

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
ORIGINAL APPLICATION NO. 294 OF 2023**

IN THE MATTER OF:

Prasoon Pant & Anr.

.....Applicant

Versus

State of U.P. & Ors.

....Respondents

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DATE: 08.05.2024

PLACE: New Delhi

FILED BY:

ABHISHEK YADAV, Advocate
Counsel for the Respondent No. 41
A-10, Sector-61, Noida UP-201301
kdev.abhishek@gmail.com

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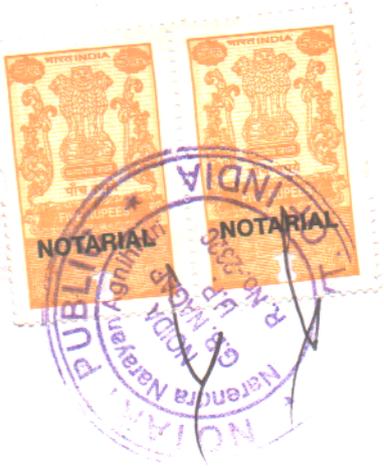
State of U.P. & Ors.

....Respondents

Short Reply Affidavit on behalf of Respondent no. 41.

I, Shivam Tyagi, S/o Sh Narendra Kumar Tyagi aged about 32 years, Partner of Maa Ambey Foods, Registered office at C-52, RDC, RAJ NAGAR, GHAZIABAD-201001 presently at New Delhi^{Noida} do hereby solemnly affirm as under:

1. That I am one of the partner of Maa Ambey Foods, arrayed as respondent no. 41 in the captioned Original Application ('OA') and I am duly authorized by my other partners to interalia swear and file this short reply affidavit. The answering respondent craves permission of this Hon'ble Tribunal to file a detailed reply, if this Hon'ble Tribunal so desires. A copy of the authorization letter is annexed herewith and marked as **Annexure No. R41/1**.
2. I am well conversant with the facts and circumstances of the present case, and as such I am competent to swear this affidavit on behalf of the respondent no.41.



3. That the answering respondent is running a restaurant having 75 seater capacity and two party halls, one having area of less than 100 sq mtr and other having area about 150 sq mtr which has been opened recently but has not been made operational.
4. That the answering respondent has applied for consent from the Uttar Pradesh Pollution Control Board on 03.05.2024 under the relevant sections of Water Act and Air Act and the same is pending consideration. The answering respondent had earlier in the month of January 2024 applied for the said consent online but due to some technical glitch no further information was received by the answering respondent. The answering respondent was under bona fide belief that its application was pending considering before the UPPCB. However, when they tried to find out about the status of the application it came to their knowledge that the said application could not be processed fully. The persons applying for the answering respondent could not comprehend that the application has not been processed fully. Hence the second application was filed online. A copy of the receipt of the said application for consent is annexed herewith and marked as **Annexure No. R41/2.**
5. That the restaurant was opened on 01.03.2020 however before the operations of the said restaurant could commence, covid-19 outbreak took place and lockdown was imposed. Thereafter, after some relaxation was given in the lockdown, the restaurant unit stood operational for few months in August 2020 but then it closed the business due to the then prevailing scenario.

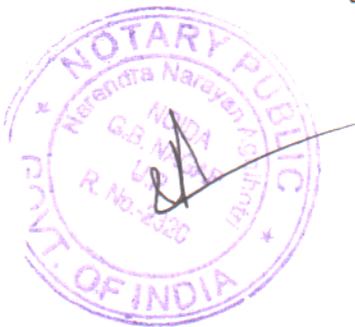


6. That the restaurant was again opened on 28.06.2021. That it may be noted that the kitchen at the restaurant has an Effluent Treatment Plant ('ETP') installed and the discharge from the ETP is let out in the municipal drain/sewer for which the answering respondent pays the requisite charges.
7. That the party hall having area of less than 100 sq mtr has been operating since 13.06.2022 and the other party hall having area of about 150 sq mtr. though opened about 3 months back is yet to be fully operational. The functions in these halls are not regular but occasional.
8. That it be noted that all the units of the answering respondents are non-polluting. The waste generated in the units are segregated at the source and given to the waste collectors, as deputed by the local body. There is parking facility of around 100-150 four wheelers opposite the units of the answering respondent run by the Ghaziabad Development Authority which are used by its visitors. The music played in the units are from a two-speaker system and no external DJs are engaged to play music. The units are not causing any kind of air, water or sound pollution.
9. That it is respectfully submitted that though the answering respondent did not apply for consent under the Water Act and Air Act due to the naivety of the management, it had always adopted measures to not pollute by taking control measures as stated above.
10. That the answering respondent is a small unit at a nascent stage earning meagre income. It has already suffered due to Covid-19 lock down when either the Business operations were



totally shut down or there was very low business. Any kind of penalty, if levied on the answering respondent would sound its death knell.

11. That it is also respectfully submitted that non-compliance of applying for consent by the unit does not per se make it a polluting unit. In the absence of any such finding of pollution being caused by the answering respondent or any environmental degradation being done by the answering respondent, imposition of any environmental compensation, as prayed for in the OA would be bad in the eye of law. The Hon'ble Supreme Court has also settled the principal of law in the Deepak Nitrite case (2004) 6 SCC 402 that mere violation of law in not observing the norms would result in environmental degradation is not correct.
12. That in the facts and circumstances of the case as stated hereinabove, it is most respectfully prayed that no coercive action be taken or no penalty whatsoever be levied on the answering respondent. The answering respondent also undertakes to abide by any pollution control measures which this Hon'ble Tribunal may deem fit to be adopted by the answering respondent.




RESPONDENT

Through



Abhishek Yadav

Advocate

Counsel for the Respondent no. 41

VERIFICATON

I, Shivam Tyagi, S/o Sh. Narendra Kumar Tyagi aged about 32 years, R/o B 527 MIG Flats, East of Loni Road, Delhi, do hereby verify that the contents of the short reply are true and correct to my knowledge belief and nothing material is concealed therefrom.


DEPONENT

ATTESTED

Narendra Narayan Agnihotri
Advocate (Notary)
R No 2320
NOIDA C B Nagar

08 MAY 2024



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FSSAI No.: 12720052000077
GSTIN : 09ABNFM2453K1ZT

Annexure No. R41/1

GENERAL POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS that We, K.D.Tyagi S/O Late Sh. Mool Shanker Tyagi, Age- 46, Partner, M/s Maa Ambey Foods RDC Rajnagar Ghaziabad U.P., India , residing at DC-101 Avantika Ghaziabad U.P.

And Shashank Aggarwal S/O Sh Mukesh Kumar Aggarwal, Age-31, Partner, M/s Maa Ambey Foods RDC Rajnagar Ghaziabad, U.P., India , residing at Flat no B-540 MIG Flats East of Loni Road Near Siddarth international school north East Delhi 110093. do hereby appoint, nominate and constitute, Mr. Shivam Tyagi S/o Narendra Kumar Tyagi, Age-31, resident of Flat no B-527 MIG Flats East of Loni Road Near Siddarth international school north East Delhi 110093. to be our lawful attorney to do for us, in our name and on our behalf all or any of the following acts, deeds and things :

1. To carry on the business of the said partnership firm M/s Maa Ambey Foods.
2. To sign, verify, authenticate and submit all the documents relating to the department of GST, NGT, Central Excise, Service Tax, Sales Tax, Income Tax etc including making application for registration, surrender, execution of bonds, filing replies to show cause notice, petition/appeal to Additional Commissioner (Appeals) / Commissioner (Appeals), Tribunals, High Court as well as Supreme Court and attending hearing before the above-mentioned forums.
3. To engage advocates and other professionals and to instruct them for any of the abovementioned purposes.
4. To enter into agreement and execute such deeds as shall be required or may be deemed proper for or in relation to all or any of the matters or purposes aforesaid.
5. AND GENERALLY to do all other acts, deeds and things as may be necessary for effectively carrying out the powers hereby given.

We do declare that all such acts, deeds and things as may be lawfully done by our said attorney by virtue of the powers hereby given shall be construed

MAA AMBEY FOODS

C-52, RDC, Raj Nagar, Ghaziabad | Mob : 9999208325, 8178855990



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GSTIN : 09ABNFM2453K1ZT

to be the acts, deeds and things as if done by us personally and We do hereby agree and undertake to ratify and confirm the same.

IN WITNESS WHEREOF We have signed hereunder at Ghaziabad this Wednesday day of 01/05/2024.

For MAA AMBEY FOODS,

K.D Tyagi
(Partner)


Partners

For MAA AMBEY FOODS

Shashank Aggarwal
(Partner)


Partners

For MAA AMBEY FOODS

Shivam Tyagi
(Attorney) Partners

Witness:

1. Sh Neeraj Joshi
Son of Late Sh. Suresh Chandra Joshi
Resident of V-6 Golf Link NH 9 Ghaziabad
Mobile No. 9958060568



2. Sh.Bishan Singh Rawat
Son of Late Sh Ganga Singh Rawat
Resident of 39/23 Sai Enclave Chipiyana Buzurg G B Nagar
Mobile No. 9910303222




True Copy

MAA AMBEY FOODS



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FSSAI No.: 12720052000077

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GSTIN : 09ABNFM2453K1ZT

9999208325

Annexure No. R41/2

सेवा में

DATED 03/05/2024

यूपी प्रदूषण नियंत्रण बोर्ड

आई.एन.एस -2 सेक्टर-6 बसुंधरा गज़ियाबाद

2010012

विषय: शेष जमा शुल्क जल एवं वायु प्रदूषण नियंत्रण हेतु आवेदन

प्रिय महोदय,

मैं मां अंबे फूड्स सी-51 आरडीसी राजनगर गाजियाबाद के लिए जल और वायु प्रदूषण नियंत्रण के लिए अनापत्ति प्रमाण पत्र जारी करने के लिए औपचारिक रूप से आवेदन करने के लिए लिख रहा हूँ। हम पर्यावरण मानकों को बनाए रखने और यूपी प्रदूषण नियंत्रण बोर्ड द्वारा निर्धारित नियमों का अनुपालन सुनिश्चित करने के लिए समर्पित हैं।

और इकाई को सञ्चालन हेतु आवेदन शुल्क जमा कर दिया है जिसका विवरण नीचे दिया गया है।

1- Transaction Id 240503184262571 dt 03/05 /2024 Rs 1500/-

2- NEFT No. MAHBH4124118253 Dt. 03/05/2024 Rs. 43500/-

अतः आपसे निवेदन है की कृप्या करके 5YEAR (2029) तक की सहमति देने की कृपा करें।

थनयाबाद
For MAA AMBEY FOODS

मां अंबे फूड्स owners

शिवम् त्यागी

R. R. G. M.
03/05/2024

REGIONAL OFFICE
U.P. Pollution Control Board
Ins-2 Sector-16, Vasundhara
Ghaziabad

MAA AMBEY FOODS



Print

Transaction Details :

Payment Reference No./ Order No. :	UP01524050312580254
Status :	SUCCESS
Transaction Amount :	1500
Transaction ID :	240503184262571
Transaction Date and Time :	2024-05-03 13:00:36
Entrepreneur ID :	UPSWP240305253
Unit ID :	UPSWP24030525301
PayIDFromBank ID :	240503184262571

[Proceed to Next Action](#)

Your A/c No xxxx0331 has been debited by
Rs. 43,500.00 on 03-MAY-2024 with UTR
No. MAHBH24124118253 in favour of
H24124118253 UP POLLUTION CONTROL
BOARD



True Copy

BEFOR THE NATIONAL GREEN TRIBUNAL NEW DELHI

ORIGINAL APPLICATION No. 294 OF 2024



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Versus

...Applicant

State of U.P. & ors.

... Respondents

I / We Petitioner (s) Respondent (s) in the above Petition /Suit Appeal / Reference/ Petition do hereby appoint and retain to act and appear for me / us -

Abhishek Yadav, Advocate

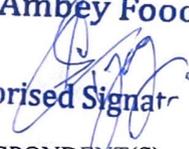
in the OA/Appeal /Reference and on my / Our behalf to conduct and prosecute or (defend) the same and all proceedings that may be taken in respect of any application connected with the same or any decree or order passed therein, including proceedings in taxation and applications for Review, to file and obtain return of documents, and to deposit and receive money on my / our behalf in the said OA /Appeal /Petition /Reference and in applications of Review and to represent me/us and to take all necessary steps on my behalf in the above matter. I/we agree to ratify all acts done by the aforesaid advocate in pursuance of this authority.

Date this the 8day 05 OF 2024

ACCEPTED, IDENTIFIED & CERTIFIED:


(Abhishek Yadav)
Advocate,

For Maa Ambey Foot


Authorised Signat

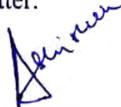
PETITIONER(S) /RESPONDENT(S)
APPELLANT (S)

The address for service of the said advocate is office:

MEMO OF APPEARANCE

The Registrar
The National Green Tribunal
Please enter my appearance on behalf of petitioner(s) Appellant(s) in the above matter.

Dated 08.05.2024


(Abhishek Yadav)
Advocate,