

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

**AT PUNE**

**ORIGINAL APPLICATION NO. 02 OF 2020 (WZ)**

VAIBHAV TAPKIR

.. APPLICANT

**V/s**

TANISH ASSOCIATES  
AND OTHERS

..RESPONDENTS

**REPLY ON BEHALF OF RESPONDENT NO.1**

**INDEX**

| SR<br>NO | ANNE<br>XURE | PARTICULARS  | PAGE NOS. |            |
|----------|--------------|--|-----------|------------|
|          |              |  | From      | To         |
| 1.       |              | Index  |           | 243        |
| 2.       |              | Reply on behalf of Respondent No-1                   | 244       | 260        |
| 3.       |              | Affidavit in Support                                 | 261       | 262        |
| 4.       | R-1          | Copy of sanctioned plans, layout and the photographs | 263       | 275        |
| 5.       | R-2          | Copy of the notification of the RERA Applicability   | 276       | 280        |
| 6.       | R-3          | Copy of CPCB Circular dated 12.01.2021               | 281       | 286        |
|          |              | <b>Last page</b>                                     |           | <b>286</b> |

Place-Pune

Date- 21/07/2023



ADVOCATE FOR THE RESPONDENT NO-1

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**WESTERN ZONE BENCH PUNE**

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**REPLY ON BEHALF OF RESPONDENT NO.1**

**MAY IT PLEASE THE HON'BLE TRIBUNAL**

1. At the outset, the original Application filed by the Applicant is devoid of any merit and is liable to be dismissed with the cost. The Respondent No.1 submits that the statements and averments made in the said Original Application are not admitted by the Respondent No.1 except so far they are expressly admitted herein under.
2. The Respondent No.1 submits that the Applicant herein has filed the present Original Application on the ground that the Respondent No.1 has encroached on the water body. The Hon'ble Tribunal vide order dated 17<sup>th</sup> August 2020 had constituted a committee to visit the site and file an action taken report before this Hon'ble Tribunal.

The Committee caused a visit to the site on 28<sup>th</sup> January 2021 and has filed a detailed report before this Hon'ble Tribunal. The Committee observed that there is no encroachment on the water body and also observed that there are no violations on the site. The present application was thereafter heard by this Hon'ble Tribunal on 9<sup>th</sup> March 2022, wherein the Hon'ble Tribunal was pleased to proceed ex-parte against the Respondent No.1 on account of non-representation. The Respondent No.1 has filed an IA for setting aside that direction. The Hon'ble Tribunal further observed that the projects of the Respondent No.1 are a single project and that there are violations and thus directed the Committee to file a further report. The Respondent No.1 is filing the present reply only on the aspect to point out before this Hon'ble Tribunal that the present project of the Respondent No.1 are three different projects. It is further submitted that, the Respondent No.1 craves leave of this Hon'ble Tribunal to file a detailed Affidavit, if necessary in the present proceedings.

3. The Respondent No.1 submits that the Respondent No.1 has constructed three different projects situated at land bearing Gat Nos.498/1, 498/2/3 and 504 situated village Charholi, Tal. Khed, Dist. Pune. The three projects have been constructed in accordance

with the Building Permission received from the Respondent No.5 herein from time to time. The project situated at land bearing Gat No.498/1 consists of 3 buildings plus amenity space and has been sold to majority of the purchasers. The project situated at land bearing Gat No.498/2/3 consists of 3 buildings, Amenity Building plus club house and has been sold to majority of the purchasers. The project situated at land bearing Gat No.504 consists of 5 buildings plus club house and has been sold to majority of the purchasers.

**D) FACTS OF LAND BEARING GAT No.498/1**

4. The Respondent No.1 submits that the land bearing Gat No.498/1, situated at Charholi, District Pune was owned and possessed by Mr. Subhash Sarjerao Ghundre and others. The development rights and the power of attorney of said land was given by the aforesaid owners to one M/s. Kamal Properties vide Development Agreement dated 6<sup>th</sup> May 2010 registered with the Sub-Registrar of Assurances, Khed at Serial No.1912 of 2010 and 1913 of 2010. The aforesaid Developer on the basis of the said Development Agreement and Power of Attorney got the plan sanctioned from the Town Planning Department vide permission letter dated 28<sup>th</sup> September 2010 bearing No.SSP/3592/2010.

5. It is further submitted that the aforementioned Developer couldn't construct the project as approved and hence the land bearing Gat No.498/1 was purchased by the Respondent No.1 vide Sale Deed dated 4<sup>th</sup> November 2011 registered with the Sub-Registrar of Assurances, Khed at Serial No.6715 of 2011. The Respondent No.1 on assessment of the potential FSI of the land sought revision of the earlier sanction. The said revised sanction was granted on 12<sup>th</sup> April 2012 vide letter bearing No.SSP/1729/2012. The plan of the said plot was further sought to be revised on 2<sup>nd</sup> January 2015 and same was sanctioned vide letter bearing No.SSP/1631/2015.
6. The said project on land bearing Gat No.498/1 was constructed, completed and the flats have been sold to purchasers and the society has been formed. The said project received completion certificate on 31<sup>st</sup> July 2017. It is thus submitted that the project on land bearing Gat No.498/1 was never started by the Respondent No.1, it was only taken over as the erstwhile developer couldn't construct the project. The Respondent No.1 has stepped into the shoes of the erstwhile developer and completed the project. The Respondent No.1 further submits that the aforementioned documents are all in Marathi. The Respondent No.1 undertakes to

produce the same on record at the time of hearing of the present Original Application.

7. It is further submitted that the project has a separate entry road. The project has a separate amenity space, which is not connected to any other project and is exclusive for the use of the residents of the said project. The open space which forms part of the sanctioned plan and which is 10% of the plot area. The FSI of the said project is not used any other project.

**II) FACTS OF LANDS BEARING GAT No.498/2, 498/3**

8. The Respondent No.1 submits that the lands bearing Gat Nos.498/2 and 498/3, situated at Charholi, District Pune was owned and possessed by Mr.Maruti Vitthal Ghundre, Mr.Anil Ankush Shinde and others. The land bearing Gat No.498/2 and 498/3 was purchased by the Respondent No.1 vide three separate Sale Deeds dated 2<sup>nd</sup> November 2011, 1<sup>st</sup> August 2012 and 23<sup>rd</sup> October 2012 registered with the Sub-Registrar of Assurances, Khed.
9. The Respondent No.1 on assessment of the potential FSI of the land sought sanction of the plan from the Town Planning Department. The plan was sanctioned and the building permission

granted on 26<sup>th</sup> September 2013 vide letter bearing No.SKD/NASR/195/2013. The Respondent No.1 further sought revision of the plan on the basis of potential FSI available on the land. The said revised sanction was granted in August 2016 vide letter bearing No.DP/BKH/08/2016/PR.KR.1357/2016-17.

10. The said project on lands bearing Gat No.498/2 and 498/3 was constructed, completed and the flats have been sold to purchasers and the society has been formed. The said project received completion certificate on 31<sup>st</sup> July 2017. The Respondent No.1 further submits that the aforementioned documents are all in Marathi. The Respondent No.1 undertakes to produce the same on record at the time of hearing of the present Original Application.
11. It is further submitted that the project has a separate entry road. The project has a separate amenity space, which is not connected to any other project and is exclusive for the use of the residents of the said project. The open space which forms part of the sanctioned plan and which is 10% of the plot area. The FSI of the said project is not used any other project.

**III) FACTS OF LAND BEARING GAT No.504**

12. The Respondent No.1 submits that the land bearing Gat No.504, situated at Charholi, District Pune was owned and possessed by Mr. Sahebrao Kaluram Gholap and 5 Others , Mr. Sopan Bhaguji Gholap and 7 Others. The land bearing Gat No.504 was purchased by the Respondent No.1 vide three separate Sale Deeds dated 1<sup>st</sup> August 2012 registered with the Sub-Registrar of Assurances, Khed.
13. The Respondent No.1 on assessment of the potential FSI of the land sought sanction of the plan from the Town Planning Department. The plan was sanctioned and the building permission granted on 7<sup>th</sup> November 2012 vide letter bearing No.SSP/7481/2012. The Respondent No.1 further sought revision of the plan on the basis of potential FSI available on the land. The said revised sanction was granted in August 2016 vide letter bearing No.DP/BKH 08/2016/PR. KR.1210/2016-17.
14. The said project on land bearing Gat No.504 was constructed, completed and the flats have been sold to purchasers and the society has been formed. The said project received completion certificate on 31<sup>st</sup> July 2017. The Respondent No.1 further submits that the aforementioned documents are all in Marathi. The

Respondent No.1 undertakes to produce the same on record at the time of hearing of the present Original Application.

15. It is further submitted that the project has a separate entry road. The project has a separate amenity space, which is not connected to any other project and is exclusive for the use of the residents of the said project. The open space which forms part of the sanctioned plan and which is 10% of the plot area. The FSI of the said project is not used any other project.
  
16. It is further submitted that the 13 buildings form part of 3 distinct projects. The permissions received from the respective authorities are different. The occupancy certificates are received are different. Hence, all these projects cannot be called as 1 cumulative project. The Respondent No.1 submits that the Hon'ble Tribunal during the hearing on 9<sup>th</sup> March 2022 has observed that the Respondent No.1 is required to obtain the Environmental Clearance Certificate and the Consent to Operate from the Respondent No.2. The Respondent No.1 submits that as stated above the buildings constructed are part of 3 different projects. The Respondent No.1 submits that since they are 3 different projects and do not have an area in excess of more than 20,000 sq.mtrs., they are not entitled to

obtain the Environmental Clearance Certificate. It is further submitted that the FSI of the each of projects has not been utilised in the other one. Copies of the sanctioned plans, building summary and the layouts, photographs are annexed hereto and marked as **ANNEXURE – R-1 colly.**

#### **IV) LEGAL OBJECTIONS**

17. The Respondent No.1 submits that, this Hon'ble Tribunal does not have jurisdiction to try, entertain and dispose of the present application, as the same is not within limitation. The present Respondent states that, the Hon'ble Bombay High Court and Supreme Court had on the interpretation on various Statues, held that, when a statute prescribes a shorter period of limitation and difference scheme of the limitation, the provision of Limitation Act is excluded and the Court/Tribunal must apply the period of limitation as prescribed in the specific statute while exercising the powers. In view of this, the application preferred by the Applicant is totally misconceived and liable to be dismissed.
  
18. The present Application filed by the Applicant upon plain reading of Section 15 of the said act is barred by law of limitation. On bare

perusal of section 15 of the said Act, an Application raising substantial question relating to environment seeking restitution, remediation and compensation (including enforcement of legal right relating to environment) has to be filed within a period of 5 years from date on which the cause of action for such dispute “first arose” provided that ,this Hon’ble Tribunal may, if it is satisfied that the Applicant was prevented by sufficient cause from filling the Application within the said period allow it to be filed within a further period not exceeding sixty days. In the present case the application is totally barred by Limitation, as the Applicant is relying upon google images for the period from 2005 to 2011. The present Application is filed on 17<sup>th</sup> December 2019.

19. The present application is filed after almost 8 years after accrual of cause of action. The Applicant has also not added the Societies as a party to the present application and unnecessarily harassing their families for his vested interest. Hence, on this ground the present application be rejected. It is submitted that the present application is barred by limitation u/s 15 of the NGT Act, 2010 which prescribes a period of 5 years for filing an application from the date on which the cause of action for such dispute “first” arose, extendable by a further period of 60 days thereafter, provided that

the Applicant may show by a sufficient cause that the Applicant was prevented from filing such an application in time. Further, the Applicant has also sought to file an application under section 15 of the said act which also provides for the aforesaid words “the date”, “cause of action” and “first arose”.

20. The application was filed on 17<sup>th</sup> December 2019. The averment in the application relating to limitation is reproduced herein below:

**“LIMITATION**

*The Applicant submits that the cause of action lately arose when the Applicant issued a Legal Notice through his Advocate dated 9/11/2019. The Applicant states that this cause is continuous till date and no steps have been taken to control the Pollution. The Applicant states that, the cause of action for filing the present application seeking permission of this Hon’ble Tribunal is well within limitation.*

21. It is submitted that the date of knowledge has absolutely no application while interpreting the provisions of Section 15 of the NGT Act. The said Act is a special enactment and hence, there is a statutory prescription of the special period of limitation under Sections 15(3) of the said Act, which will certainly exclude general law of limitation.

22. Further, the application of the principles of recurring and/or continuing cause of action for the purposes of disputes under Section 15 of the said Act would lead to serious anomalous and undesirable consequences. That the Legislature while enacting the statute purposely used the words "first" for "cause of action" to file an action before the Tribunal. That the Hon'ble Supreme Court in the case of L.C. Hanumanthappa vs H.B. Shivakumar (2016) 1 SCC 332 has held that the word 'first' has been used between the words 'sues and 'accrued'. This would mean that if a suit is based on multiple causes of action, the period of limitation will begin to run from the date when the right to sue first accrues. To put it differently, successive violation of the right not give rise to fresh cause and the suit will be liable to be dismissed if it is beyond the period of limitation counted from the day when the right to sue first accrued.

23. That in a catena of cases, this Hon'ble Tribunal has also taken the view that limitation period begins to run from the date when the cause of action first arose including in Application No. 33 of 2016 *Jai Javan Jai Kisan and Ors. Vs Vidarbha Cricket Association and Ors.*; O.A. NO. 179 of 2016 *Graminee Environment Foundation vs. Balaji Infrastructures Ltd. and Ors*, OA No. 95 of 2014 *Mr. Suresh WamanDhavale and ors. vs MOEF and Ors*

24. Similarly, section 15(3) of the act contemplates that no application for grant of compensation or relief or restitution of property or environment shall be entertained unless the same has been made

within a period of five years from the date on which the for such compensation or relief first arose.

25. It is submitted that cause of action for filing an application under the provisions of the Green Tribunal Act, 2010 cannot accrue on the day when a person discovers the act of environmental damage. This Hon'ble Tribunal has rejected the proposition of 'Discovery Rule' being applicable to patent event perceptible to the public at large and therefore by no stretch of imagination can the cause of action for filing an application under the provisions of the said act could accrue on the day when such environmental damage is discovered by the party. The Applicant has thus approached this Hon'ble Tribunal with the sole intention to overcome the difficulty of limitation under the act, has approached this Hon'ble Tribunal with unclean hands. Therefore, the present Application under section 15 of the NGT Act, 2010 is clearly barred by limitation.

**V) OBJECTION TO THE REPORT DATED 21/04/2023**

26. With respect to the contents of the para 2.2 of the report, it is submitted that the observation clearly demonstrates that 3 different permissions were obtained. The completion certificates were obtained on the same day, as the Real Estate (Regulation and Development) Act, 2016 was coming into existence and the MAHARERA had directed the projects to obtain the same else, the

law will be made applicable. 84 projects were granted Completion Certificate on 31<sup>st</sup> July 2017 by the Respondent No.5. Copy of the notification of the RERA Applicability is annexed hereto and marked as **ANNEXURE – R-2**

27. With respect to the contents of para 2.3 of the report, it is submitted that the total area is considered of the three projects. It is been repeatedly stated and submitted that the projects are different and distinct and cannot be termed to be one project. Also, for the sake of assumption, it is submitted that the total area shown in the report is below the threshold of 20,000 sq.mtrs.
28. With respect to the contents of para 2.4, it is submitted that STP was installed by the Respondent No.1. The handing over of the charge to the Society was done on 2<sup>nd</sup> April 2020. The Society has taken over the charge of operation and management of the amenities. The Applicant has conveniently not made the Society a party to the present proceeding. The upkeep of the plant and the maintenance during the visit on 20<sup>th</sup> September 2022 cannot be attributed to the Respondent No.1. Also, the application for CTE and CTO, the CPCB vide its directions dated 12<sup>th</sup> January 2021 has harmonised and classified the category of industries. In the said circular it is stated that the consent has to be obtained by Building

and Construction Projects having area of 20,000 sq.mtrs and waste water generation upto 50 KLD. In the present case, the area of the 3 distinct projects has not exceeded 20,000 sq.mtrs. Even assuming that the said circular is to be applied to the Respondent No.1, the effect of the circular is from 12<sup>th</sup> January 2021 and the Respondent No.1 has already handed over the charge on 2<sup>nd</sup> April 2020. Hence the Respondent No.1 cannot be held liable for the same. Copy of the circular of the CPCB is marked and annexed hereto as **ANNEXURE – R-3**.

29. With respect to the contents of para 2.6, it is submitted that the Respondent No.1 cannot be held liable for the waste generated at site by the local residents.
30. With respect to the contents of para 2.7, it is submitted that the Report of the committee dated 23<sup>rd</sup> August 2021 is crystal clear that there is no discharge from the Respondent No.1 in the open nala. Also, the Respondent No.5 and the Tahasildar have stated that it is permissible to channelise the nalla as per DCPR notification Rule No.11(b). The said fact has been reiterated by the Respondent No.5 in its latest affidavit dated 9<sup>th</sup> June 2023. The Committee in the present report has not given justification as to how the said observation is incorrect. It is clearly observed that the

Committee has exceeded its reference and power in coming to the conclusion. The Hon'ble Supreme Court in various cases have held that the Hon'ble Tribunal cannot merely rely upon the observations of the Committee. Hence the said observation is required to be discarded.

31. With respect to the conclusions it is once again repeated and reiterated that: -

(a) It is further submitted that the three projects have a separate entry road. The three projects have separate amenity space, which is not connected to any other project and is exclusive for the use of the residents of the said project. The open areas of three projects are also not connected. The FSI of the each project is not used any other project.

(b) The application for CTE and CTO, the CPCB vide its directions dated 12<sup>th</sup> January 2021 has harmonised and classified the category of industries. In the said circular it is stated that the consent has to be obtained by Building and Construction Projects having area of 20,000 sq.mtrs and waste water generation upto 50 KLD. In the present case, the area of the 3 distinct projects has not exceeded 20,000 sq.mtrs. Even assuming that the said circular is to be applied to the Respondent No.1, the effect of the circular is from

12<sup>th</sup> January 2021 and the Respondent No.1 has already handed over the charge on 2<sup>nd</sup> April 2020. Hence the Respondent No.1 cannot be held liable for the same

(c) The natural drain has been channelised after obtaining requisite permissions, which have not been challenged till date. The said permissions have been certified by the respective authorities and reiterated by them in their replies.

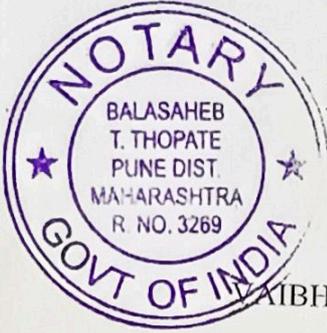
32. It is therefore, submitted that, nothing survives in the present OA and the allegations made by the Applicant were without any merits and the present applicant needs to be dismissed of, with compensatory costs.

PUNE

DATE : 21/07/2023

A handwritten signature in blue ink, appearing to read 'S. S. Kamli', is written over a horizontal line.

ADVOCATE FOR RESPONDENT No.1



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

**AT PUNE**

**ORIGINAL APPLICATION NO.2 OF 2020 (WZ)**

**VAIBHAV TAPKIR**

**.. APPLICANT**

**V/s**

**TANISH ASSOCIATES  
AND OTHERS**

**.. RESPONDENTS**

**AFFIDAVIT IN SUPPORT OF REPLY**

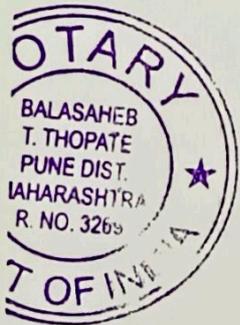
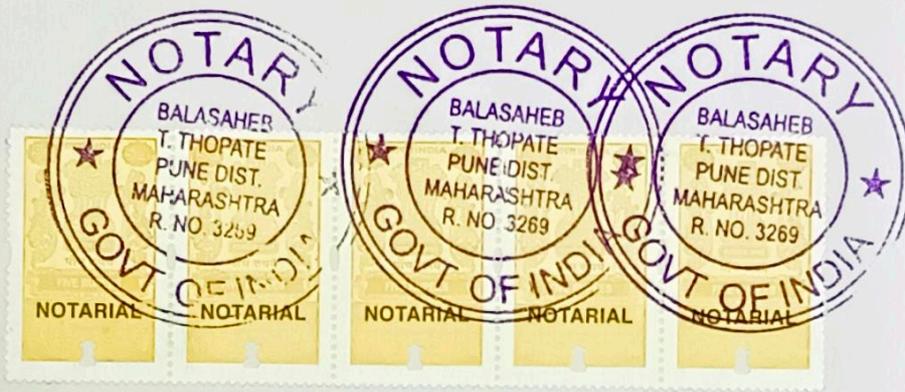
**MAY IT PLEASE THE HON'BLE TRIBUNAL**

I, Raju Mohanlal Mehta, aged about 47 years, Partner of the Respondent No.1, having office at Survey No.498/1, Tanish Shrushti, Alandi Markal Road, Charoli KH, Taluka Khed, District Pune – 412 105, do hereby state on solemn affirmation as under: -

1. I say that I am the Partner of the Respondent No.1 and am authorized to file the present Affidavit. I say that I am aware of the facts and circumstances of the present case and hence am able to depose the same on oath.
2. I say that the Respondent No.1 herein has filed the reply to the Original Application. I say that the contents of the said Reply and the present affidavit are true and correct to the best of my knowledge, information, belief and the legal advice which I believe to be correct.

WHATEVER stated herein above is true and correct to the best of my knowledge and belief and for the same I have signed hereunder at Pune on 16<sup>th</sup> day of September, 2022.

  
Affiant



Noted & Registered  
at Serial Number A2073/2022  
Date: 16/09/2022

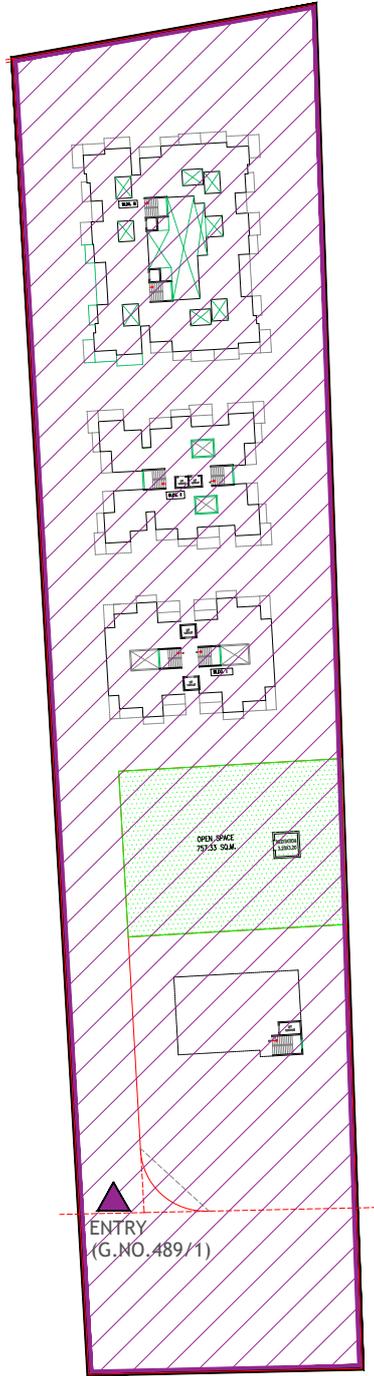
BEFORE ME

  
BALASAHEB T THOPATE  
NOTARY, GOVT OF INDIA  
BHOSARI, PUNE-39

16 SEP 2022

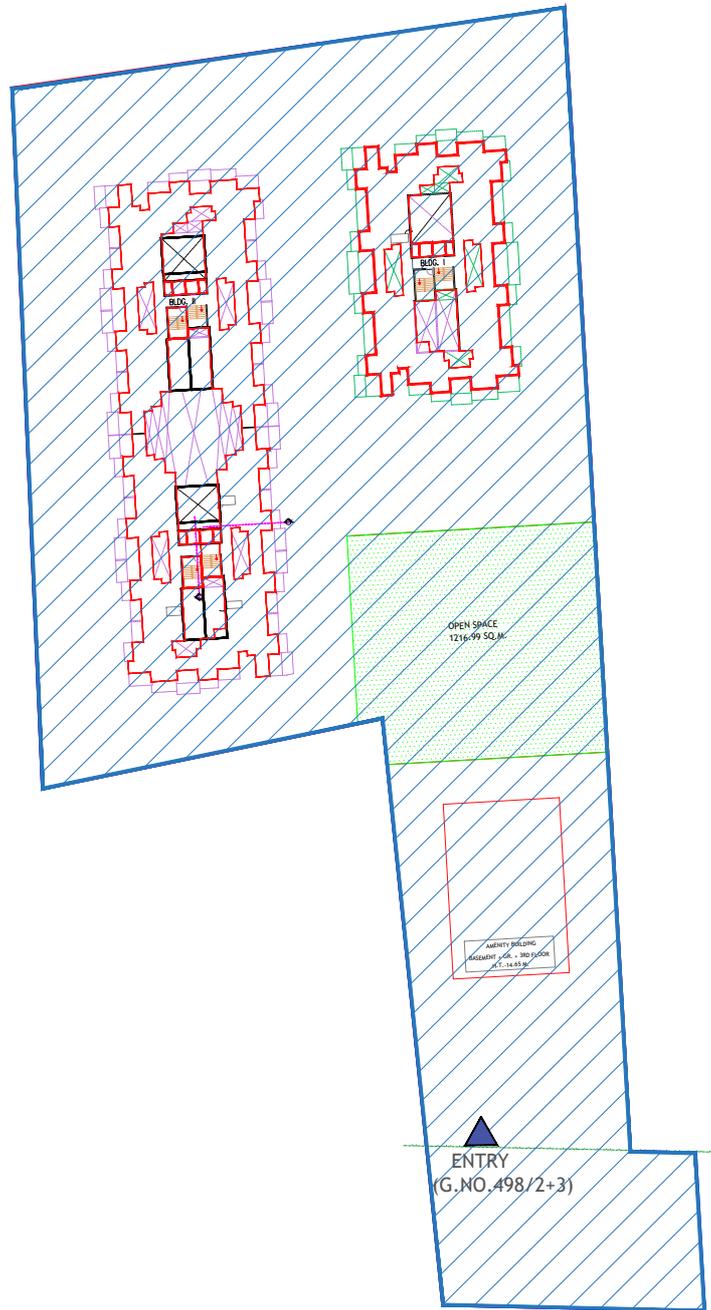
**ANNEXURE-R-1**

| DETAILS REGARDING BUILT UP AREA |              |  |                         |                  |         |           |             |             |                     |                                  |
|---------------------------------|--------------|--|-------------------------|------------------|---------|-----------|-------------|-------------|---------------------|----------------------------------|
| SR.NO.                          | ADDRESS      | 1ST SANCTION OF THE PROJECT            | GROSS PLOT AREA (Sq.m.) | NAME OF BUILDING | FSI     | TOTAL FSI | NON FSI (A) | PARKING (B) | TOTAL NON FSI (A+B) | TOTAL B/UP AREA (FSI + NON FSI ) |
| 1                               | G.NO.498/1   | SSP/3592/2010 ,<br>DATE:28/09/2010     | 8434.00                 | I                | 1613.13 | 6588.59   | 680.92      | 269.07      | 3937.67             | 10526.26                         |
|                                 |              |  |                         | II               | 1484.56 |           | 945.10      | 267.10      |                     |                                  |
|                                 |              |  |                         | III              | 2691.59 |           | 1128.92     | 429.29      |                     |                                  |
|                                 |              |  |                         | AMENITY BUILDING | 799.31  |           | 23.29       | 193.98      |                     |                                  |
|                                 |              |  |                         | I                | 2642.76 |           | 641.28      | 407.02      |                     |                                  |
| 2                               | G.NO.504     | SSP/7481/2012 ,<br>DATE:07/11/2012     | 13600.00                | II               | 2229.10 | 12562.50  | 877.04      | 407.02      | 6249.33             | 18811.83                         |
|                                 |              |  |                         | III              | 2229.10 |           | 877.04      | 407.02      |                     |                                  |
|                                 |              |  |                         | IV               | 2735.76 |           | 1057.28     | 527.33      |                     |                                  |
|                                 |              |  |                         | V                | 2642.76 |           | 641.28      | 407.02      |                     |                                  |
|                                 |              |  |                         | CLUB HOUSE       | 83.02   |           | 0.00        | 0.00        |                     |                                  |
|                                 |              |  |                         | I                | 4042.92 | 12709.49  | 1754.53     | 528.51      | 7221.00             | 19930.49                         |
|                                 |              |  |                         | II               | 7127.97 |           | 3461.30     | 932.90      |                     |                                  |
|                                 |              |  |                         | AMENITY BUILDING | 1351.84 |           | 148.52      | 395.24      |                     |                                  |
| 3                               | G.NO.498/2+3 | SKD/NASR/195/2013<br>DATE : 26/09/2013 | 13004.00                | CLUB HOUSE       | 186.76  |           | 0.00        |             |                     |                                  |

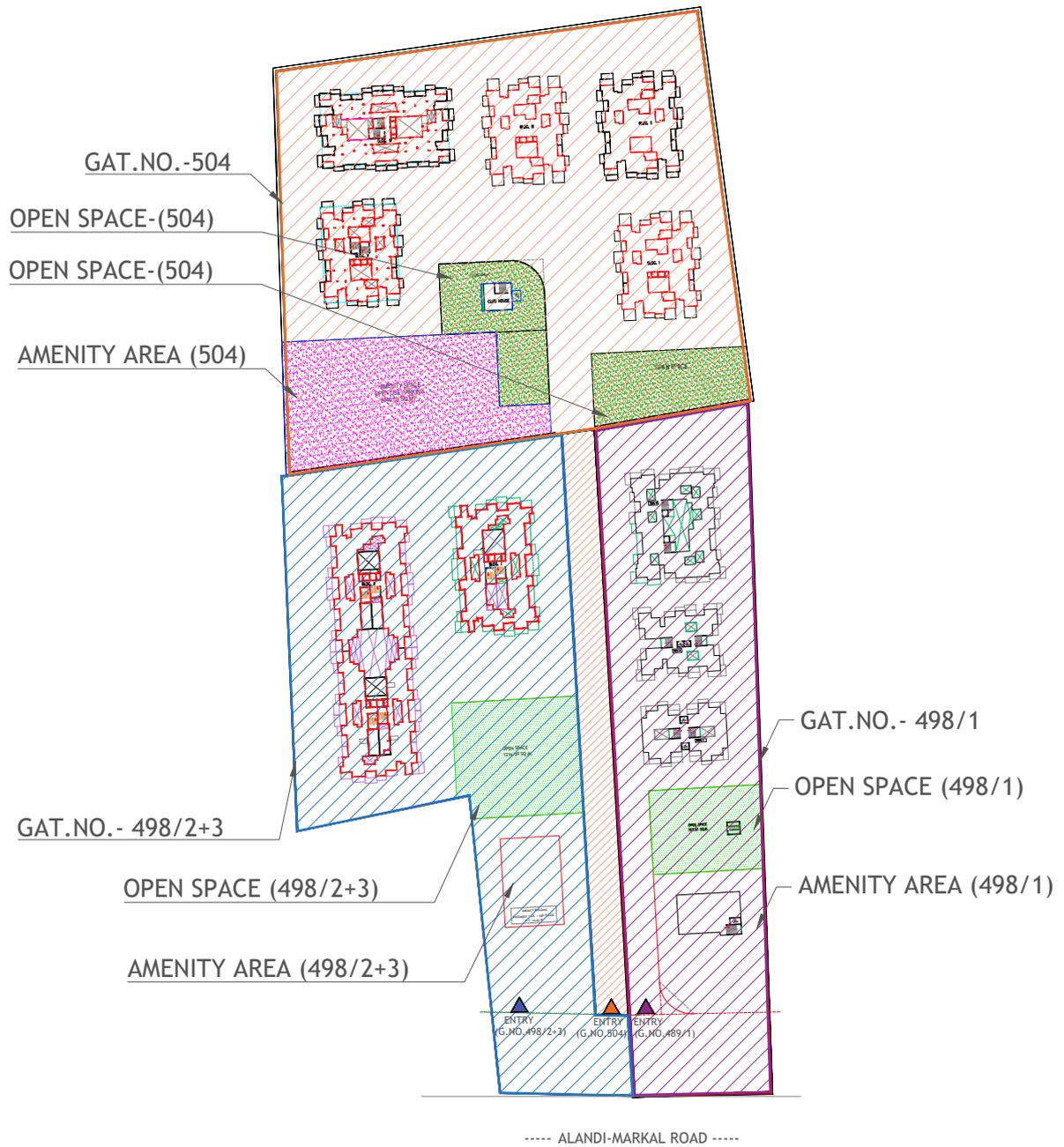


LAYOUT

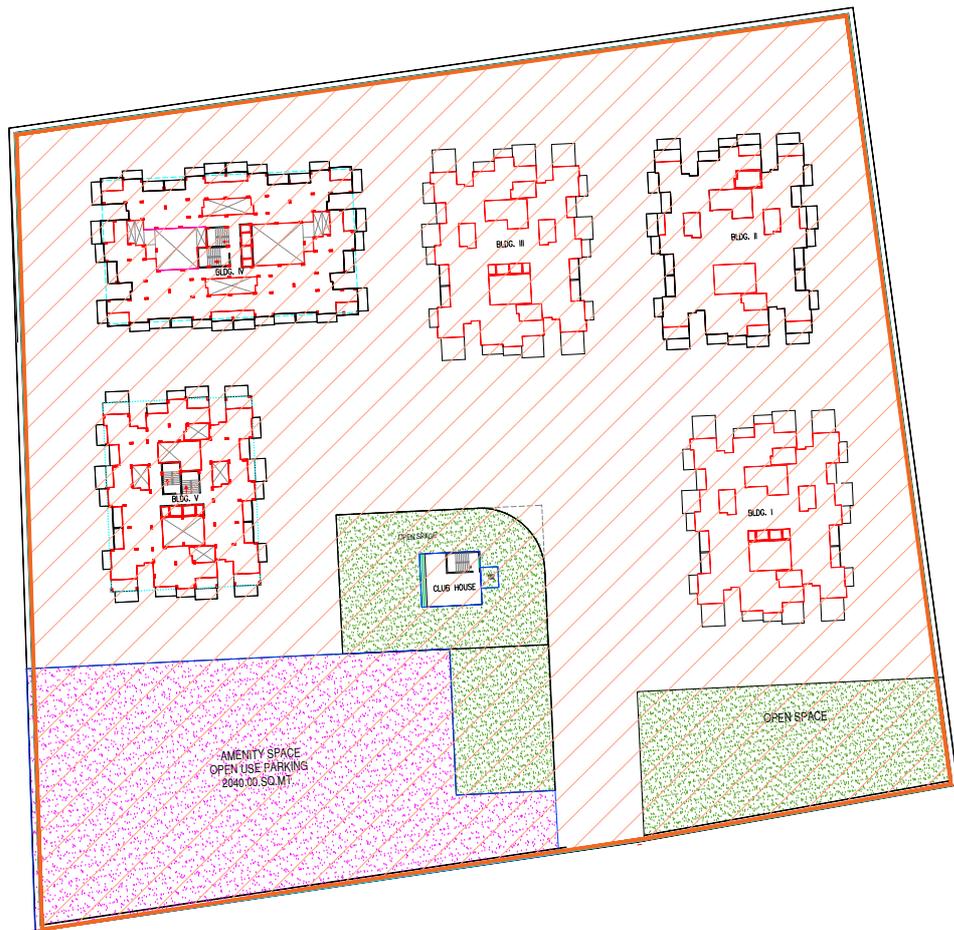
GAT.NO.498/1



# LAYOUT



LAYOUT



## LAYOUT









PICTURES SHOWING NALA IS NOT ENCLOSED AND PARKING AND SIDE MARGINS ARE EXCLUDING NALA.



CLUBHOUSE IN OPEN SPACE OF PLOT 498/2+3



AMENITY BUILDING OF PLOT 498/2+3



ENTRY FOR PLOT 498/1



OPEN SPACE OF PLOT 498/1



AMENITY SPACE OF PLOT 498/1



CLUBHOUSE IN OPEN SPACE OF PLOT 504



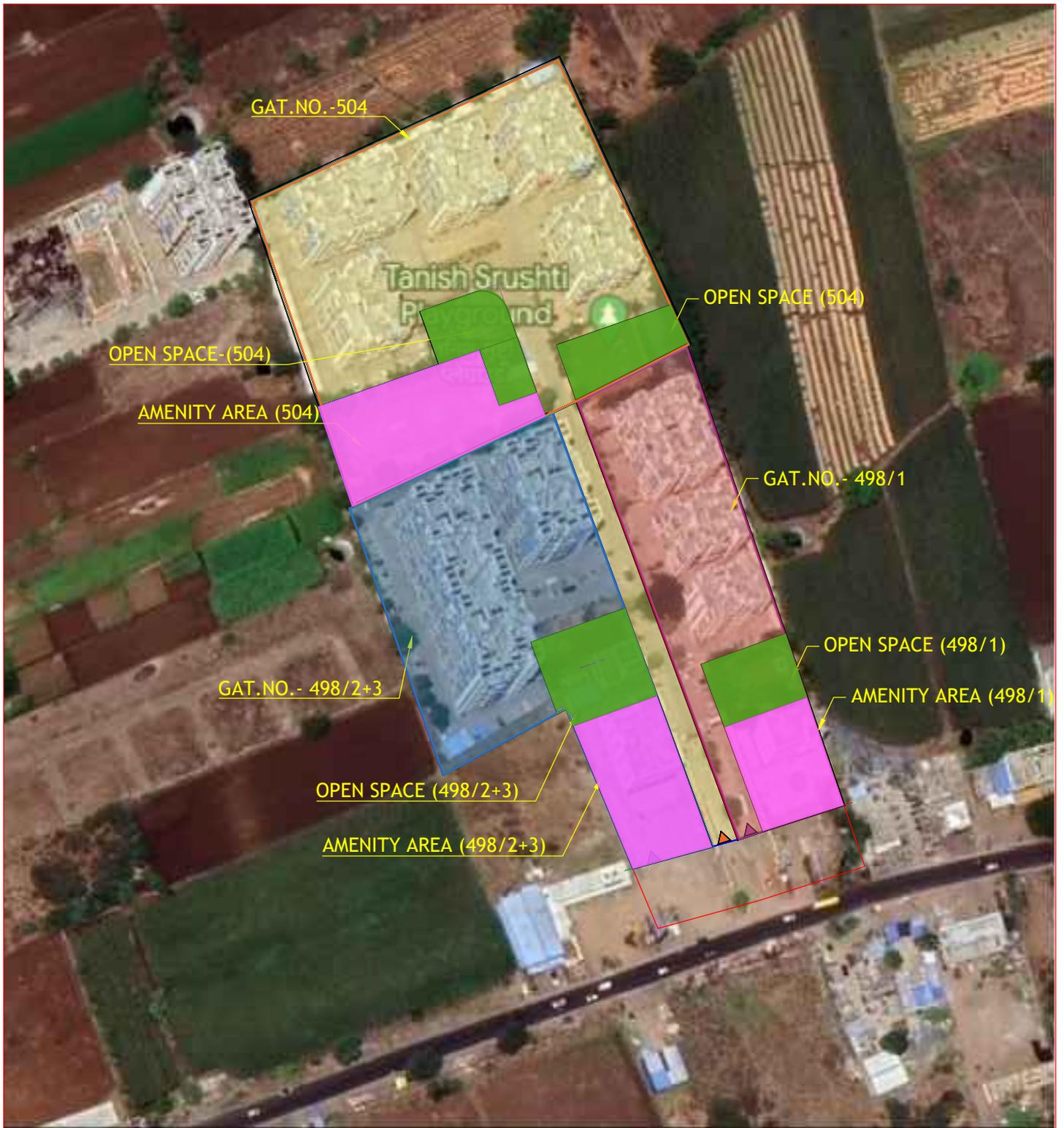
OPEN SPACE OF PLOT 504



AMENITY AREA OF PLOT 504



ENTRY FOR PLOT 504



रजिस्ट्री सं० डी० एल०-33004/99

REGD. NO. D. L.-33004/99



# भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (ii)

PART II—Section 3—Sub-section (ii)

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं. 1075]

नई दिल्ली, बुधवार, अप्रैल 19, 2017/चैत्र 29, 1939

No. 1075]

NEW DELHI, WEDNESDAY, APRIL 19, 2017/CHAITRA 29, 1939

आवास और शहरी गरीबी उपशमन मंत्रालय

अधिसूचना

नई दिल्ली, 19 अप्रैल, 2017

का.आ. 1216(अ).—केन्द्रीय सरकार, भूसंपदा (विनियमन और विकास) अधिनियम, 2016 (2016 का 16) की धारा 1 की उपधारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, 1 मई, 2017 को उस तारीख के रूप में नियत करती है जिसको उक्त अधिनियम के निम्नलिखित उपबंध प्रवृत्त होंगे, अर्थात्:—

क्रम सं. धारा

1. धारा 3 से धारा 19
2. धारा 40
3. धारा 59 से धारा 70
4. धारा 79 से धारा 80

[फा. सं. ओ-17034/275/2017-एच]

राजीव रंजन मिश्रा, संयुक्त सचिव

MINISTRY OF HOUSING AND URBAN POVERTY ALLEVIATION

NOTIFICATION

New Delhi, the 19th April, 2017

**S.O. 1216(E).**—In exercise of the powers conferred by sub-section (3) of section 1 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2016), the Central Government hereby appoints the 1<sup>st</sup> day of May, 2017 as the date on which the following provisions of the said Act shall come into force, namely:—

Sl. No. Section

1. Section 3 to 19
2. Section 40
3. Section 59 to 70
4. Section 79 to 80

[F. No. O-17034/275/2017-H]

RAJIV RANJAN MISHRA, Jt. Secy.

2616 GI/2017

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SARVESH KUMAR  
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KUMAR SRIVASTAVA  
Date: 2017.04.19 18:43:28 +05'30'

## CHAPTER II

## REGISTRATION OF REAL ESTATE PROJECT AND REGISTRATION OF REAL ESTATE AGENTS

3. (1) No promoter shall advertise, market, book, sell or offer for sale, or invite persons to purchase in any manner any plot, apartment or building, as the case may be, in any real estate project or part of it, in any planning area, without registering the real estate project with the Real Estate Regulatory Authority established under this Act:

Prior registration of real estate project with Real Estate Regulatory Authority.

Provided that projects that are ongoing on the date of commencement of this Act and for which the completion certificate has not been issued, the promoter shall make an application to the Authority for registration of the said project within a period of three months from the date of commencement of this Act:

Provided further that if the Authority thinks necessary, in the interest of allottees, for projects which are developed beyond the planning area but with the requisite permission of the local authority, it may, by order, direct the promoter of such project to register with the Authority, and the provisions of this Act or the rules and regulations made thereunder, shall apply to such projects from that stage of registration.

(2) Notwithstanding anything contained in sub-section (1), no registration of the real estate project shall be required—

(a) where the area of land proposed to be developed does not exceed five hundred square meters or the number of apartments proposed to be developed does not exceed eight inclusive of all phases:

Provided that, if the appropriate Government considers it necessary, it may, reduce the threshold below five hundred square meters or eight apartments, as the case may be, inclusive of all phases, for exemption from registration under this Act;

(b) where the promoter has received completion certificate for a real estate project prior to commencement of this Act;

(c) for the purpose of renovation or repair or re-development which does not involve marketing, advertising selling or new allotment of any apartment, plot or building, as the case may be, under the real estate project.

*Explanation.*—For the purpose of this section, where the real estate project is to be developed in phases, every such phase shall be considered a stand alone real estate project, and the promoter shall obtain registration under this Act for each phase separately.

4. (1) Every promoter shall make an application to the Authority for registration of the real estate project in such form, manner, within such time and accompanied by such fee as may be specified by the regulations made by the Authority.

Application for registration of real estate projects.

(2) The promoter shall enclose the following documents along with the application referred to in sub-section (1), namely:—

(a) a brief details of his enterprise including its name, registered address, type of enterprise (proprietorship, societies, partnership, companies, competent authority), and the particulars of registration, and the names and photographs of the promoter;

(b) a brief detail of the projects launched by him, in the past five years, whether already completed or being developed, as the case may be, including the current status of the said projects, any delay in its completion, details of cases pending, details of type of land and payments pending;

(ii) where only structural repairs of existing buildings are being undertaken by or through any Public Authority or as per requirement under any law, rules or regulations of the State Government or directions of any Competent Authority.

(7) The promoter may apply for withdrawal of application for registration of the real estate project before the expiry of the period of 30 days of its submission to Authority provided that under sub-section (1) of section 5. In such cases, the registration fee to the extent as specified by the regulations framed by the Authority, shall be retained as administrative charges towards processing of application by the Authority and the remaining amount shall be refunded to the promoter within such period as may be specified in such regulations.

(8) The promoter shall disclose,-

(a) land cost in the real estate project for the purposes of sub-clause (D) of clause (1) of sub-section (2) of section 4;

(b) cost of construction in real estate project for the purposes of sub-clause (D) of clause (1) of sub-section (2) of section 4;

(c) "estimated cost of the real estate project," within the meaning of clause (v) of section 2.

4. Disclosure by promoter of ongoing real estate projects.- (1) The promoter of an ongoing real estate project, in which all buildings as per sanctioned plan have not received occupancy certificate or completion certificate, as the case may be, as provided by clause (b) of sub-section (2) of section 3, shall be required to submit application for registration for each such phase of the project, within a period of three months from the date of commencement of section 3.

*Explanation.* -For the purpose of this sub-rule, -

(I) the expression "phase of the project" means the the building or buildings in a project in respect of which occupancy or completion certificate has not been received;

(II) the term "completion certificate" shall mean such building permission or certificate, by whatever name called, which is issued by the competent authority by or under the provisions of Maharashtra Regional Town Planning Act, 1966 or any other law for the time being in force, in accordance with which the permission for development has been granted.

Provided further that, at the end of ninety days from the date of notification of section 3 of the Act, the promoter shall not advertise, market, book, sell or offer for sale or invite persons to purchase in any manner any plot, apartment or building respect of such land parcel unless he registers such independent phase as a separate real estate project within the meaning of clause (c) of the Explanation to section 3:

Provided also that, previous written consent of least two-third of the allottees may not be necessary for implementation of the proposed plans/ specifications as disclosed in agreement executed with the allottee prior to registration or for any alterations or additions or modifications in the sanctioned plans, layout plans and specifications of the buildings or common areas in the Real Estate Project which are required to be made by promoter in compliance of any direction or order, etc. issued by, the competent authority or statutory authority, under any law of the State or Central Government, for the time being in force.

5. Withdrawal of amounts deposited in separate account.- (1) With regard to the withdrawal of amounts deposited under sub-clause (D) of clause (1) of sub-section (2) of section 4, the following provisions shall apply:-

(i) For new projects which will be registered after commencement. - (a) The promoter shall observe the provisions sub-clause (D) of clause (1) of sub-section (2) of section 4;

(b) For the purpose of amount to be withdrawn from time to time by the promoter from the separate account in respect of each real estate project to cover the cost of the project, the Promoter shall submit following three certificates to the scheduled bank operating the separate account:

First, from the project Architect certifying the percentage of completion of construction work of each of the building / wing of the project;

Second, a certificate from the Engineer for the actual cost incurred on the construction work of each of the building / wing of the project; and

Third, a certificate from a practicing Chartered Accountant, for the cost incurred on construction cost and the land cost. The practicing Chartered Accountant shall also certify the proportion of the cost incurred on construction and land cost to the total estimated cost of the project. The total estimated cost of the project multiplied by such proportion shall determine

**36. Is it compulsory for the promoter to register the project immediately after he gets sanctioned approvals?**

Ans: Promoter has to register the project before he starts any form of advertising, marketing, booking, selling, offer for selling or inviting people to purchase plots, apartment or buildings.

**37. Will ongoing Project have to stop sales or construction till receiving the Registration?**

Ans: At the end of ninety days from the date of notification of Section 3 of the Act, the promoter of an ongoing project shall not advertise, market, book, sell or offer for sale or invite persons to purchase in any manner any plot, apartment or building, unless he registers the project.

**38. Can promoter change the completion date for ongoing projects while registering?**

Ans: Yes, while registering project, promoter needs to give revised date of completion which should be commensurate with the amount of development completed

**39. If an ongoing project is registered under MahaRERA, then will the Act be applicable for the entire project or will it be applicable only to units sold after registration?**

Ans: Registration is of the Project/Phase and hence the provisions of the Act are applicable to all units of the Project/Phase.

**40. Can an allottee who has executed agreement with the promoter prior to the ongoing project getting registered with the Authority, be a complainant before MahaRERA?**

Ans: MahaRERA empowers any aggrieved person to file a complaint with respect to a registered real estate project. This will include an allottee who has an agreement executed before the project is registered with MahaRERA. However, MahaRERA will have authority to adjudicate for violations and contravention of provisions of the Real Estate (Regulation and Development) Act or rules and regulations made thereunder.

**41. Can the promoter change the plans of subsequent phases after registration of the 1<sup>st</sup> phase?**

Ans: The Act puts an obligation on a promoter to obtain consent of each allottee, if he





281

**ANNEXURE-R-3**

**केन्द्रीय प्रदूषण नियंत्रण बोर्ड**  
**CENTRAL POLLUTION CONTROL BOARD**  
पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय भारत सरकार  
MINISTRY OF ENVIRONMENT, FOREST & CLIMATE CHANGE GOVT. OF INDIA

**SPEED POST**

CPCB/IPC-VI/ROGW/

12.01.2021

To

**The Member Secretary**  
**SPCB/PCC**  
(as per the list)

**Sub: Harmonization of Classification of Industrial Sectors into Red, Orange, Green and White Categories-reg.**

This has reference to CPCB Directions issued u/s 18(1)(b) of the Air and Water Act on 07.03.2016, regarding 'Harmonization of classification of industrial sectors under Red/Orange/Green/White categories', wherein CPCB has categorized 242 industrial sectors into red, orange, green & white categories and directed all SPCBs/PCCs for its adoption and implementation. The SPCBs/PCCs were also directed that addition of any new or left-over industrial sectors and their categorization, which is not listed in the categorization done by CPCB, shall be carried-out by a Committee at the level of concerned SPCB/PCC, in accordance with the revised criteria and guidelines of CPCB.

Further, a need was felt to categorize some industrial sectors on PAN-India level and to resolve anomalies in categorization, if any. Accordingly, CPCB constituted a Committee to deal with the matter related to categorization of industrial sectors under red/orange/green/white categories.

Subsequently, CPCB categorized (i) Scrapping Centre (ii) Used Cooking Oil Collection Centre (iii) Compressed/Refined Bio-gas production from bio-degradable waste & (iv) Railway Stations, vide directions dated 30.04.2020, and categorized (i) Dairy Farms & (ii) Gaushalas, vide directions dated 10.07.2020, for adoption and implementation.

Further, the CPCB Committee on categorization, in its meetings held on 21.07.2020, 11.08.2020 and 24.08.2020, categorized the following three sectors, the details of which are given at **Annexure-I**:

- i. Building and Construction Projects, having built-up area up to 20,000 m<sup>2</sup> and waste water generation  $\geq$  50 KLD.
- ii. Construction and Demolition (C&D) Waste Processing Plants.
- iii. Gold Assaying & Hallmarking Centres

All SPCBs/PCCs are directed to adopt and implement the categorization of these sectors and submit the Action Taken Report (ATR), in this regard to CPCB, within 15 days.

Yours faithfully,

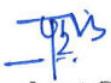
  
(Prashant Gargava)  
Member Secretary

Encl: as above

**Copy to:**

- 1 The Joint Secretary (CP Division)  
Ministry of Environment, Forests  
& Climate Change,  
Indira Paryavaran Bhawan,  
3<sup>rd</sup> Floor, Prithivi, Aliganj, Jor Bagh Road,  
New Delhi -110 003
- 2 All Regional Directors, CPCB  
(as per list)
- 3 Div. Head, UPC-I, CPCB, Delhi
- 4 Div. Head, IPC-V, CPCB, Delhi
- 5 Div. Head-IT, CPCB, Delhi

: with a request to upload  
this letter on CPCB  
website

  
(Prashant Gargava)

**Categorization of (i) Building and Construction Projects, (ii) Construction and Demolition (C&D) Waste Processing Plants and (iii) Gold Assaying & Hallmarking Centres**

| Sl. No. | Sl. No. (as per CPCB Document) | Non-Industrial Operations (Activities/ Facilities/ Infrastructure/ Services)  | W1 | W2 | W  | A1 | A2 | A  | H  | Pollution Index (PI) | Category | Remarks  |
|---------|--------------------------------|---|----|----|----|----|----|----|----|----------------------|----------|--|
| 1.      | 88                             | Building and Construction Projects, having built-up area up to 20,000 m <sup>2</sup> and waste water generation $\geq$ 50 KLD | 20 | -- | 20 | -- | -- | -- | -- | 50                   | Orange   | <p>i. Waste water is generated due to domestic use.</p> <p>ii. Projects having overall waste water generation of 50 KLD or more are considered for categorization. However, projects having waste water generation &lt;50 KLD are also required to treat/manage sewage with appropriate systems such as soak pit, septic tank, STP etc. or direct discharge into sewer connected with terminal STP etc., as per the prescribed guidelines/norms.</p> <p>iii. If the discharge <math>\geq</math> 100 KLD, it will have the normalized score (pollution index) of 75 and hence, be categorized as Red.</p> |
| 2       | 89                             | Construction and Demolition (C&D) Waste Processing Plants   | 12 | -- | 12 | 20 | -- | 20 | -- | 50                   | Orange   | <p>i. It is mainly air polluting process/activities.</p> <p>ii. Air pollution score is normalized to 100.</p> <p>iii. Waste water of high TDS of inorganic nature is generated in wet processing units.</p> <p>iv. In case of ancillary units/operations such as manufacturing of tiles, bricks, blocks etc. are associated, the categorization may change, depending on the process and waste generation.</p>   |
| 3.      | 90                             | Gold Assaying & Hallmarking Centres   | -  | -- | -  | 25 | -- | 25 | 10 | 58.33                | Orange   | <p>i. There is no wastewater generation from the process.</p> <p>ii. Lead oxide, nitrous fumes are generated during cupellation and parting acid treatment, respectively contributing to the air emissions.</p> <p>iii. The hazardous waste is generated during fire assay in the form of spent cupels bearing lead, spent acid, scrubbed water etc. This HW is required to be disposed at TSDFs.</p> <p>iv. All the Gold Assaying &amp; Hallmarking Test Centres certified by BIS shall follow the "Environmental Guidelines for Gold Assaying &amp; Hallmarking Centres", issued by CPCB.</p>          |

To:

| Address List of Member Secretary, SPCBs/PCCs   |   |
|--|---|
| 1. The Member Secretary<br>Andhra Pradesh State Pollution Control Board<br>D.No. 33-26-14 D/2, Near Sunrise Hospital,<br>Pushpa Hotel Centre, Chalmvari Street,<br>Kasturibaipet, Vijayawada- 520010<br>Andhra Pradesh | 2. The Member Secretary<br>Arunachal Pradesh State Pollution Control Board<br>'ParyavaranBhavan', Yupla Road,<br>PappuNallah,<br>Naharlagun – 791110<br>Arunachal Pradesh   |
| 3. The Member Secretary<br>Assam State Pollution Control Board<br>Bamunimaidan,<br>Guwahati – 781021<br>Assam  | 4. The Member Secretary<br>Bihar State Pollution Control Board<br>PariveshBhawan, Plot No.N-B/2,<br>Patliputra Industrial Area<br>Patna-800023  |
| 5. The Member Secretary<br>Chhattisgarh Environment Conservation Board<br>ParyavasBhawan, North Block Sector-19<br>NayaRaipur – 492 099<br>Chhattisgarh  | 6. The Member Secretary<br>Goa State Pollution Control Board<br>Dempo Tower, EDC Plaza, 1 <sup>st</sup> floor<br>Patto Plaza, Panaji,<br>Goa – 403001   |
| 7. The Member Secretary<br>Gujarat State Pollution Control Board<br>Sector 10-A, Gandhi Nagar – 382043<br>Gujarat  | 8. The Member Secretary<br>Haryana State Pollution Control Board<br>C-11, Sector 6, Panchkula,<br>Haryana 134109  |
| 9. The Member Secretary<br>Himachal Pradesh State Pollution Control Board<br>ParyavaranBhavan, Phase III,<br>New Shimla – 171009<br>Himachal Pradesh   | 10. The Member Secretary<br>J&K State Pollution Control Board,<br>Parivesh Bhawan,<br>Forest Complex, Gladni, Narwal,<br>Transport Nagar,<br>Jammu & Kashmir (J&K)  |
| 11. The Member Secretary<br>Jharkhand State Pollution Control Board<br>T.A Building, HEC Campus, P.O. Dhurwa<br>Ranchi – 834004<br>Jharkhand   | 12. The Member Secretary<br>Karnataka State Pollution Control Board<br>ParisaraBhavan, 4 <sup>th</sup> & 5 <sup>th</sup> floors, Church Street,<br>Bangalore – 560 001<br>Karnataka   |
| 13. The Member Secretary<br>Kerala State Pollution Control Board<br>Plamoodu Junction, Pattam Palace P.O.<br>Thiruvananthapuram – 695004<br>Kerala   | 14. The Member Secretary<br>Maharashtra State Pollution Control Board<br>Kalpataru Point, 3 <sup>rd</sup> & 4 <sup>th</sup> floors<br>Sion Matunga Scheme Road No. 6<br>Opp. Cine Planet, Sion Circle, Sion (E),<br>Mumbai 400 022<br>Maharashtra |
| 15. The Member Secretary<br>Madhya Pradesh Pollution Control Board<br>ParyavaranParisar, E-5 Arera Colony<br>Bhopal – 462016<br>Madhya Pradesh   | 16. The Member Secretary<br>Manipur State Pollution Control Board<br>Lamphelpat,<br>Imphal West D.C. Office Complex – 795004<br>Manipur   |
| 17. The Member Secretary<br>Meghalaya State Pollution Control Board<br>Arden, Lumpyngngad,<br>Shillong – 793014<br>Meghalaya   | 18. The Member Secretary<br>Mizoram State Pollution Control Board<br>New Secretariat Complex,<br>Khatla, Thlanmual Peng, Aizwal<br>Mizoram- 796001  |
| 19. The Member Secretary<br>Nagaland State Pollution Control Board<br>Signal Point, Dimapur,<br>Nagaland – 797112<br>Nagaland  | 20. The Member Secretary<br>Odisha State Pollution Control Board<br>ParibeshBhawan A-118, Nilakanta Nagar,<br>Unit –VIII, Bhubaneshwar – 751012.<br>Odisha  |

To:

|     |  |     |   |
|-----|--|-----|---|
| 21. | The Member Secretary<br>Punjab State Pollution Control Board<br>Nabha Road, ITI Rd, Adarsh Nagar,<br>Prem Nagar,<br>Patiala - 147001.<br>Punjab  | 22. | The Member Secretary<br>Rajasthan State Pollution Control Board<br>A-4 Institutional Area, JhalaneDungri<br>Jaipur – 302004.<br>Rajasthan   |
| 23. | The Member Secretary<br>Sikkim State Pollution Control Board<br>State land Use & Environment Cell<br>Govt. of Sikkim, Deorali,<br>Gangtok.<br>Sikkim   | 24. | The Member Secretary<br>Tamil Nadu Pollution Control Board<br>No. 76, Mount Salai, Guindy,<br>Chennai - 600032.<br>Tamil Nadu   |
| 25. | The Member Secretary<br>Telangana State Pollution Control Board<br>ParyavaranBhavan<br>A-3, Industrial Estate, Sanath Nagar,<br>Hyderabad – 500 018.<br>Telangana                                    | 26. | The Member Secretary<br>Tripura State Pollution Control Board<br>Parivesh Bhawan, Pt. Nehru Complex,<br>Gorkhabasti P.O., Kunjaban, Agartala,<br>West Tripura - 799 006.<br>Tripura                       |
| 27. | The Member Secretary<br>Uttarakhand Pollution Control Board<br>Gaura Devi Bhawan, 46 B IT Park Sahastradhara,<br>Dehradun- 248001<br>Uttarakhand   | 28. | The Member Secretary<br>Uttar Pradesh State Pollution Control Board<br>Building.No. TC-12V<br>VibhutiKhand, Gomti Nagar,<br>Lucknow– 226010.<br>Uttar Pradesh   |
| 29. | The Member Secretary<br>West Bengal State Pollution Control Board<br>ParibeshBhavan<br>Building, No.10-A, Block –LA, Sector 3,<br>Salt Lake City,<br>Kolkata – 700 091.<br>West Bengal               |     |   |
| 30. | The Member Secretary<br>Andaman & Nicobar Islands Pollution Control<br>Committee<br>Department of Science & Technology<br>Dollyganj Van Sadan, Haddo P.O.,<br>Port Blair-744102<br>Andaman & Nicobar | 31. | The Member Secretary<br>Chandigarh Pollution Control Committee<br>ParyavaranBhawan<br>Madhya Marg, Sector - 19 B,<br>Chandigarh – 160019.<br>Chandigarh   |
| 32. | The Member Secretary<br>Daman, Diu & Dadra Nagar Haveli Pollution<br>Control Committee<br>Office of the Deputy Conservator of Forests<br>Moti Daman,<br>Daman – 396220.<br>Daman & Diu               | 33. | The Member Secretary<br>Delhi Pollution Control Committee<br>4 <sup>th</sup> floor, ISBT Building,<br>Kashmeri Gate,<br>Delhi - 110006.<br>Delhi  |
| 34. | The Member Secretary<br>Lakshadweep Pollution Control Committee<br>Lakshadweep Administration<br>Department of Science, Technology &<br>Environment<br>Kavarati – 682555.<br>Lakshadweep             | 35. | The Member Secretary<br>Puducherry Pollution Control Committee<br>Department of Science, Technology &<br>Environment<br>Housing Board Complex,<br>3 <sup>rd</sup> floor, Anna Nagar, Pondichery – 600 005 |

To:

**Address list of Regional Directors, CPCB**

|    |  |    |  |
|----|--|----|--|
| 1. | The Regional Director<br>Regional Directorate (East)<br>Central Pollution Control Board<br>502, Southend Conclave<br>1582, Rajdanga Main Road<br>Kolkata-700107  | 2. | The Regional Director<br>Regional Directorate (Vadodara)<br>Parivesh Bhawan,<br>Opp. Ward No. 10 VMC Office Subhanpura,<br>Vadodara – 390 023<br>Gujarat   |
| 3. | The Regional Director<br>Regional Directorate (North-East)<br>Central Pollution Control Board<br>TUM-SIR, Lower Motinagar,<br>Near Fire Brigade H.Q<br>Shillong-793014   | 4. | The Regional Director<br>Regional Directorate (Central)<br>Central Pollution Control Board<br>3 <sup>rd</sup> Floor, Sahkar Bhawan<br>North T.T Nagar<br>Bhopal- 462003  |
| 5. | The Regional Director<br>Regional Directorate (North)<br>Central Pollution Control Board<br>Ground Floor, PICUP Bhawan<br>Vibhuti Khand, Gomti Nagar<br>Lucknow- 226020  | 6. | The Regional Director<br>Regional Directorate (South)<br>Central Pollution Control Board<br>1 <sup>st</sup> & 2 <sup>nd</sup> Floors, Nisarga Bhawan<br>A-Block, Thimmaiah Main Road<br>7 <sup>th</sup> D Cross, Shivanagar<br>Opposite Pushpanjali Theatre<br>Banglore 560010 |
| 7. | The Regional Director<br>Regional Directorate (Chandigarh)<br>Central Pollution Control Board<br>Parivesh Bhawan,<br>East Arjun Nagar,<br>Delhi-110032   | 8. | The Regional Director<br>Regional Directorate (Pune)<br>Central Pollution Control Board<br>Parivesh Bhawan,<br>East Arjun Nagar,<br>Delhi-110032   |
| 9. | The Regional Director<br>Regional Director - Chennai<br>Central Pollution Control Board<br>77-A, Second Floor<br>South Avenue Road,<br>Ambattur Industrial Estate,<br>Ambattur Taluk, Thiruvallur District,<br>Chennai - 600 058 |    |  |

