanjeev Joglekar)  
Environmental Engineer  
Goa State Pollution Control Board

To,  
M/s. Triumph Reality Pvt. Ltd., (Azaya Beach Resort),  
Plot No.336/1-A, Callvado, Benaullim, Salcete Goa.

*Copy to:*

- 1. The Director, Department of Tourism, 1st Floor, Paryatan Bhavan, Patto, Panaji, Goa, 403001*
- 2. The Secretary, Village Panchayat Benaullim salcete Goa.*
- 3. The Director, Directorate of Panchayat, Junta House, Panaji Goa.*
- 4. The Director, Department of Environment, 1st Floor, Pandit Deendayal Upadhay Bhavan, Behind Pundalik Devasthan, Near Sanjay School, Porvorim, Bardez Goa.*
- 5. Office copy.*
- 6. Guard file.*

INSPECTION OF VARIOUS HOTEL UNITS IN THE HON'BLE HIGH COURT MATTER, 2/2007 W. R. T. VERIFICATION OF PRESENT STATUS OF OPERATION OF THE COMPOSTING FACILITIES.

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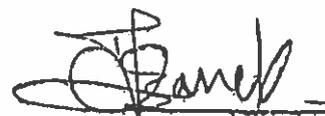
The unit was in operation. The unit has started the operation (only with 10 rooms) from 1<sup>st</sup> Janaury, 2021 Kitchen and Restaurant not in operation. Since no wet waste generated, OWC is not operated. Occupancy was nil on the day of inspection. As per the information provided by the unit official the dry waste generated is handed over to private vendor. As per the information provided by the unit official the unit has commenced its operation from 01/01/2021

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The unit was in operation. The unit has provided OWC and was found to be in operation during the inspection. As per the information provided by the unit official the unit has commenced its operation from 01/11/2020 . The composting facility is started from 10/02/2021



(Sebastiao Barreto)  
Engineering Asistant

**Report of the CPCB In-house Committee on  
Methodology for Assessing Environmental  
Compensation and Action Plan to Utilize the Fund**



**CENTRAL POLLUTION CONTROL BOARD**  
**"Parivesh Bhawan", East Arjun Nagar,**  
**Delhi-110032**

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## Abstract

Environmental compensation is a policy instrument for the protection of the environment which works on the Polluter Pay Principal. Environmental compensation has already been implemented in various countries, although limited in scope. Experiences from these implementations are mixed and tend to stress the importance of certain principles in order to achieve the overall objective of protection of the environment.

The Hon'ble National Green Tribunal through its various judgments has empowered the Central Pollution Control Board to lay down the methodology to assess and recover compensation for damage to the environment and utilize such amount in terms of an action plan for protection of the environment.

An attempt has been made by the CPCB in-house Committee to develop a methodology for assessing environmental compensation to be levied on concerned industry, authority, individual etc. for the protection of environment. Expert institutions/ NGOs like The Energy and Resources Institute, Centre for Science and Environment-India, Institute of Economic Growth etc. were also consulted to finalize the report. Overall objective is to develop self-sense of responsibility towards the environment and to make defaulters realize their mistake by imposing compensation, which will be utilized for the protection/restoration of the environment.

Although, this is the first attempt in India towards development of methodology for assessing environmental compensation, however, efforts have been made to simplifying the process so that regulatory institutions can easily adopt the methodology for implementation.

## Chapter-I: Environment Compensation to be levied on Industrial Units

---

### 1.1 Background

The Hon'ble National Green Tribunal (NGT), Principal Bench in the matter of OA No. 593/2017 (WP (CIVIL) No. 375/2012, Paryavaran Suraksha Samiti & Anr. Vs. Union of India & Ors. directed Central Pollution Control Board (CPCB) that:

*"The CPCB may take penal action for failure, if any, against those accountable for setting up and maintaining STPs, CETPs and ETPs. CPCB may also assess and recover compensation for damage to the environment and said fund may be kept in a separate account and utilized in terms of an action plan for protection of the environment. Such action plan may be prepared by the CPCB within three months" (Annexure-I).*

### 1.2 Constitution of the Committee

In this context, Chairman, CPCB constituted a Committee under the Chairmanship of Shri A. Sudhakar, I/c WQM-I with Shri A. K. Vidyarthi, I/c WQM-II, Shri P. K. Gupta, I/c IPC-VI, Shri Nazimuddin I/c IPC-II and Dr. S. K. Paliwal, Scientist 'D' as members. The Committee was asked to deliberate on this issue and come up with a draft formulation before 15.9.2018.

### 1.3 Methodology for Assessing Environmental Compensation

The Committee discussed the issue on 4.9.2018, 13.9.2018, 17.9.2018 and 09.10.2018. A meeting was also held with Senior Officers of CPCB Head Office and Regional Directorates through video conferencing on 28.09.2018 to discuss the draft report and to seek comments/feedbacks. The comments/feedbacks received and deliberations of the Committee on the same are given in Annexure-II.

As per the Hon'ble NGT suggestion, CPCB has invited comments of 3 expert institution, namely, Centre for Science and Environment (CSE), Institute of Economic Growth (IEG) and The Energy Research Institute (TERI). A meeting to incorporate the comments of the expert institutions and to finalize the report, was held on 27/03/2019. The CPCB in-house committee on Environmental Compensation has deliberated on the comments and finalized the report accordingly. The Committee's deliberations are attached as Annexure-III.

It was deliberated for developing a formula for imposing environmental compensation on industrial units for violation of directions issued by regulatory bodies and this is the first attempt made. The committee discussed that environmental compensation should be based on "Polluter Pay Principle". The Committee decided to list the instances for taking cognizance of cases fit for violation and levy environmental compensation.

**Cases 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.
- f) Injection of treated/partially treated/ untreated effluents to ground water.

**1.3.1** In the instances as mentioned at *a, b and c* above, Pollution Index may be used as a basis to levy the Environmental Compensation. CPCB has published guidelines for categorization of Industries into Red, Orange, Green and White based on concept of Pollution Index (PI). The Pollution Index is arrived after considering quantity & quality of emissions/ effluents generated, types of hazardous wastes generated and consumption of resources. Pollution Index of an industrial sector is a numerical number in the range of 0 to 100 and can be represented as follows:

$$PI = f(\text{Water Pollution Score, Air Pollution Score \& HW Generation Score})$$

*Pollution Index* is a number from 0 to 100 and increasing value of PI denotes the increasing degree of pollution *hazard from the industrial sector*.

CPCB has issued directions to all SPCBs/PCCs on 07.03.2016 to adopt the methodology and follow guidelines prepared by CPCB for categorization of industrial sectors into Red, Orange, Green and White.

The concept of Pollution Index, which was deliberated widely with all stakeholders and agreed, shall be used for calculating Environmental Compensation. This may help in implementation of such provision throughout the country, a successful initiative in vital field of industrial pollution control.

After considering various factors including the policy implementation issues, Committee has come up with following formula for levying the Environmental Compensation in instances as mentioned at a, b and c including non-compliance of the environmental standards / violation of directions.

The Environmental Compensation shall be based on the following formula:

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

Where,

- EC is Environmental Compensation in ₹  
 PI = Pollution Index of industrial sector  
 N = Number of days of violation took place  
 R = A factor in Rupees (₹) for EC  
 S = Factor for scale of operation  
 LF = Location factor

The formula incorporates the anticipated severity of environmental pollution in terms of Pollution Index, duration of violation in terms of number of days, scale of operation in terms of micro & small/medium/large industry and location in terms of proximity to the large habitations.

Note:

- The industrial sectors have been categorized into Red, Orange and Green, based on their Pollution Index in the range of 60 to 100, 41 to 59 and 21 to 40, respectively. It was suggested that the average pollution index of 80, 50 and 30 may be taken for calculating the Environmental Compensation for Red, Orange and Green categories of industries, respectively.
- N, number of days for which violation took place is the period between the day of violation observed/due date of direction's compliance and the day of compliance verified by CPCB/SPCB/PCC.
- R is a factor in Rupees, which may be a minimum of 100 and maximum of 500. It is suggested to consider R as 250, as the Environmental Compensation in cases of violation.
- S could be based on small/medium/large industry categorization, which may be 0.5 for micro or small, 1.0 for medium and 1.5 for large units.
- LF, could be based on population of the city/town and location of the industrial unit. For the industrial unit located within municipal boundary or up to 10 km distance from the municipal boundary of the city/town, following factors (LF) may be used:

Table No. 1.1: Location Factor Values

S. No.	Population* (million)	Location Factor# (LF)
1	1 to <5	1.25
2	5 to <10	1.5
3	10 and above	2.0

\*Population of the city/town as per the latest Census of India

#LF will be 1.0 in case unit is located >10km from municipal boundary

LF is presumed as 1 for city/town having population less than one million.

For notified Ecologically Sensitive areas, for beginning, LF may be assumed as 2.0. However, for critically Polluted Areas, LF may be explored in future.

- f. In any case, minimum Environmental Compensation shall be ₹ 5000/day.
- g. In order to include deterrent effect for repeated violations, EC may be increased on exponential basis, i.e. by 2 times on 1<sup>st</sup> repetition, 4 times on 2<sup>nd</sup> repetition and 8 times on further repetitions.
- h. If the operations of the industry are inevitable and violator continues its operations beyond 3 months then for deterrent compensation, EC may be increased by 2, 4 and 8 times for 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> quarter, respectively. Even if the operations are inevitable beyond 12 months, violator will not be allowed to operate.
- i. Besides EC, industry may be prosecuted or closure directions may be issued, whenever required.

A sample calculation for Environmental Compensation (without deterrent factor) is given at Table No. 1.2. It can be noticed that for all instances, EC for Red, Orange and Green category of industries varies from 3,750 to 60,000 ₹/day.

Table No. 1.2: A sample calculation for Environmental Compensation

Industrial Category	Red	Orange	Green
Pollution Index (PI)	60-100	41-59	21-40
Average PI	80	50	30
R-Factor	250		
S-Factor	0.5-1.5		
L-Factor	1.00-2.00		
Environmental Compensation (₹/day)	10,000-60,000	6,250-37,500	5,000-22,500

1.3.2 In other instances i.e. *d, e and f*, the environmental compensation may contain two parts – one requires providing immediate relief and other long-term measures such as remediation. In all these cases, detailed investigations are required from expert institutions/organizations based on which environmental compensation will be decided. CPCB shall list the expert institutions for this purpose.

In such cases, comprehensive plan for remediation of environmental pollution may be prepared and executed under the supervision of a committee with representatives of SPCB, CPCB and expert institutions/organizations.

#### 1.4 Action Plan for Utilization of Environmental Compensation Fund

The Committee discussed about the utilization of funds, which will be received by imposing Environmental Compensation. The following Action Plan is proposed to utilize the fund for protection of the environment.

**1.4.1. When Environmental Compensation is calculated through the Pollution Index:**

The amount received by imposing the Environmental Compensation to the industries / organization non-complying with the environmental standards / violating any CPCB's directions shall be deposited in a separate bank account. The amount accumulated will be utilized for Protection of Environment. The following schemes were identified, which may be considered for utilization of Environmental Compensation Fund:

- a. Industrial Inspections for compliance verification
- b. Installation of Continuous water quality monitoring stations / Continuous ambient air quality monitoring stations for strengthening of existing monitoring network
- c. Preparation of Comprehensive Industry Documents on Industrial Sectors / clean technology
- d. Investigations of environmental damages, preparation of DPRs
- e. Remediation of contaminated sites
- f. Infrastructure augmentation of Urban Local Bodies (ULBs) /capacity building of SPCBs/PCCs

The above proposed list may include other schemes also, depending upon the requirement.

Considering the availability of accumulated funds, CPCB will finalize the scheme, keeping in mind the priority, to utilize the funds of Environmental Compensation.

**1.4.2. When Environmental Compensation is assessed based on actual damage to the environment by Expert Organization/ Agency:**

The amount of Environmental Compensation under this case will be remediation costs, measures requiring immediate and short-term actions, compensation towards loss of ecology, etc., and will be utilized exclusively for the purpose at specific site, based on the detailed investigations by the Expert Organizations/ agencies.

**1.5 Recommendations**

The Committee made following recommendations:

- 1.5.1 To begin with, Environmental Compensation may be levied by CPCB only when CPCB has issued the directions under the Environment (Protection) Act, 1986. In case of a, b and c, Environmental Compensation may be calculated based on the formula, "EC = PI x N x R x S x LF", wherein, PI may be taken as 80, 50 and 30 for red, orange and green category of industries, respectively, and R may be taken as 250. S and LF may be taken as prescribed in the preceding paragraphs.

- 1.5.2 In case of d, e and f, the Environmental Compensation may be levied based on the detailed investigations by Expert Institutions/Organizations.
- 1.5.3 The Hon'ble Supreme Court in its order dated 22.02.2017 in the matter of Parvavaran Suraksha Samiti and another v/s Union of India and others (Writ Petition (Civil) No. 375 of 2012), directed that all running industrial units which require "consent to operate" from concerned State Pollution Control Board, have a primary effluent treatment plant in place. Therefore, no industry requiring ETP, shall be allowed to operate without ETP.
- 1.5.4 EC is not a substitute for taking actions under EP Act, Water Act or Air Act. In fact, units found polluting should be closed/prosecuted as per the Acts and Rules.

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## Chapter-II: Environmental Compensation to be levied on all violations of Graded Response Action Plan (GRAP) in NCR.

### 2.1 Background

The CPCB In-house Committee also discussed that the EC shall also be levied on all violations of Graded Response Action Plan (GRAP) in NCR. The implementing agencies for each activity have been identified and the EC will be levied on these agencies. These violations attract graded amounts of EC depending on the state of ambient air quality, which is given in table below:

**Table No. 2.1: Environmental Compensation to be levied on all violations of Graded Response Action Plan (GRAP) in Delhi-NCR.**

Activity	State Of Air Quality	Environmental Compensation ( )
Industrial Emissions	Severe +/-Emergency	Rs 1.0 Crore
	Severe	Rs 50 Lakh
	Very Poor	Rs 25 Lakh
	Moderate to Poor	Rs 10 Lakh
<b>Vapour Recovery System (VRS) at Outlets of Oil Companies</b>		
i. Not installed	Target Date	Rs 1.0 Crore
ii. Non-functional	Very poor to Severe +	Rs 50.0 Lakh
	Moderate to Poor	Rs 25.0 Lakh
Construction sites (Offending plot more than 20,000 Sq.m.)	Severe +/-Emergency	Rs 1.0 Crore
	Severe	Rs 50 Lakh
	Very Poor	Rs 25 Lakh
	Moderate to Poor	Rs 10 Lakh
Solid waste/ garbage dumping in Industrial Estates	Very poor to Severe +	Rs 25.0 Lakh
	Moderate to Poor	Rs 10.0 Lakh
<b>Failure to water sprinkling on unpaved roads</b>		
a) Hot-spots	Very poor to Severe +	Rs 25.0 Lakh
b) Other than Hot-spots	Very poor to Severe +	Rs 10.0 Lakh

### 2.2 Action Plan for Utilization of Environmental Compensation Fund

EC levied on all violations of Graded Response Action Plan (GRAP) in Delhi NCR will be deposited in the same fund and will be utilized in the same manner as mentioned in para 1.4.1 of Chapter-I of this report.

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## Chapter-III: Environmental Compensation to be levied in case of failure of preventing the pollutants being discharged in water bodies and failure to implement waste management rules

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### 3.1 Background

The Hon'ble Supreme Court in its order dated 22.02.2017 in the matter of Paryavaran Suraksha Samiti and another v/s Union of India and others (Writ Petition (Civil) No. 375 of 2012), directed State Governments (including the concerned Union Territories) to set-up Sewage Treatment Plants (STPs), which are already under implementation, within the time lines already postulated. Further, the STPs, which are yet to set-up, to be completed within a period of three years, from today, i.e. by 22.02.2020.

The Hon'ble NGT in its order dated 06.12.2018 (Annexure-III) in the matter of Court of its own motion v/s State of Karnataka (Original Application No. 125/2017 and M.A. No. 1337/2018) has given following directions:

*"Since failure of preventing the pollutants being discharged in water bodies (including lakes) and failure to implement solid and other waste management rules are too frequent and widespread, the CPCB must lay down specific guidelines to deal with the same, throughout India, including the scale of compensation to be recovered from different individuals/authorities, in addition to or as alternative to prosecution. The scale may have slabs, depending on extent of pollution caused, economic viability, etc. Deterrent effect for repeated wrongs may also be provided."*

### 3.2 Ideology of Environmental Compensation Formula

In compliance of the directions of the Hon'ble Tribunal, the Committee deliberated on the issue of environmental compensation to be recovered from individuals/authorities in case of failure of preventing the pollutants being discharged in water bodies and failure to implement solid and other waste management rules. The Committee has suggested that environmental compensation in these cases should be comprised of two components i.e.

1. Cost saved/benefits achieved by the concerned individual/authority by not having proper waste/sewage management system; and
2. Cost to the environment (environmental externality) due to untreated/partially treated waste/sewage because of insufficient capacity of waste/sewage management/treatment facility.

Cost saved/benefits achieved by not having proper waste/sewage management system includes the interest on capital cost of the waste/sewage management facility and daily operation and maintenance (O&M) cost associated with the facility.

The Committee suggested that annual interest rate as 10% on loan amount, borrowed by concerned individual/authority for setting-up waste/sewage management facility, may be assumed as Capital Cost Factor for calculation of environment compensation. Further, as whole O&M cost is saved by concerned individual/authority for not managing required waste/sewage management system, 100% of the O&M cost saved may be considered as O&M cost factor.

Therefore, generalized formula for Environmental Compensation may be described as:

$$EC = \text{Capital Cost Factor} \times \text{Marginal Average Capital Cost for Establishment of Waste or Sewage Management or Treatment Facility} \times (\text{Waste or Sewage Management or Treatment Capacity Gap}) + \text{O\&M Cost Factor} \times \text{Marginal Average O\&M Cost} \times (\text{Waste or Sewage Management or Treatment Capacity Gap}) \times \text{No. of Days for which facility was not available} + \text{Environmental Externality}$$

Cost to the environment due to untreated/partially treated waste/sewage discharge by concerned individual/authority may be assumed as recommended by the committee, which is mentioned below:

**Table No. 3.1: Environmental externality for untreated/partially treated sewage discharge**

Sewage Treatment Capacity Gap (MLD)	Marginal Cost of Environmental Externality (Rs. per MLD/day)	Minimum and Maximum value of Environmental Externality recommended by the Committee (Lacs Rs. Per Day)
Up to 200	75	Min. 0.05, Max. 0.10
201-500	85	Min. 0.25, Max. 0.35
501 and above	90	Min. 0.60, Max. 0.80

**Table No. 3.2: Environmental externality for improper municipal solid waste management**

Municipal Solid Waste Management Capacity Gap (TPD)	Marginal Cost of Environmental Externality (Rs. per ton per day)	Minimum and Maximum value of Environmental Externality recommended by the Committee (Lacs Rs. Per Day)
Up to 200	15	Min. 0.01, Max. 0.05
201-500	30	Min. 0.10, Max. 0.15
501-1000	35	Min. 0.25, Max. 0.35
1001-2000	40	Min. 0.50, Max. 0.60
Above 2000		Max. 0.80

The Committee further decided to fix a cap for minimum and maximum cost for capital and O&M component for Environmental Compensation, which are given in below tables:

**Table No. 3.3: Minimum and Maximum EC to be levied for untreated/partially treated sewage discharge**

Class of the City/Town	Mega-City	Million-plus City	Class-I City/Town and others
Minimum and Maximum values of EC (Total Capital Cost Component) recommended by the Committee (Lacs Rs.)	Min. 2000 Max. 20000	Min. 1000 Max. 10000	Min. 100 Max. 1000
Minimum and Maximum values of EC (O&M Cost Component) recommended by the Committee (Lacs Rs./day)	Min. 2 Max. 20	Min. 1 Max. 10	Min. 0.5 Max. 5

**Table No. 3.4: Minimum and Maximum EC to be levied for improper municipal solid waste management**

Class of the City/Town:	Mega-City	Million-plus City	Class-I City/Town and others
Minimum and Maximum values of EC (Capital Cost Component) recommended by the Committee (Lacs Rs.)	Min. 1000 Max. 10000	Min. 500 Max. 5000	Min. 100 Max. 1000
Minimum and Maximum values of EC (O&M Cost Component) recommended by the Committee (Lacs Rs./day)	Min. 1.0 Max. 10.0	Min. 0.5 Max. 5.0	Min. 0.1 Max. 1.0

The application of formula for calculation of EC may be further understood with the example of two typical cases.

### 3.3 Environment Compensation for Discharge of Untreated/Partially Treated Sewage by Concerned Individual/Authority:

BIS IS-1172:1993 suggests that for communities with population above 100,000, minimum of 150 to 200 lpcd of water demand is to be supplied. Further, 85% of return rate (CPHEEO Manual on Sewerage and Sewage Treatment Systems, 2013), may be considered for calculation of total sewage generation in a city. CPCB Report on "Performance evaluation of sewage treatment plants under NRCO, 2013", describes that the capital cost for 1 MLD STP ranges from 0.63 Cr. to 3 Cr. and O&M cost is around Rs. 30,000 per month. After detail deliberations, the Committee suggested to assume capital cost for STPs as Rs. 1.75 Cr/MLD (marginal average cost). Further, expected cost for conveyance system is assumed as Rs. 5.55 Cr./MLD (marginal average cost) and annual O&M cost as 10% of the combined capital cost. Population of the city may be taken as per the latest Census of India. Based on these assumptions, Environmental Compensation to be levied on concerned ULB may be calculated with the following formula:

***EC = Capital Cost Factor x [Marginal Average Capital Cost for Treatment Facility x (Total Generation - Installed Capacity) + Marginal Average Capital Cost for Conveyance Facility x (Total Generation - Operational Capacity)] + O&M Cost Factor x Marginal Average O&M Cost x (Total Generation - Operational Capacity) x No. of Days for which facility was not available + Environmental Externality x No. of Days for which facility was not available***

*Alternatively;*

***EC (Lacs Rs.) = [17.5(Total Sewage Generation – Installed Treatment Capacity) + 55.5(Total Sewage Generation-Operational Capacity)] + 0.2(Sewage Generation-Operational Capacity) x N + Marginal Cost of Environmental Externality x (Total Sewage Generation-Operational Capacity) x N***

*Where; N= Number of days from the date of direction of CPCB/SPCB/PCC till the required capacity systems are provided by the concerned authority*

*Quantity of Sewage is in MLD*

Table No. 3.5: Sample calculation for EC to be levied for discharge of untreated/partial treated Sewage

City	Delhi	Agra	Gurugram	Ambala
Population (2011)	1,63,49,831	17,60,285	8,76,969	5,00,774
Class	Mega-City	Million-plus City	Class-I Town	Class-I Town
Sewage Generation (MLD) (as per the latest data available with CPCB)	4195	381	486	37
Installed Treatment Capacity (MLD) (as per the latest data available with CPCB)	2500	220	404	45.5
Operational Capacity (MLD) (as per the latest data available with CPCB)	1900	140	300	24.5
Treatment Capacity Gap (MLD)	2295	241	186	12.5
Calculated EC (capital cost component for STPs) in Lacs Rs.	29662.50	2817.50	1435.00	0.00
Calculated EC (capital cost component for Conveyance System) in Lacs. Rs.	127372.50	13375.50	10323.00	693.75
Calculated EC (Total capital cost component) in Lacs Rs.	157035.00	16193.00	11758.00	693.75
Minimum and Maximum values of EC (Total Capital Cost Component) recommended by the Committee (Lacs Rs.)	Min. 2000 Max. 20000	Min. 1000 Max. 10000	Min. 100 Max. 1000	Min. 100 Max. 1000
Final EC (Total Capital Cost Component) in Lacs Rs.	20000.00	10000.00	1000.00	693.75
Calculated EC (O&M Component in Lacs Rs./day)	459.00	48.20	37.20	2.50
Minimum and Maximum values of EC (O&M Cost Component) recommended by the Committee (Lacs Rs./day)	Min. 2 Max. 20	Min. 1 Max. 10	Min. 0.5 Max. 5	Min. 0.5 Max. 5
Final EC (O&M Component) in Lacs Rs./Day	20.00	10.00	5.00	2.50
Calculated Environmental Externality (Lacs Rs. Per Day)	2.0655	0.2049	0.1395	0.0094
Minimum and Maximum value of Environmental Externality recommended by the Committee (Lacs Rs. Per Day)	Min. 0.60 Max. 0.80	Min. 0.25 Max. 0.35	Min. 0.05 Max. 0.10	Min. 0.05 Max. 0.10
Final Environmental Externality (Lacs Rs. Per day)	0.80	0.25	0.10	0.05

### 3.4 Environment Compensation to be Levied on Concerned Individual/Authority for Improper Solid Waste Management:

It is known that estimated MSW generation is approximately 1.5 lakh MT/Day in India (MoHUA Report-2016). As per the principles of SWM Rules, 2016 and PWM Rules 2016, as amended in 2018, the total cost of Municipal Solid Waste management in a city/town includes cost for door to door collection, cost of segregation at source, cost for transportation in segregated manner, cost for processing of MSW and disposal through facility like composting, biomethanation, recycling, co-processing in cement kilns etc.

In view of above, it is estimated that the total cost of processing and treatment of MSW for a city having population size of 1 lakh and generating approximately 50 tons/day of MSW is Rs.15.5 Crores, including capital cost (one time) and O & M cost for one year. The expenditure for subsequent years would be only Rs. 3.5 crores/annum.

CPCB sponsored a survey to ascertain the status of municipal solid waste disposal in 59 cities/towns of India. The survey was conducted by the Environment Protection Training Research Institute (EPTRI), Hyderabad. As per the survey, it is estimated that solid waste generated in small, medium and large cities and towns is about 0.1 kg (Class-III), 0.3-0.4 kg (Class-II) and 0.5 kg (Class-I) per capita per day respectively. The committee opined that 0.6 kg/day, 0.5 kg/day and 0.4 kg/day per capita waste generation may be assumed for mega-cities, million-plus UAs/towns and Class-I UA/Towns respectively for calculation of environmental compensation purposes. Based on these assumptions, Environmental Compensation to be levied on concerned ULB may be calculated with the following formula:

**EC = Capital Cost Factor x Marginal Average Cost for Waste Management x (Per day waste generation-Per day waste disposed as per the Rules) + O&M Cost Factor x Marginal Average O&M Cost x (Per day waste generation-Per day waste disposed as per the Rules) x Number of days violation took place + Environmental Externality x N**

Where;

Waste Quantity in tons per day (TPD)

N= Number of days from the date of direction of CPCB/SPCB/PCC till the required capacity systems are provided by the concerned authority

Simplifying;

**EC (Lacs Rs.) = 2.4(Waste Generation - Waste Disposed as per the Rules) +0.02 (Waste Generation - Waste Disposed as per the Rules) x N + Marginal Cost of Environmental Externality x (Waste Generation - Waste Disposed as per the Rules) x N**

Table No. 3.6: Sample calculation for EC to be levied for improper management of Municipal Solid Waste

City	Delhi	Agra	Gurugram	Ambala
Population (2011)	1,63,49,831	17,60,285	8,76,969	5,00,774
Class	Mega-City	Million-plus City	Class-I Town	Class-I Town
Waste Generation (kg. per person per day)	0.6	0.5	0.4	0.4
Waste Generation (TPD)	9809.90	880.14	350.79	200.31
Waste Disposal as per Rules (TPD) (assumed as 25% of waste generation for sample calculation)	2452.47	220.04	87.70	50.08
Waste Management Capacity Gap (TPD)	7357.42	660.11	263.09	150.23
Calculated EC (capital cost component) in Lacs. Rs.	17657.82	1584.26	631.42	360.56
Minimum and Maximum values of EC (Capital Cost Component) recommended by the Committee (Lacs Rs.)	Min. 1000 Max. 10000	Min. 500 Max. 5000	Min. 100 Max. 1000	Min. 100 Max. 1000
Final EC (capital cost component) in Lacs. Rs.	10000.00	1584.26	631.42	360.56
Calculated EC (O&M Component) in Lacs. Rs./Day	147.15	13.20	5.26	3.00
Minimum and Maximum values of EC (O&M Cost Component) recommended by the Committee (Lacs Rs./Day)	Min. 1.0 Max. 10.0	Min. 0.5 Max. 5.0	Min. 0.1 Max. 1.0	Min. 0.1 Max. 1.0
Final EC (O&M Component) in Lacs. Rs./Day	10.00	5.00	1.00	1.00
Calculated Environmental Externality (Lacs Rs. Per Day)	2.58	0.18	0.03	0.02
Minimum and Maximum value of Environmental Externality recommended by the Committee (Lacs Rs. per day)	Max. 0.80	Min. 0.25 Max. 0.35	Min. 0.01 Max. 0.05	Min. 0.01 Max. 0.05
Final Environmental Externality (Lacs Rs. per day)	0.80	0.25	0.03	0.02

### 3.3 Action Plan for Utilization of Environmental Compensation Fund

EC levied in case of failure of preventing the pollutants being discharged in water bodies and failure to implement waste management rules will be deposited in the same fund and will be utilized in the same manner as mentioned in para 1.4.1 of Chapter-I of this report.

### 3.4 Recommendations

1. The Committee recommended that to begin with, Environmental Compensation to be recovered from individuals/authorities in case of failure of preventing the pollutants being discharged in water bodies and failure to implement solid waste management rules may be calculated with the methodology described in the report.
2. If mixing of Bio-medical Waste or Hazardous Waste is found in Municipal Solid Waste than capital cost component of EC may be increased by a multiplication factor of 1.5.

3. In order to include deterrent effect for continuous violations, component of O&M and Environmental Externality in EC formula may be increased on exponential basis by 2, 4, and 8 times after every six-months, beyond the time prescribed by authority for ensuring complete treatment of sewage/waste of the city/town.

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## Chapter-IV: Environmental Compensation In Case of Illegal Extraction of Ground Water

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### 4.1 Background

The Hon'ble National Green Tribunal (NGT), Principal Bench in the matter of Shailesh Singh v/s Central Ground Water Board & Ors. (Original Application No. 327/2018) vide order dated 03/01/2019 (Annexure-V) directed Central Pollution Control Board (CPCB) that:

*"CPCB may constitute a mechanism to deal with individual cases of violation of norms, as existed prior to Notification of 12/12/2018, to determine the environment compensation to be recovered or other coercive measures to be taken, including prosecution, for past illegal extraction of ground water, as per law."*

### 4.2 Constitution of the Committee

In compliance to Hon'ble NGT dated 03/01/2019, CPCB constituted a committee under the Chairmanship of Shri A. Sudhakar, DH, WQM-I Division with Shri P. K. Gupta, DH, IPC-VI, Shri Vishal Gandhi, Sc. D, UPC-I Division and Smt. Suniti Parashar, Scientist B, WQM-I Division as members. The committee was asked to deliberate on this issue and come up with draft formulation of mechanism to determine the Environmental Compensation for illegal extraction of ground water.

### 4.3 Methodology for Assessing Environmental Compensation

The committee discussed the issue on 07/02/2019, 07/03/2019 and 20/3/2019. The committee deliberated on the issue of Environmental Compensation to be recovered from individuals/industries such as domestic, packaging drinking water units, mining & infrastructure projects and industrial units in case of illegal extraction of ground water. The Guidelines/Criteria for evaluation of proposals/requests for Ground Water Abstraction, 2015 were also discussed and based on this further formulation to levy Environmental Compensation has been evolved.

### 4.4 Ideology of Environmental Compensation w.r.to illegal extraction of ground water

Ground water is becoming an increasingly scarce resource because of its unabated and indiscriminate over-exploitation. Growth in ground water exploitation, however, has led to a steep fall in water table in several parts of the country. Use of ground water is becoming unsustainable day by day. The falling water table is a matter of special concern since it tends to reduce the accessibility of the resource to small and marginal farmers due to increase in costs of extractions.

Specific conditions applicable in Notified/Non-Notified areas for various users, as mentioned in Guidelines/Criteria for evaluation of proposals/requests for Ground Water Abstraction, 2015 are given below:

#### For Notified Areas:

1. Permission to abstract ground water through any energized means will not be accorded for any purpose other than drinking water.

2. Central Ground Water Authority (CGWA) so far has notified 162 areas, in the country for the purpose of regulation of ground water development.
3. Regulation of Ground Water development in Notified areas is through District Administrative Heads assisted by Advisory Committees under the provisions of Section 4 of the Environment (Protection) Act, 1986.
4. In Notified areas, ground water use in individual houses, infrastructure complexes like group housing societies, hospitals, schools etc. and drinking water requirements of workers in industries can be allowed.
5. NOC for ground water withdrawal will be considered only if Water Supplying Department is not providing adequate water in the area/premises. Proof for this is to be produced from the concerned authority by the applicant.
6. For individual houses, the maximum diameter of the tube-well should be restricted to 4 inch only and the capacity of the pump should not exceed 1HP. For infrastructure projects, maximum diameter of the ground water abstraction structures should be restricted to 150 mm (6 inches) only and capacity of the pump should not exceed 5 HP.
7. Any violation of the above conditions will attract legal action under Section 15 of the Environment (Protection) Act, 1986.

#### For Non-Notified Areas:

NOC for ground water withdrawal will be considered for industries/infrastructure/packaging as per safe, semi critical, critical and over-exploited criteria.

#### 4.5 Formula for Environmental Compensation for illegal extraction of ground water

The committee decided that the formula should be based on water consumption (Pump Yield & Time duration) and rates for imposing Environmental Compensation for violation of illegal abstraction of ground water. The committee has proposed following formula for calculation of Environmental Compensation ( $EC_{GW}$ ):

$EC_{GW}$	=	Water Consumption per Day x No. of Days x Environmental Compensation Rate for illegal extraction of ground water ( $ECR_{GW}$ )
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Where water Consumption is in  $m^3/day$  and  $ECR_{GW}$  in  $Rs./m^3$

Yield of the pump varies based on the capacity/power of pump, water head etc. For reference purpose, yield of the pump may be assumed as given in Annexure-VI.

Time duration will be the period from which pump is operated illegally.

In case of illegal extraction of ground water, quantity of discharge as per the meter reading or as calculated with assumptions of yield and time may be used for calculation of  $EC_{GW}$ .

#### 4.6 Environmental Compensation Rate ( $ECR_{GW}$ ) for illegal use of Ground Water

The committee decided that the Environmental Compensation Rate ( $ECR_{GW}$ ) for illegal extraction of ground water should increase with increase in water consumption as well as water scarcity in the area. Further,  $ECR_{GW}$  are kept relaxed for drinking and domestic use as compared to other uses, considering the basic need of human being.

As per CGWB, safe, semi-critical, critical and over-exploited areas are categorized from the ground water resources point of view (CGWB, 2017). List of safe, semi-critical, critical and over-exploited areas are available on the website of CGWB and can be accessed from- <http://cgwa-noc.gov.in/LandingPage/NotifiedAreas/CategorizationOfAssessmentUnits.pdf#ZOOM=150>.

Environmental Compensation Rates ( $ECR_{GW}$ ) for illegal use of ground water ( $ECR_{GW}$ ) for various purposes such as drinking/domestic use, packaging units, mining and industrial sectors as finalized by the committee are given in tables below:

#### 4.6.1 $ECR_{GW}$ for Drinking and Domestic use:

Drinking and Domestic use means uses of ground water in households, institutional activity, hospitals, commercial complexes, townships etc.

Sl. No.	Area Category	Water Consumption ( $m^3/day$ )			
		<2	2 to <5	5 to <25	25 & above
Environmental Compensation Rate ( $ECR_{GW}$ ) in Rs./ $m^3$					
1	Safe	4	6	8	10
2	Semi Critical	12	14	16	20
3	Critical	22	24	26	30
4	Over-Exploited	32	34	36	40
Minimum $EC_{GW}$ =Rs 10,000/- (for households) and Rs. 50,000 (for institutional activity, commercial complexes, townships etc.)					

#### 4.6.2 $ECR_{GW}$ for Packaged drinking water units:

Sl. No.	Area Category	Water Consumption ( $m^3/day$ )			
		<200	200 to <1000	1000 to <5000	5000 & above
Environmental Compensation Rate ( $ECR_{GW}$ ) in Rs./ $m^3$					
1	Safe	12	18	24	30
2	Semi critical	24	36	48	60
3	Critical	36	48	66	90
4	Over-exploited	48	72	96	120
Minimum $EC_{GW}$ =Rs 1,00,000/-					

#### 4.6.3 $ECR_{GW}$ for Mining, Infrastructure and Dewatering Projects

Sl. No.	Area Category	Water Consumption ( $m^3/day$ )			
		<200	200 to <1000	1000 to <5000	5000 & above
Environmental Compensation Rate ( $ECR_{GW}$ ) in Rs./ $m^3$					
1	Safe	15	21	30	40
2	Semi critical	30	45	60	75
3	Critical	45	60	85	115
4	Over-exploited	60	90	120	150
Minimum $EC_{GW}$ =Rs 1,00,000/-					

4.6.4 ECR<sub>GW</sub> for Industrial Units:

Sl. No.	Area Category	Water Consumption (m <sup>3</sup> /day)			
		<200	200 to <1000	1000 to <5000	5000 & above
Environmental Compensation Rate (ECR <sub>GW</sub> ) in Rs./m <sup>3</sup>					
1	Safe	20	30	40	50
2	Semi critical	40	60	80	100
3	Critical	60	80	110	150
4	Over-exploited	80	120	160	200
Minimum ECR <sub>GW</sub> =Rs 1,00,000/-					

For better understanding of Implementation of ECR<sub>GW</sub> policy, some example calculations are given below:

**Example No. 1 (For drinking and domestic Use):**

It is observed that a household in safe zone is extracting ground water illegally from past 2 year and 3 months with the help of 1 HP pump, dia 4 inches and head as 25 meter. It is assumed that the house-owner runs the pump for 0.5 hr/day. What Environmental Compensation (EC<sub>GW</sub>) will be charged to the owner?

**Solution:** Pump Yield (Please refer Annexure-VI) = 3 m<sup>3</sup>/hr

Daily Consumption = 3 x 0.5 = 1.5 m<sup>3</sup>

ECR<sub>GW</sub> = 4 Rs./m<sup>3</sup> (Please refer para 4.6.1)

EC to be levied = 4 x 1.5 = 6 Rs./day

Total time period = 820 days

Then, EC<sub>GW</sub> = 6 x 820

Calculated EC<sub>GW</sub> = 4,920 Rs.

EC<sub>GW</sub> to be levied = 10,000 Rs. (minimum prescribed ECR<sub>GW</sub>, please refer para 4.6.1)

**Example 2 (For Industrial Units):**

It is observed that an industry in critical zone is extracting ground water illegally from past 1 year with the help of 5 HP pump, dia 6 inches and head as 50 meter. It is assumed that the industry runs the pump for 3 hrs/day. What Environmental Compensation (EC<sub>GW</sub>) will be charged to the owner?

**Solution:** Pump Yield (Please refer Annexure-VI) = 12 m<sup>3</sup>/hr

Daily Consumption = 12 x 3 = 36 m<sup>3</sup>/day

ECR<sub>GW</sub> = 60 Rs./m<sup>3</sup> (Please refer para 4.6.4)

EC to be levied = 60 x 36 = 2,160 Rs./day

Total time period = 365 days

Then, EC<sub>GW</sub> = 2,160 x 365

EC<sub>GW</sub> = 7,88,400 Rs.

#### 4.7 Relaxation

Central Ground Water Authority (CGWA) reserves to right to relax or interpret these mechanisms in case of any exigency or situation of National strategic importance, as per Guidelines/Criteria for evaluation of proposals/requests for Ground Water Abstraction, 2015.

#### 4.8 Recommendations

The committee has given following recommendations:

- The minimum Environmental Compensation for illegal extraction of ground water for domestic purpose will be Rs. 10,000, for institutional/commercial use will be 50,000 and for other uses will be 1,00,000.
- In case of fixation of liability, it always lies with current owner of the premises where illegal extraction is taking place.
- Time duration may be assumed to be one year in case where no evidence for period of installation of bore well could be established.
- For Drinking and Domestic use, where metering is not present but storage tank facility is available, minimum water consumption per day may be assumed as similar to the storage capacity of the tank.
- For industrial ground water use, where metering is not available, water consumption may be assumed as per the consent conditions. Further, where in case industry is operating without consent, water consumption may be calculated based on the plant capacity (on the recommendation of SPCB/PCC, if required). SPCB/PCC may bring the issue of illegal extraction of ground water in Industries in to the notice of CGWA for appropriate action by CGWA.
- Authorities assigned for levy EC and taking penal action are listed below:

S. No.	Actions	Authority
1.	To seal the illegal bore-well/tube-well to stop extraction of water and further closure of project	District Collector
2.	To levy EC <sub>GW</sub> as per prescribed method	District Collector, CGWA
3.	To levy EC on water pollution, as per the method prescribed in report of CPCB- "EC on industrial pollution"	CPCB/SPCB/PCC
4.	Prosecution of violator	CGWA under EP Act SPCB/PCC under Air and Water Act

- CGWA may maintain a separate account for collection and utilization of fund, collected through the prescribed methodology in this report.

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**BEFORE THE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI**

**Original Application No. 593/2017  
(W.P. (Civil) No. 375/2012)**

**In the matter of:**

**Paryavaran Suraksha Samiti & Anr.  
Vs.  
Union of India & Ors.**

**CORAM : HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON  
HON'BLE DR. JUSTICE JAWAD RAHIM, JUDICIAL MEMBER  
HON'BLE MR. JUSTICE S.P. WANGDI, JUDICIAL MEMBER  
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

**Present:**

<b>Applicant:</b>	<b>Mr. Rohit Prajapati, Applicant in person</b>
<b>Amicus Curiae:</b>	<b>Mr. Jai A. Dehadrai, Adv.</b>
<b>Respondent Nos.</b>	<b>Mr. Nishe Rajan Shonker, Adv. for State of Kerala</b>
	<b>Mr. Tarunvir Singh Khehar, Ms. Guneet Khehar</b>
	<b>Mr. Sandeep Mishra Advs. for GNCTD</b>
	<b>Mr. Anil Shrivastava Mr Rituraj Bswas and</b>
	<b>Ms. Sujaya Bardhan, Advs. for State of Arunachal Pradesh</b>
	<b>Mr. Jogy Scaria, Ms. Beena Victor, Advs. for Kerala State Pollution Control Board</b>
	<b>Mr. Avijit Roy, Adv. for Assam Pollution Control Board</b>
	<b>Mr. Leishangthem Roshmani Kh, Ms. Maibam Babina, Advs. for State of Manipur</b>
	<b>Mr. Nikhil Nayyar, Mr. Dhananjay Baijal, Advs. for APPCB and TSPCB</b>
	<b>Mr. Mukesh Verma, Adv.</b>
	<b>Mr. Tarunvir Singh Khehar, Adv., Mr. Sandeep Mishra and Ms. Guneet Khehar, Adv.</b>
	<b>Mr. Dinesh Jindal, LO for DPCC</b>
	<b>Ms. Aruna Mathur, Mr. Avneesh Arputham, Ms. Simraj Jeet and Ms. Anuradha Arputham, Advs. for State of Sikkim</b>
	<b>Mr. Raja Chatterjee, Mr. Piyush Sachdev, Ms. Abhinandini Yadav, Advs. and Advs. for State of WB</b>
	<b>Mr. Edward Belho, AAG, Mr. K. Luikang Michael and Ms. Hoineithiam, Advs. for State of Nagaland</b>
	<b>Ms. Enatoli Sema, Adv. for State of Nagaland and Pollution Control Board</b>
	<b>Mr. M. Paikaray and Mr. A.K. Panda, Advs. for SPCB, Odisha</b>
	<b>Mr. Dhruv Pal, Adv. for State of Gujarat</b>
	<b>Mr. V.K. Shukla, Adv. for State of MP</b>
	<b>Mr. Jayesh Gaurav, Adv. for R-47</b>
	<b>Mr. Tayenjam Momo Singh, Adv. for Meghalaya Pollution Control Board</b>
	<b>Mr. Shlok Chandra and Mr. Ritesh Kumar Sharma, Advs.</b>
	<b>Mr. Gautam Singh and Mr. Shoeab Alam, Advs. for State of Bihar</b>
	<b>Ms. Aprajita Mukherjee, Adv.</b>
	<b>Ms. G. Indira, Adv. for UT of Andaman &amp; Nicobar</b>
	<b>Mr. Balendu Shekhar, Mr. Sriansh Prakash and Mr. Rajkumar Maurya, Advs. for Ministry of Environment, Forest and Climate Change</b>
	<b>Ms. Puja Kalra, Adv. for SDMC &amp; NDMC</b>
	<b>Mr. Anil Grover, AAG, Mr. Rahul Khurana and Mr. Mishal Vij, Advs. for State of Haryana and HSPCB</b>

Ms. Yogmaya Agnihotri, Adv. and Ms. Prity, Adv. for CECB  
 Ms. Sakshi Popli, Adv. for Ministry of Environment, Forest and Climate Change  
 Mr. Shuvodeep Roy, Adv. and Mr. Rituraj Biswas, Adv. for State of Tripura & Tripura Pollution Control Board  
 Mr. Shashank Bajpai and Mr. Shakun S. Shukla, Adv. for State of Odisha  
 Ms. Asha Nayar Basu and Ms. Aradhita Ghosh Mandal, Adv.  
 Ms. Priyanka Sinha, Adv. for State of Jharkhand  
 Mr. Rajul Shrivastav, Adv. for MPPCB  
 Mr. Pradeep Misra and Mr. Daleep Dhyani Adv. for UPPCB  
 Mr. R. Rakesh Sharma and Mr. V. Mowli, Adv. for State of TN & TNPCB  
 Mr. Shubham Bhalla, Adv.  
 Mr. Shiv Mangal Sharma, AAG, Mr. Saurabh Rajpal, Mr. Adhiraj Singh, Ms. Shikha Sandhu and Mr. Vikrmjeet singh, Adv. for State of Rajasthan and Pollution Control Board  
 Mr. G. M. Kawoosa, Adv. for State of J & K  
 Mr. Divya Prakash Pande, Adv. For HPSPCB  
 Mr. Manish Kumar, Adv.

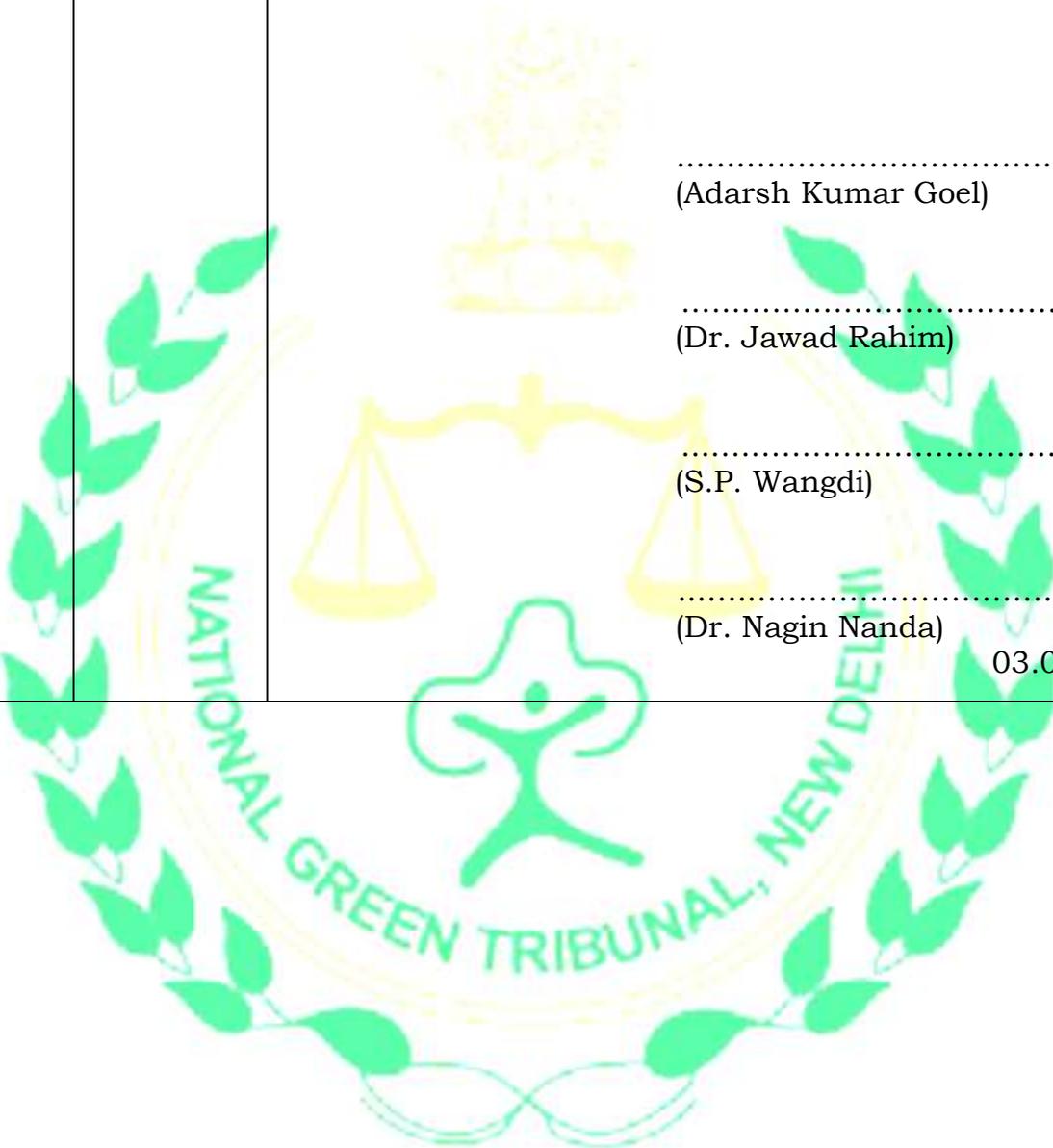
Date and Remarks	Orders of the Tribunal
<p><b>Item No. 12</b> <b>August 03, 2018</b> <b>A</b></p>	<p>1. This matter was taken by this Tribunal in furtherance to the orders of the Hon'ble Supreme Court dated 22.02.2017 <i>Paryavaran Suraksha Samiti Vs. Union of India</i> (2017) 5 SCC 326, establishment and functioning of ETPs/CETP/STPs.</p> <p>2. Vide order dated 25.05.2017, Notice was issued to Central Pollution Control Board and all the States Pollution Control Boards/Committees and the Ministry of Environment, Forest and Climate Change. They were directed to file status-cum-compliance report in terms of the orders of the Hon'ble Supreme Court. Accordingly, various status reports have been filed. An affidavit has been filed by the Ministry of Environment, Forest and Climate Change dated 04<sup>th</sup> July, 2017 stating as follows:</p> <p style="padding-left: 40px;">“4. That the answering Respondent is engaged in policy formulation, prescribing standards and its implementation through the Central Pollution Control Board (CPCB), State Pollution Control Boards (SPCBs) and Pollution Control Committees (PCCs) for UTs. This Ministry has written to all SPCBs and PCCs as well as to CPCB to ensure compliance of the judgment of the Hon'ble Supreme Court and to submit detailed compliance report.</p>

	<p><b>Item No. 12</b></p> <p><b>August 03, 2018</b></p> <p><b>A</b></p>	<p>5. That the CPCB has also followed up with all SPCBs and PCCs through letters and review meetings to ensure compliance of the aforementioned judgment and that the matter was also discussed in the 62<sup>nd</sup> Conference of the Chairmen and Member Secretaries of SPCBs and PCCs held on 27.06.2017. That 26 SPCBs/PCCs have submitted the compliance report, which has been summarized at <b>Annexure-I</b>.</p> <p>6. That the CPCB has also carried out inspections of 17 categories of industries to verify compliance with its directions issued on online effluent/emission monitoring system and to cross-verify online results with manual sampling. During February-June, 2017, 64 industries were inspected and directions under section 5 of the Environment (Protection) Act, 1986 have been issued to 24 non-complying industries; 18 industries were complying; 8 were found closed and inspection reports of 14 industries are under process.</p> <p>7. That the CPCB and NMCG through 11 technical institutions, inspected 751 industries located in the River Ganga main stem during March-April, 2017 to verify the status of installation and connectivity of industries discharging effluents as well as their compliance with the standards. Closure directions have been issued to 154 industries; show cause notices issue to 36 industries; 149 industries were found complying and direction issued to 91 self-closed Grossly Polluting Industries (GPI) to remain closed; 93 GPI units were found closed as per directions; 38 GPI units found operational in violation of closure directions and inspection reports of 190 industries are under process”.</p> <p>3. We have heard learned Amicus Curiae Sh. Jai A. Dehadrai and the learned counsel for Ministry of Environment, Forest and Climate Change, Central Pollution Control Board, various State Pollution Control Boards and the Pollution Control Committees.</p> <p>4. Learned Amicus Curiae has drawn our attention to orders dated 04.07.2017, 18.09.2017 and 11.10.2017 of the Tribunal directing the State Pollution Control Boards to file a statement as to how many Industrial Units discharging trade effluents or causing emissions exist in the State, how many are having their own STPs, ETPs and/or connected to Common Effluent Treatment Plant</p>
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	<p><b>Item No. 12</b></p> <p><b>August 03, 2018</b></p> <p><b>A</b></p>	<p>(CETP), whether any such CETP or ETP or STP is properly functioning and treating the effluents as per prescribed limits or not.</p> <p>5. Learned Amicus Curiae submitted that contamination of water due to industrial effluents can lead to various diseases and adverse consequences on the aquatic organism due to decreased level of oxygen. The use of technology can help reduction of adverse consequences. However, the best solution is to prevent pollution by soil conservation and proper disposal of toxics and chemicals which may include chemical recycling.</p> <p>6. Having monitored the matter for the last more than one year on several dates, we are of the view that the matter requires continuous monitoring by statutory authorities as per directions which we proceed to issue today.</p> <p>(i) We direct the Central Pollution Control Board (CPCB) to forthwith prepare an action plan after looking into all the status reports. The action plans must have mechanism to ensure compliance or all the directions in the order of the Hon'ble Supreme Court. To enable this to be done, a Nodal officer must be identified to deal with the issue of CETPs/ETPs/STPs.</p> <p>(ii) A representative of the Ministry of Environment, Forest and Climate Change may be associated with the Nodal Officer of the CETP for monitoring. The Monitoring by the said two officers- the representative of the MoEF and the Nodal Officer of the CPCB must be held atleast once in a month and on the basis of such meeting and the feedback taken further follow up action must be taken and</p>
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	<p><b>Item No. 12</b></p> <p><b>August 03, 2018</b></p> <p><b>A</b></p>	<p>appropriate directions issued. This process may be a continuous process.</p> <p>(iii) It must be ensured that STPs, CETPs and ETPs are functional and meet the requisite standards.</p> <p>(iv) There is already a direction in the above judgment under which 50% of the funds for the purpose are to be provided by the Central Government, 25% by the States and remaining 25% to be arranged by way of loans which is to be re-paid by the user industries. Local bodies and the States have duties as clearly stipulated in the judgment. There has to be online monitoring system by each State to display emission levels in public domain in terms of paragraph 17 of the order of the Hon'ble Supreme Court.</p> <p>(v) A report of the steps taken may be placed on the website of the Central Pollution Control Board atleast once in three months. Deficiencies if any may also be so displayed.</p> <p>(vi) The Central Pollution Control Board may take penal action for failure, if any, against those accountable for setting up and maintaining STPs, CETPs and ETPs. Central Pollution Control Board may also assess and recover compensation for damage to the environment and the said fund be kept in a separate account and utilized in terms of an action plan for protection of the environment. Such action plan may be prepared by the Central Pollution Control Board within three months from today.</p> <p>(vii) A compliance report in terms of the above order may be furnished to this Tribunal within four months from today by e-mail at <a href="mailto:filing.ngt@gmail.com">filing.ngt@gmail.com</a>.</p>
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	<p><b>Item No. 12</b> <b>August 03, 2018</b> <b>A</b></p>	<p>(7) Proceedings are disposed of.</p> <p>However, the report received from the Central Pollution Control Board may be placed for consideration before this Tribunal on 04.09.2018.</p> <p>We place on record our appreciation for the services rendered by the learned Amicus Curiae.</p> <p>....., CP (Adarsh Kumar Goel)</p> <p>....., JM (Dr. Jawad Rahim)</p> <p>.....,JM (S.P. Wangdi)</p> <p>.....,EM (Dr. Nagin Nanda)</p> <p>03.08.2018</p>
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Annexure-II

Comments Received from Various RDs on Draft Report for Environmental Compensation		Annexure-II		
S. No.	Item	RD Vadodara	RD Ludhiana	
1	Case- A, B, C, D Emission of effluent/emissions should be given special consideration. ECI linked on BOD <sub>5</sub> categories of industries should be on the basis of inspection by CPCB, complaint verification and routine inspection. Higher rates for irreparable damages crops, soil, health etc. Leakages/spillage should have different compensation value.	Instead of 'Compensation', 'Penalty' word should be used. In case common facilities like CETPs, factor may be introduced based on member industries. Clarify the applicability of penalty in addition to closure directions for pre-empted and gross non-compliance. It should be mentioned that instances d, e & f shall be dealt for environmental compensation in line with the polluter pays principle. Besides environmental penalty for cases a, b and c.	The Committee discussed the points highlighted by RD Kolkata as already the part of cost for violation and heavy environmental compensation. However, as mentioned by RD Vadodara, word 'penalty' may be used for case a, b and c. For CETPs, a factor may be considered in future based on the capacity of the plant.	Committee Deliberations The points highlighted by RD Kolkata are already the part of cost for violation and heavy environmental compensation. However, as mentioned by RD Vadodara, word 'penalty' may be used for case a, b and c. For CETPs, a factor may be considered in future based on the capacity of the plant.
2	Case- A, B, C, D	Similar to Guidelines on Disasters for Environmental Disasters to Handling & Disposal of Hazardous Waste and Penalty, Guidelines may be prepared.	Suggestions made by RD Kolkata and Vadodara has already been taken care. Concept of environmental compensation for based on the philosophy of 'polluter pay' and for giving injury to environment, compensation will be charged as per the judgement by responsible cost and cost on case basis.	Suggestions made by RD Kolkata and Vadodara has already been taken care. Concept of environmental compensation for based on the philosophy of 'polluter pay' and for giving injury to environment, compensation will be charged as per the judgement by responsible cost and cost on case basis.
3	Polluting Index (PI)	Instead of average PI, Actual PI may be used.	Committee suggested that to make the implementation of EC simple and easy, use of average PI may be considered for calculation of EC.	Committee suggested that to make the implementation of EC simple and easy, use of average PI may be considered for calculation of EC.
4	F-factor	May be classified based on the contribution of pollution load based on quantity of effluent, concentration, emissions.	May be as per the category of industry for ex. Red-500, Orange-300, Green-1000.	As PI is based on the pollution load, suggestion of BOD <sub>5</sub> are already taken care in the formula.
5	L-factor	May be redefined based on the features, activities involved and habitats.		L-factor may be covered in future as already indicated in the report.

S.No.	Item	RD Kolkata	RD Vadodra	RD Bengaluru	RD Lucknow	Committee Deliberations
16	Defining the period for which ECs should be levied.		Duration of violations needs more clarity.	For industry having DCEMS, no. of days may be counted based on the recorded data. Industry without DCEMS based on break down of ETP/APCD, disturbance of power supply or any failure of auxiliary machines w.r.t. control system.	May be clearly defined as the period between the day of violation observed and the day of compliance verified by CPCB/SPCB/POC.	The committee agreed that period of violation for which ECs may be levied will be the period between the day of violation observed and the day of compliance verified by CPCB/SPCB/POC.
17	Repeated violations		Some number of days may be specified after which the penalty amount may get a factor of 1.5 or 2.		Multiplying factor for repeated violations may be included. For 1 <sup>st</sup> repetition-25% For 2 <sup>nd</sup> repetition-50% For 3 <sup>rd</sup> repetition-100%	For habitual violations, higher amount of penalty/compenation may be charged in future.
18	Utilization of fund	An environmental damage assessment may be treated. Expertise in the field may be achieved by involving scientist/engineers and providing them training in country/abroad.	Amount should not be utilized for: a) Industrial inspections for compliance verification b) Installation of continuous water quality monitoring stations / continuous ambient air quality monitoring stations for strengthening of existing monitoring network. c) Preparation of Comprehensive industry Documents for Industrial Sectors / clean technology funding to financially weaker municipalities for installation of STPs. The amount should be utilized solely for damage assessment, remediation of affected sites, urban contaminated sites and creating green spaces. The purpose should not get linked towards revenue generation.			RD Vadodra suggested that amount should be utilized only for remediation purpose. However, committee discussed that the proposal for installation of fund is required considering the other aspects (i.e. direct and indirect) for protection of environment, which includes research, monitoring etc. Suggestion of RD Kolkata may be considered in future.

2	Others	Highest EC for non-installation of pollution control measures. Expected sources should have different scoring methodology based on their weightage.	Thus the functions of Eairc, if CPOs shall remain intact.				The committee discussed that CPOs is already taking appropriate action including closure direction against the industries found operating without pollution control measures.
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**Comments Received from Various Expert Institutions on the Report on Environmental Compensation**

As per the Hon'ble NGT suggestion, CPCB has invited comments of expert institution namely Centre for Science and Environment (CSE), Institute of Economic Growth (IEG) and The Energy Research Institute (ERI). The CPCB in-house committee on Environmental Compensation has deliberated on the comments and finalized the report accordingly. The Committee's deliberations are summarized in table below.

S.No.	Item	Comments from ERI	Comments of ISE	Comments of IEG	Committee's Deliberations
1	Cases (a) and (b)	Distinction between category 'a, b, c' and 'd, e, f' is not clear. Case specific investigations should be minimized. Proposed cases should be separately with intentional and accidental cases but sometimes they are arbitrary to establish.		Why cases (c) and (f) are not taken for remediation and study?	There may be a varied damage to the environment as considered in cases (c) and (f). Such damage assessment requires detailed case specific study and remediation measures. Therefore, whenever such cases comes into the notice, Environmental Compensation may be asked based on the detailed investigation made by Expert Institutions/Organizations.
2	f-factor		f-factor should be 10, 1,000/day	Why f-factor is kept as 250, although the value ranges between 200 to 500?	In the Environmental Compensation policy, average value of the f-factor as 250 is recommended, keeping in view both its practicality as well as to make it significantly below, which may be further revised in future.
3	l-factor		l-factor should be based on the population density of surroundings, instead of population of the nearby city/town.	For nearby city, having population less than 1 million, the LF is 1. This implies that we care only for populated regions only. Industries located in ecologically polluted and ecologically fragile areas should be closed down.	Population density for surrounding of industrial units will be complex because it will vary depending on area used in calculation of population density as industrial units is generally away from population. More weightage is given to the higher population exposure to the risk in case the industry is located in the city of population less than one million than the LF factor will be 1. Depending on the local environmental conditions, the restriction on expansion and modernization of industries in ecologically polluted areas are proposed as per the existing policy of the Government of India. Similarly, industries in ecologically fragile areas are permitted after careful investigations as per prevailing policy of MoEF/CPCB. The Committee agreed that for ecologically fragile areas, LF may be considered as 2. However, LF for ecologically polluted areas may be employed in future.

MSME	Item	Comments of CSRE	Comments of IEG	Committee's Deliberations
4	S-factor	Classification of industries should be based on profit turnover basis	S-factor should be based on the turnover of the industrial units	Presently, industrial units are classified into small, medium and large category (MSME Act, 2006) based on the data of assets/infrastructure available with them. The data for profit/turnover of industrial units are not available with SPCBs/PCCs and S-factor based on profit/turnover will complement the procedure for calculation of EC. This may be considered in future when SPCBs/PCCs will have such type of data.
5	Level of non-compliance	Pollution Index does not measure the level of pollution. Further, PI does not address the violation in the nature/impact of pollution. Further, the Red Category itself is too wide and some sort of sub-classification should be undertaken.	For different level of non-compliance, such as gross, moderate and low, S-factor for integrity of violation, S-factor should be incorporated in the formula.	Pollution Index (PI) itself covers the potential of environmental pollution in its calculation considering variation in pollution load.  The industrial sectors have been categorized into Red, Orange and Green based on their Pollution Index in the range of 60 to 100, 41 to 59 and 21 to 40, respectively. As PI is not available for all the industrial sectors, calculating PI for rest of the sectors will delay the process. Therefore, for calculating the Environmental Compliance averages PI of 30, 50 and 40 may be used for Red, Orange and Green category of industries, respectively.  To keep the formula simple for better implementation, the S-factor may not be considered as there are different environmental parameters such as environmental standards and for each standard calculation of level of violation and the weightage will be a tedious task, which may have difficulties in implementation of EC concept.  The Committee has agreed that in order to include deterrent effect for repeated violations, EC may be increased on exponential basis i.e. for 2, 4 and 8 times of such similar violations. Further, if the violator continues his operations beyond 3 months, then EC may be increased by 2, 4 and 8 times for 2 <sup>nd</sup> , 3 <sup>rd</sup> and 4 <sup>th</sup> violation, respectively.  Besides EC, industry may be asked to take closure directions may be issued whenever required.  EC is not a substitute for taking actions under EP Act, Water Act or Air Act. In fact, units found polluting should be closed/prosecuted as per their Act. Schemes of infrastructure award/creation of Urban Local Bodies (ULBs) (Special Building of STs/BCCs is already covered in the reports.  Further schemes such as incentives to regulators where no violations are observed and incentives to public for reporting violations may be considered separately.
6	Utilization of fund	Funds may be utilized for building monitoring and enforcement capacity of SPCBs and strengthening the pollution compliance especially in the MSME sector.	Incentives to regulators where no violations are observed and incentives to public for reporting violations may be provided.	

S. No.	Item	Comments of CSE	Comments of IEG	Committee's Deliberations
74	GRAP		<p>Size of the construction sites more than 20,000 sqm. area are considered as EC although small sites cumulatively impact significantly.</p> <p>Illegal dumping of municipal solid waste regardless of the place should be penalized.</p>	<p>As per the EA Notification, 2006, building construction projects more than 20,000 sqm. area are required to have environmental clearance, therefore, the same cut-off is maintained here.</p> <p>Issue of illegal dumping of municipal solid waste is being covered in separate report of EC.</p>
75	Others-(a)	<p>Severity of violations should be measured in terms of hours of violation because for some pollutants only a few hours of violation can have serious environmental and health consequences. This would require continuous monitoring of stacks, which is not the case presently for most units. Therefore, continuous monitoring should be implemented urgently to begin with for all red and orange categories.</p>		<p>Currently, online toxication/effluent/effusion monitoring system (OCEMS) is installed only in 37 categories of highly polluting industries and some other industrial sectors. Further, instrument practice the compliance of industries is only verified by physical monitoring and comparison may be imposed based on the manual testing. The idea of measurement of violation on hourly basis may be considered in future, when OCEMS is widely installed and included in policy.</p>
(b)		<p>CEEP should be categorized under Red Category of industries. Some sub-classification should be undertaken under Red category of industries.</p>		<p>CEEPs are already categorized under Red Category of industries.</p>
(c)		<p>Based on the spirit behind the proposed change, it should therefore be called as 'environmental penalty rather than 'environmental compensation'.</p>		<p>The power of imposing 'Penalty' lies in the jurisdiction of the Hon'ble Courts and NGT only. The CECB is empowered to levy some financial compensation by the Hon'ble NGT in its order dated 13 Dec 2018 (OA No. 593/2017). Therefore, term 'Environmental Penalty' is avoidable.</p>