



क्षेत्रीय कार्यालय  
उ०प्र० प्रदूषण नियंत्रण बोर्ड  
1-ए/आई.एन.एस.-1, आवास विकास कालोनी, बौद्ध विहार,  
दिल्ली रोड, मुरादाबाद

ई-मेल : romoradabad@uppcb.in, दूरभाष : 0591-2972012

पत्र संख्या : S24/S-149/Moradabad

दिनांक: 11.08.2024

To

The Registrar General  
Principal Bench,  
Hon'ble National Green Tribunal,  
Copernicus Marg, New Delhi

Subject:- Reply Regarding order dated 03.05.2024 passed by Hon'ble NGT in Appeal No. 08/2024 (I.A. No. 88/2024)M/S Shahpur Ent Udyog Vs U.P. Pollution Control Board & Ors.

Sir,

In compliance of the direction passed by Hon'ble National Green Tribunal, dated 03.05.2024 on matter mentioned above, the reply is hereby attached with a request to put up before Hon'ble National Green Tribunal for kind perusal.

Your Sincerely

(Ashutosh Chauhan)  
Regional Officer

Enclosure as above,

Copy:

1. District Megistrate, Moradabad.
2. Mr. Amit Shukla, Advocate for U. P. Pollution Control Board.
3. Law Officer-1, U. P. Pollution Control Board, Lucknow.
4. Chief Environmental Officer (Circle- 7), U. P. Pollution Control Board, Lucknow.

Regional Officer

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI  
APPEAL NO. 8 OF 2024**

**IN THE MATTER OF:**

M/S SHAHPUR ENT UDYOG

..... APPELLANT

VERSUS

UTTAR PRADESH POLLUTION  
CONTROL BOARD

..... RESPONDENT

**REPLY ON BEHALF OF UTTAR PRADESH  
POLLUTION CONTROL BOARD TO THE APPEAL IMPUGNING  
THE RECOVERY CERTIFICATE DATED 06.01.2024 BEING  
ISSUED BY THE TEHSILDAR, MORADABAD**

**MOST RESPECTFULLY SHOWETH:**

**PRELIMINARY OBJECTION:**

1. That the present Appeal is not maintainable as the Recovery Certificate dated 06.01.2024 being issued by Tehsildar, Moradabad cannot be impugned before this Hon'ble Tribunal. It is submitted that the present Appeal is not maintainable under Section 16 of the National Green Tribunal Act, 2010.  
The Appellant has deliberately not challenged the order dated 15.04.2023 passed by the Respondent imposing the Environment Compensation but has only challenged the consequential order of Recovery passed by Tehsildar.
2. That as the order of Environment Compensation passed by the Respondent under the Air (Prevention and Control of Pollution) Act 1981 cannot be challenged in view of Hon'ble Supreme Court's Judgment in Tamil Nadu Pollution Control Board Vs. Sterlite Industries (India) Ltd. [(2019) 19 SCC 479], the Appellant

in an attempt to dilute the effect of the said judgment has chosen to challenge the Recovery Certificate.

3. That the Appellant has preferred a Writ Petition-C No. 4122 of 2024 before the Hon'ble High Court of Judicature at Allahabad on 07.02.2024 challenging the order dated 06.01.2024, which is the RC being issued by Tehsildar and the present Appeal is preferred on 03.02.2024 again challenging the Recovery Certificate dated 06.01.2024. The prayer in Writ Petition-C No. 4122 of 2024 is reproduced herein below:

(i) *Issue a writ, order or direction in the nature of certiorari calling for record and quash the impugned recovery notice/letter no. 36 dated 05.01.2024 issued by Respondent no. 5 under Rule 141 (3) of U.P. Revenue Code Rules, 2016 in the tune of Rs. 92,81,250/- (Annexure no. 1 of the writ petition).*

(ii) *Issue a writ, order or direction in the nature of certiorari calling for record and quash the impugned order dated 02.01.2024 passed by Respondent no. 03 forwarded to the Collector of District Moradabad for the purpose of recovery of environment compensation of Rs. 92,81,250/- from the petitioner firm (Annexure No. 2 of the writ petition).*

4. That no relief has been sought against the Respondent No. 1, hence the Respondent No. 1 is not the essential party in the present proceedings.

5. That the Appellant in the entire Appeal has not claimed that the calculation of Environmental Compensation is incorrect or the days of default are incorrect. Hence, in view of admission of operation of the unit and no claim regarding the computation of Environment Compensation, the present Appeal is liable to be dismissed at the outset.

6. The Respondent conducted the inspection of the Appellant unit on 05.02.2023 and found the unit operating in violation of environmental norms and without consents.

A true copy of the Inspection Report dated 01.02.2023 is annexed herewith and marked as **ANNEXURE R/1**.

7. The show cause notice dated 10.02.2023 for imposing the Environment Compensation of INR 84,37,500.00 was issued to the Appellant and sent through Speed Post on 16.02.2023.

A true copy of the Show Cause Notice dated 10.02.2023 and Speed Post receipt dated 16.02.2023 is annexed herewith and marked as **ANNEXURE R/2 (Colly)**.

8. That as no response to the Show Cause Notice dated 10.02.2023 has been received by the Respondent, an order dated 15.04.2023 was passed by the Respondent imposing the Environmental Compensation of INR 84,37,500.00.

A true copy of the order dated 15.04.2023 passed by the Respondent imposing the Environmental Compensation is annexed herewith and marked as **ANNEXURE R/3**.

It is submitted that in compliance of directions passed by Hon'ble National Green Tribunal, New Delhi (NGT) in O.A. No. 593/2017 Patyavaran Suraksha Samiti and Ors. vs. Union of India and Ors., Central Pollution Control Board (CPCB) has prepared methodology for assessment of the Environmental Compensation against defaulter units. CPCB vide its letter dated 08.02.2019 has issued "Levying of Environmental Compensation against Defaulting Industries".

EC : PI x N x R x S x LF  
 PI : Pollution Index of Industrial Sector  
 N : Number of Violating days  
 R : Factor in INR (250)  
 S : Factor for scale of operation (0.5 for micro, 01 for medlum and 1.5 for large units)  
 LF : Location Factor

This Hon'ble Tribunal has vide order dated 28.08.2019 in O.A. No. 593/2017 ParyavaranSuraksha Samiti and Ors. Vs. Union of India and Ors., has approved the abovemethodology of CPCB for assessment of Environmental Compensation against thedefaulter units.

This Hon'ble TribunalOA No. 889/2022 (1.A.No.321/2022) Jeetu Yadav Vs U.P. PollutionControl Board & Ors has issued directions for closure, imposition of EnvironmentalCompensation against the defaulter brick kilns which are operating without validconsent to operate from UPPCB. The Hon'ble Tribunal has vide its order dated 21.12.2023, passed the order below:

" ..... 8. *Initially, submission of Shri Arvind Kumar, learned Counsel appearingfor UPPCB was that the amount is to be recovered on the basis of the recoverycertificate, but when the Tribunal asked him about authority who has -to issue recoverycertificate, he did not dispute that the same is to be issued by the competent officers ofthe UPPCB.*

9. *Shri Pradeep Misra, learned Counsel has also appeared on behalf of UPPCBand arguing on the issue of recovery of environmental compensation. He has submittedthat communication dated 23.11.2023 sent by Member Secretary, UPPCB to theconcerned District Magistrates is an order issued by the Board under Section 31A of Air(Prevention and Control of Pollution), 1981 (Air Act). Undisputedly, thecommunications/orders issued by the Member Secretary to*

*concerned District Magistrates under Section 31A of the Air Act have not been complied with.*

*12. Shri Pradeep Misra, learned Counsel appearing for UPPCB is not in a position to state as to how long the officers of UP PCB to take action for recovery of the amount He has sought time to obtain instructions.*

*13. We are of the opinion that the environmental compensation which is imposed is required to be recovered and prompt action is required to be taken by competent officers of UPPCB. Hence, they are granted three weeks' time to take appropriate action in this regard and file action taken report on or before the expiry of said three weeks period.*

*14. On the issue of closure of defaulting brick kilns, we find that a chart has been enclosed as Annexure 3 along with report. The said chart in respect of Moradabad mentions closure dates from 2017 and 2018 onwards in respect of several units. It is undisputed before this Tribunal that though these brick kilns were closed as far back as in 2017 and 2018 etc. but they are still operating. Nothing significant has been pointed out by Counsel for UPPCB to show that the units are not operating after the closure order. On the contrary admittedly, the units are operating. Hence, a clear report in this regard must be filed by the competent officer of UP PCB mentioning if the brick kilns in question are in a position to operate or have been demolished. The same position in respect of closure and operation of brick kilns after the closure order exists in respect of other districts also, therefore, competent officer of UP PCB will file a fresh action taken report within two weeks in respect of all the districts keeping in view the observations made above"*

9. The assessment of the Environmental Compensation against the unit is calculated for the maximum period of five years, considering 270 operational days per year. The Environmental Compensation of INR Eighty-Four Lakhs Thirty-Seven Thousand Five Hundred Only (Rs 84,37,500 /-) against the unit at the rate of INR 6250.00 per day for default period of 1350 days.

UPPCB has issued letter to the Collector, Moradabad regarding recovery of Environmental Compensation from the unit concerned.

10. In Para 4.3 of the Appeal, the Appellant has admitted having received the order dated 15.04.2023 of Environment Compensation, however, for chosen not to contact the Respondent to claim that no Show Cause notice has been served on the Appellant. The Appellant preferred the Writ Petition and the present Appeal only after issuance/receipt of Recovery Certificate.
11. The Appellant in para 4.5 of the Appeal has admitted the operation the unit for the want of knowledge of Environmental Laws. It is submitted that ignorance of law is no excuse in law (*ignorantia juris non excusat*), hence, in view of admission on the part of the Appellant, the present Appeal is liable to be dismissed.

It is therefore most respectfully prayed that this Hon'ble Tribunal may be pleased to dismiss the present appeal with heavy costs.

40020522022328 Format for verification of details of the brick kilns in compliance of Hon'ble NGT order dated 14.12.2022, in OA No. 889/2022: Jeetu Yadav Vs. U.P. Pollution Control Board & Ors.

S. No.	Particulars	Verification Details
<b>A.</b>	<b>Location Details</b>	
1.	Name of the Brick kiln & Address	M/S Shahpur Shik Village, Village - Shahpur Abadulwari Teh. Sadar, Masodab
2.	Owner's name and contact details	Mr. Rajveer Singh (Partner)
3.	Date and Time of Inspection:	05-2-2023
4.	GPS Co-ordinates Longitude: Latitude:	
<b>B.</b>	<b>Verification of the Display Board</b>	
1.	Environmental Data displayed at the main gate: Yes/No. (Photographs to be attached as Annexure-1)	No.
<b>C.</b>	<b>Operational/Working Status</b>	
1.	Status at the time of visit Operational or Non-operational (Photograph to be attached as Annexure-2)	operational
<b>D.</b>	<b>State of Consent to Operate (NOC)</b>	
1	Validity of Consent: (Copies to be attached as Annexure-3)	Not Obtained
<b>E.</b>	<b>Production and Capacity</b>	
1.	Production as per Consent to Operate: No. of bricks per day or per month:	25000 shik/day Consent Not Obtained
2.	Capacity of the Brick Kiln, as per details provided by Appellant: No. of bricks per day or per month:	X
3.	<b>Dimensions of the Kiln (ft)</b> Length: Trench width of one side: Height of brick filled in trench from ground level:	240 feet 22 feet 8 feet
4.	<b>No. of chambers fired in one day: Length of a chamber fired in one day (ft):</b>	No
5.	<b>Fly Ash (generated from power plant) utilised in brick making (Y/N)</b>	No
6.	Fuel details as per Consent to Operate: Type of fuel per day.	3.0 Ton Coal/used/Day

F. Verification of the Brick Manufacturing Technology		
1.	Zig-Zag status (Photographs to be attached as Annexure-4)	Rectangular shape (Y/N) <b>Y</b> Zig-Zag Setting(Y/N) <b>No</b> ID Fan(Y/N) <b>No.</b>
2.	Whether ID fan installed, Yes/No If, Yes, then Capacity of ID fan (in terms of Fan Size, HP) (Photograph to be attached as Annexure-5)	<b>No</b>
G. Provision of Monitoring Facilities:		
1.	Permanent Emission Monitoring Facility (Photographs to be attached as Annexure-6)	Platform (Size 4 x 6 sq. feet)(Y/N) <b>No</b> Porthole (minimum 4 inches) (Y/N) <b>No</b> Ladder (Y/N) <b>No</b>
2.	Stack height, metre	<b>30 meters</b>
H. Notification Condition		
1	Kiln distance from habitation (>0.8 km)Y/N, orchards (>0.8 km)Y/N, existing brick kiln(s) (>1 km)Y/N	<b>450 meters</b> <b>1)</b>
2	Fugitive dust emission control measures	<b>No</b>
3	In-house utilisation of ash in brick making Y/N	<b>No</b>
4	Necessary approvals for extracting soil Y/N	<b>No</b>
5	Paving of roads Y/N	<b>No</b>
6	Covering of trucks Y/N	<b>No</b>
I.	Any other remarks: <b>इस क्षेत्र में कच्चा बालू का उपयोग नहीं है। बालू का उपयोग केवल ईंटों के लिए है।</b>	

Note: All photographs should have date, time and GPS Co-ordinates.

Name & Designation of the inspecting officer:

**Rajesh Kumar, M.A.**



Signature with Date:

**5/2/2023**

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## उत्तर प्रदेश प्रदूषण नियंत्रण बोर्ड UTTAR PRADESH POLLUTION CONTROL BOARD

संदर्भ सं- H88915/C-7/Vividh-612/Jeetu Yadav Moradabad/23

दिनांक:- 10.02.2023

पंजीकृत

सेवा में,

Shahpur Int Udyog, Shahpur Abdulwari, Kanth, Moradabad

**विषय:-** बोर्ड के पत्र दिनांक 15.05.2019 द्वारा वायु (प्रदूषण निवारण तथा नियंत्रण) अधिनियम, 1981 की धारा-31ए के अन्तर्गत जारी बन्दी आदेश का उल्लंघन कर ईट भट्टे का संचालन किये जाने के दृष्टिगत पर्यावरणीय क्षतिपूर्ति अधिरोपित किये जाने हेतु नोटिस।

महोदय,

कृपया उपरोक्त विषयक बोर्ड के पत्र दिनांक 15.05.2019 का संदर्भ ग्रहण करें जिसके द्वारा वायु (प्रदूषण निवारण तथा नियंत्रण) अधिनियम, 1981 की धारा-31ए के अन्तर्गत ईट भट्टे Shahpur Int Udyog, Shahpur Abdulwari, Kanth, Moradabad के विरुद्ध बन्दी आदेश जारी किया गया है।

क्षेत्रीय कार्यालय, उ०प्र० प्रदूषण नियंत्रण बोर्ड, मुरादाबाद के अधिकारियों द्वारा आपके ईट भट्टे का निरीक्षण दिनांक 05.02.2023 को किया गया जिसमें ईट भट्टे द्वारा बोर्ड के पत्र दिनांक 15.05.2019 द्वारा जारी उक्त बन्दी आदेश का उल्लंघन करते हुए संचालन किया जाना पाया गया जोकि पर्यावरणीय अधिनियमों, माननीय राष्ट्रीय हरित अधिकरण, नई दिल्ली द्वारा जारी आदेशों तथा बोर्ड द्वारा पूर्व में दिये गये निर्देशों का उल्लंघन है।

बोर्ड में उपलब्ध अभिलेखों के अनुसार आपका ईट भट्टा वर्ष 15.05.2019 से संचालित है। ईट भट्टे द्वारा बोर्ड के बन्दी आदेश का उल्लंघन किये जाने को दृष्टिगत रखते हुए केन्द्रीय प्रदूषण नियंत्रण बोर्ड की गाइडलाइन के अनुसार विगत 05 वर्षों हेतु कुल दिवस 1350 दिन के सापेक्ष पर्यावरणीय क्षतिपूर्ति निम्नवत् आंकलित की जाती है -

EC = P1xNxRxSxLF

EC = 50x1x250x0.5x1 (Per Day)

= Rs. 6,250/- Per Day

For 1350 days, EC=Rs. 8,437,500/-(Eighty Four Lakh Thirty Seven Thousand Five Hundered Only)

ईट भट्टा Shahpur Int Udyog, Shahpur Abdulwari, Kanth, Moradabad द्वारा किये गये उक्त उल्लंघन को दृष्टिगत रखते हुए बोर्ड को प्रदत्त शक्तियों के अधीन सक्षम अधिकारी की अनुमति से आपके ईट भट्टे के विरुद्ध Rs. 8,437,500/-(Eighty Four Lakh Thirty Seven Thousand Five Hundered Only) की पर्यावरणीय क्षतिपूर्ति अधिरोपित किये जाने हेतु नोटिस निर्गत किया जाता है।

आपको निर्देशित किया जाता है कि उक्त नोटिस का प्रतिउत्तर/प्रत्यावेदन 15 दिन के अन्दर बोर्ड मुख्यालय, लखनऊ एवं उ०प्र० प्रदूषण नियंत्रण बोर्ड, मुरादाबाद को प्रेषित करना सुनिश्चित करें अन्यथा की स्थिति में ईट भट्टे के विरुद्ध पर्यावरणीय क्षतिपूर्ति अधिरोपित कर दी जाएगी जिसकी संपूर्ण उत्तरदायिता स्वयं ईट भट्टे की होगी।

भवदीय,

(अभिषेक त्रिपाठी)  
प्रभारी, वृत्त-7

प्रतिलिपि:- क्षेत्रीय अधिकारी, उ०प्र० प्रदूषण नियंत्रण बोर्ड, मुरादाबाद को आवश्यक कार्यवाही हेतु।

10/2/2023  
प्रभारी, वृत्त-7

टी. सी. - 12 बी, विभूति खण्ड  
गोमतीनगर, लखनऊ-226010  
दूरभाष 272831, 2720828, 2720691, 2720681  
फैक्स-0522-2720764  
ई-मेल-info@uppcb.com

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Gomti Nagar, Lucknow 226010  
Phone 2720831, 2720828, 2720691, 2720681  
Fax: 0522 - 2720764  
Email: info@uppcb.com

RU44438528IN IVR:8285484438528 भारतीय डाक

RL NURADABAD HO <244001>

Counter No:3.16/02/2023,13:42

To:M/S SHANPUR EINT.UDHYOG

PIN:244501, Kanth SO

From:R.O.U.P POLL.CONTROL BOARD

Wt:15gms

Am:22.00(Cash)

<Track on [www.indiapost.gov.in](http://www.indiapost.gov.in)>

<Dial 1800266868> <Wear Masks, Stay Safe>



India Post



उत्तर प्रदेश प्रदूषण नियंत्रण बोर्ड  
UTTAR PRADESH POLLUTION CONTROL BOARD

Annexure- R/3

S-149/30

संदर्भ सं०-H92013/C-7/Vividh-612/Jectu Yadav/Moradabnd/EC/51/2023 दिनांक:-15.04.23

सेवा में,

M/s Shahpur Int Udyog, Shahpur Abdulwari, Kanth, Moradabad

विषय:- बोर्ड के पत्र सं०-एच88915/सी-7/विविध-612/जीतू यादव मुरादाबाद/23 दिनांक 10.02.2023 द्वारा बोर्ड के बन्दी आदेश का उल्लंघन कर ईट भट्टे का संचालन किये जाने हेतु निर्गत पर्यावरणीय क्षतिपूर्ति हेतु नोटिस की पुष्टि करते हुए पर्यावरणीय क्षतिपूर्ति अधिरोपित किये जाने के संबंध में।

उपरोक्त विषयक बोर्ड के पत्र सं०-एच88915/सी-7/विविध-612/जीतू यादव मुरादाबाद/23 दिनांक 10.02.2023 का संदर्भ ग्रहण करें जिसके द्वारा आपके ईट भट्टे मै0 Shahpur Int Udyog, Shahpur Abdulwari, Kanth, Moradabad द्वारा बोर्ड के पत्र दिनांक 15-05-2019 द्वारा वायु (प्रदूषण निवारण तथा नियंत्रण) अधिनियम, 1981 की धारा-33ए के अन्तर्गत जारी बन्दी आदेश का उल्लंघन कर ईट भट्टे का संचालन किये जाने के दृष्टिगत ईट भट्टे पर विगत 05 वर्षों हेतु केन्द्रीय प्रदूषण नियंत्रण बोर्ड की गाइडलाइन के अनुसार रू0 84,37,500/- (रू0 चौरासी लाख सैंतीस हजार पाँच सौ मात्र) की पर्यावरणीय क्षतिपूर्ति अधिरोपित किये जाने हेतु नोटिस प्रेषित किया गया था। आप द्वारा उक्त नोटिस के कम में प्रत्यावेदन/उचित तथ्य बोर्ड में प्रस्तुत नहीं किया गया है।

उक्त को दृष्टिगत रखते हुए आप द्वारा बोर्ड के बन्दी आदेश का उल्लंघन करते हुए ईट भट्टे का संचालन किये जाने के दृष्टिगत आपके ईट भट्टे मै0 Shahpur Int Udyog, Shahpur Abdulwari, Kanth, Moradabad के विरुद्ध रू0 84,37,500/- (रू0 चौरासी लाख सैंतीस हजार पाँच सौ मात्र) की पर्यावरणीय क्षतिपूर्ति अधिरोपित की जाती है।

आपको निर्देशित किया जाता है कि उक्त पर्यावरणीय क्षतिपूर्ति धनराशि रू0 84,37,500/- (रू0 चौरासी लाख सैंतीस हजार पाँच सौ मात्र) को उ0प्र0 प्रदूषण नियंत्रण बोर्ड के यूनियन बैंक आफ इण्डिया, विभूतिखण्ड, गोमतीनगर, लखनऊ स्थित बैंक के खाता सं०-701502010002104 आईएफ0एस0 कोड-UBIN0570150 में 15 दिन के अन्दर जमा करते हुए बोर्ड मुख्यालय, लखनऊ एवं क्षेत्रीय कार्यालय, मुरादाबाद को सूचित करना सुनिश्चित करें।

भवदीय,

(विवेक राय)

मुख्य पर्यावरण अधिकारी, वृत्त-7

प्रतिलिपि:-क्षेत्रीय अधिकारी, उ0प्र0 प्रदूषण नियंत्रण बोर्ड, मुरादाबाद को आवश्यक कार्यवाही हेतु।

Vivek Ray

मुख्य पर्यावरण अधिकारी, वृत्त-7