BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
APPEAL NO. 28 of 2025

IN THE MATTER OF:

Bajaj Hindustan Sugar Ltd. …Appellant

Vs.

MoEF & CC & Anr. ...Respondents

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1.	**Reply** on behalf of CPCB respondent no. 2 in compliance to Hon'ble NGT order dated 13.02.2026 in Appeal No. 28/2025.	
2.	**Annexure I-** A Copy of Hon'ble NGT order dated 13.02.2026 in Appeal No. 28/2025.	
3.	**Annexure II-** A copy of reply dated 17.11.2025 filed by CPCB before Hon'ble NGT, PB.	

Filed by Advocate Atif Suhrawardy
On behalf of Central Pollution Control Board

Place: Delhi
Dated: 13.05.2026

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
APPEAL NO. 28 of 2025

IN THE MATTER OF:

Bajaj Hindustan Sugar Ltd. ...Appellant

Vs.

MoEF & CC & Anr. ...Respondents

REPLY ON BEHALF OF THE RESPONDENT No. 2, CENTRAL POLLUTION CONTROL BOARD

MOST RESPECTFULLY SHOWETH:

1. That, Central Pollution Control Board (hereinafter referred as CPCB) is constituted under Section 3 of The Water (Prevention and control of Pollution) Act, 1974. It performs the functions under the Water (Prevention and control of Pollution) Act 1974 (hereinafter referred as Water Act), the Air (Prevention and control of Pollution) Act, 1981 (hereinafter referred as Air Act) and the Environment (Protection) Act, 1986.

2. That the State Pollution Control Boards (hereinafter referred to as "SPCBs") and Pollution Control Committees (hereinafter referred to as "PCCs") have been constituted in States/Union Territories under the Water Act, 1974 and the Air Act, 1981 and are empowered to implement the provisions of these Acts in respect of their Territorial Jurisdictions.

3. That, the Hon'ble NGT has vide its order dated 13.02.2026 directed the following-

"...1. Learned counsel appearing for the Appellant submits that the original record is necessary to examine the compliance of the

NOTARY PUBLIC R.L. Chaudhary N.C.T. of Delhi Regd. No. 1513 GOVT. OF INDIA

various provisions of the Rule while passing the order impugned in these Appeals.

2. Hence, the CPCB is directed to produce the original record in each of the Appeal leading to passing of the order impugned in that Appeal. Let a copy of the same be filed in the respective Appeal within three weeks. It will be open to the counsel for the Appellant to examine the same..."

A true copy of the Hon'ble National Green Tribunal order dated 13.02.2026 is marked and annexed herewith as **Annexure-I.**

4. That, it is humbly submitted that in compliance with the Hon'ble NGT order dated 21.08.2025 passed in the instant matter, CPCB had filed scanned copies of available official records as annexures alongwith, its reply filed on 17.11.2025 and therefore seeks the liberty of the Hon'ble Tribunal to rely upon the same to show compliance of order dated 13.02.2026 passed by this Hon'ble tribunal.

A true copy of the aforesaid reply dated 17.11.2025 is annexed herewith and marked as **Annexure–II.**

5. That, in the light of the above submissions, it is respectfully submitted that the Hon'ble Tribunal may dismiss the present appeal as the same is devoid of merit and with cost, and the CPCB shall abide by any order(s) or direction(s) passed by this Hon'ble Court in the instant appeal.

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(Dinabandhu Gouda)
Scientist 'F'
Central Pollution Control Board
13.05.2026

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
APPEAL NO. 28 of 2025

IN THE MATTER OF:

Bajaj Hindustan Sugar Ltd. …Appellant

Vs.

MoEF & CC & Anr. ...Respondents

AFFIDAVIT

I, Dinabandhu Gouda, working as Scientist 'F' in Central Pollution Control Board, Parivesh Bhawan, East Arjun Nagar, Delhi, the Respondent No.2 in the above matter, do hereby solemnly affirm, declare on oath and state as under:-

1. That I, the deponent herein, is well conversant with the facts and circumstances of the present case based on the information derived from the official records, and hence, I am competent to verify, sign and swear this affidavit on behalf of the Respondent CPCB.

2. That the accompanying reply may be read part and parcel of the present affidavit, as I am competent to swear this affidavit.

3. That the accompanying reply has been drafted and filed under my instructions, the contents thereof are true and correct based on the record maintained during the ordinary course of business of CPCB and available records and documents and the contents of the same are read over and explained to me and are not repeated herein for the sake of brevity.

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DEPONENT

दीनबन्धु गौड़ा / Dinabandhu Gauda
वैज्ञानिक 'च' / Scientist 'F'
केन्द्रीय प्रदूषण नियंत्रण बोर्ड
Central Pollution Control Board
(पर्यावरण, वन और जलवायु परिवर्तन मंत्रालय, भारत सरकार)
(M/o Environment, Forest & Climate Change, Govt. of India)
परिवेश भवन, पूर्वी अर्जुन नगर, दिल्ली–110032
Parivesh Bhawan, East Arjun Nagar, Delhi-110032

VERIFICATION:

Verified at Delhi on this 13 MAY- 2026 day of May 2026 that the contents above are correct and true based on the records of the case as mentioned in the day-to-day affairs of the CPCB. Nothing has been concealed therefrom or misstated.

NOTARY PUBLIC
R.L. Chaudhary
N.C.T. of Delhi
Regd. No. 1513
GOVT. OF INDIA

ATTESTED
NOTARY PUBLIC
GOVT. OF INDIA
13 MAY 2026

DEPONENT

दीनबन्धु गौड़ा / Dinabandhu Gauda
वैज्ञानिक 'घ' / Scientist 'F'
केंद्रीय प्रदूषण नियंत्रण बोर्ड
Central Pollution Control Board
(पर्यावरण, वन और जलवायु परिवर्तन मंत्रालय, भारत सरकार)
(M/o Environment, Forest & Climate Change, Govt. of India)
परिवेश भवन, पूर्वी अर्जुन नगर, दिल्ली–110032
Parivesh Bhawan, East Arjun Nagar, Delhi-110032

Annexure- I

Item Nos. 11to13 Court No. 1

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Appeal No. 27/2025
(IA No 284/2025, IA No 326/2025)
With
Appeal No. 28/2025
(IA No 285/2025, IA No 327/2025)
With
Appeal No. 30/2025
(IA No 288/2025, IA No 302/2025)

M/s Bajaj Hindusthan Sugar Limited Appellant

Versus

Ministry of Environment Forest
and Climate Change & Ors. Respondent(s)

Date of hearing: 13.02.2026

CORAM: HON'BLE MR. JUSTICE PRAKASH SHRIVASTAVA, CHAIRPERSON
HON'BLE DR. A. SENTHIL VEL EXPERT MEMBER

Appellant: Mr. Sanjeev Kumar Singh & Mr. Bhishm Pratap Singh, Advocates for Appellant in Appeal No. 27/2025
Mr. Alok Krishna Aggarwal, Mr. Sanjeev Kumar Singh & Mr. Bhishm Pratap Singh, Advocates for Appellants in Appeal No. 28 & 30/2025

Respondents: Mr. Balendu Shekhar & Ms. Tanisha Samanta, Advs. for CPCB in Appeal 27/2025.
Mr. Atif Suhrawardy & Mr. Pankaj Kumar, Advs. for CPCB in Appeal 28 & 30/2025 (Through VC)

ORDER

1. Learned counsel appearing for the Appellant submits that the original record is necessary to examine the compliance of the various provisions of the Rule while passing the order impugned in these Appeals.

2. Hence, the CPCB is directed to produce the original record in each of the Appeal leading to passing of the order impugned in that Appeal. Let a copy of the same be filed in the respective Appeal within three weeks. It will be open to the counsel for the Appellant to examine the same.

3. List for hearing on 14.05.2026.

Prakash Shrivastava, CP

Dr. A. Senthil Vel, EM

February 13, 2026
Appeal Nos. 27/2025, 28/2025 & 30/2025
A

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

Appeal No. 28/2025

In the matter of: -

Bajaj Hindustan Sugar Ltd. Appellant

Vs.

MoEF & CC Anr. Respondents

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3.	**Annexure II**- A copy of closure directions dated 19.03.2018	
4.	**Annexure III**- A copy of revocation directions dated 22.10.2018	
5.	**Annexure IV**- A copy of inspection report of the unit inspection carried out on 26.03.2019.	
6.	**Annexure V**- A copy of CPCB circular dated 15.05.2019.	
7.	**Annexure VI**- A copy of Closure directions dated 30.05.2019.	
8.	**Annexure VII**- A copy of CPCB EC policy dated 04.09.2019	
9.	**Annexure VIII**- A copy of Counter Affidavit dated 02.12.2019 in Hon'ble Supreme Court of India.	
10.	**Annexure IX**-A copy of revocation directions dated 30.10.2019.	
11.	**Annexure X**- A copy of the Hon'ble NGT order dated 31.08.2018.	
12.	**Annexure XI**- A copy of report of the CPCB In-house Committee on Methodology for Assessing Environmental Compensation and Action Plan to Utilize the Fund .	

Satif

Filed by Advocate Atif Suhrawardy
On behalf of Central Pollution Control Board

Place: Delhi
Dated: 17.11.2025

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

Appeal No. 28/2025

In the matter of: -

Bajaj Hindustan Sugar Ltd. Appellant

Vs.

MoEF & CC Anr. Respondents

REPLY ON BEHALF OF RESPONDENT NO. 2 CENTRAL POLLUTION CONTROL BOARD PARIVESH BHAWAN, EAST ARJUN NAGAR, DELHI-110032.

IT IS SUBMITTED AS UNDER:-

PRELIMINARY SUBMISSIONS :-

1. That, Central Pollution Control Board (hereinafter referred as CPCB) is a statutory Board constituted under Section 3 of The Water (Prevention and control of Pollution) Act, 1974. It performs the functions under the Water (Prevention and control of Pollution) Act 1974 (hereinafter Water Act), the Air (Prevention and control of Pollution) Act, 1981 (hereinafter Air Act) and the Environment (Protection) Act, 1986.

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2. That at the outset, this answering respondent denies all claims, contentions, allegations and averments against answering respondent, CPCB in the above appeal contrary to anything stated or submitted in this reply. Nothing in the appeal may be deemed to have been accepted or admitted by the answering respondent for want of a specific denial or on the ground of non- traverse, save any averment which has been expressly admitted hereinafter.

3. That, Hon'ble NGT has vide its orders dated 21.04.2025 and 21.08.2025 sought the reply of CPCB in the instant matter. Thereby, the reply is made in succeeding paragraphs.

4. That, the Hon'ble NGT has vide its order dated 21.08.2025 directed the following:

"..1. *Learned Counsel appearing for the Respondent-Central Pollution Control Board seeks four weeks' time to file the reply. He is also directed to produce a copy of the original record on the basis of which the order impugned in this Appeal has been passed on the next date of hearing.*"

5. That, a brief chronological summary of the inspections carried out and actions taken by the respondent pertaining to M/s Bajaj Hindustan Sugar Ltd., Barkhera, Pilibhit (hereinafter referred as "the unit") are as follows:

Sl No.	Date	Event	Key observations/directions
	31.01.2018	CPCB inspected the unit (**Inspection Report – Annexure I**)	The unit was found non-complying for bypassing of untreated effluent and having BOD-366 mg/l against the norms of 30 mg/l, COD-786 mg/l against the norms of 250 mg/l and TSS-68.6 mg/l against the norms of 30 mg/l.
2	19.03.2018	CPCB issued closure directions under Section of E(P) Act, 1986 (**Annexure II**)	To close down operations with immediate effect until the compliance of CPCB directions.

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3	22.10.2018	CPCB issued revocation directions (**Annexure III**)	To resume operation after obtaining valid consent to operate from Uttar Pradesh Pollution Control Board (UPPCB).
4	26.03.2019	CPCB inspected the unit (Inspection report **Annexure IV)**	The unit was found non-complying w.r.t BOD, COD & TSS in samples collected from lagoon
5	15.05.2019	CPCB circular dated 15.05.2019 issued to maintain uniformity in action towards imposing EC for sugar mills (**Annexure V**)	-

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6	30.05.2019	CPCB issued closure directions under Section 5 of the Environment (Protection) Act, 1986 wherein Environmental Compensation of Rs. 1,36,50,000/- was levied in compliance of NGT order dated 31.08.2018 (**Annexure VI**)	**1.** The unit shall immediately close down all its manufacturing operations with immediate effect and shall not resume its operations. **2.** The unit shall submit adequacy assessment of treatment facility by reputed govt. institute including work completion report regarding implementation of the recommendations of the adequacy report within 45 days. **3.** The Unit shall seek permission from CPCB, after compliance of the above directions, before resumption of operation. **4.** The unit shall deposit Rs.1,36,50,000/- within 15 days from the date of receipt of direction in CPCB A/c No. 532702050000164 (Bank name: Union Bank of India, IP Extension Branch, Vikas Marg Extn., Delhi; IFSC: UBIN0553271) towards environmental compensation. **5.** As per the methodology for assessing penalty and environmental compensation, the EC to be levied to the unit is calculated as Rs. 27,30,000/- for non-compliance period 31.01.2018 (Date of inspection) to 01.05.2018 (Date of end of crushing season) for the crushing season 2017-18 and Rs. 1,09,20,000/- for the non-compliance period 14.11.2018 – 14.05.2019 (Date of commencement of crushing season to date of draft direction for crushing season 2018-19).

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7	05.07.2019	Hon'ble High Court of Delhi vide its order dated 05.07.2019 disposed off the petition challenging the direction of Hon'ble NGT by way of W.P.(C) No.7167 of 2019	"The court does not consider it appropriate to entertain the present petition and the same is disposed of leaving it open for the petitioner to avail of alternative remedies".
8	09.08.2019	Hon'ble Supreme Court in its order dated 09.08.2019 gave interim protection to the unit in SLP (C) No. 18356/2019 which was filed by the unit	Hon'ble Supreme Court granted *interim stay* on the demand of penalty imposed by the CPCB.
9	04.09.2019	CPCB issued office order "Policy for levying environmental compensation (EC) for industries " **(Annexure VII)**	EC for the closure direction issued on the ground of non-compliance of prescribed discharge/ emission norms shall be applied for the period between date of inspection & monitoring to date of closing of manufacturing operation.
10	02.12.2019	CPCB filed- Counter Affidavit dated 02.12.2019 in Hon'ble Supreme Court of India (**Annexure VIII**)	

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11	30.09.2019	Unit submitted reply	Compliance of directions dated 30.05.2019
12	31.10.2019	CPCB issued revocation directions **(Annexure IX)**	1. The unit may resume its operation only after obtaining the valid consent from Uttar Pradesh State Pollution Control Board. 2. The unit shall submit performance assessment of effluent treatment plant including analysis of treated effluents by the reputed government institute within 60 days of resumption of operation. 3. The unit shall inform CPCB about resumption of manufacturing operations. 4. EC was recalculated as Rs. 6,90,000 for the date of inspection (26.03.2019) to date of end of operations in crushing season 2018-19 (17.04.2019).
13	24.02.2025	Hon'ble Supreme Court disposed off the matter	"….3. *In view of the aforesaid observation of the High Court and upon hearing learned counsel for the parties, we are also of the opinion that the petitioner(s) can seek remedies with regard to the impugned orders of the CPCB before the NGT."*

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			4. We accordingly, allow the petitioner(s) four weeks' time to approach the NGT against the orders dated 30.05.2019 and 17/22.05.2019 passed by the CPCB as also the subsequent order(s), if any passed by the CPCB which shall be considered on its own merits."
14	21.04.2025 & 21.08.2025	Unit filed Appeal no. 28/2025 in Hon'ble NGT	*"Learned Counsel appearing for the respondent Central Pollution Control Board seeks four weeks' time to file the reply. He is also directed to produce a copy of the original record on the basis of which the order impugned in this Appeal has been passed on the next date of hearing."*

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6. That, with regard to submitting copy of original record on the basis of which order impugned dated 30.05.2019 in Appeal no. 28/2025 has been assed, it is humbly submitted that the relevant copy of original records as currently available with CPCB are being submitted herewith as below:

i. Copy of inspection report of inspection carried out on 31.01.2018 (attached as **Annexure I)**
ii. Copy of closure directions dated 19.03.2018 (attached as **Annexure II)**
iii. Copy of revocation directions dated 22.10.2018 (attached as **Annexure III)**
iv. Copy of inspection report of the unit inspection carried out on 26.03.2019 (attached as **Annexure IV)**
v. CPCB circular dated 15.05.2019 (attached as **Annexure V)**

vi. Copy of Closure directions dated 30.05.2019 (attached as **Annexure VI)**

vii. CPCB EC policy dated 04.09.2019 (attached as **Annexure VII)**

viii. Counter Affidavit dated 02.12.2019 in Hon'ble Supreme Court of India (attached as **Annexure VIII)**

ix. Copy of revocation directions dated 30.10.2019 (attached as **Annexure IX)**

REPLY ON MERIT:-

1. That with regard to averments made in para 1 of the appeal, it is humbly submitted that as already mentioned in the chronology given in the above mentioned paragraphs, CPCB had issued closure directions dated 30.05.2019 along with an Environmental compensation (EC) of Rs. 1,36,50,000/- due to repeated non-compliance of the unit. However, the same were revoked and EC recalculated as Rs. 6,90,000/- which was communicated to the unit vide directions dated 31.10.2019.

i. It is also submitted that the Respondent has been authorized to levy environmental compensation by Hon'ble National Green Tribunal vide order dated 31.08.2018 in Paryavaran Suraksha Samiti & Anr. Vs. Union of India & Ors, Original Application No. 593/2017 (W.P. (Civil) No. 375/2012):

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"1. *This matter was taken by this Tribunal in furtherance to the orders of the Hon'ble Supreme Court dated 22.02.2017 Paryavaran Suraksha Samiti Vs. Union of India (2017) 5 SCC 326, establishment and functioning of ETPs/CETP/STPs.*

6. *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."

A copy of the order dated 31.08.2018 is placed at **Annexure X.**

ii. That the Hon'ble National Green Tribunal further directed through order dated 19.02.2019 in Paryavaran Suraksha Samiti & Anr. Vs. Union of India & Ors, Original Application No. 593/2017 (W.P. (Civil) No. 375/2012):

"The report dated 12.12.2018 annexes an amended Annexure 7 which relates to "Methodology for assessing penalty and environmental compensation and action plan to utilize the fund."

The methodology for assessing the Environmental Compensation and Action Plan to utilize the fund were placed before the Hon'ble National Green Tribunal and the Hon'ble Tribunal quoted the following: "*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):*

1. *Discharges in violation of consent conditions, mainly prescribed standards/ consent limits.*
2. *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.*
3. *Intentional avoidance of data submission or data manipulation by tampering Online Continuous Emission/ Effluent Monitoring System."*

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Copy of the Methodology document is annexed as **Annexure XI.**

2. That, no comments are needed over the averments made in sub-para (i) to (v) of Para 2 under Factual Matrix of the appeal being introductory in nature.

3. That, no comments are offered over the averments made in sub-para (vi) of Para 2 under Factual Matrix wherein reference of UPPCB letter dated 13.10.2025 is made.

4. That, with respect to the averments made in sub-para (vii) to (xi) of Para 2 under Factual Matrix, this answering respondent submits that the details of the Environmental Compensation levied by CPCB have been tabulated at Sl No 6 & 12 of above Table mentioning the chronological summary.

5. That, with respect to the averments made in sub-para (xii) to (xvii) of Para 2 under Factual Matrix, this answering respondent humbly submits the following: -

   a. The unit was inspected by CPCB, RD, Lucknow on 04.01.2017 and was found non-complying for by passing untreated wastewater into river Amedhi which meets to Garra River and is finally discharge to River Ganga. The concentration of parameters reported was BOD-367mg/l against standard of 30mg/l & TSS-402mg/l against standard of 30mg/1. The MLSS concentration in the aeration tank was found to be 988 mg/l indicating poor operation and maintenance of ETP.

   b. The unit was thus issued closure directions under section 5 of E(P) Act, 1986 dated 05.06.2017 till the compliance of CPCB directions.

   c. The unit submitted adequacy reports validated by NSI, Kanpur on 12.10.2017 which was examined by a three-member committee having representatives from CPCB, MoEF&CC and NMCG constituted by CPCB vide office order dated 27.09.2017 for examination. The three-member committee in its meeting dated 24.10.2017 after examination of the documents submitted by the unit, recommended that the unit may be allowed to resume operation and shall implement the recommendations of the adequacy report and get it verified including performance assessment

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of the ETP system and submit the same to CPCB within 45 days of resumption of operation. The unit was thus issued directions dated 08.11.2017 to start its operation only after obtaining valid consent from the concerned State Pollution Control Board.

6. That, with respect to the averments made in sub-para (xviii) to (xxiii) of Para 2 under Factual Matrix this answering respondent submits the following:

a. The unit was again inspected on 31.01.2018 by CPCB and was found non-complying due to the following reasons:

i. The ETP was not fully operational.

ii. No discharge was observed at the ETP outlet at the time of inspection and the secondary clarifier was also only partially filled. The ETP inlet was found blocked deliberately by a piece of wood which shows possibility of bypassing untreated effluent.

iii. The lagoon was found totally empty.

iv. Analysis results taken from secondary clarifier show pH- 7.42, BOD -720 mg/l and COD – 1715 mg/l which indicate that the ETP was unstabilized.

v. A closed circular channel was noticed started from nearby the unit which was open after 1 km approx. Analysis results of the sample collected from the channel showed BOD- 366 mg/l, COD-786 mg/l and TSS- 68.6 mg/l.

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b. The unit was thus issued closure directions dated 19.03.2018 to close down all manufacturing operations immediately, dismantle the bypass arrangement and install and commission ETP upto tertiary treatment level.

c. The unit submitted adequacy report and implementation status of the "Charter for Effluent treatment by sugar factories situated in River Ganga

basin" vide letters dated 07.05.2018, 20.07.2018 and 24.09.2018 which were examined by the Three-member committee in its meeting dated 04.10.2018 and recommended that the unit may resume operations.

d. The unit was thus issued revocation directions dated 22.10.2018 to resume operations after obtaining valid consent from Uttar Pradesh Pollution Control Board.

7. That, with respect to the averments made in sub-para (xxiv), this answering respondent (R-2) reiterates the comments made in para 1 of this reply and the same are not repeated herein for the sake of brevity.

8. That, with respect to the averments made in sub-para (xxv) to (xxix) of Para 2 under Factual Matrix, this answering respondent reiterates the contents made in para's under preliminary submission of this reply and the same are not repeated herein for the sake of brevity.

9. That, no comments are offered over the averments made in sub-para (xxx) to (xxxix) of Para 2 being matter of records.

REPLY ON GROUNDS:-

10. That, with regard to the averments made in para A under the heading Grounds of the appeal, this answering respondent (R-2) reiterates the contents made in para's under preliminary submission of this reply and the same are not repeated herein for the sake of brevity.

11. That, no comments are offered over the averments made in para's B to O under the heading Grounds of the appeal.

12. That, with regard to the averments made in para P and Q under the heading Grounds of the appeal, this answering respondent reiterates the contents made in para's under preliminary submission which clearly show that the unit is a habitual offender.

13. That, with regard to the averments made in para's R and S under the heading Grounds of the appeal, this answering respondent submits that the Environmental Compensation levied by CPCB have been imposed on the basis of inspections carried out on 31.01.2018 and 26.03.2019 during which the unit was found non-complying.

14. That, with regard to the averments made in para T under the heading Grounds of the appeal, this answering respondent reiterates the submissions made under preliminary submissions of this reply and the same are not repeated herein for the sake of brevity.

15. That, with regard to the averments made in para U under the heading Grounds of the appeal, this answering respondent humbly submits that as the unit has a legal obligation of running the unit, similarly it, is also bound to meet the compliance standards as per the provisions of Environment (Protection) Act, 1986.

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16. That, no comments are offered by the answering respondent herein over the averments made in para V under the heading Grounds of the appeal.

17. That, no comments are offered by the answering respondent herein over the averments made in para's 3 to 6 of the appeal.

18. That the prayer made in the appeal by the appellant is not admitted and is denied.

19. That, the answering respondent craves leave of the Hon'ble Tribunal to file additional reply, if required, in future.

20. That, in the light of the above submissions, it is respectfully submitted that this Answering Respondent, i.e., CPCB to dismissed the present appeal as the same is devoid of merit and with cost and the CPCB shall abide by any order(s) or direction(s) passed by this Hon'ble Court in the instant appeal.

(Dinabandhu Gouda)
Scientist 'F'
Central Pollution Control Board
17.11.2025

NOTARY PUBLIC
R.L. Chaudhary
N.C.T. of Delhi
Regd. No. 1513
GOVT. OF INDIA

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

Appeal No. 28/2025

In the matter of: -

Bajaj Hindustan Sugar Ltd. Appellant

Vs.

MoEF & CC Anr. Respondents

AFFIDAVIT

I, **Dinabandhu Gouda** working as Scientist 'F' in Central Pollution Control Board, Parivesh Bhawan, East Arjun Nagar, Delhi, the Respondent No. 3 in the above matter, do hereby solemnly affirm, declare on oath and state as under:-

1. That I, the deponent herein is well conversant with the facts and circumstances of the present case on the basis of the information derived from the official records, and hence, I am competent to verify, sign and swear this affidavit on behalf of the Respondent CPCB.

NOTARY PUBLIC R.L. Chaudhary N.C.T. of Delhi Regd. No. 1513 GOVT. OF INDIA

2. That the accompanying reply may be read part and parcel of the present affidavit as I am competent to swear this affidavit.

3. That the accompanying reply has been drafted and filed under my instructions and authority the contents thereof are true and correct on the basis of the record maintained during ordinary course of business of CPCB and available records and documents and the contents of the same are read over and explained to me and are not repeated herein for the sake of brevity.

DEPONENT

दीनबन्धु गौड़ा / Dinabandhu Gouda
प्रभागीय प्रमुख, डब्ल्यू एस-II / Division Head, WSS-II
केंद्रीय प्रदूषण नियंत्रण बोर्ड
Central Pollution Control Board
(पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय, भारत सरकार)
(M/o Environment, Forest & Climate Change, Govt. of India)
परिवेश भवन, पूर्वी अर्जुन नगर, दिल्ली-110032
Parivesh Bhawan, East Arjun Nagar, Delhi-110032

VERIFICATION:

Verified at New Delhi on this 17 NOV day of 2025 2025 that the contents of the above reply are correct and true on the basis of the records of the case as mentioned in the day-to-day affairs of the CPCB. Nothing has been concealed therefrom or mis-stated.

DEPONENT

NOTARY PUBLIC * GOVT. OF INDIA * R.L. Chaudhary N.C.T. of Delhi Regd. No. 1513

दीनबन्धु गौड़ा / Dinabandhu Gouda
सहायक प्रमुख, डब्लू एम-II / Division Head, WMD-II
केन्द्रीय प्रदूषण नियंत्रण बोर्ड
Central Pollution Control Board
(पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय, भारत सरकार)
(M/o Environment, Forest & Climate Change, Govt. of India)
परिवेश भवन, पूर्वी अर्जुन नगर, दिल्ली-110032
Parivesh Bhawan, East Arjun Nagar, Delhi-110032

ATTESTED
NOTARY PUBLIC
GOVT. OF INDIA
17 NOV 2025

cpcb	**CENTRAL POLLUTION CONTROL BOARD** **Regional Directorate (North), Lucknow**

REPORT ON VISIT TO SUGAR FACTORY DURING SEASON FOR VALIDATION OF ETP PERFORMANCE

1. GENERAL INFORMATION

1	**Name and address of the factory**	M/s Bajaj Hindustan Ltd, Barkhera, Pilibhit- 262203 Uttar Pradesh	
2	**License capacity of sugar factory (TCD)**	10000 TCD	
3	**Average actual crush rate (TCD**	7500 TCD	
4	**Period of visit**	31-01-2018	
5.	**Factory officials interacted**	**Designation**	**Contact No & e- mail**
	1. Sh. G.B. Chaturvedi	G.M. (Production)	Mob- 7409000128, Email- gvchaturvedi.brk@bajajenergy.com
	2. Sh. Prashant Singh	EHS Officer	Mob- 9720169335 Email- ehsbepl.brk@bajajenergy.com

2. OPERATIONAL INFORMATION

S.NO.	PARTICULAR		REMARK
1	**Sources of fresh water**	Borewell	3 Nos.
2	**Fresh water consumption (m^3/hr)**		
	a. Sugar plant	Total: 15.97 m^3/hr Section wise details not available with unit. Section wise Flowmeter not installed.	As per record available at the unit.
	b. co-generation		
	c. Residential etc.		
3	Hot & Cold water recycling system **(Yes/No.)**	Yes	
	Details of Hot & Cold water UGR and cooling towers.	Cold Water UGR- 1 nos. Hot Water UGR- NA **Cooling Tower:** Sugar Cooling Tower Co-Gen Cooling Tower FRP Cooling Tower1 FRP Cooling Tower2	2000 m^3 9000 m^3/hr 4400 m^3/hr 600 m^3/hr 150 m^3/hr

		FTSB & MVC Hot Water Cooling Tower	200 m^3/hr
4	**Waste water (Influent) generation (m^3/hr)**		
	a. Cooling tower over flow	Section wise details not available with unit. Flowmeter not installed.	
	b. Mills, boiling house, D.M./ R.O. Plant boilers etc.		
	c. Co-generation		
	d. Brine solution reject after regeneration.	NA	
	e. IER wash water generation.	NA	
	f. Brine reject from brine recovery system	NA	
	g. Reject acid after regeneration of IER column.	NA	
	h. Common / total influent generation.	43.12 m^3/hr	Calculated as per data available in adequacy report of the unit prepared by NSI.
5.	**Details of flow meters provided as per the recommendation of NSI in Adequacy report.**		
	a. Cooling Tower over flow.	Not Installed	
	b. At ETP inlet.	Installed	
	c. At ETP outlet.	Installed	
	d. For cold and hot water usage.	Not Installed	
	e. Other places of effluent generation	Not Installed	
6.	Total waste water (effluent) generation, Litres/ton of cane	138 litres/ton of cane	As per adequacy report of the unit prepared by NSI.
7.	Provision of separate spray pond overflow treatment (Yes/No)	No Spray Pond at the unit.	Instead of spray pond cooling towers being used.
8.	Schematic diagram of ETP.	Enclosed	Annexure-10 enclosed.
9.	Brief description of spray pond over flow treatment process	NA	
10.	Details of tube cleaning method adopted either by chemical or by hydrojet or any other appropriate method.	Chemical + Mechanical	Chemical- Caustic Soda. Hot water used instead of cold water.
11.	Condensate polishing system adopted by the factory (Yes/No)	Yes	
	If yes -then provide the details of condensate polishing system-	Condensate Polishing Tank- 3 nos. each 600 m^3 capacity.	

12.	Aeration in equalization tank (Yes/No)	Yes	
13.	Type of aeration in aeration tank	Diffuser System	
14.	Tertiary treatment (Yes/No)	Yes	Installed MGF & ACF
15.	Rain water harvesting system adopted **(Yes/No.)**	No	
16.	**Retention time (Min/Hr)**	**For 7500 TCD**	
	a. Oil & grease tank	Approx. 1 hrs	
	b. Equalization tank	Approx. 6.5 hrs	
	c. Primary clarifier	Approx. 8 hrs	
	d. Aeration tank	Approx. 51 hrs	
	e. Secondary clarifier	Approx. 8 hrs	
	f. Sludge drying bed	-	6 Nos. (approx. 24 m^2 surface area each) Total Vol- 288 m^3 approx.
	f. Sand/multi grade filter	Installed	Capacity details not provided.
	g. Activated carbon filter	Installed	-do-
17.	Any further treatment after ETP (Yes/No)	No	
18.	Brief treatment process , if yes	-	

19.	**ETP Analysis (performance parameters), average value**	**As per record**	**As per sample taken during the visit**
A	**Details of laboratory facilities for analysis (Manpower & instruments availability.)**	Laboratory facilities available (BOD Incubator, COD Digestor Unit, Hot Oven, pH meter, TDS meter).	No qualified manpower for laboratory work.
B	**Inlet**		
	a. Effluent flow rate (m^3/hr)	20 to 70	10 m^3/hr
	b. Sulphate (mg/L)	NA	967
	c. pH	8.2	5.57
	d. COD (mg/L)	396	1145
	e. BOD (mg/L)	76	605
	f. TSS (mg/L)	88	115
	g. TDS (mg/L)	NA	2559

	h. Oil & Grease	6.4	5.71
C	**Outlet**		
	a. Effluent flow rate (m^3/hr)	20 to 70	0 m^3/hr
	b. Sulphate (mg/L)	-	During visit no discharge at ETP outlet due to secondary clarifier was emptied deliberately by ½ of its volume. Hence sample was not collected.
	c. pH	7.2	
	d. COD (mg/L)	116	
	e. BOD (mg/L)	16	
	f. TSS (mg/L)	18.4	
	g. TDS (mg/L)	NA	
	h. Oil & Grease	BDL	
D.	**Online monitoring system details & data shared with CPCB/SPCB.**		
	a. Effluent flow rate (m^3/hr)	0 m^3/hr	
	b. pH	7.71	
	c. COD (mg/L)	169.82	
	d. BOD (mg/L)	18.01	
	e. TSS (mg/L)	16.37	
	f. TDS (mg/L)	NA	
20.	**ETP Analysis (other parameters), average value**		
	a. MLSS (mg/L) in **Aeration Tank**	NA	1770 mg/l
	b. DO (mg/L) in **Aeration Tank**	NA	2.5 mg/l
	c. Sulphate content (mg/L) in **Secondary Clarifier**	NA	283 mg/l
21.	**Storage of treated effluent**		
	a. No & size of lagoons	1 (Size- 9000 m^3)	
	b. Retention time	9 days	
	c. Lagoon type- permeable/impermeable	Impermeable	Empty during visit.
22.	**Recirculation of treated effluent in sugar plant**		
	consumption point	**Quantity consumed (m^3/hr)/% cane**	**Measured/Estimated**
	a. Wet Scrubber	15.63 m^3/hr	
	b.		
23.	Manpower employed for ETP operation & maintenance.	EHS Officer- 1 Chemist- 3 Operator- 3	
24.	**Details of irrigation system & treated effluent used quantity.**	Distribution system available but unsatisfactory.	
	a. Own land area for irrigation	13.61 Hectare	
	b. Farmer land area and their agreement.	189 Hectare	

Vijay Kumar

3. OBSERVATIONS & RECOMMENDATIONS

1. At the time of inspection, the unit was found operational and cane crushing was going on.
2. The unit does not have valid consent under water & air act. The consent has been expired on 31-12-2017 and the unit has applied for the renewal of same.
3. The unit did not get the verification and implementation status of the recommendations made in adequacy report by NSI.
4. The unit has a baggase based co-generation of 34 MW within the premises.
5. The ETP was found not fully operational.
6. The ETP consists of, bar screen, oil & grease tank, chemical mixing tank, equalization tank, primary clarifier, aeration tank, secondary clarifier, polishing tank, sand filter, carbon filter, sludge drying beds etc.
7. The OCEMS was installed on the final discharge pipe line of ETP.
8. The unit has no spray pond. As reported by the unit representative cooling towers are being used by the unit instead of spray pond.
9. The effluent generated from cleaning process is alkaline in nature and gradually feed into the inlet of the existing ETP.
10. Flowmeters were found installed at all three borewells, ETP inlet & outlet etc.
11. The unit has not installed flow meters at various locations i.e. Mills, D.M./ R.O. Plant, boilers, cleaning process etc for waste water generation.
12. The unit has a seepage proof lined lagoon of 9000 m3 capacity to stored treated water having 9 days holding capacity.
13. The existing lagoon of the unit was found totally empty.
14. During visit no discharge at ETP outlet, secondary clarifier was half filled. Hence sample was not collected from the ETP outlet. The ETP inlet channel was also found blocked deliberately by a piece of wooden. It shows possibility of bypassing untreated effluent through underground channel.
15. A closed circular channel was noticed started from nearby the unit which was open after 1 km approximately. At the end of closed circular channel, effluent was found logged in open channel which goes through agricultural land to probably nearby stream. A sample from this point was also collected to see the quality of effluent. The analysis result of this sample was pH- 6.55, BOD- 366 mg/l, COD- 786 mg/l, TSS- 68.6 mg/l, and TDS- 2010 mg/l and Sulphate- 589 mg/l that clearly indicates that it was an untreated effluent of sugar industry.
16. Since no discharge from the ETP outlet during visit, samples only from ETP inlet, aeration tank and secondary clarifier was collected to see the status of the ETP.
17. The analysis results of ETP secondary clarifier sample are pH- 7.42, BOD- 720 mg/l, COD- 1715 mg/l, TSS- 184 mg/l, Sulphate- 283 mg/l and TDS- 900 mg/l shows that the ETP was not stabilized. TDS in secondary clarifier was very low as compared to TDS in ETP inlet and Aeration Tank which is doubtful operation of ETP. The BOD & COD is also very high in secondary clarifier which is not possible to reduce within norms by tertiary treatment.
18. Proper log book for generation and disposal of ETP sludge, press mud, Boiler ash, used oil etc. were not maintained by the unit.
19. As reported by the representative of the unit, the boiler ash and press mud are provided to local farmers for blending in their agricultural field/land filling. But the unit was unable to provide any documentary evidence of the same.

Vijay Kumar.

20. The treated water from ETP may be occasionally consumed in irrigation/horticulture by the unit or farmers having agreement with the unit.
21. During inspection empty lagoon, no discharge at ETP outlet, deliberately blocked the ETP inlet channel, bypassing of untreated effluent etc reveals that unit was **not** complying.
22. The regular lab analysis work of the unit was found doubtful. Logbook provided by the unit for ETP outlet analysis for the period 01-01-2018 to 30-01-2018. The analysis carried by the unit has been reported for the parameters pH, TSS, COD, BOD etc. The BOD result of 30-01-2018 is also mentioned in this logbook however the date of visit was 31-01-2018 (Annexure-3 enclosed). It is not possible to get the analysis result of BOD in one day gap.
23. The unit has also no capable manpower to see the matter related to environmental issue.
24. The unit does not have permission from CGWA for the abstraction of ground water. The unit has applied for the same.
25. No piezometers were found installed within the premises of the unit for ground water monitoring.
26. A sample of groundwater was also collected from the unit to see the impact of unit on groundwater, if any. The analysis results of groundwater are represented in the table below.

Sl. No.	Parameters	Unit	Analysis Results	IS-10500 (2012) Drinking Water Standards	
				Acceptable Limit	Permissible Limit
1	pH	-	7.02	6.5-8.5	No relaxation
2	TDS	mg/l	323	500	2000
3	Total Hardness	mg/l	302	200	600
4	Alkalinity	mg/l	349	200	600
5	Fluoride	mg/l	0.158	1.0	1.5
6	BOD	mg/l	BDL	-	-
7	COD	mg/l	BDL	-	-

4. CONCLUSION:

1. During inspection empty lagoon, no discharge at ETP outlet, deliberately blocked the ETP inlet channel, bypassing of untreated effluent, not fulfill the recommendation and emptied deliberately secondary clarifier tank by ⅓ of its volume reveals that unit was **not complying**. Therefore, unit may be suitably directed under section 5 of E (P) Act, 1986.
2. The unit shall implement the recommendations made by NSI in adequacy report. The report of verification by NSI about implementation of recommendations made in adequacy report shall be submitted to the CPCB and SPCB.
3. The unit shall ensure to discharge the effluent as per consented condition.
4. The unit should install flow meters at various locations for waste water generation i.e. Mills, boiling house, D.M./ R.O. Plant, boilers, cleaning process etc.
5. The unit should maintain proper record for the boiler ash and press mud which is provided to local farmers for blending in their agricultural field/land filling.
6. The unit should maintain proper log book for generation and disposal of ETP sludge, press mud, Boiler ash, used oil etc.
7. The unit should immediately stop the discharging of untreated effluent through circular closed channel.

8. Two piezometers within the premises shall be installed by the unit for the monitoring of groundwater.
9. The unit should hire qualified persons to see the laboratory analysis work and environmental issues.

5. NAME & SIGNATURE OF THE INSPECTING OFFICERS:

1. Sanjay Kumar, Scientist 'C'
   NGRBA, CPCB, RD(N)
   Vijay Kumar. 01/03/2018

2. Dr. Ravi Prakash Mishra, RA-I
   CPCB, RD(N)
   01.03.2018

6. CONCLUDING REMARKS BY REGIONAL DIRECTOR:

Based on observations and findings of inspecting team, the unit ~~the unit~~ may be issued closure direction under section 5 of EP Act, 1986.

01/03/18

S. K. Gupta
Regional Director

5. ANNEXURES

1	DMR for period from 20-01-2018 to 30-01-2018. **(Enclosed Hard Copy Only)**
2	Photocopy of data recorded on log books of fresh water abstraction and consumption. **(Enclosed Hard Copy Only)**
3	Recorded laboratory Analysis Report of ETP operational Parameters carried out by the factory. **(Enclosed)**
4	ETP analysis report carried out as per sample taken during the visit. **(Enclosed)**
5	ETP performance report, if analysis is carried out by external laboratory. **(Enclosed Hard Copy Only)**
6	OCEMS recorded data e.g. flow rate, pH, COD, BOD, TSS etc. sent on CPCB server during the visit. **(Enclosed)**
7	Time line action plan to implement recommendations given in the report of off-season visit. **(Not Provided)**
8	Spray pond over flow treatment process details. **(No Spray Pond at the Unit)**
9	Process details- material balance and flow diagram. **(Enclosed)**
10	ETP details with flow diagram. **(Enclosed)**
11	Status of consents & authorization from CPCB/ SPCB. **(Enclosed Hard Copy Only)**

Photo Gallery of M/s Bajaj Hindustan. Sugar Ltd, Barkhera, Pilibhit, U.P.

Photo1: Entrance of the Unit

Photo2: Production Area of the Unit

Photo3: ETP of the Unit

Photo4: Deliberately Blocked Inlet Channel of ETP was opened during Visit

Photo5: Oil & Grease Tank of ETP at the Unit

Photo6: Equalization Tank of ETP at the Unit

Photo7: Primary Clarifier of ETP at the Unit

Photo8: Aeration Tank of ETP at the Unit

Photo9: Secondary Clarifier of ETP empty by ½ of its Volume

Photo10: Tertiary Treatment of ETP at the Unit

Photo11: OCEMS installed at theOutlet of ETP

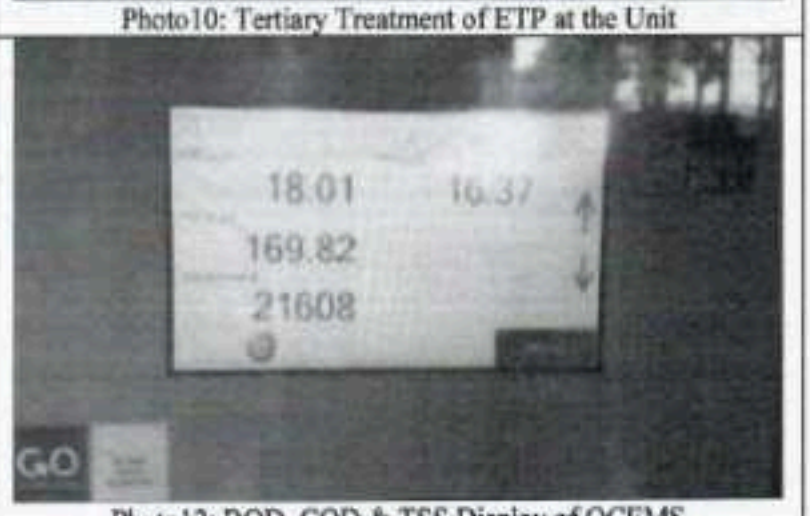


Photo12: BOD, COD & TSS Display of OCEMS

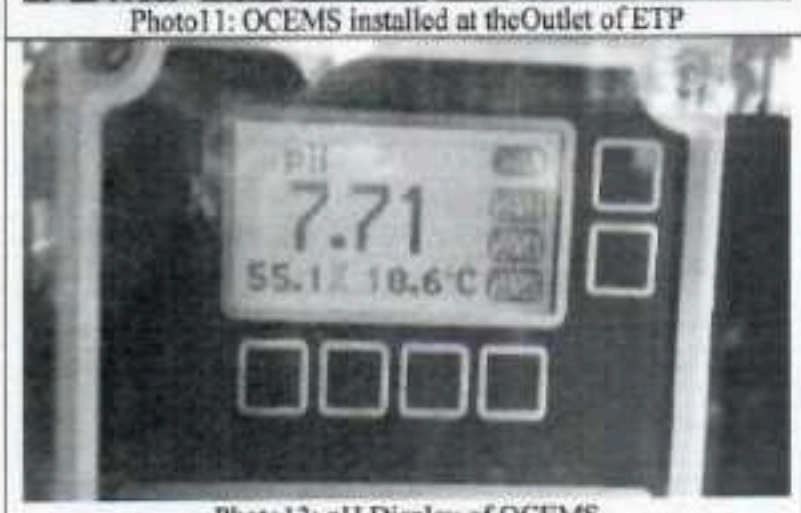


Photo13: pH Display of OCEMS

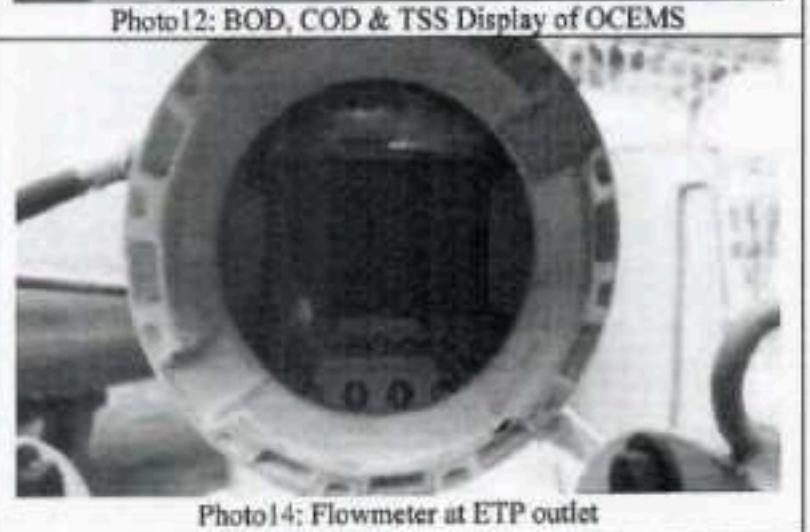


Photo14: Flowmeter at ETP outlet

Photo14: Empty Lagoon at the Unit

Photo15: Bypass of untreated Effluent through Closed Circular Channel

Vijay Kumar.

Photo15: Untreated Effluent Logged into Open Channel at 1 km approx. away from the unit

Photo16: Sampling og Effluent Logged into Open Channel

Recorded laboratory Analysis Report of ETP operational Parameters carried out by the factory

Annexure - 3

Date	PH outlet	TSS	COD	BOD	OIL &
1	7.51	17.20	184.5	18.57	[illegible]
2	7.43	16.85	184.58	18.41	[illegible]
3	7.42	16.60	182.40	19.25	[illegible]
4	7.40	16.54	180.34	18.47	[illegible]
5	7.38	16.93	179.40	18.81	[illegible]
6	7.48	17.5	177.38	20.16	[illegible]
7	7.46	16.51	176.60	20.31	[illegible]
8	7.42	17.48	165.80	20.40	[illegible]
9	7.35	17.80	164.01	20.42	[illegible]
10	7.37	16.90	172.02	19.45	[illegible]
11	7.45	16.44	172.38	19.71	[illegible]
12	7.38	17.05	178.25	19.52	[illegible]
13	7.28	17.18	181.34	20.11	[illegible]
14	7.37	17.70	184.31	20.32	[illegible]
15	7.40	17.60	178.60	20.15	[illegible]
16	7.32	17.22	180.42	20.6	[illegible]
17	7.36	16.42	186.14	[illegible]	[illegible]
18	7.60	17.20	179.23	[illegible]	[illegible]
19	7.59	16.80	188.20	[illegible]	[illegible]
20	7.40	17.32	192.42	[illegible]	[illegible]
21	7.50	18.12	181.38	[illegible]	[illegible]
22	7.60	17.92	179.11	[illegible]	[illegible]
23	7.68	17.58	172.38	[illegible]	[illegible]
24	7.60	16.30	178.11	[illegible]	[illegible]
25	7.50	18.24	172.11	[illegible]	[illegible]
26	7.60	17.29	174.76	[illegible]	[illegible]
27	7.58	17.38	175.99	[illegible]	[illegible]
28	7.65	17.20	176.51	[illegible]	[illegible]
29	7.64	17.50	172.[illegible]	[illegible]	[illegible]
30	7.69	18.11	170.[illegible]	[illegible]	[illegible]
31					

Hindustan Ltd. Bajaj Bajaj Hindustan Sugar Ltd.

Annexure-4

ETP analysis report carried out as per Sample taken during the Visit

Sample Code	Parameters/ Location	pH	TSS (mg/l)	TDS (mg/l)	Sulphate (mg/l)	O & G (mg/l)	BOD (mg/l)	COD (mg/l)	MLSS (mg/l)	MLVSS (mg/l)
11	ETP inlet Channel	5.57	115	2559	967	5.71	605	1145	---	---
---	ETP Outlet	No discharge from ETP outlet during the visit. Sample not collected.								
14	ETP Secondary Clarifier Tank	7.42	184	900	283	---	720	1715	---	---
13	ETP Aeration Tank	---	---	2017	---	---	---	---	1770	1293
16	Water logged in open channel approx. 1 km away from the unit.	6.55	68.6	2010	589	---	366	786	---	---

Ajay Kumar.

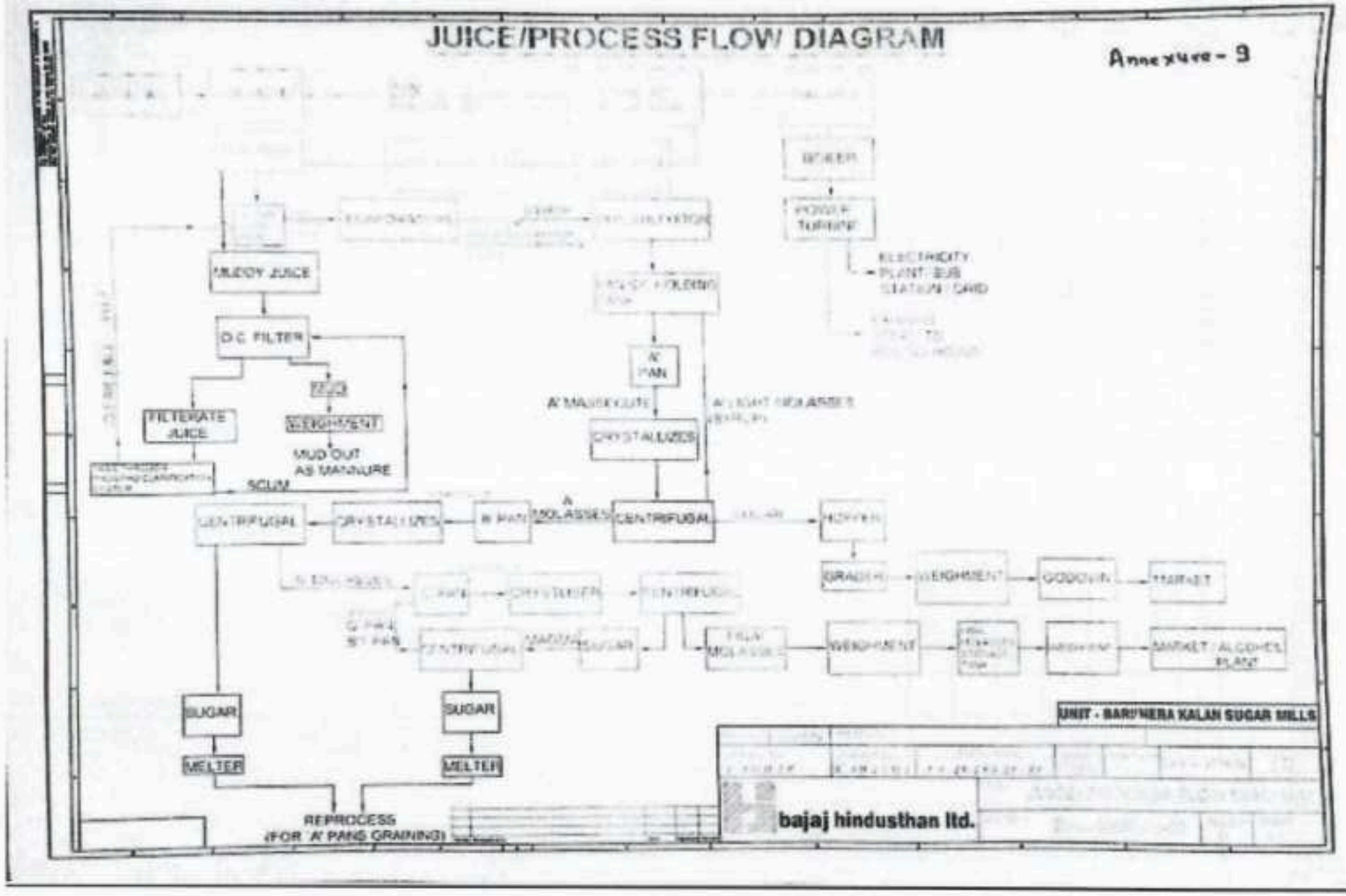
Annexure-6

OCEMS recorded data e.g. flow rate, pH, COD, BOD, TSS etc. sent on CPCB server during the Visit.

Sl No.	Parameters	OCEMS Display
1	Effluent flow rate (m^3/hr)	0 m^3/hr
2	pH	7.71
3	COD (mg/L)	169.82
4	BOD (mg/L)	18.01
5	TSS (mg/L)	16.37
6	TDS (mg/L)	NA

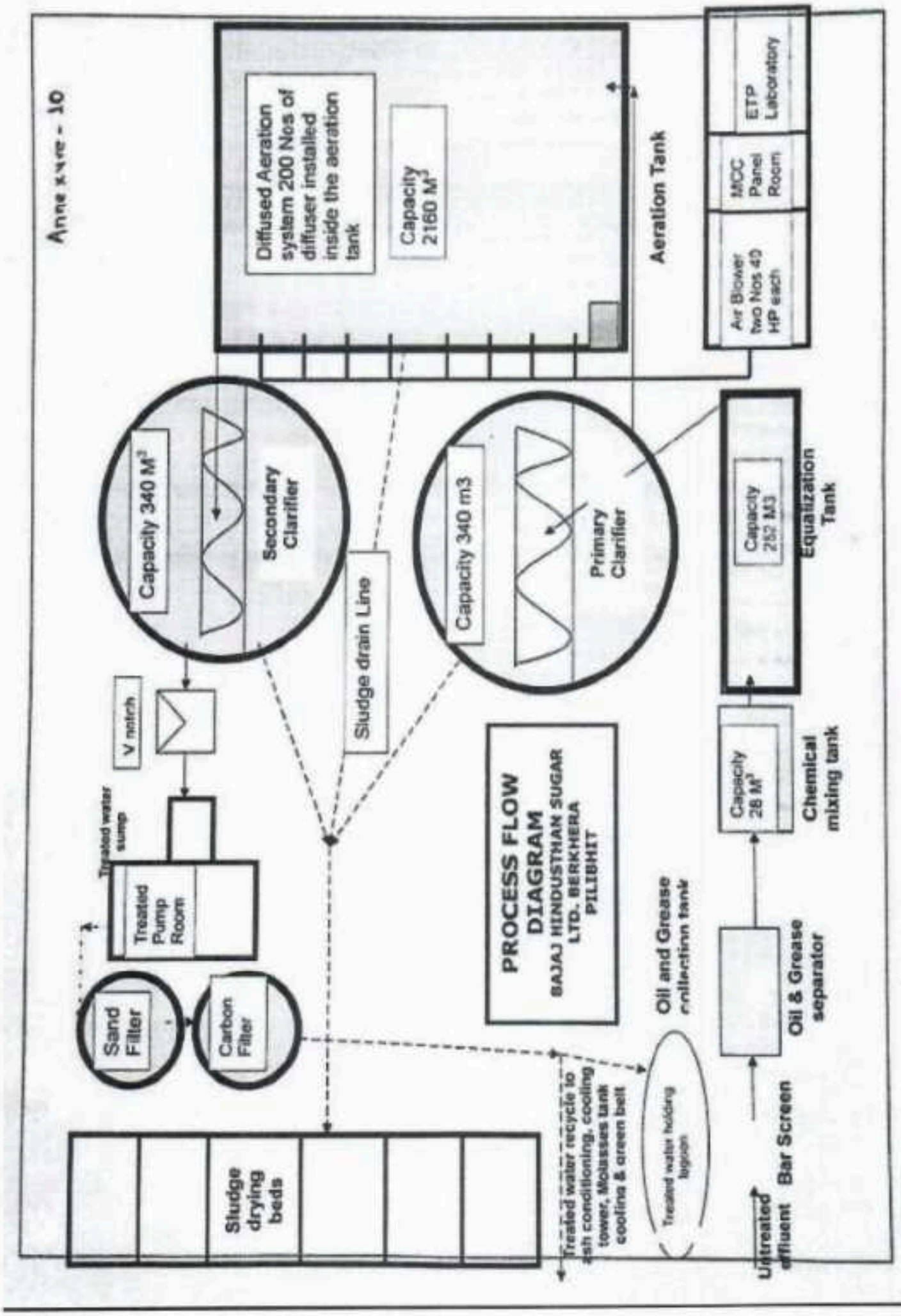
JUICE/PROCESS FLOW DIAGRAM

Annexure - 9



Annexure-10

ETP Details with Flow Diagram



Speed Post

B-190198/WQM-II(RG)/CPCB/Sugar/04/2016-17 18540 March 14, 19, 2018

To,

M/s Bajaj Hindustan Sugar Ltd.,
Barkhera, Pilibhit,
U.P.-262201

DIRECTION UNDER SECTION 5 OF THE ENVIRONMENT (PROTECTION) ACT, 1986- CLOSURE NOTICE THEREOF

WHEREAS, the Central Government has notified the standards for discharge of environmental pollutants from various categories of industries under the Environment (Protection) Act,1986 and the rules framed there under; and

WHEREAS, the Ministry of Environment & Forests, Govt. of India, vide notification S.O.157(E) of 27.02.1996 has delegated powers vested under Section 5 of the Environment (Protection) Act,1986 (29 of 1986) to the Chairman, Central Pollution Control Board (CPCB), to issue direction to any industry, Municipal Corporation, Municipal Council, Cantonment Board to any local or other Authority for the violation of emission and effluent standards notified under the Environment (Protection) Rules,1986; and

WHEREAS, it is obligatory on the part of industries to install effluent treatment plants (ETPs) to comply with the effluent discharge standards as notified under the Environment (Protection) Act, 1986 and the Rules framed thereunder and also to meet the consent conditions granted by State Pollution Control Board (SPCBs) / Pollution Control Committees (PCCs); and

WHEREAS, M/s Bajaj Hindustan Sugar Ltd., Barkhera, Pilibhit, U.P. (hereinafter referred as 'the Unit') is involved in the process of sugar manufacturing from crushing of cane; and

WHEREAS, the Unit was inspected on 04.01.2017 by the official of Central Pollution Control Board (CPCB); and

WHEREAS, CPCB issued closure direction dated 21.02.2017 for bypassing the untreated waste water; and

AND WHEREAS, CPCB issued direction dated 05.06.2017 under section 5 of Environment Protection Act, 1986 to the Unit to remain closed till compliance with the following directions:

1. i. The Unit shall submit the following reports to CPCB duly validated by reputed institutions like National Sugar Institute, Kanpur/Vasandada Sugar Institute, Pune /IITs within 60 days;
   a) ETP adequacy assessment reports;

(Contd..2/-)

b) time bound action plan for ETP augmentation & upgradation upto tertiary treatment level; to comply with the standards notified G.S.R. 35 (E), MoEF&CC, January 14, 2016 for effluent disposal, & waste water conservation.
c) water audit and mass balance report to establish waste water generation rate;
d) action Plans to achieve the notified effluent discharge quality and generation standards.
e) irrigation management plan as per the new notified standards on January 14, 2016; and

ii. The Unit shall restrict the storage capacity of lined lagoon upto 15 days of effluent generation.
iii. The Unit shall meet the BOD-30mg/l standards for discharging any effluent on land /surface water body whereas effluent stored in lined lagoons/tanks of capacity not more than 15 days shall comply with BOD-100 mg/l standards.

2. The Unit shall stabilize the ETP by September 2017 before commencing of the new crushing season. The unit will not be allowed to resume manufacturing operations till stabilization of ETP system.
3. The Unit shall upgrade of process technology, ETP system & adapt the best practice in a time bound manner and submit a report to CPCB before starting the next crushing season.
4. The Unit shall seek permission from CPCB, after compliance with the above mentioned directions before resumption of manufacturing operations.

AND WHEREAS, the CPCB received adequacy assessment report vide letter dt. 12.10.2017 from the unit prepared by NSI, Kanpur; and

WHEREAS, CPCB issued direction dated 08.11.2017 under section 5 of Environment Protection Act, 1986 to the Unit to comply with the following directions;

1. The Unit shall start its operation only after obtaining valid consent from the concerned State Pollution Control Board.
2. The Unit shall submit an undertaking on stamp paper with duly notorised/ signed by Oath Commissioner within a week for not bypassing any type of untreated effluent even on their own land.
3. The Unit shall submit action plan within 15 days to implement the recommendations (including the general observation) of the adequacy report within 45 days.
4. The Unit shall install & Commission ETP system upto tertiary treatment level including adequate treatment system for spray pond overflow effluent in case of double sulphitation process (Brine recovery system to be installed in case of sugar refinery having Ion Exchange Process for sugar melt de-colorization).

(Contd..3/-)

5. The Unit having high pressure boiler (>45 Kg/cm^2) shall install & Commission Condensate Polishing Unit (CPU) within 45 days for treatment of condensate water to ensure its reuse & recycle within the process.
6. The Unit shall restrict the effluent storage capacity to 15 days.
7. The Unit shall utilise treated effluent meeting the prescribed norms for irrigation as per the irrigation management plan validated by expert institutions namely, NSI, Kanpur/ VSI, Pune/ Agricultural Institutions.
8. The Unit shall implement the observation and recommendation of the adequacy report within 45 days.
9. The Unit shall get the verification of implement status of the recommendation of adequacy report including ETP performance assessment & effluent generation assessment done by the same institute which carried out adequacy assessment and submit the report to CPCB within 45 days from date of resumption of manufacturing operations.
10. The analysis result of the treated effluent shall also be submitted within 45 days through EPA recognised laboratories.
11. If the Unit fails to provide the verification report duly validated by the expert institutions, the Unit shall automatically stop all its manufacturing operations after 45 days from date of resumption of manufacturing operations.

AND WHEREAS, the Unit replied vide letters dated 18.12.2018 & 21.12.2017 regarding the implementation of recommendations of the adequacy report were examined; and

AND WHEREAS, the Unit (M/s Bajaj Hindustan Sugar Ltd., Barkhera, Pilibhit, U.P.) was inspected on 31.01.2018 by officials from CPCB, Delhi and following observations are made;

1. During the inspection, the ETP system upto secondary clarifier was in operation. However, tertiary treatment system was not in operation.
2. The Unit has applied for valid consent under Water (Prevention and Control of Pollution) Act, 1974 & Air (Prevention and Control of Pollution) Act, 1981 to UPPCB.
3. The Unit has bypass arrangement for untreated effluent which was flowing through agricultural land to nearby stream and analysis of effluent sample shows **BOD-366 mg/l,** as against norms of 30 mg/l **COD-786 mg/l** against norms of 250 mg/l **and TSS-68.6 mg/l** against norms of 30 mg/l which indicates non-compliance with the prescribed effluent discharge norms.
4. The analysis of treated effluent sample from Secondary Clarifier outlet shows pH-7.42, against 5.5-9.0, **BOD-720 mg/l** against 30 mg/l, **COD- 1715 mg/l** against 250 mg/l, **TSS-184 mg/l** against 30 mg/l at outlet of the ETP which indicates non-compliance with the effluent discharge norms prescribed under Environment (Protection) Rules,1986.
5. The MLSS in aeration tank was found 1770 mg/l which indicates unstabilised ASP system due to poor operation and maintenance of ETP system.

(Contd..4/-)

6. The Unit has also not installed flow meter at various location of unit process.
7. The Unit has constructed a lagoon with a capacity of 9000 cu.m. but it was found totally empty at the time of inspection.
8. The Unit has not implemented the recommendations made in adequacy report by NSI, Kanpur.
9. The Unit has not submitted the irrigation management plan.
10. The Unit has not submitted the revalidated ETP adequacy assessment report within 45 days to CPCB.

It is evident that untreated/ partially treated effluent is being discharged by the Unit, posing potential threat to surface water/ground water quality.

AND NOW, THEREFORE, in view of above observations and in exercise of the powers delegated to the Chairman, CPCB under section 5 of the Environment (Protection) Act, 1986, the unit (M/s Bajaj Hindustan Sugar Ltd., Barkhera, Pilibhit, U.P.) is directed to **close down its manufacturing operations immediately** and shall comply with the following directions;

1. The Unit is directed to close down its Sugar manufacturing operations with immediate effect and shall not resume its operations.
2. The Unit shall dismantle the bypass arrangement and stop untreated effluent discharge immediately.
3. The Unit shall install & Commission ETP system upto tertiary treatment level including adequate treatment system for spray pond overflow effluent in case of double sulphitation process
4. The Unit having high-pressure boiler (>45 Kg/cm^2) shall install & Commission Condensate Polishing Unit (CPU) for treatment of condensate water to ensure its reuse & recycle within the process.
5. The Unit shall restrict the treated waste water storage lagoon capacity of 15 days in low demand period for irrigation.
6. The Unit shall submit irrigation management plan and utilise treated effluent meeting the prescribed norms for irrigation as per the irrigation management plan validated by expert institutions namely, NSI, Kanpur/ VSI, Pune/ Agricultural Institutions.
7. The Unit shall get the verification of implement status of the recommendation of adequacy report including ETP performance assessment & effluent generation assessment done by the same institute which carried out adequacy assessment and submit the report to CPCB.
8. The Unit shall submit the revalidated ETP adequacy assessment report within 45 days to CPCB.
9. The Unit shall inform to CPCB about the Closure of operation immediately.

(Contd..5/-)

10. The Unit shall seek permission from CPCB before resumption of manufacturing operations.

In case of default in compliance with the above directions, CPCB will be constrained to initiate action against the Unit **(M/s Bajaj Hindustan Sugar Ltd., Barkhera, Pilibhit, U.P.)** without giving any further notice in accordance with the provisions of the Environment (Protection) Act,1986.

/

(S. P. SINGH PARIHAR)
CHAIRMAN

Copy to:

1. **The Chairman** Uttar Pradesh Pollution Control Board, Building No. TC-12V,Vibhuthi Khand, Gomti Nagar, Lucknow – 226 010	:With request to ensure compliance of the directions.
2. **Joint Secretary (CP Division)** Ministry of Environment, Forest & C.C Prithvi Block, Indira Paryavaran Bhawan, Jorbagh Road, New Delhi – 110 003	:For kind information, please.
3. **The District Magistrate** Pilibhit-262201, U.P.	:With request to ensure closure of the unit in compliance of the directions
4. **The Superintending Engineer** Madhyanchal Vidyut Vitran Nigam Ltd. Pilibhit, U.P.	:With a direction to disconnect power supply
5. **The Regional Director** Regional Directorate Central Pollution Control Board, PICUP Bhawan, Ground Floor, Vibhuti Khand, Gomti Nagar, Lucknow – 226 010	:For follow up and ensuring compliance
6. The In-charge, IT Division, CPCB	
7. Master file/Guard file, WQM II, CPCB Delhi	

(A SUDHAKAR)
MEMBER SECRETARY

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

B-190198/WQM-II(RG)/CPCB/Sugar/04/2016-17 Oct 16th, 2018

To,

M/s Bajaj Hindustan Sugar Ltd.,
Barkhera, Pilibhit,
U.P.-262201

DIRECTION UNDER SECTION 5 OF THE ENVIRONMENT (PROTECTION) ACT, 1986

WHEREAS, the Central Government has notified the standards for discharge of environmental pollutants from various categories of industries under the Environment (Protection) Act,1986 and the rules framed there under; and

WHEREAS, the Ministry of Environment & Forests, Govt. of India, vide notification S.O.157(E) of 27.02.1996 has delegated powers vested under Section 5 of the Environment (Protection) Act,1986 (29 of 1986) to the Chairman, Central Pollution Control Board (CPCB), to issue direction to any industry, Municipal Corporation, Municipal Council, Cantonment Board to any local or other Authority for the violation of emission and effluent standards notified under the Environment (Protection) Rules,1986; and

WHEREAS, it is obligatory on the part of industries to install effluent treatment plants (ETPs) to comply with the effluent discharge standards as notified under the Environment (Protection) Act, 1986 and the Rules framed thereunder and also to meet the consent conditions granted by State Pollution Control Board (SPCBs) / Pollution Control Committees (PCCs); and

WHEREAS, M/s Bajaj Hindustan Sugar Ltd., Barkhera, Pilibhit, U.P. (hereinafter referred as 'the Unit') is involved in the process of sugar manufacturing from crushing of cane; and

WHEREAS, CPCB issued direction dated 05.06.2017 under section 5 of the Environment (Protection) Act, 1986 to the Unit for carrying out ETP adequacy assessment by reputed institutions; and:

WHEREAS, CPCB received adequacy assessment report vide letter dt. 12.10.2017 from the unit prepared by NSI, Kanpur; and

WHEREAS, CPCB issued direction dated 08.11.2017 under section 5 of Environment (Protection) Act, 1986 to the Unit;

WHEREAS, the Unit replie vide letters dated 18.12.2017 & 21.12.2017 were examined; and

(Contd..2/-)

'परिवेश भवन' पूर्वी अर्जुन नगर, दिल्ली-110032
Parivesh Bhawan, East Arjun Nagar, Delhi-110032
दूरभाष/Tel : 43102030, 22305792, वेबसाईट/Website : www.cpcb.nic.in

AND WHEREAS, the Unit was inspected on 31.01.2018 by officials from CPCB, Delhi and following observations were made;

1. During the inspection, the ETP system upto secondary clarifier was in operation. However, tertiary treatment system was not in operation.
2. The Unit has bypass arrangement for untreated effluent which was flowing through agricultural land to nearby stream and analysis of effluent sample shows **BOD-366 mg/l,** as against norms of 30 mg/l **COD-786 mg/l** against norms of 250 mg/l **and TSS-68.6 mg/l** against norms of 30 mg/l which indicates non-compliance with the prescribed effluent discharge norms.
3. The analysis of treated effluent sample from Secondary Clarifier outlet shows pH-7.42, against 5.5-9.0, **BOD-720 mg/l** against 30 mg/l, **COD- 1715 mg/l** against 250 mg/l, **TSS-184 mg/l** against 30 mg/l at outlet of the ETP which indicates non-compliance with the effluent discharge norms prescribed under Environment (Protection) Rules,1986.
4. The MLSS in aeration tank was found 1770 mg/l which indicates unstabilised ASP system due to poor operation and maintenance of ETP system.
5. The Unit has constructed a lagoon with a capacity of 9000 cu.m. but it was found totally empty at the time of inspection.

AND WHEREAS, CPCB issued direction dated 19.03.2018 under Section 5 of the Environment (Protection) Act, 1986 to the unit for compliance of the following:

1. The Unit is directed to close down its Sugar manufacturing operations with immediate effect and shall not resume its operations.
2. The Unit shall dismantle the bypass arrangement and stop untreated effluent discharge immediately.
3. The Unit shall install & Commission ETP system upto tertiary treatment level including adequate treatment system for spray pond overflow effluent in case of double sulphitation process
4. The Unit having high-pressure boiler (>45 Kg/cm^2) shall install & Commission Condensate Polishing Unit (CPU) for treatment of condensate water to ensure its reuse & recycle within the process.
5. The Unit shall restrict the treated waste water storage lagoon capacity of 15 days in low demand period for irrigation.
6. The Unit shall submit irrigation management plan and utilise treated effluent meeting the prescribed norms for irrigation as per the irrigation management plan validated by expert institutions namely, NSI, Kanpur/ VSI, Pune/ Agricultural Institutions.
7. The Unit shall get the verification of implement status of the recommendation of adequacy report including ETP performance assessment & effluent generation assessment done by the same institute which carried out adequacy assessment and submit the report to CPCB.

Contd..3/-)

8. The Unit shall submit the revalidated ETP adequacy assessment report within 45 days to CPCB.
9. The Unit shall inform to CPCB about the Closure of operation immediately.
10. The Unit shall seek permission from CPCB before resumption of manufacturing operations.

WHEREAS, the Unit's reply dated 22.3.2018 was examined ; and

WHEREAS, the Unit submitted the revalidated adequacy assessment reports by NSI, Kanpur vide letter dt. 07.05.2018; and as per the report following recommendations have been made by NSI, Kanpur:

1. Effluent generation is estimated as 154.23litre/tone for cane crushed.
2. Flow meters to be installed at major unit operations to ascertain and control hot and cold water requirement.
3. Flow meters to be installed at various consumption points.
4. The unit should calibrate the installed flow meters.
5. The unit should construct a hazardous tank to collect the washing of chemical cleaning and to add them gradually in the ETP.
6. ETP system of the unit shall require revalidation after suggested additions/ modifications.
7. Sludge drying bed is inadequate.

WHEREAS, CPCB through an Expert Committee comprising of experts from National Sugar Institute (NSI), Kanpur, Vasantdada Sugar Institute (VSI), IITs and representatives from sugar mills prepared a Charter for Water Recycling and Pollution Prevention(thereafter referred to as the Charter; and

WHEREAS, a meeting of sugar mills operating in Uttar Pradesh, representatives of UPPCB and CPCB was held on 06.07.2018 under Chairmanship of Principal Secretary, Sugar Industries and Sugarcane Development, Government of Uttar Pradesh and the following decisions are made

1. Sugar Mills shall submit an action plan to CPCB by 20.07.2018 regarding the steps taken by them pertaining to the notices issued to them. Also they shall submit action plan to implement recommendations of their adequacy assessment report.
2. All sugar mills shall ensure implementation of Charter and shall submit action plan to CPCB by 20.08.2018.
3. All sugar mills shall ensure the upgradation of their ETP within August, 2018 so as to ensure no interruption in functioning of the ETP in the following seasons.
4. All sugar mills shall maintain a logbook on ETP operations on a daily basis.

Contd..4/-)

5. ETP shall be operational at all times and all bypass arrangements should be dismantled with immediate effect.
6. MLSS in aeration tanks should be maintained at 2000-2500 mg/l.
7. All sugar units shall set up environmental laboratories for regular analysis of raw and treated effluent thereby ensuring proper functioning of the ETP.
8. All sugar mills shall employ dedicated technicians for operating and regular maintenance of ETP and shall also ensure that the technicians are given proper training on ETP maintenance and lab analysis on regular basis.
9. To ensure proper training of the environmental technicians all sugar mills shall facilitate training of 5 employees.
10. All sugar mills may establish an Environment Management Cell at their level consisting of concerned officials in order to ensure compliance with environmental standards at industry level itself.

AND WHEREAS, the unit vide letter dated 20.07.2018 and 24.09.2018 submitted their compliance status of the Charter, which are examined and following observations are made:

1. The unit is in the process of installing necessary flow meters at requisite points as prescribed under the Charter and has assured completion of the same by end of October, 2018.
2. The unit has submitted action plan/ compliance report on upgradation of ETP.
3. The unit is maintaining proper logbook for bore-well readings thereby recording their fresh water consumption on regular basis.
4. The unit has stated that no untreated/ partially treated effluent is being discharged on land.
5. The unit shall employ hydro-jet for cleaning of heat exchanger unit.
6. The unit has already set up environmental laboratory with dedicated technical staff.
7. The unit has planned to arrange training for its technical staff on ETP Operation and Maintenance.
8. The unit has submitted compliance report on BMT for Water Recycling and Pollution Prevention
9. Construction of two tanks to collect washing of chemical cleaning for heat exchangers is in undertaken.

AND WHEREAS, the Three Member Committee in its meeting held on 04.10.2018 examined the revalidated adequacy assessment report, & implementation status of the Charter and recommended that the unit may be allowed to resume operation.

(Contd..5/-)

AND NOW, THEREFORE, in view of above observations and in exercise of the powers delegated to the Chairman, CPCB under section 5 of the Environment (Protection) Act, 1986, the unit (M/s Bajaj Hindustan Sugar Ltd., Barkhera, Pilibhit, U.P.) is directed to comply with the following directions before commencement of crushing season 2018-2019;

1. The unit shall start its operation only after obtaining the valid consent from the Uttar Pradesh Pollution Control Board.
2. The unit shall implement the observation & recommendation of the revalidated adequacy assessment of ETP.
3. The unit shall install sealed flow meter along with running hours meter on bore wells so as to ascertain usage of fresh water for various uses.
4. The unit shall install flow meters at major areas of cold and hot water consumption.
5. The unit shall install flow meters for measuring generation of effluent from various prominent areas.
6. The unit shall maintain logbook for individual process unit for recording daily water consumption and effluent generation also.
7. The unit shall carry out colour coding of pipelines carrying recycled process water and fresh process water.
8. The Unit shall commission mechanical sludge handling system of adequate capacity.
9. The unit shall close down the circular channels which started from the unit and open outside the premises.
10. The unit shall carry out analysis of effluent discharge parameters notified under Environment (Protection) Rules, 1986 and logbook shall be maintained on daily basis.
11. The unit shall submit the implementation status of the Charter in the form of Affidavit and the documentary proof of the completion of the work as committed in the action plan before resumption of crushing season 2018-2019.
12. The unit shall submit implementation status of the Charter and performance adequacy audit of ETP including actual assessment of water consumption and effluent generation duly validated by reputed expert institute namely NSI Kanpur, VSI Pune, IITs during crushing season & submit the report to CPCB within 60 days of resumption of operation.

In case of default in compliance with the above directions, CPCB will be constrained to initiate action against the Unit **(M/s Bajaj Hindustan Sugar Ltd., Barkhera, Pilibhit, U.P.)** without giving any further notice in accordance with the provisions of the Environment (Protection) Act, 1986.

18-7-2018

(S. P. SINGH PARIHAR)
CHAIRMAN

(Contd..6/-)

Copy to:

1. **Principal Secretary (Sugar)** Sugar Industry and Cane Development Department,"G" Block, 2/3, Mantri Wing, 4th Floor, Bapu Bhawan,Vidhan Sabha Marg Lucknow - 226 001	With request to ensure compliance of the directions.
2. **The Chairperson** Uttar Pradesh Pollution Control Board, Building No. TC-12V,Vibhuthi Khand, Gomti Nagar, Lucknow – 226 010	:With request to ensure compliance of the directions.
3. **Joint Secretary (CP Division)** Ministry of Environment, Forest & C.C Prithvi Block, Indira Paryavaran Bhawan, Jorbagh Road, New Delhi – 110 003	:For kind information, please.
4. **The District Magistrate** Pilibhit-262201, U.P.	: With request to ensure compliance of the directions.
5. **The Superintending Engineer** Madhyanchal Vidyut Vitran Nigam Ltd. Pilibhit, U.P.	: To reconnect the power supply of the unit, please
6. **The Regional Director** Regional Directorate Central Pollution Control Board, PICUP Bhawan, Ground Floor, Vibhuti Khand, Gomti Nagar, Lucknow – 226 010	:For follow up and ensuring compliance
7. The In-charge, IT Division, CPCB	
8. Master file/Guard file, WQM II, CPCB Delhi	

(Prashant Gargava)
MEMBER SECRETARY

M/s Bajaj Hindustan Sugar Ltd., Barkhera, Pilibhit, U.P.

INSPECTION REPORT OF SUGAR MILLS DURING CRUSHING SEASON (2018-2019) TO VERIFY THE STATUS OF IMPLEMENTATION OF CHARTER FOR WATER CONSERVATION AND COMPLIANCE VERIFICATION OF DISCHARGE STANDARDS

1. GENERAL INFORMATION

1.	**Name and address of the Sugar Mill**	M/s Bajaj Hindusthan Sugar Ltd. Barkhera, Pilibhit Uttar Pradesh	
2.	**Latitude and longitude**	Lat. 28°28'36.51" ; Long 79°57'6.31"	
3.	**Standalone/ Integrated (with co-generation) Sugar/ sugar refinery**	Integrated with Co-generation	
4.	**License capacity of sugar Mill (TCD)**	10,000 TCD	
5.	**Average actual crush rate (TCD)**	6500 TCD	
6.	**Consent status & its Validity (Yes/No/applied)** a. Air Consent b. Water consent c. Hazardous Waste Authorization	 Yes, valid upto 31-12-2019 Yes, valid upto 31-12-2019 Yes, valid upto Jan. 2022	
7.	**NOC from CGWA (Yes/No)**	Yes, the unit has obtained permission for the ground water extraction through 2 borewells, whereas, the unit has 3 functional borewells.	
8.	**Start period of crushing season**	Nov. 14, 2018	
9.	**Date of visit**	26-03-2019	
10.	**Operational status during visit (operational/ closed/ temporary closed/ permanent closed)**	Operational	
11.	**Factory officials interacted during Visit**	**Designation**	**Contact No & E- mail**
	1. Sh. G V Chaturvedi	GM (production)	7409000128 Email: gvchaturvedi.brk@bajajhindusthan.com
	2. Sh. Prashant Singh	EHS Officer	9720169335 Email: ehsbepl.brk@bajajenery.com
	3. Sh. Ashutosh Kumar	Astt. Mgr. (EHS)	8528504509

2. OPERATIONAL STATUS

S.No.	Particulars	
1.	**Sources of fresh water**	
	a. Bore well/Tube well/ Any other & its No's	03
	b. Flow meter installation at wells (Yes/No)	Yes
	c. Reading of Flow Meter during visit	Borewell-I: 62281.38 m^3 Borewell-II: 67172.15 m^3 Borewell-III: 97596.0 m^3

	d. Any Logbook maintained (Yes/No), if yes, attach.	Logbook is being maintained for the abstraction of ground water	
	e. Quantity of water (KLD)	Approx. 500-600 m^3 per day, as per log book	
2.	**Fresh water consumption (m^3/hr)**		
	a. Sugar plant	Section wise details of fresh water consumption not provided by the unit.	
	b. co-generation		
	c. Residential etc.		
	d. Total fresh water Consumption (m^3/hr)	21-25 m^3/hr	
	e. Log book maintained (Yes/ No) If any, details to be collected	Yes	
3.	**Details of Hot & Cold water recycling system (Yes/No.)**	**Number**	**Capacity**
	a. Details of Hot water UGR.	**No**	---
	b. Cold water UGR and cooling towers	**01**	1750 m^3
	c. **Hot water**- Location of flow meter & its Installation **(Yes/No)**	**Flow meter**	**Quantity of water (KLD)**
	1. Imbibition water at mills **(Yes/No)**	YES	2513.84
	2. Filter cake wash water at rotary vacuum filter **(Yes/No)**	YES	372.27
	3. Sugar melting, pan boiling, molasses conditioning **(Yes/No)**	YES	656.30
	4. Wash water at Centrifugals **(Yes/No)**	YES	371.67
	5. Others **(Yes/No)**		
	d. **Cold water** -Location of flow meter & its Installation		
	1. Power turbine cooling **(Yes/No)**	Closed loop	69.97
	2. Mills, fibrizer bearing, pumps cooling **(Yes/No)**		
	3. Boiler, wet scrubber **(Yes/No)**	No	No
	4. Cooling tower of co-generation **(Yes/No)**	YES	160.60
	5. SO2 gas cooling **(Yes/No)**	YES	0.50
	6. B and C massecuite cooling **(Yes/No)**	YES	
	7. Final molasses cooling **(Yes/No)**	NO	17.83
	8. Make water for shortfall at any point operation including spray pond/process cooling tower. **(Yes/No)**	YES, at process cooling tower	127.3
	9. Cleaning and human requirements including lab requirements **(Yes/No)**	---	---
	10. Others **(Yes/No)**	--	---
4	**Waste water (Influent) generation (m3/hr)**		
	a. Spray pond/cooling tower over flow (for double sulphitation)	19.5 m^3/hr,	
	b. Mills, boiling house, D.M./ R.O. Plant boilers etc.	2.91 m^3/hr	
	c. Co-generation	Data not provided	
	d. Brine solution reject after regeneration. (for refine sugar)	NA	
	e. IER wash water generation.	NA	
	f. Brine reject from brine recovery system	NA	
	g. Reject acid after regeneration of IER column.	NA	
	h. Common / total influent generation.	22.41 m^3/hr.	
5.	**Waste water (Effluent) generation, Liter/ton of cane**	154.23 Liter/ton of cane crushing, calculated as per data available in adequacy verification report of the unit prepared by NSI.	

6.	**Spray pond overflow**	**Flow meter reading**	**Quantity of water (KLD)**
	a. Flow meter Installation **(Yes/No)**	Yes, 54918.1	145 m^3
	b. Provision of separate spray pond overflow treatment **(Yes/No)**	Yes	
	c. Brief description of spray pond over flow treatment process (mention technology as per charter) 1. Separate treatment of spray pond overflow through micro settlers followed by secondary aerobic treatment. 2. Combined treatment of entire effluent through micro settlers after removal of Oil & grease followed by secondary aerobic treatment. 3. Spray pond overflow treatment using anaerobic filters followed by secondary aerobic treatment. 4. Combined treatment of entire effluent using anaerobic filters followed by secondary aerobic treatment.	Separate treatment of spray pond overflow through micro settlers followed by secondary aerobic treatment is being provided in ETP installed for power plant.	
7.	**Details of Flow meters**	**Flow meter reading**	**Quantity of water (KLD)**
	a. Outlet of mill house and boiling house. **(Yes/No)**	Details not provided	---
	b. Outlet of steam generation house. **(Yes/No)**		
	c. Outlet of cooling tower/spray pond i.e over flow **(Yes/No)**	Yes, 54918.1	145
	d. At ETP outlet **(Yes/No)**	Yes, 60465	Approx.. 500
	e. At ETP Inlet **(Yes/No)**	Yes, 123190.4	Approx.. 470
	f. Other places of effluent generation **(Yes/No)**	NA	
8.	**Details of tube cleaning method adopted (chemical/ hydrojet/ any other appropriate method if any), provide details**	Chemical + Mechanical	
9.	**Availability of Hazardous tank to collect wash water generated during chemical/Mechanical cleaning of evaporator tubes. (Yes/No), if Yes give Details.**	Surge Tank-2 No. details not provided by the unit	
10.	**Total waste water (effluent) generation, (Liters/ton of cane)** (waste water generation from process+ Waste water (Influent) generation + Spray pond overflow)	154.23 Liter/ton of cane crushing	
11.	**Condensate polishing system adopted by the factory (for boilers >45 kg/cm² steam pressure) (Yes/No)**	No	
	If yes, then provide the details of condensate polishing system	NA	
	Recycled water from CPU	NA	
12.	**Construction of small pits with smooth inner surface with ceramic tiles near to boiler feed pumps, condensate pumps, Injection pumps and RVF vacuum to collect gland cooling water. (Yes/No), give details**	Yes	
13.	**Aeration in equalization tank (Yes/No)**	Yes	
14.	**Type of aeration in aeration tank Diffused/ surface/ any other**	Diffused aeration system	
15.	**Tertiary treatment (Yes/No), give Details**	Yes, PSF and ACF installed	
16.	**Schematic diagram of ETP. (flow chart to be collected)**	Yes	

17.	**Rain water harvesting system adopted (Yes/No.)**	Yes, under construction	
18.	**Retention time (Min/hr)**	**Retention Time/Contact Time**	**As per Industry** (as per the data from validation of adequacy report)
	1. Bar screen Chamber	30 minutes	Provided
	2. Oil & grease tank	45 minutes	60 minutes
	3. Equalization tank with aeration	6 hrs	6.75 hrs
	4. Primary Clarifier	5-6 hrs	8.20 hrs
	5. Aeration tank	24-28 hrs	52 hrs
	6. Secondary Clarifier	7-8 hrs	8.20 hrs
	7. Sand/multi grade filter	20-25 minutes	32 minutes
	8. Activated carbon filter	20-25 minutes	32 minutes
	9. Sludge drying bed	Not < 0.03 m3 per ton of cane	288 m^2
	10. Centrifuge	NA	-----
19.	**Any further treatment after ETP (Yes/No)**	No	
20.	**Brief processing details (flow chart)**	--	
21.	**ETP Analysis (Performance Parameters)**		
A.	As per Record		

Sample Analysis	Effluent flow rate (m^3/hr.)	Sulphur/ Sulphate (mg/l)	pH	COD (mg/l)	DO (mg/l)	BOD (mg/l)	TSS (mg/l)	TDS (mg/l)	O & G	MLSS (mg/l)
ETP Inlet	---	—	5.32	1285	---	438	364	—	<1	----
ETP Outlet	---	—	7.48	218	—	23	26	—	<1	----
Aeration tank	---	—	---	---	—	---	---	---	---	----
Lagoon	---	---	---	—	—	---	---	---	---	—
OCEMS	—	---	7.69	42.50	—	11.23	19.56	---	---	---

B.	As per sample taken during the visit

Sample Analysis	Effluent flow rate (m^3/hr.)	Sulphur/ Sulphate (mg/l)	pH	COD (mg/l)	DO (mg/l)	BOD (mg/l)	TSS (mg/l)	TDS (mg/l)	O & G	MLSS (mg/l)
ETP Inlet	19.85	274	5.08	2574	----	2272	311.0	1751.0	—	----
ETP Outlet	19.90	178	7.81	105.0	----	16.7	28.4	966.0	BDL	----
Aeration tank	----	—	---	---	4.0	----	----	----	----	489
Outlet of secondary clarifier		167	7.84	136.50	—	19.7	57.9	970.0	----	----
Spray pond overflow	—	1673	7.81	51.60	----	8.30	78.7	2245.0	----	----
Lagoon	----	46.4	7.57	478.0	----	313.0	304	1053.0	----	—
Logged effluent within the premises	—	—	7.25	125	—	29.0	---	2501.0	----	—
OCEMS	—	----	7.69	42.50	---	11.23	19.56	----	----	----

22.	**Storage of treated Effluent**	
	a. No. & size of lagoons	1 (Capacity- 9000 m^3)

	b. Retention time	less than 15 days	
	c. Lagoon type- permeable/impermeable	Impermeable	
23.	**Recirculation of treated effluent in Sugar plant**		
	Consumption point	**Quantity Consumed (m3/hr)**	**Measured/ Estimated**
	a. Filter cake washing	No recirculation is being made	
	b. Centrifugal Machine	-----do-----	
	c. Pan boiling, Melting etc.	-----do-----	
	d. Boiling House & Lab	-----do-----	
	e. Co-generation Cooling tower	6237.1	50 KL
	f. Any other	NA	
24.	**Sludge Handling Process (Yes/No), give details.**		
	a. Sludge Digestion Method	No	
	b. Sludge Drying Process	Yes, one sludge drying bed of 288 m^2	
	c. Final Disposal of Sludge	Given to farmers (no documentary evidence was provided by the unit)	
	d. Whether mechanical sludge handling system installed (yes/ No)	No	
25.	**Any Hazardous Substances (Yes/No), if yes, give details. (Quantity & way of Disposal)**	Yes, Oil & Grease, being burnt with baggase in boiler	
26.	**Manpower employed for ETP operation & maintenance.**	4	
27.	**Details of irrigation system & treated effluent used quantity**	The distribution system of treated effluent for irrigation purpose is provided by the unit.	
	1. Own land area for irrigation (Yes/No),	**Yes, 20 hectares**	
	2. Farmer land area and their agreement. (Yes/No),	**Yes, 189 hectares**	
	3. Net effluent generation left for Irrigation (KLD)	**100-150 KLD**	
	4. Flow meter to measure amount of water used for irrigation.	**Yes, totalizer reading; 38211.2 m^3**	
	5. Distance of land Area from the Unit (Km)	**0-1 Km**	
	6. Total Available Area (Hectare)	209 hectares	
	7. Soil Texture of land (Sandy, Sandy loam, Loam, Clay loam, Clay)	Sandy loam	
	8. Crop area under effluent application	**Rabi**	
28.	**Cleaning mechanism at ETP and factory floor**	**Manual**	
29.	**Color coding of pipelines for water distribution network (Yes/No)**	**Yes**	

30.	Mode of disposal (route to reach Ganga)	local drain → Ramganga → River Ganga

3. OBSERVATIONS

Implementation status of the recommendations of adequacy report.
(recommendations may be collected from unit)

- It is recommended in adequacy verification report that unit shall follow the dry cleaning of floors to reduce the effluent quantity. The dry-cleaning method of floors are being not carried out by the unit.
- Uses of spray pond water for boiler ash quenching is not yet implemented by the unit.
- As per suggestion the boiler blow down water shall be used in wet scrubber. The unit is using the fresh water in wet scrubber.
- The uses Spray pond water is not being used for tube cleaning purpose and hydraulic testing of Calandira.
- Installation of flow meters for measurement of water added in UGR, make-up water in spray pond, boiler make-up, cleaning waste water from evaporator and pans are not implement by the unit.
- Installation of Soda/acid boiling water tank in boiling house to reuse the chemical is not done by the unit.

Implementation status of charter points (as indicated in above format) -

- The unit has not installed flow meters at various locations as suggested in the report.
- The section wise details of fresh water consumption in not being maintained by the unit.
- Flow meter is not installed at various location of Cold water utilization section within the unit.
- Section wise detail of wastewater generation is not maintained by the unit as flow meter is not installed at various locations.
- Recirculation of treated effluent in not being made for filter cake washing, centrifugal machine, Pan boiling etc.

Compliance status w.r.t. discharge norms-

- The treated effluent stored in lagoon for the irrigation purposes is not complying w.r.t. on land disposal for TSS (304 mg/L against 100 mg/L), BOD (313 mg/L against 100 mg/L) and COD (478 mg/L against 250 mg/L).
- The MLSS in Aeration tank was found 489 mg/L which shows the un-stabilized condition of ETP.
- TDS level reduced drastically from 1751 mg/L (at inlet) to 966 mg/L (at outlet), which shows the dilution.
- In view of the low MLSS (489 mg/L) in aeration tank and reduction in TDS (1751 mg/L to 966 mg/L) from inlet to outlet, the compliance achieved by unit w.r.t. discharge standard is doubtful.
- The unit have valid consent under Water Act & Air Act. with validity upto 31-12-2019.
- The logbook for disposal of ETP sludge, Press mud, Boiler ash, used oil etc. being not maintained by the unit.
- The logging of wastewater upto 4-5 inches is observed in the storm water drain, a barren field within the premises and in cane yard, which indicates that the unit is not using the treated effluent for irrigation purposes and disposing it in indiscriminate way.

- As reported by the representative of the unit, the boiler ash and press mud are provided to local farmers for blending in their agricultural field/land filling. But the unit was unable to provide any documentary evidence for the same.

4. RECOMMENDATIONS:

(Shall specifically indicate compliance w.r.t. observations made in above 3 sections of observations along with additional recommendations if any)

1. The value of treated effluent in lagoon for the irrigation purposes shows the non-compliance w.r.t. TSS, BOD and COD for on land discharge.
2. The treated effluent meeting the norms of discharge standard. However, dilution is suspected due to drastic reduction in TDS level from inlet to outlet.
3. The unit should operate its ETP properly and maintain MLSS level for adequate biological activity in aeration tank.
4. The unit should also carryout TDS profile study to investigate in drastic reduction at different level.
5. The unit was found not complying w.r.t. not fulfill the recommendation of NSI, and implementation of the charter for the sugar industry.
6. The unit shall ensure to discharge the effluent as per consented condition.
7. The unit should maintain proper record for the boiler ash and press mud which is provided to local farmers for blending in their agricultural field/land filling.
8. The unit should maintain proper log book for generation and disposal of ETP sludge, press mud, Boiler ash, used oil etc.
9. The unit Should not dispose the treated effluent within premises which cause logging/ponding within the premises.
10. The unit Shall ensure complete compliance of charter within specific time frame as mentioned there in.
11. The unit may be suitably directed to take corrective action based on the observation made above.

Name of the inspecting officers	Designation	Signature
1. Dr. Raj K. Singh	Sc 'D'	26/4/19
2. Prateek Srivastava	JRF	Srivastava 26/04/19

CONCLUDING REMARKS BY REGIONAL DIRECTOR:

Based on observation & recommendations of inspecting team, suitable direction may be issued to the unit for proper operation of ETP and other non-compliance observed during visit.

26/4/19

S. K. Gupta
Regional Director

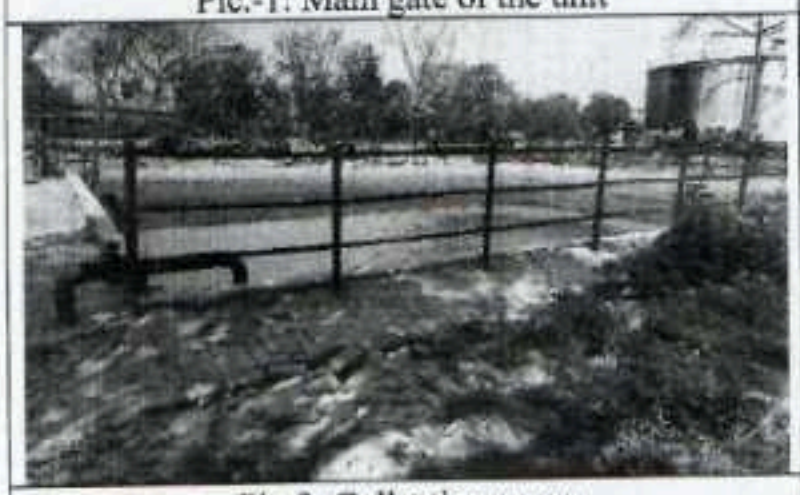
5. ANNEXURES:

1	Daily manufacturing report (DMR) for period from 16-03-2019 to 25-03-2019.	Attached
2	Photocopy of data recorded on log books of fresh water abstraction and consumption.	Attached
3	Recorded laboratory Analysis Report of ETP operational Parameters carried out by the factory.	Not maintained
4	ETP analysis report carried out as per sample taken during the visit.	Attached
5	ETP performance report, if analysis is carried out by external laboratory.	Attached
6	OCEMS recorded data e.g. flow rate, pH, COD, BOD, TSS etc. sent on CPCB server during the visit.	Provided
7	Spray pond over flow treatment process details	Not available
8	Process details- material balance and flow diagram	Not provided
9	ETP details with flow diagram.	Attached
10	Status of consents & authorization from CPCB/ SPCB	Attached

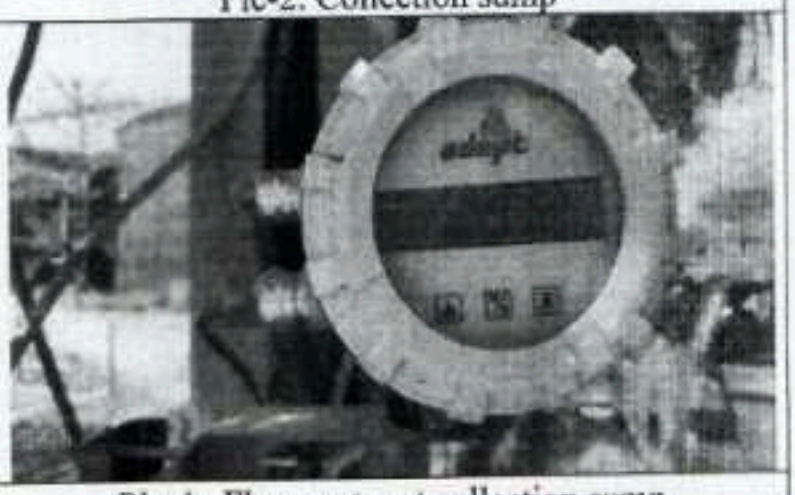
Photographs

Pic.-1: Main gate of the unit

Pic-2: Collection sump

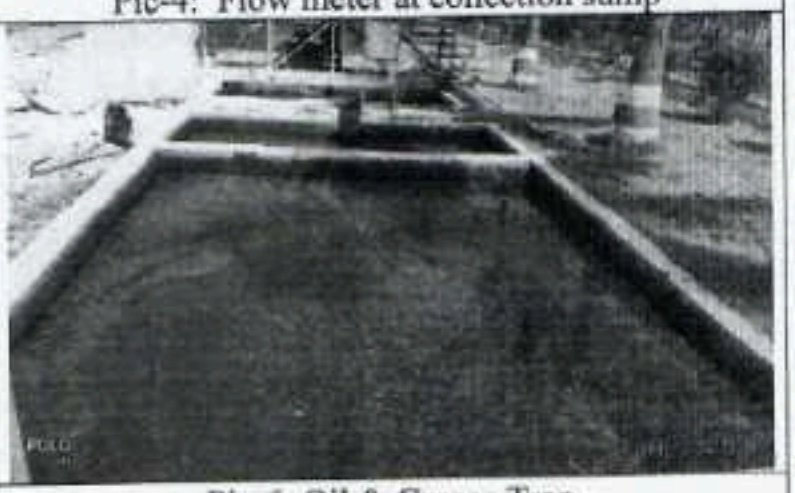


Pic-3: Collection sump

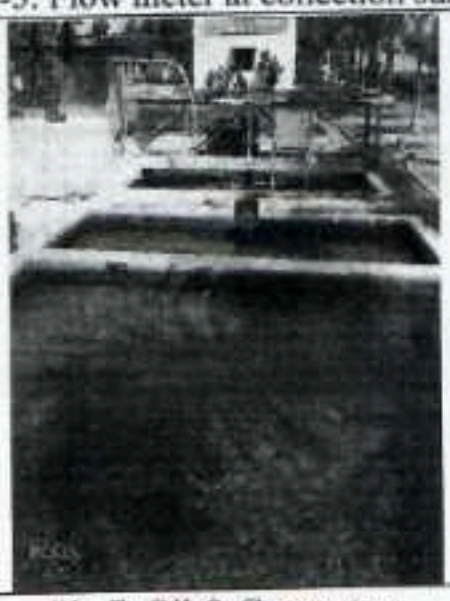


Pic-4: Flow meter at collection sump

Pic-5: Flow meter at collection sump



Pic-6: Oil & Grease Trap



Pic-7: Oil & Grease trap

Pic-8: Equalization tank

Pic-9: Primary Clarifier

Pic-10: Aeration Tank

Pic-11: Meter installed at Primary Clarifier feed

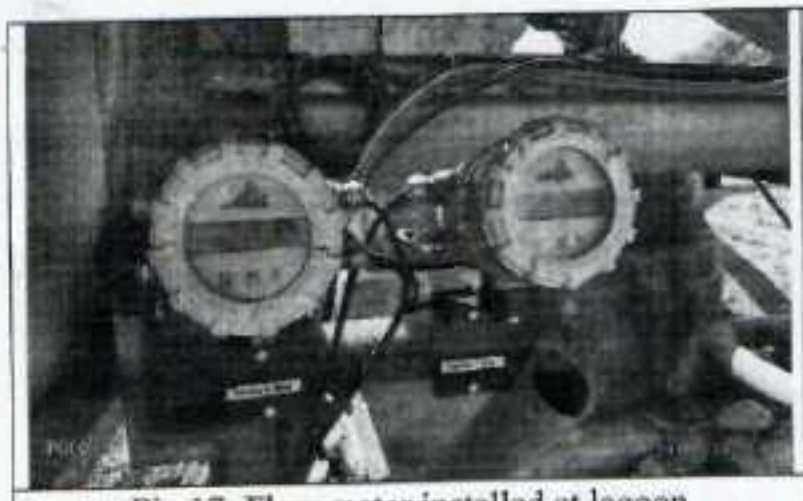
Pic-12: Secondary Clarifier

Pic-13: Treated water pit

Pic-14: Flow meter at outlet of ETP

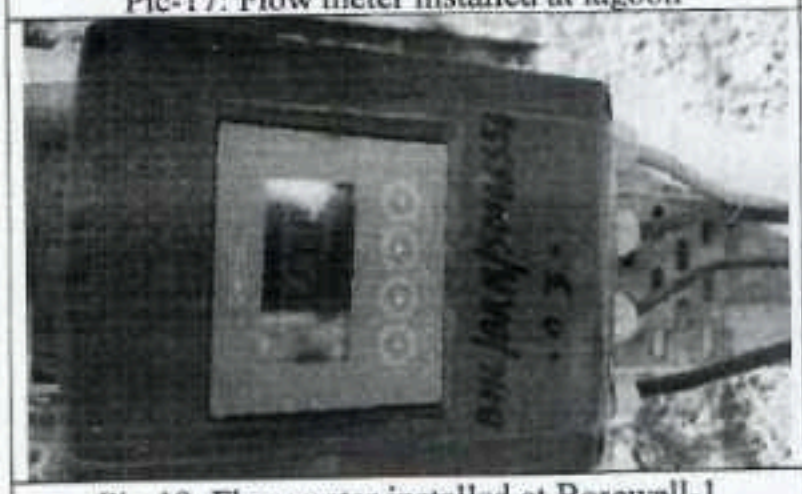
Pic-15: Media filters

Pic-16: Lagoon for treated water



Pic-17: Flow meter installed at lagoon

Pic-18: Borewell-1

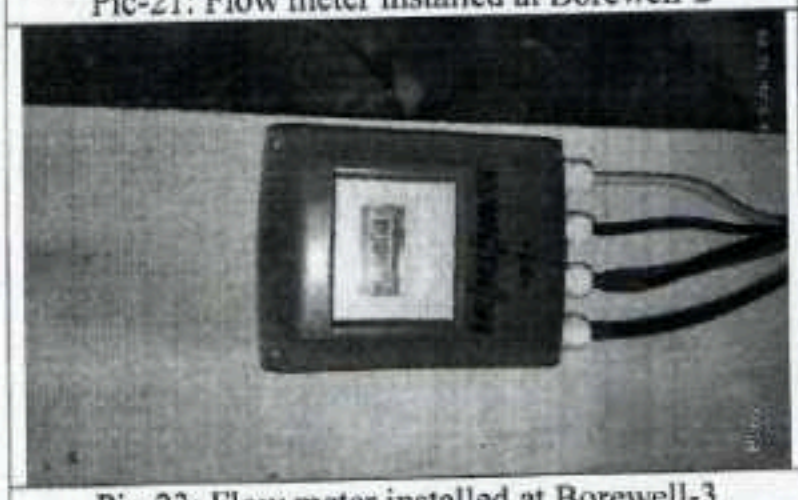


Pic-19: Flow meter installed at Borewell-1

Pic-20: Borewell-2

Pic-21: Flow meter installed at Borewell-2

Pic-22: Borewell-3



Pic-23: Flow meter installed at Borewell-3

Pic-24: Cooling tower

Pic-33: Treated effluent logged into premises

Pic-34: Treated effluent logged into premises

Pic-35: Treated effluent logged into premises

Pic-36: Untreated effluent logged into premises

Pic-37: Stack of the boiler

Pic-38: Handpump near the unit

केन्द्रीय प्रदूषण नियंत्रण बोर्ड आंचलिक प्रयोगशाला		Central Pollution Control Board Zonal Laboratory	
Doc No. CB/ZLN/QR/5.10/2	Issue No. : 02	Dt of Issue : 22.11.2015	Page No. : 1 of 1
Amendment no. : 00	Amendment Dt: 00	Approved by : TM	Issued by: QM

पिकप भवन, विभूति खण्ड, गोमती नगर, लखनऊ
फोन : 0522 : 4087600
फैक्स : 0522 : 4087602

PICUP Bhawan, Vibhuti Khand, Gomtinagar, Lucknow
Phone : 0522- 4087600
Fax : 0522 - 4087602

S.No W/2019/64

WASTEWATER
TEST REPORT

	Date of test report: 25/04/2019	Date/period of testing:27/3-12/04/2019
1	परियोजना /Project/Test Programme	PIAS
2	नमूने का स्रोत /भूजल /सरिता /अन्य/Sample Source (STP/ETP/Drain/any other)	Industrial Effluent
3	नमूने का प्रकार /ग्रैब/कम्पोजिट/Type of Sample (Grab/Composite)	Grab
4	नमूने एकत्र करने वाले व्यक्ति का विवरण/ Sample Collected/Deposited by	Dr. Raj Kishore Singh, Scientist D (Project)
5	नमूना एकत्रीकरण की तिथि/Date of Sample collection	26/03/2019
6	प्रयोगशाला में नमूना प्राप्ति की तिथि/Date of sample receipt in laboratory	27/03/2019
7	नमूना एकत्रण पद्धति/Sampling procedure.....Please Refer.....	CB//LN/SOP/5.1/2 & CB//LN/QR/5.7/Issue No. 01
8	विश्लेषण हेतु आवेदनकर्ता/Analysis indented by	Dr. Raj Kishore Singh, Scientist D (Project)

क्रम सं. S. No.	पैरामीटर Parameter	इकाई Unit	नमूनों का विवरण/कोड इत्यादि Description of sample/Code etc.							
			RP-11	RP-12	RP-13	RP-14	RP-15	RP-16	RP-17	RP-18
1.	पी एच/ pH	-	5.08 (30.1 °C)	7.81 (30.1 °C)	-	7.84 (30.2 °C)	7.57 (30.2 °C)	7.81 (30.5 °C)	7.25 (30.2 °C)	-
2.	एस.एस./ SS	मि.ग्रा./लि. mg/L	311	28.4	-	57.9	304	78.7	-	-
3.	एम.एल.एस.एस/ MLSS	मि.ग्रा./लि. mg/L	-	-	489	-	-	-	-	2502
4.	एम.एल.वी.एस.एस/ MLVSS	मि.ग्रा./लि. mg/L	-	-	436	-	-	-	-	1663
5.	टी डी एस / TDS	मि.ग्रा./लि. mg/L	1751	966	-	970	1053	2245	2501	-
6.	सल्फेट/ Sulphate as SO_4^{2-}	मि.ग्रा./लि. mg/L	274	178	-	167	46.4	1673	-	-
7.	ऑयल व ग्रीस/ Oil & Grease	मि.ग्रा./लि. mg/L	-	BDL	-	-	-	-	-	-
8.	घुलित आक्सीजन/ DO*	मि.ग्रा./लि. mg/L	-	-	4.0	-	-	-	-	NT
9.	बी.ओ.डी. /BOD	मि.ग्रा./लि. mg/L	2272	16.7	-	19.7	313	8.30	29	-
10.	सी.ओ.डी. /COD	मि.ग्रा./लि. mg/L	2574	105	-	136.5	478	51.6	125	-

विश्लेषण विधि हेतु सं.प.प्र./Test methods followed are appended overleaf

CODE	Description
RP-11	Industrial Effluent
RP-12	Industrial Effluent
RP-13	Industrial Effluent
RP-14	Industrial Effluent
RP-15	Industrial Effluent
RP-16	Industrial Effluent
RP-17	Industrial Effluent
RP-18	Industrial Effluent

*Analysed/measured at site by sampling team

Test Report continued on Page...2

25/4/2019

25-4-2019

(C.K Dixit)
जानकारी प्रस्तुत करने वाले के हस्ताक्षर/ Prepared by (Name & Sign)

अधिकृत हस्ताक्षरकर्ता/ Authorized Signatory

Note : 1. The results in the Test Report relate only to the items tested. 2. The report shall not be reproduced except in full, without the written permission of laboratory

RP11 :- Inlet of ETP at M/s Bajaj Hindusthan Sugar Ltd; Barkhera
RP-12 - Outlet of ETP at M/s Bajaj Hindusthan Sugar Ltd; Barkhera
RP-13 - Aeration tank of ETP at M/s Bajaj Hindusthan Sugar Ltd; Barkhera
RP-14 - Outlet of Secondary clarifier at M/s Bajaj Hindusthan Sugar Ltd; Barkhera
RP-15 - Treated effluent in lagoon at M/s Bajaj Hindusthan Sugar Ltd; Barkhera
RP-16 - Spray pond overflow at M/s Bajaj Hindusthan Sugar Ltd; Barkhera
RP-17 - Logged effluent on the ground within the premises of M/s Bajaj Hindusthan Sugar Ltd., Barkhera
RP-18 - Aeration tank of M/s Bisalpur Kisan Sahkari Chini Mills Ltd. Bisalpur

Annexure - V

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

F.No. B-19004/NGRBA/CPCB/2015-16(Part file) **Dated: 15.05.2019**

374

CIRCULAR

To maintain uniformity in action towards imposing Environmental Compensation (EC) for sugar mills, a policy has been formulated and enclosed herewith as Annexure-I. The specific cases, if any, different to the listed cases shall follow the "Methodology for assessing penalty and Environmental Compensation and action plan to utilize the fund".

The policy will be effective from 14.05.2019.

This issues with the approval of Competent Authority, CPCB.

Vidyarthi 15/05/19

(Dr. A.K.Vidyarthi)
Additional Director & In-charge, WQM-II

To:

1. Concerned officers involved in processing of sugar cases.

Copy for information to:

1) I/c - IPC-III
2) I/c - IPC-VI
3) I/c - WQM-I
4) PS to MS
5) Guard file/ Master File, WQM-II, CPCB, Delhi

Vidyarthi 15/05/19

(Dr. A.K.Vidyarthi)
Additional Director & In-charge, WQM-II

दिनांक 15/05/19

Annexure-I

Table: Policy to maintain uniformity in action towards imposing Environmental Compensation (EC) for sugar mills

Case	Previous Crushing Season	Current Crushing Season	Environmental Compensation
I	Comply	Non-Comply (SCN/Closure)	**EC for current crushing season only** **Period (N):** Date of inspection during current crushing season to 1) Date of issue of direction or 2) Date of compliance reported by CPCB or SPCB or 3) Date of closing of crushing season (whichever is earlier among 1-3)
II	Non-Comply (SCN) (not converted into confirmed closure/SCN verified and found complying)	Non-Comply (SCN/Closure)	**EC for current crushing season only** **Period (N):** Date of start of current crushing season to 1) Date of issue of direction or 2) Date of compliance reported by CPCB or SPCB or 3) Date of closing of crushing season (whichever is earlier among 1-3)
III	Non-Comply (SCN) (Converted into Confirmed closure/SCN verified and found non-complying)	Non-Comply (SCN/Closure)	**EC for both crushing season** **Period (N):** a. Last crushing Season: Date of inspection to Date of closing of crushing season b. Current crushing season: Date of start of current crushing season to 1) Date of issue of direction or 2) Date of compliance reported by CPCB or SPCB or 3) Date of closing of crushing season (whichever is earlier among 1-3) in case SCN is confirmed.
IV	Non-Comply (Closure)	Non-Comply (SCN)	**EC for both crushing season** **Period (N):** a. Last crushing Season: Date of inspection to Date of closing of crushing season b. Current crushing season: Date of start of current crushing season to 1) Date of issue of direction or 2) Date of compliance reported by CPCB or SPCB or 3) Date of closing of crushing season (whichever is earlier among 1-3) in case SCN is confirmed.
V	Non-Comply (Closure)	Non-Comply (Closure)	**EC for both crushing season** **Period (N):** a. Last crushing Season: Date of inspection to date of closing of crushing season b. Current crushing season: **2 x** EC for full crushing season

EC = PI * N * R * S * LF = 80 * N * 250 (Rs.) * 1.5 *1 = Rs. 30,000 * N

Where,

PI = Pollution Index of Industrial Sector (80), N = Number of days of violation took place

R = A factor in Rupees for Penalty (250), S = Factor for scale of operation (1.5)

LF = Location Factor (1)

- For discharge parameters pH <5.5 or pH>8.5 and or BOD>100 mg/l against standard 30mg/l (for disposal in surface water) or 100mg/l (for disposal on land), closure direction will be issued.

- The deterrent of repeated/extended violation will be considered as mentioned in above table, however for every crushing season, if violation continues then rate of EC will be 2,4 or 8 times of the basic EC rates arrived at for subsequent crushing seasons.

- **In case of closure, EC will be imposed. However, in case of SCN (Case I-IV), proposed EC amount will be communicated. EC amount will be levied only when SCN will be converted into confirmed closure.**

Speed Post

B-190198/WQM-II(RG)/CPCB/Sugar/04/2016-17 2140 23.05.2019

To,

M/s Bajaj Hindustan Sugar Ltd.,
Barkhera, Pilibhit,
U.P.-262201

DIRECTION UNDER SECTION 5 OF THE ENVIRONMENT (PROTECTION) ACT, 1986-CLOSURE THEREOF

WHEREAS, the Central Government has notified the standards for discharge of environmental pollutants from various categories of industries under the Environment (Protection) Act,1986 and the rules framed there under; and

WHEREAS, the Ministry of Environment & Forests, Govt. of India, vide notification S.O.157(E) of 27.02.1996 has delegated powers vested under Section 5 of the Environment (Protection) Act,1986 (29 of 1986) to the Chairman, Central Pollution Control Board (CPCB), to issue direction to any industry, Municipal Corporation, Municipal Council, Cantonment Board to any local or other Authority for violation of emission and effluent standards notified under Environment (Protection) Rules,1986; and

WHEREAS, it is obligatory on the part of industries to install effluent treatment plants (ETPs) to comply with the effluent discharge standards as notified under the Environment (Protection) Act, 1986 and the Rules framed thereunder and also to meet the consent conditions granted by State Pollution Control Board (SPCBs) / Pollution Control Committees (PCCs); and

WHEREAS, M/s Bajaj Hindustan Sugar Ltd., Barkhera, Pilibhit, U.P. (hereinafter referred as 'the Unit') is involved in the process of sugar manufacturing from crushing of cane; and

WHEREAS, the unit was inspected on 31.01.2018 by officials from CPCB, Delhi and was found non-complying with CPCB norms; and

WHEREAS, CPCB issued directions dated 19.03.2018 under Section 5 of the Environment (Protection) Act, 1986 to the unit for compliance of the following:

1. The unit is directed to close down its sugar manufacturing operations with immediate effect and shall not resume its operations.
2. The unit shall dismantle the bypass arrangement and stop untreated effluent discharge immediately.
3. The unit shall install & commission ETP system upto tertiary treatment level including adequate treatment system for spray pond overflow effluent in case of double sulphitation process.
4. The unit having high-pressure boiler (>45 Kg/cm^2) shall install & commission Condensate Polishing Unit (CPU) for treatment of condensate water to ensure its reuse & recycle within the process.

5. The unit shall restrict the treated wastewater storage lagoon capacity of 15 days in low demand period for irrigation.
6. The unit shall submit irrigation management plan and utilise treated effluent meeting the prescribed norms for irrigation as per the irrigation management plan validated by expert institutions namely, NSI, Kanpur/ VSI, Pune/ Agricultural Institutions.
7. The unit shall get the verification of implement status of the recommendation of adequacy report including ETP performance assessment & effluent generation assessment done by the same institute that carried out adequacy assessment and submit the report to CPCB.
8. The unit shall submit the revalidated ETP adequacy assessment report within 45 days to CPCB.
9. The unit shall inform to CPCB about the closure of operation immediately.
10. The unit shall seek permission from CPCB before resumption of manufacturing operations.

WHEREAS, the unit's reply dated 22.3.2018 was examined; and

WHEREAS, the unit submitted the revalidated adequacy assessment reports by NSI, Kanpur vide letter dt. 07.05.2018; and

WHEREAS, the unit vide letters dated 20.07.2018 and 24.09.2018 submitted their compliance status of the charter, and

WHEREAS, CPCB issued compliance directions dated 22.10.2018 under Section 5 of Environment (Protection) Act, 1986 to the unit; and

WHEREAS, the unit was inspected on 26.03.2019 by officials from CPCB, Delhi and following observations are made:

1. Analysis of effluent sample stored in lagoon showed pH- 7.57 (against stipulated norms of 5.5- 8.5), **TSS - 304 mg/l** (against stipulated norms of 100 mg/l), **BOD -313 mg/l** (against stipulated norms of 100 mg/l) and **COD - 478 mg/l** (against stipulated norms of 250 mg/l), TDS- 1053 mg/l (against stipulated norms of 2100 mg/l) which indicate non-compliance with on land effluent discharge standards.
2. The unit has not installed flowmeters at various locations as suggested in the charter.
3. Analysis of sample collected from ETP outlet showed pH- 7.81 (against stipulated norms of 5.5- 8.5), BOD – 16.7 mg/l (against stipulated norms of 100 mg/l) , COD- 105 mg/l (against stipulated norms of 250 mg/l) , TSS- 28.4 mg/l (against stipulated norms of 100 mg/l) , TDS -977 mg/l (against stipulated norms of 2100 mg/l). However, MLSS in aeration tank was 489 mg/l that indicates unstabilized aeration tank and dilution of ETP system could not be ruled out.
4. The logging of wastewater upto 4-5 inches is observed in storm water drain, a barren field within the premises and in cane yard that indicates that the unit is not using the treated effluent for irrigation purposes and disposing it in indiscriminate way.
5. TDS level reduced drastically from 1751 mg/l (at inlet) to 966 mg/l (at outlet) which indicate possibility of dilution.

It is evident that untreated effluent is being discharged and bye-passed by the unit causing grave injury to the environment.

AND WHEREAS, 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 "*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*"; and

WHEREAS, in compliance of above quoted Hon'ble NGT order, cases to be considered for levying penalty are discharges in violation of consent conditions/ non- compliance with the directions, such as direction for closure due to non-installation of OCEMS/ non-adherence to the action plans submitted/ intentional avoidance of data submission or data manipulation by tampering OCEMS; and

WHEREAS, as per the methodology for assessing penalty and environmental compensation, the environmental compensation to be levied to the unit is calculated as **Rs.27,30,000/-** (Rupees twenty-seven lakhs thirty thousand only) for the non-compliance period (31.01.2018 to 01.05.2018), for the crushing season 2017- 18; and **Rs. 1,09,20,000/-** (Rupees One crore nine lakhs twenty thousand only) for the non-compliance period (14.11.2018 to 14.05.2019) for the crushing season 2018- 19; and

NOW, THEREFORE, in view of above observations and in exercise of the powers delegated to the Chairman, CPCB under section 5 of the Environment (Protection) Act, 1986, the unit (M/s Bajaj Hindustan Sugar Ltd., Barkhera, Pilibhit, U.P.) is directed to close down all manufacturing operations and **deposit Rs. 1,36,50,000/-** in CPCB A/c No. 532702050000164 (Bank name: Union Bank Of India, IP Extension Branch, Vikas Marg Extn., Delhi; IFSC: UBIN0553271) towards environmental compensation within 15 days from the date of receipt of direction and the unit shall comply with the following directions:

1. The unit shall immediately close down all its manufacturing operations with immediate effect and shall not resume its operations.
2. The unit shall submit adequacy assessment of treatment facility by reputed govt. institute including work completion report regarding implementation of the recommendations of the adequacy report within 45 days.
3. The unit shall seek permission for CPCB, after completion of above direction, before resumption of operation.

In case of default in compliance with the above directions, CPCB will be constrained to initiate action against the Unit **(M/s Bajaj Hindustan Sugar Ltd., Barkhera, Pilibhit, U.P.)** without giving any further notice in accordance with the provisions of the Environment (Protection) Act, 1986.

28/5/19

(S. P. SINGH PARIHAR)
CHAIRMAN

Copy to:

1. **Principal Secretary** Sugar Industry and Cane Development Department,"G" Block, 2/3, Mantri Wing, 4th Floor, Bapu Bhawan,Vidhan Sabha Marg Lucknow - 226 001	With request to ensure compliance of the directions.
2. **The Chairperson** Uttar Pradesh Pollution Control Board, Building No. TC-12V,Vibhuthi Khand, Gomti Nagar, Lucknow – 226 010	With request to ensure compliance of the directions.
3. **Joint Secretary (CP Division)** Ministry of Environment, Forest & C.C Prithvi Block, Indira Paryavaran Bhawan, Jorbagh Road, New Delhi – 110 003	For kind information, please.
4. **The District Magistrate** Pilibhit-262201, U.P.	To ensure physical verification, closure, sealing and disconnection of power supply in compliance of closure direction.
5. **The Superintending Engineer** Madhyanchal Vidyut Vitran Nigam Ltd. Pilibhit, U.P.	To disconnect the power supply of the unit, please
6. **Regional Director** Regional Directorate Central Pollution Control Board, PICUP Bhawan, Ground Floor, Vibhuti Khand, Gomti Nagar, Lucknow – 226 010	For follow up and ensuring compliance
7. In-charge, IT Division, CPCB	With request to upload on CPCB server.
8. In-charge, F & A Division, CPCB	
9. Master file/Guard file, WQM II, CPCB Delhi	

(Prashant Gargava)
MEMBER SECRETARY

CENTRAL POLLUTION CONTROL BOARD
DELHI

F.No.B-400(S)/IPC-III/2019-20 \162 September 04th, 2019

OFFICE ORDER

POLICY FOR LEVYING ENVIRONMENTAL COMPENSATION (EC) FOR INDUSTRIES

In compliance of Hon'ble NGT order in the matter of OA No. 593/2017 (WP (CIVIL) No. 375/2012, *Paryavaran Suraksha Samiti & Anr. Vs. Union of India & Ors.)* a Committee was constituted by CPCB for developing a formula for imposing penalty and environmental compensation on industrial units.

As per the Committee recommendations, following cases are considered for levying environmental compensation,:

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 discharge 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 in to ground water.

In the instances as mentioned at a, b and c above, Pollution Index shall be used as a basis to levy the Environmental Compensations. CPCB has published guidelines for categorization of industries into Red, Orange, Green and White bases 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 (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.

After considering various factors including the policy implementation issues, Committee has derived 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.

EC = PI X N X R X S X LF

Where,

PI (pollution Index), N (number of days of violation), R (Rupees factor), S (Scale of operation), LF (location factor).

anner

In case of d, e and f, the Environmental Compensation may be levied based on the detailed investigations by Expert Institutions/Organizations.

Conditions/ policy / operational protocol for levying EC shall be as below:

1. Prior to imposition of EC, a Show Cause Notice (SCN) for imposing EC alongwith an opportunity to reply/ hearing be given.

2. Method adopted for calculation of EC may be shared with the concerned industry/ agency if asked during hearing or through reply.

3. Unless there is substantial evidence, date of non-complying days would start w.e.f. date of non-compliance observed during inspection.

4. In Sugar industry, number of days of violation is calculated based on actual number of days operated during crushing season(s) based on Excise Form RT-8C submitted by the unit.

5. EC for non-compliance to CPCB's closure direction regarding installation & connectivity of OCEMS shall apply till establishment of initial uninterrupted data connectivity for all the specified parameters in all the permitted outlets /stacks, as verified by the IT division.

6. EC for the closure direction issued on the ground of non-compliance of prescribed discharge/ emission norms shall apply for the period between date of inspection & monitoring to date of closing of manufacturing operation.

7. Direction for closure or revocation and direction for imposition of EC to be dealt separately.

This issues in supersession of the earlier approach & methodology being followed in calculation of EC amount on the ground of non-compliance of closure direction regarding OCEMS and circular no. B19004/NGRBA/CPCB/2015-16(part file) dated 15.05.2019 regarding calculation of EC amount on the ground of non-compliance of notified norms for sugar mills.

(PRASHANT GARGAVA)
MEMBER SECRETARY

'c.

1. All Divisional Heads/ई-कुम्भ : For necessary action please
2. All Regional Directors : For necessary action please
3. Divisional Head IT : For uploading on CPCB's website please

Copy for information to:

1. PS to CCB
2. PS to MS

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

SPECIAL LEAVE PETITION (CIVIL) NO. 18356 OF 2019

IN THE MATTER OF:-

BAJAJ HINDUSTAN SUGAR LTD.
GOLA GOKARAN NATH
DISTRICT LAKHIMPUR, U.P. 262802 PETITIONER

VERSUS

CENTRAL POLLUTION CONTROL BOARD RESPONDENT(S)

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Through Counsel

Date : 02.12.2019

Place : Delhi

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

SPECIAL LEAVE PETITION (CIVIL) NO. 18356 OF 2019

IN THE MATTER OF:-

BAJAJ HINDUSTAN SUGAR LTD.
GOLA GOKARAN NATH
DISTRICT LAKHIMPUR, U.P. 262802 **PETITIONER**

VERSUS

CENTRAL POLLUTION CONTROL BOARD **RESPONDENT(S)**

COUNTER AFFIDAVIT ON BEHALF OF THE CENTRAL POLLUTION CONTROL BOARD PARIVESH BHAVAN, EAST ARJUN NAGAR DELHI 110 032, RESPONDENT IN THE ABOVE MATTER

I, A.K.Vidyarthi, S/o Late Vikrama Singh, working as Scientist 'E', in Central Pollution Control Board (CPCB), Parivesh Bhavan, East Arjun Nagar, Delhi 110 032 do hereby solemnly affirm and declare as under:

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2. That I am fully conversant with the facts and circumstances of the present case and am duly authorized to affirm and swear this affidavit on behalf of the Central Pollution Control Board, Delhi (hereinafter referred to as "CPCB").

3. That this Special Leave Petition has been filed by M/s Bajaj Hindustan Sugar Ltd. against the order passed by the High Court of Delhi on 05.07.2019 in the matter of W.P.(C) No.7167 of 2019. The High Court while disposing of the Writ Petition filed by M/s Bajaj Hindustan Sugar Ltd. has observed that since the Petitioner has an equally effective remedy available, this Court does not consider it appropriate to entertain the present Writ Petition and the same is disposed of leaving it for the Petitioner to avail of alternative remedies.

4. That earlier the Central Pollution Control Board, Respondent has issued directions, dated 30.05.2019 under Section 5 of the Environment (Protection) Act, 1986 and directed the Petitioner industry to close its unit with immediate effect and also deposit a sum of Rs.1,36,50,000/- as Environmental Compensation. The Environmental Compensation was imposed pursuant to the directions of the Hon'ble National Green Tribunal.

Contd....2/-

5. That Central Pollution Control Board submits that directions issued under Section 5 of the Environment (Protection) Act, 1986 is appealable under Section 5 A of the Environment (Protection) Act, 1986 before the National Green Tribunal.

PRELIMINARY SUBMISSIONS

6. At the outset, the Respondent, CPCB submits that the above Special Leave Petition may be dismissed on the following preliminary objections :

i. The directions with regard to the recovery of the Environment Compensation are being issued in respectful compliance with the directions issued by the Hon'ble National Green Tribunal which is a duly constituted Tribunal under the provision of the National Green Tribunal Act, 2010. As pointed out hereunder in detail, the methodology of computation of such Environment Compensation was also determined during the pendency of the proceedings before and as per the directions issued by the Hon'ble NGT. The said methodology was also placed for consideration before the Hon'ble NGT and the recovery of such compensation is being reported from time to time to the Hon'ble NGT.

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Section 22 of the National Green Tribunal Act, 2010 reads as under :

"Appeal to Supreme Court

Any person aggrieved by any award, decision or order of the Tribunal, may file an appeal to the Supreme Court, within ninety days from the date of communication of the award, decision or order of the Tribunal, to him, on any one or more of the grounds specified in section 100 of the Code of Civil Procedure, 1908 (5 of 1908):

Contd...3/-

Provided that the Supreme Court may, entertain any appeal after the expiry of ninety days, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal."

It is respectfully submitted that the exercise of the statutory appellate powers which only the Hon'ble Supreme Court is conferred with. The petition deserves to be dismissed on this ground alone.

ii. It is respectfully submitted that apart from the fact that the impugned directions is in compliance with and in pursuance of the order passed by the Hon'ble NGT, the said direction is issued in exercise of the powers conferred under Section 5 of the Environment (Protection) Act, 1986.The exercise of this power can also be subjected to a statutory appeal under section 5A of the said Act which lies before the Hon'ble NGT. Section 5A of the Environment (Protection) Act, 1986 reads as under :

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"Appeal to National Green Tribunal

Any person aggrieved by any directions issued under section 5, on or after commencement of the National Green Tribunal Act, 2010, may file an appeal to the National Green Tribunal established under section 3 of the National Green Tribunal Act, 2010 in accordance with the provisions of that Act."

The present petition may not be entertained as the Petitioner has the alternative efficacious remedy of appeal which lies before the Hon'ble NGT which is already seized of the subject matter. Any party who does not succeed before the said Tribunal would have a remedy before the Hon'ble Supreme Court under Section 22 of the NGT Act quoted above.

Contd....4/-

As the subject matter of dispute in the present Petition is already a subject matter before the Competent Statutory Tribunal which is seized of the matter and as the NGT Act, 2010 read with Environment (Protection) Act, 1986 are self-contained Code. The Respondent, the CPCB respectfully prays that this question may kindly be decided as a preliminary question without examining the matter on merits.

7. That the Petitioner, M/s Bajaj Hindustan Sugar Ltd. is a Unit engaged in production of sugar with sugar cane crushing of 10,000 TCD. The CPCB has issued direction dated 05.02.2014 under Section 18 (1) (b) of the Water (Prevention and control of pollution) Act, 1974 to the State Pollution Control Boards to direct the Grossly Polluting Industries (GPIs) discharging into River Ganga and its tributaries to install Online Continuous Effluent Monitoring System (OCEMS) at outlet of Effluent Treatment Plant (ETP) before final disposal as notified in Environment (Protection) Rule, 1986 into River Ganga and its tributaries for self-monitoring of compliance of effluent discharge.

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8. Thereafter, Respondent issued direction dated 24.07.2015 under Section 5 of the Environment (Protection) Act, 1986 to direct the Petitioner Unit discharging into River Ganga and its tributaries to install Online Continuous Effluent Monitoring System (OCEMS) at outlet of Effluent Treatment Plant (ETP) before final disposal to monitor compliance of notified environmental standards under Environment (Protection) Rules, 1986 into River Ganga and its tributaries for self-monitoring of compliance of effluent discharge.

9. That M/s Bajaj Hindustan Sugar Ltd., Petitioner Unit was inspected on 26.03.2019 by officials of Respondent Board-CPCB, Regional Directorate, Lucknow. That Petitioner Unit was found non-compliant w.r.t. BOD (313 mg/L against the norms of 100mg/l), COD (478 mg/L against the norms of 250mg/l) and TSS (304 mg/L against the norms of 100mg/l) of the treated effluent stored in the lagoon with land discharge norms prescribed under Environment (Protection) Rules, 1986.

Contd...5/-

10. Consequently, Respondent, CPCB issued Closure Direction dated 30.05.2019 with environmental compensation of Rs. 1,36,50,000/- i.e. Rs.27,30,000/- for the non-compliance period (31.01.2018 to 01.05.2018), for the crushing season 2017- 18; and Rs. 1,09,20,000/- for the non-compliance period (14.11.2018 to 14.05.2019) for the crushing season 2018- 19 to the unit.

11. That the unit was earlier inspected on 31.01.2018 and was found to be bypassing untreated effluent having BOD-366mg/l against the norms of 30mg/l, COD- 786mg/l against the norms of 250mg/l and TSS- 68.6mg/l against the norms of 30mg/l and in the absence of no flow at the outlet indicating improper operation of ETP effluent sample was collected from secondary clarifier outlet showed BOD-720mg/l against the norms of 30mg/l, COD- 1715mg/l against the norms of 250mg/l and TSS- 184mg/l against the norms of 30mg/l and, which indicated bypass arrangement and effluent collected from ETP outlet both were non-compliance in respect of BOD, COD and TSS with effluent surface water discharge norms prescribed under Environment (Protection) Rule, 1986. Accordingly, CPCB issued closure direction dated 19.03.2018 under section 5 of the Environment (Protection) Act, 1986 to the Petitioner Unit for non-compliance.

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12. That as per the "Methodology for Assessing Environmental Compensation", issued vide CPCB circular dated 24.05.2019 the Environmental Compensation to be levied to the unit is calculated as Rs.27,30,000/- (Rupees Twenty-Seven Lakhs Thirty Thousand only), for bypassing untreated effluent and non-compliance of effluent discharge norms, during the period (31.01.2018 to 01.05.2018) for the crushing season 2017-18; and Rs. 1,09,20,000/- (Rupees One Crore Nine Lakhs Twenty Thousand only) for non-compliance period (14.11.2018 to 14.05.2019) related to non-compliance with effluent discharge norms of the crushing season for 2018-19.

13. That, in exercise of powers delegated to Respondent under Section 5 of the Environment (Protection) Act, 1986 and in compliance of direction vide order dated 03.08.2018 of the Hon'ble National Green Tribunal in O.A No. 593/2017(Refer Page 23 of Annexure-IV), the Petitioner Unit was directed to comply with the following directions vide letter dated 30.05.2019: Contd....6/-

" 1. The unit shall immediately close down all its manufacturing operations with immediate effect and shall not resume its operations.

2. The unit shall submit adequacy assessment of treatment facility by reputed govt. institute including work completion report regarding implementation of the recommendations of the adequacy report within 45 days.

3. The Unit shall seek permission from CPCB, after compliance of the above directions, before resumption of operation.

4. The unit shall deposit Rs.1,36,50,000/- within 15 days from the date of receipt of direction in CPCB A/c No. 532702050000164 (Bank name: Union Bank of India, IP Extension Branch, Vikas Marg Extn., Delhi; IFSC: UBIN0553271) towards environmental compensation."

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14. That the Hon'ble NGT vide order dated 22/05/2019 in Appeal No. 27/2019(WZ) with Appeal No. 35/2019(WZ) and order dated 29/07/2019 in Appeal No. 22/2019 directed that, *CPCB may treat the impugned order as tentative and pass further appropriate order after permitting the affected parties to furnish their viewpoint.* The copies of the Hon'ble NGT's Orders dated 22.05.2019 and 29.07.2019 are enclosed as **ANNEXURE-I** and **ANNEXURE-II** respectively.

Accordingly, personal hearing of the sugar mills was held on 18.09.2019 and 24.09.2019 in CPCB, Delhi and based on viewpoints received from sugar mills, CPCB vide office order dated 04.09.2019 issued policy for levying Environmental Compensation (EC) for industries which prescribes that:

a. EC for the closure direction issued on the ground of non-compliance of prescribed discharge/ emission norms shall applied for the period between date of inspection and monitoring of date of closing of manufacturing operation.
b. Direction for closure or revocation and direction for imposition of EC to be dealt separately.

Contd.....7

As per office order dated 04.09.2019, EC has been recalculated as Rs. 6,90,000/- for the period from date of inspection (26.03.2019) to date of end of operations in the crushing season 2018-19 (17.04.2019). However, the EC will remain stayed and shall be levied subject to the final judgement of the Hon'ble Supreme Court in the matter of Bajaj Hindustan Sugar Limited Versus Central Pollution Control Board in SLA (c) No. (s) 18356/2019.

Based on the action plan submitted by the unit vide letter dated 25.10.2019 and office order dated 04.09.2019, the Petitioner was issued compliance direction under Section 5 of the Environment (Protection) Act, 1986 dated 31.10.2019 and was directed to comply with the following:

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1. *The unit may resume its operation only after obtaining the valid consent from Uttar Pradesh State Pollution Control Board.*
2. *The unit shall submit performance assessment of effluent treatment plant including analysis of treated effluents by the reputed government institute within 60 days of resumption of operation.*
3. *The unit shall inform CPCB about resumption of manufacturing operations.*

15. It is submitted that the Respondent imposed Environmental Compensation based on the principle of "Polluter Pays" which states that one who pollutes the environment must pay to reverse the damages caused by his acts. The Hon'ble Supreme Court stated in Indian Council for Enviro-Legal Action Vs. Union of India (1996) AIR SCW 1069 :

> *"67. The polluter pays principle demands that the financial costs of preventing or remedying damage caused by pollution should lie with the undertakings which cause the pollution, or produce the goods which cause the pollution..."*

In the case of Vellore Citizens Welfare Forum Vs. Union of India (1996) 5 SCC 647 the Hon'ble Supreme Court defined the polluter pays principle as:

Contd....8/-

"11. Polluter Pays principle has been held to be a sound principle. The Polluter Pays principle as interpreted by the Supreme Court means that the absolute liability for harm to the environment extends not only to compensate the victims of pollution but also the cost of restoring the environmental degradation. Remediation of the damaged environment is part of the process of "Sustainable Development" and as such the polluter is liable to pay the cost to the individual sufferers as well as the cost of reversing the damaged ecology. Apart from the constitutional mandate to protect and improve the environment there are plenty of post-independence legislations on the subject. In view of the constitutional and statutory provisions it must be held that Precautionary principle and the Polluter Pays Principle are part of the environmental law of the country."

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The Hon'ble Supreme Court in the case of M.C Mehta v. Kamal Nath 2002(2) SCALE 654 stated the following:

"24. Pollution is a civil wrong. By its very nature, it is a tort committed against the community as a whole. A person, therefore, who is guilty of causing pollution has to pay damages (compensation) for restoration of the environment and ecology. He has also to pay damages to those who have suffered loss on account of the act of the offender.

In addition to damages aforesaid, the person guilty of causing pollution can also be held liable to pay exemplary damages so that it may act as a deterrent for others not to cause pollution in any manner.

The considerations for which fine can be imposed upon a person guilty of committing an offence are different from those on the basis of which exemplary damages can be awarded."

Contd....9/-

16. That it is humbly submitted that the Respondent has been authorized to levy Environmental Compensation by Hon'ble National Green Tribunal vide order dated 03.08.2018 in Paryavaran Suraksha Samiti & Anr. Vs. Union of India & Ors, Original Application No. 593/2017 (W.P. (Civil) No. 375/2012) :

> *"1. This matter was taken by this Tribunal in furtherance to the orders of the Hon'ble Supreme Court dated 22.02.2017 Paryavaran Suraksha Samiti Vs. Union of India (2017) 5 SCC 326, establishment and functioning of ETPs/CETP/STPs.*
>
> *6. 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."*

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THE SEAL OF NOTARY PUBLIC Appointed by Govt. of NCT of Delhi ARTHI LATA GAUTAM

17. That the Hon'ble National Green Tribunal directed vide order dated 06.12.2018(Refer page 34 of Annexure-IV) in Court on its own Motion Versus State of Karnataka With D. Kupendra Reddy Vs. State of Karnataka, Original Application No. 125/2017 (M.A. No. 1337/2018) With Original Application No. 217/2017 (M.A. Nos. 761/2017, 1073/2017, 1098/2017 & 1471/2017):

> *"26. xvi. 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.*

Contd....10/-

Deterrent effect for repeated wrongs may also be provided."

18. That the Hon'ble National Green Tribunal further directed through order dated 19.02.2019 in Paryavaran Suraksha Samiti & Anr. Vs. Union of India & Ors, Original Application No. 593/2017 (W.P. (Civil) No. 375/2012):

"The report dated 12.12.2018 annexes an amended Annexure 7 which relates to methodology for assessing environmental compensation and action plan to utilize the fund."

The copy of Hon'ble NGT's Order dated 19.02.2019 is enclosed as **ANNEXURE-III** and Methodology for Assessing Environmental Compensation and Action Plan to utilize the fund filed in NGT is annexed as **ANNEXURE-IV.**

19. That the Hon'ble National Green Tribunal has observed in its order dated 21.02.2019 in Residents of Gram Panchayat Varahiya Versus State of M.P. in Original Application No. 739/2018:

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"7. As laid down by this Tribunal repeatedly, the Regulatory Authorities are not only required to prohibit illegal polluting activities but they are also required to recover compensation for the damage caused apart from prosecution or other steps so as to render polluting activities to be unprofitable. Failure to do so may call for action against the regulatory authorities themselves."

The copy of Hon'ble NGT's Order dated 21.02.2019 is enclosed as **ANNEXURE-V.**

20. That it is humbly averred that the Respondent is levying Environmental Compensation as directed by the Hon'ble National Green Tribunal vide its orders dated 03.08.2018 and 19.02.2019 in Original Application No. 593/2017 (W.P. (Civil) No. 375/2012), Original Application No. 125/2017 (M.A. No. 1337/2018) and O.A No. 217/2017 (M.A. Nos. 761/2017, 1073/2017, 1098/2017 & 1471/2017) vide order dated 06.12.2018 & OA No. No. 739/2018, vide its order dated 21.02.2019.

contd....11/-

21. That it is respectfully submitted that the Petitioner unit was found non-compliance for bypassing untreated effluent and not meeting with effluent discharge norms for crushing season 2017-18 and not meeting with effluent discharge norms for crushing season 2018-19. In this regard, the Respondent issued Closure Notice dated 19.03.2018 to the Petitioner for crushing season 2017-18 and dated 30.05.2019 for crushing season 2018-19. That the Methodology for Assessing the Environmental Compensation and Action Plan to utilize the fund were placed before the Hon'ble National Green Tribunal and the Hon'ble Tribunal was pleased to make the following observation in order dated 19.02.2019 in Original Application No. 593/2017 (W.P. (Civil) No. 375/2012):

> *"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):*
>
> *1. Discharges in violation of consent conditions, mainly prescribed standards/ consent limits.*
>
> *2. 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.*
>
> *3. Intentional avoidance of data submission or data manipulation by tampering Online Continuous Emission/ Effluent Monitoring System."*

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THE SEAL OF NOTARY PUBLIC * MITHLESH GAUTAM * App. by Gr. Noida

22. That the closure direction under Section 5, Environment (Protection) Act, 1986 with Environmental Compensation for non-compliance with the directions issued by the Respondent, was issued to the Petitioner Unit for non-compliance with effluent discharge norms in the current (2018-19) crushing season.

23. That the Petitioner Unit was non-compliant with respect to bypass of untreated effluent through channel and not meeting with effluent discharge norms in the last crushing season (2017-18).

Contd....12/-

PARAWISE COMMENTS

24. That in reply to the averments contained in para 1 the answering Respondent CPCB reiterated as stated in para 6 above.

25. That the averment contained in para 2 need no comments.

26. That the averment contained in para 3 & 4 need no comments.

GROUNDS

27. That in reply to the averment contained in paras A to J of Para 5 of the Grounds, the Central Pollution Control Board, the answering Respondent reiterated as stated in earlier paras.

28. That in reply to the averments contained in para K of Para 5 of the Grounds, the CPCB submits that as per the report on validation of ETP Performance, 2019 prepared by National Sugar Institute, Kanpur, the units of ETP i.e. Bar Screen Chamber, Oil & Grease trap chamber, equalization tank and secondary clarifier are inadequate at the licensed capacity of the unit i.e. 10000 TCD.

957-A/2019

During the inspection of the unit carried out by CPCB on 26th March, 2019, deviation was observed in the parameter of the treated effluent stored in the lagoon and being used for irrigation purpose. Analysis of effluent stored in lagoon showed BOD-313 mg/l (against stipulated norms of 100 mg/l), COD-478 mg/l (against stipulated norms of 250 mg/l) and TSS-304 mg/l (against stipulated norms of 100 mg/l). Therefore, CPCB has issued closure directions w.r.t. the land discharge norms notified on 14.01.2016 under Section 6 and 25 of the Environment (Protection) Act, 1986.

Also, MLSS in the aeration tank was only 489 mg/l (as against desirable limit 2000-2500 m/l) which shows unstabilized condition of the ETP. Analysis of the effluent at the inlet showed BOD:2272 mg/l and COD 2574 mg/l and at the outlet BOD was 16.7 mg/l and COD 105 mg/l which shows removal of approximate 99% of BOD and approx. 95% COD which is not possible in such unstabilized condition of the aeration tank (ETP) and indicates the possibility of dilution of the effluent in the ETP.

Contd....13/-

Further, as per the inspection carried out in 2018, a closed circular channel was noticed from the unit to an area approx. 1 km away from the unit. At the end of the open channel, effluent was found logged in open channel going to the nearby stream through agricultural land. The analysis results (BOD-366 mg/l, COD-786 mg/l and Sulphate-589 mg/l) of the logged effluent clearly indicate the bypassing and illegal discharge of the effluent of the sugar unit. During inspection no discharge of effluent was observed at the outlet and also ETP inlet channel was blocked by a wooden log. This shows that unit was bypassing its effluent. Analysis of effluent from secondary clarifier (BOD-720 mg/l, COD-1715 mg/l) also indicates the doubtful operation of the ETP. Such high BOD and COD from the secondary clarifier cannot be removed by tertiary treatment.

Thus, the activities of the unit were damaging the environment and hence the unit has to pay compensation for the damaged caused on the basis of "Polluter Pays Principle"

957-A/2019

29. That it is humbly prayed that the present SLP is not maintainable and liable to be dismissed as Section 5A, Environment (Protection) Act, 1986 clearly states that any person aggrieved by any directions issued under Section 5 of the Environment (Protection) Act, 1986 may file an appeal to Hon'ble National Green Tribunal.

Or

This Hon'ble Court may pass any order or further orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the matter.

THE SEAL OF NOTARY PUBLIC App. by Govt. of NCT of Delhi R.No.07/6/2008 GAUTAM

I Identif... consent... self ... Ajit Kumar Vidyarthi

DEPONENT

VERIFICATION

Verified at Delhi on this 02nd day of December, 2019 that the contents of the above affidavit are correct to the best of my knowledge and belief and nothing has been concealed therein.

CERTIFIED THAT THE DEPONENT ... A.K. Vidyarthi ... S/o late Sh. Vikram Singh ... 3 DEC 2019 ... Ajit Kumar Vidyarthi

DEPONENT

Notary Public, Tis Hazari Courts, Delhi. 03 DEC 2019

ANNEXURE - I

Item Nos. 01 & 03

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
(Through Video Conferencing)

Appeal No. 27/2019 (WZ)
(I.A. No. 49/2019, I.A. No. 50/2019 & I.A. No. 66/2019)
WITH
Appeal No. 35/2019 (WZ)
(I.A. No.68/2019 & I.A. No.69/2019)

Shri Vitthalsai SSK Ltd. Appellant(s)

Versus

Central Pollution Control Board & Ors. Respondent(s)

WITH

Bhairavnath Sugar Works Ltd. Appellant(s)

Versus

The Member Secretary, CPCB & Ors. Respondent(s)

Date of hearing: 22.05.2019

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

For Appellant(s) Mr. S. Bhattari, Advocate

For Respondent (s):

ORDER

1. These appeals have been preferred against order dated 12.03.2019 passed by the Central Pollution Control Board (CPCB) requiring the appellant to pay environmental compensation of Rs. 26,70,000/- on the ground of non-compliance of commissioning of online monitoring system.

2. Main contention of the appellant is that factually online monitoring system stood commissioned. Even if there was any irregularity, it was technical and there was no violation of norms.

3. Considering similar contentions in *Appeal No. 34/2019(WZ), M/s Madhukar Sahakari Sakhar Karkhana Ltd. vs. Central Pollution Control Board, Appeal No. 05/2019, Morinda Co-op. Sugar Mills Ltd. vs. Central Pollution Control Board* and *Appeal No. 23/2019(WZ), Babasaheb Ambedkar SSK vs. The Member Secretary, CPCB & Ors.*, this Tribunal sought response from the CPCB and stayed the coercive action.

4. In normal course, we would have waited for the response of the CPCB but we are of the view that better course in the interest of justice will be that the CPCB itself goes into the above contention after considering the viewpoint of the appellants, in accordance with law, as it is also stated that the appellants were not heard by the CPCB.

5. Accordingly, we direct that the CPCB may treat the impugned order as tentative and pass further appropriate order after permitting the affected parties to furnish their viewpoint. The appellant may furnish its viewpoint to the CPCB within two weeks from today. Similar opportunity may also be given to other affected parties where such orders have been passed in connected cases, including *Appeal No. 34/2019(WZ), M/s Madhukar Sahakari Sakhar Karkhana Ltd. vs. Central Pollution Control Board, Appeal No. 05/2019, Morinda Co-op. Sugar Mills Ltd. vs. Central Pollution Control Board and Appeal No. 23/2019(WZ), Babasaheb Ambedkar SSK vs. The Member Secretary, CPCB & Ors.*

6. Till further order is passed by the CPCB, the impugned order may not be given effect. The fresh order may be passed as far as possible within two months.

The Appeal Nos. 34/2019(WZ), 05/2019, 23/2019(WZ) on the file of the NGT will also stand disposed of in above terms.

A copy of this order be sent to the appellants in Appeal Nos. 34/2019(WZ), 05/2019 and 23/2019(WZ) as well as the CPCB by e-mail for compliance.

Copies of this order be placed in the files of Appeal Nos. 34/2019(WZ), 05/2019, 23/2019(WZ).

Since we have passed this order without hearing the CPCB, it will be open to the CPCB to move this Tribunal if it has any grievance against the above course of action.

Adarsh Kumar Goel, CP

S.P. Wangdi, JM

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

May 22, 2019
Appeal No. 27/2019 (WZ)
(I.A. No. 49/2019, I.A. No. 50/2019 & I.A. No. 66/2019)
WITH
Appeal No. 35/2019 (WZ)
(I.A. No.68/2019 & I.A. No.69/2019)
DV

ANNEXURE - II

Item No. 06 to 13

Court No. 1

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Appeal No. 22/2019
(I.A. No. 430/2019)
WITH
Appeal No. 12/2019
(I.A. No. 391/2019)
WITH
Appeal No. 13/2019
(I.A. No. 392/2019)
WITH
Appeal No. 14/2019
(I.A. No. 393/2019)
WITH
Appeal No. 15/2019
(I.A. No. 397/2019)
WITH
Appeal No. 16/2019
(I.A. No. 398/2019)
WITH
Appeal No. 17/2019
(I.A. No. 400/2019)
WITH
Appeal No. 18/2019
(I.A. No. 406/2019)

The Kisan Sahkari Chini Mills Ltd. — Applicant(s)

Versus

The Member Secretary, Central Pollution Control Board & Ors. — Respondent(s)

Date of hearing: 29.07.2019

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

For Applicant(s): Mr. S. Bhartari, Advocate

For Respondent (s): Mr. Aman Bhala, Advocate for CPCB

ORDER

It is not disputed that the present matters are identical to the one disposed of by this Tribunal vide order dated 22.05.2019 in *Appeal No. 27/2019 (WZ), Shri Vitthalsai SSK Ltd. vs. Central Pollution Control Board.*

Accordingly, these appeals are disposed of in same terms.

On the pattern of above orders, the impugned order will be treated as tentative till further order is passed after considering the viewpoint of the appellants. The appellants may furnish their viewpoint to the Central Pollution Control Board (CPCB) within two weeks.

It is made clear that we have not expressed any opinion on the merits.

Adarsh Kumar Goel, CP

S.P. Wangdi, JM

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

July 29, 2019
Appeal No. 22/2019
(I.A. No. 430/2019) and connected matters
DV

ANNEXURE-III

Item No. 04 Court No. 1

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

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

Paryavaran Suraksha Samiti & Anr. Applicant(s)

Versus

Union of India & Ors. Respondent(s)

Date of hearing: 19.02.2019

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

For Applicant(s):

For Respondent (s): Mr. Shlok Chandra, Advocate for CPCB

ORDER

1. The issue for consideration is establishment and functioning of ETPs/CETPs/STPs. The Hon'ble Supreme Court vide order dated 22.02.2017 in *Paryavaran Suraksha Samiti Vs. Union of India*[1] directed that the said matter be monitored by this Tribunal.

2. Accordingly, on 25.05.2017, notice was issued to the Central Pollution Control Board (CPCB), all the State Pollution Control Boards (SPCBs)/ Pollution Control Committees(PCCs) and the Ministry of Environment, Forest and Climate Change (MoEF&CC). They filed their status reports

[1] (2017) 5 SCC 326

and found serious deficiencies. Actions were initiated to remedy the situation. After considering the status report, the Tribunal, vide orders dated 04.07.2017, 18.09.2017 and 11.10.2017, sought information about the steps taken by the SPCBs/PCCs.

3. Vide order dated 03.08.2018, the matter was reviewed and it was noted that having regard to the fact that in absence of functional ETPs/CETPs/STPs, untreated effluents are discharged in water bodies leading to contamination of water. Such contamination is cause of various diseases and also adverse consequence on aquatic organism due to decreased level of oxygen.

The Tribunal directed the CPCB to prepare an action plan. Direction was also given for monitoring by a Committee of two officers, one each representing MoEF&CC and CPCB at least once in every month. CPCB was required to place the progress report every three months on the website and take penal action for failure by way of recovery of compensation for damage to the environment, apart from other steps.

5. CPCB has filed its reports dated 04.09.2018, 28.11.2018 and 12.12.2018. In the report dated 04.09.2018, an action plan has been proposed which includes monitoring by the SPCBs/PCCs and a mechanism for penal action. In the report dated 28.11.2018, the compliance status of different States has been summed up as follows:

"5.0 Compliance Status of ETPs/CETPs/STPs reported by SPCBs/PCCs

As on 26.11.2018, the compliance status reports for ETPs/CETPs/STPs were received from 25 SPCBs/PCCs namely- Andhra Pradesh, Chandigarh, Meghalaya, Puducherry, Tamil Nadu, Jammu and Kashmir, Tripura,

Telangana, Punjab, Bihar, Nagaland, Sikkim, Chhattisgarh, Daman & Diu, Dadra Nagar Haveli, Goa, Arunachal Pradesh, West Bengal Madhya Pradesh, Kerala, Odisha, Himachal Pradesh, Mizoram, Karnataka and Maharashtra. However, no such compliance status reports were received from 11 SPCBs/PCCs, namely, Andaman and Nicobar Islands, Assam, Delhi, Gujarat, Haryana, Jharkhand, Lakshadweep, Manipur, Rajasthan, Uttar Pradesh and Uttarakhand. The information received from the 25 SPCBs/PCCs were analysed and the shortcomings observed were communicated to concerned SPCBs/PCCs for rectification. Subsequently, updated/corrected information, after rectifying the shortcomings, were received from 8 SPCBs/PCCs, namely- Tamil Nadu, Jammu and Kashmir, Meghalaya, Tripura, Puducherry, Maharashtra, Goa and Daman Diu.

The State-wise summary of the compliance status, including the updated status based on the information received from SPCBs/PCCs is given at Annexure-IX.

i. *As per the data received from 25 SPCBs/PCCs, out of total 44838 number of industries requiring ETPs, 44100 industries are operating with functional ETPs and 439 industries are operating without ETPs. Show-cause notices and closure directions have been issued to 164 and 284 industries respectively for operating without ETPs. Legal cases have been filed against 5 industries and action is under process for 259 industries. Out of 44100 operational industries, 42035 industries are complying with environmental standards and 701 industries are non-complying. Show-cause notices and closure directions have been issued to 388 and 138 industries respectively for non-compliance. Legal cases have been filed against 4 industries and action is under process for 179 industries.*

ii. *As per the data received from 25 SPCBs/PCCs, there are total 97 CETPs, out of which 84 CETPs are complying with environmental standards and 11 CETPs are non-complying. Show-cause notices and closure directions have been issued to 7 and 4 CETPs respectively for noncompliance. Legal cases have been filed against 6 CETPs and action is under process for 2 CETPs.*

iii. *As per the data received from 25 SPCBs/PCCs, there are total 3956 STPs, out of which, 3713*

STPs are complying with environmental standards and 243 STPs are non-complying. Show cause notices and closure directions have been issued to 101 and 11 STPs respectively for noncompliance. Legal cases have been filed against 9 STPs and action is under process for 75 STPs.

iv. *As per the data received from 25 SPCBs/PCCs, there are 20 CETPs in construction stage and 12 CETPs is in proposal stage. Whereas, for STPs, 139 projects are under construction stage and 177 projects are under proposal stage.*

v. *As per the data received from 25 SPCBs/PCCs, 5 SPCBs/PCCs namely- Andhra Pradesh, Goa, Himachal Pradesh, Meghalaya and Telangana are displaying OCEMS data in public domain. The links provided by Bihar, Kerala and Maharashtra are password protected and not available in public domain. Jammu and Kashmir, Madhya Pradesh, Punjab and Tamil Nadu have not provided appropriate web links. Daman and Diu, Dadra and Nagar Haveli and Karnataka have clarified that they are in the process of providing the web-links in this regard."*

6. The report dated 12.12.2018 annexes an amended Annexure 7 which relates to methodology for assessing environmental compensation and action plan to utilize the fund.

"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 (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:

a. *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.*
b. *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 PCB/ SPCB/ PCC.*
c. *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.*

d. *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.*

e. *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:*

Sl. No.	Population* (million)	Location Factor# (LF)
1.	Less than 1	1.0
2.	1 to <5	1.25
3.	5 to <10	1.5
4.	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

For critically polluted areas / Ecologically Sensitive areas, the scope of LF may be examined further.

f. *In any case, minimum Environmental Compensation shall be R 5000/day.*

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 plans 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.

3.3 As Committee also discussed that the EC shall also be levied on all violations of Graded Response Action Plan (GRAP) in Delhi 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 are given in Annexure-III."

7. The recommendations in this regard are as follows:-

"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 5 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.

5.2 *In case of d, e and f, the Environmental Compensation may be levied based on the detailed investigations by Expert Institutions/Organizations.*

5.3 *In case of viola ions of GRAP, as enforced in Delhi-NCR, Environmental Compensation commended in Annexure-III may be levied to defaulting agencies.*

8. Annexure 3 is as Follows:-

"*Annexure-III*

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
Vapour Recovery Systems (VRS) at Outlets of Oil Companies		
a) Not installed	Target Date	Rs. 1.0 Crore
b) 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 Sqm.)	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 seve +	Rs. 25.0 Lakh
	Moderate to Poor	Rs. 10.0 Lakh
Failure to water sprinkling on unpaved roads		
a) Hot-spots	Very poor to Severe +	Rs. 25.0 Lakh
b) Other than Hot-spots	Very poor to Severe +	Rs. 10.0 Lakh

"

9. We are informed that a separate report is being prepared for municipal solid waste and sewage. The CPCB may also include the subject of loss

to ecological services due to illegal mining, due to deforestation or any other damage to the environment, even though the same may not be directly on account of discharge of effluents or sewage. The CPCB may also take inputs from other expert bodies such as Institute of Economic Growth, Centre for Science and Environment (CSE), The Energy and Resources Institute (TERI) and Indian Institute of Forest Management, Bhopal.

10. We may also note that directly linked to the subject of contamination of water by discharge of untreated effluents and sewage is the issue of remedial action to be taken for 351 critically polluted river stretches identified by the CPCB which is subject matter of consideration before this Tribunal in *Original Application No. 673/2018, News item published in "The Hindu" authored by Shri Jacob Koshy titled "More river stretches are now critically polluted: CPCB.*

11. Vide orders dated 20.09.2018 and 19.12.2018, the Tribunal directed the concerned States to prepare action plans to bring the water quality as per prescribed standards. This direction implies taking of steps to set up STPs/ETPs/CETPs and to monitor their proper functioning. Thereafter, on 16.01.2019, in *Original Application No. 606 of 2018 Compliance of Municipal Solid Waste Management Rules, 2016*, the Tribunal directed presence of Chief Secretaries of all the States on different dates with a view to review the progress in different States on vital issues affecting environment. Such vital issues specifically include:

a. Status of compliance of SWM Rule, 2016, Plastic Waste Management Rules, 2016 and Bio-Medical Waste Management Rules, 2016 in their respective areas.

c. Status of the Action Plan in compliance vide order dated 20.09.2018 in the News Item published in "The Hindu" authored by Shri Jacob Koshy Titled "More river stretches are now critically polluted: CPCB (Original Application No. 673/2018).

d. Status of functioning of Committees constituted in News Item Published in "The Times of India' Authored by Shri Vishwa Mohan Titled "NCAP with Multiple timelines to Clear Air in 102 Cities to be released around August 15, dated 08.10.2018

e. Status of Action Plan with regard to identification of polluted industrial clusters in O.A. No. 1038/2018 "News item published in "The Asian Age" Authored by Sanjay Kaw titled "CPCB to rank industrial units on pollution levels" dated 13.12.2018.

f. Status of the work in compliance of the directions passed in O.A. No. 173 of 2018, Sudarsan Das v. State of West Bengal & Ors. Order dated 04.09.2018.

g. Total amount collected from erring industries on the basis of Polluter Pays principle, Precautionary principle and details of utilization of funds collected.

h. Status of the identification and development of Model Cities and Towns in the State in the first phase, which can be replicated later for other cities and towns of the State.

12. In view of above, we consider it appropriate to clarify that the Chief Secretaries may specifically look into the subject of setting up and proper functioning of STPs/CETPs/ETPs in their respective jurisdiction. The directions of CPCB in the present case may have a bearing on the said proceedings. Accordingly, we direct the CPCB to forward a copy of its report to all the Chief Secretaries so that the same

can be looked into before the Chief Secretaries appear before this Tribunal with the progress report in the matter.

13. The CPCB may also compile its monitoring report with reference to 97 CETPs installed in different States after undertaking study about status of their efficient functioning and remedial steps required in the matter. This matter is directly linked to the remedial steps for 100 critically polluted industrial clusters being dealt with by this Tribunal in *Original Application No. 1038 of 2018, News item published in "The Asian Age" Authored by Sanjay Kaw Titled "Central Pollution Control Board to rank industrial units on pollution levels"* wherein certain directions have already been issued to the CPCB for coordination of the steps to be taken. The issue is also being considered in *Original Application No. 95/2018, Aryavrat Foundation Vs. M/s Vapi Green Enviro Ltd. & Ors.* and has been dealt with vide order dated 11.01.2019. The same is now listed on 19.03.2019. The CPCB may furnish its report in the matter in the said case. A copy of this order be placed in the files of Original Application No. 606/2018, Original Application No. 673/2018 and Original Application No. 1038/2018.

14. We note the statement made by the learned Counsel for the CPCB that the following States have not furnished the relevant data to the CPCB:

a) Assam

b) Delhi

c) Haryana

d) Jharkhand

e) Lakshadweep

f) Manipur

g) Uttar Pradesh

h) Uttarakhand

15. This aspect may be looked into by the Chief Secretaries and progress on the subject may be furnished by the concerned Chief Secretaries at the time of their appearance before this Tribunal.

16. Further report received from the CPCB may also be placed for consideration on or before 31.05.2019.

17. The CPCB may send a copy of this order to the Chief Secretaries of all the States by e-mail for compliance.

List for further consideration on 19.08.2019 alongwith Original Application No. 95/2019.

Adarsh Kumar Goel, CP

S.P. Wangdi, JM

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

February 19, 2019
Original Application No. 593/2017
(W.P.)(Civil) No. 375/2012)
P & DV

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* (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:

a. 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.
b. 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.
c. 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.
d. 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.
e. 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 1st repetition, 4 times on 2nd 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 2nd, 3rd and 4th 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		
C 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 Paryavaran 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
Vapour Recovery System (VRS) at Outlets of Oil Companies		
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
Failure to water sprinkling on unpaved roads		
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

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.

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

EC= Capital Cost Factor x Marginal Average Capital Cost for Establishment of Waste or Sewage Management or Treatment Facility x (Waste or Sewage Management or Treatment Capacity Gap) + O&M Cost Factor x Marginal Average O&M Cost x (Waste or Sewage Management or Treatment Capacity Gap) x No. of Days for which facility was not available + 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 NRCD, 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

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 08/01/2019 (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 08/01/2019, 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. Sunitl 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})**

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_{GW} for Industrial 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	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 EC_{GW}=Rs 1,00,000/-					

For better understanding of implementation of EC_{GW} 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_{GW}) will be charged to the owner?

Solution:

Pump Yield *(Please refer Annexure-VI)* = 3 m^3/hr

Daily Consumption = 3 x 0.5 =1.5 m^3

ECR_{GW} = 4 Rs./m^3 *(Please refer para 4.6.1)*

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

Total time period = 820 days

Then, EC_{GW}= 6 x 820

Calculated EC_{GW}= 4,920 Rs.

EC_{GW} to be levied = 10,000 Rs. (minimum prescribed EC_{GW}, *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_{GW}) will be charged to the owner?

Solution:

Pump Yield *(Please refer Annexure-VI)* = 12 m^3/hr

Daily Consumption = 12 x 3 =36 m^3/day

ECR_{GW} = 60 Rs./m^3 *(Please refer para 4.6.4)*

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

Total time period = 365 days

Then, EC_{GW}= 2,160 x 365

EC_{GW}= 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_{gw} 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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Annexure-I

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. RAGHI RAMA, EXPERT MEMBER

Present: Applicant:
Andrew Cutler
Respondent Nos.

Mr. Rohit Prajapti, Applicant in person
Mr. Jal A. Dehadrai, Adv.
Mr. Rishe Rajan Shankar, Adv. for State of Kerala
Mr. Tarunvir Singh Khaira, Ms. Gunvir Khaira
Mr. Sandeep Mishra, Adv. for GNCTD
Mr. Anil Shrivastava, Mr. Nishant Bawa and Ms. Rutuja Bariker, Advs. for State of Arunachal Pradesh
Mr. Jogy Scaria, Ms. Sukanya Dey, Advs. for Kerala State Pollution Control Board
Mr. Avijit Ray, Adv. for Assam Pollution Control Board
Mr. Lakshaytman Pradhanat, Mr. [illegible] Sahay, Advs. for State of Mizoram
Mr. Rishi Nayyar, Mr. Dhananjay Singh, Adv. for MPCB and CPCB
Mr. Shakesh Vasuja, Advocate and Mr. Tarunvir Singh Khaira, Adv., Sandeep Mishra and Ms. Gunvir Khaira, Adv.
Mr. Dilbag Rawat, LO (E), PPCC
Mr. Vipul Mathur, Mr. Ghanesh Agnihotri, Ms. Shivangi Jeet and Ms. Anuradha Agnihotri, Advs. for State of Sikkim
Ms. Raja Chatterjee, Mr. Piyush Sachdeva, Ms. Chhayanika Tater, Advs. and Rahul for State of WB
Ms. Edward Kathar AAG, Mr. K. Lethung Michael and Ms. [illegible], Advs. for State of Nagaland
Ms. Rakhi Sarin, AAG for State of Nagaland and Pollution Control Board
Mr. M. Paikday and Mr. A.K. Panda, Advs. for CPCB/SPCB
Mr. Dhruv Pal, Adv. for State of Gujarat
Mr. V. Krishnan, Adv. for State of MP
Mr. Jayesh Gaurav, Adv. for R-47
Mr. Tayenjam Meena Singh, Adv. for Meghalaya Pollution Control Board
Mr. Shiva Chandra and Mr. Nitesh Kumar Sharma, Advs.
Mr. Gautam Singh and Mr. Shakab Alam, Advs. for State of Bihar
Ms. Ayesha Mukherjee, Adv.
Ms. G. Indira, Adv. for UT of Andaman & Nicobar
Mr. Balendu Shekhar, Mr. Nilesh Prakash and Mr. Sudhanshu Warrier, Advs. for Ministry of Environment, Forest and Climate Change
Ms. Puja Kalra, Adv. for SPCC & MPCC
Mr. Anil Grover, AAG, Mr. Rahul Khosla and Mr. Mukul Vij, Advs. for State of Haryana and HSPCB

Ms. Yogmaya Agnihotri, Adv. and Ms. Prity, Adv. for CECB
Ms. Sakshi Popli, Adv. for Ministry of Environment, Forest and Climate Change
Mr. Shivodeep Roy, Adv. and Mr. Ritvaj Biswas, Adv. for State of Tripura & Tripura Pollution Control Board
Mr. Shashank Bajpai and Mr. Shekar S. Sinkia, Advs. for State of Odisha
Ms. Asha Nayar Basu and Ms. Aradhita Ghosh Mandal, Advs.
Ms. Priyanka Sinha, Adv. for State of Jharkhand
Mr. Rajul Shrivastav, Adv. for MPPCB
Mr. Pradeep Misra and Ms. Daleep Dhyani, Advs. for UPPCB
Mr. R. Rakesh Sharma and Mr. V. Mevil, Advs. for State of TN & TNPCB
Ms. Shubham Bhalla, Adv.
Mr. Shiv Mangal Sharma, AAG, Mr. Saurabh Bajpai, Mr. Adhiraj Singh, Ms. Shikha Sandhu and Mr. Vikramjeet Singh, Advs. 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
Item No. 12 August 03, 2018 A	1. This matter was taken by this Tribunal in furtherance to the orders of the Hon'ble Supreme Court dated 22.02.2017 *Paryavaran Suraksha Samiti Vs. Union of India* (2017) 5 SCC 326, establishment and functioning of ETPs/CETP/STPs. 2. Vide order dated 25.05.2017 notice was issued to Central Pollution Control Board and 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 04th July, 2017 stating as follows: *"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.*

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August 03, 2018 A

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 62nd Conference of the Chairman 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 **Annexure-I**.

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.

7. That the CPCB with NMCG through 11 technical institutions, inspected 751 industries located in the River Ganga main stem during March-April, 2017 to verify the details 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 issued to 36 industries; 149 industries were found complying and direction issued to 93 severely 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 90 industries in the matter process".

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.

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

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(CETP), whether any such CETP or ETP or STP is properly functioning and treating the effluents as per prescribed limits or not.

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.

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 the statutory authorities as per directions which we proceed to issue today.

(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 of 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.

(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

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Item No. 12 August 03, 2018 A	appropriate directions issued. This process may be a continuous process. (iii) It must be ensured that STPs, CETPs and ETPs are functional and meet the requisite standards. (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. (v) A report of the steps taken may be placed on the website of the Central Pollution Control Board at least once in three months. Deficiencies if any may also be so displayed. (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. (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 filing.ngt@gmail.com.

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Item No. 12 August 03, 2018 A	(7) Proceedings are disposed of. However, the report received from the Central Pollution Control Board may be placed for consideration before this Tribunal on 04.09.2018. We place on record our appreciation for the services rendered by the learned Amicus Curiae. .....CP (Adarsh Kumar Goel) .....JM (Dr. Jawad Rahim) .....JM (S.P. Wangdi) .....EM (Dr. Nagin Nanda) 03.08.2018

NATIONAL GREEN TRIBUNAL, NEW DELHI

Comments Received from Various SPCBs on Draft Report for Environmental Compensation — **Annexure-II**

S. No.	Item	SPCB Kolkata	SPCB Vadodara	SPCB Bangalore	SPCB Lucknow	Committee Deliberations
1	Case- a, b & c	Processing of EC cases/violation should be given special consideration. EC levied on RED categories of industries should be on the basis of inspection by CPCB, Consolidated Consent and routine inspection.	Instead of "Compensation", "Penalty" word should be used. In case common facilities like CETPs, factor may be considered based on number industries. Clarify the applicability of penalty in addition to closure directions for non-hanged and delay non-compliance.			The Committee discussed that the points highlighted by PCB Kolkata are already the part of case (b) for violation and levy environmental compensation. However, as mentioned by PCB 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- d, e & f	Higher rates for irreparable damages resp. soil, health etc. Analogies/spillage should have different categorization rates.	It should be considered that instances d, e & f shall be dealt for environmental compensation in line with the polluter pays principle, besides of environmental penalty for cases a, b and c.	Similar to 'Guidelines on Liabilities for Environmental Damages due to Handling & Disposal of Hazardous Waste and Penalty', Guidelines may be prepared.		Suggestions made by PCB Kolkata and Vadodara has already been addressed. Concept of environmental compensation is based on the philosophy of "polluters pay" and for grave injury to environment, compensation will be charged as per the assessment of remediation cost, on case to case basis.
3	Pollution Index (PI)			Values 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.
4	R-Factor	Should be based on pollution load. For ex. Amount of ecosystem etc. discharged.		May be modified based on the consideration of pollution load based on quantity of effluent, concentration, metalloid.	May be as per the category of industry, for ex. Red-100, Orange-200, Green-300.	As PI is based on the pollution load, suggestion of SPCBs are already taken care in the formula.
5	S-Factor			May be considered based on the features, activities involved and facilitation.		S-factor may be covered in future as already indicated in the report.

Annexure-II

S. No.	Item	MS Violations	MS Violations	MS Response	MS response	Committee De Novo action
6	Defining period of violations for which EC will be levied		Duration of violations needs more clarity	For industry having OCEMS, no. of days may be counted based on the recorded data. Industry without OCEMS-based on break down of ESP/BAHD, shutdown of power supply or any failure of auxiliary stack meter w.r.t. control system.	May be clearly stated as the period between the day of violation observed and the day of compliance verified by CPCB/SPCB/PCC.	The committee agreed that period of violation for which EC may be levied will be the period between the day of violation observed and the day of compliance verified by CPCB/SPCB/PCC.
7	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 ex. 1st Repetition- 25% 2nd Repetition- 50% 3rd Repetition- 100%	For habitual offenders, higher amount of penalty/compensation may be charged in future.
8	Utilization of fund	All Environmental damage assessment cell may be created. Expertise in the field may be achieved by involving scientists/engineers and providing them training in country/abroad.	Adequate should not be utilized for a) Industrial inspections for compliance verification, b) Installation of Continuous ambient quality monitoring stations / Continuous emission air quality monitoring stations for strengthening of existing monitoring network, c) Preparation of Comprehensive Industry Documents on Industrial Sectors / clean technology d) Funding to financially weaker municipalities for installation of STPs The amount should be utilized solely for damage assessment i.e. remediation of affected sites, victim compensation, site restoration and creating awareness. The amount should not get in their hands to recover penalties.			MS Vaishnava suggested that amount should be utilized only for remedial purpose. However, committee discussed that the proposal for utilization of fund is piecemeal considering the other aspects (i.e. abate and restore) for protection of environment, which include research, monitoring etc. Suggestion of MS Vaishnava may be considered in future.

			Thus, the functional talent of CPCB shall remain intact.			
9	Others	Higher CC for non-restoration of pollution control measures. Expected queries should have diffusion zoning methodology based on multi-wind groups.				The committee discussed that CPCB 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 3 expert institution, namely, Centre for Science and Environment (CSE), Institute of Economic Growth (IEG) and The Energy Research Institute (TERI). The CPCB in-house committee on Environmental Compensation has deliberated on the comments and finalised the report accordingly. The Committee's deliberations are summarised in table below:

S. No.	Item	Comments from TERI	Comments of CSE	Comments of IEG	Committee's Deliberations
1	Cases C, e and f	Distinction between categories "c, b, c" and "d, e, f" is not clear. Case specific investigations should be considered. Proposed cases deals separately with intentional and accidental cases but remember they are not easy to establish.	-	Why cases 'e' and 'f' are left for later consideration and study?	There may be a varied damage to the environment as considered in cases 'e' and 'f'. Such damage assessment requires detailed case specific study and remediation measures. Therefore, whenever such case comes into the notice, Environmental Compensation may be levied based on the detailed investigations made by Expert institutions/Organizations.
2	R-factor	-	R-Factor should be Rs. 5,000/Day.	Why R-factor is kept as 250, although the value ranges between 200 to 1000?	In the Environmental Compensation policy, average value of the R-factor as 250 is recommended, keeping in view both its practicability as well as to make it significantly deterrent, 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 critically polluted areas/ ecologically fragile areas LF should be considered as 2.	For nearby city having population less than 1 million, the LF is 1. This implies that we care only for populated regional only. Industries located in critically polluted and ecologically fragile area should be closed down.	Population density for accounting of industrial units will be complex because it will vary depending on area used in calculation of population density as industrial units are 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 then the LF Factor will be 1. Depending on the local environmental conditions, the restrictions on expansion and modernization of industries in critically polluted areas are imposed as per the prevailing policy of the Government of India. Similarly, industries in ecologically fragile areas are permitted after careful examination, as per prevailing policy of MoEF&CC/GNCTD. The Committee agreed that for rectified ecologically fragile areas, LF may be considered as 2. However, LF for critically polluted areas may be explored in future.

Annexure-III

S. No.	Item		Comments of CSP	Comments of SEC	Committee's Deliberations
4	Scale/or	Classification of industries should be based on yearly turnover basis.	Scale/ should be based on the turnover of the industrial unit.	-	Presently industrial units are classified into small, medium and large category (MSME Act, 2006) based on the data of units/industrestore available with them. The data for profit/turnover of industrial units are not available with SPCBs/PCCs and it/factor based on profit/turnover will complicate 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 lowest pollution. Further, averaging it eliminates the outlier in the natural impact of pollution that it tries to capture. Further, the Red Category itself is too wide and more sort of sub-classification should be undertaken. The cumulative penalty should increase with the period of violation. The penalty should increase exponentially in case of repeated violations. The migration should be that units should choose to close down operations when violations cannot be brought under control in the specified time.	For difference level of noncompliances such as grave, moderate and low, a factor for severity of violations, M-factor should be incorporated in the formula.	-	Pollution Index (PI) itself covers the potential of environmental pollution as its calculation considers sensitive to 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 red & the sectors will delay the processing. Therefore, for calculating the Environment Compensation average PI as 80, 50 and 30 may be used for Red, Orange and Green category of industries, respectively. To keep the formula simple for better implementation, the 'n' 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 its weightage will be a tedious task, which may bring difficulty 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. by 2, 4 and 8 times on each cyclic violation. Further, if the violator continues its violation beyond 3 cyclic then EC may be increased by 2, 3 and 5 times for 2nd, 3rd and 4th quarter, respectively. Besides EC, Authority may be empowered to impose directions may be issued, wherever required. EC is not a substitute for taking actions under EP Act, Water Act or Air Act. In fact, state boards/PCCs may be closely associated as per the Acts.
6	Utilization of fund	Funds may be utilized for building, monitoring and enforcement capacity of SPCBs and strengthening the pollution compliance capability in the MSME sector	-	Incentives to regulators where no violations are observed and Incentives to public for reporting violations may be provided.	Scheme of infrastructure augmentation of Urban local Bodies (ULBs) /Financial building of SPCBs/PCCs is already covered in the report. Further, schemes such as incentives to regulators where no violations are observed and incentives to public for reporting violations may be considered separately.

S. No.	Item		Comments of CEM	Comments of MS	Committee's Deliberations
7	ERAP	-	-	Size of the construction sites more than 20,000 sqm. were are considered for EC. Although, small sites cumulatively impact significantly. Illegal dumping of municipal solid waste regardless of the above should be penalized.	As per the EIA Notification, 2006, building construction projects more than 20,000 sqm. area are required to have environmental clearance, therefore, the same cutoff is maintained here. Issue of illegal dumping of municipal solid waste is being covered in separate report of EC.
8	Others: (a)	Severity of violations should be measured in terms of hours of violation because for some pollutants even 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.	-	-	Currently, online continuous effluent/emission monitoring system (OCEMS) is installed in only in 17 categories of highly polluting industries and some other industrial sectors. Further, in current practice the compliance of industries is only verified by physical monitoring and categorization may be imposed based on the removal testing. The idea of measurement of violation on hourly basis may be considered in future, when OCEMS is widely installed and included in policy.
	(b)	CETP should be categorized under Red Category of industries. Hence, subsequent facilities should be undertaken under red categories of industries.	-	-	CETPs are already categorized under Red Category of industries
	(c)	Based on the spirit behind the proposed charge, it should therefore be called as "environmental penalty" rather than "environmental compensation".	-	-	The power of imposing "Penalty" lies in the jurisdiction of the Hon'ble Courts and NGT only. The CPCB is empowered to levy environmental compensation by the Hon'ble NGT in its order dated 08.08.2018 (OA. No.593/2017). Therefore, term "Environmental Penalty" is unreliable.

Annexure-IV

Item Nos. 01 & 02 Court No. 1

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Original Application No. 125/2017
(M.A. No. 1337/2018)
With
Original Application No. 217/2017
(M.A. Nos. 761/2017, 1073/2017,
1098/2017 & 1471/2017)

Court on its own Motion — Applicant(s)
Versus
State of Karnataka — Respondent(s)

With

D. Rupendra Reddy — Applicant(s)
Versus
State of Karnataka — Respondent(s)

Date of hearing: 06.12.2018

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

Original Application No. 125/2017
(M.A. No. 1337/2018)

For Applicant(s): Mr. Sajan Poovayya, Sr. Advocate and Mr. Nitesh Jain, Advocate for impleaded applicant – Namma Bengaluru Foundation
Mr. Vikram Hegde, Advocate for impleaded applicant

For Respondents (s): Mr. Dhruj Ashok, Advocate
Mr. Rajkumar, Advocate and Ms. Sonia, LA
Ms. Nidhi Mohapatra, Advocate

Original Application No. 217/2017
(M.A. Nos. 761/2017, 1073/2017,
1098/2017 & 1471/2017)

For Applicant(s): Mr. Ganesh Khehar, Mr. Tarunvir Singh Khehar, Mr. S. Ramakrishnan and Ms. Sandeep Mishra, Advocates

For Respondents (s): Dr. Abhishek Atrey, Advocate
Mr. Rajkumar, Advocate and Ms. Sonia, LA

ORDER

1. The issue for consideration in the two matters, one initiated by the Tribunal on its own motion and the other filed by an individual relates to contamination of water bodies at Bengaluru - Bellandur lake, Agara lake and Varthur lake *inter-alia*, on account of discharge of untreated sewage and other effluents from

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their performance should be recorded and considered favourably or otherwise for their career progression.

xv. Similar exercise as (xiv) may be undertaken to identify officers responsible for failure in the past. Such exercise may be completed within three months from today.

xvi. 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.

xvii. MoEF&CC may specify limit for phosphorus in soaps and detergents to prevent damage to the environment and public health.

27. The above amount in the present case has been determined having regard to the estimated cost of setting up of STPs based on the data available which has been supplied with the assistance of the learned Counsel for the parties.

28. We have nominated Justice Santosh Hegde on information being provided during the hearing that he is agreeable to undertake the above job.

29. Justice Hegde will be entitled to a token honorarium of Rs. 2.5 Lakh per month from the date he assumes the charge. Justice Hegde will be entitled to assistance of persons of his choice for which remuneration will be paid by the SPCB, Karnataka as may be determined by Justice Hegde.

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Annexure-V

Item Nos. 1 to 11 Court No. 1

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Original Application No. 176/2015
(M.A. No. 1332/2015)
&
Original Application No. 59/2012
(M.A. No. 34/2016 & M.A. No. 190/2016)
&
Original Application No. 108/2013
(M.A. No. 489/2015)
&
Original Application No. 179/2013
(M.A. No. 866/2014 & M.A. NO. 644/2015)
&
Appeal No. 67/2015
(M.A. No. 652/2015)
And
Original Application No. 484/2015
(M.A. No. 155/2017, M.A. No. 567/2017
& M.A. No. 927/2017)
And
Original Application No. 327/2018
(M. A. No. 1292/2018)
And
Original Application No. 115/2017
(M.A. No. 442/2017)
And
Original Application No. 411 of 2016
And
Original Application No. 613/2017
And
Original Application No. 614/2017

Sharad Singh — Respondent(s)

Versus

Hotel Holiday Regency, Moradabad & Ors. — Applicant(s)

With

Legal Aid, National Green Tribunal Bar Association — Applicant(s)

Versus

NCT of Delhi & Ors. — Respondent(s)

With

Raj Hans Bansal — Applicant(s)

Versus

Ministry of Water Resources & Ors. — Respondent(s)

With

Apex Chambers of Commerce and Industries of N.C.T. of Delhi & Ors. — Applicant(s)

Versus

Govt. of NCT Delhi & Ors. — Respondent(s)

With

Vikrant Tongad — Applicant(s)

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Versus

Union of India & Ors. Respondent(s)

With
Shailesh Singh Applicant(s)

Versus

Hotel The Oberoi Amarvilas & Ors. Respondent(s)

With
Shailesh Singh Applicant(s)

Versus

Panchsheel Buildtech Pvt. Ltd. & Ors. Respondent(s)

With
Shailesh Singh Applicant(s)

Versus

Central Ground Water Board & Ors. Respondent(s)

With
M/s A-One Mineral Water Industry Applicant(s)

Versus

Central Ground Water Authority & Ors. Respondent(s)

With
Mohd. Javed Asghar Applicant(s)

Versus

M/s Upper Ganges Sugar and Industries Ltd. Distillery Unit) & Ors. Respondent(s)

With
Mohd. Javed Asghar Applicant(s)

Versus

State of U.P. & Ors. Respondent(s)

Hearing concluded on: 18.12.2018
Order uploaded on: 08.01.2019

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

For Applicant(s): Mr. Rai Bajwani, Senior Advocate and Mr. Rahul Choudhary, Advocate (in O.A. Nos. 59/2012 & 108/2013)
Ms. Preeti Singh, Mr. S. Porwal, Mr. Shivam Jaiswal, Advocates (in O.A. Nos. 176/2015, 184/2015, 327/2018 & 115/2017)
Mr. Amritendra Kumar Dubey, Advocate (O.A. No. 411/2018

For Respondent (s): Ms. Sakshi Popli, Advocate for DJB (O.A. No. 59/2012)
Mr. Sumeet Pushkarna, Mr. Devanshu, Advocates with Mr. Sudhir Chauhan, E.E., Delhi Jal Board (O.A. No. 108/2013)
Mr. Ajay Jain, Advocate for GNCTD
Mr. Ardhendumauli Kumar Prasad, Mr. Shashank Saxena, Ms. Diksha Gera, Mr. Amritesh Raj, Advocates for CGWA
Mr. Pradeep Mishra, Mr. Dalsep Dhyani, Advocates for UPPCB
Ms. Sakshi Popli, Advocate for NDMC
Mr. Amit Tiwari, Mr. Rohit Pratap Singh, Advocates for State of UP

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appropriate mechanism can be introduced consistent with the needs of environment.

29. The MoEF&CC is directed to constitute an Expert Committee by including representatives from IIT Delhi, IIT Roorkee, IIM Ahmedabad, CPCB, NITI Ayog and any other concerned agency or department to examine the issue of appropriate policy for conservation of ground water with a robust institutional mechanism for surveillance and monitoring with a view to enhance access to ground water for drinking purposes in OCS areas by way of appropriate replenishment practices which can be properly accounted and measured [illegible] as well as to sustain the floodplains of rivers in terms of e-flows and other water bodies. The MoEF & CC and MoWR may finalize the issue of subject remain inter-se with regard to ground water reserve and its quality.

30. The Committee may be constituted in two weeks and report of the Committee may be furnished to the MoEF by 31 and this Tribunal in two months by e-mail at [illegible]@gmail.com.

31. The Committee may also indicate the protection of its impact study in light of projected data for the next 50 years [in phased manner with action plan for each decade]. Thereafter, fresh guidelines be issued by the concerned Ministry and the report furnished to the Tribunal on or before 30.04.2019.

32. The CPCB may constitute a mechanism to deal with individual cases of violations 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. All the matters relating to illegal extraction of ground water by individuals are disposed of with these directions.

33. The Expert Committee report, the new policy and challenge to orders of authorities, if any, will be considered on the next date.

The matter be put up for above consideration in the first week of May, 2019.

Justice Kulbir Singh Gosl, CP

S.P.Wangdi, JM

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

January 03, 2019
Original Application No. 176/2015
M.A. No. 1332/2018 and all other connected matters

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Annexure-VI

CRITERIA TO CALCULATE WATER CONSUMPTION

Table 1: Discharge of 4" Dia and 1 HP Pump

Sl. No.	Depth (Meter)	Discharge	
		LPM	m^3/hr
1	25	50	3
2	43	40	2.4
3	59	30	1.8
4	69	20	1.2
5	77	10	0.6

Table 2: Discharge of 4" Dia and 2 HP Pump

Sl. No.	Depth (Meter)	Discharge	
		LPM	m^3/hr
1	60	50	3
2	98	40	2.4
3	124	30	1.8
4	141	20	1.2
5	165	10	0.6

Table 3: Discharge of 6" Dia and 3 HP Pump

Sl. No.	Depth (Meter)	Discharge	
		LPM	m^3/hr
1	17	200	12
2	29	175	10.5
3	41	150	9
4	50	130	7.8
5	62	100	6

Table 4: Discharge of 6" Dia and 5 HP Pump

Sl. No.	Depth (Meter)	Discharge	
		LPM	m^3/hr
1	26	225	13.5
2	50	200	12
3	70	175	10.5
4	86	150	9
5	92	140	8.4

References

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4. Central Pollution Control Board. 2016. *Graded Response Action Plan for Delhi & NCR*. Delhi: CPCB.
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10. CPHEEO. 2016. *Manual on Municipal Solid Waste Management – 2016*. New Delhi: Ministry of Urban Development, Government of India.
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12. *Plastic Waste Management Rules, 2016*. (G.S.R. 320 (E) [18-03-2016]). New Delhi: Ministry of Environment Forest and Climate Change, Government of India.
13. *Solid Waste Management Rules, 2016*. (S.O. 1357(E) [08-04-2016]). New Delhi: Ministry of Environment Forest and Climate Change, Government of India.
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ANNEXURE - V

Item No. 05 Court No. 1

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Original Application No. 739/2018

Residents of Gram Panchayat Varahiya Applicant(s)

Versus

State of M.P. Respondent(s)

Date of hearing: 21.02.2019

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

For Applicant(s):

For Respondent (s):

ORDER

The issue for consideration is the dust pollution by stone crusher in District Satna, Madhya Pradesh. It is alleged that the stone crushers are operating illegally within the distance of 5 to 10 meters from National Highway which is against the siting policy.

2. Vide order dated 19.11.2018, a Joint Committee of representatives of Central Pollution Control Board (CPCB), State Pollution Control Board (SPCB) and the District Magistrate, Satna was directed to furnish a report in the matter. SPCB is the nodal agency for coordination.

3. Accordingly, report dated 02.01.2019 has been received to the effect that a joint inspection was carried out on 19.12.2018 and five stone crushers were found to be in the prohibited distance, as shown in the following table:

Sl. No.	Unit	Aerial distance from NH-7	First Consent to Operate granted by MMPCB on
1.	M/s S N S Minerals Ltd, Vill. Reusa, (SNS-1)	50 meters	22.08.2009
2.	M/s K C Aggregate, Village Reusa	70 meters	16.06.2003
3.	M/s Subhash Construction. Village Reusa	63 meters	17.10.1998
4.	M/s Taaran Taran Stone Crusher, Vill. Reusa	75 meters	17.10.2000
5.	M/s Star Minerals, Village Reusa	21 meters	21.12.2004

The prohibited distance is 100 meters from the highway.

4. The status of pollution control measures was also examined. Recommendations were made to close the stone crushers, including their captive mines in violation of siting criteria. Show cause notices have been recommended against 14 stone crushers for not implementing pollution control measures which have been set up, including their captive mines. The stone crushers to be closed are:

1. M/s S N S Minerals Ltd, Vill. Reusa, (SNS-1)
2. M/s K C Aggregate, Village Reusa
3. M/s Subhash Construction. Village Reusa
4. M/s Taaran Taran Stone Crusher, Vill. Reusa
5. M/s Star Minerals, Village Reusa

5. The stone crushers to whom notices have been recommended are:

1. M/s S N S Minerals Ltd, Vill. Reusa, Satna (SNS-2)
2. M/s Balaji Minerals & Stone Crusher, Village Reusa (SNS-3)
3. M/s S N S Minerals Ltd, Village Reusa, Satna (SNS-4)
4. M/s Piyush & Company, Village Reusa, Satna
5. M/s Navin Stone Crusher. Village Reusa, Satna
6. M/s Neelam Stone Crusher, Village Reusa
7. M/s Jai Bajrang Stone Crusher, Tilaura, Satna
8. M/s Neha Stone Crusher, Village Bheda
9. M/s Vindh Vahani Stone Crusher, Bathida Village
10. M/s Sai Stone Crusher, Bathida Village
11. M/s Swami Neelkanth Crusher (1), Bathida Village

12. *M/s Swami Neelkanth Crusher (2), Bathida Village*
13. *M/s Mahadev Infra (Modernized stone crusher), Satna*
14. *M/s L&T Crusher, Sirmili Village"*

6. An action taken report has also been filed stating that closure order dated 26.12.2018 has been passed against the five stone crushers operating in violation of siting criteria and show cause notices have been issued against the stone crushers for not implementing pollution control measures.

7. From the above, it is clear that inspite of fact that the stone crushers have been found to be operating illegally, no compensation has been assessed and recovered for causing damage to the environment by illegally activities. As laid down by this Tribunal repeatedly[1], the Regulatory Authorities are not only required to prohibit illegal polluting activities but they are also required to recover compensation for the damage caused apart from prosecution or other steps so as to render polluting activities to be unprofitable. Failure to do so may call for action against the regulatory authorities themselves.

8. In view of above, before we consider any action, we expect the SPCB to furnish a further report in the matter within one month by e-mail at ngt.filing@gmail.com.

9. The assessment of damages may be made by the same Joint Committee and further action may be taken by the SPCB, in exercise of its

[1] Order dated 04.01.2019 in Threat to life arising out of coal mining in south garo hills district v. State of Meghalaya & Ors., OA No. 110(THC)/2012, Order dated 11.01.2019 in Aryavrat Foundation Vs. M/s Vapi Green Enviro Ltd. & Ors., O.A. No. 95/2018, Order dated 16.01.2019 in Compliance of Municipal Solid Waste Management Rules, 2016, OA No. 606/2018, Order dated 24.01.2019 in Mayank Manohar & Paras Singh, Reporter Times of India v. Govt. of NCT of Delhi & Ors., OA No. 601/2018.

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T.MAHIPAL

138, NEW LAWYERS' CHAMBERS, SUPREME COURT OF INDIA BHAGWAN DAS ROAD, NEW DELHI-110001 PH: 9810005376

DIARY NO: /2019

DECLARATION

ALL DEFECTS HA VE BEEN DULY CURED. WHATEVER HAS BEEN ADDED/DELETED/MODIFIED IN THE PETITION IS THE RESULT OF CURING OF DEFECTS AND NOTHING ELSE. EXCEPT CURING THE DEFECTS, NOTHING HAS BEEN DONE. PAPER BOOKS ARE COMPLETE IN ALL RESPECTS.

Signature:
Advocate on Record:- **(T.MAHIPAL)**
/Petitioner (s) in person

Date:- .07.2019
Contact No. 9810005376

I.CARD NO. 3284 **CHITTARANJAN ROY (CLERK)** **MOB:- 9873279004**	

RECORD OF PROCEEDINGS

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A

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

SPECIAL LEAVE PETITION

[Under Article 136 of the Constitution of India]

SPECIAL LEAVE PETITION (CIVIL) NO _____ of 2019

IN THE MATTER OF:

BAJAJ HINDUSTHAN SUGAR LIMITED ...PETITIONER

VERSUS

CENTRAL POLLUTION CONTROL BOARD ...RESPONDENT

OFFICE REPORT ON LIMITATION

1. The Petition is/are within time.

2. The petition is barred by time and there is a delay of ____ days in filing the same against the order dated 05.07.2019 and application for condonation of _____ delay has been filed.

3. That there is delay of ____ days in refilling the petition and the application for condonation of ____ days delay in refilling has been filed.

SECTION OFFICER

Filed on: 17.07.2019

New Delhi

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PERFORMA FOR FIRST LISTING A1

SECTION - XIV

The case pertains to (Please tick/check the correct box):

[ ]	Central Act:(Title)	Environment Protection Act, 1986
[ ]	Section	5
[ ]	Central Rule:(Title)	N.A.
[ ]	Rule No(s)	N.A.
[ ]	State Act: (Title)	N.A.
[ ]	Section:	N.A
[ ]	State Rule: (Title)	N.A.
[ ]	Rule No(s)	N.A.
[ ]	Impugned Interim Order: (Date)	N.A.
[ ]	Impugned Final Order/Decree: (Date)	05.07.2019
[ ]	High Court: (Name)	High court of Delhi at New Delhi
[ ]	Name of Judges:	Hon'ble Mr. Justice Vibhu Bakhru
[ ]	Tribunal/Authority: (Name)	N.A.

1. Name of the matter: [ ] Civil [ ] Criminal

2. (a) Petitioner/Appellant No.1: Bajaj Hindusthan Sugar Limited

   (b) e-mail ID: N.A

   (c) Mobile phone number: N.A.

3. (a) Respondent No.1: Central Pollution Control Board

   (b) e-mail ID: N.A.

   (c) Mobile phone number: N.A.

4. (a) Main category classification: 18

   (b) Sub classification: 1807 2015

5. Not to be listed before: N.A.

6. (a) Similar disposed of matter with citation, If any, & case details: No similar disposed of matter.

   (b) Similar Pending matter with case details: No similar matter is pending.

A2

7. **Criminal Matters** NA

(a) Whether accused/convict has surrendered: ☐ Yes ☐ No

(b) FIR No. NA Date: NA

(c) Police Station: NA
(d) Sentence Awarded: NA

(e) Period of sentence undergone including period of detention/custody undergone: NA

8. Land Acquisition Matters: N.A.

(a) Date of Section 4 Notification: N.A.

(b) Date of Section 6 Notification: N.A.

(c) Date of Section 17 Notification: N.A.

9. Tax Matters: N.A.

State the Tax effect:

10. Special Category (first petitioner/appellant only): N.A.

[ ] Senior citizen> 65 years [ ] SC/ST [ ] Disabled

[ ] Women/child [ ] Legal Aid Case [ ] In custody

11. Vehicle Number (In case of Motor Accident Claim matters): NA

Date: 17.07.2019

(T.MAHIPAL)
AOR for petitioner(s)/appellant(s)
Registration no: 1375
tmahipal@gmail.com

B

Synopsis

The Petitioner is preferring the present Special Leave Petition under Article 136 of the Constitution of India against the final order and judgment dated 05.07.2019 passed by the High Court of Delhi in W.P. (C) No.7167 OF 2019 whereby the High Court has disposed off the said petition filed by the Petitioner herein without deciding the same on merits, leaving it open for the Petitioner to avail alternative remedies.

The Petitioner submits that in the facts and circumstances of the present case the High Court was completely in error in passing the impugned judgment and order inter alia in view of the following:

FIRSTLY the Hon'ble High Court while passing the impugned order failed to appreciate that Section 5 of the Environment (Protection) Act, 1986 does not empower the Respondent to impose monetary compensation.

SECONDLY the Hon'ble High Court while passing the impugned order failed to appreciate that the National Green Tribunal is not empowered under any provision of the National Green Tribunal Act to invest Central Pollution Control Board with the powers to impose monetary compensation.

C

THIRDLY the Hon'ble High Court while passing the impugned order failed to appreciate that the power to impose monetary compensation is a legislative power and hence cannot be exercised by National Green Tribunal.

FOURTHLY the Hon'ble High Court while passing the impugned order failed to appreciate that in the absence of any provision under the Environment (Protection) Act, 1986, providing for imposition of monetary compensation, the direction made by Central Pollution Control Board dated 30.05.2019 is without any authority of law.

FIFTHLY Section 5 of the Environment Protection Act 1986 does not provide any power to Respondent to levy a monetary penalty of Rs.1,36,50,000/- or at all. Such a levy of monetary compensation of penalty is not envisaged under section 5 of the aforesaid Act or in any other provisions of the Act or in any other law. Hence, it is submitted at the outset, that the directions given by the Respondent to deposit the sum of Rs.1,36,50,000/- is unsustainable and without any authority of law.

SIXTHLY this Hon'ble Court in *"Delhi Pollution Control Committee Vs. Splendor Landbase Ltd."* reported at 2012 SCC online Del 400 held that a direction by the Pollution Control Board in the nature of the impugned direction dated

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30.05.2019 that results in imposition of monetary penalty is without any authority of law.

SEVENTHLY this Hon'ble Court has relying upon the law settled in *"Delhi Pollution Control Committee Vs. Splendor Landbase Ltd."*, in *Delhi Development Authority Vs. Central Pollution Control Board, being W.P.(C) 6191 of 2019* restrained the Respondent Central Pollution Control Board from taking any coercive steps, where a compensation of INR 1 Crore was sought to be imposed by the Respondent.

EIGHTHLY the Respondent has passed the impugned Directions dated 30.05.2019 without appreciating that in terms of provision of UP Sugarcane (Regulation of Supply & Purchase) Act, 1953, it is incumbent upon Sugar unit to crush each and every stick of sugar cane which is reserved/allocated/allotted under the order of the Cane Commissioner and which is brought to the factory by the farmers for crushing. As such, there is a legal obligation casted upon the Petitioner's Sugar unit to continue its operation till entire such sugar cane area available is crushed. Respondent has not taken cognizance of this legal obligation which is casted upon Sugar unit.

NINTHLY it is ironic that while on one hand the law makes it compulsory for the sugar unit to continue its production, on

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the other hand Respondent is hell-bent upon penalizing the sugar unit for having so done. The impugned direction dated 30.05.2019 penalizes the sugar unit for production during the period of 2017-18, 2018-19 as set out in the direction letter. Respondent failed to appreciate that there was a legal obligation and compulsion on the Petitioner's sugar unit to continue its production. The aforesaid period as set out in the direction letter dated 30.05.2019, therefore, cannot be termed as non-compliance periods and accordingly no penalty can be fastened for the same period (s).

TENTHLY the Respondent has completely misled itself on the facts of this case, in as much as there exists in the sugar unit an upgraded Effluent Treatment Plant system upto tertiary stage to effectively deal with the effluent of the factory which is reutilized and recycled, post treatment. The said effluent also meets all the norms for irrigation on land. As such, there is no case at all for any contravention of law relating to setting-up and maintaining ETP.

LIST OF DATES AND EVENTS

13.10.2005	In the year 2005-2006, the Petitioner had set up a Sugar Unit at Barkhera (Pilibhit) with the State of Art Technology having

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all requisite equipments/systems as prescribed in No Objection Certificate issued by the Uttar Pradesh Pollution Control Board (UPPCB) vide its letter no.F51395/C-5/NOC-93/2005/7 dated 13.10.2005.

A true copy of the extract the letter no.F51395/C-5/NOC-93/2005/7 dated 13.10.2005 is issued by UPPCB annexed hereto and marked as ANNEXURE P-1 (At page 17 to 19).

04.06.2015 A letter was issued from Respondent referring Joint team inspection of the Respondent and UPPCB under National Ganga River Basin Authority (NGRBA) to ensure Water Management practices in Sugar sector in Ganga Basin States, comply and submit an action plan so as to meet all the requirements.

A true copy of the Letter of Award dated 04.06.2015 sent by the Petitioner to the Respondent is annexed hereto and

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marked as ANNEXURE P-2 (At page 20 to 22).

21.02.2017 Respondent issued a closure notice to the Petitioner on the grounds that certain compliances were to be made before the Sugar Unit could commence its activities.

A true copy of the Letter dated 21.02.2017 issued by the Respondent to the Petitioner is annexed hereto and marked as ANNEXURE P-3 (At page 23 to 27).

08.11.2017 Re-commencement of operations in the Petitioner's sugar unit was allowed after Respondent was satisfied that the Petitioner was complying with all the terms and conditions that were required for the compliance of the aforesaid directions of the Respondent.

A true copy of the letter dated 08.11.2017 sent by the Respondent to the Petitioner is annexed hereto and

marked as ANNEXURE P-4 (At page 28 to 35).

19.03.2018 A second closure notice was issued by Respondent on the grounds of non-compliance of Environmental Norms by the Petitioner.

A true copy of the letter dated 19.03.2018 sent by the Respondent to the Petitioner annexed hereto and marked as ANNEXURE P-5 (At page 36 to 45).

22.10.2018 Respondent having been satisfied with the compliance of the environmental norms and allowed the Petitioner to recommence its operation.

A true copy of the Letter dated 22.10.2018 sent by the Respondent to the Petitioner is annexed hereto and marked as ANNEXURE P-6 (At page 46 to 57).

I

30.05.2019

For the third time Respondent has issued the impugned direction for closure of operations in the Petitioner's sugar unit. However, this time alongwith the said direction a penalty of Rs.1,36,50,000/- is also sought to be imposed against the Petitioner. The facts on which the closure notice has been issued are non-existing. There is proper compliance of all environmental norms by the Petitioner. The Effluent Treatment Plant setup by the Petitioner is also fully functional upto the Tertiary level treatment and as such, there is no violation of any environmental norms. Also, levy of monetary penalty of Rs.1,36,50,000/- is without any authority and law in as much as Respondent does not have any power to impose any monetary penalty.

A true copy of the Direction dated 30.05.2019 having Ref. No. B-190198/ WQM-II(RG) /CPCB/SUGAR/04/2016-17 2140 issued by the Respondent to the

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Petitioner is annexed hereto and marked as ANNEXURE P-7 (At page 58 to 66).

17.06.2019

Being aggrieved by the impugned directions dated 30.05.2019 issued by the Respondent, the Petitioner sent a representation to the Respondent calling upon the Respondent to recall and cancel the impugned directions pointing out that the facts on which the closure notice has been issued are non-existing and further that the levy of monetary penalty of Rs.1,36,50,000/- is without any authority and law in as much as Respondent does not have any power to impose any monetary penalty.

A true copy of the Letter Copy of the Letter dated 17.06.2019 sent by the Petitioner to the Respondent is annexed hereto and marked as ANNEXURE P-8 (At page 67 to 87).

24.06.2019

Being aggrieved by the above directions

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dated 30.05.2019 the petitioner filed W.P(C) No.7167 of 2019 before the High Court of Delhi.

A true copy of the W.P (C) No. 7167 of 2019 dated 24.06.2019, filed by the Respondent before the High Court of Delhi is annexed hereto and marked as ANNEXURE P-9 (At page 88 to 107)

05.07.2019 Vide impugned order the W.P. (C) No. 7167 of 2019 was disposed off without deciding the same on merits leaving it open for the petitioner to avail alternative remedies.

17.07.2019 Hence this Petition.

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IN THE HIGH COURT OF DELHI AT NEW DELHI

W.P.(C) 7167/2019 and CM Nos. 29841/2019, 29842/2019 & 29843/2019

BAJAJ HINDUSTHAN SUGAR LIMITED ...Petitioner

Through: Mr Alok Aggarwal, Mr Mayank, Mr Sanjeev Kumar Singh and Mr Shighra Kumar, Advocates.

versus

CENTRAL POLLUTION CONTROL BOARD

THROUGH ITS CHAIRMAN ...Respondent

Through: Mr. Tushar Mehta, Solicitor General of India with Ms Vipra Bhardwaj, Standing Counsel with Ms Swati Ghildiyal and Ms Urmila Thakur, Advocates

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

05.07.2019

1. The petitioner has filed the present petition, inter alia, impugning an order dated 30.05.2019 passed by the Chairman, Central Pollution Control Board (CPCB) under Section 5 of the Environment (Protection) Act, 1986. In terms of the said order, the petitioner has been directed to close its unit with immediate effect and also deposit a sum

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of ₹1,36,50,000/-. The petitioner contends that CPCB has no jurisdiction to levy any compensation under Section 5 of the Environment (Protection) Act, 1986 and, therefore, the said order is without jurisdiction.

2. Mr. Tushar Mehta, learned Solicitor General points out that the said order is appealable under Section 5A of the Environment (Protection) Act, 1986. In addition, he submits that the compensation has been demanded pursuant to the earlier orders passed by National Green Tribunal.

3. The learned counsel for the petitioner submits that National Green Tribunal could not have invested CPCB with powers to levy compensation. The said powers are in the nature of legislative powers and should not have been exercised by the Tribunal.

4. Since the petitioner has an equally efficacious remedy, this Court does not consider it apposite to entertain the present petition and the same is disposed of leaving it open to the petitioner to avail alternative remedies.

5. All pending applications are also disposed of.

VIBHU BAKHRU, J

JULY 05, 2019

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IN THE SUPREME COURT OF INDIA

[ORDER XXI Rule 3(1)(a)]

CIVIL APPELLATE JURISDICTION

SPECIAL LEAVE PETITION (CIVIL) NO 18356 of 2019

POSITION OF THE PARTIES

	BEFORE HIGH COURT	BEFORE SUPREME COURT

IN W.P (C) NO. 7167 OF 2019

BETWEEN

BAJAJ HINDUSTHAN SUGAR LIMITED GOLA GOKARAN NATH, DISTRICT - LAKHIMPUR U.P.-262802	PETITIONER	PETITIONER
VERSUS		
CENTRAL POLLUTION CONTROL BOARD THROUGH ITS CHAIRMAN PARIVESH BHAWAN, EAST ARJUN NAGAR, DELHI - 110032	RESPONDENT	CONTESTING RESPONDENT

TO

THE HON'BLE CHIEF JUSTICE

OF INDIA AND HIS COMPANION

JUDGES OF THE SUPREME COURT

OF INDIA

4

THE SPECIAL LEAVE PETITION OF

THE PETITIONER ABOVENAMED

MOST RESPECTFULLY SHOWETH:

1. The Petitioner is preferring the present Special Leave Petition under Article 136 of the Constitution of India against the final order and judgment dated 05.07.2019 passed by the High Court of Delhi in W.P (C) No.7167 OF 2019 whereby the High Court has disposed off the said petition filed by the Petitioner herein without deciding the same on merits, leaving it open for the Petitioner to avail alternative remedies. The material placed on record before the Hon'ble High Court ex facie demonstrated that the Respondent has imposed monetary compensation upon the Petitioner in exercise of powers under Section 5 of the Environment (Protection) Act, 1986 and also claimed that the directions for payment of monetary compensation, dated 30.05.2019 were also pursuant to the orders of the National Green Tribunal whereby Respondent was invested with the powers to impose monetary compensation. It is submitted that a bare perusal of Section 5 of the Environment (Protection) Act, 1986 would show and demonstrate that it does not contemplate imposition of monetary compensation.

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Further, there is no provision under the National Green Tribunal Act, empowering the Tribunal to invest Respondent with the powers to impose monetary compensation. The directions dated 30.05.2019 as such are without any authority of law. The impugned order dated 05.07.2019, as such is perverse and ought to be set aside by this Hon'ble Court.

1A. Besides, no letters patent appeal or writ appeal lies against the impugned final judgment or order therefore no such remedy was availed.

2. **QUESTIONS OF LAW**

The following questions of law and of public importance arise in this petition:-

i Whether section 5 of the Environment (Protection) Act, 1986 empowers Respondent to impose monetary compensation?

ii Whether the National Green Tribunal is empowered under any provision of the National Green Tribunal Act to invest Central Pollution Control Board with the powers to impose monetary compensation?

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iii Whether the power to impose monetary compensation is a legislative power and hence cannot be exercised by National Green Tribunal?

iv Whether in the absence of any provision under the Environment (Protection) Act, 1986, providing for imposition of monetary compensation, the direction made by Central Pollution Control Board dated 30.05.2019 is without any authority of law ?

3. DECLARATION IN TERMS OF RULE 3 (2):

That the petitioner's state that no other petition seeking leave to appeal has been filed by the Petitioner's against the impugned judgment and order dated 05.07.2019 passed by the High Court of Delhi in W.P (C) No. 7167 OF 2019.

4. DECLARATION IN TERMS OF RULE 5:

That the Annexure P-1 to Annexure P-9 produced alongwith the Special Leave Petition are true copies of the pleadings / documents which formed part of the records of the case in the courts below against whose order the leave to appeal is sought for in this petition.

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5. GROUNDS

The Petitioner's seek to prefer the present petition, inter alia, on the following grounds which are urged independent of and without prejudice to each other:

A. BECAUSE the impugned order is bad both in law and on facts.

B. BECAUSE the Hon'ble High Court while passing the impugned order failed to appreciate that Section 5 of the Environment (Protection) Act, 1986 does not empower the Respondent to impose monetary compensation.

C. BECAUSE the Hon'ble High Court while passing the impugned order failed to appreciate that the National Green Tribunal is not empowered under any provision of the National Green Tribunal Act to invest Central Pollution Control Board with the powers to impose monetary compensation.

D. BEACUSE the Hon'ble High Court while passing the impugned order failed to appreciate that the power to impose monetary compensation is a legislative power

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and hence cannot be exercised by National Green Tribunal.

E. BECAUSE the Hon'ble High Court while passing the impugned order failed to appreciate that in the absence of any provision under the Environment (Protection) Act, 1986, providing for imposition of monetary compensation, the direction made by Central Pollution Control Board dated 30.05.2019 is without any authority of law.

F. BECAUSE Section 5 of the Environment Protection Act 1986 does not provide any power to Respondent to levy a monetary penalty of Rs.1,36,50,000/- or at all. Such a levy of monetary compensation of penalty is not envisaged under section 5 of the aforesaid Act or in any other provisions of the Act or in any other law. Hence, it is submitted at the outset that the directions given by the Respondent to deposit the sum of Rs.1,36,50,000/- is unsustainable and without any authority of law.

G. BECAUSE this Hon'ble Court in *"Delhi Pollution Control Committee Vs. Splendor Landbase Ltd."* reported at 2012 SCC online Del 400 held that a direction by the

Pollution Control Board in the nature of the impugned direction dated 30.05.2019 that results in imposition of monetary penalty is without any authority of law.

H. BECAUSE this Hon'ble Court has relying upon the law settled in *"Delhi Pollution Control Committee Vs. Splendor Landbase Ltd."*, in *Delhi Development Authority Vs. Central Pollution Control Board, being W.P.(C) 6191 of 2019* restrained the Respondent Central Pollution Control Board from taking any coercive steps, where a compensation of INR 1 Crore was sought to be imposed by the Respondent.

I. BECAUSE the Respondent has passed the impugned Directions dated 30.05.2019 without appreciating that in terms of provision of UP Sugarcane (Regulation of Supply & Purchase) Act, 1953, it is incumbent upon Sugar unit to crush each and every stick of sugar cane which is reserved/allocated/allotted under the order of the Cane Commissioner and which is brought to the factory by the farmers for crushing. As such, there is a legal obligation casted upon the Petitioner's Sugar unit to continue its operation till entire such sugar cane area

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available is crushed. Respondent has not taken cognizance of this legal obligation which is casted upon Sugar unit.

J. BECAUSE it is ironic that while on one hand the law makes it compulsory for the sugar unit to continue its production, on the other hand Respondent is hell-bent upon penalizing the sugar unit for having so done. The impugned direction dated 30.05.2019 penalizes the sugar unit for production during the period of 2017-18, 2018-19 as set out in the direction letter. Respondent failed to appreciate that there was a legal obligation and compulsion on the Petitioner's sugar unit to continue its production. The aforesaid period as set out in the direction letter dated 30.05.2019, therefore, cannot be termed as non-compliance periods and accordingly no penalty can be fastened for the same period (s).

K. BECAUSE the Respondent has completely misled itself on the facts of this case, in as much as there exists in the sugar unit an upgraded Effluent Treatment Plant system upto tertiary stage to effectively deal with the effluent of the factory which is reutilized and recycled, post treatment. The said effluent also meets all the

norms for irrigation on land. As such, there is no case at all for any contravention of law relating to setting-up and maintaining ETP.

6. GROUNDS FOR INTERIM RELIEF

In the facts and circumstances of the case, in the interest of justice, it is humbly prayed that appropriate order(s) be passed and/or direction(s) be issued staying the operation of the impugned Judgment and Order (final) 05.07.2019 passed by the High Court of Delhi in W.P (C) No.7167 Of 2019 whereby the High Court has disposed off the said petition filed by the Petitioner herein without deciding the same on merits, leaving it open for the Petitioner to avail alternative remedies. The Petitioners have prima facie good case on merits and likely to succeed in the present petition before this Hon'ble Court. The balance of convenience lies in granting the order as prayed for in favour of the petitioners.

7. MAIN PRAYER

It is, therefore, most respectfully prayed that this Hon'ble Court may be pleased to:-

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a) Grant Special Leave to Appeal against and set aside the final order and judgment dated 05.07.2019 passed by the High Court of Delhi in W.P. (C) No. 7167 OF 2019;

b) Pass such other order or order(s) as it may deem fit and proper in the facts and circumstances of the case.

8. PRAYER FOR INTERIM RELIEF

In the circumstances, it is most respectfully prayed that this Hon'ble Court may be pleased to:-

a) Stay the operation of the final order and judgment dated 05.07.2019 passed by the High Court of Delhi in W.P. (C) No.7167 OF 2019;

b) Pass such other or further orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

DRAWN BY:
Mayank Bughani

FILED BY:

T. Mahipal
Advocate for the Petitioner

Drawn On:16.07.2019
Filed on:17.07.2019

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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

SPECIAL LEAVE PETITION (CIVIL) NO _____ of 2019

IN THE MATTER OF:

BAJAJ HINDUSTHAN SUGAR LIMITED ...PETITIONER

VERSUS

CENTRAL POLLUTION CONTROL BOARD ...RESPONDENT

CERTIFICATE

Certified that the Special Leave Petition is confined only to the Pleading before the Ld. High Court of Delhi whose final order is challenged in this Petition and the other documents relied upon in those proceedings. No additional facts, documents or additional grounds have been taken therein or relied upon in the Special Leave Petition. It is further certified that the copies of the Annexure attached to the Special Leave Petition are necessary to answer the questions of law raised in the Petition to make out good grounds urged in the Special Leave Petition for consideration of this Hon'ble Court. This certificate is given on the basis of the instructions given by the Petitioner whose affidavits are filed in support of the Special Leave Petition.

Date: 17.07.2019

T. Mahipal
Advocate for the Petitioner

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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

SPECIAL LEAVE PETITION (CIVIL) NO _____ of 2019

IN THE MATTER OF:

BAJAJ HINDUSTHAN SUGAR LIMITED ...PETITIONER

VERSUS

CENTRAL POLLUTION CONTROL BOARD ...RESPONDENT

AFFIDAVIT

I, Jitendra Singh Jadaun, S/o Shri O.P. Singh, aged about 49 years, Authorised Representative of Petitioner, having its registered office at Gola Gokaran Nath, District- Lakhimpur, U.P.-262802, presently at New Delhi, do hereby solemnly declare and affirm as under:-

1. That I am the Authorized Representative of the Petitioner abovenamed and well acquainted with the facts and circumstances of the case and hence competent to swear the affidavit.

2. I state that I have read and understood the content of the contents of the synopsis and the List of Dates consisting of pages B to K and Petition consisting of pages 1 to 12 and paragraphs 1 to 8 of the Petition and the accompanying applications are true and correct to the best of my knowledge and the last paragraph is the prayer before this Hon'ble Court.

3. I state that the Petition and applications in support thereof is confined only to the pleadings before the

Commissioner * New Delhi * The Seal of Oath

courts below and the documents relied upon in those proceedings. No additional facts, documents or ground has been urged therein. I also state therein that the copies of the documents, annexed to the petition are true copies of their respective originals and form part of the records of the courts below.

4. I state that no other appeal/petition has been filed by the Appellant against the impugned order

DEPONENT

VERIFICATION

I, the above named deponent, do hereby solemnly affirm and verify that the facts stated in the above affidavit are true to my knowledge and belief, no part of the same is false and nothing material has been concealed therefrom.

Verified at New Delhi on this the 17th day of July, 2019

17 JUL 2019

Identify the Deponent who has signed/put T.I. in my presence

DEPONENT

Solemnly sworn before me read over & explained to the deponent Admitted to be correct.

Oath Commissioner, New Delhi

17 / JUL 2019

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APPENDIX 1

ENVIRONMENT PROTECTION ACT, 1986

Section 5: Power to give directions.

Notwithstanding anything contained in any other law but subject to the provisions of this Act, the Central Government may, in the exercise of its powers and performance of its functions under this Act, issue directions in writing to any person, officer or any authority and such person, officer or authority shall be bound to comply with such directions. Explanation.—For the avoidance of doubts, it is hereby declared that the power to issue directions under this section includes the power to direct— (a) the closure, prohibition or regulation of any industry, operation or process; or (b) stoppage or regulation of the supply of electricity or water or any other service.

17

ANNEX: P-1

TYPED COPY

UTTAR PRADESH POLLUTION CONTROL BOARD

PICUP BHAWAN, THIRD FLOOR, B BLOCK, VIBHUTI

KHAND, GOMTI NAGAR, LUCKNOW

REF NO. F 5/395/C-5/NOC-93/2005/7

DATE 13.10.05

TO

M/s BAJAJ HINDUSTHAN LTD.

BARKHERA BISALPUR [SUGAR UNIT]

PILIBHIT

Subject: Issuance of No objection Certificate regarding Environment Pollution of New Units.

Sir,

This has reference to your application dated 10.09.05 on the above subject. Your application has been considered and you are informed that the industry has been given no objection regarding Environment Pollution subject to the following Special Conditions and General Conditions (attached).

1. No Objection Certificate is being given only for the following:

(a) Location; Gram Khera, Tehsil Bisalpur, District Pilibhit, [U.P.]

6,5,1,4,2,11,12,13,13,7,9,10,20,17,19,1,72,/7,94,8,16,

8,86,81,96,84,90,9785,72/11, 89, 75, 82, 72/3, 79, 71, 68, 77/2, 70, 106, 92, 99, 726, 103, 73, 101, 88,76, 72/8, 72/10, 98, 91, 72/1, 72,1213, 72/5, 78, 83, 77/1, 93, 100, 18, 69, 104, 72/9, 105, 72/4, 70, 72/2.

(b) Production (1) Sugar 1000 T.P.D, (2) Power 3 MW

(c) Primary Raw Material: 10000 Ton/Day Sugarcane

(d) Quantity of Industrial Waste: NIL

(e) Used Fuel: 1570 Ton/Day

In case of any change in the above particulars, fresh No Objection Certificate shall have to be obtained.

2. Progress report of all important equipment's, devices, green belt, Waste Treatment Plant and Air Pollution Regulators being set up in the Industry shall be sent on 10th day of each month.
3. Production will not be commenced in the Industry without obtaining prior approval under Water and Air Pollution Act from the Board. Unit will have to submit to this office, approvals obtained from the Board under the Water and Air Pollution Act, atleast two months prior to the date of commencement of production. In case of failure to do so, appropriate action may be taken against the Industry under applicable provisions of the aforesaid Acts without any prior notice.
4. Before testing production in the Unit, inspection by our regional office shall be arranged

5. Domestic waste, whose quantity shall ton exceed ·70 KL/Day shall be discharged after treatment through Septic Tank and Soak Pit in accordance with the Standards prescribed by the Board.

6. Copies of Plans for proposed Pollution Control and treatment devices and construction Works be submitted to this office by 19.11.05.

Pleases note that failure to effectively and satisfactorily comply with the above special conditions and general conditions would result in revocation of the No Objection Certificate by the Board. Board reserves its rights to amend the terms and conditions of the No Objection Certificate or to revoke the same. First Compliance Report in respect of aforesaid conditions may by submitted by the Industry in this office by 10-01-05. Compliance Reports be submitted regularly else No Objection will be revoked.

Regards

Sd/-

Member Secretary

Date: 13.10.05

TRUE COPY

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ANNEX: P-2

CENTRAL POLLUTION CONTROL BOARD

MINISTRY OF ENVIRONMENT, FOREST & CLIMATE CHANGE
GOVT. OF INDIA

Speed Post

F.No. B-465(S)/PCI-III/2014-15 June 4, 2015

To,

M/s Bajaj Hindusthan Ltd.,
Unit- Barkhera,
Distt- Pilibhit, U.P.

Sub: Joint inspection of M/s Bajaj Hindusthan Ltd., Unit- Barkhera, Distt- Pilibhit

Sir,

This has reference to the joint inspection of M/s Bajaj Hindustan Ltd., Unit- Maqsoodanpur, Distt- Shahjahanpur, U.P. conducted jointly by team of CPCB and UPPCB on January 21, 2015 and letter No. B-400/(S)/PCI-III/2015-16 dated 14.05.2015 of this office.

In view of the observations of inspection team and under the National Ganga River Basin Authority (NGRBA) to ensure Water Management practices in Sugar sector in Ganga Basin states, comply and submit an action plan so as to meet all the requirements given as below:

(I) Water water generation to be limited to 40 1/Tonne of cane crushed by next crushing season or before **November 2015**

(ii) Establish mini cooling tower or polishing tank for recycling the excess condensate water to process/utilities/allied units by **November 2015.**

(iii) Upgrade ETP system to meet the discharge standards for irrigation by **November 2015.**

(iv) Industry has to submit the irrigation plan before the starting of next cursing session **(2015-16)**

(v) No treated effluent will be discharged into drain or river henceforth. Treated effluent will be re-used in the process or to be used for irrigation purpose after meeting the standards.

(vi) The validity of the 'Consent to Operate' shall be linked with the compliance of the directions such that he consent issued to industry, shall **stand automatically withdrawn in case of non-compliance of directions.**

(vii) Unit shall ensure installation and testing of online water quality monitoring system before the starting of next crushing season **(2015-16)**

(viii) All bypass system to be stopped and evidence of dismantling to be submitted.

(ix) Unit shall develop Groundwater monitoring network (Piezometric well) to monitor & prevent groundwater pollution.

You are hereby requested to take measures for implementation of the above recommendations &

forward the action plan on each point to CPCB within 15 working days from receipt of this letter.

Yours faithfully

(Gurnam Singh)

AD & I/c PCI-III

Date: 4/06/15.

TRUE COPY

ANNEX: P-3

CENTRAL POLLUTION CONTROL BOARD

MINISTRY OF ENVIRONMENT, FOREST & CLIMATE CHANGE GOVT. OF INDIA

SPEED POST

B-190197/NGRBA (RG)/CPCB/Sugar/04/2016-17

February 21, 2017

To,

M/s Bajaj Hindustan Sugar Ltd.,
Barkhera, Pilibhit,
U.P.-262201

DIRECTION UNDER SECTION 5 OF THE ENVIRONMENT (PROTECTION) ACT, 1986- CLOSURE THEREOF

WHEREAS, the Central Government has notified the standards for discharge of environment pollutants from various categories of industries under the Environment (Protection) Act, 1986 and the rules framed there under; and

WHEREAS, THE Ministry of Environment & Forests, Govt. of India, vide notification S.O.157(E) of 27.02.1996 has delegated powers vested under Section 5 of the Environment (Protection) Act, 1986 (29 of 1986) to the Chairman, Central Pollution Control Board (CPCB), to issue direction to any industry, Municipal Corporation, Municipal council,

Cantonment Board to any local or other Authority for violation of emission and effluent standards notified under Environment (Protection) Rules, 1986; and

WHEREAS, it is obligatory on the part of industries to install effluent treatment plants (ETPs) to comply with the effluent discharge standards as notified under the environment (Protection) Act, 1986 and the Rules framed thereunder and also to meet the consent conditions granted by State Pollution Control Board (SPCBs)/ Pollution Control Committees (PCCs); and

WHEREAS, M/s Bajaj Hindustan Sugar Ltd., Barkhera, Pilibhit, U.P. (hereinafter referred as 'the Unit' is involved in the process of sugar manufacturing from crushing of cane; and

WHEREAS, the unit was inspected under National Ganga River Basin Authority (NGRBA) programme by the officials of Central Poilution Control Board (CPCB) on 04.01.2017, and observed the following:

1. Unit was by passing the untreated waste water into river Amedhi which meets to Garra River and finally discharge to River Ganga. The concentration of parameters reported was BOD-367mg/I against 30 mg/I & TSS-402mg/I against 30 mg/I.
2. The MLSS concentration (988mg/I) in the aeration tank indicates poor operational maintenance of ETP.

3. Unit have no electronic flow meter at water extraction points.
4. The unit have no treated water storage lagoon for storing treated different effluent in low demand period for irrigation.
5. Unit have failed to implement the action plan for the irrigation.

WHEREAS, from the above observation of inspecting team it is evident that industry has not complied with earlier directions and deliberately by passing the untreated effluent which ultimately meets river Ganga through River Garra, which deteriorate the quality of River Ganga.

AND NOW, THEREFORE, in view of the above and exercising powers delegated to the Chairman, Central Pollution Control Board (CPCB) under Section 5 of the Environment (Protection) Act, 1986, the unit is directed to "**close down all its manufacturing operations**" till compliance of the following directions;

1. The unit is directed to close down its Sugar manufacturing operations with immediate effect and shall ton resume its operations until unit comply with all above observations.
2. The unit shall also comply with the new standards notified G.S.R. 35 (E), MOEF&CC, January 14, 2016 for

effluent disposal, waste water conservation and pollution control management.

In case of default in compliance with the above directions, CPCB will be constrained to initiate action against the Unit, in accordance with the provisions of the Environment (Protection) Act, 1986, without giving any further notice.

The compliance of the above directions shall be submitted to this office within 15 days of the receipt of the Closure notice.

(S.P. Singh Parihar)
Chairman

Copy to:

1. **The Member Secretary** UP State Pollution Control Board PICUP Bhawan, VibhutiKhand, Gomti Nagar, Lucknow	: with a request to ensure compliance of the directions
2. **District Magistrate** Pilibhit, U.P.	: to ensure closure as per directions
3. **The Advisor [CP Division]** Ministry of Environment, Forests & Climate Change, Indira ParyavarnBhavan, JorBagh Road, New Delhi- 110 003	

4. **The Superintending Engineer**
   Uttar Pradesh Power Corporation Limited
   Pilibhit, U.P.
   : with a direction to disconnect power supply

5. **The Incharge,**
   Northern Zonal Office,
   Central Pollution Control Board,
   1st Floor, PICUP Bhawan,
   VibhutiKhand, Gomti Nagar,
   Lucknow- 226 010

6. The Incharge IOC-III Division, CPCB Delhi.

7. The In-charge IT Division, CPCB, Delhi

(A.B. Akolkar)
Member Secretary

Date: 21/2/19

TRUE COPY

ANNEX: P-4

SPEED POST

B-190197/NGRBA (RG)/CPCB/Sugar/04/2016-17

November 8, 2017

To,

M/s Bajaj Hindustan Sugar Ltd.,

Barkhera, Pilibhit,

U.P.-262201

DIRECTION UNDER SECTION 5 OF THE ENVIRONMENT (PROTECTION) ACT, 1986

WHEREAS, the Central Government has notified the standards for discharge of environment pollutants from various categories of industries under the Environment (Protection) Act, 1986 and the rules framed there under; and

WHEREAS, THE Ministry of Environment & Forests, Govt. of India, vide notification S.O.157(E) of 27.02.1996 has delegated powers vested under Section 5 of the Environment (Protection) Act, 1986 (29 of 1986) to the Chairman, Central Pollution Control Board (CPCB), to issue direction to any industry, Municipal Corporation, Municipal council, Cantonment Board to any local or other Authority for violation of emission and effluent standards notified under Environment (Protection) Rules, 1986; and

WHEREAS, it is obligatory on the part of industries to install effluent treatment plants (ETPs) to comply with the effluent discharge standards as notified under the environment (Protection) Act, 1986 and the Rules framed thereunder and also to meet the consent conditions granted by State Pollution Control Board (SPCBs)/ Pollution Control Committees (PCCs); and

WHEREAS, M/s Bajaj Hindustan Sugar Ltd., Barkhera, Pilibhit, U.P. (hereinafter referred as 'the Unit' is involved in the process of sugar manufacturing from crushing of cane; and

WHEREAS, the Unit was inspected by the officials of Central Pollution Control Board (CPCB) on 04.01.2017, and observed the following:

1. The unit was by passing the untreated wastewater into river Amedhi which meets to Garra River and finally discharge to River Ganga. The concentration of parameters reported was BOD-367mg/I against 30 mg/I & TSS-402mg/I against 30 mg/I.
2. The MLSS concentration (988mg/I) in the aeration tank indicates poor operational maintenance of ETP.
3. Unit has no electronic flow meter at water extraction points.
4. The unit has no treated water storage lagoon for storing treated different effluent in low demand period for irrigation.

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5. Unit has failed to implement the action plan for the irrigation.

AND WHEREAS, CPCB issued the closure direction on 05.06.2017 under Section 5 of the Environment (Protection) Act, 1986, the unit (M/s Bajaj Hindustan Sugar Ltd. Barkhera, Pilibhit, U.P.) to comply with the following;

1. The unit shall remain closed till comply the following directions.

i. The unit shall submit the following reports to CPCB duly validated by reputed institutions like National Sugar Institute, Kanpur/Vasandada Sugar Institute, Pune/IITs with 60 days;

a) ETP adequacy assessment reports;

b) Time bound action plan for ETP augmentation &upgradationupto tertiary treatment level; to comply with the standards notified G.S.R. 35 (E), MoEF&CC, January 14, 2016 for effluent disposal, & waste water conservation.

c) Water audit and mass balance report to establish waste water generation rate;

d) Action plans to achieve the notified effluent discharge quality and generation standards.

e) Irrigation management plant as per the new notified standards on January 14, 2016, and

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ii. The unit shall restrict the storage capacity of lined lagoon upto 15 days of effluent generation.

iii. The unit shall meet the BOD-30mg/l standards for discharging any effluent on land surface water body whereas effluent stored n lined lagoons/tanks of capacity not more than 15 days shall comply with BOD-100mg/1 standards.

2. The unit shall stabilize the ETP by September 2017 before commencing of the new crushing season. The Unit will not be allowed to resume manufacturing operations till stabilization of ETP system.

3. The unit shall upgrade of process technology, ETP system & adapt the best practice in a time bound manner and submit a report to CPCB before starting the next crushing season.

4. The unit shall seek permission from CPCB, after compliance with the above mentioned directions before resumption of manufacturing operations.

AND WHEREAS, the Unit has submitted the adequacy reports validated by NSI, Kanpur on 12.1.2017; and

WHEREAS, in the review meeting held with the sugar mills on 12.10.2017 at CPCB, Delhi, it was informed that the unit has started the stabilization of the ETP since 30.09.2017;

WHEREAS, CPCB constituted a Three Member Committee vide office order dated 27.09.2017 having representations from

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CPCB, MoEF&CC and NMCG for examination and recommendation for revocation of the closure direction issued by CPCB; and

WHEREAS, the Three Member Committee in its meeting held on 24.10.2017 examined the adequacy report of the Unit and recommended that the Unit may be allowed to resume operation and shall implement the recommendations of the adequacy report and get it verified including performance assessment of the ETP system by the same institute which carried out the adequacy assessment and submit the same to CPCB within 45 days of resumption of operation.

AND NOW, THEREFORE, in view of the above observation, and exercising power delegated to the Chairman, Central Pollution Control Board under Section 5 of the Environment (Protection) Act, 1986, the Unit (M/s Bajaj Hindusthan Sugar Ltd., Barkhera, Pilibhit, U.P.) is directed to comply with the following directions;

1. The unit shall starts its operation only after obtaining valid consent from the concerned State Pollution Control Board.
2. The unit shall submit an undertaking on stamp paper with duly notorised/signed by Oath Commissioner **within a week** for not bypassing any type of untreated effluent even on their own land.

3. The Unit shall submit action plan within 15 days to implement the recommendations (including the general observation) of the adequacy report within 45 days.
4. The unit shall install & Commission ETP system upto tertiary treatment level including adequate treatment system for spray pond overflow effluent in case of double sulphitation process (Brine recovery system to be installed in case of sugar refinery having Ion Exchange Process for sugar melt de-colorization).
5. The Unit having high pressure boiler (>45 Kg/cm^2) shall install & Commission Condensate Polishing Unit (CPU) within 45 days for treatment of condensate water to ensure its reuse & recycle within the process.
6. The unit shall restrict the effluent storage capacity to 15 days.
7. The Unit shall utilize treated effluent meeting the prescribed norms for irrigation as per the irrigation management plan validated by expert institutions namely, NSI, Kanpur/VSI. Pune/Agricultural Institutions.
8. The unit shall implement the observation and recommendation of the adequacy report within 45 days.
9. The unit shall get the verification of implement status of the recommendation of adequacy report including ETP performance assessment & effluent generation assessment done by the same institute which carried out adquancy assessment and submit the report to CPCB

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within 45 days from date of resumption of manufacturing operations.

10. The analysis result of the treated effluent shall also be submitted within 45 days through EPA recognized laboratories.

11. If the unit fails to provide the verification report duly validated by the expert institutions, the unit shall automatically stop all its manufacturing operations after 45 days from the date of resumption of manufacturing operations.

In case of default in compliance with the above directions, CPCB will be constrained to initiate action against the Unit M/s Bajaj Hindusthan Sugar Ltd., BarkheraPilibhit, U.P.), in accordance with the provisions of the Environment (Protection) Act, 1986, without giving any further notice.

(S.P. SINGH PARIHAR)

CHAIRMAN

Copy to:

1. **Chairman**
   Uttar Pradesh Pollution Control Board, Building No. TC-12V, VibhutiKhand, Gomti Nagar,
   Lucknow- 226 010
   : with a request to ensure compliance of the directions
2. **District Magistrate**
   Pilibhit- 262201, U.P
3. **The Advisor (CP Division)**
   Ministry of Environment,

35

Forest & C.C Prithvi Block,
Indira ParyavaranBhawan,
Jorbagh Road, New Delhi-
110 003

4. **The Executive Engineer**
Electricity Distribution
Division
MadhyanchalVidyutVitaran
Nigam Ltd.
Near Aamariya Roadways
Pilibhit- 262201, U.P.
: with a direction to reconnect power supply

5. **Regional Director**
Regional Directorate,
Central Pollution Control
Board PICUP Bhawan,
Ground Floor,
VibhutiKhand, Gomti
Nagar,
Lucknow – 226 010

6. The in-charge IPC-III
Division, CPCB Delhi

7. The in-charge IT Division,
CPCB Delhi

8. Guard File, WQM-II, CPCB
Delhi

(A. SUDHAKAR)
MEMBER SECRETARY

TRUE COPY

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ANNEX:P-5

Speed Post

B-190198/WQM-II (RG)/CPCB/Sugar/04/2016-17

March 19, 2018

To,

M/s Bajaj Hindustan Sugar Ltd.,

Barkhera, Pilibhit,

U.P.-262201

DIRECTION UNDER SECTION 5 OF THE ENVIRONMENT (PROTECTION) ACT, 1986- CLOSURE THEREOF

WHEREAS, the Central Government has notified the standards for discharge of environment pollutants from various categories of industries under the Environment (Protection) Act, 1986 and the rules framed there under; and

WHEREAS, THE Ministry of Environment & Forests, Govt. of India, vide notification S.O.157(E) of 27.02.1996 has delegated powers vested under Section 5 of the Environment (Protection) Act, 1986 (29 of 1986) to the Chairman, Central Pollution Control Board (CPCB), to issue direction to any industry, Municipal Corporation, Municipal council, Cantonment Board to any local or other Authority for violation of emission and effluent standards notified under Environment (Protection) Rules, 1986; and

WHEREAS, it is obligatory on the part of industries to install effluent treatment plants (ETPs) to comply with the effluent discharge standards as notified under the environment (Protection) Act, 1986 and the Rules framed thereunder and also to meet the consent conditions granted by State Pollution Control Board (SPCBs)/ Pollution Control Committees (PCCs); and

WHEREAS, M/s Bajaj Hindustan Sugar Ltd., Barkhera, Pilibhit, U.P. (hereinafter referred as 'the Unit' is involved in the process of sugar manufacturing from crushing of cane; and

WHEREAS, the Unit was inspected on 04.04.2017 by the official of Central Pollution Control Board (CPCB); and

WHEREAS, CPCB issued closure direction dated 21.02.2017 for bypassing the untreated waste water; and

WHEREAS, CPCB issued direction dated 05.06.2017 under Section 5 of Environment Protection Act, 1986 to the Unit to remain closed till compliance with the following directions:

1. i. The Unit shall submit the following reports to CPCB duly validiated by reputed institutions like National Sugar Insitute, Kanpur/Vasandada Sugar Institute, Pune/IITs within 60 days;

   a) ETP adequacy assessment reports;

   b) Time bound action plan for ETP augmentation &upgradationupto tertiary treatment level; to comply

with the standards notified G.S.R. 35 (E), MoEF&CC, January 14, 2016 for effluent disposal, & waste water conservation.

c) Water audit and mass balance report to establish waste water generation rate;

d) Action plans to achieve the notified effluent discharge quality and generation standards.

e) Irrigation management plant as per the new notified standards on January 14, 2016, and

ii. The unit shall restrict the storage capacity of lined lagoon upto 15 days of effluent generation.

iii. The unit shall meet the BOD-30mg/I standards for discharging any effluent on land surface water body whereas effluent stored n lined lagoons/tanks of capacity not more than 15 days shall comply with BOD-100mg/1 standards.

2. The unit shall stabilize the ETP by September 2017 before commencing of the new crushing season. The Unit will not be allowed to resume manufacturing operations till stabilization of ETP system.

3. The unit shall upgrade of process technology, ETP system & adapt the best practice in a time bound manner and submit a report to CPCB before starting the next crushing season.

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4. The unit shall seek permission from CPCB, after compliance with the above mentioned directions before resumption of manufacturing operations.

AND WHEREAS, the CPCB received adequacy assessment report vide letter dt. 12.10.2017 from the unit prepared by NSI, Kanpur; and

WHEREAS, CPCB issued direction dated 08.11.2017 under section 5 of Environment Protection Act, 1986 to the Unit to comply with the following directions;

1. The unit shall starts its operation only after obtaining valid consent from the concerned State Pollution Control Board.
2. The unit shall submit an undertaking on stamp paper with duly notorised/signed by Oath Commissioner **within a week** for not bypassing any type of untreated effluent even on their own land.
3. The Unit shall submit action plan within 15 days to implement the recommendations (including the general observation) of the adequacy report within 45 days.
4. The unit shall install & Commission ETP system upto tertiary treatment level including adequate treatment system for spray pond overflow effluent in case of double sulphitation process (Brine recovery system to be installed in case of sugar refinery having Ion Exchange Process for sugar melt de-colorization).

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5. The Unit having high pressure boiler (>45 Kg/cm^2) shall install & Commission Condensate Polishing Unit (CPU) within 45 days for treatment of condensate, water to ensure its reuse & recycle within the process.
6. The unit shall restrict the effluent storage capacity to 15 days.
7. The Unit shall utilize treated effluent meeting the prescribed norms for irrigation as per the irrigation management plan validated by expert institutions namely, NSI, Kanpur/VSI. Pune/Agricultural Institutions.
8. The unit shall implement the observation and recommendation of the adequacy report within 45 days.
9. The unit shall get the verification of implement status of the recommendation of adequacy report including ETP performance assessment & effluent generation assessment done by the same institute which carried out adquancy assessment and submit the report to CPCB within 45 days from date of resumption of manufacturing operations.
10. The analysis result of the treated effluent shall also be submitted within 45 days through EPA recognized laboratories.
11. If the unit fails to provide the verification report duly validated by the expert institutions, the unit shall automatically stop all its manufacturing operations after

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45 days from the date of resumption of manufacturing operations.

AND WHEREAS, the Unit replied vide letters dated 18.12.2018 & 21.12.218 regarding the implementation of recommendations of the adequacy report were examined; and

AND WHEREAS, the Unit (M/s Bajaj Hindusthan Sugar Ltd. Barkhera, Pilibhit, U.P), was inspected on 31.01.2018 by officials from CPCB, Delhi and following observations are made;

1. During the inspection, the ETP system upto secondary clarifier was in operation. However, tertiary treatment system was not in operation.
2. The Unit has applied for valid consent under Water (Prevention and Control of Pollution) Act, 1974 & Air (Prevention and Control of Pollution) Act, 1981 to UPPCB.
3. The Unit has bypass arrangement for untreated effluent which was flowing through agricultural land to nearby stream and analysis of effluent sample shows **BOD-366 mg/l,** as against norms of 30 mg/l which indicates non-compliance with the prescribed effluent discharge norms.
4. The analysis of treated effluent sample from Secondary Clarifier outlet shows pH-7,42, against 5.59.0, **BOD-720 mg/l** against 30 mg/l, **COD- 1715 mg/l** against

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250 mg/l, **TSS-184 mg/l** against at outlet of the ETP which indicates non-compliance with the effluent discharge norms prescribed under Environment (Protection) Rules, 1986.

5. The MLSS in aeration tank was found 1770 mg/l which indicates unstabilized ASP system due to poor operation and maintenance of ETP system.
6. The Unit has also not installed flow meter at various location of unit process.
7. The Unit has constructed a lagoon with a capacity of 9000 cu.m, but it was found totally empty at the time of inspection.
8. The Unit has not implemented the recommendations made in adequacy report by NSI, Kanpur.
9. The Unit has not submitted the irrigation management plan.
10. The Unit has not submitted the revalidated ETP adequacy assessment report within 45 days to CPCB.

It is evident that untreated/partially treated effluent is being discharged by the Unit, posing potential threat to surface water/ground water quality.

AND NOW, THEREFORE, in view of above observations and in exercise of the powers delegated to the Chairman, CPCB under section 5 of the Environment (Protection) Act, 1986, the unit (M/s Bajaj Hindustan Sugar Ltd.Barkhera, Pilibhit, U.P) is

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directed to **close down its manufacturing operations immediately** and shall comply with the following directions:

1. The Unit is directed to close down its Sugar manufacturing operations with immediate effect and shall not resume its operations.
2. The unit shall dismantle the bypass arrangement and stop untreated effluent discharge immediately.
3. The unit install & Commission ETP system upto tertiary treatment level including adequate treatment system for spray and overflow effluent in case of double sulphitation process .
4. The Unit having high-pressure boiler (>45 Kg/cm^2) shall install & commission Condensate Polishing Unit (CPU) for treatment of condensate water to ensure its reuse & recycle within the process.
5. The unit shall restrict the treated wastewater storage lagoon capacity of 15 days in low demand period for irrigation.
6. The unit shall submit irrigation management plan and utilize treated effluent meeting the prescribed norms for irrigation as per the irrigations management plan validated by expert institutions namely, NSI, Kanpur/VSI, Pune/Agricultural Institutions.
7. The unit shall get the verification of implement status for the recommendation of adequacy report including ETP performance assessment & effluent generation

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assessment done by the same institution that carried out adequacy assessment and submit the report to CPCB.

8. The unit shall submit the revalidated ETP adequacy assessment report within 45 days to CPCB.
9. The unit shall inform to CPCB about the closure of operation immediately.
10. The unit shall seek permission from CPCB before resumption of manufacturing operations.

In case the default in compliance with the above directions, CPCB will be constrained to initiate actin against the Unit **(M/s Bajaj Hindustan Sugar Ltd., Barkhera, Pilibhit, U.P)** with giving any further notice in accordance with the provisions of the Environment (Protection) Act, 1986.

(S.P. SINGH PARIHAR)

CHAIRMAN

1. **The Chairperson** Uttar Pradesh Pollution Control Board, Building No. TC-12V, VibhutiKhand, Gomti Nagar, Lucknow-226 010	With request to ensure compliance of the directions.
2. **Joint Secretary (CP Division)** Ministry of Environment, Forest & C.C Prithivi	For kind information , please

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Block, Indira
ParyavarnBhawan,
Jorbagh Road, New
Delhi- 110 003

3. **The District Magistrate**
Pilibhit-262201, U.P. : With request to ensure closure of the unit in compliance of the directions

4. **The Superintending Engineer**
MadhyanchalVidyutVitra n Nigam Ltd.
Pilibhit, U.P. : with a direction to disconnect power supply

5. **Regional Director**
Regional Directorate
Central Pollution Control Board, PICUP Bhawan, Ground Floor, VibhutiKhand, Gomit Nagar, Lucknow 226 010 For follow up and ensuring compliance

6. The In-charge, IT Division, CPCB
7. Master file/Guard file, WQM II, CPCB Delhi

(A SUDHAKAR)

MEMBER SECRETARY

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ANNEX:P-6

CENTRAL POLLUTION CONTROL BOARD

MINISTRY OF ENVIRONMENT, FOREST & CLIMATE CHANGE
GOVT. OF INDIA

SPEED POST

B-190197/NGRBA (RG)/CPCB/Sugar/04/2016-17

Oct 22nd 2018

To,

M/s Bajaj Hindustan Sugar Ltd.,

Barkhera, Pilibhit,

U.P.-262201

DIRECTION UNDER SECTION 5 OF THE ENVIRONMENT (PROTECTION) ACT, 1986

WHEREAS, the Central Government has notified the standards for discharge of environment pollutants from various categories of industries under the Environment (Protection) Act, 1986 and the rules framed there under; and

WHEREAS, THE Ministry of Environment & Forests, Govt. of India, vide notification S.O.157(E) of 27.02.1996 has delegated powers vested under Section 5 of the Environment (Protection) Act, 1986 (29 of 1986) to the Chairman, Central Pollution Control Board (CPCB), to issue direction to any industry, Municipal Corporation, Municipal council,

Cantonment Board to any local or other Authority for violation of emission and effluent standards notified under Environment (Protection) Rules, 1986; and

WHEREAS, it is obligatory on the part of industries to install effluent treatment plants (ETPs) to comply with the effluent discharge standards as notified under the environment (Protection) Act, 1986 and the Rules framed thereunder and also to meet the consent conditions granted by State Pollution Control Board (SPCBs)/ Pollution Control Committees (PCCs); and

WHEREAS, M/s Bajaj Hindustan Sugar Ltd., Barkhera, Pilibhit, U.P. (hereinafter referred as 'the Unit' is involved in the process of sugar manufacturing from crushing of cane; and

WHEREAS, CPCB issued direction dated 05.06.2017 under section 5 of the Environment (Protection) Act, 1986 to the Unit for carrying out ETP adequacy assessment by reputed institutions; and

WHEREAS, CPCB received adequacy assessment report vide letter dt. 12.10.2017 from the unit prepared by NSI, Kanpur; and

WHEREAS, CPCB issued direction dated 08.11.2017 under section 5 of Environment (Protection) Act, 1986 to the Unit;

WHEREAS, the Unit replie vide letters dated 18.12.2017 & 21.12.2017 were examined; and

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WHEREAS, the unit was inspected on 31.01.2018 by officials from CPCB, Delhi and following observations are made:

1. During the inspection, the ETP system upto secondary clarifier was in operation. However, tertiary treatment system was not in operation.
2. The Unit has bypass arrangement for untreated effluent which was flowing through agricultural land to nerby stream and analysis of effluent sample shows **BOD-366 mg/l,** as against norms of 30 mg/l which indicates non-compliance with the prescribed effluent discharge norms.
3. The analysis of treated effluent sample from Secondary Clarifier outlet shows pH-7.42, against 5.5-9.0, **BOD-720 mg/l** against 30 mg/l, **COD-1715 mg/l, TSS-184 mg/l** against 30 mg/l at our of the ETP which indicates non-compliance with the effluent discharge norms prescribed under Environment (Protection) Rules, 1986.
4. The MLSS in aeration tank was found 1770 mg/l which indicates unstabilised ASP system due to poor operation and maintenance of ETP system.
5. The Unit has constructed a lagoon with a capacity of 9000 cu.m but it was found totally empty at the time of inspection.

AND WHEREAS, CPCBissued direction dated 19.03.2018 under Section 5 of the Environment (Protection) Act, 1986 to the unit for compliance of the following:

1. The unit is directed to close down its sugar manufacturing operations with immediate effect and shall not resume its operations.
2. The unit shall dismantle the bypass arrangement and stop untreated effluent discharge immediately.
3. The unit install & Commission ETP system upto tertiary treatment level including adequate treatment system for spray and overflow effluent in case of double sulphitation process .
4. The Unit having high-pressure boiler (>45 Kg/cm^2) shall install & commission Condensate Polishing Unit (CPU) for treatment of condensate water to ensure its reuse & recycle within the process.
5. The unit shall restrict the treated wastewater storage lagoon capacity of 15 days in low demand period for irrigation.
6. The unit shall submit irrigation management plan and utilize treated effluent meeting the prescribed norms for irrigation as per the irrigations management plan validated by, expert institutions namely, NSI, Kanpur/VSI, Pune/Agricultural Institutions.
7. The unit shall get the verification of implement status for the recommendation of adequacy report including ETP

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performance assessment & effluent generation assessment done by the same institution that carried out adequacy assessment and submit the report to CPCB.

8. The unit shall submit the revalidated ETP adequacy assessment report within 45 days to CPCB.
9. The unit shall inform to CPCB about the closure of operation immediately.
10. The unit shall seek permission from CPCB before resumption of manufacturing operations.

WHEREAS, the unit's reply dated 22.3.2018 was examined; and

WHEREAS, the unit submitted the revalidated adequacy assessment reports by NSI, Kanpur vide letter dt. 07.05.2018; and as per the report following recommendations have been made by NSI, Kanpur:

1. Effluent generation is estimated as 154.23 litre/tone for cane crushed.
2. Flow meters to be installed at major unit operations to ascertain and control hot and cold water requirement.
3. Flow meters to be installed at various consumption points.
4. The unit should calibrate the installed flow meters.

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5. The unit should construct a hazardous tank to collect the washing of chemical cleaning and to add them gradually in the ETP.
6. ETP system of the unit shall require revalidation after suggest additions/ modifications.
7. Sludge drying bed is inadequate.

WHEREAS, CPCB through and Expert Committee comprising of experts from National Sugar Institute (NSI), Kanpur, Vasantdada Sugar Institute (VSI), IITs and representatives from sugar mills prepared a charter for Water Recycling and Pollution Prevention/(thereafter referred to as the charter; and

WHEREAS, a meeting of sugar mills operation in Uttar Pradesh, representatives of UPPCB and CPCB was held on 06.07.2018 under Chairmanship of Principal Secretary, Sugar Industries and Sugarcane Development, Government of Uttar Pradesh and the following decisions are made

1. Sugar mills shall submit an action plan to CPCB by 20.07.2018 regarding the steps taken by them pertaining to the notices issued to them. Also they shall submit action plan to implement recommendations of their adequacy assessment report.
2. All sugar mills shall ensure implementation of Charter and shall submit action plan to CPCB by 20.08.2018.

3. All sugar mills shall ensure the upgradation of their ETP within August, 2018 so as to ensure no interruption in functioning of the ETP in the following seasons.
4. All sugar mills shall maintain a logbook on ETP operations on a daily basis.
5. ETP shall be operational at all times and all bypass arrangements should be dismantled with immediate effect.
6. MLSS in aeration tanks should be maintained at 2000-2500 mg/l.
7. All sugar units shall set up environmental laboratories for regular analysis of raw and treated effluent thereby ensuring proper functioning of the ETP.
8. All sugar mills shall employ dedicated technicians for operating and regular maintenance of ETP and shall also ensure that the technicians are given proper training on ETP maintenance and lab analysis on regular basis.
9. To ensure proper training of the environmental technicians all sugar mills shall facilitate training of 5 employees.
10. All sugar mills may establish an Environment Management Cell at their level consisting of concerned officials in order to ensure compliance with environmental standards at industry level itself.

AND WHEREAS, the unit vide letter dated 20.07.2018 and 24.09.2018 submitted their compliance status of the

Charter, which are examined and following observations are made:

1. The unit is in the process of installing necessary flow meters at requisite points as prescribed under the Charter and has assured completion of the same by end of October, 2018.
2. The unit has submitted action plan/compliance report on upgradation of ETP.
3. The unit is maintaining proper logbook for bore-well readings thereby recording their fresh water consumption on regular basis.
4. The unit has stated that no untreated/ partially treated effluent is being discharged on land.
5. The unit shall employ hydro-jet for cleaning of heat exchanger unit.
6. The unit has already set up environmental laboratory with dedicated technical staff.
7. The unit has planned to arrage training for its technical staff on ETP Operation and Maintenance.
8. The unit has submitted compliance report on BMT for Water Recycling and Pollution Prevention.
9. Construction of two tanks to collect washing of chemical cleaning for heat exchangers is in undertaken.

AND WHEREAS, the Three Member Committee in its meeting held on 04.10.2018 examined the revalidated adequacy

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assessment report, & implementation status of the charter and recommended that the unit may be allowed to resume operation.

AND NOW, THEREFORE, in view of above observations and in exercise of the powers delegated to the Chairman, CPCB under section 5 of the Environment (Protection) Act, 1986, the unit (M/s Bajaj Hindustan Sugar Ltd., Barkhera, Pilibhit, U.P) is directed to comply with the following directions before commencement of crushing season 2018-19;

1. The unit shall starts its operation only after obtaining the valid consent from the Uttar Pradesh Pollution Control Board.
2. The unit shall implement the observation & recommendation of the revalidated adequacy assessment of ETP.
3. The unit shall install sealed flow meter along with running hours meter on bore wells so as to ascertain usage of fresh water for various uses.
4. The unit shall install flow meters at major areas of clod and hot water consumption.
5. The unit shall install flow meteres for measuring generation of effluent from various prominent areas.
6. The unit shall maintain logbook for individual process unit for recording daily water consumption and effluent

general also. carry out colour coding of pipelines carrying recycled process water and fresh process water.

7. The unit shallcarry out colour coding of pipelines carrying recycled process water and fresh process water.

8. The Unit shall commission mechanical sludge handling system of adequate capacity.

9. The unit shallclose down the circular channels which started from the unit and open outside the premises. .

10. The unit shall carry out analysis of effluent discharge parametres notified under Environment (Protection) Rules, 1986 and log book shall be maintained on daily basis.

11. The unit shall submit the implementation status of the Charter in the form of Affidavit and the documentary proof of the completion of the work as committed in the action plan before resumption of crushing season 2018-19.

12. The unit shall submit implementation status of the Charter and performance adequacy audit of ETP including actual assessment of water consumption and effluent generation duly validated by reputed expert institute namely NSI Kanpur, VSI Pune, IITs during crushing season & submit the report of CPCB within 60 days of resumption of operation.

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In case of default in compliance with the above directions, CPCB will be constrained to initiate action against the Unit **(M/s Bajaj Hindusthan Sugar Ltd., Barkhera, Pilibhit, U.P.)**without giving any further notice in accordance with the provisions of the Environment (Protection) Act, 1986.

(S.P. SINGH PARIHARO

CHAIRMAN

Copy to:

1. Principal Secretary (Sugar) Sugar Industry and Cane Development, Department, "G" Block, 2/3, Mantri Wing, 4th Floor, BapuBhawan, VidhanSabhaMarg, Lucknow-226 001	With request to ensure compliance of the directions
2. The Chairperson Uttar Pradesh Pollution Control Board, Building No. TC-12V, VibhutiKhand, Gomti Nagar, Lucknow-226 010	With request to ensure compliance of the directions.
3. Joint Secretary (CP Division) Ministry of Environment, Forest & C.C Prithivi Block, Indira ParyavarnBhawan,	For kind information , please

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Jorbagh Road, New Delhi- 110 003	
4. The District Magistrate Pilibhit-262201, U.P.	With request to ensure compliance of the directions.
5. The Superintending Engineer MadhyanchalVidyutVitran Nigam Ltd. Pilibhit, U.P.	To disconnect the power supply of the unit, please
6. Regional Director Regional Directorate Central Pollution Control Board, PICUP Bhawan, Ground Floor, VibhutiKhand, Gomit Nagar, Lucknow 226 010	For follow up and ensuring compliance
7. In-charge, IT Division, CPCB	
8. Mater file/Guard file, WQM II, CPCB Delhi	

(PrashantGargava)

MEMBER SECRETARY

Date: 22.10.18

TRUE COPY

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ANNEX:P-7

Speed Post

B-190198/WQM-II (RG)/CPCB/Sugar/04/2016-17

30.05.2019

To,

M/s Bajaj Hindustan Sugar Ltd.,

Barkhera, Pilibhit,

U.P.-262201

DIRECTION UNDER SECTION 5 OF THE ENVIRONMENT (PROTECTION) ACT, 1986- CLOSURE THEREOF

WHEREAS, the Central Government has notified the standards for discharge of environment pollutants from various categories of industries under the Environment (Protection) Act, 1986 and the rules framed there under; and

WHEREAS, THE Ministry of Environment & Forests, Govt. of India, vide notification S.O.157(E) of 27.02.1996 has delegated powers vested under Section 5 of the Environment (Protection) Act, 1986 (29 of 1986) to the Chairman, Central Pollution Control Board (CPCB), to issue direction to any industry, Municipal Corporation, Municipal council, Cantonment Board to any local or other Authority for violation of emission and effluent standards notified under Environment (Protection) Rules, 1986; and

WHEREAS, it is obligatory on the part of industries to install effluent treatment plants (ETPs) to comply with the effluent discharge standards as notified under the environment (Protection) Act, 1986 and the Rules framed thereunder and also to meet the consent conditions granted by State Pollution Control Board (SPCBs)/ Pollution Control Committees (PCCs); and

WHEREAS, M/s Bajaj Hindustan Sugar Ltd., Barkhera, Pilibhit, U.P. (hereinafter referred as 'the Unit' is involved in the process of sugar manufacturing from crushing of cane; and

WHEREAS, the unit was inspected on 31.01.2018 of officials from CPCB, Delhi and was found non-complying with CPCB norms; and

WHEREAS, CPCB issued directions dated 19.03.2018 under Section 5 of the Environment (Protection) Act, 1986 to the unit for compliance of the following:

1. The unit is directed to close down its sugar manufacturing operations with immediate effect and shall not resume its operations.
2. The unit shall dismantle the bypass arrangement and stop untreated effluent discharge immediately.
3. The unit install &Commission ETP system upto tertiary treatment level including adequate treatment system for spray and overflow effluent in case of double sulphitation process.

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4. The Unit having high-pressure boiler (>45 Kg/cm^2) shall install & commission Condensate Polishing Unit (CPU) for treatment of condensate water to ensure its reuse & recycle within the process.
5. The unit. shall restrict the treated wastewater storage lagoon capacity of 15 days in low demand period for irrigation.
6. The unit shall submit irrigation management plan and utilize treated effluent meeting the prescribed norms for irrigation as per the irrigations management plan validated by expert institutions namely, NSI, Kanpur/VSI, Pune/Agricultural Institutions.
7. The unit shall get the verification of implement status for the recommendation of adequacy report including ETP performance assessment & effluent generation assessment done by the same institution that carried out adequacy assessment and submit the report to CPCB.
8. The unit shall submit the revalidated ETP adequacy assessment report within 45 days to CPCB.
9. The unit shall inform to CPCB about the closure of operation immediately.
10. The unit shall seek permission from CPCB before resumption of manufacturing operations.

WHEREAS, the unit's reply dated 22.3.2018 was examined; and

WHEREAS, the unit submitted the revalidated adequacy assessment reports by NSI, Kanpur vide letter dt. 02.05.2018; and

WHEREAS, the unit vide letters dated 20.7.2018 and 24.09.2018 submitted their compliance status of the charter, and

WHEREAS, CPCB issued compliance directions dated 22.10.2018 under Section 5 of Environment (Protection) Act, 1986 to the unit; and

WHEREAS, the unit was inspected on 26.08.2019 by officials from CPCB, Delhi and following observations are made:

1. Analysis of effluent sample stored in lagoon showed pH-7.57 (against stipulated norms of 5.5-8.5), TSS - 304 mg/l (against stipulated norms of 100 mg/l), BOD-313 mg/l against stipulated norms of 100 mg/l) and COD -478 mg/l (against stipulated norms of 250 mg/l). TDS- 1053 mg/l (against stipulated norms of 2100 mg/l) which indicate non-compliance with on land effluent discharge standards.
2. The unit has not installed flowmeters at various locations as suggested in the charter.
3. Analysis of sample collected from ETP outlet showed pH-7.81 (against stipulated norms fo 5.5-8.5), BOD- 16.7 mg/l (against stipulated norms of 100 mg/l), COD- 105 mg/l (against stipulated norms of 250 mg/l), TSS-28.4

mg/l (against stipulated norms of 100 mg/l), TDS-977 mg/l (against stipulated norms of 2100 mg/l). However, MLSS in aeration tank was 489 mg/l that indicates unsterilized aeration tank and dilution of ETP system could not be ruled out.

4. The logging of wastewater upto 4-5 inches is observed in storm water drain, a barren filed within the premises and in cane yard that indicates that he unit is not using the treated effluent for irrigation purposes and disposing it in indiscriminate way.
5. TDS level reduced drastically from 1751 mg/l (at inlet) to 966 mg/1 (at outlet) which indicated possibility of dilution.

It is evident that untreated effluent is being discharged and bye-passed by the unit causing grave injury to the environment.

AND WHEREAS, The Hon'ble National Green Tribunal (NGT), Principal Bench in the matter of OA No. 593/2017 (WP (CIVIL) No. 375/2012), ParyavaranSurakshaSamiti&Anr. Vs. Union of India &Ors.Directed Central Pollution Control Board (CPCB) that "*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"; and

WHEREAS, in compliance of above quoted Hon'ble NGT order, cases to be considered for levying penalty are discharges in violating of consent conditions/ non-compliance with the directions, such as direction for closure due to non-installation of OCEMS/non-adherence to the action plans submitted/ intentional avoidance of data submission or data manipulation by tampering OCEMS; and

WHEREAS, as per the methodology for assessing penalty and environmental compensation to be levied to the unit is calculated as **Rs.1,09,20,000/-** (Rupees One Crore nine lakhs twenty thousand only) for the non-compliance period (14.11.2018 to 14.05.2019) for the crushing season 2018-19; and

NOW, THEREFORE, in view of above observations and in exercise of the powers delegated to the Chairman, CPCB under section 5 of the Environment (Protection) Act, 1986, the unit (M/s Bajaj Hindustan Sugar Ltd. Barkhera, Pilibhit, U.P) is directed to close down all manufacturing operations and **deposit Rs. 1,36,50,000/-** in CPCB A/c No. 532702050000164 (Bank name: Union Bank of India, IP Extension Branch, VikasMargExtn., Delhi; IFSC: UNIN0553271) towards environmental compensation within

15 days from the date of receipt of direction and the unit shall comply with the following directions:

1. The unit shall immediately close down all its manufacturing operations with immediate effect and shall not resume its operations.
2. The unit shall submit adequacy assessment of treatment facility by reputed govt. institute including work completion report regarding implementation of the recommendations of the adequacy report within 45 days.
3. The unit shall seek permission for CPCB, after completion of above direction, before resumption of operation.

In case of default in compliance with the above directions, CPCB will be constrained to initiate action against the Unit **(M/s Bajaj Hindustan Sugar Ltd., Barkhera, Pilibhit, U.P.)**without giving any further notice in accordance with the provisions of the Environment (Protection) Act, 1986

(S.P. SINGH PARIHAR)

CHAIRMAN

Copy to:

1. **Principal Secretary** Sugar Industry and Cane Development, Department, "G" Block, 2/3, Mantri Wing, 4th Floor, BapuBhawan, VidhanSabhaMarg, Lucknow-226 001	With request to ensure compliance of the directions
2. **The Chairperson** Uttar Pradesh Pollution Control Board, Building No. TC-12V, VibhutiKhand, Gomti Nagar, Lucknow-226 010	With request to ensure compliance of the directions.
3. **Joint Secretary (CP Division)** Ministry of Environment, Forest & C.C Prithivi Block, Indira ParyavarnBhawan, Jorbagh Road, New Delhi- 110 003	For kind information , please
4. **The District Magistrate** Pilibhit-262201, U.P.	To ensure physical verification, closure, sealing and disconnection of power supply in compliance of closure direction.
5. **The Superintending Engineer**MadhyanchalVidyutVitran Nigam Ltd. Pilibhit, U.P.	To disconnect the power supply of the unit, please
6. **Regional Director** Regional Directorate Central Pollution Control Board, PICUP Bhawan, Ground Floor, VibhutiKhand, Gomit Nagar,	For follow up and ensuring compliance

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Lucknow 226 010

7. In-charge, IT Division, CPCB — With request to upload on CPCB server.

8. In-charge, F & A Division, CPCB

9. Mater file/Guard file, WQM II, CPCB Delhi

(PrashantGargava)

MEMBER SECRETARY

Date: 30.5.19

TRUE COPY

ANNEX: P-8

17.06.2019

To,

The Chairman

Central Pradesh Pollution Control Board

ParivesbBhawan, East Arjun Nagar,

Delhi-110032

Sub: Representation by M/s Bajaj Hindustan Sugar Limited, (Sugar Unit)-Barkhera District Pilibhit, Uttar Pradesh.

Ref.:CPCB Direction ref. no. B-190198/WQM-II(RG)/ CPCB/Sugar/04/2016-17 2140 dated 30.05.2019 under section 5 of the Environment (Protection) Act, 1986-closure Thereof

Dear Sir,

Directions dated 30.05.2019

A. We are in receipt of the directions from CPCB which is reproduced herewith for ready reference.

"Now, therefore, in view of above observations and in exercise of the powers delegated to the Chairman, CPCB under section 5 of the Environment (Protection) Act, 1986, the unit (M/s Bajaj Hindustan Sugar Ltd. Barkhera, Pilibhit, UP) is directed to close down all manufacturing operations and deposit Rs.1,36,50,000/- in CPCB A/c no. 532702050000164 (Bank : Union Bank of India, KIP Extension Branch, VikarMargExtn. Delhi; IFSC: UBIN0553271) towards environmental compensation

within 15 from the date or receipt of direction and the unit shall comply with the following directions;

1. *The unit shall immediately close down all its manufacturing operations with immediate effect and shall not resume its operations.*
2. *The unit shall submit adequacy assessment of treatment facility by reputed govt. institute including work completion report regarding implementation of the recommendations of the adequacy report within 45 days.*
3. *The unit shall seek permission for CPCB, after completion of above direction, before resumption of operation.*

In case of default in compliance with the above directions, CPCB will be constrained to initiate action against the Unit ***(M/s Bajaj Hindustan Sugar Ltd., Barkhera, Pilibhit, U.P.)*** *without giving any further notice in accordance with the provisions of the Environment (Protection) Act, 1986"*

B. **Pertinently the above direction was issued to Bajaj Hindusthan Sugar Ltd.** (hereinafter called as BHSL) purportedly on the grounds as under;

1. *Analysis of effluent sample stored in lagoon showed pH-7.57 (against stipulated norms of 5.5-8.5).* ***TSS – 304 mg/l*** *(against stipulated norms of 100 mh/l),* ***BOD- 313 mg/l*** *against stipulated norms of 100*

mg/l) and ***COD -478 mg/l*** *(against stipulated norms of 250 mg/l). TDS- 1053 mg/l (against stipulated norms of 2100 mg/l) which indicate non-compliance with on land effluent discharge standards.*

2. *The unit has not installed flowmeters at various locations as suggested in the charter.*
3. *Analysis of sample collected from ETP outlet shoed pH-7.81 (against stipulated norms fo 5.5-8.5), BOD-16.7 mg/l (against stipulated norms of 100 mg/l), COD- 105 mg/l (against stipulated norms of 250 mg/l), TSS-28.4 mg/l (against stipulated norms of 100 mg/l), TDS-977 mg/l (against stipulated norms of 2100 mg/l). However, MLSS in aeration tank was 489 mg/l that indicates unstebilized aeration tank and dilution of ETP system could not be ruled out.*
4. *The logging of wastewater upto 4-5 inches is observed in storm water drain, a barren filed within the premises and in cane yard that indicates that he unit is not using the treated effluent for irrigation purposes and disposing it in indiscriminate way.*
5. *TDS level reduced drastically from 1751 mg/l (at inlet) to 966 mg/1 (at outlet) which indicated possibility of dilution.*

CPCB has concluded that "It is evident that untreated effluent is being discharged and bye-passed by the unit causing grave injury to the environment.

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C. The direction dated 30.05.2019 levying monetary penalty of Rs.1,36,50,000/- derives strength, power and is on the basis of observations made by Hon'ble NGT which reads as under;

*"**AND WHEREAS,** The Hon'ble National Green Tribunal (NGT), Principal Bench in the matter of OA No. 593/2017 (WP (CIVIL) No. 375/2012), ParyavaranSurakshaSamiti&Anr. Vs. Union of India &Ors.Directed Central Pollution Control Board (CPCB) that "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"; and*

WHEREAS, in compliance of above quoted Hon'ble NGT order, cases to be considered for levying penalty are discharges in violating of consent conditions/ non-compliance with the directions, such as direction for closure due to non-installation of OCEMS/non-adherence to the action plans submitted/ intentional avoidance of data submission or data manipulation by tampering OCEMS; and

WHEREAS, as per the methodology for assessing penalty and environmental compensation to be levied to the unit is calculated as Rs.27,30,000/- (Rupees Twenty seven lakhs thirty thousand only) for the non-compliance period

7.1

(31.01.2018 to 01.05.2018), for the crushing season 2017-18; and Rs.1,09,20,000/- (Rupees One Crore nine lakhs twenty thousand only) for the non-compliance period (14.11.2018 to 14.05.2019) for the crushing season 2018-19;"

Objections in brief to the issuance of the directions in letter dated 30.05.2019:

- At the outset it is submitted that Section 5 of the Environment Protection Act 1986 does not provide any power to CPCB to levy a monetary penalty of Rs.1,36,50,000/- or at all. Such a levy of monetary compensation of penalty is not envisaged under Section 5 of the aforesaid Act or in any other provisions of the Act or any other law. Hence, it is submitted at the outset that the directions given by CPCB to deposit the sum of Rs. 1,36,50,000/- is unsustainable and without any authority of law.
- It is pertinent to state here, that in terms of provision of UP Sugarcane (Regulation of Supply & Purchase) Act, 1953, it is incumbent upon Sugar unit to crush each and every stick of sugar cane which is reserved/allocated/allotted under the order of the Cane Commissioner and which is brought to the factory by the farmers for crushing. As such, there is a legal obligation casted upon Sugar unit to continue its operation till

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entire such sugar cane area available is crushed. The CPCB has not taken cognizance of this legal obligation which is casted upon Sugar unit.

- It is ironic that while on one hand the law makes it compulsory for the sugar unit to continue its production, on the other hand CPCB is hell-bent upon penalizing the sugar unit for having so done. The direction dated 30.05.2019 penalizes the sugar unit for production during the period of 2017-18, 2018-19 as set out in the direction letter. CPCB has not appreciated and there is not understanding that there was a legal obligation and compulsion on the sugar unit to continue its production. The aforesaid period as set out in the direction letter dated 30.05.2019, therefore cannot be termed as non-compliance periods and accordingly no penalty can be fastened for the same period (s).
- The CPCB has completely misled itself on the facts of oru case, in as much as there exists in the sugar unit an upgraded ETP system upto tertiary stage to effectively deal with the effluent of the factory which is reutilized and recycled, post treatment. The said effluent also meets all the norms for irrigation on land. As such, there is no case at all for any contravention of law relating to setting-up and maintaining ETP.

In the above facts, the CPCB ought not to have issued the direction under letter 30.05.2019. Such direction is not in

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consonance with the observations of the Hon'ble NGT dated 31.08.2018 in OA no. 593/2017. Hence, the direction for closure and penalty under letter dated 30.05.19 are completely misconceived and without legal force.

THIS REPRESENTATION HEREOF

Before we reply to/ and deal with the observation and directions of CPCB, it would be proper to note here the factual background and status of BHSL. The same is as under;

1. The unit of BHSL at Barkhera (Pilibhit) was established in the year 2005-06 with the State of Art Technology having all requisite equipments/systems as prescribed in No Objection Certificate issued by the Uttar Pradesh Pollution Control Board (herein after called as UPPCB) vide its letter no. F51395/C-5/NOC-93/2005/7 dated 13.10.2005 **(Copy of the NOC at enclosure-1)**
2. Before start of operation, UPPCB had visited BHSL and granted trial consents. In satisfactory trials, UPPCB had issued regular consents to operate. Since then BHSL is getting regular consents to operate under relevant acts.
3. In the year 2015, letter was received from CPCB dated June 04, 2015 (**Copy of the letters at enclosure-2),** referring Joint team inspection of CPCB and UPPCB under National Ganga River Basin Authority (NGRBA) to ensure Water Management practices in Sugar Sector in Ganga Basin States, comply and submit an action plan

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so as to meet all the requirements. The issued which were raised by CPCB and our response thereto are as under:

(i) ***Waste water generation to be limited to 40 litre/tonne of cane crushed by next crushing season or before November 2015.***

We are committed to reduce water as per direction given by adopting 3R principle i.e. Reduce, Recycle & Reuse.

However, *prima facie* the observation/direction of CPCB to limit the wastewater generation to 40 litre/tonee of cane crushed was arbitrary and impractical, therefore, the Sugar industry made representation/objections. Accordingly, MoEF has taken the reference of the representation of non-achievable/impractical norms and issued the notification on dated 14.01.2016 (annexed as **enclosure-3)** and permitted the waste water generation @ of litre/tonne of cane crushed.

It is pertinent of CPCB, we also got audited the BHSL Unit by the National Sugar Institute (NSI), Kanpur who has validated the effluent generation @ 154.23 litre/toneeof cane crushed which is very low than the prescribed limit of 200 litre/tonne, A copy of Report is annexed as **enclosure-5.**

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(ii) ***Establish mini cooling tower or polishing tank for recycling the excess condensate water to process/utilizes/allied units by November 2015.***

Mini colling tower for gainful utilization of excess condensate has already installed and functioning efficiently.

(iii) ***Upgrade ETP system to meet the discharge standards for irrigation by November 2015.***

We already have a complete upgraded ETP system consisting of the following units for combined effluent from factory:

Primary System:

1. *Bar Screen*
2. *Oil Skimmer*
3. *Chemical Dosing (Coagulation & Flocculation)*
4. *Equalization Tank*
5. *Primary Clarifier (Mechanical Type)*

Secondary System:

1. *Aeration Tank*
2. *Secondary Clarifier*
3. *Sludge drying Beds*

Tertiary System:

1. *Carbon and Sand Filter*

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2. Construction of Treated Effluent holding lagoon is in progress and will be completed within a month.

The Treated Effluent is being reutilized & recycled in process.

We are achieving norms for discharging the effluent on land for irrigation.

(iv) ***Industry has to submit the irrigation plan before the starting of next crushing season (2015-16)***

As we are already working, a well formulated 'Irrigation Plan' is enclosed as directed ***(Enclosure-6)***

(Viii) ***All bypass system to be stopped and evidence of dismantling to be submitted.***

No bypass system is available at our unit.

(IX) ***Unit shall develop Groundwater monitoring network (Peisometric well) to monitor & prevent groundwater pollution.***

We already have Piezometres installed as desired.

Besides this, BHSL had made all the compliance as per the directions given by the CPCB from time to time like installation of On-line monitoring system for effluent

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quality and additional installation of on-line system for the stack emission quality monitoring, too.

4.The CPCB had also issued a closure direction to BHSL and listed it as non-complying industry like vide B-190198/WQM-II(RG) / CPCB/Sugar/04/2016-17/11794 dated 16/22.10.2018 annexed at **Enclosure-7.**

5. In this reference the CPCB had approached the Cane Commissioner, Government of U.P. In turn, the Cane Commissioner, GoUP, called the meeting of the non-complying Sugar industries as listed by the CPCB, on 06.07.2018 in his office (annexed as **Enclosure-8). Bajaj Hindusthan Sugar Limited, Barkhera Unit's name** was also in the said list.

6. On the scheduled date 06.07.2018, meeting was held in the Chairmanship of Cane Commissioner, GoUP, among the representatives of lister Sugar units and ShriAkVidyarthi (Assistant Director, CPCB), Shri JP Srivastava (CDG,NSI), Shri DB Sapkal (Senior Technologist, Vasantdada Sugar Institute, Pune),ShriVimal Kumar Dubey (Managing Director, UP SahkariChini Mill Sangh Ltd, Shri Suresh Kumar Sing (MD, UP State Sugar Corporation Limited.), Shir V K Shukla (Additional Cane Commissioner (Shodh and Samanvay), ShriParasNath (Environment Engineer (Prov.), ShriPradeep Sharma (Environment Engineer, UPPCB,

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Lucknow), Shri Deepak Guptara (General Secretary, UP sugar Mills Association).

7. In this meeting a check list was given by CPCB to the Sugar Industries as **CHARTER FOR WATER RECYCLIGN & POLLUTION REVENTION IN SUGAR FACTORIES SITUATED IN GANGA BASIN** (A copy is annexed as **Enclosure-9).**

8. In this said Charter, CPCB has wanted details regarding the capacity of each & all equipment's of Effluent treatment Plant and industry's process. CPCB has instructed all the Sugar Units to meet out the capacity of all ETP's units as per the 'Charter'.

9. All units of BHSL's ETP were already fulfilling the capacity criteria as mentioned in the charter and performing effectively & efficiently. Same was verified by the NSI, Kanpur during adequacy audit of Effluent Treatment Plant. Report of the same is being annexed as **Enclosure-10** herewith for your ready reference.

10. In the matting held on 06.07.2018, the Additional Director of CPCB told that the industries should meet the capacity of all the units of ETP as desired in the 'Charter'. CPCB shall randomly cross check the efficiency of the ETPs of the Sugar Units and will collect the samples. In case the industry fails to comply with the standard norms based on the analysis report, CPCB will take the action against the

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Industry. In turn, the Cane Commissioner had asked that in cae the CPCB takes the action arbitrarily against. the Industry, then, what are the provisions in the Act, so that Industry can protest the action or defend the performance of ETP, which is achieving the standard norms and just by picking one simple it isnot appropriate to evaluate the performance of the ETP for entire period. The report of the Industry should also be taken into consideration while evaluating the performance of Effluent treatment Plant besides this the Uttar Pollution Control Board is also monitoring the performance of ETP and inspecting the units, frequently. In case the CPCB does not agree to consider reports of the Industry then reports of State Pollution control Board should be considered. But CPCB stated that only CPCB's reports shall be considered as final for deciding any action. This stance of CPCB was refused by the Cane Commissioner and he stated that there is a provision of providing duplicate samples to the concerned industry in the Environment Protection Ct, 1986; CPCB ought to respect it and should not be adamant to take absolute authority to decide the ETP performance solely. The Industry should also be provided a duplicate sample so that Industry also have liberty to cross examine the sample separately from any compatible Lab at its own cost. Long discussion was held on this point and Cane Commissioner completely dis-agreed with CPCB's sole & absolute empowerment to decide

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the performance of Effluent Treatment Plant and denial of providing the sealed duplicate sample to the Industry, which is clear violation of the Environment Protection Act, 1986.

11. Subsequently, on 05.09.2018, a letter no. 197/Ci/ Shodh&Samanvay from Additional Cane Commissioner (Shodh&Samanvay) Shri V.K. Shukla was circulated having an attachment of CPCB letter no. F.No.190197/WQM-II(RG)/CPCB/Sugar/Gen/2018-2019 dated 17/20.08.2018, address to Shri Sanjay Bhoosreddy, Principal Secretary, Sugarcane and Sugar commissioner, Up (Copy of letter is annexed as **Enclosed-11)** wherein it was informed that CPCB had agreed to provide the duplicate samples to the Industry.

12. We would like to state that condition of Charter on Corporate Responsibility for Environmental Protection (CREP) for Sugar are being complied with effectively and nothing has been discharged outside factory from our premises.

13. It would not be out place to state here that on 21.02.2017, CPCB issued closure notice to BhSL on the grounds that certain compliances were to be made before the Sugar Unit commence its activities. On 08.11.2017 the Recommencement was allowed after CPCB was satisfied with the compliance. Similarly, on 19.03.2018 a second closure notice was issued by CPCB on the grounds of non-

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compliance of Environmental Norms by BHSL. Again on 22.10.2018 CPCB having been satisfied with the compliance of the environmental norms and allowed BHSL to recommence its operation.

14. Presently, on 30.05.2019 for the 3rd time CPCB has issued direction for closure. However, this time along with the said direction a penalty of Rs.1,36,50,000/- is also imposed against BHSL. It is submitted that the facts on which the closure notice has been issued by BHSL. It is submitted that the facts on which the closure notice has been issued are non-existing. Thereis proper compliance of all environmental norms by BHSL. The ETP setup by BHSL is also fully functional upto the Tertiary level treatment and as such, there is no violation of any environmental norms. It is also submitted that levy of monetary penalty of Rs.1,36,50,000/- is without any authority and law in as much as CPCB does not have any power to impose any monetary penalty.

Since the penalty was imposed along with the closure on the followingobservations:-

1) Deviation in the parametres of effluent stored in lagoon i.e.

a) pH 7.57 s against stipulated norms of 5.5-8.5

b) BOD – 313 mg/l as against stipulated norms of 100 mg/l

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c) COD- 478 mg/l as against stipulated norms of 250 mg/l

d) TSS- 304 mg/l as against stipulated norms of 100 mg/l

e) TDS- 1053 mg/l as against stipulated norms of 2100 mg/l

It is to state here that we regularly examines the efficiency of our effluent treatment system as well as also get it cross checked with the third parties approved by the Pollution Control Board (s). Please find attached herewith the photocopy of analysis logbook as well as the report from the PCB approved, NABL accredited Laboratory **(Enclosure-12)**

National Sugar Institute, Kanpur has visited BHSL on dated 11th-12th February, 2019 to validate the performance of ETP. Performance parameters of ETP were analyzed by NSI also shown on point 13 B of page 6 of its report on 'Validation of ETP Performance'. All parametres are well within in the prescribed norms and in corroboration of ETP record, too. (A copy of report is annexed as **Enclosure 13)**

All the available reports clearly states that performance of Effluent Treatment Plant was within the norms. Besides, online effluent monitoring system has also been

installed for the real time monitoring of the Effluent treatment quality.

Prima facie the value of TSS seems very high which is not possible even in very adverse stage also because of the following reason;-

(i) The treated effluent before transferred to lagoon is passed through the sand and carbon filters; hence, there is no chance to pass out any suspended or colloidal part through these filters.

(ii) The lagoon which has a retention of 15 days, there would be no solid in suspended form because in that much long duration all the solids shall get settled to the bottom.

It is also pertinent to mention that the 'CHARTER' at page 10 the retention of secondary clarifier is only 7 to 8 hrs while in lagoon it is 15 days.

2) In addition to the deviations in the parameters it is also mentioned in the observations that the flow metres were not installed at various locations as suggested in 'Charter', while as suggested by the CPCB and NSI, the metres have been installed at all the places ad log book is also maintained. Please find attached herewith the copies of log book of the meters at **Enclosure014.**

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3) **The analysis date of the ETP discharge I(which is contradictory to the analysis fo lagoon sample) is meeting the norms in our analysis as well as the analysis carried out by the third party lab (Approved by NABL & PCB). It cross examines the efficiency of our ETP; Hence, the interpretation of the dilution not seems relevant.**

4) In compliance of Zero liquid discharge we have plugged each and every opening of the drain (even the strom drains as there was no rainy season0 in order to prevent any leakages through the drains' walls. So far usage of treated effluent in irrigation purpose, the effluent left over the recycling is regularly given to the farmers on their demand and to serve this purpose a pipeline network has been laid down. Details are annexed as **Enclosed-15.**

15. It is again submitted that Under Section 5 of the Environment Protection Act 1986 does not provide any power to CPCB to levy a monetary penalty of Rs.1,36,50,000/- or at all. Such a levy of monetary compensation for penalty is not envisaged under Section 5 of the aforesaid Act or in other provisions of the Act or nay any other law. Hence tis I submitted that the directions given by CPCB to deposit the sum of Rs.1,36,50,000/- is unsustainable and without any authority of law.

85.

16. It is pertinent to state here that in terms of provision of UP Sugarcane (Regulation of Supply & Purchase) Act, 1953, it is incumbent upon Sugar unit to crush each and every stick of sugar cane which is reserved/allocated/allotted under the order of the Cane Commissioner and which is brought to the factory by the farmers for crushing. As such, there is a legal obligation casted upon sugar unit to continue its operation till entire such sugar cane area available is crushed. The CPCB has not taken cognizance of this legal obligation which is casted upon Sugar Unit.

17. It is ironic that while on one hand the law makes it compulsory for the sugar unit to continue its production, on the other hand CPCB is hell-bent to penalize the sugar unit for having so done. The direction dated 30.05.2019 penalizes the sugar unit for production during the period of 2017-18, 2018-19 as set out in the direction letter. CPCB has not appreciated that there was a legal obligation and compulsion on the sugar unit to continue its production. The aforesaid period as set out in the direction letter dated 30.05.2019, therefore, cannot be termed as non-compliance periods and accordingly no penalty can be fastened for the same period(s).

In the above premises, we call upon you to kindly recall and withdraw your closure notice dated 30.05.2019 as also set

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aside and cancel your imposition of penalty of Rs.1,36,50,000/- and allow us to commence/continue our operational activities.

Thanking you,

Yours' faithfully

For Bajaj Hindustan Sugar Limited,
Unit: Barkhera (Sugar Unit), Pilibhit

Authorized Signatory

Encl: As above

Copy to:

1. **Principal Secretary**
   Sugar Industry and Cane Development, Department, "G" Block, 2/3, Mantri Wing, 4th Floor, BapuBhawan, VidhanSabhaMarg, Lucknow-226 001
2. **The Chairperson**
   Uttar Pradesh Pollution Control Board, Building No. TC-12V, VibhutiKhand, Gomti Nagar, Lucknow-226 010
3. **Joint Secretary (CP Division)**
   Ministry of Environment, Forest & C.C Prithivi Block, Indira ParyavarnBhawan, Jorbagh Road, New Delhi- 110 003
4. **The District Magistrate**
   Pilibhit-262201, U.P.
5. **The Superintending**

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Engineer
MadhyanchalVidyutVitra
n Nigam Ltd.
Pilibhit, U.P.

6. **Regional Director**
Regional Directorate
Central Pollution Control
Board, PICUP Bhawan,
Ground Floor,
VibhutiKhand, Gomit
Nagar, Lucknow 226
010

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ANNEX: P-9

IN THE HIGH COURT OF DELHI AT NEW DELHI

CIVIL WRIT JURISDICTION

WRIT PETITION (C) NO. 7167 OF 2019

IN THE MATTER OF:

BAJAJ HINDUSTHAN SUGAR LIMITED ...PETITIONER

VERSUS

CENTRAL POLLUTION CONTROL BOARD

...RESPONDENT

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA, AGAINST THE CPCB DIRECTION REF. NO. B-190198/ WQM-II(RG) /CPCB/SUGAR/04/2016-17 2140 DATED 30.05.2019.

CLAIM IN THE PETITION:

PASS A WRIT OF MANDAMUS/CERTIORARI OR ANY OTHER WRIT, ORDER OR DIRECTION OF APPROPRIATE NATURE STAY/SETTING ASIDE THE CPCB DIRECTION REF. NO. B-190198/ WQM-II(RG) /CPCB/SUGAR/04/2016-17 2140 DATED 30.05.2019;

STATUTE INVOLVED:

1. Constitution of India
2. Environment Protection Act, 1986

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3. UP Sugarcane (Regulation of Supply & Purchase) Act, 1953

ORIGINAL SUIT NO: NIL

The Hon'ble Chief Justice

And his other Companion Judges

Of this Hon'ble Court.

MOST RESPECTFULLY SHOWETH:

1. That the Petitioner herein has preferred the present Writ Petition, under Article 226/227 of the Constitution of India.

2. That the Petitioner herein is aggrieved with the Direction Ref. No. B-190198/ WQM-II(RG) /CPCB/SUGAR/04/2016-17 2140 Dated 30.05.2019 issued by the Respondent whereby the Respondent in addition to directing closure of the sugar unit of the Petitioner, has also without any legal authority to do so, imposed a penalty of Rs.1,36,50,000/- upon the Petitioner, and as such, the Petitioner has approached this Hon'ble Court invoking its writ jurisdiction and seeking appropriate reliefs.

A copy of the Direction Ref. No. B-190198/ WQM-II(RG) /CPCB/SUGAR/04/2016-17 2140 Dated 30.05.2019 issued by the Respondent to the Petitioner is annexed hereto as **ANNEXURE P-1.**

3. The Petitioner has no alternative efficacious remedy for resolution of its aforesaid grievances as the National Green Tribunal is closed on account of summer vacations and would only be re-opening on 27.06.2019, whereas the Respondent has granted only 15 days time to the Petitioner to deposit the monetary penalty imposed as above and as such the Petitioner is constrained to approach this Hon'ble Court by way of the instant Writ Petition.

4. The Petitioner is a Company incorporated under the Companies Act, 1956 and is having its office at Gola Gokaran Nath, Lakhimpur Uttar Pradesh. The present Petition is being filed through Mr. Jitendra Singh Jadaun who has been duly authorized vide Board Resolution and Specific Power of Attorney dated 14.03.2019 to institute the present petition and represent the Petitioner in the present proceedings.

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A copy of the Board Resolution dated 14.03.2019 and Specific Power of Attorney authorizing Mr. Jitendra Singh Jadaun to represent the Petitioner in the present proceedings is annexed hereto as **ANNEXURE P-2 (Colly)**.

5. Respondent, namely, Central Pollution Control Board (CPCB), is a statutory organisation, was constituted in September, 1974 under the Water (Prevention and Control of Pollution) Act, 1974 and was entrusted with the powers and functions under the Air (Prevention and Control of Pollution) Act, 1981. Respondent serves as a field formation and also provides technical services to the Ministry of Environment and Forests of the provisions of the Environment (Protection) Act, 1986.

6. Principal functions of the Respondent, as spelt out in the Water (Prevention and Control of Pollution) Act, 1974, and the Air (Prevention and Control of Pollution) Act, 1981, (I) to promote cleanliness of streams and wells in different areas of the States by prevention, control and abatement of water pollution, and (II) to

improve the quality of air and to prevent, control or abate air pollution in the country.

FACTUAL MATRIX

7. In the year 2005-2006, the Petitioner had set up a Sugar Unit at Barkhera (Pilibhit) with the State of Art Technology having all requisite equipments/systems as prescribed in No Objection Certificate issued by the Uttar Pradesh Pollution Control Board (**UPPCB**) vide its letter no.F51395/C-5/NOC-93/2005/7 dated 13.10.2005.

A copy of the letter no.F51395/C-5/NOC-93/2005/7 dated 13.10.2005 issued by UPPCB is annexed hereto as **ANNEXURE P-3**.

8. Pertinently, before start of operation, representatives of UPPCB had visited the said unit of the Petitioner and granted trial consents. In satisfactory trials, UPPCB had issued regular consents to operate to the Petitioner. Since then Petitioner has been getting regular consents to operate under relevant acts.

9. On 04.06.2015, a letter was issued from Respondent referring Joint team inspection of the Respondent and UPPCB under National Ganga River Basin Authority (NGRBA) to ensure Water Management practices in Sugar sector in Ganga Basin States, comply and submit an action plan so as to meet all the requirements.

A copy of the letter dated 04.06.2015 issued by the Respondent to the Petitioner is annexed hereto as **ANNEXURE P-4.**

10. Pursuant to the said Joint Inspection, the observations of the Joint Team of the Respondent and UPPCB, as well as compliance status pointed by Petitioner are as under;

Sl.	Observation	Action Plan
1.	Waste water generation to be limited to 40 Litre/Ton of cane crushed by next crushing season or before November-2015.	Petitioner is committed to reduce waste water as per direction given and will achieve the prescribed standard before November-2015 by adopting 3R

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		principle i.e. Reduce, Recycle & Reuse the treated effluent in irrigation as well as other purposes like spray on baggasse, cooling of molasses tank etc, to achieve the prescribed Discharge, effectively.
2.	Establish mini Cooling Tower or Polishing Tank for recycling the excess condensate water to process/utilities/ allied units by November-2015.	Mini cooling tower for gainful utilization of excess condensate has already been installed and functioning efficiently.
3.	Upgrade ETP system to meet the discharge standards for irrigation by	Petitioner has put in place a complete upgraded ETP system consisting of the following units for

		Treated Effluent holding lagoon is in progress and will be completed within a month. The Treated Effluent is being reutilized & recycled in process. Petitioner is achieving norms for discharging the effluent on land for irrigation.
4.	To submit the irrigation plan before the starting of next crushing season (2015-16)	As Petitioner is already working, a well formulated 'Irrigation Plan' is enclosed as directed (Annexure 1)
5.	No Treated effluent will be discharged in to drain or river henceforth. Treated effluent	Petitioner , was already constructing a lagoon for holding treated effluent which further recycled in process, horticulture

	will be re-used in the process or to be used for irrigation purpose after meeting the standards.	and irrigation purposes, thus maintaining no discharge to any water body.
7.	Unit shall ensure installation and testing of online water quality monitoring system before the starting of next crushing season (2015-16)	The procurement of online water quality monitoring system is already in process and would be installed well before starting of crushing season 2015-16.
8.	All bypass system to be stopped and evidence of dismantling to be submitted	No bypass system is available at Petitioner's unit.
9.	Unit shall develop ground water monitoring network (Piezometric well) to monitor &	Petitioner already has Piezometers installed as desired.

	prevent ground water pollution	

11. Petitioner submits that all conditions of Charter on Corporate Responsibility for Environmental Protection (CREP) for Sugar are being complied with effectively and nothing has been discharged outside its factory premises.

12. On 21.02.2017, Respondent issued a closure notice to the Petitioner on the grounds that certain compliances were to be made before the Sugar Unit could commence its activities. A copy of the letter dated 21.02.2017 issued by the Respondent is annexed hereto as **ANNEXURE P-5.**

13. On 08.11.2017 the Re-commencement of operations in the Petitioner's sugar unit was allowed after Respondent was satisfied that the Petitioner was complying with all the terms and conditions that were required for the compliance of the aforesaid directions of the Respondent.

A copy of the letter dated 08.11.2017 sent by the Respondent to the Petitioner is annexed hereto as **ANNEXURE P-6.**

14. Similarly, on 19.03.2018 a second closure notice was issued by Respondent on the grounds of non-compliance of Environmental Norms by the Petitioner.

A copy of the letter dated 19.03.2018 sent by the Respondent to the Petitioner is annexed hereto as **ANNEXURE P-7.**

15. Again on 22.10.2018 Respondent having been satisfied with the compliance of the environmental norms and allowed the Petitioner to recommence its operation.

A copy of the letter dated 22.10.2018 sent by the Respondent to the Petitioner is annexed hereto as **ANNEXURE P-8.**

16. On 30.05.2019 for the third time Respondent has issued the impugned direction for closure of operations in the Petitioner's sugar unit. However, this time alongwith the said direction a penalty of Rs.1,36,50,000/- is also sought to

be imposed against the Petitioner in the following manner;

"Now, therefore, in view of above observations and in exercise of the powers delegated to the Chairman, CPCB under section 5 of the Environment (Protection) Act, 1986, the unit (M/s Bajaj Hindusthan Sugar Ltd., Barkhera, Pilibhit, UP) is directed to close down all manufacturing operations and deposit Rs.1,36,50,000/- in CPCB A/c no. 532702050000164 (Bank name: Union Bank of India, KIP Extension Branch, Vikas Marg Extn. Delhi; IFSC: UBIN0553271) towards environmental compensation within 15 days from the date of receipt of direction and the unit shall comply with the following directions;

1. *The unit shall immediately close down all its manufacturing operations with immediate effect and shall not resume its operations*
2. *The Unit shall submit adequacy assessment of treatment facility by reputed govt. Institute including work completion report regarding implementation of the recommendations of the adequacy report within 45 days.*
3. *The unit shall seek permission for CPCB, after completion of above direction, before resumption of operation.*

In case of default in compliance with the above directions, CPCB will be constrained to initiate action against the Unit (M/s Bajaj Hindusthan Sugar Ltd. Barkhera, Pilibhit, UP) without giving any further notice in accordance with the provision of the Environment (Protection) Act, 1986."

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17. It is submitted that the facts on which the closure notice has been issued are non-existing. There is proper compliance of all environmental norms by the Petitioner. The Effluent Treatment Plant setup by the Petitioner is also fully functional upto the Tertiary level treatment and as such, there is no violation of any environmental norms. It is also submitted that levy of monetary penalty of Rs.1,36,50,000/- is without any authority and law in as much as Respondent does not have any power to impose any monetary penalty.

18. On 17.06.2019, being aggrieved by the impugned directions dated 30.05.2019 issued by the Respondent, the Petitioner sent a representation to the Respondent calling upon the Respondent to recall and cancel the impugned directions pointing out that the facts on which the closure notice has been issued are non-existing and further that the levy of monetary penalty of Rs.1,36,50,000/- is without any authority and law in as much as Respondent does not have any power to impose any monetary penalty.

Copy of the Letter dated 17.06.2019 sent by the Petitioner to the Respondent is annexed hereto as **ANNEXURE P-9.**

19. In view of the above, the Petitioner is left with no alternative remedy as the period prescribed for deposit of monetary penalty has already expired and the Appellate Authority, i.e. National Green Tribunal, Delhi is not functioning on account of ongoing vacations.

GROUNDS

20. The Petitioner seeks to prefer the present Writ Petition, inter alia, on the following grounds which are being urged independent of and without prejudice to each other:

A. BECAUSE Section 5 of the Environment Protection Act 1986 does not provide any power to Respondent to levy a monetary penalty of Rs.1,36,50,000/- or at all. Such a levy of monetary compensation of penalty is not envisaged under section 5 of the aforesaid Act or in any other provisions of the Act or in any other law. Hence, it is submitted at the outset that the directions given by the Respondent to

deposit the sum of Rs.1,36,50,000/- is unsustainable and without any authority of law.

B. BECAUSE this Hon'ble Court in *"Delhi Pollution Control Committee Vs. Splendor Landbase Ltd."* reported at 2012 SCC online Del 400 held that a direction by the Pollution Control Board in the nature of the impugned direction dated 30.05.2019 that results in imposition of monetary penalty is without any authority of law.

C. BECAUSE this Hon'ble Court has relying upon the law settled in *"Delhi Pollution Control Committee Vs. Splendor Landbase Ltd."*, in *Delhi Development Authority Vs. Central Pollution Control Board; being W.P.(C) 6191 of 2019* restrained the Respondent Central Pollution Control Board from taking any coercive steps, where a compensation of INR 1 Crore was sought to be imposed by the Respondent.

D. BECAUSE the Respondent has passed the impugned Directions dated 30.05.2019 without appreciating that in terms of provision of UP Sugarcane (Regulation of Supply & Purchase)

Act, 1953, it is incumbent upon Sugar unit to crush each and every stick of sugar cane which is reserved/allocated/allotted under the order of the Cane Commissioner and which is brought to the factory by the farmers for crushing. As such, there is a legal obligation casted upon the Petitioner's Sugar unit to continue its operation till entire such sugar cane area available is crushed. Respondent has not taken cognizance of this legal obligation which is casted upon Sugar unit.

E. BECAUSE it is ironic that while on one hand the law makes it compulsory for the sugar unit to continue its production, on the other hand Respondent is hell-bent upon penalizing the sugar unit for having so done. The impugned direction dated 30.05.2019 penalizes the sugar unit for production during the period of 2017-18, 2018-19 as set out in the direction letter. Respondent failed to appreciate that there was a legal obligation and compulsion on the Petitioner's sugar unit to continue its production. The aforesaid period as set out in the direction letter dated 30.05.2019, therefore, cannot be termed as non-compliance periods

and accordingly no penalty can be fastened for the same period (s).

F. BECAUSE the Respondnet has completely misled itself on the facts of this case, in as much as there exists in the sugar unit an upgraded Effluent Treatment Plant system upto tertiary stage to effectively deal with the effluent of the factory which is reutilized and recycled, post treatment. The said effluent also meets all the norms for irrigation on land. As such, there is no case at all for any contravention of law relating to setting-up and maintaining ETP.

G. BECAUSE the Petitioner has no alternative efficacious remedy for resolution of its aforesaid grievances as the National Green Tribunal is closed on account of summer vacations and would only be re-opening on 27.06.2019, whereas the Respondent has granted only 15 days time to the Petitioner to deposit the monetary penalty imposed as above. The Petitioner is therefore praying that this Hon'ble Court may exercise its writ jurisdiction to grant the reliefs as prayed for hereinafter.

21. The Petitioner craves liberty to add, alter and modify the submissions at any time before the hearing and final disposal of the present writ petition, if necessary. The present Writ Petition is limited to the extent of challenging the order passed by the Respondent on the ground that the Respondent does not have the authority in law to impose monetary penalty. The Petitioner however, craves leave of this Hon'ble Court to place on record such additional facts and grounds as may be required to establish the Petitioner's case, even on merits, if so deemed fit by this Hon'ble Court.

22. This Hon'ble Court has the territorial jurisdiction to try and entertain the present petition as the Respondent has address in Delhi and it has issued the impugned directions from its office at Delhi..

23. The Petitioner has not filed any other Appeal/Writ or any other petition seeking similar reliefs either before this Hon'ble Court or before any other High Court.

24. The instant Petition is made bonafide and in the interest of justice.

25. The instant Writ Petition has been filed within limitation.

PRAYER

In the given facts and circumstances, it is most respectfully prayed that this Hon'ble Court may graciously be pleased to:

a. Pass a writ of Certiorari or any other writ, order or direction of appropriate nature setting aside the Respondent's Direction Ref. No. B-190198/ WQM-II(RG) /CPCB/SUGAR/04/2016-17 2140 Dated 30.05.2019;

b. Pass a writ of Mandamus or any other writ, order or direction or appropriate nature thereby staying the operation of the Respondent's Direction Ref. No. B-190198/ WQM-II(RG) /CPCB/SUGAR/04/2016-17 2140 Dated 30.05.2019 and all actions taken by the Respondents pursuant thereto;

c. Pass a writ of Mandamus or any other writ, order or direction of appropriate nature directing the Respondents, its officers, agents, servants,

representatives not to take any action qua the Petitioner in furtherance of the said Direction Ref. No. B-190198/ WQM-II(RG) /CPCB/SUGAR/04/2016-17 2140 Dated 30.05.2019;

d. Pass a writ of Prohibition or any other writ, order or direction of appropriate nature prohibiting the Respondent from taking any coercive actions against the Petitioner;

e. Pass any other order/orders as may be deemed fit in the given facts and circumstances.

AND FOR THIS ACT OF KINDNESS THE PETITIONER AS IN DUTY BOUND SHALL EVER PRAY

Petitioner

Through

Delhi
Dated:24.06.2019

Naveen Chawla & Mayank Bughani
Sheldon Law Firm
A-56, Gulmohar Park,
New Delhi-110049
sheldonlawfirm@gmail.com
Mob: 9811468315

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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

I.A. NO.____ OF 2019

IN

SPECIAL LEAVE PETITION (CIVIL) NO _____ of 2019

IN THE MATTER OF:

BAJAJ HINDUSTHAN SUGAR LIMITED ...PETITIONER

VERSUS

CENTRAL POLLUTION CONTROL BOARD ...RESPONDENT

APPLICATION ON BEHALF OF THE PETITIONER SEEKING PERMISSION TO FILE LENGTHY LIST OF DATES

TO

THE HON'BLE CHIEF JUSTICE OF INDIA
AND HIS COMPANION OF JUDGES OF
THE SUPREME COURT OF INDIA

APPLICATION SEEKING PERMISSION
TO FILE LENGTHY LIST OF DATES
ON BEHALF OF THE PETITIONER

MOST RESPECTFULLY SHOWETH:

1. That the Petitioner abovenamed has filed the accompanying Special Leave Petition against the

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judgment and order (final) dated 05.07.2019 passed by the High Court of Delhi in W.P. (C) No. 7167 OF 2019, whereby the High Court has disposed off the said petition filed by the Petitioner herein without deciding the same on merits, leaving it open for the Petitioner to avail alternative remedies. The facts and circumstances giving rise to the accompanying Special Leave Petition are not being repeated herein for the sake of brevity and the Applicant/Petitioner craves leave of this Hon'ble Court to refer to and rely upon the contents of the accompanying Special Leave Petition in support of this Application.

2. The Petitioner states that on account of numerous facts and extracts of various documents/correspondences which are relevant and material for proper determination of the issues involved in the abovetitled Special Leave Petition, the Synopsis and List of Dates has become lengthy.

3. This application is being made bonafide and in the interest of justice.

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PRAYER

In the above facts and circumstances, it is most respectfully prayed that this Hon'ble Court may be pleased to;

a. Permit the Petitioner to file the lengthy synopsis and list of dates;

b. Pass appropriate order taking lengthy Synopsis and List of dates on record;

c. Pass any other order(s) as may be deemed fit and proper in the facts and circumstances of the instant case;

AND FOR THIS ACT OF KINDNESS THE APPLICANT SHALL AS IN DUTY BOUND EVER PRAY.

DRAWN BY:
Mayank Bughani

FILED BY:

T. Mahipal
Advocate for the Petitioner

Drawn On: 16 .07.2019
Filed on: 17.07.2019

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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

I.A. NO.____ OF 2019

IN

SPECIAL LEAVE PETITION (CIVIL) NO _____ of 2019

IN THE MATTER OF:

BAJAJ HINDUSTHAN SUGAR LIMITED ...PETITIONER

VERSUS

CENTRAL POLLUTION CONTROL BOARD ...RESPONDENT

APPLICATION FOR EXEMPTION FROM FILING CERTIFIED COPY OF IMPUGNED ORDER DATED 05.07.2019

TO

THE HON'BLE CHIEF JUSTICE OF INDIA
AND HIS COMPANION OF JUDGES OF
THE SUPREME COURT OF INDIA

APPLICATION SEEKING EXEMPTION FROM FILING CERTIFIED COPY OF THE IMPUGNED ORDER DATED 05.07.2019

MOST RESPECTFULLY SHOWETH:

1. That the Petitioner abovenamed has filed the accompanying Special Leave Petition against the

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judgment and order (final) dated 05.07.2019 passed by the High Court of Delhi in W.P. (C) No. 7167 OF 2019, whereby the High Court has disposed off the said petition filed by the Petitioner herein without deciding the same on merits, leaving it open for the Petitioner to avail alternative remedies. The facts and circumstances giving rise to the accompanying Special Leave Petition are not being repeated herein for the sake of brevity and the Applicant/Petitioner craves leave of this Hon'ble Court to refer to and rely upon the contents of the accompanying Special Leave Petition in support of this Application.

2. The Petitioner however could not file the Certified Copy of the Impugned Order dated 05.07.2019 in W.P. (C) No. 7167 OF 2019 due to paucity of time.

3. The Petitioner has already applied for Certified Copy of the Impugned Order dated 05.07.2019 passed by the High Court of Delhi in W.P. (C) No. 7167 OF 2019 but the same is yet to be made available to the Petitioner by the High Court Registry. The Petitioner undertakes to file the Certified Copy of the Impugned Order dated 05.07.2019 in W.P. (C) No. 7167 OF 2019 as and when the same is made available to the Petitioner.

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4. This application is being made bonafide and in the interest of justice.

PRAYER

It is therefore most respectfully prayed that this Hon'ble Court may be pleased to:

a. Exempt the Petitioner from filing the Certified Copy of Order dated 05.07.2019 passed by the High Court of Delhi in W.P. (C) No. 7167 OF 2019 until the same is received by the Petitioner from the High Court Registry;

b. Pass any other Order(s) as this Hon'ble Court deems fit and proper in the facts and circumstances of the case.

AND FOR THIS ACT OF KINDNESS THE APPLICANT SHALL AS IN DUTY BOUND EVER PRAY.

DRAWN BY:
Mayank Bughani

FILED BY:

T. MAHIPAL
Advocate for the Petitioner

DRAWN ON: 16.07.2019
FILED ON: 17.07.2019

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

B-190198/WQM-II(RG)/CPCB/Sugar/04/2016-17 8279

23.10.2019
31

To,

M/s Bajaj Hindustan Sugar Ltd.,
Barkhera, Pilibhit, U.P.-262201

DIRECTION UNDER SECTION 5 OF THE ENVIRONMENT (PROTECTION) ACT, 1986

WHEREAS, the Central Government has notified the standards for discharge of environmental pollutants from various categories of industries under the Environment (Protection) Act,1986 and the rules framed there under; and

WHEREAS, the Ministry of Environment & Forests, Govt. of India, vide notification S.O.157(E) of 27.02.1996 has delegated powers vested under Section 5 of the Environment (Protection) Act,1986 (29 of 1986) to the Chairman, Central Pollution Control Board (CPCB), to issue direction to any industry, Municipal Corporation, Municipal Council, Cantonment Board to any local or other Authority for violation of emission and effluent standards notified under Environment (Protection) Rules,1986; and

WHEREAS, it is obligatory on the part of industries to install effluent treatment plants (ETPs) to comply with the effluent discharge standards as notified under the Environment (Protection) Act, 1986 and the Rules framed thereunder and also to meet the consent conditions granted by State Pollution Control Board (SPCBs) / Pollution Control Committees (PCCs); and

WHEREAS, M/s Bajaj Hindustan Sugar Ltd., Barkhera, Pilibhit, U.P. (hereinafter referred as 'the Unit') is involved in the process of sugar manufacturing from crushing of cane; and

WHEREAS, the unit was inspected on 31.01.2018 by officials from CPCB, Delhi and was found non-complying with CPCB norms; and

WHEREAS, CPCB issued directions dated 19.03.2018 under Section 5 of the Environment (Protection) Act, 1986 to the unit for compliance of the following:

1. The unit is directed to close down its sugar manufacturing operations with immediate effect and shall not resume its operations.
2. The unit shall dismantle the bypass arrangement and stop untreated effluent discharge immediately.
3. The unit shall install & commission ETP system upto tertiary treatment level including adequate treatment system for spray pond overflow effluent in case of double sulphitation process.
4. The unit having high-pressure boiler (>45 Kg/cm^2) shall install & commission Condensate Polishing Unit (CPU) for treatment of condensate water to ensure its reuse & recycle within the process.
5. The unit shall restrict the treated wastewater storage lagoon capacity of 15 days in low demand period for irrigation.

6. The unit shall submit irrigation management plan and utilise treated effluent meeting the prescribed norms for irrigation as per the irrigation management plan validated by expert institutions namely, NSI, Kanpur/ VSI, Pune/ Agricultural Institutions.
7. The unit shall get the verification of implement status of the recommendation of adequacy report including ETP performance assessment & effluent generation assessment done by the same institute that carried out adequacy assessment and submit the report to CPCB.
8. The unit shall submit the revalidated ETP adequacy assessment report within 45 days to CPCB.
9. The unit shall inform to CPCB about the closure of operation immediately.
10. The unit shall seek permission from CPCB before resumption of manufacturing operations.

WHEREAS, the unit's reply dated 22.3.2018 was examined; and

WHEREAS, the unit submitted the revalidated adequacy assessment reports by NSI, Kanpur vide letter dt. 07.05.2018; and

WHEREAS, the unit vide letters dated 20.07.2018 and 24.09.2018 submitted their compliance status of the charter, and

WHEREAS, CPCB issued directions dated 22.10.2018 under Section 5 of Environment (Protection) Act, 1986 to the unit; and

WHEREAS, the unit was inspected on 26.03.2019 by officials from CPCB, Delhi and following observations were made:

1. Analysis of effluent sample collected from lagoon showed pH- 7.57 (against stipulated norms of 5.5- 8.5), **TSS - 304 mg/l** (against stipulated norms of 100 mg/l), **BOD -313 mg/l** (against stipulated norms of 100 mg/l) and **COD - 478 mg/l** (against stipulated norms of 250 mg/l), TDS- 1053 mg/l (against stipulated norms of 2100 mg/l) which indicate non-compliance with on land effluent discharge standards the effluent from lagoon is discharged for land irrigation.
2. The unit has not installed flowmeters at various locations as suggested in the charter.
3. Analysis of sample collected from ETP outlet showed pH- 7.81 (against stipulated norms of 5.5- 8.5), BOD – 16.7 mg/l (against stipulated norms of 100 mg/l), COD- 105 mg/l (against stipulated norms of 250 mg/l) , TSS- 28.4 mg/l (against stipulated norms of 100 mg/l) , TDS -977 mg/l (against stipulated norms of 2100 mg/l). However, MLSS in aeration tank was 489 mg/l which indicates unstabilized aeration tank and dilution of ETP system could not be ruled out. TDS level reduced drastically from 1751 mg/l (at inlet) to 966 mg/l (at outlet) which also indicates possibility of dilution of ETP system.
4. The logging of wastewater upto 4-5 inches is observed in storm water drain shows pH: 7.25, BOD: 29mg/L, COD: 125 mg/L and TDS: 2,501 mg/L and a barren field within the premises and in cane yard which indicate that the unit is not using the treated effluent for irrigation purposes and disposing it in indiscriminate manner.

AND WHEREAS, Hon'ble NGT vide its orders dated 03.08.2018 and 19.02.2019 in Original Application No. 593/2017 (W.P. (Civil) No. 375/2012), Paryavaran Suraksha Samiti & Anr. Vs. Union of India & Ors. directed 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*

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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"; and

WHEREAS, in compliance of above referred Hon'ble NGT order, cases to be considered for levying penalty are discharges in violation of consent conditions/ non- compliance with the directions, such as direction for closure due to non-installation of OCEMS/ non-adherence to the action plans submitted/ intentional avoidance of data submission or data manipulation by tampering OCEMS; and

WHEREAS, CPCB has been levying Environmental Compensation in compliance of Hon'ble NGT and as per the methodology for imposing Environment Compensation issued vide CPCB circular dated 24/05/2019, the environmental compensation to be levied to the unit is calculated as **Rs. 27,30,000/-** (Rupees twenty-seven lakhs thirty thousand only) for the non-compliance period (31.01.2018 to 01.05.2018), during the crushing season 2017-18; and **Rs. 1,09,20,000/-** (Rupees One crore nine lakhs twenty thousand only) for the non-compliance period (14.11.2018 to 14.05.2019) during the crushing season 2018-19; and

WHEREAS, CPCB issued direction dated 30.05.2019 under section 5 of the Environment (Protection) Act, 1986 to the unit to comply with the following directions:

1. The unit shall deposit **Rs 1,36,50,000/-** within 15 days in CPCB account towards environmental compensation.
2. The unit shall immediately close down all its manufacturing operations with immediate effect and shall not resume its operations.
3. The unit shall submit adequacy assessment of treatment facility by reputed govt. institute including work completion report regarding implementation of the recommendations of the adequacy report within 45 days.
4. The unit shall seek permission for CPCB, after completion of above direction, before resumption of operation.

AND WHEREAS, the unit replies vide letters dated 17.06.2019 was examined and following observations are made:

1. The unit has submitted ETP outlet analysis report from NABL accredited laboratory.
2. The unit has submitted adequacy assessment of treatment facility by NSI, Kanpur dated 17.06.2019.
    a. Adequacy reports indicate that ETP system comprise of secondary biological system followed by tertiary treatment. ETP system comprises of bar screen chamber, O&G trap, equalization tank, pH correction tank, primary clarifier, aeration tank, secondary clarifier, MGF and ACF.
    b. Bar screen chamber, O&G trap, equalization tank, secondary clarifier and ACF are found adequate at operational capacity (6183.6 TCD) but inadequate at licenced capacity (10,000 TCD).
    c. The unit has not installed the spray pond overflow treatment system as factory informed that purchase order has been placed for the same.

WHEREAS, the unit has filed writ petition against CPCB direction dated 30.05.2019, in Hon'ble High Court of Delhi, and the case is disposed by Hon'ble High court vide order 05.07.2019 in WPC no. 7167/2019 that "*The court does not consider it apposite to entertain the present petition and the same is disposed of leaving it open for the petitioner to avail of alternative remedies*"; and

WHEREAS, the unit has filed petition for Special Leave to Appeal (C) No. (s) 18356/2019 in Hon'ble Supreme Court and Hon'ble Supreme court passed order on 09.08.2019 that "*The demand of penalty imposed by Central Pollution Control Board shall remained stayed*"; and

WHEREAS, Hon'ble NGT vide order dated 22/05/2019 in Appeal No. 27/2019 with Appeal No. 35/2019 and order dated 29/07/2019 in Appeal no. 22/2019 directed that, *CPCB may treat the impugned order as tentative and pass further appropriate order after permitting the affected parties to furnish their viewpoint*; and

WHEREAS, the unit replies vide letters dated 19.08.2019 were examined; and

AND WHEREAS, CPCB vide office order dated 04.09.2019 issued policy for levying environmental compensation (EC) for industries which prescribes that

a. EC for the closure direction issued on the ground of non-compliance of prescribed discharge/ emission norms shall applied for the period between date of inspection and monitoring of date of closing of manufacturing operation.
b. Direction for closure or revocation and direction for imposition of EC to be dealt separately.

WHEREAS, as per office order dated 04.09.2019, Environmental Compensation has been recalculated as Rs. 6,90,000/- for the period from date of inspection (26.03.2019) to date of end of operations in the crushing season 2018-19 (17.04.2019). However, the EC will remain stayed and shall be levied subject to the final judgement of the Hon'ble Supreme Court in the matter of Bajaj Hindusthan Sugar Limited Versus Central Pollution Control Board in SLA (c) No. (s) 18356/2019; and

AND WHEREAS, the unit replies vide letters dated 30.09.2019 were examined and following observations are made:

a. The unit has submitted R.T. 8 (C), according to which unit has closed its manufacturing operations on 17.04.2019.
b. The unit has granted licensed capacity of 10,000 TCD, while installed crushing capacity is 7500 TCD only. Further average crushing of last three crushing seasons i.e. 2018-19, 2017-18 and 2016-17 are 6,225.4 TCD, 6,298.8 TCD and 5,976.4 TCD respectively.
c. The unit has ensured that they have complied with all the recommendations desired by NSI, Kanpur in the last adequacy report.

WHEREAS, CPCB constituted a Three-member committee vide office order dated 27.09.2017 having representative from CPCB, MoEF&CC and NMCG for examination and recommendation for revocation of the closure direction issued by CPCB; and

WHEREAS, the Three Member Committee in its meeting held on 04.10.2019 examined the unit's replies and recommended that the unit may be allowed to resume operation; and

NOW, THEREFORE, in view of above observations and in exercise of the powers delegated to the Chairman, CPCB under section 5 of the Environment (Protection) Act, 1986, the unit (M/s Bajaj Hindustan Sugar Ltd., Barkhera, Pilibhit, U.P.) is directed to comply with the following directions before commencement of crushing season 2019-2020:

1. The unit may resume its operation only after obtaining the valid consent from Uttar Pradesh State Pollution Control Board.
2. The unit shall submit performance assessment of effluent treatment plant including analysis of treated effluents by the reputed government institute within 60 days of resumption of operation.
3. The unit shall inform CPCB about resumption of manufacturing operations.

In case of default in compliance with the above directions, CPCB will be constrained to initiate action against the Unit **(M/s Bajaj Hindustan Sugar Ltd., Barkhera, Pilibhit, U.P.)** without giving any further notice in accordance with the provisions of the Environment (Protection) Act, 1986.

(S. P. SINGH PARIHAR)
CHAIRMAN

Copy to:

1. **Principal Secretary**
   Sugar Industry and Cane Development Department,
   "G" Block, 2/3, Mantri Wing, 4th Floor, Bapu
   Bhawan, Vidhan Sabha Marg, Lucknow - 226 001
   : With request to ensure compliance of the directions.

2. **The Member Secretary**
   Uttar Pradesh Pollution Control Board,
   Building No. TC-12V,Vibhuthi Khand,
   Gomti Nagar, Lucknow – 226 010
   : With request to ensure compliance of the directions.

3. **Joint Secretary (CP Division)**
   Ministry of Environment, Forest &CC
   Prithvi Block, Indira Paryavaran Bhawan, Jorbagh
   Road, New Delhi – 110 003
   : For kind information, please.

4. **The District Magistrate**
   Pilibhit-262201, U.P.
   : With request to ensure compliance of the directions.

5. **The Superintending Engineer**
   Madhyanchal Vidyut Vitran Nigam Ltd.
   Pilibhit, U.P.
   : To reconnect the power supply of the unit, please

6. **Regional Director**
   Regional Directorate
   Central Pollution Control Board,
   PICUP Bhawan, Ground Floor,
   Vibhuti Khand, Gomti Nagar,
   Lucknow – 226 010
   : For follow up and ensuring compliance

7. In-charge, IT Division, CPCB
   : With request to upload on CPCB server.

8. Master file/Guard file, WQM II, CPCB Delhi

(Prashant Gargava)
MEMBER SECRETARY

REVISED ORDER
CORRECTED 31.08.2018

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:

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

Mr. Anil Grover, AAG, Mr. Rahul Khurana and Mr. Mishal Vij, Advs. for State of Haryana and HSPCB
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, Advs. for State of Odisha
Ms. Asha Nayar Basu and Ms. Aradhita Ghosh Mandal, Advs.
Ms. Priyanka Sinha, Adv. for State of Jharkhand
Mr. Rajul Shrivastav, Adv. for MPPCB
Mr. Pradeep Misra and Mr. Daleep Dhyani Advs. for UPPCB
Mr. R. Rakesh Sharma and Mr. V. Mowli, Advs. 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, Advs. 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
	Item No. 12 August 03, 2018 A	1. This matter was taken by this Tribunal in furtherance to the orders of the Hon'ble Supreme Court dated 22.02.2017 *Paryavaran Suraksha Samiti Vs. Union of India* (2017) 5 SCC 326, establishment and functioning of ETPs/CETP/STPs. 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 04th July, 2017 stating as follows: *"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*

	Item No. 12 **August 03, 2018** **A**	*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.* *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 62nd 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* ***Annexure-I****.* *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.* *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".* 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. 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

	Item No. 12 **August 03, 2018** **A**	the State, how many are having their own STPs, ETPs and/or connected to Common Effluent Treatment Plant (CETP), whether any such CETP or ETP or STP is properly functioning and treating the effluents as per prescribed limits or not. 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. 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. (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. (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

	Item No. 12 August 03, 2018 A	month and on the basis of such meeting and the feedback taken further follow up action must be taken and appropriate directions issued. This process may be a continuous process. (iii) It must be ensured that STPs, CETPs and ETPs are functional and meet the requisite standards. (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. (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. (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. (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 filing.ngt@gmail.com. (7) Proceedings are disposed of. However, the report received from the Central Pollution Control Board may be placed for consideration before this Tribunal on 3.2.2019. We place on record our appreciation for the services rendered by the learned Amicus Curiae. ....., CP (Adarsh Kumar Goel) ....., JM (Dr. Jawad Rahim) .....,JM (S.P. Wangdi) .....,EM (Dr. Nagin Nanda) 03.08.2018
	Item No. 12 **August 03, 2018** **A**	

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* (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:

a. 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.
b. 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.
c. 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.
d. 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.
e. 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 1st repetition, 4 times on 2nd 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 2nd, 3rd and 4th 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 Paryavaran 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
Vapour Recovery System (VRS) at Outlets of Oil Companies		
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
Failure to water sprinkling on unpaved roads		
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

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= Capital Cost Factor x Marginal Average Capital Cost for Establishment of Waste or Sewage Management or Treatment Facility x (Waste or Sewage Management or Treatment Capacity Gap) + O&M Cost Factor x Marginal Average O&M Cost x (Waste or Sewage Management or Treatment Capacity Gap) x No. of Days for which facility was not available + 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 NRCD, 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

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})**

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_{GW} for Industrial 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	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 EC_{GW}=Rs 1,00,000/-					

For better understanding of implementation of EC_{GW} 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_{GW}) will be charged to the owner?

Solution:

Pump Yield *(Please refer Annexure-VI)* = 3 m^3/hr

Daily Consumption = 3 x 0.5 =1.5 m^3

ECR_{GW} = 4 Rs./m^3 *(Please refer para 4.6.1)*

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

Total time period = 820 days

Then, EC_{GW}= 6 x 820

Calculated EC_{GW}= 4,920 Rs.

EC_{GW} to be levied = 10,000 Rs. (minimum prescribed EC_{GW}, *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_{GW}) will be charged to the owner?

Solution:

Pump Yield *(Please refer Annexure-VI)* = 12 m^3/hr

Daily Consumption = 12 x 3 =36 m^3/day

ECR_{GW} = 60 Rs./m^3 *(Please refer para 4.6.4)*

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

Total time period = 365 days

Then, EC_{GW}= 2,160 x 365

EC_{GW}= 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_{GW} 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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Annexure-I

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: Applicant: Mr. Rohit Prajapati, Applicant in person
Amicus Curiae: Mr. Jai A. Dehadrai, Adv.
Respondent Nos. Mr. Nishe Rajen Shonker, Adv. for State of Kerala
Mr. Tarunvir Singh Khehar, Ms. Guneet Khehar
Mr. Sandeep Mishra Advs. for GNCTD
Mr. Anil Shrivastava Mr Rituraj Biswas and Ms. Sujaya Bardhan, Advs. for State of Arunachal Pradesh
Mr. Jogy Scaria, Ms. Beena Victor, Advs. for Kerala State Pollution Control Board
Mr. Avijit Roy, Adv. for Assam Pollution Control Board
Mr. Leichangthem Roshmani Kh, Ms. Malbum Babina, Advs. for State of Manipur
Mr. Nikhil Nayyar, Mr. Dhananjay Baijal, Advs. for APPCB and TSPCB
Mr. Mukesh Verma, Adv.
Mr. Tarunvir Singh Khehar, Adv., Mr. Sandeep Mishra and Ms. Guneet Khehar, Adv.
Mr. Dinesh Jindal, LO for DPCC
Ms. Aruna Mathur, Mr. Avinash Arputham, Ms. Simraj Jeet and Ms. Anuradha Arputham, Advs. for State of Sikkim
Mr. Raja Chatterjee, Mr. Piyush Sachdev, Ms. Abhinandini Yadav, Advs. and Advs. for State of UT
Mr. Edward Belho, AAG, Mr. K. Lalhang Michael and Ms. Helenlkiam, Advs. for State of Nagaland
Ms. Enatoli Sema, Adv. for State of Nagaland and Pollution Control Board
Mr. M. Paikaray and Mr. A.K. Panda, Advs. for SPCB, Odisha
Mr. Dhruv Pai, Adv. for State of Gujarat
Mr. V.K. Shukla, Adv. for State of MP
Mr. Jayesh Gaurav, Adv. for R-67
Mr. Tayenjam Momo Singh, Adv. for Meghalaya Pollution Control Board
Mr. Shish Chandra and Mr. Ritesh Kumar Sharma, Advs.
Mr. Gautam Singh and Mr. Shoeab Alam, Advs. for State of Bihar
Ms. Aprajita Mukherjee, Adv.
Ms. G. Indira, Adv. for UT of Andaman & Nicobar
Mr. Balendu Shekhar, Mr. Srinath Prakash and Mr. Rajkumar Maurya, Advs. for Ministry of Environment, Forest and Climate Change
Ms. Puja Kalra, Adv. for SDMC & NDMC
Mr. Anil Grover, AAG, Mr. Rahul Khurana and Mr. Mishal Vij, Advs. for State of Haryana and HSPCB

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, Advs. for State of Odisha
Ms. Asha Nayar Basu and Ms. Aradhita Ghosh Mandal, Advs.
Ms. Priyanka Sinha, Adv. for State of Jharkhand
Mr. Rajul Shrivastav, Adv. for MPPCB
Mr. Pradeep Misra and Mr. Dalcep Dhyani Advs. for UPPCB
Mr. R. Rakesh Sharma and Mr. V. Mowli, Advs. for State of TN & TNPCB
Mr. Shubham Shalla, Adv.
Mr. Shiv Mangal Sharma, AAG, Mr. Saurabh Rajpal, Mr. Adhiraj Singh, Ms.Shikha Sandhu and Mr. Vikrmjeet singh, Advs. 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
	Item No. 12 **August 03, 2018** **A**	1. This matter was taken by this Tribunal in furtherance to the orders of the Hon'ble Supreme Court dated 22.02.2017 *Paryavaran Suraksha Samiti Vs. Union of India* (2017) 5 SCC 326, establishment and functioning of ETPs/CETP/STPs. 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 04th July, 2017 stating as follows: *"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.*

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Item No. 12 **August 03, 2018** **A**		*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 62nd 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* ***Annexure-I****.* *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.* *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".* 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. 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

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	Item No. 12 **August 03, 2018** **A**	(CETP), whether any such CETP or ETP or STP is properly functioning and treating the effluents as per prescribed limits or not. 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. 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. (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. (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

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	Item No. 12 **August 03, 2018** **A**	appropriate directions issued. This process may be a continuous process. (iii) It must be ensured that STPs, CETPs and ETPs are functional and meet the requisite standards. (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. (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. (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. (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 filing.ngt@gmail.com.

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	Item No. 12 **August 03, 2018** **A**	(7) Proceedings are disposed of. However, the report received from the Central Pollution Control Board may be placed for consideration before this Tribunal on 04.09.2018. We place on record our appreciation for the services rendered by the learned Amicus Curiae. .....CP (Adarsh Kumar Goel) .....JM (Dr. Jawad Rahim) .....JM (S.P. Wangdi) .....EM (Dr. Nagin Nanda) 03.08.2018

NATIONAL GREEN TRIBUNAL, NEW DELHI

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Comments Received from Various RDs on Draft Report for Environmental Compensation

Annexure-II

S. No.	Item	RD Kolkata	RD Vadodara	RD Bengaluru	RD Lucknow	Committee Deliberations
1	**Case- a, b & c**	Bypassing of effluent/emission should be given special consideration. EC levied on ROG categories of industries should be on the basis of inspection by CPCB, complaint verification and routine inspection.	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 pro-longed and gross non-compliance.			The Committee discussed that the points highlighted by RD Kolkata are already the part of cases fit for violation and levy 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- d, e & f**	Higher rates for irreparable damages crop, soil, health etc. Leakages/spillage should have different compensation value.	It should be mentioned that instances d, e & f shall be dealt for environmental compensation in line with the polluter pays principle, besides of environmental penalty for cases a, b and c.	Similar to 'Guidelines on Liabilities for Environmental Damages due 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 is based on the philosophy of "polluters pay" and for grieve injury to environment, compensation will be charged as per the assessment of remediation cost, on case to case basis.
3	**Pollution 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.
4	**R-factor**	Should be based on pollution load. For ex. Amount of BOD/NOx etc. discharged.		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-100.	As PI is based on the pollution load, suggestion of RDs are already taken care in the formula.
5	**L-factor**			May be redefined based on the features, activities involved and habitation.		L-factor may be covered in future as already indicated in the report.

S. No.	Item	RD Kolkata	RD Vadodara	RD Bengaluru	RD Lucknow	Committee Deliberations
6	**Defining period of violations for which EC will be levied**		Duration of violations needs more clarity.	For industry having OCEMS, no. of days may be counted based on the recorded data. Industry without OCEMS- based on break down of FTP/APCD, disturbance of power supply or any failure of auxiliary machineries 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/PCC.	The committee agreed that period of violation for which EC may be levied will be the period between the day of violation observed and the day of compliance verified by CPCB/SPCB/PCC.
7	**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 ex. 1st Repetition- 25% 2nd Repetition- 50% 3rd Repetition- 100%	For habitual offenders, higher amount of penalty/compensation may be charged in future.
8	**Utilization of fund**	An environmental damage assessment cell may be created. 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 on Industrial Sectors / clean technology f) Funding to financially weaker municipalities for installation of STPs The amount should be utilized solely for damage assessment, remediation of affected sites, orphan contaminated sites and creating awareness. The purpose should not get inclined towards revenue generation.			RD Vadodara suggested that amount should be utilized only for remediation purpose. However, committee discussed that the proposal for utilization of fund is prepared considering the other aspects (i.e. direct and indirect) for protection of environment, which include research, monitoring etc. Suggestion of RD Kolkata may be considered in future.

			Thus, the functional fabric of CPCB shall remain intact.			
9	**Others**	Higher EC for non-installation of pollution control measures. Expected sources should have different scoring methodology based on their weightage.				The committee discussed that CPCB is already taking appropriate action including closure direction against the industries found operating without pollution control measures.

Comments Received from Various Expert Institutions on the Report on Environmental Compensation

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). 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 TERI	Comments of CSE	Comments of IEG	Committee's Deliberations
1	**Cases d, e and f**	Distinction between categories "a, b, c" and "d, e, f" is not clear. Case specific investigations should be minimized. Proposed cases deals separately with intentional and accidental cases but sometimes they are not easy to establish.	-	Why cases 'e' and 'f' are left for later remediation and study?	There may be a varied damage to the environment as considered in cases 'e' and 'f'. Such damage assessment requires detailed case specific study and remediation measures. Therefore, whenever such case comes into the notice, Environmental Compensation may be levied based on the detailed investigation made by Expert Institutions/Organizations.
2	**R-factor**	-	R-factor should be Rs. 1,000/day.	Why R-factor is kept as 250, although the value ranges between 100 to 500?	In the Environmental Compensation policy, average value of the R-factor as 250 is recommended, keeping in view both its practicability as well as to make it significantly deterrent, 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 critically polluted areas/ ecologically fragile areas LF should be considered as 2.	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 critically polluted and ecologically fragile area 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 are 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 L^2 Factor will be 1. Depending on the local environmental conditions, the restrictions on expansion and modernization of industries in critically polluted areas are imposed as per the prevailing policy of the Government of India. Similarly, industries in ecologically fragile areas are permitted after careful examination, as per prevailing policy of MoEFCC/SPCB. The Committee agreed that for notified ecologically fragile areas, LF may be considered as 2. However, LF for critically polluted areas may be explored in future.

S. No.	Item		Comments of CSE	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 turn-over of the industrial unit.	-	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 complicate 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, averaging PI eliminates the variation in the nature/ impact of pollution that PI tries to capture. Further, the Red Category itself is too wide and some sort of sub-classification should be undertaken The rate of the penalty should increase with the period of violation. The penalty should increase exponentially in case of repeated violations. The objective should be that units should choose to shut down operations when violations cannot be brought under control in the specified time.	For different level of non-compliance such as gross, moderate and low, a factor for 'Intensity of violation', IV-factor should be incorporated in the formula.	-	Pollution Index (PI) itself covers the potential of environmental pollution as its calculation considers 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 processing. Therefore, for calculating the Environmental Compensation average PI as 80, 50 and 30 may be used for Red, Orange and Green category of industries, respectively. To keep the formula simple for better implementation, the IV 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 its weightage will be a tedious task, which may bring difficulty 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. by 2, 4 and 8 times on each similar violation. Further, if the violator continues its operations beyond 3 months then EC may be increased by 2, 4 and 8 times for 2nd, 3rd and 4th quarter, respectively. Besides EC, industry may be prosecuted or 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 the Acts.
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.	Scheme of infrastructure augmentation of Urban Local Bodies (ULBs) /capacity building of SPCBs/PCCs is already covered in the report Further, schemes such as incentives to regulators where no violations are observed and incentives to public for reporting violations may be considered separately.

S. No.	Item		Comments of CSE	Comments of IEG	Committee's Deliberations
7	GRAP	-	-	Size of the construction sites more than 20,000 sqm. area are considered for EC. Although, small sites cumulatively impact significantly. Illegal dumping of municipal solid waste regardless of the place should be penalized.	As per the EIA 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. Issue of illegal dumping of municipal solid waste is being covered in separate report of EC.
8	Others: (a)	Severity of violations should be measured in terms of hours of violation because for some pollutants even 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.	-	-	Currently, online continuous effluent/emission monitoring system (OCEMS) is installed in only in 17 categories of highly polluting industries and some other industrial sectors. Further, in current practice the compliance of industries is only verified by physical monitoring and compensation 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.
	(b)	CETP should be categorized under Red Category of industries. Some sub-classification should be undertaken under red categories of industries.	-	-	CETPs are already categorized under Red Category of Industries
	(c)	Based on the spirit behind the proposed charge, it should therefore be called an "environmental penalty" rather than "environmental compensation".	-	-	The power of imposing "Penalty" lies in the jurisdiction of the Hon'ble Courts and NGT only. The CPCB is empowered to levy environmental compensation by the Hon'ble NGT in its order dated 03.08.2018 (OA No.593/2017). Therefore, term "Environmental Penalty" is avoidable.

Annexure-IV

Item Nos. 01 & 02 Court No. 1

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Original Application No. 125/2017
(M.A. No. 1337/2018)
With
Original Application No. 217/2017
(M.A. Nos. 761/2017, 1073/2017,
1098/2017 & 1471/2017)

Court on its own Motion — Applicant(s)

Versus

State of Karnataka — Respondent(s)

With

D. Kupendra Reddy — Applicant(s)

Versus

State of Karnataka — Respondent(s)

Date of hearing: 06.12.2018

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

Original Application No. 125/2017
(M.A. No. 1337/2018)

For Applicant(s): Mr. Sajan Poovayya, Sr. Advocate and Mr. Saransh Jain, Advocate for impleaded applicant – Namma Bengaluru Foundation
Mr. Vikram Hegde, Advocate for impleaded applicant

For Respondents (s): Mr. Devraj Ashok, Advocate
Mr. Rajkumar, Advocate and Ms. Sonia, LA
Ms. Nidhi Mehrotra, Advocate

Original Application No. 217/2017
(M.A. Nos. 761/2017, 1073/2017,
1098/2017 & 1471/2017)

For Applicant(s): Ms. Guneet Khehar, Mr. Tarunvir Singh Khehar, Mr. P. Ramaprakash and Mr. Sandeep Mishra, Advocates

For Respondents (s): Dr. Abhishek Atrey, Advocate
Mr. Rajkumar, Advocate and Ms. Sonia, LA

ORDER

1. The issue for consideration in the two matters, one initiated by the Tribunal on its own motion and the other filed by an individual relates to contamination of water bodies at Bengaluru - Bellandur lake, Agara lake and Varthur lake *inter-alia*, on account of discharge of untreated sewage and other effluents from

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their performance should be recorded and considered favourably or otherwise for their career progression.

xv. Similar exercise as (xiv) may be undertaken to identify officers responsible for failure in the past. Such exercise may be completed within three months from today.

xvi. 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.

xvii. MoEF&CC may specify limit for phosphorus in soaps and detergents to prevent damage to the environment and public health.

27. The above amount in the present case has been determined having regard to the estimated cost of setting up of STPs, based on the data available, which has been assessed with the assistance of the learned Counsel for the parties.

28. We have nominated Justice Santosh Hegde on information being provided during the hearing that he is agreeable to undertake the above job.

29. Justice Hegde will be entitled to a token honorarium of Rs. 2.5 Lakh per month from the date he assumes the charge. Justice Hegde will be entitled to assistance of persons of his choice for which remuneration will be paid by the SPCB, Karnataka as may be determined by Justice Hegde.

Annexure-V

Item Nos. 1 to 11 Court No. 1

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Original Application No. 176/2015
(M.A. No. 1332/2015)
&
Original Application No. 59/2012
(M.A. No. 34/2016 & M.A. No. 190/2016)
&
Original Application No. 108/2013
(M.A. No. 489/2015)
&
Original Application No. 179/2013
(M.A. No. 866/2014 & M.A. NO. 644/2015)
&
Appeal No. 67/2015
(M.A. No. 652/2015)
And

Original Application No. 484/2015
(M.A. No. 155/2017, M.A. No. 567/2017
& M.A. No. 927/2017)
And
Original Application No. 327/2018
(M. A. No. 1282/2018)
And
Original Application No. 115/2017
(M.A. No. 442/2017)
And
Original Application No. 411 of 2018
And
Original Application No. 613/2017
And
Original Application No. 614/2017

Shailesh Singh — Respondent(s)

Versus

Hotel Holiday Regency, Moradabad & Ors. — Applicant(s)

With

Legal Aid, National Green Tribunal Bar Association — Applicant(s)

Versus

NCT of Delhi & Ors. — Respondent(s)

With

Raj Hans Bansal — Applicant(s)

Versus

Ministry of Water Resources & Ors. — Respondent(s)

With

Apex Chambers of Commerce and
Industries of N.C.T. of Delhi & Ors. — Applicant(s)

Versus

Govt. of NCT Delhi & Ors. — Respondent(s)

With

Vikrant Tongad — Applicant(s)

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Versus

Union of India & Ors. Respondent(s)

With
Shailesh Singh Applicant(s)

Versus
Hotel The Oberoi Amarvilas & Ors. Respondent(s)
With
Shailesh Singh Applicant(s)

Versus
Panchsheel Buildtech Pvt. Ltd. & Ors. Respondent(s)
With
Shailesh Singh Applicant(s)

Versus
Central Ground Water Board & Ors. Respondent(s)
With
M/s A-One Mineral Water Industry Applicant(s)

Versus
Central Ground Water Authority & Ors. Respondent(s)
With
Mohd. Javed Asghar Applicant(s)

Versus
M/s Upper Ganges Sugar and Industries Ltd. (Distillery Unit) & Ors. Respondent(s)
With
Mohd. Javed Asghar Applicant(s)

Versus
State of U.P. & Ors. Respondent(s)

Hearing concluded on: 18.12.2018
Order uploaded on: 03.01.2019

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

For Applicant(s): Mr. Raj Pajwani, Senior Advocate and Mr. Rahul Choudhary, Advocate (In O.A. Nos. 59/2012 & 108/2013)
Ms. Preeti Singh, Mr. S. Porwal, Mr. Shivam Jaiswal, Advocates (In O.A. Nos. 176/2015, 484/2015, 327/2018 & 115/2017)
Mr. Amrendra Kumar Dubey, Advocate (O.A. No. 411/2018

For Respondent (s): Ms. Sakshi Popli, Advocate for DJB (O.A. No 59/2012)
Mr. Sumeet Pushkarna, Mr. Devanshu, Advocates with Mr. Sudhir Chauhan, E.E., Delhi Jal Board (O.A. No. 108/2013)
Mr. Ajay Jain, Advocate for GNCTD
Mr. Ardhendumauli Kumar Prasad, Mr. Shashank Saxena, Ms. Diksha Gera, Mr. Amritesh Raj, Advocates for CGWA
Mr. Pradeep Mishra, Mr. Daleep Dhyani, Advocates for UPPCB
Ms. Sakshi Popli, Advocate for NDMC
Mr. Amit Tiwari, Mr. Rohit Pratap Singh, Advocates for State of UP

appropriate mechanism can be introduced consistent with the needs of environment.

29. The MoEF&CC is directed to constitute an Expert Committee by including representatives from IIT Delhi, IIT Roorkee, IIM Ahmedabad, CPCB, NITI Ayog and any other concerned agency or department to examine the issue of appropriate policy for conservation of ground water with a robust institutional mechanism for surveillance and monitoring with a view to enhance access to ground water for drinking purposes in OCS areas by way of appropriate replenishment practices which can be properly accounted and measured for as well as to sustain the floodplains of rivers in terms of e-flows and other water bodies. The MoEF & CC and MoWR may finalize the issue of subject remain *inter-se* with regard to ground water reserve and its quality.

30. The Committee may be constituted in two weeks and report of the Committee may be furnished to the MoEF &CC and this Tribunal in two months by e-mail at ngt.filing@gmail.com.

31. The Committee may also indicate the projection of its impact study in light of projected data for the next 50 years (in phased manner with action plan for each decade). Thereafter, fresh guidelines be issued by the concerned Ministry and the report furnished to the Tribunal on or before 30.04.2019.

32. The CPCB may constitute a mechanism to deal with individual cases of violations 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. All the matters relating to illegal extraction of ground water by individuals are disposed of with these directions.

33. The Expert Committee report, the new policy and challenge to orders of authorities, if any, will be considered on the next date.

The matter be put up for above consideration in the first week of May, 2019.

Adarsh Kumar Goel, CP

S.P. Wangdi, JM

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

January 03, 2019
Original Application No. 176/2015
(M.A. No. 1332/2015) and other connected matters.
AK

Annexure-VI

CRITERIA TO CALCULATE WATER CONSUMPTION

Table 1: Discharge of 4" Dia and 1 HP Pump

Sl. No.	Depth (Meter)	Discharge	
		LPM	m^3/hr
1	25	50	3
2	43	40	2.4
3	59	30	1.8
4	69	20	1.2
5	77	10	0.6

Table 2: Discharge of 4" Dia and 2 HP Pump

Sl. No.	Depth (Meter)	Discharge	
		LPM	m^3/hr
1	60	50	3
2	98	40	2.4
3	124	30	1.8
4	141	20	1.2
5	165	10	0.6

Table 3: Discharge of 6" Dia and 3 HP Pump

Sl. No.	Depth (Meter)	Discharge	
		LPM	m^3/hr
1	17	200	12
2	29	175	10.5
3	41	150	9
4	50	130	7.8
5	62	100	6

Table 4: Discharge of 6" Dia and 5 HP Pump

Sl. No.	Depth (Meter)	Discharge	
		LPM	m^3/hr
1	26	225	13.5
2	50	200	12
3	70	175	10.5
4	86	150	9
5	92	140	8.4

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