

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

ORIGINAL APPLICATION NO. 413/2021

IN THE MATTER OF:

BIKRAMJIT SINGH SHERGILL

...APPLICANT(s)

VERSUS

STATE OF PUNJAB & ORS.

...RESPONDENT(s)

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THROUGH COUNSEL



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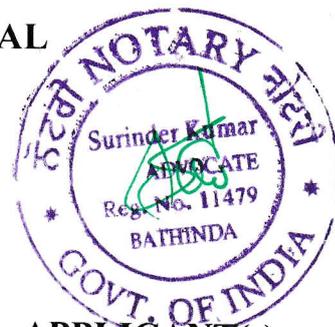
DATE: 22.07.2025

PLACE: NOIDA

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BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

ORIGINAL APPLICATION NO. 413/2021



IN THE MATTER OF:

BIKRAMJIT SINGH SHERGILL

...APPLICANT(s)

VERSUS

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**UPDATED ACTION PLAN BY WAY OF AFFIDAVIT IN COMPLIANCE OF
ORDER DATED 05.05.2025 PASSED BY THE HON'BLE NATIONAL
GREEN TRIBUNAL, PRINCIPAL BENCH, NEW DELHI**

I Sh. Sandeep Gupta aged about 55 years posted as Superintending Engineer, Municipal Corporation, Bhatinda, Punjab, do hereby solemnly affirm and state as under:

1. That I, Sandeep Gupta, Superintending Engineer, Municipal Corporation, Bhatinda, Punjab, am fully conversant with the facts of the case and I am competent and authorized to swear the present Affidavit.
2. That in the present matter, the grievance is regarding fire incident which took place on 06.06.2021 at M/s JITF Urban Waste Management (Bathinda) Ltd., Punjab which showed that waste was not being

Sandeep Gupta

processed as per the agreement by the Project Proponent i.e. Respondent No. 3.

3. That the Hon'ble Tribunal vide order dated 05.05.2025 directed the Deponent to file an action plan showing compliances made with Rule 15 of the Solid Waste Management Rules, 2016. The operative part of the aforementioned order is as stated below:

"...3. Respondent no.2 is directed to file an action plan in tabulated form giving requisite details regarding its compliance with all sub-rules of Rule 15 of the Solid Waste Management Rules, 2016..."

4. That in compliance of the directions issued by the Hon'ble Tribunal, the Municipal Corporation Bhatinda (hereinafter referred to as "MCB") submits their compliance with each sub- rule (a) to (z) of Rule 15 of the Solid Waste Management Rules, 2016 in tabulated form:

| S. NO. | RULE 15 SWM RULES | COMPLIANCES MADE BY THE MCB |
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| | <i>15.Duties and responsibilities of local authorities and village Panchayats of census towns and urban agglomerations. - The local authorities and Panchayats shall,-</i> | |
| a) | prepare a solid waste management plan as per state policy and strategy on solid waste | Municipal Corporation Bathinda has prepared solid waste management plan in accordance with the State |

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| | management within six months from the date of notification of state policy and strategy and submit a copy to respective departments of State Government or Union territory Administration or agency authorised by the State Government or Union territory Administration; | Policy and the Solid Waste Management Rules, 2016. The plan has been put into effect by the MCB. |
| b) | arrange for door to door collection of segregated solid waste from all households including slums and informal settlements, commercial, institutional and other non-residential premises. From multi-storage buildings, large commercial complexes, malls, housing complexes, etc., this may be collected from the entry gate or any other designated location; | <ul style="list-style-type: none"> - The collection of door to door collection of segregated solid waste from all the households including slums and informal settlements, commercial, institutional and other non-residential premises, etc. is carried out on a daily basis. The solid waste is segregated in 3 categories- i) Dry Waste, ii) Wet Waste, iii) Domestic Hazardous Waste. - For collection of door to door segregated solid waste, 72 Tippers and 328 workers are deployed for collection of dry, wet and domestic hazardous waste. These 72 Tippers work in two shifts and their movement is tracked through GPS system centrally. - Furthermore, 6 trolleys and 24 workers are deployed for collection of Construction & demolition waste and horticulture waste. - 48 routes have been carved out in the city for ensuring that each of the property is accessed for waste collection on daily basis. |
| c) | establish a system to recognise organisations of waste pickers or informal waste collectors and promote and establish a system for integration of these authorised waste-pickers and waste collectors to facilitate their participation in solid waste management including door to door collection of waste; | Total Waste Pickers identified by MCB are 97 out of these 75 waste pickers are included as Outsource employees of MCB for door-to-door collection. At present, 12 Rag pickers left working. |
| d) | facilitate formation of Self Help Groups, provide identity cards and thereafter encourage integration in solid waste management including door to door collection of waste; | Total of 70 outsourced employees from the SHG are doing sweeping on roadside under MCB. |

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| e) | frame bye-laws incorporating the provisions of these rules within one year from the date of notification of these rules and ensure timely implementation; | By laws have already been framed and notified by MCB. A copy of the notified by- laws notified are annexed herewith and marked as ANNEXURE-1 . |
| f) | prescribe from time to time user fee as deemed appropriate and collect the fee from the waste generators on its own or through authorised agency | The contract for the collection of user charges pertaining to door-to-door garbage collection services has been duly awarded to M/s Softel Solution, Bathinda. The estimated revenue from garbage collection charges is approximately 455.41 lacs for financial year 2024-25. |
| g) | direct waste generators not to litter i.e throw or dispose of any waste such as paper, water bottles, liquor bottles, soft drink canes, tetra packs, fruit peel, wrappers, etc., or burn or burry waste on streets, open public spaces, drains, waste bodies and to segregate the waste at source as prescribed under these rules and hand over the segregated waste to authorised the waste pickers or waste collectors authorised by the local body; | A total of 72 compartmentalized tippers (Tata Ace) and 328 sanitation workers have been deployed for the collection of segregated dry, wet, and domestic hazardous waste, while 6 trolleys and 24 workers have been engaged specifically for the collection of construction and demolition waste as well as horticultural waste. The city has been systematically divided into 48 designated routes to ensure comprehensive daily coverage of all properties for waste collection. The Municipal Corporation, Bathinda has undertaken the task of door-to-door waste collection operations by deploying the aforementioned GPS-enabled tippers, operating in two shifts daily, from 6:00 AM to 2:00 PM and from 2:00 PM to 10:00 PM. Upon collection, the segregated waste is duly transferred to the waste processing facility operated by M/s JITF Urban Waste Management Bathinda Ltd. for further treatment and disposal in accordance with applicable waste management protocols. |
| h) | setup material recovery facilities or secondary storage facilities with sufficient space for sorting of recyclable materials to enable informal or authorised waste pickers and waste collectors to separate recyclables from the waste and provide easy access to waste pickers and recyclers for collection of segregated recyclable waste such as paper, plastic, metal, glass, textile from the source of generation or from material recovery facilities; Bins for storage of bio- | Municipal Corporation Bathinda executed an agreement with M/s JITF Urban Waste Management Bathinda Ltd. to manage the MSW of Bathinda city. M/s JITF has established a waste processing facility at Mansa Road, Bathinda of 350 TPD. It is operational since October, 2015. At present, approximately 110 Ton per Day of solid waste is being processed by M/s JITF Urban Waste Management (Bathinda) Ltd. Secondary mechanical segregation is carried out at this waste processing facility. Recyclables, RDF & Compost are produced this waste processing facility. |

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| | degradable wastes shall be painted green, those for storage of recyclable wastes shall be printed 1 [blue] and those for storage of other wastes shall be printed black; | |
| i) | establish waste deposition centres for domestic hazardous waste and give direction for waste generators to deposit domestic hazardous wastes at this centre for its safe disposal. Such facility shall be established in a city or town in a manner that one centre is set up for the area of twenty square kilometers or part thereof and notify the timings of receiving domestic hazardous waste at such centres; | The management of MSW in Bathinda falls within the scope of the concessionaire. In this regard, the Municipal Corporation, Bathinda has entered into a Concession Agreement with M/s JITF Urban Waste Management Bathinda Ltd. for the scientific handling and processing of the city's MSW. Pursuant to the said agreement, M/s JITF has established a waste processing facility with an installed capacity of 350 TPD, located at Mansa Road, Bathinda, which has been operational since October, 2015. Presently, the facility is processing approximately 110 MT of solid waste per day. |
| j) | ensure safe storage and transportation of the domestic hazardous waste to the hazardous waste disposal facility or as may be directed by the State Pollution Control Board or the Pollution Control Committee; | Door-to- Door Collection by the BMC is carried out through 72 Tippers and 328 workers deployed for collection, safe storage and transportation of the domestic hazardous waste to the hazardous waste disposal facility which is under the scope of the concessionaire. Municipal Corporation Bathinda executed an agreement with M/s JITF Urban Waste Management Bathinda Ltd. to manage the MSW of Bathinda city. M/s JITF has established a waste processing facility at Mansa Road, Bathinda of 350 TPD. |
| k) | direct street sweepers not to burn tree leaves collected from street sweeping and store them separately and handover to the waste collectors or agency authorised by local body; | Compost pits in various parks, educational institutes have been constructed for the processing of horticulture waste. Besides this 2 Green Waste Processors have been deployed in Rose Garden, Bathinda for quick processing of Green waste. The Compost so produced is used in parks and various Green Belts of the City. General Public also uses this compost for their kitchen gardens/home plantation. |
| l) | provide training on solid waste management to waste-pickers and waste collectors; | Training is provided on solid waste Management to waste-pickers and waste collectors time-to-time as per guidelines and schedule given by the PMIDC through a dedicated team of one IEC expert, two community facilitators and twelve motivators. |
| m) | collect waste from vegetable, fruit, flower, meat, poultry and fish market on day to day basis and promote setting up of | Collection of waste from vegetable, fruit, flower, meat, poultry and fish market on day to day basis is being carried out by the MCB. Subsequent to the collection, |

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| | decentralised compost plant or bio-methanation plant at suitable locations in the markets or in the vicinity of markets ensuring hygienic conditions; | the waste is transported to the WTE Plant for processing which is under the scope of the concessionaire i.e. M/s JITF Urban Waste Management Bathinda Ltd. the 350 TPD processing facility is situated at Mansa Road, Bhatinda. |
| n) | collect separately waste from sweeping of streets, lanes and by-lanes daily, or on alternate days or twice a week depending on the density of population, commercial activity and local situation; | <p>Manual & mechanical sweeping is carried out in all commercial, residential and public areas of the city on daily basis. Whole city is divided into beats and 26 attendance points have been fixed, where daily attendance of <i>safai sewak</i> is taken twice a day i.e. at 6 am and at 3 pm. 745 workers are deployed for daily road/street sweeping Night sweeping and mechanical sweeping is carried out in main Commercial areas and main roads of the City on daily basis in order to clean them properly avoiding issues of parked vehicles and street vendors. 45 workers are deployed for night sweeping. 6 Road Sweeping machines and 16 workers are deployed for mechanical Sweeping.</p> <p>i. Sweeping of public market & commercial areas- Two time Sweeping (Night Sweeping and Morning Sweeping)</p> <p>ii. Sweeping of residential areas- One time Sweeping Main roads of City and Over bridge - Mechanical Sweeping at Night (As per schedule)</p> |
| o) | set up covered secondary storage facility for temporary storage of street sweepings and silt removed from surface drains in cases where direct collection of such waste into transport vehicles is not convenient. Waste so collected shall be collected and disposed of at regular intervals as decided by the local body; | There is no secondary storage facility for temporary storage of street sweeping as waste is directly collected and transported to waste processing plant i.e M/s JITF Urban Waste Management Bathinda Ltd. Due to small size of the city, waste is collected through mechanical vehicles and directly transported to the processing facility. |
| p) | collect horticulture, parks and garden waste separately and process in the parks and gardens, as far as possible; | Compost pits in various parks, educational institutes have been constructed for the processing of horticulture waste. Besides this 2 Green Waste Processors have been deployed in Rose Garden, Bathinda for quick processing of green waste. The Compost so produced is used in parks and various Green Belts of the City. General Public also uses this compost for their kitchen |

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| | | gardens/home plantation. |
| q) | transport segregated bio-degradable waste to the processing facilities like compost plant, bio-methanation plant or any such facility. Preference shall be given for on-site processing of such waste; | Segregated bio-degradable waste is transported to the waste processing plant i.e M/s JITF Urban Waste Management Bathinda Ltd. through tippers. |
| r) | transport non-bio-degradable waste to the respective processing facility or material recovery facilities or secondary storage facility; | Segregated non-biodegradable waste is transported to the waste processing plant i.e M/s JITF Urban Waste Management Bathinda Ltd. through tippers. |
| s) | transport construction and demolition waste as per the provisions of the Construction and Demolition Waste Management Rules, 2016; | Construction and Demolition waste is transported to the C&D waste management plant situated near Rose Garden under Construction and Demolition Waste management Rules, 2016. |
| t) | involve communities in waste management and promotion of home composting, biogas generation, decentralised processing of waste at community level subject to control of odour and maintenance of hygienic conditions around the facility; | To aware the communities for waste management and promotion of home composting, bio-gas generation, decentralized processing of waste at community level various workshops, campaigns and door-to-door awareness is done by the SBM IEC team (IEC&CB Expert, CFs and Motivators) of PMIDC. |
| u) | phase out the use of chemical fertilizer in two years and use compost in all parks, gardens maintained by the local body and wherever possible in other places under its jurisdiction. Incentives may be provided to recycling initiatives by informal waste recycling sector. | Already achieved. No chemical fertilizer is used for parks & gardens of MCB. 2 Green Waste Processors have been deployed in Rose Garden, Bathinda for quick processing of Green waste. The Compost so produced is used in parks and various Green Belts of the City. General Public also uses this compost for their kitchen gardens/home plantation. |
| v) | facilitate construction, operation and maintenance of solid waste processing facilities and associated infrastructure on their own or with private sector participation or through any agency for optimum utilisation of various components of solid waste adopting suitable technology including the following technologies and adhering to the guidelines issued by the Ministry of Housing and Urban Affairs from time to time and standards prescribed by the Central Pollution Control Board. Preference shall be given to decentralised | Municipal Corporation Bathinda executed an agreement with M/s JITF Urban Waste Management Bathinda Ltd. to manage the MSW of Bathinda city. M/s JITF has established a waste processing facility at Mansa Road, Bathinda of 350 TPD. It is operational since October, 2015. At present, approximately 110 Ton per Day of solid waste is being processed by M/s JITF Urban Waste Management (Bathinda) Ltd. |

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| | <p>processing to minimize transportation cost and environmental impacts such as-</p> <p>a) bio-methanation, microbial composting, vermi-composting, anaerobic digestion or any other appropriate processing for bio-stabilisation of biodegradable wastes;</p> <p>b) waste to energy processes including refused derived fuel for combustible fraction of waste or supply as feedstock to solid waste based power plants or cement kilns;</p> | |
| w) | <p>undertake on their own or through any other agency construction, operation and maintenance of sanitary landfill and associated infrastructure as per Schedule 1 for disposal of residual wastes in a manner prescribed under these rules;</p> | <p>Currently a temporary SLF of size 150'x10'0x11' is used for inert and non- recyclable waste. For catering the future demand, MCB has applied for Environmental Clearance for construction of a new SLF in 3 Acres land.</p> |
| x) | <p>make adequate provision of funds for capital investments as well as operation and maintenance of solid waste management services in the annual budget ensuring that funds for discretionary functions of the local body have been allocated only after meeting the requirement of necessary funds for solid waste management and other obligatory functions of the local body as per these rules;</p> | <p>Adequate provision in Municipal Solid Waste management is made regularly by MC Bathinda. Besides this, regular grant is received under SBM 1.0 & 2.0 for managing the solid waste.</p> |
| y) | <p>make an application in Form-I for grant of authorisation for setting up waste processing, treatment or disposal facility, if the volume of waste is exceeding five metric tones per day including sanitary landfills from the State Pollution Control Board or the Pollution Control Committee, as the case may be;</p> | <p>Municipal Corporation Bathinda has already executed an agreement with M/s JITF Urban Waste Management Bathinda Ltd. to manage the MSW of Bathinda city. M/s JITF has established a waste processing facility at Mansa Road, Bathinda of 350 TPD. It is operational since October, 2015. At present, approximately 110 Ton per Day of solid waste is being processed by M/s JITF Urban Waste Management (Bathinda) Ltd. MC Bathinda has got consent from PPCB up to 30.06.2025 and renewal application has already been submitted for CTO to PPCB dated 02.07.2025.</p> |
| z) | <p>make an application in Form-I for grant of authorisation for setting up waste</p> | <p>MC Bathinda has got consent from PPCB up to 30.06.2025 and renewal application has already been</p> |

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| processing, treatment or disposal facility, if the volume of waste is exceeding five metric tones per day including sanitary landfills from the State Pollution Control Board or the Pollution Control Committee, as the case may be; | submitted for CTO to PPCB dated 02.07.2025. The copy of the CTO application dated 02.07.2025 is annexed herewith and marked as ANNEXURE-2. |
| (za) prepare and submit annual report in Form IV on or before the 30th April of the succeeding year to the Commissioner or Director, Municipal Administration or designated Officer; | Report in Form IV is submitted on regular basis as per guidelines. |
| (zb) the annual report shall then be sent to the Secretary-in-Charge of the State Urban Development Department or village panchayat or rural development department and to the respective State Pollution Control Board or Pollution Control Committee by the 31st May of every year; | Report in Form IV is submitted on regular basis as per guidelines. |
| (zc) educate workers including contract workers and supervisors for door to door collection of segregated waste and transporting the unmixed waste during primary and secondary transportation to processing or disposal facility | Training is provided on solid waste Management to the workers and supervisors from time-to-time as per guidelines and schedule given by the PMIDC. |
| (zd) ensure that the operator of a facility provides personal protection equipment including uniform, fluorescent jacket, hand gloves, raincoats, appropriate foot wear and masks to all workers handling solid waste and the same are used by the workforce; | All the proper and personal protection equipment is provided by the MSW facility operator to all the workers. The protection gear includes uniform, fluorescent jacket, hand gloves, raincoats, foot wear and masks. |
| (ze) ensure that provisions for setting up of centers for collection, segregation and storage of segregated wastes, are incorporated in building plan while granting approval of building plan of a group housing society or market complex; and | Yes, as per the provision, space is kept to collect, segregate and store the segregated wastes while approving building plan of a group housing society or market complex. |
| (zf) frame bye-laws and prescribe criteria for levying of spot fine for persons who | An appropriate fine is levied on persons who are found littering or fails to comply with the provisions of SWM |

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| | litters or fails to comply with the provisions of these rules and delegate powers to officers or local bodies to levy spot fines as per the bye laws framed; and | Rule, 2016. For littering a fine of Rs. 500/- is levied for first time offender. In case of repeated instance, fine of Rs. 1000/- is levied on the offender. |
| | <p>(zg) create public awareness through information, education and communication campaign and educate the waste generators on the following; namely: -</p> <ul style="list-style-type: none"> (i) not to litter; (ii) minimise generation of waste; (iii) reuse the waste to the extent possible; (iv) practice segregation of waste into bio-degradable, non-biodegradable (recyclable and combustible), sanitary waste and domestic hazardous wastes at source; (v) practice home composting, vermi-composting, bio-gas generation or community level composting; (vi) wrap securely used sanitary waste as and when generated in the pouches provided by the brand owners or a suitable wrapping as prescribed by the local body and place the same in the bin meant for non-biodegradable waste; (vii) storage of segregated waste at source in different bins; (viii) handover segregated waste to waste pickers, waste collectors, recyclers or waste collection agencies; and (ix) pay monthly user fee or charges to waste collectors or local bodies or any other person authorised by the local body for | To aware the communities for waste management and promotion of home composting, bio-gas generation, decentralized processing of waste at community level various workshops, campaigns and door-to-door awareness is done by the SBM IEC team (IEC&CB Expert, CFs and Motivators) of PMIDC. |

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| | sustainability of solid waste management. | |
| (zh) stop land filling or dumping of mixed waste soon after the timeline as specified in rule 23 for setting up and operationalisation of sanitary landfill is over; | <ul style="list-style-type: none"> - At present, the collection of door to door collection of segregated solid waste from all the households including slums and informal settlements, commercial, institutional and other non-residential premises, etc. is carried out on a daily basis. The solid waste is segregated in 3 categories- i) Dry Waste, ii) Wet Waste, iii) Domestic Hazardous Waste. - For collection of door to door segregated solid waste, 72 Tippers and 328 workers are deployed for collection of dry, wet and domestic hazardous waste. These 72 Tippers work in two shifts and their movement is tracked through GPS system centrally. - Furthermore, 6 trolleys and 24 workers are deployed for collection of Construction & demolition waste and horticulture waste. <p>48 routes have been carved out in the city for ensuring that each of the property is accessed for waste collection on daily basis.</p> | |
| (zi) allow only the non-usable, non-recyclable, non-biodegradable, non-combustible and nonreactive inert waste and pre-processing rejects and residues from waste processing facilities to go to sanitary landfill and the sanitary landfill sites shall meet the specifications as given in Schedule-I, however, every effort shall be made to recycle or reuse the rejects to achieve the desired objective of zero waste going to landfill; | The collected waste is processed thoroughly at the processing site situated at Mansa Road, Bhatinda. For Disposal of inert and non- recyclable wastes, one acre land has been identified adjacent to land handed over to JITF, where BMC has made temporary SLF of size 150'x10'0x11'. | |
| (zj) investigate and analyse all old open dumpsites and existing operational dumpsites for their potential of bio-mining and bio-remediation and wheresoever feasible, take necessary actions to biomine or bio-remediate the sites; | The site wherein the legacy waste of 3,53,000 Cum has been cleared and duly processed, an application for Environmental clearance has been sent to SEIAA to enable the site to be used as Sanitary Landfill. The application has been sent, pending its approval. | |
| (zk) in absence of the potential of bio- | There is potential scope of bio remediation of dump site | |

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| | mining and bio-remediation of dumpsite, it shall be scientifically capped as per landfill capping norms to prevent further damage to the environment. | and is being executed. |
| | (zl) collect and transport bio-degradable, non-bio-degradable and domestic hazardous waste from households including slums and informal settlements, commercial, institutional and other nonresidential premises, multi-storey buildings, large commercial complexes, malls, housing complexes and the like in compartmentalised and covered vehicle to the respective processing facility. | <ul style="list-style-type: none"> - The collection of door to door collection of segregated solid waste from all the households including slums and informal settlements, commercial, institutional and other non-residential premises, etc. is carried out on a daily basis. The solid waste is segregated in 3 categories- i) Dry Waste, ii) Wet Waste, iii) Domestic Hazardous Waste. - For collection of door to door segregated solid waste, 72 Tippers and 328 workers are deployed for collection of dry, wet and domestic hazardous waste. These 72 Tippers work in two shifts and their movement is tracked through GPS system centrally. - Furthermore, 6 trolleys and 24 workers are deployed for collection of Construction & demolition waste and horticulture waste. <p>48 routes have been carved out in the city for ensuring that each of the property is accessed for waste collection on daily basis</p> |

LEGACY WASTE:

5. That with regards to the remediation of the legacy waste, the responsibility vide letter dated 23.12.2022 has been allotted to M/s ECOSTAN Infrastructure Pvt. Ltd. The total collected legacy waste amounting to 3,53,000 Cum has been cleared from the and processed as per the SWM Rules, 2016.

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6. That the RDF generated amounting to 53,040 Cum from the processed legacy waste has been transported to:-

- i) SILVERTOAN papers Ltd., Bhopa Road, Muzaffar nagar, Uttar Pradesh.
- ii) Mahalaxmi Crafts & Tissues Pvt. Ltd., Muzaffar Nagar, Uttar Pradesh.
- iii) Krishnanchal pulp & papers Pvt. Ltd., Muzaffar Nagar, Uttar Pradesh.
- iv) BCL industries Pvt. Ltd., Bathinda.
- v) Shree Cement Ltd, Andheri Deon, Rajasthan.
- vi) Shree Cement Ltd, Bewar, Rajasthan.
- vii) Ambuja Cement, Nimbahera, Rajasthan.
- viii) Nikita Paper Mill, Sambli, Uttar Pradesh.
- ix) KK Duplex Paper Mill, Uttar Pradesh.

A copy of the transportation logbook is annexed herewith and marked as **ANNEXURE-3.**

7. That it is respectfully submitted before this Hon'ble Tribunal that approximately 2,800 MT of legacy waste remains to be transported. It is further submitted that all RDF generated from the legacy waste shall be

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fully cleared by the MCB within a period of five weeks. Due to the on-going monsoon season, the clearance process has been marginally delayed as contractors are currently unable to accept wet RDF. Nevertheless, it is most respectfully assured and undertaken that the remaining RDF shall be disposed of in a time-bound and compliant manner.

8. That the C&D waste recovered from the remediation of the legacy waste is used to make Interlocking paver blocks, Kerb stones and further on side berms of roads. Furthermore, the inerts generated have been shifted to the temporary SLF site at the processing facility. The compost/bio soil has been used in the low lying areas by the MCB.

ARBITRAL AWARD

9. That the arbitral award of the proceedings between M/s JITF Urban Waste Management (Bathinda) Ltd. and the Municipal Corporation Bhatinda has been pronounced on 21st May, 2025.

A copy of the arbitral award dated 21st May, 2025 is annexed herewith and marked as **ANNEXURE-4**.

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10. That the award provided through the arbitration proceedings states that the Claimant i.e. M/s JITF Urban Waste Management (Bathinda) Ltd. is awarded the sum of INR 1,83,57,074 at the rate provided in Article 7.7 of the CA.
11. That the Respondent No. 1 i.e. Municipal Corporation of Bhatinda has been awarded the sum of Rs. 8,11,140/- together with interest on the aforesaid Claim which is awarded @ prevailing PLR of State Bank of India (as stipulated in Article 15.2 of the CA) from the date of filing of the Counterclaim, i.e., 31.07.2019.
12. That it is pertinent to note that the concessionaire has to fulfil its contractual obligation of processing and management of the Solid Waste Management facility situated at Mansa Road, Bhatinda. The arbitral award in no way exempts the operator from fulfilling their obligations as per the contract.
13. That furthermore, the MCB has sent a letter dated 15.07.2025 to M/s JITF requesting them to efficiently continue the processing of the fresh solid waste as per their agreement and the arbitration award. It was

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further emphasized that the solid waste management be carried out adhering to the strict rules of the SWM Rules, 2016 and the directions issued by this Hon'ble Tribunal.

A copy of letter dated 15.07.2025 is annexed herewith and marked as **ANNEXURE-5.**

FRESH WASTE:

14. That with regards to the fresh waste, it is submitted that the total fresh waste generated in Bhatinda is approximately 110 TPD.
15. That as the MCB has executed an agreement with M/s JITF Urban Waste Management (Bathinda) Ltd. The aforementioned operator is responsible for processing of daily solid waste.
16. That the daily generated 110 TPD solid waste generated is transported through tippers directly to the 350 TPD processing facility situated at Mansa Road, Bhatinda.
- The photographs of the fresh waste being transported to the processing facility and solid waste being processed is annexed herewith and marked as **ANNEXURE-6.**

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SANITARY LANFILL SITE:

17. That the site previously utilized for the dumping of legacy waste amounting to approximately 3,53,000 Cum, which has since been completely remediated and scientifically processed, is proposed to be repurposed by the MCB as a Sanitary Landfill Facility (SLF). In furtherance of this objective, an application seeking Environmental Clearance has been duly submitted to the State Environment Impact Assessment Authority (SEIAA) in accordance with the applicable legal framework. Pending requisite approvals from SEIAA and other competent authorities, the said legacy waste site is proposed to be utilized as a Sanitary Landfill Facility, in conformity with environmental norms and regulations.

A copy of the application for EC sent to SEIAA is annexed herewith and marked as **ANNEXURE-7**.

18. That it is humbly submitted the Municipal Corporation Bhatinda is taking all the requisite steps as per the rules and provisions provided under the law. The MCB has been actively taking note of the requirements in the city and preparing and executing the action plans accordingly. The

Prakash



Deponent department aims to comply with the directions issued by this Hon'ble Tribunal in its true letter and spirit.

19.Hence, the present affidavit is being filed for the kind consideration and perusal of this Hon'ble Tribunal.

20.I state that everything stated above has been stated by me in my official capacity on and derived from the official records and I state that nothing material has been concealed therefrom.

[Signature]

DEPONENT

VERIFICATION

Verified at Bathinda on this 22nd day of July, 2025, that the contents of the above affidavit from paragraphs 1 to 20 are believed to be true and correct to the best of my knowledge and belief. No part of it is false and nothing material has been concealed therefrom.

[Signature]

DEPONENT

Entered in my Notarial Register
at Sr. No. 153 Register No. 24/25
Dated 22/07/2025

ATTESTED
[Signature]
SURINDER KUMAR
Advocate & Notary
Distt. Courts, Bathinda
Mob. 97809-49722
22/07/25

*I Identify the Deponent
Nehinder Singh
Municipal Corporation, Bathinda
Nehinder Singh*

NOTARY

GOVERNMENT OF PUNJAB
Department of Local Government
(Local Government -4 Branch)
Punjab Municipal Bhawan, Plot No-3, Sector 35A, Chandigarh

NOTIFICATION

The 11th August, 2020

No.5/105/2020-2lg4/1391(A) in pursuance of provisions of section 399 (2) of Punjab Municipal Corporation Act, 1976 and Section 201 (1) of the Punjab Municipal Act, 1911, the Governor of Punjab is pleased to confirm “The Punjab Solid Waste Management and Cleanliness & Sanitation Bye-Laws 2020” framed under Rule 15 (e) and 15 (zf) of Solid Waste Management Rules 2016 of The Environment Protection Act, 1986 and duly published as under:-

1. SHORT TITLE AND COMMENCEMENT

- 1) These bye-laws shall be called “The Punjab Solid Waste Management and Cleanliness & Sanitation Bye-Laws 2020”.
- 2) They shall come into force on the date of their publication in the Punjab Gazette.

2. APPLICABILITY

These Bye-laws shall be applicable within the Municipal limits of all ULBs of Punjab.

3. VISION

“Attaining and sustaining Clean-Green Punjab by adopting the 6Rs waste management principal (refuse, reduce, reuse, recycle, redesign and research), implementing the environment friendly, financially viable, socially acceptable and easy to operate & maintain solid waste management technologies/ mechanism with 100% door to door collection of segregated waste & transportation in the segregated manner and scientific processing at closest to point of generation and reclamation of

landfill sites integrating the informal sector of rag pickers and community participation”.

4. **SOLID WASTE MANAGEMENT APPROACH:** Preference shall be given to decentralized processing to minimize transportation cost and environmental impacts such as - microbial composting, aerobic honeycomb pit composting, vermi-composting, anaerobic digestion/ bio-methanation or any other appropriate processing for bio-stabilisation of biodegradable wastes [15(v) SWM Rules, 2016].

5. DEFINITIONS

- 1) **“angan/ premises/ place”** means the public place in front of, or adjacent on any side of any premises, extending to the road, kerb side including the footpath kerb, drain, nala, plot or premises;
- 2) **“aerobic composting”** means a controlled process involving microbial decomposition of organic matter in the presence of oxygen;
- 3) **“agency/ agent”** means any entity/ person appointed or authorized by a Urban Local Body to act on its behalf, for discharge of duties or functions i.e. sweeping of streets, collection of waste, collection of charges/ fines, and other such delegated responsibilities etc.;
- 4) **“anaerobic digestion”** means a controlled process involving microbial decomposition of organic matter in absence of oxygen;
- 5) **“authority”** means the approval granted by the Punjab State Pollution Control Board to the “operator of the concession”;
- 6) **“authorization”** means the permission given by the Punjab State Pollution Control Board or a Urban Local Body, as the case may be, to the operator of a facility or any other agency responsible for processing and disposal of solid waste;
- 7) **“biodegradable waste”** means any organic material that can be degraded by micro-organisms into simpler stable compounds;
- 8) **“bio-methanation”** means a process, which entails enzymatic decomposition of the organic matter by microbial action to produce methane rich biogas;

- 9) **“brand owner”** means a person or company who sells any commodity under a registered brand label;
- 10) **“buffer zone”** means zone of no development to be maintained around solid waste processing and disposal facility, exceeding 5 TPD (tons per day) of installed capacity (this will be maintained within total area allotted for the solid waste processing and disposal facility);
- 11) **“bulk waste generator”** means bulk waste generators includes buildings, occupied by the Central Government departments or undertakings, State Government departments or undertakings, Local Bodies, public sector undertakings or private companies, hospitals, nursing homes, schools, colleges, universities, other educational institutions, hostels, hotels, commercial establishments, markets, places of worship, stadia and sports complexes and any other waste generators as notified Bulk Waste Generators by the ULB.
- 12) **“bulk garden and horticulture waste”** means bulk waste from parks, gardens etc. including grass, clippings, weeds, woody ‘brown’ carbon rich materials such as pruning, branched, twinges, woof chipping, straw, dead leaves, tree trimmings, etc., which cannot be accommodated in the daily collection system for bio-degradable waste.
- 13) **“census town”** means an urban area as defined by the Registrar General and Census Commissioner of India;
- 14) **“centralised processing/ management”** means processing/ management of waste generated by the ULBs will be done preferably within municipality limits to avoid unnecessary transportation cost and environment damage.
- 15) **“combustible waste”** means non-biodegradable, non-recyclable, non-reusable, non-hazardous solid waste having minimum calorific value exceeding 1500 kilocalorie per kilogram (kcal/kg) and excluding chlorinated materials like plastic, wood pulp, etc;
- 16) **“composting”** means a controlled process involving microbial decomposition of organic matter;

- 17) **“contractor”** means a person or firm that undertakes a contract to provide materials or labour to perform a service or do a job for service providing authority;
- 18) **“co-processing”** means use of non-biodegradable and non-recyclable solid waste having calorific value exceeding 1500 kilocalorie per kilogram (kcal/kg) as raw material or as a source of energy or both to replace or supplement the natural mineral resources and fossil fuels in industrial processes;
- 19) **“decentralised processing”** means establishment of dispersed facilities for maximizing the processing of biodegradable waste and recovery of recyclables closest to the source of generation so as to minimize transportation of waste for processing or disposal;
- 20) **“disposal”** means the final and safe disposal of post-processed residual solid waste and inert street sweepings and silt from surface drains on land as specified in Schedule I of the Solid Waste Management Rules, 2016 to prevent contamination of ground water, surface water, ambient air and attraction of animals or birds;
- 21) **“domestic hazardous waste”** means discarded paint drums, pesticide cans, CFL bulbs, tube lights, expired medicines, broken mercury thermometers, used batteries, used needles/syringes and contaminated gauge, etc., generated at household level;
- 22) **“door-to-door collection”** means collection of solid waste from the door step of households, shops, commercial establishments , offices , institutional or any other non residential premises and includes collection of such waste from entry gate or a designated location on the ground floor in a housing society, multi storied building or apartments, large residential, commercial or institutional complex or premises;.
- 23) **“dry waste”** means waste other than biodegradable waste and inert street sweepings and includes recyclable and non-recyclable waste, combustible waste and sanitary napkin and diapers, etc;
- 24) **“extended producer responsibility (EPR)”** means responsibility of any producer of packaging products such as plastic, tin, glass and

corrugated boxes, etc., for environmentally sound management, till end-of-life of the packaging products;

- 25) **“facility”** means any establishment wherein the solid waste management processes - namely segregation, recovery, storage, collection, recycling, processing, treatment or safe disposal - are carried out;
- 26) **“fine”** means penalty imposed on waste generators or operators of waste processing and disposal facilities for non-compliance of the directions contained in the Solid Waste Management Rules, 2016 and these Byelaws;
- 27) **“handling”** includes all activities relating to sorting, segregation, material recovery, collection, secondary storage, shredding, baling, crushing, loading, unloading, transportation, processing and disposal of solid wastes;
- 28) **“inert”** means wastes which are not biodegradable, recyclable or combustible street sweeping or dust and silt removed from the surfaced rains;
- 29) **“informal waste collector ”** includes individuals, associations or waste traders who are involved in sorting, sale and purchase of recyclable materials;
- 30) **“Local Body”** means and includes the Municipal Corporations, Municipal Councils, Nagar Panchayats, census towns and notified industrial townships, with whatever name they are called;
- 31) **“municipal solid waste”** includes commercial and residential wastes generated in a Local Body, in either solid or semi-solid form, excluding industrial hazardous waste, untreated bio-medical hazardous waste;
- 32) **“non-biodegradable waste”** means any waste that cannot be degraded by micro organisms into simpler stable compounds;
- 33) **“nuisance”** includes any act, omission, place, animal or thing, which causes or is likely to cause injury, danger, annoyance or offense to the sense of sight, smell, hearing, breath, modesty and

dignity or disturbance to movement, work, rest or sleep, or which may be dangerous to life or injurious to health or property;

34) “nuisance detector” means those employees, who are appointed/ designated by a Local Body or State Government to detect acts of Public nuisance etc. under the Bye-laws;

35) “occupier” includes –

a) any person who for the time being is paying or is liable to pay to the owner the rent or any portion of the rent of the land or building in respect of which such rent is paid or is payable, in occupation of, or otherwise using, any land or building or part thereof, for any purpose whatsoever;

b) an owner in occupation of, or otherwise using his land or building;

c) a rent-free tenant of any land or building;

d) a licensee in occupation of any land or building;

e) any person, who is liable to pay to the owner damages for the use and occupation of any land or building;

f) the custodian of evacuee property in respect of evacuee property vested in him under the Administration of Evacuee Property Act; and

g) the General Manager of a Railway and the head of a Government Department/Undertaking, in respect of properties under their respective control;

36) “operator of a facility” means a person or entity, who owns or operates a facility for handling solid waste which includes the Local Body and any other entity or agency appointed by the Local Body;

37) “person” means any person or persons and shall include any shop or establishment or firm or company or association or body of individuals, whether incorporated or not, their agents, assignee etc.;

38) “premises” means any land or building or part of building/ land and includes –

a) garden, ground and out houses, if any, appertaining to a building or part of a building; and

- b) any fitting affixed to a building or part of a building for the more beneficial enjoyment thereof;
- 39) **“primary collection”** means collecting, lifting and removal of segregated solid waste from source of its generation, including households, shops, offices and any other non-residential premises or from any collection points or any other location specified by the Local Body;
- 40) **“processing”** means any scientific process, by which segregated solid waste is handled for the purpose of reuse, recycling or transformation into new products;
- 41) **“recycling”** means the process of transforming segregated non-biodegradable solid waste into new material or product or as raw material for producing new products, which may or may not be similar to the original products;
- 42) **“redevelopment”** means rebuilding of old residential or commercial buildings at the same site, where the existing buildings and other infrastructures have become dilapidated;
- 43) **“sanitary waste”** means wastes comprising of used diapers, sanitary towels or napkins, tampons, condoms, incontinence sheets and any other similar waste;
- 44) **“schedule”** means the Schedule appended to the Solid Waste Management Rules, 2016;
- 45) **“segregation”** means sorting and separate storage of various components of solid waste, namely biodegradable wastes including agriculture and dairy waste, non-biodegradable wastes including recyclable waste, non-recyclable combustible waste, sanitary waste and non recyclable inert waste, domestic hazardous wastes, and construction and demolition wastes;
- 46) **“service provider”** means an authority providing public utility services like water, sewerage, electricity, telephone, roads, drainage, etc;
- 47) **“solid waste”** means and includes solid or semi-solid domestic waste, sanitary waste, commercial waste, institutional waste,

catering and market waste and other non-residential wastes, street sweepings, silt removed or collected from the surface drains, horticulture waste, agriculture and dairy waste, treated bio-medical waste excluding industrial waste, bio-medical waste and e-waste, battery waste, radio-active waste generated in the area under the local authorities and other entities mentioned in rule 2 of the Solid Waste Management Rules, 2016;

- 48) “Solid waste management”** comprises of i) source segregation, ii) door to door collection and transportation in similar manner (segregated form), iii) scientific processing (bio-degradable) for production of compost and bio-gas, iv) resource recovery/ recycling (non-biodegradable - commercially recyclables), v) RDF production (non-biodegradable - commercially non-recyclables) and vi) safe disposal (inerts – chulah ash, fine earth etc.) following waste hierarchy [means the priority order in which the solid waste is to should be managed by giving emphasis to prevention, reduction, reuse, recycling, recovery and disposal, with prevention being the most preferred option and the disposal at the landfill being the least [3(57) SWM Rules, 2016].
- 49) “sorting”** means separating various components and categories of recyclables, such as paper, plastic, card- boards, metal, glass, etc., from mixed waste as may be appropriate to facilitate recycling;
- 50) “stabilizing”** means the biological decomposition of biodegradable wastes to a stable state where it generates no leachate or offensive odours and is fit for application to farm land, soil erosion control and soil remediation;
- 51) “street vendor”** means any person engaged in vending of articles, goods, wares, food items or merchandise of everyday use or offering services to the general public, in a street, lane, side walk, footpath, pavement, public park or any other public place or private area, from a temporary built up structure or by moving from place to place and includes hawker, peddler, squatter and all other synonymous terms, which may be local or region specific; and the

words “street vending” with their grammatical variations and cognate expressions, shall be construed accordingly;

- 52) **“transfer station”** means a facility created to receive solid waste from collection areas and transport in bulk in covered vehicles or containers to waste processing and, or, disposal facilities;
- 53) **“transportation”** means conveyance of solid waste, either treated, partly treated or untreated, from a location to another location in an environmentally sound manner through specially designed and covered transport system so as to prevent the foul odour, littering and unsightly conditions;
- 54) **“treatment”** means the method, technique or process designed to modify physical, chemical or biological characteristics or composition of any waste, so as to reduce its volume and potential to cause harm;
- 55) **“user fee”** means a fee imposed by the Local Body and any entity mentioned in rule 2 of the Solid Waste Management Rules, 2016 on the waste generators to cover full or part cost of providing solid waste collection, transportation, processing and disposal services;
- 56) **“vermi composting”** means the process of conversion of biodegradable waste into compost using earthworms;
- 57) **“waste generator”** means and includes every person or group of persons, every residential premises and non residential establishments including Indian Railways, defence establishments, which generate solid waste or who generate or cause to the generation of waste;
- 58) **“waste hierarchy”** means the priority order, in which the solid waste should be managed by giving emphasis to prevention, reduction, reuse, recycling, recovery and disposal, with prevention being the most preferred option and the disposal at the landfill being the least; and
- 59) **“waste picker”** means a person or groups of persons informally engaged in collection and recovery of reusable and recyclable solid waste from the source of waste generation, the streets, bins,

material recovery facilities, processing and waste disposal facilities for sale to recyclers directly or through intermediaries to earn their livelihood.

6. **WASTE GENERATORS**

Generator of wastes means who generate or cause to the generation of solid waste. For the purpose of these Bye-laws any person, owner, president, secretary, director, trustee, manager, occupier, chief authority or any person representing or for the time being incharge, control or management etc. representing the subject group specified below shall be considered as Waste Generators:-

| Sr. No | CATEGORIES OF WASTE GENERATORS |
|--------------------|--|
| RESIDENTIAL | |
| 1 | Individuals/ Individual households: means and includes all the persons who occupy a housing unit. A housing unit is a house, an apartment, a mobile home, a group of rooms, a single room that is occupied (or if vacant intended for occupancy) as separate living quarters. For the purpose of these bye-laws, owner or occupier of the house or the person representing them shall be considered as Generator. |
| 2 | Government and private colonies/ societies: means and includes a body of individuals living together as members of a community. For the purpose of these bye-laws, president, secretary of the society or person representing them shall be considered as Generator. In case of the non-existence of a registered co-operative society, the above mentioned Generators shall be requested to appoint a sanitation co-coordinator for the provision of these bye-laws by the Local Body. |
| 3 | Bungalows, multi storied buildings, apartments, row houses, townships, hostels, tenements etc.: means and include all the persons living in Bungalows, multi storied buildings, apartments, row houses, townships, hostels, tenements. For the purpose of these bye-laws, the owner, occupier, president, secretary or person representing them shall be considered as Generator. In case of the non existence of a registered co-operative society, the above mentioned Generators shall be requested to appoint a sanitation |

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| | co-coordinator for the provision of these bye-laws by the Local Body. |
| 4 | Slums: means and include all the notified and non-notified slums, Zuggies within the limit of a Local Body. For the purpose of these bye-laws, owner of individual residences or person representing them shall be considered as the Generator. In case of non-existence of any community based organization/ group representing the slum, the residents shall be requested to appoint a sanitation co-coordinator for the purpose of enforcement of provision of these bye-laws by the Local Body. |
| COMMERCIAL | |
| 5 | Hotels, restaurants and other eateries: means and include all the 5/4/3/2/1 star hotels, hotels excluding star category, restaurants, snack centers, bakeries, canteens, food courts and all other eateries which need a license to operate from the concerned department of the Local Body, excluding vendors and hawkers. For the purpose of these bye-laws, owner/ licensee will be considered as the Generator. |
| 6 | Shops, offices and other commercials establishments: means and include all the establishments which require shops and establishment registration from the concerned department in the Local Body. For the purpose of these bye-laws, the owner/ occupier/ manager or the person representing them shall be considered as the Generator. |
| 7 | Marriage/ banquette halls, trade fairs, party plots, community halls, clubs, etc.: include all the organizers of public gatherings and events organized in public places including processions, exhibitions, circuses, fairs, political rallies, commercial, religious, socio-cultural events, protests, demonstrations, etc. For the purpose of these bye-laws, the owner/ manager/ organizer of the above facility will be considered as the Generator. |
| 8 | Shops/ hawkers of vegetables, fruits and flower markets: include the establishments and hawkers/ road side vendors in Local Body and private markets. For the purpose of these bye-laws, owner or occupier of the facility or the person representing them shall be considered as the Generator. |
| 9 | Shops/ hawkers of fish/ meat markets/ slaughter houses and meat and egg stalls: include the establishments and hawkers/ road side vendors in Local |

| | |
|---------------------------|---|
| | Body and private fish, meat markets/ slaughter houses markets. It also includes mutton and chicken stalls and other meat product outlets. For the purpose of these bye-laws, owner or occupier of the facility or the person representing them shall be considered as the Generator. |
| 10 | Street vendors: means and include all the individuals who require a street vendor registration form the concerned office of the Local Body. For the purpose of these bye-laws, each vendor or owner or occupier of the facility or the person representing them shall be considered as the Generator. |
| CONSTRUCTION SITES | |
| 11 | <p>(a). Bulk Generators of construction and demolition waste: means and include the followings:</p> <ul style="list-style-type: none"> (i) Builders and developers from private sector/ government owned or controlled sector, requiring permission from Local Body for construction, including major civil works undertaken by different state and central government departments. (ii) Utilities or their contractors or government agencies undertaking construction and demolition waste generation activity that requires “No Objection Certificate” from the Local Body. (iii) De-silting and excavation contractors appointed by ULB to undertake cleaning of storm water drains and other desilting activities. <p>(b) Small Generators of construction and demolition waste: means and includes residential and commercial generators undertaking or implementing construction activities, that create small quantity of construction waste, less than two tones.</p> |
| OTHERS | |
| 12 | Educational Institutions: means and include entities that provide educational related services to individuals or instructional related services to individuals and shall include early childhood, primary, secondary, higher secondary and higher educational institutions including special schools and universities and coaching/ training centers/ institutions. For the purpose of these bye-laws, the chief functionary of the Institution/ managing trustee of the trust or the person representing the chief functionary shall be considered as the Generator. |

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| 13 | Hospitals and other healthcare institutions, including dispensaries and dealers in drugs and chemical preparations: means and includes hospital, nursing home, clinic dispensary, veterinary institution, animal house, pathological laboratory, blood bank, dealers of drugs and chemical preparations or any other institution which generates bio-medical waste. For the purpose of these bye-laws, the chief functionary of the institution or the person representing the chief functionary shall be considered as the Generator. |
| 14 | Public and private gardens: means and includes a plot of land owned by Government or Private individual used for the cultivation of flowers, herbs, vegetables or fruit and / or used for recreation and display. For the purpose of these bye-laws the owner, person incharge or the person representing them shall be considered as the Generator. |
| 15 | Heritage buildings: means and includes all the properties listed as protected monuments: by Archaeological Survey of India and or all the properties included in the inventory prepared by the Heritage Conservation Committee of the Municipality and/ or any other property notified by the Local Body as a heritage property. For the purpose of these bye-laws, the owner, person incharge, trustee, manager or the person representing them shall be considered as the Generator. |
| 16 | Religious places: means and include an establishment or location where a group of people come to perform acts of religious study, honor or devotion. For the purpose of these bye-laws, the owner, person in-charge, trustee, manager or the person representing them shall be considered as the Generator. |
| 17 | Industries: means and include all the establishments included in the Schedules I - IV of the Environmental Protection Act, 1986 and/ or has to be registered under the Indian Factories Act. |
| 18 | Household industries: means and includes an industry conducted by one or more members of the household within the precincts of the house or an industry conducted by the members of the house at a different location (excluding industrial estates) which are not registered under the Indian |

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| | Factories Act. |
| 19 | Dairy and cattle sheds: means and include all the households within the Local Body limit, whose major earning is from livestock farming and other works directly or indirectly related to livestock farming. For the purpose of these bye-laws, owner or occupier of the facility or the person representing them shall be considered as the Generator. |
| 20 | Workshops and garages: means and includes any commercial establishments where automobiles are repaired serviced or packed. For the purpose of these bye-laws, owner, occupier or chief functionary of the facility or the person representing them shall be considered as the Generator. |
| 21 | Every residential premises and non residential establishments including Indian Railways, defense establishments, para-military forces establishments, State police establishments etc. which generate solid waste; |
| 22 | Open defecation: Persons defecating in open, not using the sanitary household toilet/ community or public toilet. |
| 23 | Public gatherings: processions, exhibitions, circus, fairs, mela, political rallies, commercial, religious, socio-cultural events, protest and demonstration, etc. |

7. DUTIES OF WASTE GENERATORS

- 1) It will be mandatory for all Waste Generators to -
 - a) segregate the waste at source and store the waste generated by them in three separate streams namely bio-degradable, non bio-degradable and domestic hazardous wastes in suitable bins and they will have to ensure its disposal by paying the monthly user fee/ charges for door-to-door collection facility provided. For littering the waste, anti- littering carrying charges shall be levied. A repetition shall attract a case in the Court as per law.
 - b) handover segregated wastes to authorized waste pickers or waste collectors as per the direction or notification by the Local Body from time to time;
 - c) Wrap securely the used sanitary waste like diapers, sanitary pads etc., in the pouches provided by the manufacturers or brand

owners of these products or in a suitable wrapping material as instructed by the local authorities and shall place the same in the bin meant for dry waste or non-bio-degradable waste;

d) Store separately construction and demolition waste, as and when generated in his own premises and shall dispose off as per the Construction and Demolition Waste Management Rules; and

e) store horticulture waste and garden waste generated from his premises separately in his own premises and dispose of as per the directions of the Local Body from time to time.

- 2)** No Waste generators shall throw, burn or burry the solid waste generated by him, on streets, open public spaces or in the drain or water bodies.

Burning of all kind of wastes including garbage, plastics, leaves at road/ street sides, public or private place is prohibited and punishable under the relevant laws in vague.

Incineration of organic wastes and recyclable items is prohibited in any case.

- 3)** All waste generators shall pay such user/ service fee for door to door waste collection of segregated waste and its management, as specified in the bye-laws of the Local Bodies.

- 5)** Every street vendor shall keep suitable containers for storage of waste in segregated manner which is generated during the course of his activity and shall supply to the authorised waste collector or vehicle as notified by the Local Body.

- 6)** All resident welfare and market associations shall ensure 100% segregation of waste at source by the generators as prescribed in the Solid Waste Management Rules, 2016, facilitate collection of segregated waste in separate streams, handover recyclable material to either the authorised waste pickers or the authorised recyclers. The biodegradable waste shall be processed, treated and disposed off through on-site composting or bio-methanation preferably within the premises, as far as possible. The residual waste shall be given to the waste collectors or agency as directed

by the Local Body.

- 7)** All gated communities and institutions with more than 5,000 square meter area shall ensure 100% segregation of waste at source by the generators as prescribed in the Solid Waste Management Rules, 2016, facilitate collection of segregated waste in separate streams, handover recyclable material to either the authorised waste pickers or the authorized recyclers. The biodegradable waste shall be processed, treated and disposed off through on-site composting or bio-methanation preferably within the premises, as far as possible. The residual waste shall be given to the waste collectors or agency as directed by the Local Body.
- 8)** All hotels, restaurants big institutions generating biodegradable wastes like plant leaves/ waste food shall ensure 100% segregation of waste at source as prescribed in the Solid Waste Management Rules, 2016, facilitate collection of segregated waste in separate streams, handover recyclable material to either the authorised waste pickers or the authorised recyclers. The biodegradable waste shall be processed, treated and disposed off through on-site composting or bio-methanation preferably within the premises as far as possible. The residual waste shall be given to the waste collectors or agency as directed by the Local Body.
- 9)** On-site composting of biodegradable wastes shall be carried out, preferably to minimize transportation cost and reduce the environmental impacts.
- 10)** Bio-medical Waste, Construction & Demolition waste, e-waste and industrial hazardous waste shall not be mixed with municipal general waste and will be handled as per respective rules.
- 11)** Bulk garden and horticulture waste shall be kept unmixed and on-site composted preferably.
- 13)** No person shall deposit rubbish, solid waste, skin, carcasses or filth –
 - (a) in any street or on any unoccupied ground alongside any street or on any public or private place;
 - (b) in any dustbin or in any vehicle not intended for the removal of

the same; or

(c) in any vehicle or vessel intended for such removal save for the purpose of deodorizing or disinfecting the same.

- 14)** Permanent or temporary sanitary toilets shall be provided by the builder at construction sites, where a labour force is deployed for carrying out construction activities to prevent open defecation. Making of such prior provision should be one of the conditions while granting building permission and must be adhered to.
- 15)** Every person will use sanitary toilets, individual household toilets, community/ public toilets for defecation.
- 16)** Any person, who dump, deposit, discharge, spill or release waste, or cause or permit such wastes to be dumped, discharged, spilled or released, whether or not the waste is in a container or receptacle, in or at any place, whether publicly or privately owned, including but not limited to vacant land, rivers, waterways, catchments, sewers and storm water drains, except in a container or at a place which has been specially indicated, provided or set apart for such purpose is an offence and liable to be fined.
- 18)** No person shall organise an event or gathering of more than one hundred persons at any unlicensed place without intimating the Local Body, at least three working days in advance and such person or the organiser of such event shall ensure segregation of waste at source and handing over of segregated waste to waste collector or agency as specified by the Local Body. Usage of plastic and thermocol disposal items having one time use will be discouraged/ prohibited to reduce the waste generation at source. For public gathering and events, organized in public places for any reason (including for processions, exhibitions, circus, fairs, mela, political rallies, commercial, religious, socio-cultural events, protest and demonstration, etc.) where permission of police and or Local Body is required, it shall be the responsibility of the organizer or the event or gathering to ensure the cleanliness of that area as well as all appurtenant Local Body immediately after the event.

The organizer of the event shall pay required deposit with the concerned office for the duration of the event, which shall be refundable on the completion of the event on notifying that the said public place has been restored back to a clean state and any waste generated as a result of the event has been collected and transported to the designated sites to the satisfaction of official/ authority concerned. This deposit will be only for the cleanliness of the public place and does not cover any damage to property. This shall also apply to various other events which are being organized outside the Local Body parks i.e. on roads/ lanes etc. In case the organizer of the event wishes to avail of the services of the Local Body for the cleaning, collection and transport of waste as a result of that event, they shall apply in advance to the concerned office of Local Body and pay the necessary charges in advance as fixed for this purpose in bye-laws.

Amount of security with the Local Body for end to end responsibility to ensure cleanliness and hygiene of the site will be returned, otherwise security will be forfeited.

- 19)** Preference shall be given to decentralized processing of biodegradable waste and maximum recovery of recyclables on the basis of Ambikapur and Vellore decentralised model to minimize the transportation cost and environmental impacts.

8. DUTIES OF STATE TOWN PLANNING DEPARTMENT

The state town planning department will ensure that

- i) master plan of the cities in the State for setting up of solid waste processing and disposal facilities preferably in decentralised manner to save transportation cost and environmental impacts,
- ii) ensure identification and allocation of suitable land to the Local Bodies for the purpose and ,
- iii) ensure that a separate space for segregation, storage, decentralized processing of solid waste is demarcated in the development plan for group housing or commercial, institutional or any other non-residential

complex exceeding 200 dwelling or having a plot area exceeding 5,000 square meters; ULBs will also ensure the same.

- iv) Developers of Special Economic Zone, Industrial Estate, Industrial Park will ensure to earmark at least five percent of the total area of the plot or minimum five plots or sheds for recovery and recycling facility.

9. INTEGRATION OF INFORMATION SECTOR IN SOLID WASTE MANAGEMENT CHAIN

The rag pickers / waste pickers/ information sector involved in recovery of recyclable waste/ waste dealers will be identified, listed and integrated in the SWM chain.

10. ADEQUATE PROVISION OF FUNDS

ULBs will ensure that adequate provision of funds for capital investments as well as operation and maintenance of solid waste management services in the annual budget ensuring that funds for discretionary functions of the local body have been allocated only after meeting the requirement of necessary funds for solid waste management and other obligatory functions of the local body as per these rules;

11. MANAGEMENT OF EXISTING/ OLD DUMP SITES

ULBs will ensure that

- i) sincere efforts will be initiated immediately to stop the further increase in size of the existing waste disposal sites.
- ii) stop land filling or dumping of mixed waste;
- iii) allow only the non-usable, non-recyclable, non-biodegradable, non-combustible and non-reactive inert waste and pre-processing rejects and residues from waste processing facilities to go to sanitary landfill and the sanitary landfill sites shall meet the specifications as given in Schedule-I of SWM Rules, 2016, however, ***every effort shall be made to recycle or reuse the rejects to achieve the desired objective of zero waste going to landfill;***
- iv) investigate and analyse all old open dumpsites and existing operational dumpsites for their potential of bio-mining and bio-

remediation and wheresoever feasible, take necessary actions to bio-mine or bio-remediate the sites;

- v) in absence of the potential of bio-mining and bio-remediation of dumpsite, it shall be scientifically capped as per landfill capping norms to prevent further damage to the environment.

12. DUTY OF MANUFACTURERS OR BRAND OWNERS OF DISPOSABLE PRODUCTS AND SANITARY NAPKINS AND DIAPERS

- i) All manufacturers of disposable products such as tin, glass, plastics packaging, etc., or brand owners who introduce such products in the market shall provide necessary financial assistance to local authorities for establishment of waste management system.
- ii) All such brand owners who sell or market their products in such packaging material which are non- biodegradable shall put in place a system to collect back the packaging waste generated due to their production.
- iii) Manufacturers or brand owners or marketing companies of sanitary napkins and diapers shall explore the possibility of using all recyclable materials in their products or they shall provide a pouch or wrapper for disposal of each napkin or diapers along with the packet of their sanitary products.
- v) All such manufacturers, brand owners or marketing companies shall educate the masses for wrapping and disposal of their products.

13. DUTY OF INDUSTRIAL UNITS LOCATED WITHIN ONE HUNDRED KM FROM THE REFUSED DERIVED FUEL AND WASTE TO ENERGY PLANTS BASED ON SOLID WASTE

All industrial units using fuel and located within one hundred km from a solid waste based refused derived fuel plant shall make arrangements within six months from the date of notification of these rules to replace at least five percent of their fuel requirement by refused derived fuel so produced.

14. PROHIBITION OF LITTERING AND OTHER NUISANCES

- 1) **Littering in or on any public/ private place:** No person shall throw/ deposit litter in any occupied/ unoccupied/ open/ vacant public or private place except in authorized public or private litter receptacles.
- 2) **Littering from vehicles:** No person shall throw/ deposit litter upon any street, road, sidewalk, playground/ open/ vacant public or private place from any vehicle either moving or parked.
- 3) **Littering from waste carriage vehicles:** No person shall drive or move any truck or other vehicle filled with litter unless such vehicles are so designed to cover the litter and loaded as to prevent any litter from being blown off or deposited upon any road, sidewalks, traffic islands, playgrounds, garden or other public place.
- 4) **Burning of waste:** Burning of any kind of wastes at road/ street sides, at any public or private place is prohibited.
- 5) **Usage of plastic carry bags:** No person shall manufacture, store, recycle, sell, usage all kind of plastic carry bags made of virgin or recycled plastics and not litter in any occupied/ unoccupied/ open/ vacant public or private place. Cloth bags, jute bags, paper bags and cloth banners will be promoted to reduce the waste at source.
- 6) **Creating public nuisance:** No person shall defecate in open, urinate in open, feed animals or allow their dropping or any other object, dumping of construction and demolition waste on unauthorized public places/ roads/ streets/ parks etc. or keep any type of storage in any public place, except in such public facilities or conveniences especially provided for any of these purposes.
- 7) **Dumping of wastes in water bodies:** No person shall dump any kind of waste like Solid Waste, Construction & Demolition Wastes, Bio-Medical Wastes, E-Wastes, Plastic Wastes, Hazardous Wastes etc. in the water bodies i.e. rivers, canals, ponds etc.

15. POWER TO DECLARE SOLID WASTE FREE/ SANITATION ZONE

- 1) The Local Body has the power to declare in such manner as may be prescribed, any area or areas within the Local Body as sanitation zone

or waste free or open defecation free areas for the purpose of these bye-laws.

- 2) In such areas, the Local Body by notification can prohibit the dumping or depositing of any waste in such area or part thereof with effect from such date (being not less than one month from the date of publication of the notification) as may be specified in the notification.

16. TRANSPORTATION OF SOLID WASTE

- 1) Preferably waste to be processed closest to its generation (on-site composting) to save transportation cost, avoid unnecessary traffic congestions and reduce the environmental impacts. The solid waste would be collected from door to door in segregated form to make the city bin less or elimination of secondary waste collection points. The surrounding area of the processing facility and final disposal site should also be kept clean.
- 2) The vehicles used for transportation of municipal solid wastes are to be closed / covered, so that the waste should not be visible to the public and the waste is not scattered elsewhere on the roads during transportation.

17. DUTIES AND RESPONSIBILITIES OF LOCAL BODIES

- 1) To ensure compliance/ implementation of provisions of Solid Waste Management Rules, 2016 and these Bye-laws.
- 2) To prepare a city solid waste management master plan and annual action plan covering each ward and fix the duties of the officers/ officials concerned for the same.
- 3) To arrange for door-to-door collection of segregated solid waste from all households, including slums and informal settlements, commercial, institutional and other non residential premises. From multi-storage buildings, large commercial complexes, malls, housing complexes etc., this may be collected from the entry gate or any other designated location;
- 4) To establish a system to recognize organisations of waste pickers or informal waste collectors and promote and establish a system for integration of these authorised waste-pickers and waste collectors to facilitate their participation in solid waste management including

- door-to-door collection of waste;
- 5) To facilitate formation of Self Help Groups, provide identity cards and thereafter encourage integration in solid waste management including door to door collection of waste;
 - 6) To encourage the citizens, local sanitation welfare associations, NGOs/ CBOs and other stakeholders to segregate the waste at sources and to manage it properly.
 - 7) To identify and list the CBOs/NGOs to manage the biodegradable waste through on-site composting or biogas or both preferably in wards, cities and also facilitate them to fulfilment of requirement of land/ space or administration support.
 - 8) To authorize the interested organization(s)/ person(s) to collect biodegradable puja articles i.e. flower, leaves, fruits etc. at certain designated sites. The collection from such sites shall preferably be composted at suitable location.
 - 9) To coordinate with line departments/ agencies/ business groups/ NGOs/ SHGs to ensure the compliance with these bye-laws.
 - 10) To direct Waste Generators not to litter, i.e throw or dispose of any waste such as paper, water bottles, liquor bottles, soft drink cans, tetra packs, fruit peel, wrappers etc., or burn or burry waste on streets, open public spaces, drains, waste bodies and to segregate the waste at source as prescribed under Solid Waste Management Rules, 2016.
 - 11) To set up material recovery facilities at the site(s) closest to the generation of solid waste to save transportation cost and reduce environmental impacts and ensure maximum recovery of plant nutrients in form of compost and recyclable resource.
 - 12) To establish waste deposition centres for domestic hazardous waste and give direction for Waste Generators to deposit domestic hazardous wastes at this centre for its safe disposal. Such facility shall be established in a city or town in a manner that one centre is set up for the area of twenty square kilometres or part thereof and notify the timings of receiving domestic hazardous waste at such

centres.

- 13) To ensure safe storage and transportation of the domestic hazardous waste to the hazardous waste disposal facility.
- 14) To direct street sweepers not to burn any solid waste including tree leaves collected from street sweeping, parks or any site and store them separately and on-site composted preferably or hand over to the waste collectors or agency authorised by Local Body;
- 15) To provide capacity building training on solid waste management to safai sewaks, waste pickers/collectors and all other stakeholders;
- 16) To collect waste from vegetable, fruit, flower, meat, poultry and fish market on day-to-day basis and promote setting up of decentralized compost plant or bio-methanation plant at suitable locations in the markets or in the vicinity of markets ensuring hygienic conditions;
- 17) To collect separately waste from sweeping of streets, lanes and by-lanes daily, or on alternate days or twice a week depending on the density of population, commercial activity and local situation;
- 18) To transport segregated biodegradable waste to the processing facilities. Preference shall be given for onsite processing of such waste;
- 19) To involve communities in waste management and promotion of home composting, bio-gas generation and decentralized processing of waste at community level subject to control of odour and maintenance of hygienic conditions around the facility;
- 20) To phase out the use of chemical fertilizer in two years and use compost in all parks, gardens maintained by the Local Body and wherever possible in other places under its jurisdiction. Incentives may be provided to recycling initiatives by informal waste recycling sector.
- 21) To educate the workers including contract workers, supervisors and rag pickers for door-to-door collection of segregated waste and transporting the unmixed waste during primary and secondary transportation to processing or disposal facility
- 22) To review and release the monthly data/ report in local newspapers

about the quantity of waste generated and managed, dumped/ treated at dump site/ solid waste management units, penalties imposed on violators, names and contact numbers of officers concerned to educate all the stakeholders.

- 23) To fix the time schedule for door-to-door collection, cleaning of secondary collection points/ public dust bin(s), if any, and also route of vehicles deputed for waste collection/ transportation.
- 24) To prohibit the storage, sale and usage of all kind of plastic carry bags in their jurisdictions to ensure waste generation by reduction in non-biodegradable disposal items having on time use.
- 25) To collect the user/ service fee from all the Waste Generators on its own or through authorised agency;
- 26) To create public awareness through information, education and communication campaign and educate the Waste Generators on the following; namely:-
 - not to litter;
 - minimise generation of waste at source and discourage the usage of one time plastic & thermocol disposal items and flex banners; promotion of reusable utensils/ crockery and cloth/ jute/ paper bags.
 - reuse the waste to the extent possible;
 - practice segregation of waste into biodegradable, non-biodegradable (recyclable and combustible), sanitary waste and domestic hazardous wastes at source;
 - practice home composting, vermi-composting, bio-gas generation or community level composting;
 - wrap securely used sanitary waste, as and when generated, in the pouches provided by the brand owners or a suitable wrapping as prescribed by the Local Body and place the same in the bin meant for non-biodegradable waste;
 - storage of segregated waste at source in different bins;
 - handover segregated waste to waste pickers, waste collectors,

recyclers or authorised waste collection agencies; and

- pay monthly user fee or charges to waste collectors or Local Bodies or any other person authorised by the Local Body for sustainability of solid waste management.

- 27) To levy spot fine for persons who litters or fails to comply with the provisions of these Bye-laws and Solid Waste Management Rules, 2016 and delegate powers to officers to levy spot fines as per these bye-laws. Carrying charges/ fine to be levied in case of violation of the bye-laws shall be as mentioned in **Annexure-B**.
- 28) To establish a monitoring mechanism for evaluating the performance of the field staff/ agency deployed for door-to-door garbage collection, storage, transportation and its ultimate disposal in compliance strictly with these bye-laws and Solid Waste Management Rules, 2016.
- 29) To establish an effective complaint redressal mechanism to ensure timely disposals of complaints.
- 30) To designate officers to ensure compliance of these bye-laws and notify and publish their names, telephone & mobile numbers, website address, e-mail IDs, WhatsApp. numbers, on which complaints could be registered easily by any one.

18. DESIGNATED OFFICERS AND PERIODIC REPORT

The State Government and/or Local Body shall designate officers under their control, who shall be responsible for implementing the obligatory responsibilities specified under Solid Waste Management Rules, 2016 / these Bye-laws in accordance with the plans and time schedules for implementation. The specific plans and time and achievements against the same alongwith reasons for short falls, if any, shall also be shared publicly by the officials/ authority through Local Bodies. All information should be published on websites of the Local Bodies also.

19. NUISANCE DETECTORS

The State Government/Local Bodies shall provide and strengthen the system by designating the officers as Nuisance Detectors and providing them suitable

uniforms and vehicles. Names, mobile & office contact numbers, e-mail ID, WhatsApp numbers and web address of Nuisance Detectors will be published in local newspapers and electronic media and official website time to time.

20. USER FEE / SERVICE CHARGES

- 1) The Local Body shall levy user fee/ service charges for waste management services rendered in these bye-laws. All Waste Generators shall pay such fixed user fee/ service charges/ rates for door-to-door solid waste collection and its safe disposal. The rates for collecting garbage from houses/ establishments under these bye-laws shall be as mentioned in **Annexure-A**. Each family living in Independent houses with multiple stories (floors) will be levied as separate house.
- 2) For any act other than **Annexure-A**, user fee / service charges will be assessed by the Local Body concerned.
- 3) The user fee/ service charges will be increased by atleast 5% every year.
- 4) The user fee/ service charges shall be advertised widely in local print/ electronic media and in other ways by the Local Body concerned. User Fee/ charges, names, contacts (official landline phone, mobile numbers and e-mail IDs, etc.) will also be displayed on all the vehicles deputed for waste management.
- 5) The user fee/ service charges shall be collected only by the authorized institutions/ persons/ agencies, who will also maintain the record of charges collected and duly deposit the same to the Local Body.
- 6) If the waste material is not disposed of by any person/party on the designated sites, waste bins, litter bins, containers kept on the road/ markets/parks by concerned Local Body and is disposed elsewhere (where waste disposal is prohibited), in such circumstances, fine/ compounding charges can be levied on the concerned person/ party, in addition to fine.
- 7) Due care and precaution of personal safety gear must be followed during handling the waste in any way and regular health check up of sanitation staff working on regular or contract basis.

21. PENALTIES FOR CONTRAVENTION OF THESE BYE-LAWS

- 1) Whosoever contravenes any of the provisions of these bye-laws or fails to comply with the requirements made under any of these bye-laws shall be punished with a fine as mentioned in **Annexure-B**, failing which, the said defaulter shall be liable to do the community service, for at least one hour, like road sweeping or graffiti cleaning etc., as directed/ ordered by the Nuisance Detector or Implementing Authority or any person authorized to do so.
- 2) For any violation other than **Annexure-B**, penalty amount will be assessed by the Local Body concerned.
- 3) The Local Body may serve a notice on the occupier of any premises, requiring such occupier to clear any waste on such premises in a manner and within the time specified in such notice.
- 4) If a person, on whom a notice has been served, fails to comply with the requirements imposed by the notice, such person shall be guilty of an offence and liable on conviction to the penalties prescribed from time to time by law.
- 5) If a person, on whom a notice is served, fails to comply with any requirements imposed by such notice, the Local Body may–
 - a) enter on the premises and clear the wastes; and
 - b) recover from the occupier the expenditure incurred in having done so.
- 6) Where on any occasion, an officer of the Local Body found any person who such officer has reason to believe on that occasion committed an offence under any of the Bye-laws, he may serve a notice on that person offering such person the opportunity of discharging any liability to conviction for that offence by payment of a fixed penalty.

A notice under this Bye-law shall give such particulars of the circumstances alleged to constitute the offence as are necessary for giving reasonable information of the offence and shall specify–

 - a) The period
 - b) The amount of the fixed penalty and
 - c) To whom, and the address at which, the fixed penalty may be paid
- 7) The fixed penalty shall be payable to the Local Body in pursuance of a notice under this section as prescribed from time to time.

8) Any person, who contravenes or fails to comply with any provision of these bye-laws, shall be guilty of an offence and shall be liable on conviction to a fine or to imprisonment, or to both such fine and imprisonment or to such other penalty as may be determined by a Court of competent jurisdiction.

For any breaching of these bye-laws, cases would be filed as per the Environment Protection Act of 1986.

22. REPEAL AND SAVING OF ORDERS

1) Any action taken according to the previous rules/ bye-laws will not be considered as void, after the coming into force of these bye-laws; and

2) These bye-laws will not affect anything or any action taken, or any acquired or incorporated rights, privilege, obligation or responsibility, approved sanction, ongoing or completed investigation or pending action.

23. MISCELLANEOUS PROVISIONS

1) Bio-medical waste and industrial waste shall not be mixed with urban solid waste and the collection of such waste shall be made as per the rules/ bye-laws specified separately for the purpose. Common bio-medical waste treatment facility services shall be availed for disposal of bio medical waste as per rules/ byelaws. Disposal of such hazardous waste will have to be ensured at the Common bio-medical waste treatment facility plant at the prescribed charges.

2) Stray animals shall not be allowed to roam freely around waste dumps or at other places in the city and arrangement will have to be made for restraining them at authorized area/ place only.

3) No one will collect or throw waste water, muddy water, night soil, dung, excreta etc. from his/ her building, institution or commercial establishment to pollute the atmosphere and ground with its stench and harm public health or obstruct traffic, failing which carrying charges shall be levied on the spot for spreading such waste and case can be filed against them in a court of law.

4) If a person is found spreading pollution or filth in public parks etc. by throwing dead animal/ cattle or its parts, it will be a punishable offense and carrying charges shall also be levied.

24. PUBLICITY

The Local Bodies/ Authorities shall publicize the provisions of the rules/bye-laws through the media of local newspapers, signs, advertisements, leaflets, announcements on radio and television and through other appropriate means, so that all citizens are made aware about the statutory duties of citizens and municipalities/Local Bodies for services, recycling, anti-litter and anti-nuisance penalties and fine.

25. AMENDMENTS

- 1) The State Government may make necessary amendments in these bye-laws from time to time to ensure compliance with the Solid Waste Management Rules, 2016 and the orders of Hon'ble Courts/ National Green Tribunal.
- 2) If there is any dispute between these bye-laws and the Solid Waste Management Rules, 2016, the Solid Waste Management Rules, 2016 shall be applicable and will be put into practice.

Dated, Chandigarh
The 10th August, 2020

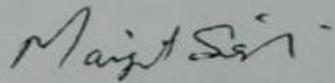
Sanjay Kumar, IAS
Addl. Chief Secretary, Government of Punjab
Department of Local Government

Endst. No.5/105/2020-2lg4/1391(B)

Dated, Chandigarh 11th August, 2020

A copy each is forwarded to the following for information and necessary action:-

1. Private Secretary to the Local Government Minister, Punjab.
2. All Deputy Commissioners of Punjab
3. Member Secretary, Punjab Pollution Control Board, Patiala
4. Director, Local Government, Punjab.
5. Chief executive Officer, PMIDC, Chandigarh.
6. Chief executive Officer, PWSSB, Chandigarh.
7. All Superintendents of Police, Punjab
8. All Mayors/ Presidents of ULBs of Punjab
9. All Commissioners of Municipal Corporations in Punjab
10. All Regional Deputy Director, Local Government Punjab
11. District Information Officer of concerned district in Punjab.



Under Secretary
MS

Annexure-A [referred at Byelaws 20]

| Sr. No. | Category of User/ Customer | Monthly user fee in Rs. |
|---|--|-------------------------|
| Part-I: Monthly user fee/ charges for door-to-door solid waste collection and management for single lifting in a day (in Rupees) | | |
| RESIDENTIAL | | |
| 1 | Household over 50 - 200 sqm area | 50-200 ¹ |
| 2 | Household over 201-500 sqm area | |
| 3 | Household over 500 sqm area | |
| 4 | Street Vendor | 100 |
| HOTEL/ REST HOUSE/ RESTAURANT | | |
| 5 | Guest house | 2000 |
| 6 | Restaurant with sitting of upto 50 persons | 2000 |
| 7 | Restaurant with sitting of more than 50 persons | 3000 |
| 8 | Hotel (Unstarred) | 2000 |
| 9 | Hotel (Up to 3 star) | 3000 |
| 10 | Hotel (Over 3 star) | 5000 |
| 11 | Shops, eating places i.e. dhabas, sweet shops, coffee houses, canteen etc. | 500 |
| MARRIAGE/ EXHIBITION/ FESTIVAL/ FAIR HALL/ TRADE FAIR/ PARTY PLOT/ COMMUNITY HALL, CLUBS ETC | | |
| 12 | Marriage Places / Banquet/ festival Halls/ Exhibition and Fair area up to 3000 sq. meter | 3000 |
| 13 | Marriage Places / Banquet/ festival Halls/ Exhibition and Fair area over 3000 sq. meter | 5000 |
| COMMERCIAL ESTABLISHMENTS | | |
| 14 | Government offices | 300 |
| 15 | Shopping Mall/Complex: Shops (per shop) | 300 |
| 16 | Commercial Offices, Banks, Insurance offices etc. | 500 |
| 17 | Petrol Pump and Gas station | 1000 |

| Sr. No. | Category of User/ Customer | Monthly user fee in Rs. |
|---|---|-------------------------|
| FACTORY / PRODUCTION & TRADING HOUSES | | |
| 17 | Small and cottage industry/ workshop (only non hazardous), waste 10 Kg. per day | 1000 |
| 18 | Godowns, cold storages (only non hazardous waste) | 5000 |
| EDUCATIONAL INSTITUTIONS² | | |
| 19 | Play group / Creche & Primary School | 300 |
| 20 | Middle and High School | 500 |
| 21 | Senior Secondary School | 1000 |
| 22 | College/ ITI, Polytechnic etc. | 3000 |
| 23 | University | 25000 |
| 24 | Other educational institutes i.e. Coaching classes/ Centers | 1000 |
| 25 | Hostel – (per room) (subject to minimum of Rs. 1000) | 50 |
| HEALTH FACILITIES | | |
| 26 | Clinic, dispensary upto 50 Beds (only non-biomedical /non- hazardous waste) | 2000 |
| 27 | Clinic, dispensary more than 50 Beds (only non-biomedical/ non hazardous waste) | 4000 |
| 28 | Laboratory (only non-biomedical/ non hazardous waste) | 2000 |
| 29 | Collection & Disposal of construction and demolition waste (minimum user charges per ton) | 500 |
| Part-II : Amount of security/ user fee per event for a day i.e. 24 hours deposited by organizer ³ | | |
| PUBLIC GATHERING/ PROCESSION ETC. AT PUBLIC PLACES | | |
| 30 | Persons upto 1000 | 5000 |
| 31 | 1001- 5000 | 10000 |
| 32 | 5001 - 10000 | 20000 |

1317

| Sr. No. | Category of User/ Customer | Monthly user fee in Rs. |
|----------------|-----------------------------------|--------------------------------|
| 33 | Above 10000 | 40000 |

Note: Annual increment in above all user/ service charges will be atleast 5%.

¹In case the door to door collection is being done by the informal sector, 25% user charges or Rs.25/- which is higher will be collected by the ULB for O&M of the waste processing units.

²Institutions which are managing their waste on-site or any other eco-friendly means as per SWM Rules, 2016, they no need to pay user/ service charges.

³Amount of security with the Local Body for end to end responsibility to ensure complete cleanliness within SLA (12 hr or less) of the site will be returned if the organizer ensures the full compliance of these bylaws, otherwise security will be forfeited.

| Part-I: Carrying charges/spot fine per incidence/ every default | | |
|--|--|---------------|
| Sr. No. | Act of violation | Rupees |
| 1 | Failure to segregate and store waste and handover segregated waste in accordance with the Rule: Residential | 250 |
| 2 | Failure to segregate and store waste and handover segregated waste in accordance with the Rule: Marriage/ Party Halls, Festival Halls, Party Lawns, Exhibition and fairs | 5000 |
| 3 | Failure to segregate and store waste and handover segregated waste in accordance with the Rule: Clubs, Cinema Halls, Community Halls, Multiplexes and other such places | 5000 |
| 4 | Failure to segregate and store waste and handover segregated waste in accordance with the Rule: other non-residential entities | 1000 |
| 5 | Person littering waste on public places like road/ streets/ parks etc. | 1000 |
| 6 | Waste dumping/ throwing/ littering in open areas by household owner/ occupier OR Person dumping/ throwing/ littering on his private open plots or allowing the other to do so | 1000 |
| 7 | Waste dumping/ throwing/ littering in open areas/ public places by shop owner | 1000 |
| 8 | Waste dumping/ throwing/ littering in open areas/ public places by hotel/ restaurant owner | 2000 |
| 9 | Waste dumping/ throwing/ littering in open areas/ public places by industrial establishment (non hazardous) | 5000 |
| 10 | Waste dumping/ throwing/ littering in open areas/ public places by educational establishments | 2000 |
| 11 | Waste dumping/ throwing/ littering in open areas/ public places by health establishments (non hazardous) | 5000 |
| 12 | Waste dumping/ throwing/ littering in open areas/ public places by anyone establishment/ organization not covered in above. | 1000 |
| 13 | Waste dumping/ throwing/ littering in open areas/ public places by sweet shops | 2000 |
| 14 | Waste dumping/ throwing/ littering in open areas/ public places by chat seller, fast food seller, ice-cream seller, sugarcane juice seller, vegetable seller, fruit seller etc. | 1000 |
| 15 | Owner/head of the establishment from occupation mentioned at serial numbers 3 to 10 above, establishment if did not keep the separate disposal Bins for compostable and non-biodegradable wastes at his business place and spreading garbage in the public | 500 |

| | | |
|--|--|-------|
| | place | |
| 16 | Spit, throw waste in public/ private roads from vehicles | 250 |
| 17 | Disposal of cow dung in public places | 5000 |
| 18 | For small storing & delivering construction and demolition materials upto 1 ton on unauthorized sites including public land/ along the roads/ streets etc. | 2000 |
| 19 | Dumping of solid waste in water bodies/ sewerage | 5000 |
| 20 | If the shopkeeper throws blood, bones, feather, skin, egg shells and the other remains of dead animals/ birds, in front of butcher's shop. | 2000 |
| 21 | If domestic animals - like cow, buffalo, dog, pig etc. - create wastes on public places like streets, parks etc. | 1000 |
| 22 | Vegetable vendor/ hawker without a container/ waste basket | 750 |
| 23 | Throwing waste materials on the roads by the vegetable vendors | 1500 |
| 24 | Throwing waste materials on the roads by the hair cutting saloons | 1000 |
| 25 | Littering road, public places, pathways, footpath etc. by hospitals, nursing homes, clinics, medical stores, laboratories etc. (non hazardous) | 2000 |
| 26 | Open defecation/ urination in each case | 500 |
| Part-II: The person found manufacturing, storing, selling and usage of prohibited plastic carry bags will be liable to pay penalty per incidence on the basis of quantity found/impounded as per Punjab State Plastic Carry Bags (Manufacture, Usage and Disposal) Control (amendment) Act 2016 as under: | | |
| 27 | Quantity found/impounded upto 100 gram | 2000 |
| 28 | Quantity found/impounded 101 - 500 gram | 3000 |
| 29 | Quantity found/impounded 501 gram - 1 kilogram. | 5000 |
| 30 | Quantity found/impounded more than 1 Kg upto 5 kilogram. | 10000 |
| 31 | Quantity found/impounded more than 5 kilogram | 20000 |
| Part-III: The person/ body/ project proponent/ concessionaire/ ULB who is found actually burning such material and or responsible for abetting such burning would be liable to pay environmental compensation per incidence as per NGT orders dated 22.12.2019 in OA No.199/2014 titled as Almitra H Patel Vs UoI & Ors as under: | | |
| 32 | To pay compensation in case of simple burning | 5000 |
| 33 | To pay compensation in case of bulk waste burning on dump sites or in secondary waste collection points or other | 25000 |

1320 PUNJAB POLLUTION CONTROL BOARD

Application form for obtaining 'Consent to establish' (NOC)/'Consent to Operate' u/s 25/26 of the Water (Prevention & Control of Pollution) Act, 1974 and u/s 21 of the Air(Prevention & Control of Pollution) Act, 1981/Authorization under Rule 6 (1) of the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016.

**Industry ID :- R23BTI796963
Application ID :- 29074100**

From:

Municipal Corporation, Bathinda - Municipal Solid Waste Processing Plant
Mansa Road, Bathinda
BATHINDA
BATHINDA

To

The Member Secretary,
Punjab Pollution Control Board,
Patiala.

I/We hereby, apply for obtaining,

- (i) **'Consent to establish' (NOC) under the provisions of the Water(Prevention & Control of Pollution) Act, 1974 and Air (Prevention & Control of Pollution) Act, 1981.**
- ✓ (ii) **'Consent to operate' u/s 25/26 of the Water(Prevention & Control of Pollution) Act, 1974.**
- (iii) **'Consent to operate' u/s 21 of the Air(Prevention & Control of Pollution)Act,1981.**
- (iv) **Authorization under Rule 6 (1) of the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016.**

1. The detailed information pertaining to my/our industry/project is given in the Annexure-I to this form attached herewith.

2. I/We undertake to furnish any further information sought by the Board from time to time in connection with this application.

3. I/We undertake to obtain revised/varied/fresh consent as the case may be, in case there is any change in the process/product/effluents/hazardous waste etc. before the aforesaid change is affected.

4. I/We that the information furnished herewith is correct to best of my/our knowledge and nothing has been concealed therein. The Board would be at liberty to take penal action against the industry/project and the person(s) responsible to comply with the provisions of the pollution control statues in case information/document is detected as incorrect/false/misleading at any point of time.

5. I/We hereby agree to apply for obtaining renewal of 'consent to operate' under the water (Prevention & Control of Pollution) Act, 1974 and authorization under the Hazardous Wastes (management, Handling and Trans-boundary Movement) Rules, 2008 three months before the expiry of the previous consent(s)/authorization granted to the industry/project.

Date: 02/07/2025

Signature of Applicant:

Name: Er. Sandeep Gupta

Designation: Authorized Signatory

**Address: Bathinda
Bathinda
Bathinda
Punjab**

Enclosures:

1. Analysis Report of effluent/emission from Board /Approved Lab
2. CA s certificate regarding un-depreciated value of the fixed assets of the industry at the end of last financial year
3. Compliance report of previous consent conditions in annotated form
4. Other Documents Attachment
5. Photo Attachment
6. Electricity Bills Attachment
7. Bank Acc Details Attachment
8. Gst No Attachment
9. Pan Card Attachment

**** This is Computer Generated filled Application Form ****

PART-A: GENERAL INFORMATION:

1. **Name & Address of the Industry** : Municipal Corporation, Bathinda -
Municipal Solid Waste Processing
Plant
Mansa Road, Bathinda
BATHINDA,BATHINDA
2. **Name & Designation of the Applicant** : Er. Sandeep Gupta/Authorized
Signatory
3. **(i) Name(s) and Designation of the Occupier** : Sandeep Gupta/Authorized
Signatory
- (ii) Name(s) and Designation of the Director(s)/ Partner(s)/ Proprietor** : Er. Sandeep Gupta
Superintending Engineer,
Municipal Corporation, Bathinda
Near Fire Station, Mall Road,
Bathinda
9870014145
guptasandeep6919@yahoo.in
- (iii) Name(s) of person(s) authorized to sign the application form. (Please attach self attested copy of resolution/certificate)** : Sandeep Gupta
- (iv) Ownership of Industry** : State Government Under Taking
4. **Communication Details(Telephone No./Fax No./e-mail etc.)** : -
-
guptasandeep6919@yahoo.in
5. **Address of Correspondence** : Near Fire Station, Mall Road,
Bathinda , Bathinda, Bathinda,
151001
6. **Total investment of the industry/project**
- (i) Total cost of the industry/project(in Lacs)** : 1000.0
- (ii) Cost of Plant & Machinery(in Lacs)** : 1000.0
7. **(i) Scale of the Industry(Large/Medium/Small)** : Large
- (ii) Category/Type of the Industry** : RED / 1999-Miscellaneous (Red)
8. **Name and address of the City/Town/Village/Plot/Khasra/P atwari Halka No. with PIN code where the project site is located** : Mansa Road, Bathinda

Bathinda
Pin - 151001
9. **(i) Total Land area of the industry/project (in square meters)** :
- (ii) Built up area of the project(to be mentioned in case of construction/area development projects only) (in square meters)** :

10. Whether the site of the industry/project is located within or outside the municipal limits (please attach a certificate from the M.C. in this regard) : Within M.C. limit
11. Whether the site of the industry/project is situated in any Focal Points/Industrial Estate developed by the Govt. or any other authorized by the Govt. (please attach a copy of allotment letter of plot/land) : No
12. (i) Whether the site of the industry/project is located within the notified/draft Master Plan/LPA (Local planning Area) of any town/city and if yes, the classification of the area in which the site is located. (Please attach the certificate from the Deptt. of the Town & Country Planning, Punjab in this regard.) : No
- (ii) In case the industry/project is not satisfied in the approved industrial area within the notified/draft Master Plan/LPA, whether it has obtained the change of land Use (CLU) from the competent authority of the State or not and if yes, please attach a copy of the same : No
- (iii) In case the industry/project is not covered under (i) and (ii) above ; please attach a certificate from the deptt. of Town & Country Planning, Punjab regarding the classification of the area in which the site is located and whether CLU is required or not :
13. Whether the industry/project is located in Critically Polluted Area or not and if yes, please indicate the code assigned to the industry by the CPCB/MoEF : NO
14. Month and Year in which the industry was commissioned/is likely to be commissioned : Jun/2015
15. Undepreciated value of the fixed assets of the industry (Please indicate the date as on which the value of fixed assets has been considered) (Applicable in the cases of 'consent to operate' only) : Rs. 1000.0 (in Lakhs)
Date:- 26-02-2024
16. Details of consent fee deposited:

| Sr. No. | Fee For | Amount (In Rupees) |
|---------|-----------|--------------------|
| 1 | CTO Water | 21600.0 |

17. Total No. of average working days in a year and total no. of working shifts per day : days / shifts
18. (a) Total No. of Workers including officials working in industry :
- (b) No. of Workers and officials residing in the industrial permises: :
- (c) Total population to be served, (i) during construction phase :
(ii) during operation phase :

(To be mentioned in case of construction/area development projects only)

19. Whether the industry/project:

(i) is covered under the Environment Impact Assessment (EIA) Notification dated 14.9.2006 as amended from time to time or not and if yes, the status of obtaining environment clearance from MoEF/State Level Environment Impact Assessment Authority : /

(ii) is covered under the 1st Schedule of Factories Act, 1948 or not if yes, the status of obtaining site clearance from SCA-cum-SAC : /

(iii) is covered under Press Note-17 (1984 series) or not and if yes, the status of obtaining the environmental from SCA-cum-SAC : /

20. Whether the industry has the complete machinery for which it had obtained 'consent to establish'(NOC) from the Board or not and if not, the details thereof. (To be filled up in case of 'consent to operate' cases only) : /

21. Inspection Audit Type :

Last Consent Details:

| Sr. No. | Application Type | Application For | Consent No | Consent For | Date of Issue | Valid Upto |
|---------|------------------|-----------------|------------|-------------|---------------|------------|
|---------|------------------|-----------------|------------|-------------|---------------|------------|

PART-B: TECHNICAL INFORMATION(GENERAL):**1. Raw Material & Chemicals Details:**

| Sr. No. | Name of the Raw-material/Chemicals used/to be used | Quantity of the Raw-material/Chemicals used/being used | Unit |
|---------------|--|--|------|
| -----NIL----- | | | |

2. Production Detail:

| Sr. No. | Name of the Product produced/to be produced | Quantity of Products produced/to be produced. | | | |
|---------------|---|---|-------------------------------|------------------------|---|
| | | Licensed production capacity | Installed Production Capacity | Avg. Actual Production | Average Actual production for which the consent is sought |
| -----NIL----- | | | | | |

| Sr. No. | Name of the By-Products produced/to be produced | Quantity of By-Products produced/to be produced. | | | |
|---------------|---|--|-------------------------------|------------------------|---|
| | | Licensed production capacity | Installed Production Capacity | Avg. Actual Production | Average Actual production for which the consent is sought |
| -----NIL----- | | | | | |

3.Details of Power Load/power consumption:

- (i) Total power load available with the : 0 industry(in KW)
- (ii) Power Load required by the industry(in : 0 KW)
- (iii) Estimated power consumption for : 0 intended production per day(in Units consumed per day)

4. Manufacturing Proceses involved : / No

(please attach separate sheet, in case the space provided herein with is insufficient)

5. Solid Waste Generation Details:

| Sr. No. | Source of Generation of Solid Waste | Nature/Type of solid waste | Quantity of Solid Waste generated/to be generated per day | Mode of Disposal |
|---------------|-------------------------------------|----------------------------|---|------------------|
| -----NIL----- | | | | |

PART-C: TECHNICAL INFORMATION REQUIRED FOR CONSENT UNDER WATER ACT, 1974 :

1. Source of Water Supply :

(Own Tubewell/Municipal Supply/Surface Water)

| Sr. No. | Source Type | Source Name | Quantity (KLD) |
|---------------|-------------|-------------|----------------|
| -----NIL----- | | | |

2. Details of flow measuring devices provided by the industry/project

- (i) for measurement of water consumed :
- (ii) for measurement of,
 - (a) Waste water generated :
 - (b) Waste water recycled :
 - (c) Waste water discharged :

3. Water Consumption Details:

| Sr. No. | Water Consumed For | Quantity(KLD) |
|---------------|--------------------|---------------|
| -----NIL----- | | |

4. Wastewater Generation Details:

| Sr. No. | Wastewater Generated | Quantity(KLD) |
|---------------|----------------------|---------------|
| -----NIL----- | | |

5. Wastewater Treatment Details:

| Sr. No. | Use | Effluent Generation(KLD) | Treatment Arrangement Status | Treatment Details |
|---------------|-----|--------------------------|------------------------------|-------------------|
| -----NIL----- | | | | |

6. Characteristics of Wastewater:

| Sr. No. | Type of Effluent | Parameters | Conc. of Pollutant | | Unit |
|---------------|------------------|------------|--------------------|---------|------|
| | | | Untreated | Treated | |
| -----NIL----- | | | | | |

7. Treated Wastewater Disposal Details:

| Sr. No. | Wastewater Disposal System | Quantity | Mode of Disposal (please indicate the land area in acres in case of disposal onto land for plantation/irrigation) |
|---------------|---|----------|---|
| (i) | Wastewater being / to be recycled with or without treatment | 0 | |
| (ii) | Wastewater being/ to be discharged after treatment | | |
| -----NIL----- | | | |

8. Power consumption details of wastewater treatment facilities :

(i) Total power load connected to Wastewater treatment facilities (in KW) : 0

(ii) Average daily power consumption on wastewater treatment facilities (i.e. no. of units consumed/day) : 0

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Date: 02/07/2025

Signature of Applicant:

Name: Er. Sandeep Gupta

Designation: Authorized Signatory

Address: Bathinda

**** This is Computer Generated filled Application Form ****

**** This is Computer Generated filled Application Form ****

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Additional Details

| | |
|--|--|
| Photo(Occupier/ Owner) |  Sandeep Gupta |
| Aadhar Card(Occupier/Owner) | ***** |
| Industry Pan Card | AAALM0319C |
| Industry GST No.(Occupier/Owner) | G.S.T Applicable, 03AAALM0319C1ZV |
| Bank Account Details(Industry/Owner)(Name and Passbook) | ACCOUNT |
| Occupier Details(S/O, D/O)(Occupier/Owner) | Sandeep Gupta |
| Electricity Bills(Include the Electricity Bills no.,PSPCL Consumer ID, Sub-division name With latest bill attachment.)(Occupier/Owner) | BILL |
| Permanent Address(Occupier/ Owner) | Bathinda |
| Other Documents(Passport/ Driving Licence/)(Occupier/Owner) | Aadhar |

Log Book -4: Legacy Waste Remediation

ULB Name: - MC Bathinda

ULB Code: - 800226

District: - Bathinda (Punjab)

Officer Name: - Sh. Neeraj Garg

Designation: - Xen

Phone No: - 0164-2252812

| Date | Legacy Waste & Remediated | | | | Materials generated from Remediation (During current month) | | | | Signatures / Remarks | | | |
|--------|-------------------------------------|-----------------------------------|--------------------------|----------------------------|---|-----------------------------------|--------------------------------|----------------------------------|----------------------|-----|-----|-----|
| | Total Quantity from Beginning (Cum) | Total Remediated till date. (Cum) | Balance as on date (Cum) | Date wise Remediated (Cum) | Bio-soil disposed off (Cum) | Dry waste/ RDF disposed off (Cum) | Inert waste disposed off (Cum) | C&D materials disposed off (Cum) | | | | |
| Feb-23 | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | | | |
| 1 | 353600 | 0 | 353600 | nil | nil | nil | nil | nil | Due to Rainy Season | | | |
| 2 | | | | nil | nil | nil | nil | nil | | | | |
| 3 | | | | nil | nil | nil | nil | nil | | | | |
| 4 | | | | nil | nil | nil | nil | nil | | | | |
| 5 | | | | nil | nil | nil | nil | nil | | | | |
| 6 | | | | nil | nil | nil | nil | nil | | | | |
| 7 | | | | nil | nil | nil | nil | nil | | | | |
| 8 | | | | nil | nil | nil | nil | nil | | | | |
| 9 | | | | nil | nil | nil | nil | nil | | | | |
| 10 | | | | nil | nil | nil | nil | nil | | | | |
| 11 | | | | nil | nil | nil | nil | nil | | | | |
| 12 | | | | nil | nil | nil | nil | nil | | | | |
| 13 | | | | nil | nil | nil | nil | nil | | | | |
| 14 | | | | nil | nil | nil | nil | nil | | | | |
| 15 | | | | 500 | | | 500 | 367 | | 75 | 43 | 15 |
| 16 | | | | 550 | | | 550 | 404 | | 83 | 47 | 16 |
| 17 | | | | 400 | | | 400 | 294 | | 60 | 34 | 12 |
| 18 | | | | 600 | | | 600 | 441 | | 90 | 52 | 17 |
| 19 | | | | 800 | | | 800 | 588 | | 120 | 69 | 23 |
| 20 | | | | 750 | | | 750 | 551 | | 113 | 65 | 22 |
| 21 | | | | nil | | | nil | nil | | nil | nil | nil |
| 22 | | | | 800 | | | 800 | 588 | | 120 | 69 | 23 |
| 23 | | | | 500 | | | 500 | 367 | | 75 | 43 | 15 |
| 24 | | | | 450 | | | 450 | 331 | | 68 | 39 | 13 |
| 25 | | | | 650 | | | 650 | 478 | | 98 | 56 | 19 |
| 26 | | | | 750 | | | 750 | 551 | | 113 | 65 | 22 |
| 27 | | | | 450 | | | 450 | 331 | | 68 | 39 | 13 |
| 28 | | | | 400 | | | 400 | 294 | | 60 | 34 | 12 |
| Mar-23 | | | | | 0 | | | | | | | |
| 1 | | | | 400 | 294 | 60 | 34 | 12 | | | | |
| 2 | | | | 350 | 257 | 53 | 30 | 10 | | | | |
| 3 | | | | 500 | 367 | 75 | 43 | 15 | | | | |
| 4 | | | | 480 | 353 | 72 | 41 | 14 | | | | |
| 5 | | | | 450 | 331 | 68 | 39 | 13 | | | | |
| 6 | | | | 320 | 235 | 48 | 28 | 9 | | | | |
| 7 | | | | 560 | 412 | 84 | 48 | 16 | | | | |
| 8 | | | | nil | nil | nil | nil | nil | | | | |

1331

| | | | | | | | | |
|----|--------|------|--------|-----|-----|-----|-----|-----|
| 9 | 353600 | 7600 | 346000 | 400 | 294 | 60 | 34 | 12 |
| 10 | | | | 490 | 360 | 74 | 42 | 14 |
| 11 | | | | 380 | 279 | 57 | 33 | 11 |
| 12 | | | | 370 | 272 | 56 | 32 | 11 |
| 13 | | | | 600 | 441 | 90 | 52 | 17 |
| 14 | | | | 500 | 367 | 75 | 43 | 15 |
| 15 | | | | 400 | 294 | 60 | 34 | 12 |
| 16 | | | | 390 | 287 | 59 | 34 | 11 |
| 17 | | | | 410 | 301 | 62 | 35 | 12 |
| 18 | | | | 370 | 272 | 56 | 32 | 11 |
| 19 | | | | 350 | 257 | 53 | 30 | 10 |
| 20 | | | | 520 | 382 | 78 | 45 | 15 |
| 21 | | | | 540 | 397 | 81 | 46 | 16 |
| 22 | | | | 470 | 345 | 71 | 40 | 14 |
| 23 | | | | 450 | 331 | 68 | 39 | 13 |
| 24 | | | | 360 | 265 | 54 | 31 | 10 |
| 25 | | | | nil | nil | nil | nil | nil |
| 26 | | | | 340 | 250 | 51 | 29 | 10 |
| 27 | | | | 500 | 367 | 75 | 43 | 15 |
| 28 | | | | 560 | 412 | 84 | 48 | 16 |
| 29 | | | | nil | nil | nil | nil | nil |
| 30 | | | | 400 | 294 | 60 | 34 | 12 |
| 31 | | | | 350 | 257 | 53 | 30 | 10 |

Apr-23

| | | | | | | | | |
|----|--------|-------|--------|-----|-----|-----|-----|-----|
| 1 | 353600 | 19810 | 333790 | 350 | 257 | 53 | 30 | 10 |
| 2 | | | | 500 | 367 | 75 | 43 | 15 |
| 3 | | | | 420 | 309 | 63 | 36 | 12 |
| 4 | | | | 410 | 301 | 62 | 35 | 12 |
| 5 | | | | 390 | 287 | 59 | 34 | 11 |
| 6 | | | | 480 | 353 | 72 | 41 | 14 |
| 7 | | | | 525 | 386 | 79 | 45 | 15 |
| 8 | | | | 410 | 301 | 62 | 35 | 12 |
| 9 | | | | 360 | 265 | 54 | 31 | 10 |
| 10 | | | | 470 | 345 | 71 | 40 | 14 |
| 11 | | | | 450 | 331 | 68 | 39 | 13 |
| 12 | | | | 320 | 235 | 48 | 28 | 9 |
| 13 | | | | nil | nil | nil | nil | nil |
| 14 | | | | 350 | 257 | 53 | 30 | 10 |
| 15 | | | | 480 | 353 | 72 | 41 | 14 |
| 16 | | | | 380 | 279 | 57 | 33 | 11 |
| 17 | | | | 490 | 360 | 74 | 42 | 14 |
| 18 | | | | 520 | 382 | 78 | 45 | 15 |
| 19 | | | | 550 | 404 | 83 | 47 | 16 |
| 20 | | | | 460 | 338 | 69 | 40 | 13 |
| 21 | | | | 470 | 345 | 71 | 40 | 14 |
| 22 | | | | 490 | 360 | 74 | 42 | 14 |
| 23 | | | | nil | nil | nil | nil | nil |
| 24 | | | | 560 | 412 | 84 | 48 | 16 |

1332

| | | | | | | | |
|----|--|--|-----|-----|-----|-----|-----|
| 25 | | | 350 | 257 | 53 | 30 | 10 |
| 26 | | | 340 | 250 | 51 | 29 | 10 |
| 27 | | | 390 | 287 | 59 | 34 | 11 |
| 28 | | | 540 | 397 | 81 | 46 | 16 |
| 29 | | | nil | nil | nil | nil | nil |
| 30 | | | 340 | 250 | 51 | 29 | 10 |

May-23

| | | | | | | | | |
|----|--------|-------|--------|-----|-----|-----|-----|-----|
| 1 | 353600 | 31605 | 321995 | 400 | 294 | 60 | 34 | 12 |
| 2 | | | | 480 | 353 | 72 | 41 | 14 |
| 3 | | | | 380 | 279 | 57 | 33 | 11 |
| 4 | | | | 490 | 360 | 74 | 42 | 14 |
| 5 | | | | 520 | 382 | 78 | 45 | 15 |
| 6 | | | | 550 | 404 | 83 | 47 | 16 |
| 7 | | | | 460 | 338 | 69 | 40 | 13 |
| 8 | | | | 470 | 345 | 71 | 40 | 14 |
| 9 | | | | 490 | 360 | 74 | 42 | 14 |
| 10 | | | | 470 | 345 | 71 | 40 | 14 |
| 11 | | | | 450 | 331 | 68 | 39 | 13 |
| 12 | | | | 320 | 235 | 48 | 28 | 9 |
| 13 | | | | nil | nil | nil | nil | nil |
| 14 | | | | 350 | 257 | 53 | 30 | 10 |
| 15 | | | | 400 | 294 | 60 | 34 | 12 |
| 16 | | | | 520 | 382 | 78 | 45 | 15 |
| 17 | | | | 430 | 316 | 65 | 37 | 12 |
| 18 | | | | 510 | 375 | 77 | 44 | 15 |
| 19 | | | | 420 | 309 | 63 | 36 | 12 |
| 20 | | | | 460 | 338 | 69 | 40 | 13 |
| 21 | | | | 470 | 345 | 71 | 40 | 14 |
| 22 | | | | 490 | 360 | 74 | 42 | 14 |
| 23 | | | | nil | nil | nil | nil | nil |
| 24 | | | | 360 | 265 | 54 | 31 | 10 |
| 25 | | | | 350 | 257 | 53 | 30 | 10 |
| 26 | | | | 340 | 250 | 51 | 29 | 10 |
| 27 | | | | 390 | 287 | 59 | 34 | 11 |
| 28 | | | | 510 | 375 | 77 | 44 | 15 |
| 29 | | | | nil | nil | nil | nil | nil |
| 30 | | | | 340 | 250 | 51 | 29 | 10 |

Jun-23

| | | | | | | | | |
|----|--|--|--|------|------|-----|-----|----|
| | | | | 0 | | | | |
| 1 | | | | 1680 | 1235 | 252 | 145 | 49 |
| 2 | | | | 2140 | 1573 | 321 | 184 | 62 |
| 3 | | | | 1080 | 794 | 162 | 93 | 31 |
| 4 | | | | 980 | 720 | 147 | 84 | 28 |
| 5 | | | | 1020 | 750 | 153 | 88 | 30 |
| 6 | | | | 1160 | 852 | 174 | 100 | 34 |
| 7 | | | | 1180 | 867 | 177 | 102 | 34 |
| 8 | | | | 920 | 676 | 138 | 79 | 27 |
| 9 | | | | 1080 | 794 | 162 | 93 | 31 |
| 10 | | | | 1100 | 808 | 165 | 95 | 32 |

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| | | | | | | | | |
|----|--------|-------|--------|------|-----|-----|-----|----|
| 11 | 353600 | 43425 | 310175 | 800 | 588 | 120 | 69 | 23 |
| 12 | | | | 950 | 698 | 143 | 82 | 28 |
| 13 | | | | 1050 | 772 | 158 | 90 | 30 |
| 14 | | | | 1125 | 827 | 169 | 97 | 33 |
| 15 | | | | 1050 | 772 | 158 | 90 | 30 |
| 16 | | | | 1260 | 926 | 189 | 108 | 37 |
| 17 | | | | 950 | 698 | 143 | 82 | 28 |
| 18 | | | | 1080 | 794 | 162 | 93 | 31 |
| 19 | | | | 1140 | 838 | 171 | 98 | 33 |
| 20 | | | | 910 | 669 | 137 | 78 | 26 |
| 21 | | | | 1070 | 786 | 161 | 92 | 31 |
| 22 | | | | 980 | 720 | 147 | 84 | 28 |
| 23 | | | | 1060 | 779 | 159 | 91 | 31 |
| 24 | | | | 980 | 720 | 147 | 84 | 28 |
| 25 | | | | 1020 | 750 | 153 | 88 | 30 |
| 26 | | | | 790 | 581 | 119 | 68 | 23 |
| 27 | | | | 940 | 691 | 141 | 81 | 27 |
| 28 | | | | 810 | 595 | 122 | 70 | 23 |
| 29 | | | | 980 | 720 | 147 | 84 | 28 |
| 30 | | | | 640 | 470 | 96 | 55 | 19 |

Jul-23

0

| | | | | | | | | |
|----|--------|-------|--------|-----|-----|-----|-----|-----|
| 1 | 353600 | 75350 | 278250 | 420 | 309 | 63 | 36 | 12 |
| 2 | | | | nil | nil | nil | nil | nil |
| 3 | | | | nil | nil | nil | nil | nil |
| 4 | | | | nil | nil | nil | nil | nil |
| 5 | | | | nil | nil | nil | nil | nil |
| 6 | | | | nil | nil | nil | nil | nil |
| 7 | | | | nil | nil | nil | nil | nil |
| 8 | | | | nil | nil | nil | nil | nil |
| 9 | | | | nil | nil | nil | nil | nil |
| 10 | | | | nil | nil | nil | nil | nil |
| 11 | | | | nil | nil | nil | nil | nil |
| 12 | | | | nil | nil | nil | nil | nil |
| 13 | | | | nil | nil | nil | nil | nil |
| 14 | | | | nil | nil | nil | nil | nil |
| 15 | | | | nil | nil | nil | nil | nil |
| 16 | | | | 380 | 279 | 57 | 33 | 11 |
| 17 | | | | nil | nil | nil | nil | nil |
| 18 | | | | nil | nil | nil | nil | nil |
| 19 | | | | nil | nil | nil | nil | nil |
| 20 | | | | nil | nil | nil | nil | nil |
| 21 | | | | nil | nil | nil | nil | nil |
| 22 | | | | nil | nil | nil | nil | nil |
| 23 | | | | nil | nil | nil | nil | nil |
| 24 | | | | nil | nil | nil | nil | nil |
| 25 | | | | nil | nil | nil | nil | nil |
| 26 | | | | nil | nil | nil | nil | nil |
| 27 | | | | nil | nil | nil | nil | nil |

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| | | | | | | | |
|----|--|--|-----|-----|-----|-----|-----|
| 28 | | | nil | nil | nil | nil | nil |
| 29 | | | nil | nil | nil | nil | nil |
| 30 | | | 340 | 250 | 51 | 29 | 10 |
| 31 | | | nil | nil | nil | nil | nil |

Aug-23

0

| | | | | | | | | |
|----|--------|-------|--------|-----|-----|-----|-----|-----|
| 1 | 353600 | 76490 | 277110 | nil | nil | nil | nil | nil |
| 2 | | | | 560 | 412 | 84 | 48 | 16 |
| 3 | | | | nil | nil | nil | nil | nil |
| 4 | | | | nil | nil | nil | nil | nil |
| 5 | | | | nil | nil | nil | nil | nil |
| 6 | | | | nil | nil | nil | nil | nil |
| 7 | | | | nil | nil | nil | nil | nil |
| 8 | | | | nil | nil | nil | nil | nil |
| 9 | | | | nil | nil | nil | nil | nil |
| 10 | | | | nil | nil | nil | nil | nil |
| 11 | | | | nil | nil | nil | nil | nil |
| 12 | | | | nil | nil | nil | nil | nil |
| 13 | | | | 480 | 353 | 72 | 41 | 14 |
| 14 | | | | nil | nil | nil | nil | nil |
| 15 | | | | nil | nil | nil | nil | nil |
| 16 | | | | nil | nil | nil | nil | nil |
| 17 | | | | nil | nil | nil | nil | nil |
| 18 | | | | nil | nil | nil | nil | nil |
| 19 | | | | nil | nil | nil | nil | nil |
| 20 | | | | nil | nil | nil | nil | nil |
| 21 | | | | nil | nil | nil | nil | nil |
| 22 | | | | nil | nil | nil | nil | nil |
| 23 | | | | nil | nil | nil | nil | nil |
| 24 | | | | nil | nil | nil | nil | nil |
| 25 | | | | nil | nil | nil | nil | nil |
| 26 | | | | nil | nil | nil | nil | nil |
| 27 | | | | nil | nil | nil | nil | nil |
| 28 | | | | nil | nil | nil | nil | nil |
| 29 | | | | nil | nil | nil | nil | nil |
| 30 | | | | 340 | 250 | 51 | 29 | 10 |
| 31 | | | | nil | nil | nil | nil | nil |

Sep-23

0

| | | | | | | | | |
|----|--|--|--|-----|-----|-----|-----|-----|
| 1 | | | | nil | nil | nil | nil | nil |
| 2 | | | | nil | nil | nil | nil | nil |
| 3 | | | | nil | nil | nil | nil | nil |
| 4 | | | | nil | nil | nil | nil | nil |
| 5 | | | | nil | nil | nil | nil | nil |
| 6 | | | | nil | nil | nil | nil | nil |
| 7 | | | | nil | nil | nil | nil | nil |
| 8 | | | | 820 | 603 | 123 | 71 | 24 |
| 9 | | | | 460 | 338 | 69 | 40 | 13 |
| 10 | | | | 530 | 389 | 80 | 46 | 15 |
| 11 | | | | 450 | 331 | 68 | 39 | 13 |

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| | | | | | | | | |
|----|--------|-------|--------|------|-----|-----|-----|-----|
| 12 | 353600 | 77870 | 275730 | 670 | 492 | 101 | 58 | 19 |
| 13 | | | | 820 | 603 | 123 | 71 | 24 |
| 14 | | | | 680 | 500 | 102 | 59 | 20 |
| 15 | | | | nil | nil | nil | nil | nil |
| 16 | | | | 460 | 338 | 69 | 40 | 13 |
| 17 | | | | 530 | 389 | 80 | 46 | 15 |
| 18 | | | | nil | nil | nil | nil | nil |
| 19 | | | | 485 | 356 | 73 | 42 | 14 |
| 20 | | | | 900 | 661 | 135 | 77 | 26 |
| 21 | | | | 920 | 676 | 138 | 79 | 27 |
| 22 | | | | 570 | 419 | 86 | 49 | 17 |
| 23 | | | | 1150 | 845 | 173 | 99 | 33 |
| 24 | | | | 1080 | 794 | 162 | 93 | 31 |
| 25 | | | | nil | nil | nil | nil | nil |
| 26 | | | | nil | nil | nil | nil | nil |
| 27 | | | | nil | nil | nil | nil | nil |
| 28 | | | | nil | nil | nil | nil | nil |
| 29 | | | | nil | nil | nil | nil | nil |
| 30 | | | | nil | nil | nil | nil | nil |

Oct-23

0

| | | | | | | | | |
|----|--------|-------|--------|-----|-----|-----|-----|-----|
| 1 | 353600 | 88395 | 265205 | 350 | 257 | 53 | 30 | 10 |
| 2 | | | | nil | nil | nil | nil | nil |
| 3 | | | | 350 | 257 | 53 | 30 | 10 |
| 4 | | | | 400 | 294 | 60 | 34 | 12 |
| 5 | | | | 520 | 382 | 78 | 45 | 15 |
| 6 | | | | 430 | 316 | 65 | 37 | 12 |
| 7 | | | | 510 | 375 | 77 | 44 | 15 |
| 8 | | | | 420 | 309 | 63 | 36 | 12 |
| 9 | | | | 460 | 338 | 69 | 40 | 13 |
| 10 | | | | 470 | 345 | 71 | 40 | 14 |
| 11 | | | | 490 | 360 | 74 | 42 | 14 |
| 12 | | | | 520 | 382 | 78 | 45 | 15 |
| 13 | | | | nil | nil | nil | nil | nil |
| 14 | | | | 350 | 257 | 53 | 30 | 10 |
| 15 | | | | 520 | 382 | 78 | 45 | 15 |
| 16 | | | | 410 | 301 | 62 | 35 | 12 |
| 17 | | | | 390 | 287 | 59 | 34 | 11 |
| 18 | | | | 480 | 353 | 72 | 41 | 14 |
| 19 | | | | 525 | 386 | 79 | 45 | 15 |
| 20 | | | | 510 | 375 | 77 | 44 | 15 |
| 21 | | | | 360 | 265 | 54 | 31 | 10 |
| 22 | | | | 470 | 345 | 71 | 40 | 14 |
| 23 | | | | nil | nil | nil | nil | nil |
| 24 | | | | 560 | 412 | 84 | 48 | 16 |
| 25 | | | | 350 | 257 | 53 | 30 | 10 |
| 26 | | | | 380 | 279 | 57 | 33 | 11 |
| 27 | | | | 390 | 287 | 59 | 34 | 11 |
| 28 | | | | 540 | 397 | 81 | 46 | 16 |

1336

| | | | | | | | |
|----|--|--|-----|-----|-----|-----|-----|
| 29 | | | 560 | 412 | 84 | 48 | 16 |
| 30 | | | 340 | 250 | 51 | 29 | 10 |
| 31 | | | nil | nil | nil | nil | nil |

Nov-23

0

| | | | | | | | | |
|----|--------|--------|--------|-----|-----|-----|-----|-----|
| 1 | 353600 | 100450 | 253150 | 500 | 367 | 75 | 43 | 15 |
| 2 | | | | 420 | 309 | 63 | 36 | 12 |
| 3 | | | | 410 | 301 | 62 | 35 | 12 |
| 4 | | | | 390 | 287 | 59 | 34 | 11 |
| 5 | | | | 480 | 353 | 72 | 41 | 14 |
| 6 | | | | 525 | 386 | 79 | 45 | 15 |
| 7 | | | | 410 | 301 | 62 | 35 | 12 |
| 8 | | | | 360 | 265 | 54 | 31 | 10 |
| 9 | | | | 470 | 345 | 71 | 40 | 14 |
| 10 | | | | 450 | 331 | 68 | 39 | 13 |
| 11 | | | | 320 | 235 | 48 | 28 | 9 |
| 12 | | | | nil | nil | nil | nil | nil |
| 13 | | | | 520 | 382 | 78 | 45 | 15 |
| 14 | | | | 540 | 397 | 81 | 46 | 16 |
| 15 | | | | 470 | 345 | 71 | 40 | 14 |
| 16 | | | | 450 | 331 | 68 | 39 | 13 |
| 17 | | | | 360 | 265 | 54 | 31 | 10 |
| 18 | | | | nil | nil | nil | nil | nil |
| 19 | | | | 420 | 309 | 63 | 36 | 12 |
| 20 | | | | 460 | 338 | 69 | 40 | 13 |
| 21 | | | | 470 | 345 | 71 | 40 | 14 |
| 22 | | | | 490 | 360 | 74 | 42 | 14 |
| 23 | | | | nil | nil | nil | nil | nil |
| 24 | | | | 520 | 382 | 78 | 45 | 15 |
| 25 | | | | 540 | 397 | 81 | 46 | 16 |
| 26 | | | | 470 | 345 | 71 | 40 | 14 |
| 27 | | | | 450 | 331 | 68 | 39 | 13 |
| 28 | | | | 360 | 265 | 54 | 31 | 10 |
| 29 | | | | nil | nil | nil | nil | nil |
| 30 | | | | 340 | 250 | 51 | 29 | 10 |

Dec-23

0

| | | | | | | | | |
|----|--|--|--|-----|-----|-----|-----|-----|
| 1 | | | | 600 | 441 | 90 | 52 | 17 |
| 2 | | | | 500 | 367 | 75 | 43 | 15 |
| 3 | | | | 400 | 294 | 60 | 34 | 12 |
| 4 | | | | 390 | 287 | 59 | 34 | 11 |
| 5 | | | | 390 | 287 | 59 | 34 | 11 |
| 6 | | | | nil | nil | nil | nil | nil |
| 7 | | | | 525 | 386 | 79 | 45 | 15 |
| 8 | | | | 410 | 301 | 62 | 35 | 12 |
| 9 | | | | 360 | 265 | 54 | 31 | 10 |
| 10 | | | | 470 | 345 | 71 | 40 | 14 |
| 11 | | | | 450 | 331 | 68 | 39 | 13 |
| 12 | | | | 320 | 235 | 48 | 28 | 9 |
| 13 | | | | nil | nil | nil | nil | nil |

1337

| | | | | | | | | |
|----|--------|--------|--------|-----|-----|-----|-----|-----|
| 14 | 353600 | 112045 | 241555 | 400 | 294 | 60 | 34 | 12 |
| 15 | | | | 490 | 360 | 74 | 42 | 14 |
| 16 | | | | 380 | 279 | 57 | 33 | 11 |
| 17 | | | | 370 | 272 | 56 | 32 | 11 |
| 18 | | | | 600 | 441 | 90 | 52 | 17 |
| 19 | | | | 500 | 367 | 75 | 43 | 15 |
| 20 | | | | 400 | 294 | 60 | 34 | 12 |
| 21 | | | | 390 | 287 | 59 | 34 | 11 |
| 22 | | | | 410 | 301 | 62 | 35 | 12 |
| 23 | | | | 370 | 272 | 56 | 32 | 11 |
| 24 | | | | 350 | 257 | 53 | 30 | 10 |
| 25 | | | | 350 | 257 | 53 | 30 | 10 |
| 26 | | | | 340 | 250 | 51 | 29 | 10 |
| 27 | | | | 390 | 287 | 59 | 34 | 11 |
| 28 | | | | 540 | 397 | 81 | 46 | 16 |
| 29 | | | | nil | nil | nil | nil | nil |
| 30 | 340 | 250 | 51 | 29 | 10 | | | |
| 31 | nil | nil | nil | nil | nil | | | |

Jan-24

0

| | | | | | | | | |
|----|--------|--------|--------|-----|-----|-----|-----|-----|
| 1 | 353600 | 123480 | 230120 | 540 | 397 | 81 | 46 | 16 |
| 2 | | | | 500 | 367 | 75 | 43 | 15 |
| 3 | | | | 420 | 309 | 63 | 36 | 12 |
| 4 | | | | 410 | 301 | 62 | 35 | 12 |
| 5 | | | | 390 | 287 | 59 | 34 | 11 |
| 6 | | | | 480 | 353 | 72 | 41 | 14 |
| 7 | | | | nil | nil | nil | nil | nil |
| 8 | | | | 580 | 426 | 87 | 50 | 17 |
| 9 | | | | 360 | 265 | 54 | 31 | 10 |
| 10 | | | | 470 | 345 | 71 | 40 | 14 |
| 11 | | | | 450 | 331 | 68 | 39 | 13 |
| 12 | | | | 570 | 419 | 86 | 49 | 17 |
| 13 | | | | nil | nil | nil | nil | nil |
| 14 | | | | 350 | 257 | 53 | 30 | 10 |
| 15 | | | | 480 | 353 | 72 | 41 | 14 |
| 16 | | | | 380 | 279 | 57 | 33 | 11 |
| 17 | | | | 490 | 360 | 74 | 42 | 14 |
| 18 | | | | 520 | 382 | 78 | 45 | 15 |
| 19 | | | | 550 | 404 | 83 | 47 | 16 |
| 20 | | | | 460 | 338 | 69 | 40 | 13 |
| 21 | | | | 470 | 345 | 71 | 40 | 14 |
| 22 | | | | 490 | 360 | 74 | 42 | 14 |
| 23 | | | | nil | nil | nil | nil | nil |
| 24 | | | | 560 | 412 | 84 | 48 | 16 |
| 25 | | | | 350 | 257 | 53 | 30 | 10 |
| 26 | | | | 340 | 250 | 51 | 29 | 10 |
| 27 | | | | 390 | 287 | 59 | 34 | 11 |
| 28 | | | | 540 | 397 | 81 | 46 | 16 |
| 29 | | | | nil | nil | nil | nil | nil |

1338

| | | | | | | | | |
|-----------|---------------|---------------|---------------|-----|-----|----|----|----|
| 30 | | | | 580 | 426 | 87 | 50 | 17 |
| 31 | | | | 0 | 0 | 0 | 0 | 0 |
| Feb-24 | | | | | | | | |
| | | | | 0 | | | | |
| 1 | 353600 | 135600 | 218000 | 520 | 382 | 78 | 45 | 15 |
| 2 | | | | 430 | 316 | 65 | 37 | 12 |
| 3 | | | | 510 | 375 | 77 | 44 | 15 |
| 4 | | | | 420 | 309 | 63 | 36 | 12 |
| 5 | | | | 460 | 338 | 69 | 40 | 13 |
| 6 | | | | 470 | 345 | 71 | 40 | 14 |
| 7 | | | | 490 | 360 | 74 | 42 | 14 |
| 8 | | | | 520 | 382 | 78 | 45 | 15 |
| 9 | | | | 460 | 338 | 69 | 40 | 13 |
| 10 | | | | 470 | 345 | 71 | 40 | 14 |
| 11 | | | | 490 | 360 | 74 | 42 | 14 |
| 12 | | | | 520 | 382 | 78 | 45 | 15 |
| 13 | | | | 0 | 0 | 0 | 0 | 0 |
| 14 | | | | 420 | 309 | 63 | 36 | 12 |
| 15 | | | | 460 | 338 | 69 | 40 | 13 |
| 16 | | | | 470 | 345 | 71 | 40 | 14 |
| 17 | | | | 490 | 360 | 74 | 42 | 14 |
| 18 | | | | 0 | 0 | 0 | 0 | 0 |
| 19 | | | | 520 | 382 | 78 | 45 | 15 |
| 20 | | | | 540 | 397 | 81 | 46 | 16 |
| 21 | | | | 470 | 345 | 71 | 40 | 14 |
| 22 | | | | 450 | 331 | 68 | 39 | 13 |
| 23 | | | | 360 | 265 | 54 | 31 | 10 |
| 24 | | | | 0 | 0 | 0 | 0 | 0 |
| 25 | | | | 350 | 257 | 53 | 30 | 10 |
| 26 | | | | 380 | 279 | 57 | 33 | 11 |
| 27 | | | | 390 | 287 | 59 | 34 | 11 |
| 28 | | | | 540 | 397 | 81 | 46 | 16 |
| Mar-24 | | | | | | | | |
| | | | | 0 | | | | |
| 1 | 353600 | 147200 | 206400 | 500 | 367 | 75 | 43 | 15 |
| 2 | | | | 420 | 309 | 63 | 36 | 12 |
| 3 | | | | 410 | 301 | 62 | 35 | 12 |
| 4 | | | | 390 | 287 | 59 | 34 | 11 |
| 5 | | | | 480 | 353 | 72 | 41 | 14 |
| 6 | | | | 525 | 386 | 79 | 45 | 15 |
| 7 | | | | 410 | 301 | 62 | 35 | 12 |
| 8 | | | | 360 | 265 | 54 | 31 | 10 |
| 9 | | | | 470 | 345 | 71 | 40 | 14 |
| 10 | | | | 450 | 331 | 68 | 39 | 13 |
| 11 | | | | 320 | 235 | 48 | 28 | 9 |
| 12 | | | | 0 | 0 | 0 | 0 | 0 |
| 13 | | | | 520 | 382 | 78 | 45 | 15 |
| 14 | | | | 540 | 397 | 81 | 46 | 16 |
| 15 | | | | 470 | 345 | 71 | 40 | 14 |
| 16 | | | | 450 | 331 | 68 | 39 | 13 |

1339

| | | | | | | | |
|----|--|--|-----|-----|----|----|----|
| 17 | | | 360 | 265 | 54 | 31 | 10 |
| 18 | | | 0 | 0 | 0 | 0 | 0 |
| 19 | | | 420 | 309 | 63 | 36 | 12 |
| 20 | | | 460 | 338 | 69 | 40 | 13 |
| 21 | | | 470 | 345 | 71 | 40 | 14 |
| 22 | | | 490 | 360 | 74 | 42 | 14 |
| 23 | | | 0 | 0 | 0 | 0 | 0 |
| 24 | | | 520 | 382 | 78 | 45 | 15 |
| 25 | | | 540 | 397 | 81 | 46 | 16 |
| 26 | | | 470 | 345 | 71 | 40 | 14 |
| 27 | | | 450 | 331 | 68 | 39 | 13 |
| 28 | | | 360 | 265 | 54 | 31 | 10 |
| 29 | | | 0 | 0 | 0 | 0 | 0 |
| 30 | | | 340 | 250 | 51 | 29 | 10 |

Apr-24

0

| | | | | | | | | |
|----|--------|--------|--------|-----|-----|-----|----|----|
| 1 | 353600 | 158795 | 194805 | 800 | 588 | 120 | 69 | 23 |
| 2 | | | | 750 | 551 | 113 | 65 | 22 |
| 3 | | | | 700 | 514 | 105 | 60 | 20 |
| 4 | | | | 490 | 360 | 74 | 42 | 14 |
| 5 | | | | 820 | 603 | 123 | 71 | 24 |
| 6 | | | | 550 | 404 | 83 | 47 | 16 |
| 7 | | | | 870 | 639 | 131 | 75 | 25 |
| 8 | | | | 630 | 463 | 95 | 54 | 18 |
| 9 | | | | 690 | 507 | 104 | 59 | 20 |
| 10 | | | | 780 | 573 | 117 | 67 | 23 |
| 11 | | | | 600 | 441 | 90 | 52 | 17 |
| 12 | | | | 670 | 492 | 101 | 58 | 19 |
| 13 | | | | 560 | 412 | 84 | 48 | 16 |
| 14 | | | | 590 | 434 | 89 | 51 | 17 |
| 15 | | | | 570 | 419 | 86 | 49 | 17 |
| 16 | | | | 780 | 573 | 117 | 67 | 23 |
| 17 | | | | 650 | 478 | 98 | 56 | 19 |
| 18 | | | | 690 | 507 | 104 | 59 | 20 |
| 19 | | | | 580 | 426 | 87 | 50 | 17 |
| 20 | | | | 740 | 544 | 111 | 64 | 21 |
| 21 | | | | 720 | 529 | 108 | 62 | 21 |
| 22 | | | | 650 | 478 | 98 | 56 | 19 |
| 23 | | | | 590 | 434 | 89 | 51 | 17 |
| 24 | | | | 740 | 544 | 111 | 64 | 21 |
| 25 | | | | 630 | 463 | 95 | 54 | 18 |
| 26 | | | | 850 | 625 | 128 | 73 | 25 |
| 27 | | | | 790 | 581 | 119 | 68 | 23 |
| 28 | | | | 645 | 474 | 97 | 56 | 19 |
| 29 | | | | 550 | 404 | 83 | 47 | 16 |
| 30 | | | | 340 | 250 | 51 | 29 | 10 |

May-24

0

| | | | | | | | | |
|---|--|--|--|-----|-----|----|----|----|
| 1 | | | | 500 | 367 | 75 | 43 | 15 |
| 2 | | | | 560 | 412 | 84 | 48 | 16 |

1340

| | | | | | | | | |
|----|--------|--------|--------|-----|-----|-----|----|----|
| 3 | | | | 600 | 441 | 90 | 52 | 17 |
| 4 | | | | 650 | 478 | 98 | 56 | 19 |
| 5 | | | | 550 | 404 | 83 | 47 | 16 |
| 6 | | | | 680 | 500 | 102 | 59 | 20 |
| 7 | | | | 450 | 331 | 68 | 39 | 13 |
| 8 | | | | 490 | 360 | 74 | 42 | 14 |
| 9 | | | | 590 | 434 | 89 | 51 | 17 |
| 10 | | | | 650 | 478 | 98 | 56 | 19 |
| 11 | | | | 630 | 463 | 95 | 54 | 18 |
| 12 | | | | 610 | 448 | 92 | 53 | 18 |
| 13 | | | | 630 | 463 | 95 | 54 | 18 |
| 14 | | | | 450 | 331 | 68 | 39 | 13 |
| 15 | | | | 520 | 382 | 78 | 45 | 15 |
| 16 | 353600 | 178810 | 174190 | 510 | 375 | 77 | 44 | 15 |
| 17 | | | | 490 | 360 | 74 | 42 | 14 |
| 18 | | | | 530 | 389 | 80 | 46 | 15 |
| 19 | | | | 550 | 404 | 83 | 47 | 16 |
| 20 | | | | 460 | 338 | 69 | 40 | 13 |
| 21 | | | | 480 | 353 | 72 | 41 | 14 |
| 22 | | | | 490 | 360 | 74 | 42 | 14 |
| 23 | | | | 540 | 397 | 81 | 46 | 16 |
| 24 | | | | 480 | 353 | 72 | 41 | 14 |
| 25 | | | | 450 | 331 | 68 | 39 | 13 |
| 26 | | | | 440 | 323 | 66 | 38 | 13 |
| 27 | | | | 390 | 287 | 59 | 34 | 11 |
| 28 | | | | 590 | 434 | 89 | 51 | 17 |
| 29 | | | | 490 | 360 | 74 | 42 | 14 |
| 30 | | | | 340 | 250 | 51 | 29 | 10 |
| 31 | | | | 400 | 294 | 60 | 34 | 12 |

Jun-24

0

| | | | | | | | | |
|----|--------|--------|--------|-----|-----|-----|-----|-----|
| 1 | | | | nil | nil | nil | nil | nil |
| 2 | | | | nil | nil | nil | nil | nil |
| 3 | | | | nil | nil | nil | nil | nil |
| 4 | | | | nil | nil | nil | nil | nil |
| 5 | | | | nil | nil | nil | nil | nil |
| 6 | | | | nil | nil | nil | nil | nil |
| 7 | | | | nil | nil | nil | nil | nil |
| 8 | | | | nil | nil | nil | nil | nil |
| 9 | | | | nil | nil | nil | nil | nil |
| 10 | | | | nil | nil | nil | nil | nil |
| 11 | | | | nil | nil | nil | nil | nil |
| 12 | | | | 800 | 588 | 120 | 69 | 23 |
| 13 | | | | 600 | 441 | 90 | 52 | 17 |
| 14 | | | | 760 | 559 | 114 | 65 | 22 |
| 15 | 353600 | 195000 | 158600 | 390 | 287 | 59 | 34 | 11 |
| 16 | | | | nil | nil | nil | nil | nil |
| 17 | | | | 480 | 353 | 72 | 41 | 14 |
| 18 | | | | nil | nil | nil | nil | nil |

1341

| | | | | | | | |
|----|--|--|-----|-----|-----|-----|-----|
| 19 | | | nil | nil | nil | nil | nil |
| 20 | | | nil | nil | nil | nil | nil |
| 21 | | | 426 | 313 | 64 | 37 | 12 |
| 22 | | | nil | nil | nil | nil | nil |
| 23 | | | nil | nil | nil | nil | nil |
| 24 | | | nil | nil | nil | nil | nil |
| 25 | | | nil | nil | nil | nil | nil |
| 26 | | | nil | nil | nil | nil | nil |
| 27 | | | nil | nil | nil | nil | nil |
| 28 | | | nil | nil | nil | nil | nil |
| 29 | | | nil | nil | nil | nil | nil |
| 30 | | | nil | nil | nil | nil | nil |

Jul-24

0

| | | | | | | | | | | | |
|----|--------|--------|--------|-----|-----|-----|------|-----|-----|----|----|
| 1 | 353600 | 198456 | 155144 | nil | nil | nil | nil | nil | | | |
| 2 | | | | nil | nil | nil | nil | nil | | | |
| 3 | | | | nil | nil | nil | nil | nil | | | |
| 4 | | | | nil | nil | nil | nil | nil | | | |
| 5 | | | | nil | nil | nil | nil | nil | | | |
| 6 | | | | nil | nil | nil | nil | nil | | | |
| 7 | | | | nil | nil | nil | nil | nil | | | |
| 8 | | | | nil | nil | nil | nil | nil | | | |
| 9 | | | | nil | nil | nil | nil | nil | | | |
| 10 | | | | nil | nil | nil | nil | nil | | | |
| 11 | | | | nil | nil | nil | nil | nil | | | |
| 12 | | | | nil | nil | nil | nil | nil | | | |
| 13 | | | | nil | nil | nil | nil | nil | | | |
| 14 | | | | nil | nil | nil | nil | nil | | | |
| 15 | | | | nil | nil | nil | nil | nil | | | |
| 16 | | | | nil | nil | nil | nil | nil | | | |
| 17 | | | | nil | nil | nil | nil | nil | | | |
| 18 | | | | nil | nil | nil | nil | nil | | | |
| 19 | | | | nil | nil | nil | nil | nil | | | |
| 20 | | | | nil | nil | nil | nil | nil | | | |
| 21 | | | | nil | nil | nil | nil | nil | | | |
| 22 | | | | nil | nil | nil | nil | nil | | | |
| 23 | | | | nil | nil | nil | nil | nil | | | |
| 24 | | | | nil | nil | nil | nil | nil | | | |
| 25 | | | | nil | nil | nil | nil | nil | | | |
| 26 | | | | nil | nil | nil | nil | nil | | | |
| 27 | | | | nil | nil | nil | nil | nil | | | |
| 28 | | | | nil | nil | nil | nil | nil | | | |
| 29 | | | | nil | nil | nil | nil | nil | | | |
| 30 | | | | | | | 1110 | 816 | 167 | 96 | 32 |
| 31 | | | | | | | 680 | 500 | 102 | 59 | 20 |

Aug-24

0

| | | | | | | | | |
|---|--|--|--|-----|-----|-----|-----|-----|
| 1 | | | | nil | nil | nil | nil | nil |
| 2 | | | | nil | nil | nil | nil | nil |
| 3 | | | | nil | nil | nil | nil | nil |

1342

| | | | | | | | | |
|--------|--------|--------|--------|------|------|-----|-----|-----|
| 4 | | | | nil | nil | nil | nil | nil |
| 5 | | | | nil | nil | nil | nil | nil |
| 6 | | | | nil | nil | nil | nil | nil |
| 7 | | | | nil | nil | nil | nil | nil |
| 8 | | | | 820 | 603 | 123 | 71 | 24 |
| 9 | | | | 460 | 338 | 69 | 40 | 13 |
| 10 | | | | 530 | 389 | 80 | 46 | 15 |
| 11 | | | | 450 | 331 | 68 | 39 | 13 |
| 12 | | | | 680 | 500 | 102 | 59 | 20 |
| 13 | | | | 820 | 603 | 123 | 71 | 24 |
| 14 | | | | 670 | 492 | 101 | 58 | 19 |
| 15 | | | | nil | nil | nil | nil | nil |
| 16 | 353600 | 200246 | 153354 | 460 | 338 | 69 | 40 | 13 |
| 17 | | | | 530 | 389 | 80 | 46 | 15 |
| 18 | | | | nil | nil | nil | nil | nil |
| 19 | | | | 485 | 356 | 73 | 42 | 14 |
| 20 | | | | 900 | 661 | 135 | 77 | 26 |
| 21 | | | | 920 | 676 | 138 | 79 | 27 |
| 22 | | | | 570 | 419 | 86 | 49 | 17 |
| 23 | | | | 1150 | 845 | 173 | 99 | 33 |
| 24 | | | | 1080 | 794 | 162 | 93 | 31 |
| 25 | | | | nil | nil | nil | nil | nil |
| 26 | | | | nil | nil | nil | nil | nil |
| 27 | | | | nil | nil | nil | nil | nil |
| 28 | | | | nil | nil | nil | nil | nil |
| 29 | | | | nil | nil | nil | nil | nil |
| 30 | | | | nil | nil | nil | nil | nil |
| 31 | | | | nil | nil | nil | nil | nil |
| Sep-24 | | | | 0 | | | | |
| 1 | | | | nil | nil | nil | nil | nil |
| 2 | | | | 1180 | 867 | 177 | 102 | 34 |
| 3 | | | | nil | nil | nil | nil | nil |
| 4 | | | | 1260 | 926 | 189 | 108 | 37 |
| 5 | | | | 680 | 500 | 102 | 59 | 20 |
| 6 | | | | 780 | 573 | 117 | 67 | 23 |
| 7 | | | | 560 | 412 | 84 | 48 | 16 |
| 8 | | | | 640 | 470 | 96 | 55 | 19 |
| 9 | | | | 580 | 426 | 87 | 50 | 17 |
| 10 | | | | 650 | 478 | 98 | 56 | 19 |
| 11 | | | | 720 | 529 | 108 | 62 | 21 |
| 12 | | | | 570 | 419 | 86 | 49 | 17 |
| 13 | | | | 1900 | 1396 | 285 | 164 | 55 |
| 14 | | | | 2360 | 1734 | 354 | 203 | 68 |
| 15 | 353600 | 210771 | 142829 | 2120 | 1558 | 318 | 183 | 61 |
| 16 | | | | 2540 | 1867 | 381 | 219 | 74 |
| 17 | | | | 2180 | 1602 | 327 | 188 | 63 |
| 18 | | | | 1980 | 1455 | 297 | 170 | 57 |
| 19 | | | | nil | nil | nil | nil | nil |

1343

| | | | | | | | |
|----|--|--|------|------|-----|-----|-----|
| 20 | | | 2060 | 1514 | 309 | 177 | 60 |
| 21 | | | 1940 | 1426 | 291 | 167 | 56 |
| 22 | | | nil | nil | nil | nil | nil |
| 23 | | | 2120 | 1558 | 318 | 183 | 61 |
| 24 | | | 1540 | 1132 | 231 | 133 | 45 |
| 25 | | | 1780 | 1308 | 267 | 153 | 52 |
| 26 | | | 1560 | 1146 | 234 | 134 | 45 |
| 27 | | | 1940 | 1426 | 291 | 167 | 56 |
| 28 | | | 1820 | 1338 | 273 | 157 | 53 |
| 29 | | | 1400 | 1029 | 210 | 121 | 41 |
| 30 | | | 1790 | 1315 | 269 | 154 | 52 |

Oct-24

0

| | | | | | | | | |
|----|--------|--------|--------|------|------|-----|-----|-----|
| 1 | 353600 | 249421 | 104179 | 1680 | 1235 | 252 | 145 | 49 |
| 2 | | | | 2140 | 1573 | 321 | 184 | 62 |
| 3 | | | | 1080 | 794 | 162 | 93 | 31 |
| 4 | | | | 980 | 720 | 147 | 84 | 28 |
| 5 | | | | 1020 | 750 | 153 | 88 | 30 |
| 6 | | | | 1160 | 852 | 174 | 100 | 34 |
| 7 | | | | 1180 | 867 | 177 | 102 | 34 |
| 8 | | | | 920 | 676 | 138 | 79 | 27 |
| 9 | | | | 1080 | 794 | 162 | 93 | 31 |
| 10 | | | | 1100 | 808 | 165 | 95 | 32 |
| 11 | | | | 800 | 588 | 120 | 69 | 23 |
| 12 | | | | 950 | 698 | 143 | 82 | 28 |
| 13 | | | | 1050 | 772 | 158 | 90 | 30 |
| 14 | | | | 1125 | 827 | 169 | 97 | 33 |
| 15 | | | | 1050 | 772 | 158 | 90 | 30 |
| 16 | | | | 1260 | 926 | 189 | 108 | 37 |
| 17 | | | | 950 | 698 | 143 | 82 | 28 |
| 18 | | | | 1080 | 794 | 162 | 93 | 31 |
| 19 | | | | 1140 | 838 | 171 | 98 | 33 |
| 20 | | | | 910 | 669 | 137 | 78 | 26 |
| 21 | | | | 1070 | 786 | 161 | 92 | 31 |
| 22 | | | | 980 | 720 | 147 | 84 | 28 |
| 23 | | | | 1060 | 779 | 159 | 91 | 31 |
| 24 | | | | 980 | 720 | 147 | 84 | 28 |
| 25 | | | | 1020 | 750 | 153 | 88 | 30 |
| 26 | | | | 790 | 581 | 119 | 68 | 23 |
| 27 | | | | 940 | 691 | 141 | 81 | 27 |
| 28 | | | | 810 | 595 | 122 | 70 | 23 |
| 29 | | | | 980 | 720 | 147 | 84 | 28 |
| 30 | | | | 640 | 470 | 96 | 55 | 19 |
| 31 | | | | nil | nil | nil | nil | nil |

Nov-24

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| | | | | | | | |
|---|--|--|-----|-----|-----|----|----|
| 1 | | | 920 | 676 | 138 | 79 | 27 |
| 2 | | | 810 | 595 | 122 | 70 | 23 |
| 3 | | | 640 | 470 | 96 | 55 | 19 |
| 4 | | | 880 | 647 | 132 | 76 | 26 |

1344

| | | | | | | | | |
|----|--------|--------|-------|------|-----|-----|-----|----|
| 5 | 353600 | 281346 | 72254 | 1290 | 948 | 194 | 111 | 37 |
| 6 | | | | 0 | 0 | 0 | 0 | 0 |
| 7 | | | | 850 | 625 | 128 | 73 | 25 |
| 8 | | | | 790 | 581 | 119 | 68 | 23 |
| 9 | | | | 650 | 478 | 98 | 56 | 19 |
| 10 | | | | 560 | 412 | 84 | 48 | 16 |
| 11 | | | | 970 | 713 | 146 | 84 | 28 |
| 12 | | | | 860 | 632 | 129 | 74 | 25 |
| 13 | | | | 720 | 529 | 108 | 62 | 21 |
| 14 | | | | 810 | 595 | 122 | 70 | 23 |
| 15 | | | | 880 | 647 | 132 | 76 | 26 |
| 16 | | | | 1020 | 750 | 153 | 88 | 30 |
| 17 | | | | 980 | 720 | 147 | 84 | 28 |
| 18 | | | | 780 | 573 | 117 | 67 | 23 |
| 19 | | | | 1100 | 808 | 165 | 95 | 32 |
| 20 | | | | 600 | 441 | 90 | 52 | 17 |
| 21 | | | | 560 | 412 | 84 | 48 | 16 |
| 22 | | | | 650 | 478 | 98 | 56 | 19 |
| 23 | | | | 500 | 367 | 75 | 43 | 15 |
| 24 | | | | 0 | 0 | 0 | 0 | 0 |
| 25 | | | | 0 | 0 | 0 | 0 | 0 |
| 26 | | | | 640 | 470 | 96 | 55 | 19 |
| 27 | | | | 0 | 0 | 0 | 0 | 0 |
| 28 | | | | 560 | 412 | 84 | 48 | 16 |
| 29 | | | | 620 | 456 | 93 | 53 | 18 |
| 30 | | | | 580 | 426 | 87 | 50 | 17 |

Dec-24

0

| | | | | | | | | |
|----|--------|--------|-------|-----|-----|-----|-----|-----|
| 1 | 353600 | 301566 | 52034 | nil | nil | nil | nil | nil |
| 2 | | | | nil | nil | nil | nil | nil |
| 3 | | | | 540 | 397 | 81 | 46 | 16 |
| 4 | | | | 780 | 573 | 117 | 67 | 23 |
| 5 | | | | 810 | 595 | 122 | 70 | 23 |
| 6 | | | | 680 | 500 | 102 | 59 | 20 |
| 7 | | | | 690 | 507 | 104 | 59 | 20 |
| 8 | | | | nil | nil | nil | nil | nil |
| 9 | | | | nil | nil | nil | nil | nil |
| 10 | | | | nil | nil | nil | nil | nil |
| 11 | | | | nil | nil | nil | nil | nil |
| 12 | | | | nil | nil | nil | nil | nil |
| 13 | | | | nil | nil | nil | nil | nil |
| 14 | | | | nil | nil | nil | nil | nil |
| 15 | | | | nil | nil | nil | nil | nil |
| 16 | | | | nil | nil | nil | nil | nil |
| 17 | | | | nil | nil | nil | nil | nil |
| 18 | | | | nil | nil | nil | nil | nil |
| 19 | | | | nil | nil | nil | nil | nil |
| 20 | | | | nil | nil | nil | nil | nil |
| 21 | | | | nil | nil | nil | nil | nil |

1345

| | | | | | | | |
|----|--|--|-----|-----|-----|-----|-----|
| 22 | | | nil | nil | nil | nil | nil |
| 23 | | | nil | nil | nil | nil | nil |
| 24 | | | nil | nil | nil | nil | nil |
| 25 | | | nil | nil | nil | nil | nil |
| 26 | | | nil | nil | nil | nil | nil |
| 27 | | | nil | nil | nil | nil | nil |
| 28 | | | nil | nil | nil | nil | nil |
| 29 | | | nil | nil | nil | nil | nil |
| 30 | | | nil | nil | nil | nil | nil |

Jan-25

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| | | | | | | | | |
|----|--------|--------|-------|-----|-----|-----|-----|-----|
| 1 | 353600 | 305066 | 48534 | nil | nil | nil | nil | nil |
| 2 | | | | nil | nil | nil | nil | nil |
| 3 | | | | nil | nil | nil | nil | nil |
| 4 | | | | nil | nil | nil | nil | nil |
| 5 | | | | nil | nil | nil | nil | nil |
| 6 | | | | nil | nil | nil | nil | nil |
| 7 | | | | nil | nil | nil | nil | nil |
| 8 | | | | nil | nil | nil | nil | nil |
| 9 | | | | nil | nil | nil | nil | nil |
| 10 | | | | nil | nil | nil | nil | nil |
| 11 | | | | nil | nil | nil | nil | nil |
| 12 | | | | nil | nil | nil | nil | nil |
| 13 | | | | nil | nil | nil | nil | nil |
| 14 | | | | nil | nil | nil | nil | nil |
| 15 | | | | nil | nil | nil | nil | nil |
| 16 | | | | nil | nil | nil | nil | nil |
| 17 | | | | nil | nil | nil | nil | nil |
| 18 | | | | nil | nil | nil | nil | nil |
| 19 | | | | nil | nil | nil | nil | nil |
| 20 | | | | nil | nil | nil | nil | nil |
| 21 | | | | nil | nil | nil | nil | nil |
| 22 | | | | nil | nil | nil | nil | nil |
| 23 | | | | nil | nil | nil | nil | nil |
| 24 | | | | nil | nil | nil | nil | nil |
| 25 | | | | nil | nil | nil | nil | nil |
| 26 | | | | nil | nil | nil | nil | nil |
| 27 | | | | nil | nil | nil | nil | nil |
| 28 | | | | nil | nil | nil | nil | nil |
| 29 | | | | nil | nil | nil | nil | nil |
| 30 | | | | nil | nil | nil | nil | nil |

Feb-25

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| | | | | | | | |
|---|--|--|-----|-----|-----|-----|-----|
| 1 | | | nil | nil | nil | nil | nil |
| 2 | | | nil | nil | nil | nil | nil |
| 3 | | | nil | nil | nil | nil | nil |
| 4 | | | nil | nil | nil | nil | nil |
| 5 | | | nil | nil | nil | nil | nil |
| 6 | | | nil | nil | nil | nil | nil |
| 7 | | | nil | nil | nil | nil | nil |

1346

| | | | | | | | | |
|----|--------|--------|-------|-----|-----|-----|-----|-----|
| 8 | 353600 | 305066 | 48534 | nil | nil | nil | nil | nil |
| 9 | | | | nil | nil | nil | nil | nil |
| 10 | | | | nil | nil | nil | nil | nil |
| 11 | | | | nil | nil | nil | nil | nil |
| 12 | | | | nil | nil | nil | nil | nil |
| 13 | | | | nil | nil | nil | nil | nil |
| 14 | | | | nil | nil | nil | nil | nil |
| 15 | | | | nil | nil | nil | nil | nil |
| 16 | | | | nil | nil | nil | nil | nil |
| 17 | | | | nil | nil | nil | nil | nil |
| 18 | | | | nil | nil | nil | nil | nil |
| 19 | | | | nil | nil | nil | nil | nil |
| 20 | | | | nil | nil | nil | nil | nil |
| 21 | | | | nil | nil | nil | nil | nil |
| 22 | | | | nil | nil | nil | nil | nil |
| 23 | | | | nil | nil | nil | nil | nil |
| 24 | | | | nil | nil | nil | nil | nil |
| 25 | | | | nil | nil | nil | nil | nil |
| 26 | | | | nil | nil | nil | nil | nil |
| 27 | | | | nil | nil | nil | nil | nil |
| 28 | | | | nil | nil | nil | nil | nil |

Mar-25

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| | | | | | | | | |
|----|--------|--------|-------|------|------|-----|-----|-----|
| 1 | 353600 | 305066 | 48534 | 1620 | 1191 | 243 | 139 | 47 |
| 2 | | | | 1780 | 1308 | 267 | 153 | 52 |
| 3 | | | | 1860 | 1367 | 279 | 160 | 54 |
| 4 | | | | 1580 | 1161 | 237 | 136 | 46 |
| 5 | | | | 1650 | 1213 | 248 | 142 | 48 |
| 6 | | | | 1670 | 1227 | 251 | 144 | 48 |
| 7 | | | | 1490 | 1095 | 224 | 128 | 43 |
| 8 | | | | 1580 | 1161 | 237 | 136 | 46 |
| 9 | | | | 1320 | 970 | 198 | 114 | 38 |
| 10 | | | | 1840 | 1352 | 276 | 158 | 53 |
| 11 | | | | 1990 | 1462 | 299 | 171 | 58 |
| 12 | | | | 1650 | 1213 | 248 | 142 | 48 |
| 13 | | | | 1530 | 1124 | 230 | 132 | 44 |
| 14 | | | | 1470 | 1080 | 221 | 127 | 43 |
| 15 | | | | 1890 | 1389 | 284 | 163 | 55 |
| 16 | | | | 1920 | 1411 | 288 | 165 | 56 |
| 17 | | | | 560 | 412 | 84 | 48 | 16 |
| 18 | | | | 624 | 459 | 94 | 54 | 18 |
| 19 | | | | nil | nil | nil | nil | nil |
| 20 | | | | 580 | 426 | 87 | 50 | 17 |
| 21 | | | | 790 | 581 | 119 | 68 | 23 |
| 22 | | | | 620 | 456 | 93 | 53 | 18 |
| 23 | | | | nil | nil | nil | nil | nil |
| 24 | | | | 740 | 544 | 111 | 64 | 21 |
| 25 | | | | 680 | 500 | 102 | 59 | 20 |
| 26 | | | | 650 | 478 | 98 | 56 | 19 |

1347

| | | | | | | | | |
|----|--|--|--|-----|-----|-----|-----|-----|
| 27 | | | | nil | nil | nil | nil | nil |
| 28 | | | | nil | nil | nil | nil | nil |
| 29 | | | | nil | nil | nil | nil | nil |
| 30 | | | | nil | nil | nil | nil | nil |
| 31 | | | | nil | nil | nil | nil | nil |

Apr-25

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| | | | | | | | | | |
|----|--------|--------|-------|------|-----|-----|-----|-----|-----|
| 1 | 353600 | 337150 | 16450 | nil | nil | nil | nil | nil | |
| 2 | | | | nil | nil | nil | nil | nil | nil |
| 3 | | | | nil | nil | nil | nil | nil | nil |
| 4 | | | | nil | nil | nil | nil | nil | nil |
| 5 | | | | nil | nil | nil | nil | nil | nil |
| 6 | | | | nil | nil | nil | nil | nil | nil |
| 7 | | | | nil | nil | nil | nil | nil | nil |
| 8 | | | | nil | nil | nil | nil | nil | nil |
| 9 | | | | nil | nil | nil | nil | nil | nil |
| 10 | | | | 1050 | 772 | 158 | 90 | 30 | |
| 11 | | | | 970 | 713 | 146 | 84 | 28 | |
| 12 | | | | 1120 | 823 | 168 | 96 | 32 | |
| 13 | | | | nil | nil | nil | nil | nil | |
| 14 | | | | 850 | 625 | 128 | 73 | 25 | |
| 15 | | | | 940 | 691 | 141 | 81 | 27 | |
| 16 | | | | 1080 | 794 | 162 | 93 | 31 | |
| 17 | | | | 980 | 720 | 147 | 84 | 28 | |
| 18 | | | | 1240 | 911 | 186 | 107 | 36 | |
| 19 | | | | 910 | 669 | 137 | 78 | 26 | |
| 20 | | | | nil | nil | nil | nil | nil | |
| 21 | | | | 840 | 617 | 126 | 72 | 24 | |
| 22 | | | | 870 | 639 | 131 | 75 | 25 | |
| 23 | | | | 1140 | 838 | 171 | 98 | 33 | |
| 24 | | | | 790 | 581 | 119 | 68 | 23 | |
| 25 | | | | 1060 | 779 | 159 | 91 | 31 | |
| 26 | | | | 850 | 625 | 128 | 73 | 25 | |
| 27 | | | | nil | nil | nil | nil | nil | |
| 28 | | | | 650 | 478 | 98 | 56 | 19 | |
| 29 | | | | 560 | 412 | 84 | 48 | 16 | |
| 30 | | | | 550 | 404 | 83 | 47 | 16 | |
| 31 | | | | nil | nil | nil | nil | nil | |

May-25

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| | | | | | | | | |
|---|--|--|--|-----|-----|-----|-----|-----|
| 1 | | | | nil | nil | nil | nil | nil |
| 2 | | | | nil | nil | nil | nil | nil |
| 3 | | | | nil | nil | nil | nil | nil |
| 4 | | | | nil | nil | nil | nil | nil |
| 5 | | | | nil | nil | nil | nil | nil |
| 6 | | | | nil | nil | nil | nil | nil |
| 7 | | | | nil | nil | nil | nil | nil |
| 8 | | | | nil | nil | nil | nil | nil |

1348

| | | | | | | | | |
|----|-----------------------------------|--------|---|---------------|---------------|--------------|--------------|--------------|
| 9 | | | | nil | nil | nil | nil | nil |
| 10 | | | | nil | nil | nil | nil | nil |
| 11 | | | | nil | nil | nil | nil | nil |
| 12 | | | | nil | nil | nil | nil | nil |
| 13 | | | | nil | nil | nil | nil | nil |
| 14 | | | | nil | nil | nil | nil | nil |
| 15 | 353600 | 353600 | 0 | nil | nil | nil | nil | nil |
| 16 | | | | nil | nil | nil | nil | nil |
| 17 | | | | nil | nil | nil | nil | nil |
| 18 | | | | nil | nil | nil | nil | nil |
| 19 | | | | nil | nil | nil | nil | nil |
| 20 | | | | nil | nil | nil | nil | nil |
| 21 | | | | nil | nil | nil | nil | nil |
| 22 | | | | nil | nil | nil | nil | nil |
| 23 | | | | nil | nil | nil | nil | nil |
| 24 | | | | nil | nil | nil | nil | nil |
| 25 | | | | nil | nil | nil | nil | nil |
| 26 | | | | nil | nil | nil | nil | nil |
| 27 | | | | nil | nil | nil | nil | nil |
| 28 | | | | nil | nil | nil | nil | nil |
| 29 | | | | nil | nil | nil | nil | nil |
| 30 | | | | nil | nil | nil | nil | nil |
| 31 | | | | nil | nil | nil | nil | nil |
| | | | | 353600 | 259861 | 53040 | 30445 | 10254 |
| | considering density of RDF as 300 | | | | | 0 | MT | |
| | less 20 % moisture | | | | | 0 | MT | |
| | Disposed off as on 20/07/2025 | | | | | 9923.42 | MT | |
| | Remaining RDF at site | | | | | -9923.42 | MT | |

RDF Disposal Data

| Sr No. | Loading Date | Veical No | Loding Plant | Unloding Plant | Loading Wt. (MT) |
|--------|--------------|------------|--------------|-------------------------|------------------|
| 1 | 9/12/2024 | RJ09GE4405 | Bhatinda | shree cement, Rajasthan | 36.74 |
| 2 | 9/12/2024 | RJ09GE4403 | Bhatinda | shree cement, Rajasthan | 37.54 |
| 3 | 10/12/2024 | RJ09GC5675 | Bhatinda | shree cement, Rajasthan | 44.6 |
| 4 | 10/12/2024 | RJ09GC5673 | Bhatinda | shree cement, Rajasthan | 44.42 |
| 5 | 10/12/2024 | RJ09GC3540 | Bhatinda | shree cement, Rajasthan | 40.2 |
| 6 | 10/12/2024 | RJ09GC4003 | Bhatinda | shree cement, Rajasthan | 39.48 |
| 7 | 10/12/2024 | RJ09GC2234 | Bhatinda | shree cement, Rajasthan | 40.3 |
| 8 | 12/12/2024 | RJ01GC0430 | Bhatinda | shree cement, Rajasthan | 50.16 |
| 9 | 12/12/2024 | RJ01GB8388 | Bhatinda | shree cement, Rajasthan | 49.24 |
| 10 | 12/12/2024 | RJ27GC9070 | Bhatinda | shree cement, Rajasthan | 42.08 |
| 11 | 13-12-2024 | RJ06GC3419 | Bhatinda | shree cement, Rajasthan | 35.56 |
| 12 | 13-12-2024 | RJ09GC2972 | Bhatinda | shree cement, Rajasthan | 36.54 |
| 13 | 13-12-2024 | RJ09GD5193 | Bhatinda | shree cement, Rajasthan | 40.36 |
| 14 | 13-12-2024 | RJ06GB6793 | Bhatinda | shree cement, Rajasthan | 41.53 |
| 15 | 13-12-2024 | RJ06GC0635 | Bhatinda | shree cement, Rajasthan | 38.91 |
| 16 | 13-12-2024 | RJ09GC1703 | Bhatinda | shree cement, Rajasthan | 44.54 |
| 17 | 12/15/2025 | HR58C2089 | Bhatinda | Silvertoan Paper Ltd. | 42.975 |
| 18 | 12/15/2025 | HR58D1205 | Bhatinda | Silvertoan Paper Ltd. | 48.33 |
| 19 | 12/15/2025 | PB13BB9815 | Bhatinda | Silvertoan Paper Ltd. | 44.64 |
| 20 | 12/16/2025 | RJ06GB9897 | Bhatinda | shree cement, Rajasthan | 49.38 |
| 21 | 12/17/2025 | HR58E8921 | Bhatinda | Silvertoan Paper Ltd. | 44.71 |
| 22 | 12/17/2025 | RJ01GB8547 | Bhatinda | shree cement, Rajasthan | 48.68 |
| 23 | 12/17/2025 | RJ01GD2375 | Bhatinda | shree cement, Rajasthan | 43.25 |
| 24 | 12/18/2025 | HR58D1882 | Bhatinda | Silvertoan Paper Ltd. | 45.72 |
| 25 | 12/18/2025 | RJ06GB9453 | Bhatinda | shree cement, Rajasthan | 48.44 |
| 26 | 12/19/2025 | HR58C2089 | Bhatinda | Silvertoan Paper Ltd. | 50.195 |
| 27 | 12/19/2025 | RJ09GC3551 | Bhatinda | shree cement, Rajasthan | 41.64 |
| 28 | 12/19/2025 | RJ01GD2265 | Bhatinda | shree cement, Rajasthan | 33.46 |
| 29 | 12/19/2025 | RJ09GE4216 | Bhatinda | shree cement, Rajasthan | 34.54 |
| 30 | 12/19/2025 | RJ36GA8625 | Bhatinda | shree cement, Rajasthan | 38.67 |
| 31 | 12/19/2025 | RJ01GD0895 | Bhatinda | shree cement, Rajasthan | 40.42 |
| 32 | 12/19/2025 | RJ01GD0762 | Bhatinda | shree cement, Rajasthan | 40.43 |
| 33 | 12/19/2025 | RJ01GC0410 | Bhatinda | shree cement, Rajasthan | 44.22 |
| 34 | 12/20/2025 | HR58E8921 | Bhatinda | Silvertoan Paper Ltd. | 43.81 |
| 35 | 12/20/2025 | HR58D8921 | Bhatinda | Silvertoan Paper Ltd. | 40.695 |
| 36 | 12/20/2025 | HR58D1882 | Bhatinda | Silvertoan Paper Ltd. | 47.13 |
| 37 | 12/22/2025 | HR58D8921 | Bhatinda | Silvertoan Paper Ltd. | 42.56 |
| 38 | 12/22/2025 | HR58D1882 | Bhatinda | Silvertoan Paper Ltd. | 43.565 |
| 39 | 12/29/2025 | HR58D1882 | Bhatinda | Silvertoan Paper Ltd. | 44.875 |
| 40 | 12/30/2025 | HR58C2089 | Bhatinda | Silvertoan Paper Ltd. | 42.975 |
| 41 | 12/30/2025 | HR58D3799 | Bhatinda | Silvertoan Paper Ltd. | 37.925 |
| 42 | 12/30/2025 | HR58D9915 | Bhatinda | Silvertoan Paper Ltd. | 38.15 |
| 43 | 12/30/2025 | HR58C8129 | Bhatinda | Silvertoan Paper Ltd. | 39.15 |
| 44 | 12/31/2025 | HR58D1164 | Bhatinda | Silvertoan Paper Ltd. | 48.6 |
| 45 | 12/31/2025 | HR58D8921 | Bhatinda | Silvertoan Paper Ltd. | 47.93 |
| 46 | 12/31/2025 | HR58E8921 | Bhatinda | Silvertoan Paper Ltd. | 44.56 |

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| | | | | | |
|----|------------|------------|--------------|---------------------------------------|--------|
| 47 | 12/31/2025 | HR58D1882 | Bhatinda | Silvertoan Paper Ltd. | 45.625 |
| 48 | 12/31/2025 | HR58D1205 | Bhatinda | Silvertoan Paper Ltd. | 49.9 |
| 49 | 12/31/2025 | HR58C9029 | Bhatinda | Silvertoan Paper Ltd. | 46.675 |
| 50 | 1/1/2025 | HR58D3799 | Bhatinda | Silvertoan Paper Ltd. | 49.43 |
| 51 | 1/1/2025 | HR58C2089 | Bhatinda | Silvertoan Paper Ltd. | 53.62 |
| 52 | 1/1/2025 | HR58D9915 | Bhatinda | Silvertoan Paper Ltd. | 52.95 |
| 53 | 1/1/2025 | HR58C8129 | Bhatinda | Silvertoan Paper Ltd. | 52.145 |
| 54 | 1/2/2025 | HR58E8921 | Bhatinda | Silvertoan Paper Ltd. | 46.46 |
| 55 | 1/2/2025 | HR58D8921 | Bhatinda | Silvertoan Paper Ltd. | 50.99 |
| 56 | 1/2/2025 | HR58D1164 | Bhatinda | Silvertoan Paper Ltd. | 49.1 |
| 57 | 1/3/2025 | HR58C9029 | Bhatinda | Silvertoan Paper Ltd. | 45.765 |
| 58 | 1/3/2025 | HR58D1882 | Bhatinda | Silvertoan Paper Ltd. | 52.99 |
| 59 | 1/3/2025 | HR58C8129 | Bhatinda | Silvertoan Paper Ltd. | 47.185 |
| 60 | 1/3/2025 | HR58D9915 | Bhatinda | Silvertoan Paper Ltd. | 43.405 |
| 61 | 1/3/2025 | HR58D3799 | Bhatinda | Silvertoan Paper Ltd. | 46.01 |
| 62 | 1/4/2025 | HR58C2089 | Bhatinda | Silvertoan Paper Ltd. | 46.825 |
| 63 | 1/5/2025 | HR58E8921 | Bhatinda | Silvertoan Paper Ltd. | 43.12 |
| 64 | 1/5/2025 | HR58D8921 | Bhatinda | Silvertoan Paper Ltd. | 42.58 |
| 65 | 1/5/2025 | HR58D1205 | Bhatinda | Silvertoan Paper Ltd. | 48.445 |
| 66 | 1/6/2025 | HR58C9029 | Bhatinda | Silvertoan Paper Ltd. | 46.3 |
| 67 | 1/7/2025 | HR58C2089 | Bhatinda | Silvertoan Paper Ltd. | 46.655 |
| 68 | 1/7/2025 | HR58D8921 | Bhatinda | Silvertoan Paper Ltd. | 44.89 |
| 69 | 1/7/2025 | HR58D1882 | Bhatinda | Silvertoan Paper Ltd. | 44.295 |
| 70 | 1/8/2025 | HR58C9029 | Bhatinda | Silvertoan Paper Ltd. | 44.35 |
| 71 | 1/8/2025 | HR58D1205 | Bhatinda | Silvertoan Paper Ltd. | 44.86 |
| 72 | 1/9/2025 | HR58D8921 | Bhatinda | Silvertoan Paper Ltd. | 47.165 |
| 73 | 1/9/2025 | HR58D1882 | Bhatinda | Silvertoan Paper Ltd. | 43.7 |
| 74 | 1/11/2025 | HR58C9029 | Bhatinda | Silvertoan Paper Ltd. | 48.12 |
| 75 | 1/11/2025 | HR58D1205 | Bhatinda | Silvertoan Paper Ltd. | 47.925 |
| 76 | 1/13/2025 | HR58C2089 | Bhatinda | Silvertoan Paper Ltd. | 43.99 |
| 77 | 1/13/2025 | HR58E8921 | Bhatinda | Silvertoan Paper Ltd. | 42.445 |
| 78 | 1/13/2025 | HR58D1882 | Bhatinda | Silvertoan Paper Ltd. | 41 |
| 79 | 1/13/2025 | HR58D8921 | Bhatinda | Silvertoan Paper Ltd. | 44.15 |
| 80 | 1/17/2025 | HR58D1882 | Bhatinda | Disha Paper Industries | 49.46 |
| 81 | 1/17/2025 | HR58D8921 | Bhatinda | Disha Paper Industries | 42.305 |
| 82 | 1/17/2025 | HR58E8921 | Bhatinda | Disha Paper Industries | 48.21 |
| 83 | 1/17/2025 | HR58C2089 | Bhatinda | Disha Paper Industries | 44.505 |
| 84 | 3/4/2025 | HR58D1882 | Bhatinda | S.N Paper | 40.16 |
| 85 | 2/27/2025 | RJ09GC2674 | Bhatinda Eco | J.K. Cement J.K. Cement Mangrol | 36.595 |
| 86 | 2/28/2025 | RJ52GA3269 | Bhatinda Eco | JK Nimbahera | 31.48 |
| 87 | 2/28/2025 | RJ09GD8246 | Bhatinda Eco | J.K. Cement J.K. Cement Mangrol | 33.03 |
| 88 | 3/3/2025 | RJ01GD0563 | Bhatinda Eco | J.K. Cement Mangrol | 32.305 |
| 89 | 3/4/2025 | HR58D1205 | Bhatinda | Genus Paper and Board Mzn unit | 37.68 |
| 90 | 3/9/2025 | HR58C9029 | Bhatinda | Genus Paper and Board Muradabbad unit | 40.58 |
| 91 | 2/22/2025 | RJ09GC3542 | Bhatinda Eco | J.K. Cement Mangrol | 28.57 |
| 92 | 3/23/2025 | RJ01GC4736 | Bhatinda Eco | J.K. Cement Mangrol | 33.19 |
| 93 | 3/23/2025 | HR58AD1205 | Bhatinda | Genus Paper and Board Muradabbad unit | 33.52 |
| 94 | 3/24/2025 | RJ09GB6081 | Bhatinda Eco | J.K. Cement Mangrol | 33.05 |
| 95 | 3/24/2025 | RJ14GJ3741 | Bhatinda Eco | J.K. Cement Mangrol | 33.285 |
| 96 | 3/24/2025 | HR58C9029 | Bhatinda | Genus Paper and Board Muradabbad unit | 38.53 |

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| 97 | 3/26/2025 | RJ09GB8442 | Bhatinda Eco | J.K. Cement Mangrol | 34.855 |
| 98 | 3/26/2025 | RJ09GB9157 | Bhatinda Eco | J.K. Cement Mangrol | 40.08 |
| 99 | 3/26/2025 | HR58C2089 | Bhatinda | Genus Paper and Board Muradabbad unit | 37.665 |
| 100 | 3/27/2025 | RJ01GB5794 | Bhatinda Eco | J.K. Cement Mangrol | 35.08 |
| 101 | 3/27/2025 | RJ01GB7720 | Bhatinda Eco | J.K. Cement Mangrol | 34.5 |
| 102 | 3/27/2025 | RJ01GD4669 | Bhatinda Eco | J.K. Cement Mangrol | 49.51 |
| 103 | 3/27/2025 | RJ01GD0763 | Bhatinda Eco | J.K. Cement Mangrol | 36.58 |
| 104 | 3/27/2025 | RJ01GD0914 | Bhatinda Eco | J.K. Cement Mangrol | 40.585 |
| 105 | 3/28/2025 | HR58D1882 | Bhatinda Eco | Genus Paper and Board Muradabbad unit | 36.395 |
| 106 | 3/28/2025 | HR58D1205 | Bhatinda Eco | Genus Paper and Board Muradabbad unit | 37.84 |
| 107 | 3/28/2025 | RJ06GB9453 | Bhatinda Eco | J.K. Cement Mangrol | 36.87 |
| 108 | 3/28/2025 | RJ01GD0764 | Bhatinda Eco | J.K. Cement Mangrol | 31.095 |
| 109 | 3/29/2025 | HR38AD0019 | Bhatinda Eco | Genus Paper and Board Muradabbad unit | 31.16 |
| 110 | 3/29/2025 | RJ01GC7232 | Bhatinda Eco | J.K. Cement Mangrol | 35.785 |
| 111 | 3/29/2025 | RJ01GD2479 | Bhatinda Eco | J.K. Cement Mangrol | 35.655 |
| 112 | 3/30/2025 | RJ36GA8626 | Bhatinda Eco | J.K. Cement Mangrol | 34.61 |
| 113 | 3/30/2025 | RJ01GD0894 | Bhatinda Eco | J.K. Cement Mangrol | 37.735 |
| 114 | 3/30/2025 | RJ01GD4865 | Bhatinda Eco | J.K. Cement Mangrol | 42.605 |
| 115 | 3/30/2025 | RJ09GC6541 | Bhatinda Eco | J.K. Cement Mangrol | 39.95 |
| 116 | 4/3/2025 | HR58C2089 | Bhatinda Eco | Genus Paper and Board Muradabbad unit | 42.985 |
| 117 | 4/3/2025 | HR58D1205 | Bhatinda Eco | Genus Paper and Board Mzn unit | 41.51 |
| 118 | 4/4/2025 | HR58D1882 | Bhatinda Eco | Genus Paper and Board Mzn unit | 39.64 |
| 119 | 4/4/2025 | HR58C9029 | Bhatinda Eco | Genus Paper and Board Mzn unit | 43.815 |
| 120 | 4/5/2025 | HR58D1205 | Bhatinda Eco | Genus Paper and Board Mzn unit | 38.845 |
| 121 | 4/5/2025 | PB11CM8973 | Bhatinda Eco | Genus Paper and Board Muradabbad unit | 35.66 |
| 122 | 4/7/2025 | HR45E8036 | Bhatinda Eco | Genus Paper and Board Muradabbad unit | 35.515 |
| 123 | 4/7/2025 | HR58C9029 | Bhatinda Eco | Genus Paper and Board Mzn unit | 39.44 |
| 124 | 4/8/2025 | RJ09GC6541 | Bhatinda Eco | Ambuja Cement Mundwa | 33.09 |
| 125 | 4/8/2025 | RJ09GC3414 | Bhatinda Eco | Ambuja Cement Mundwa | 34.005 |
| 126 | 4/8/2025 | RJ09GB9632 | Bhatinda Eco | Ambuja Cement Mundwa | 38.245 |
| 127 | 4/8/2025 | HR58D1882 | jhr Bhatinda | K.K. duplex Ltd. | 41.235 |
| 128 | 4/8/2025 | HR58D1205 | Bhatinda Eco | Genus Paper and Board Muradabbad unit | 32.865 |
| 129 | 4/8/2025 | HR58C2089 | Bhatinda Eco | Genus Paper and Board Muradabbad unit | 36.73 |
| 130 | 4/9/2025 | HR58C9029 | Bhatinda Eco | Genus Paper and Board Muradabbad unit | 34.345 |
| 131 | 4/13/2025 | NL01AJ0973 | Bhatinda Eco | Ambuja Cement Mundwa | 36.21 |
| 132 | 4/14/2025 | RJ06GD5846 | Bhatinda Eco | Ambuja Cement Mundwa | 34.77 |
| 133 | 4/15/2025 | RJ01GC0519 | Bhatinda Eco | Ambuja Cement Mundwa | 36.14 |
| 134 | 4/18/2025 | RJ09GC0480 | Bhatinda Eco | Ambuja Cement Mundwa | 33.125 |
| 135 | 4/19/2025 | RJ01GC0519 | Bhatinda Eco | Ambuja Cement Mundwa | 36.29 |
| 136 | 4/21/2025 | NL01AB9341 | Bhatinda Eco | Ambuja Cement Mundwa | 30.04 |
| 137 | 4/21/2025 | RJ01GD1502 | Bhatinda Eco | Ambuja Cement Mundwa | 28.37 |
| 138 | 4/22/2025 | RJ09GC6541 | Bhatinda Eco | Ambuja Cement Mundwa | 33.365 |
| 139 | 4/23/2025 | RJ09GE1061 | Bhatinda Eco | Ambuja Cement Mundwa | 35.79 |
| 140 | 4/23/2025 | RJ09GC2539 | Bhatinda Eco | Ambuja Cement Mundwa | 34.53 |
| 141 | 4/24/2025 | RJ01GC0519 | Bhatinda Eco | Ambuja Cement Mundwa | 34.96 |
| 142 | 4/25/2025 | RJ39GA7540 | Bhatinda Eco | Ambuja Cement Mundwa | 28.865 |
| 143 | 4/27/2025 | RJ09GC6541 | Bhatinda Eco | Ambuja Cement Mundwa | 37.07 |
| 144 | 4/28/2025 | NL01AJ2260 | Bhatinda Eco | Ambuja Cement Mundwa | 31.25 |
| 145 | 4/29/2025 | RJ39GA7540 | Bhatinda Eco | Ambuja Cement Mundwa | 28.395 |
| 146 | 5/2/2025 | RJ09GB9632 | Bhatinda Eco | Ambuja Cement Mundwa | 39.945 |

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| 147 | 5/3/2025 | RJ01GC4377 | Bhatinda Eco | Ambuja Cement Mundwa | 42.575 |
| 148 | 5/3/2025 | RJ01GD0305 | Bhatinda Eco | Ambuja Cement Mundwa | 35.18 |
| 149 | 5/3/2025 | RJ09GC0480 | Bhatinda Eco | Ambuja Cement Mundwa | 32.88 |
| 150 | 5/4/2025 | RJ09GC6841 | Bhatinda Eco | Ambuja Cement Mundwa | 39.09 |
| 151 | 5/4/2025 | RJ09GC6541 | Bhatinda Eco | Ambuja Cement Mundwa | 34.025 |
| 152 | 5/5/2025 | RJ09GB8919 | Bhatinda Eco | Ambuja Cement Mundwa | 39.53 |
| 153 | 5/7/2025 | RJ01GC7469 | Bhatinda Eco | Ambuja Cement Mundwa | 42.16 |
| 154 | 5/8/2025 | RJ01GC0619 | Bhatinda Eco | Ambuja Cement Mundwa | 37.715 |
| 155 | 5/9/2025 | RJ01GD1502 | Bhatinda Eco | Ambuja Cement Mundwa | 33.84 |
| 156 | 5/9/2025 | RJ09GC3628 | Bhatinda Eco | Ambuja Cement Mundwa | 33.625 |
| 157 | 5/10/2025 | RJ21GE8450 | Bhatinda Eco | Ambuja Cement Mundwa | 34.75 |
| 158 | 5/10/2025 | RJ21GE5793 | Bhatinda Eco | Ambuja Cement Mundwa | 35.38 |
| 159 | 5/10/2025 | NL01AJ3142 | Bhatinda Eco | Ambuja Cement Mundwa | 31.645 |
| 160 | 5/10/2025 | RJ01GC5047 | Bhatinda Eco | Ambuja Cement Mundwa | 31.71 |
| 161 | 5/11/2025 | RJ21GD5530 | Bhatinda Eco | Ambuja Cement Mundwa | 32.41 |
| 162 | 5/11/2025 | RJ09GB8919 | Bhatinda Eco | Ambuja Cement Mundwa | 32.75 |
| 163 | 5/12/2025 | NL01AJ1348 | Bhatinda Eco | Ambuja Cement Mundwa | 30.23 |
| 164 | 5/12/2025 | RJ01GC0519 | Bhatinda Eco | Ambuja Cement Mundwa | 34.73 |
| 165 | 5/12/2025 | RJ01GC7469 | Bhatinda Eco | Ambuja Cement Mundwa | 37.035 |
| 166 | 5/12/2025 | RJ09GC6053 | Bhatinda Eco | Ambuja Cement Mundwa | 35.635 |
| 167 | 5/13/2025 | RJ09GB9269 | Bhatinda Eco | Ambuja Cement Mundwa | 31.565 |
| 168 | 5/15/2025 | RJ19GF5011 | Bhatinda Eco | Ambuja Cement Mundwa | 35.515 |
| 169 | 5/15/2025 | RJ52GA2526 | Bhatinda Eco | Ambuja Cement Mundwa | 31.99 |
| 170 | 5/15/2025 | RJ09GC4420 | Bhatinda Eco | Ambuja Cement Mundwa | 29.645 |
| 171 | 5/15/2025 | RJ09GB8460 | Bhatinda Eco | Ambuja Cement Mundwa | 31.995 |
| 172 | 5/17/2025 | RJ21GD5530 | Bhatinda Eco | Ambuja Cement Mundwa | 27.2 |
| 173 | 5/17/2025 | RJ21GE8450 | Bhatinda Eco | Ambuja Cement Mundwa | 28.1 |
| 174 | 5/17/2025 | RJ21GE5793 | Bhatinda Eco | Ambuja Cement Mundwa | 28.375 |
| 175 | 5/18/2025 | RJ01GC0519 | Bhatinda Eco | Ambuja Cement Mundwa | 31.825 |
| 176 | 5/18/2025 | RJ09GB8919 | Bhatinda Eco | Ambuja Cement Mundwa | 35.245 |
| 177 | 5/19/2025 | RJ09GC0480 | Bhatinda Eco | Ambuja Cement Mundwa | 33.95 |
| 178 | 5/19/2025 | RJ09GB9269 | Bhatinda Eco | Ambuja Cement Mundwa | 35.255 |
| 179 | 5/20/2025 | NL01AJ0973 | Bhatinda Eco | Ambuja Cement Mundwa | 33.95 |
| 180 | 5/23/2025 | NL01AJ9083 | Bhatinda Eco | Ambuja Cement Mundwa | 32.03 |
| 181 | 5/23/2025 | RJ21GE8450 | Bhatinda Eco | Ambuja Cement Mundwa | 31.6 |
| 182 | 5/24/2025 | RJ21GE5793 | Bhatinda Eco | Ambuja Cement Mundwa | 33.55 |
| 183 | 5/24/2025 | RJ01GC0519 | Bhatinda Eco | Ambuja Cement Mundwa | 33.615 |
| 184 | 5/25/2025 | RJ32GD5593 | Bhatinda Eco | Ambuja Cement Mundwa | 33.95 |
| 185 | 5/25/2025 | RJ09GC5644 | Bhatinda Eco | Ambuja Cement Mundwa | 34.33 |
| 186 | 5/26/2025 | RJ01GC2673 | Bhatinda Eco | Ambuja Cement Mundwa | 35.955 |
| 187 | 5/26/2025 | RJ01GB6584 | Bhatinda Eco | Ambuja Cement Mundwa | 34.97 |
| 188 | 5/26/2025 | RJ19GF03111 | Bhatinda Eco | Ambuja Cement Mundwa | 27.04 |
| 189 | 5/26/2025 | RJ19GF5011 | Bhatinda Eco | Ambuja Cement Mundwa | 37.88 |
| 190 | 5/26/2025 | RJ14GF1268 | Bhatinda Eco | Ambuja Cement Mundwa | 29.27 |
| 191 | 5/27/2025 | RJ21GE5793 | Bhatinda Eco | Ambuja Cement Mundwa | 36.42 |
| 192 | 5/28/2025 | RJ21GD5530 | Bhatinda Eco | Ambuja Cement Mundwa | 29.94 |
| 193 | 5/28/2025 | RJ21GC8972 | Bhatinda Eco | Ambuja Cement Mundwa | 30.615 |
| 194 | 5/28/2025 | RJ01GC0519 | Bhatinda Eco | Ambuja Cement Mundwa | 28.12 |
| 195 | 5/29/2025 | RJ23GC4089 | Bhatinda Eco | Ambuja Cement Mundwa | 42.58 |
| 196 | 5/29/2025 | RJ21GE8450 | Bhatinda Eco | Ambuja Cement Mundwa | 30.8 |

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| 197 | 5/30/2025 | RJ09GC6053 | Bhatinda Eco | Ambuja Cement Mundwa | 35.64 |
| 198 | 5/31/2025 | RJ21GE5793 | Bhatinda Eco | Ambuja Cement Mundwa | 32.04 |
| 199 | 5/31/2025 | RJ21GD5530 | Bhatinda Eco | Ambuja Cement Mundwa | 28.8 |
| 200 | 6/1/2025 | RJ07GD7661 | Bhatinda Eco | Ambuja Cement Mundwa | 34.65 |
| 201 | 6/1/2025 | RJ07GC8973 | Bhatinda Eco | Ambuja Cement Mundwa | 30.76 |
| 202 | 6/1/2025 | RJ21GE8450 | Bhatinda Eco | Ambuja Cement Mundwa | 31.7 |
| 203 | 6/1/2025 | RJ50GA8352 | Bhatinda Eco | Ambuja Cement Mundwa | 27.255 |
| 204 | 6/3/2025 | RJ01GC0519 | Bhatinda Eco | Ambuja Cement Mundwa | 30.09 |
| 205 | 6/3/2025 | RJ19GF0311 | Bhatinda Eco | Ambuja Cement Mundwa | 26.61 |
| 206 | 6/3/2025 | RJ14GF1268 | Bhatinda Eco | Ambuja Cement Mundwa | 26.695 |
| 207 | 6/3/2025 | RJ19GEF5011 | Bhatinda Eco | Ambuja Cement Mundwa | 31.395 |
| 208 | 6/4/2025 | NL01AJ9083 | Bhatinda Eco | Ambuja Cement Mundwa | 30.14 |
| 209 | 6/4/2025 | RJ01GB6584 | Bhatinda Eco | Ambuja Cement Mundwa | 35.64 |
| 210 | 6/4/2025 | RJ01GC2673 | Bhatinda Eco | Ambuja Cement Mundwa | 39.68 |
| 211 | 6/5/2025 | RJ21GE5793 | Bhatinda Eco | Ambuja Cement Mundwa | 41.29 |
| 212 | 6/5/2025 | NL01AJ1348 | Bhatinda Eco | Ambuja Cement Mundwa | 30.395 |
| 213 | 6/6/2025 | RJ21GD5530 | Bhatinda Eco | Ambuja Cement Mundwa | 33.36 |
| 214 | 6/6/2025 | RJ21GE8450 | Bhatinda Eco | Ambuja Cement Mundwa | 34.5 |
| 215 | 6/8/2025 | RJ09GB8868 | Bhatinda Eco | Ambuja Cement Mundwa | 36.93 |
| 216 | 6/12/2025 | RJ19GF0311 | Bhatinda Eco | Ambuja Cement Mundwa | 27.76 |
| 217 | 6/12/2025 | RJ19GF5011 | Bhatinda Eco | Ambuja Cement Mundwa | 33.92 |
| 218 | 6/12/2025 | RJ14GF1268 | Bhatinda Eco | Ambuja Cement Mundwa | 31.515 |
| 219 | 6/28/2025 | RJ42GA1555 | Bhatinda Eco | Ambuja Cement Mundwa | 39.105 |
| 220 | 6/29/2025 | RJ10GB1221 | Bhatinda Eco | Ambuja Cement Mundwa | 33.77 |
| 221 | 6/30/2025 | RJ09GC4913 | Bhatinda Eco | Ambuja Cement Mundwa | 34.12 |
| 222 | 7/1/2025 | NL01AJ0973 | Bhatinda Eco | Ambuja Cement Mundwa | 37.1 |
| 223 | 7/3/2025 | RJ21GE8450 | Bhatinda Eco | Ambuja Cement Mundwa | 40.5 |
| 224 | 7/3/2025 | RJ21GE4624 | Bhatinda Eco | Ambuja Cement Mundwa | 42.715 |
| 225 | 7/3/2025 | RJ50GA8015 | Bhatinda Eco | Ambuja Cement Mundwa | 40.755 |
| 226 | 7/5/2025 | RJ19GF0311 | Bhatinda Eco | Ambuja Cement Mundwa | 32.825 |
| 227 | 7/5/2025 | RJ14GF1268 | Bhatinda Eco | Ambuja Cement Mundwa | 34.52 |
| 228 | 7/5/2025 | RJ19GG1531 | Bhatinda Eco | Ambuja Cement Mundwa | 42.36 |
| 229 | 7/6/2025 | RJ09GC3414 | Bhatinda Eco | Ambuja Cement Mundwa | 36.24 |
| 230 | 7/6/2025 | RJ21GE7200 | Bhatinda Eco | Ambuja Cement Mundwa | 37.405 |
| 231 | 7/6/2025 | RJ21GE5793 | Bhatinda Eco | Ambuja Cement Mundwa | 35.98 |
| 232 | 7/6/2025 | RJ09GC6541 | Bhatinda Eco | Ambuja Cement Mundwa | 36.705 |
| 233 | 7/6/2025 | RJ21GE8450 | Bhatinda Eco | Ambuja Cement Mundwa | 37.1 |
| 234 | 7/6/2025 | RJ21GC9636 | Bhatinda Eco | Ambuja Cement Mundwa | 34.89 |
| 235 | 7/6/2025 | RJ21GE4624 | Bhatinda Eco | Ambuja Cement Mundwa | 33.83 |
| 236 | 7/8/2025 | RJ21GD1161 | Bhatinda Eco | Ambuja Cement Mundwa | 41.52 |
| 237 | 7/8/2025 | RJ01GC4377 | Bhatinda Eco | Ambuja Cement Mundwa | 36.65 |
| 238 | 7/8/2025 | RJ21GD5530 | Bhatinda Eco | Ambuja Cement Mundwa | 32.03 |
| 239 | 7/8/2025 | RJ07GC2219 | Bhatinda Eco | Ambuja Cement Mundwa | 29.8 |
| 240 | 7/9/2025 | RJ01GD7077 | Bhatinda Eco | Ambuja Cement Mundwa | 37.42 |
| 241 | 7/9/2025 | RJ01GC3477 | Bhatinda Eco | Ambuja Cement Mundwa | 28.075 |
| 242 | 7/9/2025 | RJ01GB7642 | Bhatinda Eco | Ambuja Cement Mundwa | 29.085 |
| 243 | 7/9/2025 | RJ09GB3414 | Bhatinda Eco | Ambuja Cement Mundwa | 34.23 |
| 244 | 7/9/2025 | RJ21GD0433 | Bhatinda Eco | Ambuja Cement Mundwa | 33.68 |
| 245 | 7/10/2025 | RJ21GD6334 | Bhatinda Eco | Ambuja Cement Mundwa | 30.255 |
| 246 | 7/10/2025 | RJ21GD4841 | Bhatinda Eco | Ambuja Cement Mundwa | 38.95 |

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| 247 | 7/10/2025 | RJ21GE7200 | Bhatinda Eco | Ambuja Cement Mundwa | 35.31 |
| 248 | 7/10/2025 | RJ21GC9900 | Bhatinda Eco | Ambuja Cement Mundwa | 38.88 |
| 249 | 7/10/2025 | HR58C9029 | Bhatinda Eco | Ambuja Cement Mundwa | 35.39 |
| 250 | 7/10/2025 | RJ21GD6145 | Bhatinda Eco | Ambuja Cement Mundwa | 31.88 |
| 251 | 7/11/2025 | RJ01GD2600 | Bhatinda Eco | Ambuja Cement Mundwa | 27.58 |
| 252 | 7/12/2025 | RJ19GF5011 | Bhatinda Eco | Ambuja Cement Mundwa | 36.305 |
| 253 | 7/12/2025 | RJ14GF1268 | Bhatinda Eco | Ambuja Cement Mundwa | 33.035 |
| 254 | 7/12/2025 | RJ19GF0311 | Bhatinda Eco | Ambuja Cement Mundwa | 29.87 |
| 255 | 7/12/2025 | RJ21GD5530 | Bhatinda Eco | Ambuja Cement Mundwa | 34.6 |
| 256 | 7/13/2025 | RJ21GD6334 | Bhatinda Eco | Ambuja Cement Mundwa | 34.81 |
| 257 | 7/13/2025 | RJ09GC6541 | Bhatinda Eco | Ambuja Cement Mundwa | 31.51 |
| 258 | 7/13/2025 | RJ21GD0433 | Bhatinda Eco | Ambuja Cement Mundwa | 34.415 |
| 259 | 7/18/2025 | RJ21GE5793 | Bhatinda Eco | Ambuja Cement Mundwa | 44.665 |
| 260 | 7/20/2025 | RJ21GC9872 | Bhatinda Eco | Ambuja Cement Mundwa | 36.185 |
| 261 | 7/20/2025 | RJ21GC9900 | Bhatinda Eco | Ambuja Cement Mundwa | 45.36 |
| 262 | 7/20/2025 | RJ21GD6145 | Bhatinda Eco | Ambuja Cement Mundwa | 38.14 |
| | | | | Net Weight of RDF | 9923.425 |
| | | | | Total RDF | 53040 |
| | | | | Taking 300kg/cum density | 15912 |
| | | | | Less moisture 20% | 12729.6 |
| | | | | Disposed as on 20-07-2025 | 9923.425 |
| | | | | Remaining net weight | 2806.175 |

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Nacchatar Nagar
Bathinda
Faridkot Division
Punjab

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Bathinda
Faridkot Division
Punjab

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Faridkot Division
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AWARD

A THE PARTIES

A1 The Claimant

1. JITF Urban Waste Management (Bathinda) Ltd., the Claimant in the present case, is a company incorporated under the Companies Act, 1956, having its registered office at A-1, UPSIDC Industrial Area, Nandgaon Road, Kosi Kalan, Mathura (UP) 281403.

Represented by:

- i. Mr. Manoj Singh, Advocate
- ii. Ms. Gunita Pahwa, Advocate
- iii. Mr. Manish Gopal Singh Lakhawat, Advocate
- iv. Mr. Rahul Saraswat, Advocate
- v. Mr. Sunil Trehan, Claimant's Representative
- vi. Mr. Ramesh Chandra, Claimant's Representative

A2 Respondent No. 1

2. Municipal Corporation of Bathinda, is Respondent No. 1 herein, is a statutory body constituted under the Punjab Municipal Corporation Act, 1976 and it has its office near Railway Station, Bathinda.

Represented by:

- i. Mr. Sudhir Nandrajog, Senior Advocate
- ii. Mr. Rakesh Kumar, Advocate

A3 Respondent No. 2

3. Department of Local Government is Respondent No. 2 in the present matter. It is a department of the Government of Punjab having its office at Mini Secretariat, Sector 9, Chandigarh 166017.

Represented by:

- i. Mr. Sudhir Nandrajog, Senior Advocate

ii. Mr. Rakesh Kumar, Advocate

4. The Claimant and the Respondents are collectively referred to as “the Parties” herein.

B BACKGROUND OF THE PROJECT AND THE DISPUTE ARISING THEREFROM

5. In the State of Punjab, the Urban Local Bodies/Municipal Council/Nagar Panchayats are constituted under the Punjab Municipal Corporation Act, 1976. These Urban Local Bodies/Municipal Council/Nagar Panchayats are responsible for providing municipal and civil services in their respective towns, which includes- collection, transportation, processing & disposal of Municipal Solid Waste (“MSW”).
6. The Government of India formulated the Municipal Solid Waste (Management & Handling) Rules 2000 (“**Rules**”) which make it mandatory for every civic body to implement a scientific MSW Management system through which MSW is to be processed. Further, when an MSW is not suitable for recycling, only such an MSW is disposed of in Sanitary Land Fill Sites.
7. The Department of Local Government, State of Punjab [Respondent No. 2], in order to develop an MSW Management Project on a Public-Private-Partnership basis, invited bids by Request for Proposal dated 23.05.2011 and an Addendum-1 to it was issued subsequently on 08.06.2011 (collectively “**RFP**”). The objective was to set up a suitable MSW Management System that is also environmentally sustainable to manage the collection, transportation, processing, and disposal of MSW generated from the residential and other areas falling under the entire Bhatinda Cluster. The said Bhatinda

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Cluster comprised of Respondent No. 1 along with 17 other Urban Local Bodies (“**Other ULBs/ 17 Other ULBs**”). The following are the Other ULBs:

| S. No | Concessioneing Authority | Cluster ULBs |
|--------------|--|--|
| 1 | Municipal Corporation of Bathinda | Municipal Corporation of Bathinda |
| 2 | | Abohar- Municipal Council of Abohar |
| 3 | | Bareta- Municipal Council of Bareta |
| 4 | | Bhikhi- Nagar Panchayat of Bhikhi |
| 5 | | Bhucho Mandi- Municipal Council of Bhucho Mandi |
| 6 | | Budhlada- Municipal Council of Budhlada |
| 7 | | Giddarbaha- Municipal Council of Gidarbaha |
| 8 | | Goniana- Municipal Council of Goniana |
| 9 | | Kot Fatta- Municipal Council of Kot Fatta |
| 10 | | Malout- Municipal Council of Malout |
| 11 | | Mansa- Municipal Council of Mansa |
| 12 | | Maur- Municipal Council of Maur |
| 13 | | Raman- Municipal Council of Raman |
| 14 | | Rampura Phul- Municipal Council of Rampura Phul |
| 15 | | Sangat- Municipal Council of Sangat |
| 16 | | Sardulgarh- Nagar Panchayat of Sardulgarh |
| 17 | | Talwandi Sabo- Municipal Council of Talwandi Sabo |
| 18 | | Tappa- Municipal Council of Tappa |

8. The Project aspired to bring improvement in public health and hygiene, gainfully utilize the MSW to produce compost, Refuse Derived Fuel (**RDF**) and/or power, and then dispose of the residual matter in an environmentally friendly manner.
9. In the competitive bidding conducted by Respondent No. 2, the proposal submitted by a Consortium comprising of M/s JITF Urban Infrastructure Ltd. and M/s Ladurner Impainti S.r.l (“**Selected Bidder**”) was selected which was communicated *vide* Letter of Intent dated 28.07.2011 (“**LOI**”) by Respondent No. 2 to the Selected Bidder. Pursuant to this, a Performance Bank Guarantee bearing No. 00070100006493 dated 11.08.2011 for an amount of INR 3.3 crore (“**Performance Security**”) was also submitted by the Selected Bidder.
10. Since the Selected Bidder was a company incorporated under laws of Italy, the LOI required the Selected Bidder to form a special purpose company under the Companies Act, 1956 to act as the Concessionaire. Therefore, on 23.08.2011, the Claimant, i.e. of M/s JITF Urban Waste Management (Bhatinda) Ltd came to be incorporated as a Special Purpose Company.
11. On 23.11.2011 (“**Appointed Date**”), a Concession Agreement dated 23.11.2011 (“**Concession Agreement**” also “**CA**”) came to be executed between the Claimant (also “**Concessionaire**”), Respondent No. 1 (also “**Concessions Authority**”), Respondent No. 2 and the Selected Bidder for the ‘Development, Construction, Operation and Maintenance of an Integrated Municipal Solid Waste Management Project for the Bathinda Cluster ‘ (“**Project**”). Further, on 01.12.2011, 17 Waste Offtake Agreements (“**WOTAs**”) were executed between the Claimant and the 17 Other ULBs pursuant to

Article 2.2.2.2 (d) of the CA in view of the said Article being a Condition Precedent for the Concessionaire Claimant.

12. Under the Project, the Claimant's scope of work, *inter alia*, included the Door-to-Door collection of MSW from Waste Generators in MSW Supply Area and Other Cluster ULBs; transportation of MSW from MSW Supply Area and Other Cluster ULBs to Processing Facility and Processing the MSW at the Processing Facilities comprising of Compost and RDF Plant; to create a buffer zone of green belt. The CA contained 2 sets of Conditions Precedent, viz. for the Collection, Transportation and Dumping ("CP-CT&D") and for Processing & Disposal ("CP-P&D") to be achieved within timely manner by the Claimant and Respondent No. 1 separately on their own. In other words, one set of CP-CT&D (Article 2.2.2.2 of CA) and CP-P&D (Article 2.2.3.2 of CA) were Claimant's obligations under the CA that were to be achieved by the Claimant and a separate set of CP-CT&D (Article 2.2.2.1 of CA) and CP-P&D (Article 2.2.3.1 of CA) were obligations of Respondent No. 1 under the CA to be achieved by Respondent No. 1.
13. The duration of the Project was estimated to last for 25 years from the Appointed Date ("**Concession Period**"). The Compliance Date for Collection, Transport and Disposal is 60 days from the date of the Agreement viz. 23.11.2011 and the Compliance Date for Processing and Disposal is 120 days from 23.11.2011.
14. On 11.12.2011, the Claimant started Collection & Transportation ("C&T") work). Under the Project, the Claimant was required to set up Processing Facilities and Sanitary Landfill Facilities ("**SLF**") and Respondent No. 1 was responsible for providing lands for the Processing Facilities Sanitary Landfill Facilities. Therefore, on

01.02.2012, the Land Lease Agreements were executed between the Claimant and Respondent No. 1, the details of which are:

- (a) 20 acres of land at Mansa Road for setting up of Processing Facility.
- (b) 36.8 acres of land at Mandi Khurd for Sanitary Landfill (“SLF”)

15. An Environmental Clearance Certificate dated 30.08.2012 (“**Environmental Clearance Certificate**”) was granted by the State Level Impact Assessment Authority, Punjab, for:

- (a) the establishment of an Integrated Municipal Solid Waste Management facility in an area comprising 20 acres at Mansa Road, Bathinda intended to be used as the Processing Facility
- (b) An area comprising 36.81 acres in the Revenue Estate of Village Mandi Khurd, District Bathinda for establishment of an Engineered **Sanitary Land Fill facility** (“SLF”)

16. The Parties encountered some difficulties related to the abovementioned lands. The site at Mansa Road, Bathinda which intended to be used as the Processing Facility, had pre-existing waste. Further, some residents of Bathinda, aggrieved by the grant of the ECC, filed an Appeal No. 70 of 2012, before the National Green Tribunal, New Delhi (“NGT”) titled ‘**Capt. Mall Singh & Others v. State of Punjab & Others**’ wherein notice was issued to the Respondents and the Claimant. On 25.11.2014, final order was passed by the NGT affirming the Environmental Clearance Certificate. Next, with regard to the land at Mandi Khurd, the said land was a subject matter of dispute before the Hon’ble High Court

of Punjab and Haryana in the case titled “*Jarnail Singh & Others vs State of Punjab & others*” bearing Civil Writ Petition No. 21960/2011. The Hon’ble High in this matter passed Order dated 08.08.2012 directing maintenance of status quo over the land thereof meaning that construction work on the Mandi Khurd land was to be on pause till the operation of the Order dated 08.08.2012. The NGT while deciding the case of ‘*Capt. Mall Singh & Others v. State of Punjab & Others*’, passed Order dated 25.11.2014, extending the timeline to set up the Processing & Disposal Plant by 30.06.2015

17. The Claimant commenced construction of the Processing Facilities in Mid-2014. The Date of Completion of the Processing Facility is disputed by Respondent No. 1 and the Claimant claims that it had finished the construction of the Processing Facility by 30.06.2015. The Claimant installed the Processing Facilities with a capacity to process 350 TPD of MSW for production of RDF. The Consent to Operate (“CTO”) the Processing Facility was granted by Punjab Pollution Control Board on 23.03.2016.
18. Coming to the construction of the SLF, due to the status quo Order dated 08.08.2012, the Claimant in its letter dated 01.01.2014, at para 2 asked Respondent No. 1 for additional 10-acre land adjacent to the Project Site at Mansa Road, Bathinda in lieu of 36 acres of land at Mandi Khurd, for setting up first cell of Sanitary Landfill. The proposal for additional 10 acres land at Mansa Road was passed by House of Municipal Corporation of Bhatinda vide its resolution dated 20.10.2014. Thereafter, a Lease Deed for additional 10 acres was executed on 14.07.2016.
19. The SLF was not constructed by the Claimant. Respondent No. 1 has developed a Sanitary Land Fill on 5 acres of land and the

Claimant argues, *inter alia*, that the said Sanitary Land Fill is not in compliance with the Solid Waste Management Rules, 2016. Further, no Waste to Energy Plant has also been set up.

20. On 01.05.2018, the Claimant handed over the task of C&T of MSW including Primary and Secondary collection to Respondent No. 1 to be done at Respondent No. 1's cost.
21. The issues between the Parties arise in the following context -
First, the delays in execution and completion of the works under the CA. Second, the obligations of the Claimant and Respondent No. 1 under the CP-CT&D and CP-P&D being interconnected and reciprocal in nature.
22. The Claimant's case is that in spite of fulfilling its obligations under the CA, the Compliance Date CT&D and P&D could not be achieved and it offers justification for the same on the ground that that its obligations for Collection, Transportation & Dumping and Processing and Disposal could be performed only after Respondent No. 1 had performed its CP- CT&D and CP- P&D. The Claimant alleges that Respondent No. 1 committed various Events of Default and Material Breaches under the CA. The Respondent on the other disputes the case of the Claimant on the ground that the Claimant's justification is untrue and delays caused in the Compliance Date CT&D and P&D are due the Claimant's own defaults.
23. It may also be mentioned that subsequent to Order dt 25.11.2014 passed in '**Capt. Mall Singh & Others v. State of Punjab & Others**' in Appeal No. 70 of 2012, the NGT passed further Orders from time to time. The relevant Orders for the present arbitration are:

- (a) Order dated 11.07.2017, recording that certain disputes have arisen between the parties, primarily with regard to the payment of tipping fee, non-allotment of land as far as the Claimant was concerned and on the other hand non-performance, improper collection of waste and non-disposal were the concerns of Respondent No. 1.
 - (b) Order dated 04.08.2017 directing Respondent No. 1 to pay an amount of INR 2.5 crore to the Claimant, before reconciling the Statement of Accounts. Further, NGT also directed Respondent No. 1 to issue directions to various power/cement/biomass plant in the State of Punjab to accept RDF produced by the Claimant.
 - (c) Order dated 16.1.2018 directing Respondent No. 1 to pay 50% of the claim made by the Claimant qua the Tipping Fee within a period of one week and further granted 30 days to complete the process of reconciliation which was pending as per the statement made before the NGT.
24. Pursuant to NGT's Order dated 16.01.2018, the Respondent reconciled its accounts without involving the Claimant. The Respondent claims that it has made an excess payment of INR 40,62,944 to the Claimant and has also sought refund of the same as one of its Counterclaims.
25. The Respondent further claims that in compliance with Order dated 04.08.2017 passed by the NGT, it had requested various power/cement/biomass plants to purchase RDF from the Claimant but alleges poor quality RDF produced by the Claimant responsible for poor sale of the RDF.

26. On 24.08.2018, the Claimant sent a Consultation Notice to Respondent No. 1 (“**Consultation Notice**”) by an email. On 08.10.2018, the Claimant issued a Notice for Amicable Resolution of Dispute as per the Dispute Resolution mechanism set out under Article 11 of the Concession Agreement. Thereafter, a meeting was convened on 12.11.2018 under the Chairmanship of the Commissioner of Municipal Corporation, Bhatinda to resolve the disputes but the meeting ended without resolution.
27. The Claimant states that since Respondent No. 1 did not rectify the Events of Default alleged by the Claimant in the Consultation Notice, within 90 days as prescribed by the Concession Agreement, the Claimant issued a Termination Notice on 05.12.2018 w.e.f. 19.01.2019 (“**Termination Notice**”).
28. On 05.12.2018, as per Article 11.1(b) of the Concession Agreement, the Claimant also filed an appeal before the First Level Appellate Authority. On 27.12.2018, a meeting was held by the First Level Appellate Authority with the Claimant and the Respondent No. 1 but once again the disputes could not be resolved.
29. On 04.01.2019, the Claimant filed a second appeal before the Second Level Appellate Authority, viz. Principal Secretary, Department of Local Government. Unfortunately, the disputes between the Claimant and the Respondent No. 1 remained unresolved in the meeting held on 04.02.2019 by the Second Level Appellate Authority for the said purpose. The Claimant wrote a letter dated 29.08.2019 to the Respondent No. 1 mentioning the details of outstanding payment on behalf of the other ULBs and Respondent No. 1.

30. In view of the Termination Notice issued by the Claimant, Respondent No. 1 filed a petition under Section 9 of the 1996 Act bearing No. ARB-05 of 2019 in '*Municipal Corporation Bathinda v. J.I.T.F. Urban Waste Management (Bathinda Ltd.) and another*' before the Learned District Court, Bathinda seeking temporary mandatory injunction direction to the Claimant to continue performing its obligations as per the terms of the Concession Agreement and an Interim order restraining the Claimant from unilaterally terminating the Concession Agreement. On 15.01.2019, interim directions in favour of Respondent No. 1 herein were granted as the Learned District Court observed in its reasoning that since Municipal Corporation Bathinda had already paid INR 1.92 crore in excess to the Concessionaire towards tipping fee, both the parties ought to continue to perform their respective obligations under the Concession agreement till further directions or until arbitral award by this Tribunal is published subsequent to which necessary changes in compliance may be made.
31. The Claimant states that the date of termination of the Concession Agreement was on 19.01.2019 ("**Termination Date**") and the same is mentioned in the Termination Notice as well. The Claimant also sent a Notice dated 18.01.2019 for Peaceful and Vacant Hand Over of Project Facilities (with effect from 19.01.2019), in terms of Article 10.3(a) of the Concession Agreement to Respondent No. 1, and the Claimant submitted its Condition Survey. However, pursuant to the abovementioned Order dated 15.01.2019 in '*Municipal Corporation Bathinda v. J.I.T.F. Urban Waste Management (Bathinda Ltd.) and another*' passed by the Learned District Court, Bathinda, the Claimant has continued its operations of the Processing Facility.

32. Since, the disputes between the Claimant and Respondent No. 1 continued to persist, the Claimant invoked the Arbitration Clause under Article 11.2 of the Concession Agreement *vide* Notice of Arbitration dated 19.03.2019 (“**Arbitration Notice**”), against the Respondents which led to the present proceedings.
33. It is the case of the Claimant that it has performed all its obligations under the Concession Agreement but Respondent No. 1, committed fundamental breaches of its obligations under Concession Agreement. The Claimant pleads that the Respondent failed to make timely payment of the Tipping Fees, failed to notify the User Charges and Sale of RDF and thereby the Claimant was impeded from realising the revenue it was entitled to earn under the Concession Agreement. The Claimant further alleges that the abovementioned fundamental breaches on the part of Respondent No. 1 also hampered Claimant’s performance of its obligations under the Concession Agreement. The Claimant has also stated that Respondent No. 2 is jointly and severally liable under the Concession Agreement as it is one of the parties that executed the Concession Agreement. The Claimant has claimed INR 1,292.28 crore (after including updated interest till 30.09.2024 and cost) as financial claims in the present arbitration.
34. The Respondent No. 1, on the other hand, disputes the maintainability of all the financial Claims raised by the Claimant on the ground that the said Claims are beyond the scope of the Concession Agreement. Since, the arbitration was invoked under the Article 11.2 of the Concession Agreement, Respondent No. 1 states that claims raised outside of the terms of the Concession Agreement are not maintainable before this Tribunal. Without prejudice to the

aforesaid, Respondent No. 1 also contends that it has paid INR 2.5 crore to the Claimant and there is no outstanding payment qua Tipping Fee and pursuant to Order dated 16.01.2018 passed by the NGT, a payment of INR 15.35 lakh was made to the Claimant by Respondent No. 1, therefore, there is no outstanding payment pending to the Claimant. On the contrary, Respondent No. 1 has claimed INR 8,77,47,09,423 along with *pendente lite* and future interest as counterclaims against the Claimant.

35. Respondent No. 2 states that Consultation Notice, Termination Notice and the Arbitration Notice do not contain any disputes against it. Therefore, it is not a necessary party under the present arbitration.

C ARBITRATION CLAUSE

36. The Arbitration Clause is provided under Article 11.2 of the Concession Agreement, and it reads thus:

“ 11.2. Arbitration

(i) Procedure

Subject to the provision of **Article 11.1**, any Dispute, which is not resolved amicably or by First and Second Level Appellate Authorities, shall be finally settled by binding arbitration under the Arbitration Act. The arbitration shall be finally settled by binding arbitration under the Arbitration Act. The arbitration shall be by a panel of three (3) arbitrators, one (1) to be appointed by each Party and the third to be appointed by the two arbitrators appointed by the Parties. The Party requiring arbitration shall appoint an arbitrator in writing, inform the other Party about such appointment and call upon the other Party to appoint its arbitrator. If within thirty (30) days of receipt of such intimation, the other Party fails to appoint its arbitrator, the Party seeking appointment of arbitrator may take further steps in accordance with Arbitration Act.

(ii) Place of Arbitration

The place of arbitration shall ordinarily be Bhatinda, however with mutual consent of the Parties, the arbitration hearings, if required, may be held elsewhere.

(iii) Language

The request for arbitration, the answer to the request, the terms of reference, any written submissions, any orders and awards shall be in English and, if oral hearings take place, English shall be the language to be used in the hearings. Any party using Punjabi/ other than English as language shall supply the other party an authorized transcript of true translation of its submissions into English at its costs and expenses.

(iv) Enforcement of Award

The Parties agree that the decision or award resulting from arbitration shall be final and binding upon the Parties and shall be enforceable in accordance with the provisions of the Arbitration Act subject to the rights of the aggrieved parties to secure relief from any higher forum.”

D CONSTITUTION OF THE TRIBUNAL

37. *Vide* Notice of Arbitration dated 19.03.2019, the Claimant invoked Article 11.2 of the Concession Agreement to submit the dispute between the Claimant and the Respondents for Arbitration. The Claimant nominated Justice Badar Durrez Ahmed, Former Chief Justice of High Court of Jammu and Kashmir as its nominee arbitrator. Since this Notice was sent to Respondent No. 1, Respondent No. 1 nominated Mr. Jatinderbir Singh, IAS, the then Chairman, Punjab Infrastructure Regulatory Authority and now retired as its nominee arbitrator. The two nominee arbitrators decided to appoint Justice A.K. Sikri, Former Judge of the Supreme Court of India, as the Presiding Arbitrator.
38. On 27.04.2019, Justice A.K. Sikri, accepted his appointment as the Presiding Arbitrator, *vide* an email addressed to the co-arbitrators and the Parties. Thus, the Tribunal was constituted on 27.04.2019.

E PROCEEDINGS BEFORE THE TRIBUNAL

39. On the constitution of the Tribunal, Notice dated 30.04.2019 was issued by the Presiding Arbitrator communicating his appointment as the Presiding Arbitrator and his acceptance thereof. It was decided to hold the Preliminary/Procedural Hearing on 22 May 2019 in Delhi and on that date, venue for future sittings would be decided after consultation with the Parties.
40. On 22.05.2019, the Parties appeared before this Tribunal for the Preliminary/Procedural Hearing. Necessary declaration by all the Arbitrators under Section 12(1)(b) read with Sixth Schedule of the Arbitration and Conciliation Act 1996 (“**Arbitration Act**”) specifically stating that there was no conflict of interest was recorded. The arbitral fee was fixed and procedural rules for the conduct of the proceedings were also framed. The time schedule for completion of pleadings was agreed upon.
41. In the hearing held on 18.09.2019, Respondent No. 1 filed an Application for amendment of Counterclaims. This Tribunal after hearing the Parties allowed the amendment subject to just exception and the Claimant was permitted to contest the amended Counterclaims. Further, this Tribunal directed Respondent No. 1 to file the Amended Statement of Defence within six weeks from 18.09.2019 and the Claimant was also directed to file the Rejoinder thereto within four weeks thereafter. Further, the Counsel for the Parties agreed that since the Counterclaims have been filed, this Tribunal may fix Arbitrator’s fees in respect to the Counterclaims. The fee was fixed for the counter claim, having regard to the fact that Counterclaims are to the tune of INR 600 crore (approx.). On 09.12.2019, both the Parties affirmed that they had no objection to

the nomination of Mr. Jatinder Bir Singh as the Co-Arbitrator. The Parties made a specific statement that they have no doubts qua independence and impartiality of Mr. Jatinder Bir Singh thereby agreeing to waive the applicability of Section 12(5) of the Act. Arguments on the Applications filed by both the Parties under 17 of the Act were also heard and the Application disposed of. In so far as the Claimant's Application was concerned, the Respondent was directed not to invoke the bank guarantees subject to the condition that the Respondent shall keep the guarantees alive by renewing it every three months. With regard to the Application filed by the Respondent, this Tribunal stated that the Respondent had already been granted relief by the District Court in the Respondent's Application filed under Section 9 of the Act, as a result, the Application filed by the Respondent under Section 17 of the Act does not survive.

42. On 29.01.2020, statements of the both the counsel for the Parties was recorded that the provisions of Section 29 A read with Section 23 (4) of the Act as amended vide Amendment Act, 2019 shall apply to the proceedings in the present case. The effect of that would be to exclude the time taken in completion of the pleadings upto a period of six months. In addition, since considerable time was consumed in disposal of Applications filed by both the Parties, the Counsel of the Parties consented to give extension of six months for making the Award as provided under Section 29 A (3) of the Act.
43. In the meeting held on 06.04.2021, it was agreed by the counsel for the Parties that the claims and counterclaims shall be treated as Points of Determination. Since both the Respondents had filed Applications under Section 16 of the Act on 07.03.2020 and

15.07.2020 arguments on these Applications were also advanced by both the Parties.

44. *Vide* Order dated 19.08.2020, this Arbitral Tribunal disposed of Applications filed under Section 16 of the Act by both Respondent No. 1 and Respondent No. 2 whereby the jurisdiction of this Tribunal to entertain the disputes was challenged. In so far as the Application filed by Respondent No. 2 was concerned, this Tribunal recorded the statement of its counsel that the issues raised therein would be pressed during the course of proceedings of the arbitration case. On the Application filed by Respondent No. 1, the Tribunal, while harmoniously reading the cases of *Rohan Lal Gupta v. Parasram Holdings Pvt. Ltd.* (2009) 1 Arb LR 304 & *Lalit Kala Academy v. Svapan Const.* (2005) 2 Arb LR 447, and discussing the relevant provisions of the CA and WOTA, held that *prima facie* it cannot be stated that it lacked jurisdiction to adjudicate upon the issues/ disputes or that the said disputes were not within its jurisdiction. The Tribunal also observed that the question as to whether Respondent No. 1 is responsible for the dues on behalf of the other ULBs or what is the extent of such liability, would to be decided by it at the final stage i.e. while rendering the final Award. Hence the Application was dismissed. Likewise, the Application of Respondent No. 2 was dismissed as not pressed.
45. The Claimant also filed two Applications under Section 19 of the Act read with Order XI Rule 5 of the Code of Civil Procedure (“CPC”) whereby it sought production and discovery of documents, from the Respondents. The Claimant also filed two Applications under Section 19 of the Act read with Order XI Rule 2 of the CPC praying for discovery by way of interrogatories from the Respondents.

Arguments on these applications were heard on 05.09.2020 and *vide* Order dated 19.08.2020, the Tribunal disposed of said four applications, giving necessary directions.

46. After some discussion on 22.10.2020, the Parties agreed that the Claims and the Counterclaims can be treated as Points of Differences. The Learned Counsel for the Respondents stated that he shall be submitting a list of jurisdictional issues by 24.10.2020, after discussing with the Counsel for the Claimant. Since, both the Parties stated that they would lead oral evidence, they were directed to file Witness Affidavits by 05.12.2020.
47. In the meeting held on 25.01.2021, Respondent No. 1's Application dated 29.12.2020 was taken up for consideration. It was an Application under Section 19 of the Arbitration & Conciliation Act, 1996 read with Order VIII Rule 1A of the Code of Civil Procedure with a prayer to place certain documents on record and these documents were filed along with the Application. This Tribunal, while taking on record the statement of Respondent No. 1 to the effect that with filing of these documents the Respondents do not intend to either amend their Statement of Defence ("SOD") or Counterclaims, gave the following directions:

"In view of the above, the application is disposed of with the following directions:

- (i) Since the witness affidavits have already been filed, Respondent No. 1 shall file these documents along with further affidavit of witness. Respondent No. 1 shall also, while filing the affidavit, comply with the requirements of Section 65B of the Indian Evidence Act insofar as videos and photographs are concerned. Such an affidavit shall be filed within 10 days.
- (ii) The Claimant shall also be entitled to file further affidavit by way of evidence along with affidavit of admission/denial

of the documents produced in the format prescribed by the Commercial Court Act. In the affidavit to be filed by the Claimant, it would be open to the Claimant to produce any further documents in support. Such an affidavit shall be filed within one week from the date of receiving the affidavit of Respondent No. 1.

- (iii) If further documents are filed by the Claimant along with its affidavit, Respondents shall undertake admission/denial of those documents by filing a proper affidavit in the format prescribed by the Commercial Court Act within one week thereafter.
- (iv) It is made clear that these documents are taken on record subject to the objection of the Claimant with respect to their relevancy and admissibility which shall be determined at the appropriate stage.”

48. As both the Parties had already expressed their intention to lead oral evidence and had filed their witness affidavits as well, in the hearing held on 25.01.2021, the Tribunal also fixed the dates for cross-examination.

49. The Claimant had filed affidavits of three witnesses which were produced for cross-examination. These witnesses were examined/cross-examined on 11.07.2022, 12.07.2022, 14.09.2022 and 05.11.2022. On 05.11.2022, the Claimant’s evidence was completed.

50. Respondent No. 1 had examined as many as six witnesses. Cross-examination of RW-1 started on 06.12.2022 and continued on 17.12.2022, 07.02.2023, 20.02.2023, 21.02.2023, 26.04.2023 and 13.05.2023.

51. RW-1 was further cross-examined on 06.09.2023 and 0-7.09.2023. Thereafter, RW-2 was cross-examined on 08.09.2023 and cross-examination of RW-3 also commenced on that date, which was concluded on 01.11.2023. On this date, RW-4 was also cross-

examined. For certain reasons, RW-5 was substituted by another witness and the cross-examination of RW-5 was conducted and concluded on 27.11.2023. Likewise, RW-6 was cross-examined on 30.11.2023. In this manner, all the witnesses of Respondent No. 1 led their evidence.

52. It may be mentioned that in the meantime, *Vide* Order dated 06.09.2023 the Learned Additional District Judge, Chandigarh, has extended the time for conclusion of the present arbitral proceedings up till 14.04.2024.
53. In the meeting held from 05.02.2024 to 09.02.2024, the Counsel for the Claimant commenced its arguments, which however remained inconclusive. The learned counsel for the Claimant argued the matter further on 19.02.2024, 19.03.2024 and, thereafter, on 26.03.2024, on which date he concluded his arguments.
54. Mr. Sudhir Nandrajog, learned senior counsel for the Respondents, commenced his arguments on 16.05.2024 and advanced further arguments on 17.05.2024, 27.05.2024, 30.05.2024, 23.07.2024 and concluded his submissions on 25.07.2024. Thereafter, Mr. Manoj Singh, learned counsel for the Claimant, commenced his Reply arguments on the Counterclaims as well as Rejoinder submissions on 14.08.2024 and concluded on 17.08.2024. On 20.08.2024, the Respondents advanced Rejoinder arguments on the Counterclaims. In this manner, both the Parties argued their case substantively and the arguments were finished on 20.08.2024. Since, both parties requested to file closing written submissions, their request was allowed by this Tribunal to file the closing written submissions together with statement of costs by 17.09.2024.

55. The Claimant and the Respondents filed their Closing Written Submissions on 02.10.2024 and 01.10.2024 respectively. The Claimant also filed its Memo of Cost along with the Written Submissions. It may, however, be mentioned that whereas the Claimant deposited its share of fee, the Respondent did not do the needful for quite some time. Accordingly, vide email dated 15.03.2025, the Respondent was directed to deposit the balance fee within one week, making it clear that failure to do so shall entail the Order under Section 38 of the Act. As it transpired, the Respondent was under the impression that it had already paid the balance fee of the Presiding Arbitrator as well as the Co-arbitrators. However, on scrutiny by the Respondent, the Respondent found that though the bank accounts of the Co-arbitrators were credited with the amount, it did not happen in the case of the Presiding Arbitrator. Realising this omission, the Respondent deposited the balance fee in the bank account of the Presiding Arbitrator on 26.03.2025. Thus, both the Parties have paid their respective shares of arbitral fee. Vide Order dated 16.05.2025, the learned Court has extended the mandate of the Tribunal till 31.05.2025 and the present Award is pronounced within that period.

F CASE OF THE CLAIMANT

56. It is the case of the Claimant that Respondent No. 1 has not complied with its obligations under the Concession Agreement and thereby has committed Event of Default given under Article 9.1 (b) of the Concession Agreement and Respondent No. 1 is in Material Breach of the Concession Agreement which is also an Event of Default. The Claimant further states that since Respondent No. 1 has failed to rectify the same, the termination of the Concession Agreement by

the Claimant is valid and therefore, it is entitled to the Claims raised by it. It is elaborated by the Claimant as under:

Re: Respondent No. 1 failed to fulfil its obligations

57. The Claimant states that under Article 6.1 (a) of the Concession Agreement, Respondent No. 1 was responsible to meet the Specific Obligation of fulfilling the Condition Precedent CT&D and Condition Precedent P&D in a timely manner. Under Article 2.2.2.1 of the Concession Agreement, the obligations of the Claimant for Collection, Transport & Dumping were subject to the satisfaction in full of the Conditions Precedent for Collection, Transport & Dumping by Respondent No. 1. The said obligation of Respondent No. 1 was to be completed within a period of 60 days from the Appointed Date (“**Compliance Period- CT&D**”).
58. The Claimant submits that Respondent No. 1 failed to fulfil Conditions Precedent for Collection, Transport & Dumping within the stipulated time and also according to the manner given under the Concession Agreement. Respondent. No. 1 defaulted, *inter alia*, in transferring Environmental Clearance, to notify door-to-door MSW collection policy in the MSW Supply Area, to maintain the dumping site till the Project achieved COD-P&D, to create a Tipping Fund, and to appoint an Independent Expert. Similarly, as per Article 2.2.3.1 of the Concession Agreement, the Claimant’s obligations for Processing & Disposal were subject to the satisfaction in full of, Conditions Precedent for Processing & Disposal by Respondent No. 1. Respondent No. 1 had to accomplish the Conditions Precedent - P&D within a period of 120 days from the Appointed Date (“**Compliance Period-P&D**”) which it failed to do as it could not execute the Project Site Lease Deed and handing over

vacant and unencumbered possession of Project Site in accordance with Annexure 5 which delayed in handing over vacant and unencumbered possession of the site for development of the Processing Facilities. The Claimant avers that the vacant and unencumbered possession of the site for development of the Processing Facilities was handed over to it by Respondent No. 1 only on 25.11.2014. As per the Claimant, despite fulfilling all its Conditions Precedent - CT&D and P&D, the Compliance Date of CT&D and P&D could not be achieved due to failure of Respondent No. 1 to fulfil its Conditions Precedent CT&D and P&D.

59. The Claimant next states that Respondent No. 1 is in breach of its Specific Obligation that is provided under Article 6.1 (f) of the Concession Agreement as Respondent No. 1 failed in making timely payment of the Tipping Fee and releasing the outstanding Fee to the Claimant.
60. The Claimant also alleges breach of Article 6.1 (g) of the Concession Agreement by Respondent No. 1 as Respondent No. 1 did not declare a no-development zone around the Processing Facilities Site and Project Site.

Re: Non-compliance of the Orders of NGT

61. The Claimant submits that since the Project had a bearing on the environment, the NGT was monitoring the MSW disposal projects for the entire Punjab in the matter titled as “*Capt. Mall Singh & Ors. v. State of Punjab & Ors.*” (Appeal No. 70/2012). Therefore, the NGT passed various Directions /Orders for the Project. The Claimant states that Respondent No. 1 did not follow the Directions/Orders passed by the NGT.

62. The Claimant has made the following submissions with regard to Respondent No. 1's non-compliance with the Directions/Orders passed by the NGT:

- (a) The NGT took note of the outstanding Tipping Fees owed to the Claimant and *vide* Order dated 16.01.2018 directed Respondent No. 1 to release 50% of the total outstanding Tipping Fee within a week from 16.01.2018 and the balance sum upon reconciliation within thirty 30 days to the Claimant. The Claimant submits that on 29.01.2018, Respondent No. 1 paid INR 15.35 lakh towards the outstanding Tipping Fees owed to it as against INR 1.48 crore which was outstanding at that time, and the Tipping Fees continues to remain outstanding. Further Respondent No. 1 did not reconcile or take any inputs from it for reconciliation of the outstanding Tipping Fees despite the directions given by the NGT. The Claimant states that, in fact, Respondent No. 1 made unilateral and illegal deductions from the Tipping Fees, which are extraneous to the terms of the Concession Agreement.

- (b) The NGT *vide* its Order dated 01.12.2017 and 04.08.2017 directed Respondent No. 1/Respondent No. 2 to ensure that biomass and cement plants should purchase RDF from the Claimant, however despite repeated requests made by it, Respondent No. 1 did not do the needful and, as a result, the biomass and cement plants did not purchase RDF from the Claimant. As a result, the stocks of the RDF were piling up continuously.

(c) *Vide* Order dated 01.12.2017 read with Orders dated 21.12.2017 and 16.01.2018, the NGT directed that the C&T operations would be undertaken by Respondent No. 1 with effect from 01.05.2018 in place of the Claimant. Respondent No. 1 was further directed by the NGT to supply to the Claimant 300 MT of MSW with effect from 01.05.2018 till construction of the Waste to Energy (“WTE”) Plant and thereafter 500 MT of MSW upon commissioning of the WTE Plant. The Claimant asserts that it had complied with abovementioned directions of the Learned NGT, but Respondent No. 1 failed to do its part. It points out that as per the records it is evident that since 01.05.2018 Respondent No. 1 has not supplied 300 MT of MSW to the Claimant.

63. The Claimant further avers that despite constantly requesting Respondent No. 1 to have a meeting for the purpose of negotiating an amendment to the Concession Agreement so as to cover the eventualities that might arise on account of the establishment of the WTE Plant and the short supply of MSW per day by Respondent No. 1, Respondent No. 1 did not even respond to these requests. Due to Respondent No. 1’s non-compliance, the WTE Plant could not be established.

Re: Land for Processing Facility and Sanitary Land Fill

64. The Claimant submits that as per Annexure 5 of the Concession Agreement, Respondent No. 1 was responsible to provide vacant and unencumbered possession of total 51.81 Acres of land for the Processing Facility and SLF. However, the Claimant land was

provided by Respondent No. 1 in a piecemeal manner and that too belatedly as under:

- (a) Respondent No. 1 provided 36.81 acres of land at Mandi Khurd vide Land Lease dated 01.02.2012 but this land was under litigation since November 2011. The Hon'ble High Court of Punjab and Haryana had ordered status quo to be maintained on the said land in its Order dated 8.08.2012.
- (b) On 14.07.2016, Respondent No. 1 provided 10-acre alternative land at Mansa Road, but the said land could not be used as Respondent No. 1 failed to get the Environment Clearance amended for the construction of the SLF.

65. Therefore, the Date of Commissioning P&D (COD-P&D) could not be achieved.

Re: Events of Default

66. The Claimant alleges that that Respondent No. 1 has committed the following Events of Default, mentioned in Article 9.1 of the Concession Agreement:

- (a) Respondent No. 1 did not make timely payment Tipping Fee and did not release the outstanding Tipping Fee in terms of Article 9.1 (b)(iii) read with Article 6.1(f) of the Concession Agreement.
- (b) Respondent No. 1 failed to create a Tipping Fund and deposit money in the same which is an Event of Default under Article 9.1(b)(i) read with Article 6.1(a) of the Concession Agreement.

- (c) Failing to appoint an Independent Expert by Respondent No. 1 is an Event of Default under Article 9.1(b)(i) read with Article 6.1(a) of the Concession Agreement and is also a breach of Condition Precedent for CT&D under Article 2.2.2.2(g) of the Concession Agreement by Respondent No. 1
- (d) Delay in providing vacant and unencumbered possession of the 20 acres of land at Mansa Road and failure to provide the balance land of 36.81 acres at Mandi Khurd, is an Event of Default under Article 9.1(b)(i) read with Article 6.1(a) of the Concession Agreement and is also a breach of the Conditions Precedent -P&D in terms of Article 2.2.3.1(a) of the Concession Agreement which is a by Respondent No. 1
- (e) Respondent No. 1 did not declare a no-development zone around the Processing Facility and this constitutes an Event of Default as per Article 9.1 (b)(i) read with Article 6.1(g) of the Concession Agreement
- (f) It is the contention of the Claimant that in view of the above stated Event of Defaults, Respondent No. 1 had expressed its intention to not be bound by the Concession Agreement which in itself is an Event of Default as per Article 9.1 (b)(i) of the Concession Agreement.

Re: Revenue under the Concession Agreement during the Concession Period

67. The Claimant avers that even though it performed its obligations relating to scope of work under the Concession Agreement, but it has not been able to earn the revenue that it was entitled to under the

Concession Agreement due to the acts and omissions of Respondent No. 1. The Claimant claims that it is entitled to the following revenue streams:

- (a) As per Article 7.8 of the Concession Agreement, starting from the Compliance Date CT&D and during the entire Concession Period, it is entitled to exclusive collection of User Charges from Waste Generators, and to appropriate/retain and utilize the same at its own discretion;
- (b) As per Article 6.1 (f) of the Concession Agreement, it is entitled to timely receipt of payment of Tipping Fees in accordance with the provisions of Article 7.3 to 7.5 and Annexure 13 of the Concession Agreement;
- (c) As per Article 7.9 (a) of the Concession Agreement, it is entitled to sale / disposing-off the constituents/ products/by-products from the MSW, including but not limited to recyclables, electricity, RDF, Compost, Residual Inert waste and to further retain and appropriate any revenues generated from the sale of such products/by-products.

Re: Amicable Disputes Resolution

- 68. The Claimant submits that it has duly complied with the entire Dispute Resolution process provided under Article 11 of the Concession Agreement. However, Order dated 04.01.2019 passed by the First Level Appellate Authority under Article 11.1(b) of the Concession Agreement was time barred and that the said Order was received by the Claimant on 07.01.2019. The Claimant states that even Order dated 25.02.2019 passed in its Appeal made to the

Second Level Appellate Authority was time barred. The Claimant points out that the Concession Agreement specifies a period of 45 days for passing of an Order by the Second Level Appellate Authority. The Claimant submits that the Second Level Appellate Authority passed its Order on 25.02.2019 which should have been passed earlier than 17.02.2019.

69. The Claimant states that since Respondent No. 1 did not rectify the Events of Default, alleged by the Claimant in the Consultation Notice, within 90 days as prescribed by the Concession Agreement, the Claimant issued a Termination Notice on 05.12.2018, w.e.f. 19.01.2019.

Case qua Respondent No. 2

70. The case of the Claimant against Respondent No. 2 is that it is also liable under the Concession Agreement for the following reasons:
71. Respondent No. 2 issued the RFP for the Project and entered into the Concession Agreement as a Confirming Party and, therefore, is bound by the Concession Agreement. It points out that Respondent No. 2 drafted the Concession Agreement and cannot wriggle out of the same.
72. The Claimant asserts that Respondent No. 2, both in the RFP and the Concession Agreement, undertook to pay the Termination Payment and therefore, only the Claim towards payment of Termination Payment has been raised against Respondent No. 2.
73. The Claimant states that Respondent No. 2 has acted upon the terms of the Concession Agreement for over 7 years and has also undertaken a supervisory role in the Project by conducting various

meetings and issuing direction from time to time. For instance, Respondent No. 2 directed Respondent No. 1 to clear the outstanding tipping fee due to the Claimant vide email dated 26.03.2014 and also the same is mentioned in the Minutes of Meeting Dated 29.08.2013.

74. The Claimant states that Respondent No. 2 has enjoyed the benefits of the Project Facilities since its commissioning. It further states that the Concession Agreement is a BOOT Project and thus upon its termination, the Respondents would reap the benefits thereof.
75. The Claimant has raised various financial claims. However, these are revised, based on its Expert's Report, as can be seen from the following table:

F1 Summary of the Claims of the Claimant

| Claim No. | Particulars | Amount Claimed (INR) | Financial Expert (CW-3) (INR) |
|-----------|--|--|--|
| 1. | (i) Claim towards outstanding Tipping Fee | 2,24,36,451 | 2.24 crore |
| | (ii) Claim towards interest on delayed payments of Tipping Fee | 98,23,982 | 0.94 crore |
| | (iii) Claim towards interest on the Outstanding Tipping Fee till 29.06.2019 | 36,51,553 | 0.34 crore |
| 2. | Claim towards Termination Payment | 100,04,33,839 | 99.68 crore |
| 3. | Claim towards loss of profit | 646.82 crore | 646.82 crore |
| 4. | Claim towards liability of Respondent No. 1 to return Performance Security Bank Guarantee No. 00070100006493 | 3.3 crore | |
| 5. | Claim towards Pendente Lite and Future Interest | | |
| 6. | Claim towards Costs | 13,83,35,967 | |
| | Total | 750.45 crore | 750.02 crore (without including updated interest and cost) |
| 7. | Updated Interest till 30.09.2024 | | 528.43 crore |
| | GRAND TOTAL | 1,292.28 crore (after including updated interest till 30.09.2024 and cost) | |

G CASE OF RESPONDENT NO. 1**G1 Preliminary Objections to the invocation of the Arbitration**

76. Respondent No. 1, has raised preliminary objections with regard to the legality of the very arbitral process initiated by the Claimant as under:

- (a) First of all, it states that the Claims raised by the Claimant are beyond the terms of the Concession Agreement, thereby not maintainable before this Tribunal. It submits that the disputes raised by the Claimant involve the Waste Off Take Agreements dated 01.12.2011 (“WOTAs”) and are not confined only to the Concession Agreement, however, the present proceedings have not been constituted pursuant to any invocation of arbitration with regard to the WOTAs. Yet rights, liabilities, obligations and payments due under such WOTAs have been made the premise of claims before this Tribunal
- (b) Secondly, other ULBs have not been made parties before this Tribunal. It is submitted by Respondent No. 1 that these other ULBs are statutory bodies and separate legal entities under the Punjab Municipal Corporation Act, 1976. Even though the Concession Agreement broadly envisages works performed by the Claimant for the other ULBs, the Claimant under the Condition Precedent had executed separate WOTAs with every other ULB. Respondent No. 1 states that the Project work is covered under a distinct contractual structure, in that, it is governed by more than one agreement, namely- the Concession Agreement and the 17 other WOTAs. This is

evident from the definition of “Project”. Article 1.1.97 of the Concession Agreement states that the terms and conditions of the Concession Agreement and the WOTAs apply to the Project execution. Next, the definition of WOTA [Article 1.1.1140] provides for executing WOTAs between the Claimant and the respective Municipal Council for “collection and transportation of MSW from other Cluster ULBs.”, Article 2.1.2 (g) of the Concession Agreement provides that the Claimant shall execute separate/ individual WOTAs with the 17 other ULB for treatment and disposal of MSW generated within the jurisdiction of such ULB. Thus, 17 WOTAs were executed between the Claimant and 17 other ULBs. It is pointed out that there are parallel sets of provisions on almost all aspects of the Project contained in the Concession Agreement and the WOTAs. Therefore, for the works done by the Claimant within the jurisdiction of a particular ULB, only that particular ULB would be obliged to make the Tipping Fees payment to the Claimant owing to the terms and conditions mentioned under its concerned WOTA. Therefore, the disputes raised and Claims made by the Claimant are outside the scope of the present arbitration proceedings. That apart Respondent No. 1 has made the following further submission as its preliminary objections with respect to certain claims preferred by the Claimant:

[End of page]

G2 Preliminary Submissions**G2.1 Claims with respect to the alleged non-payment of Tipping Fees**

77. Insofar as claims for non-payment of Tipping Fees, interest on delayed payment of Tipping Fees and interest on outstanding Tipping Fees are concerned, the Respondents' objection to the maintainability of these claims is on the premise that these claims are not *qua* Respondent No. 1 alone but encompasses seventeen other ULBs. It is pointed out that the Claimant had entered into different WOTAs with those ULBs and Tipping Fees, etc. was payable under the said WOTAs by the respective ULBs. However, the claim on account of Tipping Fees is made only against Respondent No. 1 though they relate to the alleged non-payment by other seventeen ULBs also. To buttress these submissions, Respondent No. 1 also pointed out that the Claimant has also relied upon various emails, tabular charts and communications exchanged and invoices raised which are raised on other municipal corporations. Respondent No. 1 further contends that all the seventeen ULBs are statutory bodies, separate legal entities under the Punjab Municipal Corporation Act, 1976 which had executed separate WOTAs with the Claimant and, therefore, the claim of non-payment of Tipping Fees by other ULBs cannot be claimed against Respondent No. 1.

78. Further, Respondent No. 1 pleads that Article 7.3 of the Concession Agreement makes the distinction clear as it provides that "...Tipping Fee would be positive when required to be paid by the Concessions Authority /Other Cluster ULB and negative when required to be paid by the Concessionaire..." and that "the Tipping Fee with respect

to the other Cluster ULBs shall be paid in the manner set out in the WOTAs.” It is, thus, the submission of Respondent No. 1 that such a claim against Respondent No. 1 alone is not admissible.

G2.2 Validity of Consultation Notice and the Termination Notice, and claim of Termination Payment of INR 100,04,33,839

79. Respondent No. 1 avers that the Claimant has alleged that Respondent No. 1 has committed Events of Default/material breaches and therefore the Consultation Notice and Termination Notice given by it are valid, and, as a result, the Claimant is entitled get the Termination Payment amounting to INR 100,04,33,839. Respondent No. 1 points out that many events of defaults (“EODs”) alleged by the Claimant fall within the domain of other ULBs and covered by WOTAs entered into between the Claimant and those ULBs. For example, the Claimant has *inter alia* raised non-payment of Tipping Fees by the ULBs as a ground for termination as evident from the Consultation Notice, Termination Notice and the Arbitration Notice. Likewise, the other EODs alleged by the Claimant as grounds for termination include EODs committed by other by ULBs such as the non- declaration of MSW Door-to-Door Policy and as a result the inability to collect User Charges from Waste Generators by the Claimant.
80. Another EOD alleged by the Claimant in its SOC is that Respondent No. 1 did not provide usable dumping sites, and unless the dump sites were cleared by the Claimant or even where it was cleared by the respective ULB, the costs incurred towards the clearing was deducted from the Tipping Fees invoice raised by the Claimant. Respondent No. 1 avers that the obligation to provide dumping site in a municipal area is of the ‘Authority’ under whose jurisdiction

such municipal area falls as per Article 2.2.2.1(c) of the respective WOTAs not of Respondent No. 1.

81. Similarly, the right to collect User Charges from Waste Generators, non-creation of a Tipping Fund, non-utilization of RDF etc. is provided under the respective WOTAs. Respondent No. 1 states that Grant of authorisation to carry out Municipal Solid Waste (Article 2.1); Grant of concession for various works related to Municipal Solid Waste in that Municipal Council/Nagar Panchayat, the collection, transportation, etc. including collection of User Charges (Article 2.1.2); Condition Precedents for that Municipal Council/Nagar Panchayat including the notification of a Municipal Solid Waste Door-to-Door Policy (Article 2.2.2.1); Appointment of an Independent expert (Article 4.2); Payment of Tipping Fees by that Municipal Council Nagar Panchayat (Article 7.2 & 7.3); Collection of User Charges by the Claimant (Article 7.6); Events of Default (Article 9) and Dispute Resolution (Article 11) are aspects covering the Project Works to be carried out by the Claimant in each ULB (other than Bathinda) and is contained in the respective WOTA.
82. Respondent No. 1 states that Article 9.8(d) of the Concession Agreement is legally invalid, as it is unconscionable and therefore should not be binding. Precise submission in this behalf is that as per Article 9.8 (d) of the Concession Agreement, even when there is an Event of Default on the Claimant's part, Termination Payment has to be made to it. It submits that such a clause is untenable in law as in the event it entails the party not in default i.e. Respondent No. 1 to make Termination Payment to the Claimant which would be the Party in Default.

83. Respondent No. 1 also questions the correctness of the computation of Termination Payment. It submits that the claim for Termination Payment of INR 100,04,33,839. is for such payment as computed in terms of Article 9.8(d)(i) which is to be Debt Due + 120% of the Adjusted Equity on Termination. The definition of such Debt due [Article 1.1.43] read with the Total Project Cost [Article 1.1.132] relates to the Project as defined in Article 1.1.97 to be “*collection transportation...under and in accordance with the Scope of Works and Technical Specifications and other terms and provisions of the Concession Agreement and the Waste Off Take Agreements*”. The argument of Respondent No. 1, premised on this provision, is that as the Claimant did not raise any dispute under WOTAs with other seventeen ULBs, it cannot raise a dispute/claim on aspects which would relate additional to the project, project cost and debt due relating to other WOTAs.

G2.3 Loss of Profit Claim

84. In the first instance, Respondent No. 1 questions the permissibility of the claim for loss of profit raised by the Claimant which is based on the termination on account of the alleged EOD relating to the 17 other ULBs. It is stated that, the Claimant in raising such loss of profit claim, has applied the Techno- Viability Report of the Project dated 19.03.2012, which was generated by its Lender, Punjab National Bank. In this Techno Viability Report, the entire Project works has been taken into consideration i.e. works in the Municipal Council Bhatinda as well as all the other 17 Other ULBs and the Claimant cannot maintain this Claim for loss of profit against Respondent No. 1 alone.

85. Respondent No. 1 also avers that the Claimant cannot raise the Claim of loss of profit as it is specifically barred by Article 15.15 (d) of the Concession Agreement, which reads thus:

“that the Concessions Authority shall not be liable to the Concessionaire for any indirect, consequential, incidental, punitive or exemplary damages, loss of profit, consequential financial or economic loss or disruption in the flow of MSW into the Project Facilities for any reason whatsoever.”

G2.4 Claim of Return of Bank Guarantee

86. Respondent No. 1 states that the Concession Agreement dated 23.11.2011 is a multi-party agreement between the Claimant, the Selected Bidder and the Respondents. However, the present proceedings have been invoked solely at the behest of the Claimant which is a Special Purpose Company and a separate juristic entity and cannot be treated as an alter ego of the Selected Bidder.

87. Respondent No. 1 points out that the Bank Guarantee No.0070100006493 dated 11.08.20011 was submitted on behalf of the Lead Members of the Consortium i.e., JITF Urban Infrastructure Ltd and not the Claimant. This Bank Guarantee was not supposed to be substituted by the Claimant. Therefore, any party aggrieved by any action to be taken by Respondent No. 1 with regard to the Performance Security/ Bank Guarantee would be the Lead Member of the Selected Bidder i.e., JITF Urban Infrastructure Ltd. and not the Claimant. Since, JITF Urban Infrastructure Ltd. has not raised a dispute against the Respondent No. 1 by invoking the arbitration and is not a party in the present proceedings, the Claimant cannot claim return of the Bank Guarantee in the present proceedings and such claim would also be outside of the scope of the present arbitration proceedings.

88. Without prejudice to the above and in the alternative, Respondent No. 1 has refuted the case set up by the Claimant in the following manner:

G2.5 Claim of Return of Bank Guarantee

89. On the basis of the aforesaid submissions Respondent No. 1 next states that the Claimant is not entitled to the return of the Performance Security/ Bank Guarantee. Respondent No. 1 points out that Article 1.1.85 read with Article 7.1 of the Concession Agreement to demonstrate the conditions relating to Performance Security.

90. Article 1.1.85 of the Concession Agreement defines that Performance Security, *'shall mean the guarantee for performance of its obligations as per terms of this agreement, to be furnished by the selected bidder (or the Concessionaire), in accordance with Article 7.1 and of an amount indicated in the Data Sheet (Annexure 8) and in the format given at Annexure 9.'*

91. The last paragraph of Article 7.1 reads as under-

“Provided that if the Agreement is terminated due to any event other than the Concessionaire Event of Default, the Performance Security if subsisting on as on the Termination Date shall, subject to the Cluster ULBs’ and Concessioning Authority’s right to receive amounts at prevailing time if any, due from the Concessionaire under this Agreement, be duly discharged and released to the Concessionaire within thirty(30) days from the Termination Date.”

92. It is the plea of Respondent No. 1 that there are two conditions to be satisfied to trigger the return of the Bank Guarantee, i.e. (i) No event of default by the Claimant (ii) subject to Respondent No. 1’s rights to receive amounts due as may be prevailing on such date. It is the

contention of Respondent No. 1 that neither of the two conditions have occurred.

93. Respondent No. 1 argues that the Claimant has been in default of its role and obligations under the Concession Agreement. It states that Article 9 of the Concession Agreement lists the ‘Events of Default’ which are the events of default attributable to the Claimant, which were not resolved even after so many letters/reminders by Respondent No. 1 as per Article 9.1 of the Concession Agreement. The Claimant failed to achieve Performance Parameters as specified in Annexure 17 of Concession agreement, and alleges the following defaults on the part of the Claimant:

Re: Annexure 17 (i)

94. The Claimant was required to ensure Door-to-Door collection service of MSW collection for all of the 7 days in a week. However, the door-to-door collection was irregular, no attendance documentation was provided by the Claimant and the GPS Report was not provided by the Claimant. Respondent No. 1 points out that the Claimant ought to have submitted the documents required by Respondent No. 1, which *inter alia* include details of Door-to-Door MSW collection system covering collection from number of waste generators, percentage of collection of User Charges, monthly log sheet covering quantity of MSW collected, etc. as per the terms of Annexure 16 of the Concession Agreement.
95. The Claimant did not initiate and undertake to organize public awareness campaigns for MSW management. This was supposed to be done by the Claimant during a period of 1 month from the Compliance Date CT&D.

96. The Claimant had to provide for door-to-door MSW collection service so as to achieve the targets as per the following schedule:

| Months from Compliance Date CT&D | Total percentage of Waste Generators to be covered in MSW Area |
|---|---|
| 1 | 20 |
| 2 | 50 |
| 3 (up to 09/09/12) | 100 |

97. Respondent No. 1 alleges that till date Claimant has not provided any documents to prove the percentage of waste generators covered in the MSW area as mandated in Annexure 16 (c) of the CA.
98. The Claimant failed to create a Complaint Redressal System within 15 days from Compliance Date- CT&D. Further, in the Complaint Redressal System, a log was to be maintained with a 24x7 access given to the Project Engineer at some specified location in Bathinda. However, the access of the said log was only between 09.00 hrs to 14.00 hrs.
99. The Claimant had to ensure that all complaints were resolved within 24 hours from the time of registration but the complaints remained pending for long periods.
100. The Claimant was required to create a website within 3 months from Compliance Date- CT&D. Thereafter the website was to be updated at intervals not extending beyond 15 days. Respondent No. 1

submits that the Claimant has not performed this obligation the till date.

Defaults in respect of Annexure 17 (ii)

101. Respondent No. 1 next listed Claimant's defaults with regard to the Claimant's obligations under Annexure 17(ii) of the CA:

- (a) Claimant has not complied with the Technical Specifications/guidelines mentioned in the Concession Agreement as there is no separate storage for MSW, street sweeping waste and drain desilting waste at the secondary collection points.
- (b) The Claimant never provided secondary containers for segregated storage of biodegradable, non- biodegradable and street sweeping & drain silting waste at the Secondary Collection Points.
- (c) There was very frequent spillage & overflow of MSW from the containers kept at the Secondary Collection Points. It was Claimant's responsibility to prevent the aforementioned.
- (d) The Claimant did not maintain the cleanliness and hygiene of the Secondary Collection Points.
- (e) The Claimant transported the MSW only from Bhatinda Secondary Collection Point and ignored ensuring transportation of MSW as per the Technical Specifications, guidelines mentioned in the CA.
- (f) The Claimant did not provide adequate number of vehicles during the Concession Period.

- (g) The Claimant did not ensure that the biodegradable waste lifted daily from the commencement of the Compliance Date-CT&D.
- (h) The Claimant was required to install MSW tracking system through GPS with Quad Band GSM/GPRS transceiver from Compliance Date CT&D in vehicles. Respondent No. 1 submits that the Claimant installed the said GPS chips without internet connection which ultimately served no use.

Defaults in respect of Article 19.1

102. Respondent No. 1 mentions further defaults on part of the Claimant under Article 9.1 of the Agreement as under:

- (a) the Claimant has not paid the land lease fee of INR 6,89,957 but has been using the land since February 2012.
- (b) The Claimant caused material breach of Contract as it did not obtain Environmental Clearance within stipulated time, did not apply for NOC from AAI/ Indian Air Force for chimney height and for required Site Authorization, did not implement interim measures as required by Hon'ble High Court of Punjab & Haryana.
- (c) The Claimant suspended Door-to-Door collection continuously for more than two days, without prior information to Respondent No. 1 and also suspended emptying of Secondary Collection Points.
- (d) The Claimant never obtained and renewed Clearances from Punjab Pollution Control Board. Further, the consent to

operate the Processing Facility had expired on 31.03.2019, which has not been renewed till date.

Other Omissions and defaults

103. Some of the other omissions in carrying out obligations as per the Concession Agreement on the part of the Claimant are stated to be as under:
- (a) Even though it was the responsibility of the Claimant to develop the greenbelt and the landfill, Respondent No. 1 has to do it at its own cost and these were maintained by Respondent No. 1 till the completion of the Processing Facility. Currently, since the greenbelt and the landfill are not being maintained by the Claimant, they are in very bad condition.
 - (b) For the Processing Facility, the Claimant dug 12 MSW pits to receive fresh MSW at plant. However, these pits are not maintained and are overflowing and there is no space for even a single MT of MSW.
 - (c) Since, the Claimant was not maintaining the Processing Facility properly, there is unbearable odour all around the plant and the bad odour has led to a number of protests outside the Processing Facility.
 - (d) As per the Concession Agreement, the Claimant had the right to sell the RDF, but vide Orders dated 1.12.2017 & 4.08.2017, passed by the Learned NGT, Respondent No. 1 was directed to issue directions to the power/ cement/ biomass plants in the State to purchase such RDF. However, a number of complaints

regarding the size and quality of RDF being supplied/sold to the Biomass plants were received.

104. Instead, Respondent No. 1 has raised the following counterclaims:

G3 Summary of Counterclaims preferred by Respondent No. 1

| COUNTER CLAIM NO. | DESCRIPTION | AMOUNT (in INR) |
|-------------------|---|-----------------|
| 1. | Claim towards Liquidated Damages under Annexure 15 of the Concession Agreement | 3,37,28,895 |
| 2. | Claim on account of Penalties under Annexure 18 of the Concession Agreement on account of failure to meet the Performance Parameters mentioned under Annexure 17 of the Concession Agreement | 5,22,83,737 |
| 3. | Claim towards outstanding Land Lease Payment along with Interest on account of delay & compensation on account of Land used by the Claimant | 26,11,136 |
| 4. | Claim towards refund of excess Tipping Fee along with interest | 60,19,431 |
| 5. | Claim towards compensation on account of expenditure incurred by the Respondent No. 1 to carry out Door-to-Door Collection which was an obligation of the Claimant. | 631,94,01,227 |
| 6. | Claim towards compensation on account of expenditure incurred by Respondent No. 1 to carry out other obligations of the Claimant. | 212,41,42,000 |
| 7. | Claim towards Closure and Post Closure Maintenance Plan as per Annexure 3.4.5.B (vii) and compensation towards the cost of remediation of the land used by the Claimant for dumping MSW as per the MSW Rules, 2000, which may have to be carried out by the Respondent No. 1. | 18,23,48,117 |
| 8. | Claim towards Pending interest and future interest under the Concession Agreement and the 1996 Act and Cost u/s 31 (A) of the 1996 Act. | |

H CASE OF RESPONDENT NO. 2

105. Respondent No. 2 argues that not even a single dispute has been raised against it by the Claimant. It submits that the Consultation

Notice, Termination Notice, amicable resolution notice dated 08.10.2018, appeal dated 05.12.2018 filed before the First Level Appellate Authority, appeal dated 04.01.2019 filed before the Second Level Appellate Authority and the Arbitration Notice do not contain any disputes against it.

106. Respondent No. 2 contends that the present claims against the State Government are liable to be dismissed. It states that without any dispute raised by the Claimant against the State Government, i.e. Department of Local Government in the Arbitration Notice, the question of having a 'dispute' resolved by way of Arbitration under Article 11.2 of the Concession agreement does not arise.
107. Respondent No. 2 next states that the Claimant in its SOC has only raised the claim for Termination Payment under Claim No. 2 against it. It submits that the said Claim was made by the Claimant against it because of the alleged non-payment by Respondent No. 1. Respondent No. 2 disputes the said claim on the ground that such a claim cannot be raised before this Tribunal and should have been raised at the execution stage and not adjudication stage.
108. Respondent No. 2 relies upon the judgment of the Hon'ble Supreme Court in case of *Major (Retd.) Inder Singh Rekhi v. Delhi Development Authority* reported in (1988) 2 SCC 338 wherein it is held as under:

“4. ... A dispute arises where there is a claim and a denial and reputation of the claim. The existence of dispute is essential for appointment of an arbitrator.... There should be dispute, and there can only be a dispute when a claim is asserted by one party and denied by the other on whatever grounds. Mere failure or inaction to pay does not lead to the inference of the existence of dispute, Dispute entails a positive element and assertion of denying, not merely inaction to exceed to a claim or a request...”

109. Respondent No. 2 also submits that the SOC filed by the Claimant relates to disputes arising from the WOTAs executed by the Claimant with the 17 ULBs. The Department of Local Government is not even a signatory or a party to these WOTAs. Respondent No. 2 submits that through the Claimant, based on Article 9.8(e) of the Concession Agreement impleaded Respondent No. 2 before this Tribunal, Article 9.8(e) of the Concession Agreement is in the nature of Indemnification Article and does not thrust any liability upon Respondent No. 2. As per Respondent No. 1 the Claimant has to first establish a legally valid claim against Respondent No. 1 and other ULBs resulting in any debt due against Respondent No. 1, and upon Respondent No. 1 failing to make payment the question of indemnification by Respondent No. 2 arises. Therefore, this would be an issue at execution stage and not adjudication stage.
110. Respondent No. 2 also pleads that Article 9.8(d) read with Article 9.8 (e) of the Concession Agreement is unconscionable and perusing the said Articles would show that even in situations where there is an Event of Default by the Claimant, the Termination Payment is made on behalf of Respondent No. 1. It avers that said Articles are against the principles of natural justice as Respondent No. 1 must pay even when it is the Party not in Default whereas no liability is created upon the Claimant to make any termination payment in such situations. Respondent No. 2, thus, seeks that this Tribunal should declare Article 9.8 (e) Article 9.8 (d) as invalid and not binding on Respondent No. 2.
111. Respondent No. 2 also denies the Claim for Termination payment (Claim No. 2), raised by the Claimant against it, since it challenges the legality of the Termination in the first place.

112. Respondent No. 2 states that Article 11.2 (i) contemplates appointment of three arbitrators out of which the Claimant and Respondent No. 1 nominate one arbitrator each and the third arbitrator is appointed by the two nominated arbitrators. Respondent No. 2 submits that it is left bereft of a nominee arbitrator despite being made separately liable for non-payment under Claim No. 2 in the SOC by the Claimant. Thus, Respondent No. 2 submits that Article 11.2 (i) read with Article 9.8(e) of the Concession Agreement are also not binding on it as they do not provide it an opportunity to nominate its Arbitrator and wants this Tribunal to declare the said Articles as invalid.
113. Respondent No. 2 also submits that the Concession Agreement is not enforceable against it as the Concession Agreement does not comply with Article 299 of the Constitution. It is pleaded that when a contract is made in exercise of the executive power of the Union or the State, such a contract must mandatorily satisfy three requirements given in Article 299 of the Constitution of India, which are as follows:
- (a) It must be expressed to be made by the President or the Governor of the State as the case may be;
 - (b) It must be executed on behalf of the President or Governor of the State, as the case maybe;
 - (c) Its execution must be by such person and in such manner as the President or Governor may direct or authorize.
114. Respondent No. 2 argues that when such a contract does not meet the abovementioned requirements, then such contracts are void.

Respondent No. 2 points out that the Concession Agreement has not been expressed in the name of the Governor, it has also not been executed on behalf of the Governor and it has not been executed in such manner as the Governor directed. Respondent No. 2 strongly argues that the Concession Agreement does not meet the mandatory requirements contained in Article 299 of the Constitution of India and therefore it is unenforceable in so far as Respondent No. 2 is concerned.

115. Respondent No. 2 has adopted the SOD and Counterclaims filed by Respondent No. 1 including the submissions made by Respondent No. 1 towards Claim No. 2 in the SOC, as its contentions against the SOC.

I TRIBUNAL'S ANALYSIS ON THE JURISDICTIONAL ISSUES RAISED BY THE RESPONDENTS

116. Before having claim-wise discussion, it would be necessary to deal with the various preliminary objections raised by the Respondents. As already noted above, these objections are the following:

- (1) Whether the claims/disputes relating to or arising in relation to the rights and obligations of other 17 Urban Local Bodies under 17 Waste Off Take Agreements are covered under the Concession Agreement dated 23.11.2011 and can be claimed against the Respondents in the present proceedings?**
- (2) Whether the ULBs are necessary and/or proper Parties? If so, what is the implication for non-joinder of these Parties?**
- (3) Whether the Concession Agreement dated 23.11.2011 is not enforceable against Respondent No. 2 as it does not comply with Article 299 of the Constitution of India?**

- (4) **Whether Respondent No. 2 cannot be a party to the present arbitration proceedings, for the reasons stated by Respondent No. 2 in its Statement of Defence?**

The Tribunal intends to decide the following Issues also at this stage which have significant bearing on the merits of the Claims and Counterclaims:

- (5) **Whether the Claimant fulfilled its obligations under the CT&D as per the Concession Agreement?**
- (6) **Whether Respondent No. 1 fulfilled its CP-CT&D of the Claimant and P&D obligations as per the Concession Agreement?**

I1 Issues No. 1 and 2

117. Issues No. 1 and 2 are taken up together for discussion as they are inter-related.

Issue No. 1: Whether the claims/disputes relating to or arising in relation to the rights and obligations of other 17 Urban Local Bodies under 17 Waste Off Take Agreements are covered under the Concession Agreement dated 23.11.2011 and can be claimed against the Respondents in the present proceedings?

Issue No. 2: Whether the ULBs are necessary and/or proper Parties? If so, what is the implication for non-joinder of these Parties?

I1.1 Claimant's Submissions in Brief

118. The Claimant argues that the entire agreement is for whole Bathinda Cluster which comprises of not only Bathinda Municipality (Respondent No. 1) but other 17 ULBs as well. It is submitted that Respondent No. 1, along with other Cluster ULBs, wanted to establish a suitable mechanism, on integrated basis, to

scientifically manage collection, transportation, processing and disposal of MSW generated from the residential and other areas of the Bathinda Cluster. Accordingly, Respondent No. 2 issued RFP dated 23.11.2011 inviting bids for the entire Bathinda Cluster wherein the Consortium of JITF Urban Infrastructure Ltd. and Ladurner Impainti S.r.l emerged as the successful bidder. In its endeavour to establish that Respondent No. 1 has acted on behalf of the other ULBs and has assumed responsibility not only for the proper and smooth functioning of the CA but also for the payment of dues to the Claimant under the said CA, even on behalf of other ULBs, the Claimant refers to the following features:

- (a) RFP was for whole Bathinda Cluster.
- (b) Respondent No. 1, on behalf of the Bathinda Cluster, issued the Letter of Intent (LOI) dated 28.07.2011 and executed the CA dated 23.11.2011. Respondent No. 2 is a confirming party to this CA.
- (c) LOI was of integrated nature, comprising of 18 municipal corporations/committees on “Build, Own, Operate and Transfer (BOOT)” basis.
- (d) Paras 3 and 4 of the LOI clearly mention that it is one integrated project and that other municipal corporations had given their consent for the same, though initially 5 municipal corporations had not sent their consent.
- (e) Even the CA is signed by Municipal Corporation of Bathinda as a ‘Concessing Authority’ which means Respondent No. 1

became the single Concessioneing Authority on behalf of all other MCs.

- (f) The term 'Cluster' is defined in Annexure 1 to the CA, categorically stating that it covers the entire cluster of all 18 ULBs. Various Articles were referred to during the arguments in order to demonstrate that it is Respondent No. 1 which has assumed responsibility on behalf of the other ULBs. Specific reference was made to Article 15.15(c) of the CA which deals with liability and indemnification, and it is Respondent No. 1 who has given the indemnity which includes indemnity for breach by other ULBs also.

119. It is, thus, argued that Respondent No. 1 is responsible for payment of Tipping Fee due from other ULBs as well and, therefore, it was not necessary for the Claimant to implead other ULBs having regard to the aforesaid features of the project contained in various documents. To support this submission, the Claimant has referred to the following judgments of the Apex Court for the proposition that provisions of contract must be construed in a commercial sense keeping in mind the business efficacy principle:

- (a) *Nabha Power Ltd. v. Punjab SPCL*, (2018) 11 SCC 508, Para 49
- (b) *Maharashtra State Electricity Distribution Co. Ltd. v. Ratnagiri Gas & Power (P) Ltd.*, (2024) 1 SCC 333, Paras 36 & 37).

120. It is argued that the understanding of the Parties under the contract was clear, viz., Respondent No. 1 was the face for the entire Cluster

and not only in respect of its own municipal corporation. It is further argued that the conduct of Respondent No. 1 for the purposes of execution of the Project would also show that Respondent No. 1 not only took the responsibility for undertaking various obligations under the CA, it also acted as a leader of all the ULBs. Referring to the judgments of the Hon'ble Supreme Court in *McDermott International Inc. v. Burn Standard Co. Ltd.*, (2006) 11 SCC 181 (para 112) and that of the Hon'ble High Court of Delhi in *Raghunath Builders Pvt. Ltd. v. Anant Raj Limited* 2023 SCC OnLine Del 7202 (para 47), the Claimant argues that the conduct of the Parties is also to be kept in view as a relevant factor for interpretation of the contract.

121. In order to fasten the liability *qua* non-payment of Tipping Fee by other ULBs of Respondent No. 1, the Claimant has relied upon the following judgments to show that the liability of the surety is coextensive with that of the principal debtor:

(a) *Ram Kishun v. State of UP* (2012) 11 SCC 511 (Paras 10 & 11)

(b) *Amar Nath Dhiman v. Punjab & Sind Bank* 2017 SCC OnLine HP 2533 (Paras 11 & 12)

I1.2 Respondents' Submissions in Brief

122. Mr. Sudhir Nandrajog, learned senior counsel appearing for both the Respondents, has argued that notwithstanding the integrated nature of the Project, the liabilities of all the ULBs are distinct and separate for which WOTAs were executed with each and every ULBs. It is pointed out that each WOTA contains a separate and independent arbitration clause and in case the Tipping Fee is not

paid by a particular ULB or any other obligation not fulfilled by that ULB, it was incumbent upon the Claimant to invoke the arbitration against the defaulting ULB under the specific WOTA. Thus, argues the learned senior counsel, Respondent No. 1 cannot be fastened with the liability for payment of dues against other ULBs, more particularly when each Municipal Corporation/Council is a separate statutory entity. It is submitted that the Tipping Fee was to be paid for transportation of MSW from the various ULBs to the dumping sites till the Processing Facilities were constructed, and, thereafter, to the Processing Facilities. Even the Claimant accepts that the bills for Tipping Fee were raised to various ULBs and not to Respondent No. 1 alone. Further, if other ULBs have not cleared those invoices, it is for them to explain the reasons and there may be valid and justified reasons for non-payment. Therefore, the other ULBs are necessary Parties and in their absence, the Claimant cannot raise the claim of non-payment of Tipping Fee, only against Respondent No. 1.

123. It is also stated that the Claimant has invoked the present arbitration only against Respondent No. 1 (and of course the State Government, i.e., Respondent No. 2) taking the shelter under the CA which is signed by Respondent No. 1. The response of the Respondents is that in the first instance, the CA does not say that though Respondent No. 1 (MCB) has signed the Agreement as Concessioning Authority, the other ULBs have authorised MCB. In any case, merely because the CA comprises of the entire clusters and there were consents of other ULBs as well, it would not mean that the other ULBs became parties to the CA. The CA is only an agreement to enter into an agreement insofar as the other ULBs are concerned and it cannot determine the rights/obligations of the

Parties *inter se*, more particularly those which are specifically mentioned under the WOTAs. Some Articles of the CA have been referred to show that the obligation under those provisions relate only to Respondent No. 1, and not other ULBs. It is also argued that Article 15.15(c) of the CA is wrongly interpreted by the Claimant as, according to the Respondents, Respondent No. 1 has not given any indemnity to pay the Tipping Fee *qua* the other ULBs. Answers to some questions put to CW-1 in cross-examination (Questions 115 to 121) were relied upon to show that the issue of non-payment of Tipping Fee was raised with the respective ULBs and only their accounts were debited and not that of Respondent No. 1 which shows that the conduct of the Claimant as well reveals that it went against each ULB for non-payment inasmuch as the bills are raised against those ULBs, payment is shown in the ledger of the Claimant against the said ULBs and even Consultation Notice for non-payment were given to the said ULBs.

124. It is further argued that even it is presumed for the sake of arguments that Respondent No. 1 acted on behalf of the other ULBs, it only shows that Respondent No. 1 acted as an agent for other ULBs. Therefore, as per Section 232 of the Contract Act, Respondent No. 1 would not assume liability for non-payment of Tipping Fee by the other ULBs.
125. Another facet of this argument advanced by Respondent No. 1 is that it was only an operator of Tipping Fund which would not make Respondent No. 1 to personally liable for payment of demand against other ULBs.

I1.3 Tribunal's Analysis

126. From the various Articles contained in the CA and the background in which the CA was entered, following position emerges:

- (a) The Project in question is an integrated Project for the entire Bathinda Cluster comprising of Respondent No. 1 and other 17 ULBs. Thus, all these ULBs formed one Cluster.
- (b) This was the decision of Respondent No. 2/Government of Punjab which had divided the State of Punjab in various clusters. On that basis, RFPs were issued by Respondent No. 2 for these clusters, including for the Cluster in question viz., Bathinda Cluster. In fact, the Project Report dated 23.05.2011 in this behalf, which was shared along with the RFP, was for the entire Bathinda Cluster.
- (c) The CA is signed by Respondent No. 1 not only for itself but on behalf of the other Cluster ULBs as well. In this CA, Respondent No. 1 is appointed as the Concessions Authority for the entire Cluster. Other Cluster ULBs passed specific Resolution authorising Respondent No. 1 to sign the Contract with the successful bidder, i.e., the Claimant in the present case. Even the LOI was issued by Respondent No. 1, which was on behalf of the entire Cluster.
- (d) As Concessions Authority, Respondent No. 1 was supposed to discharge all the Conditions Precedent, etc. which were for the entire Cluster.
- (e) Various provisions of the CA and WOTAs go on to demonstrate that the Project was an integrated project for the Bathinda

Cluster which are highlighted by the Claimant in detail during arguments.

- (f) It also becomes clear that the WOTAs were executed to give effect to the provisions of the main Agreement, i.e., the CA and it was a Condition Precedent for the Claimant under the CA itself to execute these WOTAs. Significantly, on the termination of the CA, WOTAs automatically stand terminated with immediate effect.
- (g) As per Article 15.15 of the CA, it is Respondent No. 1 only which has indemnified the Claimant against any claims of demands arising out of breach by the other ULBs. The interpretation of this Article would be undertaken while dealing with the Claim of Tipping Fee (Claim No. 1) raised by the Claimant. This Article is mentioned here just to highlight the obligation of Respondent No. 1.
- (h) On the termination of the Agreement, even the Termination Payment is to be made by Respondent No. 1 and not the other ULBs of the Cluster.
- (i) Likewise, upon termination, the entire Project stands transferred to Respondent No. 1 only.

127. Thus, having regard to various Articles of the CA, as shown by the Claimant, the Tribunal proceeds on the basis that the Project in question was an integrated project which was to be developed by the successful bidder, i.e., the Claimant herein. It is also clear that Respondent No. 2 gave responsibility to Respondent No. 1 for the establishment of this Project and for this reason, after the issuance

of the RFP by Respondent No. 2, it is Respondent No. 1 which issued the LOI dated 28.07.2011 and, thereafter, the CA dated 23.11.2011 for the entire Cluster comprising of all the other ULBs as well. Therefore, in respect of the disputes arising out of this CA which are to be adjudicated upon through arbitration as provided in Article 11, the necessary and proper Parties would be Respondent No. 1 and not other ULBs.

128. Having said that, it is also to be seen at the same time that all the ULBs entered into WOTA with the Claimant as well. These WOTAs, which have identical terms and conditions are tripartite agreements between a particular ULB, described as 'Authority', the Claimant as 'Concessionaire' and Respondent No. 1 as the 'Concessions Authority'.

129. Further, it is also to be borne in mind that Article 7.3 of the CA contains the provision for Tipping Fee which can be positive Tipping Fee when the Concessions Authority/other Cluster ULBs are supposed to pay the Tipping Fee to the Concessionaire and negative Tipping Fee in which case it is to be paid by the Concessionaire/Claimant. Tipping Fee is placed in Annexure 12 of the CA and is to be paid by the respective ULBs. Therefore, the obligation to pay the Tipping Fee in respect of various municipalities is of those ULBs. The Claimant, however, relies upon Article 15.15 of the CA and argues that in case of non-payment of Tipping Fee by any ULBs, it becomes the obligation of Respondent No. 1 to pay the same to the Claimant. This aspect shall be discussed while dealing with Claim No. 1 relating to Tipping Fee.

130. Thus, the conclusion of the Tribunal on these issues is that in respect of disputes arising under this CA, the other ULBs are not necessary

and/or proper parties. However, the issue as to whether Respondent No. 1 is liable to pay the Claimant unpaid Tipping Fee by other ULBs is a different issue.

131. With this, the Tribunal would like to discuss the issue concerning the obligation of Respondent No. 1 to discharge the liability, if any, of the other ULBs in respect of Tipping Fee. It is argued by Respondent No. 1 that as per Article 7.3 of the CA read with the provision of the WOTA, the obligation to pay the Tipping Fee is of respective ULBs, and the liability of the other ULBs in this behalf cannot be fasten upon Respondent No. 1.

132. Article 7 of the agreement, *inter alia*, provides that the Tipping Fee as placed in Annexure 12 of a WOTA is to be paid by that particular ULB (Article 7.2). The mechanism of payment of the Tipping Fee is mentioned in Article 7.3. Article 7.4 deals with the non-payment of Tipping Fee by the said ULB (in case of positive Tipping Fee) or Concessionaire (in case of negative Tipping Fee). This Article specifically provides that in the event of non-payment of Tipping Fee, the Claimant is entitled to make representation to the Appellate Authority which shall advise the ULB to make good the deficit in Tipping Fee Fund. If that is not made good within 30 days, the Claimant can make representation to the Appellate Authority and, on receiving this representation, the Appellate Authority could take necessary measures to ensure that the deficit in Tipping Funds is made good. Thus, under this WOTA, the responsibility for payment of Tipping Fee is assumed by the respective ULBs. Article 11 is the dispute resolution clause which, *inter alia*, provides for arbitration in case the dispute is not resolved amicably or by the first and second level Appellate Authorities.

133. These provisions in the WOTAs clearly indicate that the primary responsibility and obligation to pay the Tipping Fee rests with the ULBs. In case of non-payment, the Claimant could even resort to arbitration against the defaulting ULBs.

134. In the aforesaid backdrop what needs to be determined is as to whether Respondent No. 1 has taken over the responsibility to pay the Tipping Fee to the Claimant in case there is a default on the part of the other ULBs. The Claimant has taken shelter under Article 15.15(c) in order to fasten the liability on Respondent No. 1. Article 15.15 (c) of the CA relates to 'Liability and Indemnification' and reads as under:

“15.15(c) The Concessioneing Authority/ Authority will indemnify, defend, save and hold harmless the Concessionaire against any and all suits, proceedings, actions, demands and third party claims for any loss, damage, cost and expense of whatever kind and nature arising out of (i) defect in title and/or the rights of the land comprised in the Site, and/or (ii) breach by ULB of any of its obligations under this Agreement or any related agreement, which materially and adversely affect the performance by the Concessionaire of its obligations under this Agreement, save and except that where any such claim, suit, proceeding, action, and/or demand has arisen due to a negligent act or omission, or breach of any of its obligations under any provision of this Agreement or any related agreement and/or breach of its statutory duty on the part of the Concessionaire, its subsidiaries, affiliates, contractors, servants or agents, the same shall be the liability of the Concessionaire.”

135. By the aforesaid provision, Respondent No. 1 has given two kinds of indemnities to the Claimant. The Tribunal here is not concerned with the first category. Insofar as the second type in indemnity is concerned, Respondent No. 1 has indemnified the Claimant in respect of breach of ULBs of any of its obligations under this Agreement or any related agreement (which would include WOTA), which materially and adversely affects the performance by the Claimant to its obligation under the CA. This Article is not happily

worded. In any case, the Tribunal finds that intent of the provision is that in the event a breach of its obligation is committed by any ULB under the Agreement, Respondent No. 1 has agreed to indemnify the Claimant. This would obviously include non-payment of the Tipping Fee by the ULBs.

136. It is clear that even the Parties understood this Article to mean that in case of non-payment of Tipping Fee by any other ULB, Respondent No. 1 would assume the responsibility which can be gathered from the following material:

(a) During the meeting held on 08.06.2017, Respondent No. 1, in its capacity of the Cluster Head, assured the Claimant for clearance of the outstanding Tipping Fee of around INR 1 crore (approx.) at the earliest, in the following manner:

“2.1 Non creation of Tipping fund & depositing money in Tipping funds & 2.4 Failure of make timely payment and non payment of concessionaire’s dues- On the issue of Tipping Fee default (as mentioned in para 2.1, page-4 of consultation notice), the Cluster Head assured the Concessionaire for clearance of the outstanding tipping fee of around 1.00 Cr approx at the earliest. It was also agreed to resolve the disputed penalty deductions at the earliest for Bathinda Cluster ULBs between both the parties. It was also highlighted that the tipping fund already exists at MC Bathinda and out of which an amount of Rs.23 lac of Mansa outstanding tipping fee has been approved & paid to the Concessionaire by the Concessioning Authority last week.”

(b) The Respondent No. 1 had assured in the letter dated 14.12.2017 that the Claimant would be paid the Tipping Fee for the period of handing over/taking over of C&T works in Bathinda Cluster as per the existing terms and rates, though Respondent No. 1 had raised the issues of

stoppage of work by the Claimant and questioned the quantum of Tipping Fee claimed by the Claimant.

- (c) Similarly, Respondent No. 1 gave an undertaking before the Hon'ble NGT that INR 30 lacs (approx.) would be paid to the Claimant until the taking over of C&T by the Respondent No. 1.
- (d) Respondent No. 1 even made payments on behalf of other ULBs and the Claimant has cited many such instances from the record.
- (e) It is also important to point out that when the Claimant had escalated the issue of non-payment of Tipping Fee by all ULBs to First Appellate Forum and, thereafter, Second Appellate Forum against Respondent No. 1 alone, Respondent No. 1 did not raise the issue to the effect that it is not responsible for payment of outstanding Tipping Fee in respect of other ULBs.

137. Therefore, going by the aforesaid factual position, the Tribunal is of the opinion that it is permissible for the Claimant to raise the claim of non-payment of Tipping Fee against Respondent No. 1 in respect of other ULBs as well. These Issues stand decided accordingly.

I2 Issues No. 3 and 4

Issue No. 3: Whether the Concession Agreement dated 23.11.2011 is not enforceable against Respondent No. 2 as it does not comply with Article 299 of the Constitution of India?

Issue No. 4: Whether Respondent No. 2 cannot be a party to the present arbitration proceedings, for the

reasons stated by Respondent No. 2 in its Statement of Defence?

138. It is an admitted fact that Respondent No. 2 is the signatory to the CA as it has signed the said Agreement as a Confirming Party. In fact, the Project in question was initiated at the instance of Respondent No. 2 and after forming the Bathinda Cluster comprising of 18 ULBs, it is Respondent No. 2 who issued the RFP dated 23.05.2011 inviting bids for the purpose of this Project. Again, it is Respondent No. 2 which accepted the proposal of the Consortium, whereafter the LOI was issued by Respondent No. 1. Therefore, Respondent No. 2 is the proper party to the present proceedings.
139. The Tribunal, however, hastens to add that the Claimant has not fastened any liability on Respondent No. 2 in respect of the Claims submitted by it, except Claim No. 2, which is the claim for Termination Payment. That is on the premise that Article 9.8(e) of the CA stipulates that in case Respondent No. 1 fails to make the Termination Payment within 90 days, it is Respondent No. 2 which has undertaken the obligation to make such payment to the Claimant within a period of 60 days. Therefore, the relevance of Respondent No. 2 in these proceedings is only *qua* this particular claim.

Respondent No. 2 has, however, questioned its impleadment as well as liability to make the Termination Payment by raising the following contentions:

- (a) No dispute has been raised against Respondent No. 2 by the Claimant inasmuch as neither the Consultation Notice nor Termination Notice nor Amicable Resolution Notice was

served upon Respondent No. 2 nor Respondent No. 2 was impleaded as a party or notified about the appeals before the first level Appellate Authority and the second level Appellate Authority. Likewise, Arbitration Notice also does not contain any dispute against Respondent No. 2.

- (b) Respondent No. 2 also did not participate in the constitution of the Arbitral Tribunal inasmuch as in the Arbitration Notice, the Claimant called upon Respondent No. 1 only to appoint an arbitrator.

140. It is a matter of fact that the Consultation Notice, Termination Notice and, thereafter, Amicable Resolution Notices/appeals were not served upon on Respondent No. 2. Due to this reason alone, Respondent No. 2 cannot take any mileage, more particularly, when there are no claims against Respondent No. 2 except the claim for Termination Payment. Insofar as the Termination Payment is concerned, that is claimed against Respondent No. 2 as well by virtue of Article 9.8(e) of the CA, which categorically stipulates that in case the Concessions Authority/Respondent No. 1 fails to make Termination Payment within 90 days of Termination Date, “the Confirming Party (i.e., Respondent No. 2) undertakes to make such Termination Payment to the Concessionaire within sixty (60) days thereafter ...”

141. Notwithstanding the above factual matrix, it is still open to the Arbitral Tribunal to proceed against a party which was not served with Notice under Section 21 of the Act or was not made a party in Application under Section 11 of the Act. This has now been conclusively determined by the Apex Court in a recent judgment dated 17.04.2025 in *Adavya Projects Private Limited v. M/s Vishal*

Structurals Private Limited & Ors (Civil Appeal No. 5297 of 2025).

After detailed discussion on this sub, para 40 of the judgment gives the summary, which reads as under:

“40. Summary of Conclusions: Our legal analysis of the issues that we set out above, as well as our findings in the facts of the given appeal, can be stated as follows:

I. A notice invoking arbitration under Section 21 of the ACA is mandatory as it fixes the date of commencement of arbitration, which is essential for determining limitation periods and the applicable law, and it is a prerequisite to filing an application under Section 11. However, merely because such a notice was not issued to certain persons who are parties to the arbitration agreement does not denude the arbitral tribunal of its jurisdiction to implead them as parties during the arbitral proceedings.

II. The purpose of an application under Section 11 is for the court to appoint an arbitrator, so as to enable dispute resolution through arbitration when the appointment procedure in the agreement fails. The court only undertakes a limited and prima facie examination into the existence of the arbitration agreement and its parties at this stage. Hence, merely because a court does not refer a certain party to arbitration in its order does not denude the jurisdiction of the arbitral tribunal from impleading them during the arbitral proceedings as the referral court’s view does not finally determine this issue.

III. The relevant consideration to determine whether a person can be made a party before the arbitral tribunal is if such a person is a party to the arbitration agreement. The arbitral tribunal must determine this jurisdictional issue in an application under Section 16 by examining whether a non-signatory is a party to the arbitration agreement as per Section 7 of the ACA.

IV. In the facts of the present appeal, respondent nos. 2 and 3 are parties to the arbitration agreement in Clause 40 of the LLP Agreement despite being non-signatories. Their conduct is in accordance with and in pursuance of the terms of the LLP Agreement, and hence, they can be made parties to the arbitral proceedings.”

There is no dispute that in the present case, Respondent No. 2 is a party to the Arbitration Agreement which is one of the clauses of the CA.

142. The Tribunal has considered the claim regarding Termination Payment on merits while analysing the said claim at the appropriate place and at that stage, the Tribunal has dealt with other submissions questioning the validity of this claim raised by Respondent No. 1 on various grounds which are taken by Respondent No. 2 also. Therefore, those submissions of Respondent No. 2 are not considered at this stage since the Tribunal is dealing, at present, with the issue of impleadment of Respondent No. 2 in the present proceedings.
143. The upshot of the aforementioned discussion is that Respondent No. 2 is rightly impleaded as a party in the present proceedings. Notwithstanding this conclusion of the Tribunal, claim of Termination Payment preferred by the Claimant, in any case, has been rejected with detailed discussion at the appropriate stage.
144. For the aforesaid reasons, it may not even be necessary to deal with the contention of Respondent No. 2 that the CA is not enforceable against it for want of compliance with Article 299 of the Constitution of India, though *prima facie* the Tribunal feels that the submission of Respondent No. 2 in this behalf is not tenable.

I3 Issues No. 5 and 6

145. Issues No. 5 and 6 are taken up together for discussion as they are inter-related.

Issue No. 5: Whether the Claimant fulfilled its obligations under the CT&D as per the Concession Agreement?

Issue No. 6: Whether Respondent No. 1 fulfilled its CP-CT&D of the Claimant and P&D obligations as per the Concession Agreement?

146. These Issues relate to fulfilment of the respective obligations cast on the Claimant as well as Respondent No. 1 under the CA. Since many obligations are reciprocal, both the Issues are taken up together for discussion.
147. The Tribunal would like to initiate this discussion by capturing the nature of the Project and the roles and responsibilities of the Parties towards the execution and proper implementation of the said Project.
148. The Project in question was conceptualised for waste management in Bathinda Cluster, comprising of 18 ULBs, including the Municipal Corporation of Bathinda (MCB) (Respondent No. 1). Article 1.1.97 of the CA defines the Project to mean collection, transportation, processing and disposal of Municipal Solid Waste (MSW) for the Cluster in question. This was to be done in accordance with the scope of works and technical specifications, etc. provided in the CA as well as WOTAs. In this context, Article 2 assumes significance which not only provided for the grant of concession and the rights associated with it but also the Conditions Precedent of the respective Parties for achieving “collection, transportation and dumping (CT&D)” as well as the Conditions Precedent for “processing and disposal (P&D)”.
149. On the grant of concession by Respondent No. 1 to the Claimant, the Claimant was given the right and authority, during the Concession Period, to investigate, study, design, engineer, procure, finance, construct, install, commission, operate and maintain the Project. This right implies the responsibility of the Claimant to design and commission the Project by putting its own finance and after the commissioning, the Claimant had a right to operate and maintain

the Project facilities. For this purpose, it was required to achieve COD-P&D and/or COD-CTP&D, as the context may require. Of course, it was dependent upon various Conditions Precedent to be fulfilled by Respondent No. 1. Thus, there are reciprocal promises of both the Parties under the CA.

150. Various rights associated with the grant of concession show that the Claimant was given complete charge for handling the Project in order to effectively undertake the MSW. As a consideration, the Claimant was entitled to collect user charges from waste generation. Additionally, it could, *inter alia*, sell or dispose of all the constituents/products/byproducts from the MSW and retain the revenues generated therefrom. The Claimant could also apply for and receive the fiscal incentives and benefits in terms of Article 7.10(b). In addition, the Claimant, was entitled to Tipping Fee as per the provisions of Article 7. It could also generate revenue by using the unutilised space available at the Project facilities and/or Concessionaire vehicles for display of advertisements under applicable laws against payment of applicable taxes. Also, the Claimant was free to set up a power plant and sell electricity generated thereby to augment its financial resources.
151. Thus, the Claimant is given complete charge of the Project and is required to incur expenditure on setting up of the Project as well as to meet the day-to-day expenditure. On the other hand, it generates income from various sources mentioned above.
152. The Conditions Precedent cast on both the Parties for achieving CT&D and P&D are contained in Article 2.2 of the CA which is reproduced below:

2.2. CONDITIONS PRECEDENT

2.2.1 Conditions Precedent

Save and except as may otherwise be expressly provided herein, the obligations of a Party under this Agreement except under this Article 2.2 shall be subject to the satisfaction in full of the conditions precedent relating to the other Party (the "Conditions Precedent"). The obligations of a Party under this Article 2.2 shall be effective from the date of execution of this Agreement.

2.2.2 Conditions Precedent for CT&D (CP-CT&D)

2.2.2.1 Conditions Precedent for Concessioneing Authority-CT&D (CP-CT&D Concessioneing Authority)

The obligations of the Concessioneing Authority hereunder for Collection Transportation & Dumping ("CT&D") are subject to the satisfaction in full of the following Conditions Precedent of the Concessioneing Authority. The Concessioneing Authority shall have:

- a. notified door-to-door MSW collection policy in the MSW Supply Area;
- b. finalised and allocated Secondary Collection Points in the MSW Supply Area in consultation with the Concessioneing Authority;
- c. Transferred the necessary Applicable Approvals as per Annexure 7, which have already been applied for and obtained by the Concessioneing Authority in its name, to the name of the Concessioneing Authority.
- d. allocated / demarcated site for dumping of MSW till the time processing and disposal facilities are established as a part of the Project. Such dumping of MSW shall be at risk and responsibility of the Concessioneing Authority, till the Project achieves COD – P&D;
- e. created a "Tipping Fund" as per requirements of Annexure 13;
- f. deposited the money in "Tipping Fund" as per requirements of Annexure 13;
- g. appointed Project Engineer and Independent Expert as per Article 4;
- h. approved in consultation with the Concessioneing Authority and/or Independent Expert the design and detailed engineering for the Project Facilities for CT&D in accordance with the provisions of Annexure 19, and provided copies thereof to the Concessioneing Authority.

2.2.2.2 Conditions Precedent for Concessioneing Authority – CT&D (CP-CT&D Concessioneing Authority)

The obligations of the Concessioneing Authority hereunder for CT&D are subject to the satisfaction in full of the following Conditions Precedent of the Concessioneing Authority. The Concessioneing Authority shall have

- a. finalised and taken over Secondary Collection Points in the MSW Supply Area in consultation with the Concessioneing Authority;
- b. procured the Concessioneing Authority Vehicles from Concessioneing Authority at the rates given in Annexure 23 as per the provisions of this Concession Agreement
- c. Procured bins for source segregated storage of MSW at household level, Containers/Bins for storage of MSW, street sweeping and drain desilting waste and placed them at required locations/Secondary Collection Points in MSW Supply Area.
- d. Execute Waste Offtake Agreement with Other Cluster ULBs

- e. Facilitated appointment of Independent Expert as per Article 4; provided the Concessioning Authority notarised true copies of its board resolution authorising the execution, delivery and performance of this Agreement by the Concessionaire.
- f. fulfilled all the pre-conditions to execution of this Agreement as mentioned in recital G of this Agreement;
- g. confirmed that all the representations and warranties of the Concessionaire/Selected Bidder set forth in the Proposal of the Selected Bidder and in this Agreement are true and correct.

Provided that upon request in writing by the Concessionaire, the Concessioning Authority may in its sole discretion, waive fully or partially any or all the Conditions Precedent set forth in this Article 2.2.

2.2.3 Conditions Precedent for P&D (CP-P&D)

2.2.3.1 Conditions Precedent for Concessioning Authority-P&D (CP-P&D Concessioning Authority)

The obligations of the Concessionaire hereunder for Processing & Disposal ("P&D") are subject to the satisfaction in full of the following Conditions Precedent of the Concessioning Authority. The Concessioning Authority shall have:

- a. executed the Project Site Lease Deed and Processing Facilities Site Lease Deed and handed over vacant and unencumbered possession of the Project Site to the Concessionaire, if any required to be provided by the Concessioning Authority in accordance with Annexure 5;
- b. facilitated the Concessionaire in terms of support and participation by its representative or sending follow-up letters to departments concerned for obtaining of all Applicable Approvals, if requested by the Concessionaire;
- c. approved in consultation with the Concessionaire and/or Independent Expert the design and detailed engineering for the Project Facilities in accordance with the provisions of Annexure 19, and provided copies thereof to the Concessionaire;
- d. facilitated and ensured the provision of Access Roads to the Processing Facilities Site and Project Site(s) as per Good Industry Practices
- e. achieved the Compliance Date – CT&D.

2.2.3.2 Conditions Precedent for Concessionaire-P&D (CP-P&D Concessionaire)

The obligations of the Concessioning Authority hereunder for Processing & Disposal ("P&D") are subject to the satisfaction in full of the following Conditions Precedent of the Concessionaire. The Concessionaire shall have:

- a. achieved financial closure i.e. procured and raised all the funds (debt, equity, grant etc.) necessary to finance the Construction Works – P&D as evidenced by the funding documents becoming effective and the Concessionaire having immediate access to the funds there under;
- b. identified and communicated to the Concessioning Authority the Project Site(s) for the Transfer Station out of the total available Project Sites
- c. executed the Project Site Lease Deed and Processing Facilities Site Lease Deed(s) and taken over vacant and unencumbered possession of the Processing Facilities Site and Project Site(s) from the Concessioning Authority in accordance with Annexure 5
- d. got approved from the Concessioning Authority the design and detailed engineering for the Project Facilities in accordance with the provisions of Annexure 19;

- e. received, at its own cost, water connection, power connection and other service connections to the Project & Processing Facilities Site/ Project Sites;
- f. obtained at its cost the Applicable Approvals set out in **Annexure 7** that are required to commence the Construction Works unconditionally or if subject to conditions then all such conditions have been satisfied in full and such Applicable Approvals are in full force and effect;
- g. confirmed that all the representations and warranties of the Concessionaire/Selected Bidder set forth in the Proposal of the Selected Bidder and in this Agreement are true and correct.
- h. achieved the Compliance Date – CT&D

Provided that upon request in writing by the Concessionaire, the Concessioneing Authority may in its sole discretion, waive fully or partially any or all the Conditions Precedent set forth in this Article 2.2.

Fulfilment of all CP-P&D (Concessionaire), except for achievement of Financial Closure shall be the condition precedent for effectiveness of Financing Agreements

2.2.4 Satisfaction of Conditions Precedent

- a. Each Party shall make all reasonable endeavors at its respective cost and expense to procure the satisfaction in full of the Conditions Precedent – CT&D relating to it within a period of 60 (Sixty) days from the Appointed Date (the “**Compliance Period- CT&D**”).
- b. Each Party shall make all reasonable endeavors at its respective cost and expense to procure the satisfaction in full of the Conditions Precedent – P&D relating to it within a period of 120 (One Hundred & Twenty) days from the Appointed Date (the “**Compliance Period- P&D**”).
- c. The later of the date within such time when the Concessioneing Authority or the Concessionaire fulfils its Conditions Precedent (unless the Concessioneing Authority waives the same for the Concessionaire) shall be the date from which the relevant and respective obligations of the Parties hereunder shall commence (“**Compliance Date – CT&D**” and “**Compliance Date – P&D**” respectively).

2.2.5 Non-Compliance with Conditions Precedent

- a. In the event the Conditions Precedent for Concessionaire have not been satisfied within the stipulated time and the Concessioneing Authority has not waived, fully or partially, such conditions relating to the Concessionaire, this Agreement shall cease to have any effect as of that date and shall be deemed to have been terminated by the mutual agreement of the Parties and no Party shall subsequently have any rights or obligations under this Agreement and the Concessioneing Authority shall not be liable in any manner whatsoever to the Concessionaire or Persons claiming through or under it.
- b. In the event this Agreement fails to come into effect on account of non fulfilment of the Concessionaire’s Conditions Precedent, the Concessioneing Authority shall forfeit and encash the Performance Security.
- c. In the event the Conditions Precedent for Concessioneing Authority have not been satisfied within the stipulated time, then the Concessionaire shall have the option of either: (i) mutually extend the time period for satisfaction of the Conditions Precedent for Concessioneing Authority or (ii) terminate this Agreement, in which event, the Concessioneing Authority shall pay to the Concessionaire, the Development Costs,

duly certified by the Independent Expert. In case of extension of CP-P&D for Concessioneing Authority beyond a period of 120 (One Hundred and Twenty) days from Appointed Date, the Concession Period shall be extended with an equivalent period

- d. In the event this Agreement fails to come into effect on account of the non-fulfillment of the Concessioneing Authority’s Conditions Precedent, the Concessioneing Authority shall return the Performance Security to the Concessionaire; provided there are no outstanding claims of the Concessioneing Authority on the Concessionaire.
- e. Instead of terminating this Agreement as provided in this Article 2.2, the Parties may by mutual agreement extend the time for fulfilling the Conditions Precedent

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153. The Claimant blames Respondent No. 1 in not fulfilling its Conditions Precedent – CT&D within 60 days from the Appointed Date, i.e., by 21.01.2012. It is alleged that Respondent No. 1 either delayed in satisfying CPs or failed to fulfil certain CPs. In this behalf, the Claimant contends that Respondent No. 1:
- (a) delayed in transferring Environmental Clearance
 - (b) failed to notify door-to-door MSW collection policy
 - (c) failed to maintain the dumping site till the Project achieved COD-P&D
 - (d) failed to create a Tipping Fund and deposit money in Tipping Fund
 - (e) failed to appoint an Independent Expert
 - (f) delayed in handing over vacant and unencumbered possession of the site for development of the Processing Facilities which was to be given within a period of 120 days from the Appointed Date (i.e., by 21.03.2012) but the same was given only in Mid-2014.
 - (g) the vacant and unencumbered possession of land for SLF was never handed over to the Claimant.
154. It is argued by the Claimant that its obligation for CT&D was subject to the fulfilment of the Conditions Precedent by the Concessions Authority and as the Concessions Authority/Respondent No. 1 failed to fulfil the aforementioned Conditions Precedent, it cannot blame the Claimant for not

achieving CT&D. Notwithstanding the above, claims the Claimant, it had performed its obligations under the CA. In this behalf, its submission is that the Claimant's Scope of Work, *inter alia*, included the Door-to-Door collection of MSW from Waste Generators in MSW Supply Area and Other Cluster ULBs; transportation of MSW from MSW Supply Area and Other Cluster ULBs to Processing Facility and Processing the MSW at the Processing Facilities comprising of Compost and RDF Plant; to create a buffer zone of green belt. The Claimant claims that it fulfilled all its obligations in the following manner:

- (a) It is an admitted position that the Claimant started Door-to-Door Collection of MSW on 11.12.2011. In addition, the fact that Respondent No. 1 paid an amount of INR 19.39 crore till October 2017 to the Claimant towards the Tipping Fee further corroborates that Respondent No. 1 and the ULBs were satisfied with the performance of the Claimant.
- (b) Upon handing over of the vacant and unencumbered possession of land for Processing Facility to the Claimant, the Claimant completed the construction of the Processing Facilities and commissioned the same on 30.11.2015. the Claimant installed the Processing Facilities with a capacity to process 350 TPD of MSW for production of RDF and compost.
- (c) Insofar as the Sanitary Landfill is concerned, the Claimant's explanation is that it could not be constructed due to defaults of Respondent No. 1, namely, failure to handover unencumbered land with necessary applicable approvals:

- (i) 36.81-acre land situated at Mandi Khurd, provided under Land Lease dated 01.02.2012, was under litigation since November 2011 and a *Status Quo* Order was passed on 08.08.2012 by the Hon'ble High Court of Punjab and Haryana. Hence, the Claimant could not construct Sanitary Landfill at Mandi Khurd.
- (ii) 10-acre alternative land situated at Mansa Road, Bathinda provided by Respondent No. 1 on 14.07.2016, could not be utilised as Respondent No. 1 failed to get the Environmental Clearance amended for construction of SLF at the said location even till date.

155. Thus, argues the Claimant, Date of Commissioning P&D (COD-P&D) could not be achieved due to the faults on the part of Respondent No. 1.

156. The Respondents, on the other hand, argues that except making a bald averment that the Claimant fulfilled its obligations under the Contract, it has neither made adequate averments in this behalf in the pleading nor proved the same with any cogent evidence. It is argued that mere execution of some work on some day was not at all sufficient for the Claimant to show its performance under the CA and WOTAs for the entire period of the Contract. As per the Respondents, the Claimant has failed to perform its obligations fully in respect of collection and transportation of MSW from Bathinda Municipality or any other ULBs since 01.05.2018 which was the basic requirement and condition of the Project. It is also pleaded that the Claimant did not adhere to the timelines provided in respect of

various obligations under the CA and WOTAs, particularly those mentioned in Annexure 14 to the CA.

157. It is argued that instead of leading its own evidence, the Claimant has taken advantage of the following documents:
- (a) Affidavit dated 14.08.2014 of the Commissioner, Municipal Corporation of Bathinda/Respondent No. 1
 - (b) Certificate dated 09.01.2014 of MCB/Respondent No. 1
 - (c) Certificate dated 07.10.2015 of MCB/Respondent No. 1
158. The position of the Respondents is that insofar as the Affidavit dated 14.08.2014 of the Commissioner, Municipal Corporation of Bathinda is concerned, it relates only to MCB and no other ULBs and, therefore, did not cover the entire Bathinda Cluster. In fact, when this Affidavit was given, by then, even the construction of Processing Facilities had not started. However, this Affidavit merely says that the works mentioned therein were done by the Claimant and the Claimant was performing the work as per the CA and WOTAs in the entire Bathinda Cluster.
159. In respect of the Certificates dated 09.01.2014 and 07.10.2015, the explanation of the Respondents is that these Certificates nowhere say that the Claimant was performing its obligations as per the conditions stipulated in the CA and WOTAs and appeared to have been issued in some other context. It is sought to be highlighted that by 07.10.2015, the Processing Facility had not even started functioning and the Claimant has not been able to produce any certificate certifying that the Claimant was performing its

contractual obligations as per the terms and conditions stipulated in the CA and WOTAs.

160. In order to demonstrate that various obligations were not fulfilled by the Claimant, the Respondents have referred to provisions relating to the Conditions Precedent and other provisions in the CA, particularly Article 2.2.2.2 of the CA which provides for Conditions Precedent for the Claimant relating to CT&D, Article 2.2.3.2 of the CA stipulating the Conditions Precedent for the Claimant for P&D, Article 3.1(d) and (e), Article 5, Article 11.3, Article 12, Article 14.4, Article 15.15 which stipulate various obligations on the part of the Respondents. The Respondents have also referred to various annexures to the CA which provide for detailed account of the duties and responsibilities of the Claimant, particularly Annexures 2, 3, 6, 7, 14, 16, 17 and 18. After referring to the aforesaid provisions, the Respondents have argued that the Claimant was not only required to perform various contractual obligations, but to continue to perform the same during the term of the Contract, it was also required to maintain records and report compliances of the same and submit periodic reports demonstrating the performance of its contractual obligations. The argument of Respondent No. 1 is that it is these records which constitute primary evidence, which have not been produced by the Claimant before this Tribunal. Therefore, for want of the production of primary documents, adverse inference be drawn against the Claimant.

161. Respondent No. 1 has also alleged failure of the Claimant in performance of the contractual obligations in compliance with the provisions of the CA and WOTAs as well as continued failure of the Claimant to continue to perform its contractual obligations. Since

they relate to the performance of the Project and not Conditions Precedent, that aspect is considered while dealing with Claim No. 1.

162. It may be mentioned at the outset that most of the alleged failures attributed by the Claimant on the part of the Respondent are also treated by the Claimant as Events of Default which has led to the termination of the Contract. Therefore, the alleged failures as Events of Default are discussed in detail while considering Claim No. 2. The Tribunal finds that most of the Conditions Precedent were satisfied by the Respondent, though some of these were fulfilled belatedly. Notwithstanding those delays, the Claimant chose to go ahead with the Project. It is the Claimant's own case that it commissioned and started up the Project. Therefore, the delays, if any, were not treated by the Claimant as non-fulfilment of Conditions Precedent by the Respondent. This amounts to waiver on the part of the Claimant. In case some of the Conditions Precedent were not fulfilled, the Claimant was within its right to terminate the Contract. Not only it did not do so, it went ahead with the Contract and the operations continued by the Claimant for many years before the Claimant terminated the Contract.

163. The Tribunal would now like to expand on the aforesaid conclusion. As already noted, Article 2.2 of the CA stipulates Conditions Precedent for both the Parties. Insofar as the Respondent is concerned, it was to fulfil certain Conditions Precedent and obligations of the Concessionaire/the Claimant, subject to his satisfaction in full of the Conditions Precedent of the Respondent stipulated in Article 2.2.2.1. These, *inter alia*, include notifying door-to-door MSW collection policy, finalising and allocating secondary collection point, giving necessary Applicable Approvals,

allocating/demarcating the site for dumping MSW, creating a Tipping Fund and depositing money therein as per requirements of Annexure 13, appointment of an Independent Expert. It is a matter of record that there was delay in providing vacant and unencumbered possession of the Project site. There were delays in providing the required land and possession of some lands have not been given till date. No doubt, these delays happened due to issues beyond the control of the Respondent, i.e., because of land acquisition issues or *status quo* Orders passed by the Hon'ble High Court of Punjab & Haryana. The fact remains that this was the obligation of the Respondent, which could be fulfilled belatedly and that too not fully. This includes delay in providing land for Sanitary Landfill Facility (SLF). Likewise, there was failure on the part of Respondent No. 1 to declare no development zone around the processing and disposing facilities and delay in obtaining environmental clearances for setting up of SLF. The Independent Expert was also not appointed. Likewise, insofar as non-creation of Tipping Fund and non-payment of Tipping Fee is concerned, that would be dealt with in detail while dealing with Claim No. 1. However, the fact remains that Tipping Fund was not created in the manner provided in the manner provided in Annexure 13, though it was also one of the Conditions Precedent.

164. The moot question that arises is as to what would be the consequences of non-fulfilment of these Conditions Precedent? Obviously, this failure on the part of the Respondent entitled the Claimant, in law, to treat the same as breach of contract and rescind the same. As a matter of law, the Conditions Precedent are the obligations that must be fulfilled before the performance of the main Contract can commence.

165. Having said so, interestingly and pertinently, the Claimant did not choose to repudiate the CA or claim any damages on the Respondent's failure to achieve the Conditions Precedent. On the contrary, it went ahead with the execution of the Project so much so, as per the Claimant's own version, it started door-to-door collection of the waste and transporting thereof to the dumping site. The Claimant also completed the construction of the Processing Facilities and commissioned the same on 30.11.2015 with the installation of 350 TPD of MSW for production of RDF and compost. No doubt, Respondent No. 1 has denied fulfilment of some of these obligations by the Claimant, here this fact is emphasised to demonstrate that the Claimant went ahead with the performance of the Contract without treating non-fulfilment of the Conditions Precedent by the Respondents as fundamental breach.
166. Whether the Claimant could fulfil all its obligations or lacked therein, as contended by Respondent No. 1, would be examined a little later at the appropriate stage. What is emphasised is that the Claimant proceeded with the execution of the Contract despite the failure to fulfil the Conditions Precedent by Respondent No. 1. It can, therefore, be interpreted as waiver of those conditions inasmuch as the Claimant, by its own conduct, accepted this situation and chooses to proceed. The Project not only started on 11.12.2011 (in whatever form as would be discussed later), it continued for as many as seven years when the Claimant gave Notice of Termination dated 05.12.2018 with effect from 19.01.2019. Of course, the Claimant continues to perform albeit under the interim Orders of the Court and this Tribunal.

167. In fact, it appears that both the Parties chose to go ahead with the prevailing conditions. For example, as per the provisions of the CA, joint Tipping Account had to be opened. However, the Respondent opened the Tipping Account in its name and not jointly. Respondent No. 1 as well as other ULBs kept on paying the Tipping Fee to the Claimant as per the Contract and for all these years, Tipping Fee of more than INR 20 crore was paid against the invoices raised in the sum of INR 22 crore and even as per the Claimant, balance Tipping Fee payable is INR 2.24 crore for which the Claimant has preferred Claim No. 1. Same applies to non-appointment of an Independent Expert. The Respondent has explained that it had taken all possible steps for the appointment of an Independent Expert by giving advertisements and interviewing the candidates who applied but could not get a suitable person for the appointment of an expert. The Claimant, however, lived with it and the Parties arranged their affairs during Operations in the manner as if there was no requirement of an Independent Expert. Insofar as MSW Collection Policy is concerned, the Tribunal finds that the same was notified. Likewise, insofar as transferring of Environmental Clearance is concerned, the Claimant alleges delay in this. It is, thus, clear that by their own conduct, both the Parties, particularly, the Claimant, went ahead with the Project aware of the fact that there was delay on the part of the Respondent in achieving some Conditions Precedent and some other Conditions Precedent were fulfilled in a manner slightly different from the manner in which these were to be fulfilled as per the CA. All these were accepted and the Contract proceeded.

168. Insofar as the alleged failure on the part of the Claimant are concerned, as contended by the Respondent, suffice it to state that

these do not relate to Conditions Precedent. From the documents executed by Respondent No. 1 itself, it becomes clear that the Claimant set up the Project and started Operations, including collection, transportation, etc. of the MSW. The Respondent has attributed various other failures on the part of the Claimant, however, they do not relate to Conditions Precedent and are, therefore, discussed while dealing with the Claims/Counterclaims.

J CLAIM-WISE DISCUSSION

J1 Claim No. 1

Claim of INR 2.24 crore towards non-payment of outstanding tipping fee, INR 0.94 crore towards interest on delayed payments of tipping fee and INR 0.34 crore towards interest on the outstanding tipping fee till 29.06.2019 by Respondent No. 1

J1.1 Claimant's Version

169. The Claimant states that Respondent No. 1 failed to pay the Tipping Fee and a total of 155 Tipping Fee invoices of Bathinda Cluster are outstanding which were exhibited by CW-1 and CW-2. The Claimant produced invoices raised against specified ULBs, extracts of Ledger Accounts and Certificate dated 19.03.2020 issued by N.C. Aggarwal & Co. specifying the balance due towards each ULB as on 31.03.2019. The Claimant states that the delay in payment of the Tipping Fee, entitles it to claim interest on the delayed amount at the prevailing annual Prime Lending Rate ("PLR") of the State Bank of India. Thus, the interest is calculated and claimed for the duration of delay. In addition, Respondent No. 1 failed to create the Tipping Fund, made wrongful deduction in the form of penalty from the Tipping Fee invoices that were submitted by the Claimant.

170. The Claimant states that the Cluster ULBs defaulted in timely and regular payment of the Tipping Fee. As per the Concession Agreement, the Cluster ULBs had a binding obligation to timely and regularly pay the Tipping Fee to the Claimant, i.e. within 30 days from date of receiving Claimant's Tipping Fee invoice along with the corresponding statement. As per Annexure 13C of the Concession Agreement, if the Respondent No. 1 or the Project Engineer does not make any observation on the invoices of the Claimant within 10 days of receipt of invoices then the same shall be deemed to be approved by Respondent No. 1.
171. The Claimant states that since January 2012, it has been regularly raising the Tipping Fee invoices in favour of the Cluster ULBs, along with corresponding statements and weighment slips. The Claimant submits that the weighment slips are generated from the weighbridge monitored by a Project Engineer, appointed by Respondent No. 1, and nodal officers that are appointed by the Other ULBs. The Claimant points out that the weighment slips are final and binding on the parties as per the Concession Agreement. Further, RW-1 (Sandeep Gupta, who was also the Project Engineer) has admitted that the weights were certified by the Chief Sanitary Inspector of Respondent No. 1 and ULBs on the basis of the Weighment slips and RW-1 relied upon the said certification to certify the garbage lifted by the Claimant for making payment of the Tipping Fee. RW-2 (Satish Kumar, Chief Sanitary Inspector) admitted that the weighbridge record was supervised by Sanitary Department representatives.
172. The Claimant urges that it had repeatedly requested the Cluster ULBs to pay the outstanding Tipping Fee along with interest for

delay vide various correspondences and the particulars of which have been given in Table 3 at page 26-36 of the SOC which are duly marked and exhibited by CW-1 at para 17 of the Evidence Affidavit.

173. It is argued that Respondent No. 1 did not make any payment of tipping fee against the invoices of the Claimant from the months of October 2017 which is admitted by RW-3 in answer to Q 68, in his cross-examination. These invoices of the Claimant are outstanding despite direction dated 16.01.2018 of the Hon'ble NGT to release the tipping fee which INR 1.48 crore. on 16.01.2018, thereby acting in complete contravention and violation of its obligations under the Concession Agreement and the NGT Orders. However, Respondent No. 1 made payment of only INR 15.35 lakh on 29.01.2018. Further, there was no reconciliation done by Respondent No. 1 for the tipping fee and the alleged reconciliation done by Respondent No. 1 was unilateral and no invoice of Claimant after October 2017 was considered in the alleged reconciliation. As on date, an amount of INR 2,24,36,451 is outstanding against the Bathinda Cluster for the outstanding Tipping Fee (INR 56,00,498 is outstanding against the invoices raised upon Respondent No. 1 since October 2017 + INR 1,68,35,953 outstanding against the invoices raised upon other Cluster ULBs).
174. The Claimant states that its Financial Expert Mr. Arpinder Singh (CW-3) has computed the outstanding Tipping Fees as a differential amount of the total Tipping Fees billed to the Cluster and the payment received from the Cluster after reviewing Articles 7.3 & Clause (C) of Annexure 13 of the Concession Agreement and relied upon - Invoices raised against the specified ULBs; relevant extracts of Ledger Account and Certificate dated 19.03.2020 issued by N.C.

Aggarwal & Co. On the basis of the aforesaid, CW-3 validated the claim of outstanding Tipping Fee amounting to INR 2.24 crore by deducting the Total payment received from the Cluster, i.e., INR 19.39 crore from the Total Tipping Fee billed to the Cluster, i.e., INR 21.63 crore.

Admissions and Assurances made by Respondents regarding Payment of Tipping Fees to the Claimant:

175. The Claimant contends that the Cluster ULBs had admitted their liability and assured the Claimant that it would receive outstanding Tipping Fee and timely payments would be made in various meetings and discussions. It submits that Respondent No. 2 acknowledged the outstanding Tipping Fee and directed Respondent No. 1 to clear the same. The Claimant has prepared Table 4 at page 37 and 38 of the Statement of Claim in order to buttress its submission.

Interest Of INR 0.34 crore On Outstanding Tipping Fee

176. The Claimant points out that as per Article 7.7 (i) of the Concession Agreement, any delay in making amount in default at prevailing annual prime lending rate (“PLR”) of State payment by Respondent No. 1 will entail payment of interest on the Bank of India calculated for the duration of delay. CW-3 has relied upon its Expert Report, Invoices raised by the Claimant against the specified ULBs and Relevant extracts of Ledger Account for computation of outstanding Tipping Fees and the interest on outstanding payment of Tipping Fees of INR 0.34 crore.

Interest of 0.94 crore on delayed payments of Tipping Fee

177. The Claimant states that in terms of Article 7.7 of the Concession Agreement, it is entitled to seek interest on delayed payments and relies upon the methodology adopted by CW-3 who is the Financial Expert for computing the same. The amount assessed and validated by CW-3 is INR 0.94 crore towards the delayed payment of the Tipping Fees.

Wrongful and illegal deduction of Penalty from the Tipping Fee invoices

178. In so far as Article 2.2.2.1 (g) of the Concession Agreement is concerned, Respondent No. 1 was required to appoint an Independent Expert within 60 days from the Appointed Date. The Claimant states that without the appointment of the Independent Expert and without the consent of the Claimant, Respondent No. 1 has made unilateral and illegal deductions from the Tipping Fee invoices which are extraneous to the Concession Agreement. The Claimant states that in as per Annexure 18 of the Concession Agreement, penalties that were decided and certified by an Independent Expert appointed by Respondent No. 1 could only be levied. The Claimant refers to Table-2 in the SOC at Page No. 25, which provides the list of correspondence made by the Claimant asking Respondent No. 1 to appoint the Independent Expert, but Respondent No. 1 failed to do so.
179. The Claimant states that Penalty was required to be levied on the Monthly Fee Statement on certification of the Independent Expert. However, Respondent No. 1 and ULBs made payment to the Claimant after deducting the alleged penalties for the alleged non-performance. Moreover, no notice was ever given to the Claimant

before imposing any penalty and no opportunity was given to the Claimant to rebut the same. The method adopted by the Respondent No. 1 for calculation of deductions and payable tipping fee (an indicative figure of 110 TPD as mentioned DPR of Respondent No. 1 was taken as base figure for penalty calculation) was not provided in the Concession Agreement and WOTA and there was no written agreement between the parties for the same.

180. The Claimant further states that, Respondent No. 2 directed Respondent No. 1 to recalculate the base figure for penalty calculations in the meetings dated 02.01.2014 and 04.07.2014.
181. Claimant states that Respondent No. 1 not only failed to review the procedure of penalty calculations and but continued to make the Tipping Fee payment from 2012 to 2017 without following the procedure of Concession Agreement and the same is admitted by RW-1 in Q. 482 & 496 in the Cross-examination.
182. The Claimant contends that wrongful and illegal deduction of Penalty is also evident from the following:
 - a. Sandeep Gupta, Project Engineer of Respondent No. 1 certified the performance of the Claimant as 'Satisfactory' in 2014 and 2015. Further, in 2017, Bathinda city was ranked among the top clean cities in the State of Punjab
 - b. *Vide* affidavits dated 16.08.2013 and 14.08.2014, Respondent No. 1 deposed before the Learned NGT that the Claimant was fulfilling the performance parameters in terms of the Concession Agreement.
 - c. MC Mansa, one of the ULBs admitted, in its letter dated 08.12.2016 stated that the work of the Claimant is satisfactory

and the deductions and fine imposed are against the rules. This letter has been denied by Respondent No. 1. The Claimant hence argues that illegal deduction in the form of penalty was made by Respondent No. 1 from the Tipping Fee invoices.

J1.2 Respondent No. 1's Version

183. Respondent No. 1 strongly disputes that the Claim towards Tipping Fees, any interest on delayed payment of Tipping Fees and any interest on outstanding Tipping Fees. Respondent No. 1 requests that the Claimant be put to strict proof for the aforesaid claims.
184. Respondent No. 1 submits that pursuant to the Order dated 16.01.218 passed by the Learned NGT directing the Claimant to release 50% of the Total outstanding Tipping Fee and the balance upon reconciliation was adhered by the Respondent No. 1 by paying INR 15.35 lakh to the Claimant and this has been admitted by the Claimant in para 41 of the SOC. Respondent No. 1 claims that since 2011 until to date it has paid INR 6.82 crore plus taxes to the Claimant on account of Tipping Fee.
185. Respondent No. 1 argues that the Claimant's contention that to prove Tipping Fees, the weighment slips and invoices are final and binding as per the Concession Agreement is incorrect. It points out that weighment slips are not the only parameter to be shown to release the Tipping Fees as this entails several issues which are as follows:
- (a) Respondent No. 1 states that *vide* letter No. 6809 dated 16.12.2011, it asked the Claimant to provide evidence of

collection of MSW for all 7 days a week as stipulated under Annexure 16 of the Concession Agreement and meeting of targets specified under Annexure 17 of the Concession Agreement by providing some form of attendance of waste collectors. It alleges that the Claimant has, till date, not provided any evidence thereof which is requirement under Annexure 16 (C) of the Concession Agreement.

- (b) In accordance with Article 5.1(a) (xv) read with Annexure 17 Para (ii) Last Point of the Concession Agreement, the Claimant was required to produce periodic GPS report which would show the movement of vehicles collecting the MSW from various clusters. The Claimant however did not submit the said GPS reports and did not provide any document showing the number of households covered by the Claimant during the collection of MSW.
- (c) Respondent No. 1 argues that Claimant was receiving payments for Tipping Fees but was neglecting its obligations under the Concession Agreement. It states that the Claimant did not ensure the availability of adequate resources and failed to lift the MSW. Respondent No. 1 avers that behest Order dated 1.12.2017 passed by the Learned NGT on an Application filed by the Claimant, Respondent No. 1 was carrying out the burden of collection and transportation of MSW which shifted on it and the Claimant did not carry out such services. It states that this position was finally modified on 21.12.2012 pursuant to the direction given by the Learned NGT and the Claimant was directed to resume such works only till 31.1.2018.

(d) Respondent No. 1 contends that it is evident from the format for the invoice to be raised, that such invoice is not final. Column 4 of invoice would further make it obvious as of the invoice as such invoice could be subjected to penalty, if any, deductible by Respondent No. 1 in terms of Annexure 18.

186. Respondent No. 1 denies the submissions of the Claimant that a Tipping Fund was not created by it as required by the Concession Agreement. It states that on 09.12.2011 it created a Tipping Fund, in the name of 'Solid Waste Management Fund' in the Oriental Bank of Commerce, Railway Road Bathinda (IFSC ORBC0100753) branch, by way of account number 07532041003298 in terms of Article 2.2.2.1 (e) of the Concession Agreement. Respondent No. 1 states that a sum of INR 50 Lacs was initially given by the State Government to it for opening the bank account. Thereafter, Respondent No. 1 deposited money into this account from time to time. It states that a sum of INR 56 Lacs (approx.) is still in the bank account. Further, it asserts that the Claimant was well aware of the opening of the Tipping Fund which was informed to the Claimant vide Letter No.6866/MSW dated 20.12.2011. Next, it states that it had replied to letters/reminders sent by the Claimant informing the Claimant repeatedly that the Tipping Fund had been created and it is a matter of record that payments were made to the Claimant by Respondent No. 1 from this very account.

187. Respondent No. 1 argues that door-to-door collection of MSW, is one of the keyworks to be carried out by the Claimant as given under Annexure 3 of the Concession Agreement. It states that it is an admitted fact that the Claimant stopped Door-to-Door collection of MSW in the Municipal Corporation Bathinda w.e.f. 01.05.2018.

Respondent No. 1 argues that as per Article 2.1.2(h) of the Concession Agreement the Claimant was responsible for collecting user charges and Respondent No. 1 was only to ensure that the user charges are published in a daily newspaper so as to inform the end-users/waste users of the rates fixed. It submits that it published their policies in daily newspapers. To buttress the aforesaid, Respondent No. 1 has annexed the true typed translated version of the newspaper clipping published in 'The Danik Jagran' dated 23.11.2011 as ANNEXURE R-22. Respondent No. 1 also points out the Claimant mentioned that it had requested Respondent No. 1 to revise commercial establishment charges which is in itself an admission of existing charges. Further, the Claimant communicated the resistance it faced in collection of user charges and in order to address the issue, Respondent No. 1 spoke with the defaulters. Therefore, Respondent No. 1 submits that it has no liability towards collection of user charges.

188. Respondent No. 1 also states it had limited role with regard to Revenue from sale of RDF. It submits that it was responsible to issue appropriate directions to power/cement/biomass based plants in the State to accept RDF from the Claimant at the rates decided by the State, *without any prejudice to the rights of the Parties* as also observed in Order dated 06.09.2017 passed by the Learned NGT.
189. Respondent No. 1 states that it has complied with the all the Orders passed by the Learned NGT regarding the sale of RDF:
 - (a) Issued letters to all the power / cement / biomass-based power plants in the State to buy the RDF from the Claimant. Respondent No. 1 was later informed that the biomass-based power plants refused to buy the RDF as the Claimant did not

have the requisite calorific value for efficient use for power generation.

- (b) Necessary instructions were issued through Executive Director, Punjab Energy Development Agency, letter No. 238-243, dated 15.01.2018, under the subject “implementation of the orders of the Hon’ble NGT dt. 4.8.2017 & 1.12.2017 in the OA no. 70/2012 titled as Capt. Mal Singh & Ors. v. State of Punjab” to 6 no. of Biomass Plants
- (c) Instructions were issued to all Biomass Plants by DO letter dated 28.08.2017 from Special Secretary, Department of Science Technology & Environment, Chandigarh, Govt. of Punjab.

190. Respondent No. 1 argues that the limited role that emerged from the interim Orders by the Hon’ble NGT ceased to have its effect when the final Order dated 08.10.2018 was passed wherein the Tribunal decided that the matter before it was confined to Environmental Clearance and that other issues between the Claimant and Respondent No. 1 should be decided by any appropriate forum.

191. Respondent No. 1 submits that the obligation to supply 500 TPD of MSW to the Waste to Energy Plant was not mandatory but optional. As per Article 2.1.29(r) of the Concession Agreement, it was upto the Claimant to decide as, such a Waste to Energy Plant being the Power Plant would use fuel as a supplement to the MSW to enrich the RDF. Respondent No. 1 argues that the said obligation, was introduced pursuant to Order dated 01.12.2017 passed by the Learned NGT. The obligation thereof was to start after the Claimant submitted an implementation plan within two weeks from the date of Order i.e.

1.12.2017, failing which the Claimant would have been liable to pay environmental compensation. Respondent No. 1 submits that no such plan has been submitted by the Claimant. Several reminders were then made to the Claimant including relating to other issues pertaining to the Processing & Disposal [P&D] facility but the Claimant has not responded till date.

192. Respondent No. 1 submits that it has paid the Claimant excess amounts towards Tipping Fees which it seeks to claim. It further submits that the Claimant has been in gross violation of the performance parameters of the Concession Agreement, has not been collecting/transporting MSW since May 2018 to date which is being done by the Respondent No. 1 to the Bathinda Processing Plant. Further, Respondent No. 1 has also denied any liability towards payment towards interest on delayed payment of Tipping Fees or outstanding Tipping Fee.

J1.3 Tribunal's Analysis

193. While discussing Issues 1 & 2, the Tribunal has already come to the conclusion that Respondent No. 1 is liable to pay the Tipping Fee of other ULBs as well. Now it proceeds to decide as to whether any Tipping Fee is outstanding by Respondent No. 1 and other ULBs.
194. Article 7.3 of the CA deals with the payment of Tipping Fee which is to be paid for the following activities:

- “(i) Collection, Transportation and Dumping of MSW from MSW Supply Area till the site designated for this purpose by the Concessioning Authority during CT&D Period (“Tipping Fee- CT&D”);
- (ii) Collection and Transportation of MSW from MSW Supply Area till the Processing Facilities Site or any other site

notified by the Concessioning Authority for Processing and/or Disposal (“Tipping Fee - C&T”) after COD-P&D;”

195. Respondent No. 1 has alleged various failures on the part of the Claimant. However, in view of the aforesaid provision, the Tribunal is to confine its discussion as to whether the Claimant undertook the aforesaid activities and discharged its obligations as mentioned in Article 7.3, so as to earn the Tipping Fee.
196. Though Respondent No. 1 has alleged that the Claimant failed to perform the work of Door-to-Door collection of MSW and transfer of the same to the secondary collection points, and, thereafter, transportation from the secondary collection point to dumping sites, etc., it may not be necessary to delve deep into this allegation of Respondent No. 1 for the purpose of this Claim for the simple reason that even as per Respondent No. 1, Tipping Fee @ 300/MT was to be paid *qua* the actual collection and transportation. Even Respondent No. 1 has now calculated the fee on that basis and alleges that overpayment is made to the Claimant, which aspect shall be considered a little later. Emphasis is that the Claimant undertook Door-to-Door collection of MSW and transported the same to the secondary collection points and dumping site and in respect thereof the Claimant raised the invoices. Therefore, the plea of other non-performance, when it comes to the payment of Tipping Fee, is not correct as the Tipping Fee is claimed in respect of actual collections, etc.
197. That apart, the Claimant has rightly referred to the following documents in support of its argument that it had been performing the aforesaid activities which entitled the Claimant to get the Tipping Fee:

- (a) Affidavit dated 14.08.2014 of the Commissioner, Municipal Corporation of Bathinda/Respondent No. 1
- (b) Certificate dated 09.01.2014 of MCB/Respondent No. 1
- (c) Certificate dated 07.10.2015 of MCB/Respondent No. 1

198. The Tribunal is not convinced with the explanation given by Respondent No. 1 which is preferred now in respect of the aforesaid documents. Respondent No. 1 has vehemently argued that from October 2018, the Claimant stopped its collection of waste and, therefore, Respondent No. 1 and other ULBs stopped paying the Tipping Fee. However, the Tipping Fee claimed under this Claim is for the work already done by the Claimant for which it became entitled to the Tipping Fee under the provisions of the CA. Thus, the Tribunal is of the view that the Claimant has been able to prove its entitlement to the Tipping Fee.

199. Now comes the question of quantification of the Claim. As per the Claimant, it had raised invoices from time to time against the collection and transportation, etc. of MSW. Since no objection was made in respect thereof at the relevant time, the Tribunal should proceed with the presumption that the invoices were found to be in order particularly in view of Article 13(c) of the CA. Respondent No. 1, on the other hand, argues that it has now undertaken the exercise of calculating the Tipping Fee paid from time to time to the Claimant. In the first instance, it says that the Claimant was not entitled to the fee paid to it and, therefore, the same should be refunded (Counterclaim No. 2). It also mentions that excess Tipping Fee is paid and the Claimant is liable to refund the same

(Counterclaim No. 4). Thus, quantification of Claim No. 1 and the aforesaid two Counterclaims are intertwined.

200. Insofar as Counterclaim No. 2 is concerned, while dealing with the same, the Tribunal has come to a conclusion that the said claim is not tenable which is in the nature of imposition of penalty as mentioned in Annexure 18 and the procedure contained therein was not followed. Further, the amount in question was paid from time to time and no such issue was raised.
201. The claim of the Claimant, as mentioned above, is predicated on the invoices raised. These invoices are raised on the basis of net weight of the collections, purportedly approved by Respondent No. 1. The claim is quantified on the basis of these invoices, after adjusting the payment already received. Insofar as certain deductions which were made and penalties imposed from time to time are concerned, the Claimant argues that these should not be taken into consideration and discarded on the plea that the same are illegally imposed.
202. On the other hand, Respondent No. 1, in its Counterclaim No. 4, has provided a Table showing month-wise collections/transportation of MSW with net weight approved and penalties and other deductions made from time to time and payments made to the Claimant. From this Table, Respondent No. 1 is attempting to show that overpayment has been made. However, Respondent No. 1 has not supported the aforesaid figures of net weight shown by it with any credible material or evidence. Moreover, in the said Table, calculations are given right from December 2011. At the material time, no such plea of overpayment was taken. In fact, record shows that when the Claimant was alleging non-payment of Tipping Fee, Respondent No. 1 and even Respondent No. 2 kept on assuring that

the payment towards Tipping Fee would be made to the Claimant. This assurance was even given before the NGT. At that stage also, it was never pleaded that there was an overpayment made. Because of the aforesaid reasons and absence of supporting evidence in respect of 'net weight approved', the Table given for this purpose cannot be relied upon. Instead the Tribunal would like to go by the amounts mentioned in the invoices which were raised and not objected to by Respondent No. 1 or other ULBs at the material time.

203. As per the Claimant, a sum of INR 2,24,36,451 is outstanding. However, the Claimant has not taken into consideration the penalties and other deductions on the ground that the same are illegal. This plea of the Claimant may not be justified at this stage, i.e., at the time of preferring the claim. The details given by Respondent No. 1, as reflected in the aforesaid Table, show that deductions were made in respect of various invoices right from December 2011. Likewise, penalties were also imposed from time to time and the first penalty is as of 31.01.2015 and the last one is 30.04.2017. Therefore, the Claimant is precluded from questioning these penalties and deductions at this stage, most of which would be even time-barred. The Claimant has argued that penalty could be imposed only on the basis of recommendation of IE and since the IE has not been appointed, no penalty could be levied in the absence of following the procedure prescribed in the relevant Article. However, as also mentioned above, even when the I.E., was not appointed, which was one of the Conditions Precedent, the Parties went ahead with the Project which has been administered without any IE. Therefore, non-certification of penalty by IE would not be a reason to hold the penalty as illegal.

204. The amount of deduction and penalty is INR 2,17,323 + INR 38,62,054 = INR 40,79,377. This amount, therefore, needs to be deducted from INR 2,24,36,451, i.e., the amount of the invoices. In this way, the Claimant shall be entitled to Claim No. 1 in the sum of INR 1,83,57,074 [INR 2,24,36,451 (-) INR 40,79,377].
205. On the aforesaid amount, the Claimant is also entitled to interest at the rate provided in Article 7.7 of the CA, i.e., prevailing annual PLR of the SBI.
206. Likewise, the Claimant shall also be entitled to interest on the delayed payments of Tipping Fee as per Articles 7.7(i) and 15.2 of the CA. However, the Tribunal is not inclined to accept the calculations of this claim which is calculated at INR 98,23,982. Annexure C-130 of the Statement of Claim filed by the Claimant contains these calculations. The calculations are made on the basis of date of invoice, due date of payment, bill amount and the date on which on account payments were made. Treating balance amount as overdue, interest is calculated. Much of the period for which interest is claimed is time-barred. The Tribunal holds that the Claimant is entitled to interest on delayed payment in respect of those invoices which fall within three years of invocation of the arbitration. Notice of Arbitration is dated 19.03.2019. Thus, the interest for delayed payment would be in respect of the invoices raised from 20.03.2019. However, as already pointed out above that apart from making payments from time to time, Respondent No. 1/ULBs had also, at times, made other deductions and penalties which are not accounted for while calculating the interest. Thus, while awarding the claim on belated payment, interest shall be calculated after deducting the amounts of deductions/penalties imposed.

J2 Claim No. 2

Declaration that the Consultation Notice and Termination Notice are valid and legal and Claim of INR 99.68 crore along with interest towards the Termination Payment as per Article 9.8(d)(i) of the Concession Agreement from the Respondents.

J2.1 Claimant's Version

207. The Claimant states that the Respondent No. 1 repeatedly failed to perform its obligations under the Concession Agreement resulting in Respondent No. 1 committing Event of Default (**EOD**) under Article 9.1(b)(i) of the Concession Agreement. The Claimant further argues that the EOD by Respondent No. 1 had “Material Adverse Effect” upon the Claimant’s ability to the perform its obligations of Default under Article 9.1(b)(i) of the Concession Agreement.
208. The Claimant submits that it issued the Consultation Notice in terms of Article 9.3 of the Concession Agreement to the Respondent No. 1 specifying the EOD and to cure the EOD. Since the EOD was neither cured within the Remedial Period (within 90 days or such period as agreed by the Parties as defined under Article 9.4 of the Concession Agreement) nor waived the Claimant terminated the Concession Agreement in terms of Article 9.2(b) r/w 9.8(a) of the Concession Agreement on 05.12.2018 w.e.f. 19.01.2019.
209. According to the Claimant the following defaults of Respondent No. 1 constitute material breaches of its obligations under the Concession Agreement:
- (a) Respondent No. 1 did not timely pay the Tipping Fee to the Claimant, it failed to create the Tipping Fee fund and deposit money into it and, it did not appoint an independent expert.

- (b) The Claimant states that as per Article 2.2.3.1 (a) read with Article 6.1(a) of the Concession Agreement, Respondent No. 1 was responsible to provide to the Claimant vacant and unencumbered land for Processing Facilities within 120 days from the Appointed Date. It points out that Respondent No. 1 delayed in providing vacant land for the Processing Facilities. The Claimant states that Land Lease Agreement dated 01.02.2012 (for P&D Facilities) was executed wherein Respondent No. 1 portrayed that the site was free from encroachment or encumbrances. However, the Claimant submits that the land for Processing Facilities was not vacant and unencumbered. It states that the site at Mansa Road was encumbered with the heaps of garbage and it was used as a dumping site since 20-25 years by Respondent No. 1 and the said site was cleaned by the Claimant. The Claimant states that it had intimated Respondent No. 1 about the land being used a dumping site and that garbage was lying around vide letter dated 09.07.2014 which CW-1 exhibited as Exhibit CW-1/141 before this Tribunal during the cross-examination. The Claimant points out that RW-1 also admitted that 20 acre-plot out of the 30-acre land was being used for dumping MSW since 1980. The Claimant states that the land was made available only in mid-2014 even when the Lease Deed was executed of on 01.02.2012. The Claimant avers that it completed the construction work in October 2015 and the Processing Facilities were commissioned on 30.11.2015. Since the land for P&D facilities were not made available to the Claimant, Respondent No. 2 had directed Respondent No. 1 to refund the land lease deducted from Tipping Fee invoices and MOM dated 04.07.2014 was exhibited by CW-1 as Exhibit CW-1/143.

To buttress the submission, the Claimant states that Respondent No. 1 refunded the land lease amount which is evident from the Table at Para 120 of RW-1's Evidence Affidavit. Hence, Respondent No. 1 breached its obligations under Article 2.2.3.1 (a) read with Article 6.1(a) of the Concession Agreement which resulted in Respondent No. 1's Event of Default under Article 9.1 (b)(i) of the Concession Agreement. The Claimant submits that in view of the delay in complying with its obligation under Article 2.2.2.1(c) read with Article 6.1(a) of the Concession Agreement, Respondent No. 1 committed an EOD under Article 9.1 (b)(i) of the Concession Agreement. Concession Agreement. Since, the land for P&D facilities were not made available to the Claimant, Respondent No. 2 directed Respondent No. 1 to refund the land lease deducted from Tipping Fee invoices.

- (c) The land situated at Mandi Khurd (36.8 Acres) was under litigation since November 2011 and Hon'ble High Court of Punjab & Haryana in Civil Writ Petition No. 21960/2011. Vide Order dated 08.08.2012 passed by the Hon'ble High Court Status Quo on the said land was directed. Claimant requested Respondent No. 1 to provide an additional 10-15 acres of land adjacent to the Processing Facility at Mansa Road for establishing SLF. However, it is only on 14.07.2016 that the Lease deed for alternative land admeasuring 10 acres at Mansa Road was provided for establishing SLF. Even the said 10 acres of additional land provided by Respondent No. 1 was not unencumbered. It is submitted by the Claimant that in cases of change in scope of project, Respondent No. 1 was required to get a fresh appraisal of SEIAA. Claimant made

requests to Respondent No. 1 for amendment in EC for establishing SLF at Mansa Road. However, Respondent No. 1 failed to get amendment in the EC and hence, SLF could not be established by the Claimant as a result the Claimant could not achieve the COD-P&D and COD-CT&D due to Respondent No. 1's failure to provide land for SLF and the Claimant states that RW-1 admitted to all this in the cross-examination. Hence, Respondent No. 1 breached its obligations under Article 2.2.3.1 (a) read with Article 6.1(a) of the Concession Agreement which resulted in Respondent No. 1's Event of Default under Article 9.1(b)(i) of the Concession Agreement.

- (d) The Claimant states that in contravention of Article 2.2.2.1(c) read with Article 6.1(a) of the Concession agreement, Respondent No. 1 delayed in transferring the Environment Clearance in Claimant's name by more than 1 year 8 months. The Claimant states that Respondent No. 1 applied for the Environment Clearance, prior to the signing of the Concession Agreement and obtained it on 30.08.2012. However, Respondent No. 1 submitted an application for transfer of Environment Clearance in favour of the Claimant only on 09.04.2013 and accordingly, the Environment Clearance was transferred in name Claimant's name on 01.08.2013 i.e., after a delay of more than 1 year 8 months from the Appointed Date.
- (e) Respondent No. 1's failure to declare a no development zone around the P&D Facilities as per Article 6.1(g) of the Concession Agreement, hindered the Claimant's operations owing to several protests and residential growth around the P&D facilities. Residential Area existed with 100 metres of the

Project Facility whereas the State Expert Appraisal Committee (SEAC), Punjab noted that as per the Manual on Solid Waste Management, MSW facility should be at least 500m from a notified habitation. Therefore, since, Respondent No. 1 has failed to declare a no-development zone which resulted in the growth of residential area around the Processing Facility and which eventually led to several protests, Respondent No. 1 was in material breach of the Concession Agreement.

- (f) The Claimant states that Respondent No. 1 delayed transferring the Environmental Clearance (EC) to the Claimant by over 1 year and 8 months. The EC, obtained on 30.08.2012, was only applied for transfer on 09.04.2013 and transferred on 01.08.2013. This delay breaches Articles 2.2.2.1(c) and 6.1(a) of the Concession Agreement, constituting an Event of Default under Article 9.1(b)(i).
- (g) The Claimant submits that Respondent No. 1 failed to comply with the Hon'ble NGT's Order dated 01.12.2017 by supplying only 100-120 TPD of MSW instead of the mandated 300 MT, and the supplied waste was mixed with C&D Waste, violating MSW Rules 2016. Despite repeated requests, the Claimant did not receive the required segregated MSW, impacting their RDF production and operations. Further, Respondent No. 1 also failed to implement NGT Orders dated 04.08.2017 and 01.12.2017 to facilitate RDF sales, leading to RDF stockpiling and financial losses for the Claimant, despite the RDF meeting the required caloric value specifications. In establishing the WTE Plant, Respondent No. 1 did not confirm

the supply of 500 MT MSW or negotiate necessary amendments to the Concession Agreement. Finally, the dumping sites provided were either exhausted or poorly maintained, breaching the Concession Agreement and causing disposal issues for the Claimant. Since RDF could not be sold, it impacted the Claimant's revenue as conceived by the Claimant during the financial closure.

- (h) Claimant argues that Respondent No. 1 failed to notify/publish the user charges for commercial establishments within 60 days from the Appointed Date as required under Article 2.2.2.1(a) r/w Article 6.1(a) of the Concession Agreement. It states that Respondent No. 1 approved and notified user charges were only for households (although notified with a delay of approx. 1 month). The Claimant alleges that Respondent No. 1 failed to provide Usable Dumping Site: The dumping site provided by Respondent No. 1 was either exhausted or not being maintained in proper manner causing problems for disposing MSW despite the obligation of the Respondent No. 1 to maintain the dumping site until the project achieved COD-P&D. Therefore, Respondent No. 1 by handing over exhausted and unusable dumping site has failed to fulfil its obligation under Article 2.2.2.1(d) read with Article 6.1(a) of the Concession Agreement which resulted into an Event of Default of the Respondent No. 1 under Article 9.1 (b)(i) of the Concession Agreement.
- (i) Respondent No. 1 failed to co-operate with the Claimant for establishment of WTE. The Claimant states that the Learned NGT *vide* its Order dated 01.12.2017 directed the Claimant to

establish the WTE Plant subject to Respondent No. 1 providing the 500 MT of MSW upon commissioning of WTE Plant. However, despite repeated requests of the Claimant, Respondent No. 1 did not provide confirmation for providing 500 MT MSW (since Respondent No. 1 was not able to supply 300 MT) and also failed to hold negotiations and deliberations for the amendment of the existing Concession Agreement to cover the eventualities related to the establishment of the WTE Plant.

210. The Claimant states that it validly terminated the Concession Agreement due to Respondent No. 1's aforesaid EODs. The Claimant states that it is not the mandate of the Concession Agreement that in order to terminate the Concession Agreement, the process in the dispute resolution clause has to be exhausted first. The Claimant states that it participated in all the hearings before the First and Second Level Appellant Authority and therefore, the termination is not premature and is valid as per the Concession Agreement. It also argues that it is trite law that in case of a fundamental breach of contract, the termination procedure provided in a contract is not required to be followed.

211. The Claimant next contends that Article 9.8 (d)(i) of the Concession Agreement prescribes the method for calculating the Termination payment, if the termination occurs prior to COD-P&D, which is as follows:

“Termination payment = Debt Due + 120% of Adjusted Equity on Termination Date”

212. Debt Due:

a) The transfer date has been considered as 19.01.2019 (i.e., Termination Date of Concession Agreement).

b) For calculation of Debt Due, CW-3 has taken into account the outstanding debt till the Transfer Date i.e., 19.01.2019:

- Term loan Outstanding - INR 16,28,87,000 as confirmed by the Lender for the Project i.e., Punjab National Bank.
- Unsecured loan from JUIL- INR 29,76,83,472.
- Optional Convertible preference shares- INR 10,33,00,000 crore.

213. Therefore, the Debt Due as on Transfer Date is INR 56,39,72,229.

214. Adjusted Equity:

a) CW-3 has computed the total Equity on the basis of the audited financial statement of JF Bhatinda for the year ending 31.03.2018 and certificate issued by CA dated 26.09.2019 to compute total Equity as:

- Equity Share Capital- INR 0.06 crore
- Compulsorily Convertible 0% Debenture- INR 33 crore

b) Therefore, the total Equity as on 19.01.2019 is INR 33.06 crore.

c) Cumulative variation in Wholesale Price Index from November 2011 to January 2019 taken by CW-3 for calculation of Adjusted Equity is 1.1826. Therefore, Adjusted Equity as on 19.01.2019 is

Equity multiplied by one half of variation in WPI i.e., 33.06×1.0913
= 36.08 crore.

215. Thus, 120% of the Adjusted Equity would be 120% of INR 36.08 crore = 43.29 crore. In this manner, the Termination Payment is computed at INR 99.68 crore, which the Claimant contends that it is entitled to.
216. The Claimant contends that Respondent No. 1's argument that reliance cannot be placed on the Certificate dated 26.06.2019 issued by N.C. Aggarwal & Co. is erroneous as the equity and debt component is based on the Audited Financial Statement of the Claimant. The Claimant submits that audited balance sheets are prima facie evidence and that a Statutory Auditor's certificate can be relied upon for supporting claims. CW-2 being a Chartered Accountant deposed that he supervised the finalization of the Balance Sheet for FY 2018-19. Further, Certificate dated 26.06.2019 was issued at the request of CW-2 and was also proved by CW-2 during the cross examination.
217. The Claimant argues that in case Respondent No. 1 fails to pay the Termination Payment within a period of 90 days of the Termination Date, then, Respondent No. 2 is held liable to make such Termination Payments to the Claimant within a period of 60 days as per Article 9.8 (e) of the Concession Agreement. It further argues that Respondent No. 2 is also liable under Section 128 of the Indian Contract Act as the liability of the surety is co-extensive with the principal debtor.

J2.2 Respondent No. 1's Version

218. Respondent No. 1 disputes the legality of the Consultation Notice and the Termination Notice issued by the Claimant against the touchstone of the Concession Agreement or such Notices(s) occasioned on account of any Events of Default/material breaches/omissions by the Respondent No. 1.
219. Respondent No. 1 states that the averments made by the Claimant in the Consultation Notice to the effect that Respondent No. 1 failed to resolve the disputes mentioned thereunder are all incorrect. It avers that the Claimant has consistently wriggled out of its contractual obligations and to cover up past breaches, the Claimant adopted a stance of resolution. The Respondent denies that the Order dated 04.01.2019 of First Appellate Authority was time barred. The Appeal was preferred on 05.12.2018 and as such in accordance with Article 11.1(b) the First Appellate Authority was to pass an order within a period of 30 days i.e. by 05.01.2019 and in this case the order was passed on 04.01.2019, thus clearly within the time period prescribed.
220. It is further stated that the Claimant was the one who was unwilling to resolve the dispute/claims/differences, as on the one hand the claimant preferred Appeal dated 05.12.2018 and on the other hand, it issued a Termination Notice on the same date. Furthermore, the Claimant had issued the Notice dated 18.01.2019 for peaceful and vacant handover of the project facilities. In light of the same, there were dim chances of dispute resolution due to the Claimant's belligerent conduct.

221. With regard to the Termination Notice and the claim for Termination Payment, Respondent No. 1 denies that the Claimant is entitled to the Termination Payment of INR 100,04,33,839 and to any interest thereon in terms of Article 9.8(d) (i) of the Concession Agreement. Respondent No. 1 argues that it has not caused any Event of Default under the Concession Agreement that could have occasioned the Claimant to issue the Consultation Notice or the Termination Notice.
222. Respondent No. 1 states that the sequence of events would reveal the Termination Notice was not valid since that the procedure given under the Concession Agreement was not duly followed. Respondent No. 1 points out that while the amicable dispute resolution process as per Article 11 was still underway and a perusal of the orders passed by the Commissioner Municipal Corporation, Bathinda dated 12.11.2018, order passed by the First Appellate Authority dated 04.01.2019 and order passed by the Second Appellate Authority dated 25.02.2019 would show that the Claimant never intended to try to resolve the issues. Rather even before the process could be completed before the First Appellate Authority the Claimant issued the Termination Notice. Furthermore, Claimant by issuing the Hand Over Notice dated 18.01.2019 acted in contravention to the Order dated 15.01.2019 passed by the Learned District Judge, Bathinda as ad-interim injunction in favour of the Respondent No. 1 herein was granted whereby the Claimant was directed to continue performing its obligations under the Concession Agreement. Respondent No. 1 also points out that in terms of Article 11.3 of the Concession Agreement, the Claimant was obligated to continue performing its obligations under the Concession Agreement till the passing of the Arbitral Award by this Tribunal.

223. Respondent No. 1 denies the that it failed to meet its condition precedents under the Concession Agreement. It states that non-compliance, if any, was of conditions which were to be fulfilled by both the Claimant as well as Respondent No. 1, and not solely on account of Respondent No. 1.
224. In terms of Article 2.2.2.1(e), Respondent No. 1 states that it created a Tipping Fund in the name of ‘Solid Waste Management Fund’ in the Oriental Bank Commerce, Railway Road Bathinda (IFSC ORBC0100753) branch, by way of account number 07532041003298. It states that initially INR 50 lacs were given by the State Government to the Respondent No. 1 for opening the bank account and after that Respondent No. 1 kept depositing money in the account from time to time. Respondent No. 1 asserts that INR 56 lacs (approx.) is still lying at the bank account above mentioned.
225. Respondent No. 1 contends that the Claimant was aware of the Tipping Fund and it was informed about the opening of the Tipping Fund account vide Letter No. 6866/MSW dated 20.12.2011. Furthermore, Respondent No. 1 informed the Claimant time and again that the Tipping Fund was created as and when letters were sent by the Claimant enquiring the same. Respondent No. 1 argues that it is a matter of record that payments were released to the Claimant from the said account.
226. Article 2.2.2.1.a of the Concession Agreement states that the Respondent No. 1 “shall have notified door-to-door MSW Collection Policy in the MSW Supply Area”. Respondent No. 1 states that such door-to-door collection policy was already in place *vide* policy dated 15.07.2010 which was applicable to the Concession Agreement as well. Respondent No. 1 points out that while the Claimant in the

SOC submits that Respondent No. 1 did not have door-to-door collection policy, in reality, the Claimant had been making representations to the Respondent No. 1 to enhance the fee prescribed by the Respondent No. 1 under the policy dated 15.07.2010, it sought clarification of the policy dated 15.07.2010, some of which were even accepted by the Respondent No. 1.

227. The Respondent vehemently states that it did not omit taking steps for the appointment of Independent Expert. Respondent No. 1 further states that on three separate occasions, it had advertised the for the appointment thereof in order to fulfil the terms of Article 4.2 r/w Annexure 11 of the Concession Agreement. However, despite sincere efforts it could not appoint an independent expert as there were no suitable candidates. Respondent No. 1 submits that even though no independent expert was appointed, the Claimant's contractual performance was not hampered in any manner. Additionally, Respondent No. 1 submits that the issue of appointing an Independent Expert was also raised in the meeting dated 08.06.2017 wherein the Claimant was asked to suggest a suitable person for appointment. The Claimant assured Respondent No. 1 that it would recommend a suitable person for the post and the same is recorded as Item 2.2 of the Minutes of the Meeting.

228. Respondent No. 1 denies that there was wilful default on the Claimant's part in complying with the Conditions Precedent under the Concession Agreement, as regards obtaining of Applicable Approvals as per Annexure 7 of the Concession Agreement being the Consent to Establish, Article 2.2.3.2 (f), though the Land lease Agreements were executed on 01.12.2012, the consent to establish was applied for by the Claimant in 2015, i.e. much after the date

which was set out in the agreement in terms of Annexure 14 containing the Implementation Schedule for the actual Commissioning of the Processing Facility.

229. Respondent No. 1 states that the Claimant failed to apply for the Environment Clearance. As per Article 5.1(b) (ii), it was the Claimant's sole responsibility to obtain, maintain and periodically renew all the Applicable Approves as per Annexure 7, including but not limited to Environment Clearances.
230. Respondent No. 1 contends that as per the Masterplan of Bathinda City, 15 metres around the Processing Facility was declared as a Green Belt and therefore by default a No Development Zone. However, there were certain residential development around the Processing Facility Site which were beyond the No Development Zone declared by the Master Plan. Therefore, any allegation pertaining to Respondent No. 1's failure to declare a No Development Zone is baseless.
231. Respondent No. 1 states that before the Environmental Clearance Certificate was issued by SEIAA after a public hearing was conducted in which the residents vented their grievance regarding the site selection of the Processing Facility, these grievances were considered before issuing the Environmental Clearance Certificate. However, in spite of following the due process in issuance of the ECC, one of the residents namely Capt. Mall Singh approached the Learned NGT by filing Appeal No. 70/2012 challenging the Environmental Clearance Certificate. In the said Appeal, the Learned NGT upheld the validity of the Environmental Clearance Certificate. Therefore, objection regarding a No Development Zone leading to many protests is untenable.

232. Respondent No. 1 states that under Article 2.2.2.1 (d) of the Concession Agreement, its sole obligation was to allocate/demarcate usable dumping sites that fill the processing and disposal facilities which was done by it. Respondent No. 1 further states that it had maintained the dumping sites at its own cost, therefore, the Claimant did not incur any loss or expense on account of maintaining dumping sites. In this behalf, Respondent No. 1 explained that in terms of Article 2.2.3.1(a) r/w Article 3 read with Annexure 5 of the Concession Agreement, it had to execute Lease Deeds for the following:

- 15 acres of land for the purpose of processing facility, at Mansa Road, Bhatinda
- 36.81 acres of land for the Sanitary Land Facility and Village Mandi Khurd to the Claimant

233. The Respondent states the vide Letter dated 02.12.2011, it requested the Claimant to take possession of the parcels of land mentioned above. However, Claimant was slow to act and the execution of the Land lease agreements was delayed till 1.02.2012.

234. Respondent No. 1 blames the Claimant for delay in starting the work. It states that the Claimant did not start any work on these lands even after the Lease Deed was duly executed and the possession was handed over to the Claimant. However, the land measuring 36.81 at village Mandi Khurd that was earmarked for the development of Engineered Sanitary Land Fill site for 25 years, became a subject matter of litigation in CWP No. 21960 of 2011 titled as Jarnail Singh & Others vs State of Punjab & others, before the Hon'ble Punjab and Haryana High Court wherein maintenance of *status quo* was Ordered on 08.08.2012. Respondent No. 1 states that

till then the Claimant had not taken any steps to implement the Sanitary Landfill Site, even though 9 months had elapsed.

235. Later, on the Claimant asked that Respondent No. 1 ought to provide an additional area of 10-acre land at ITI Chowk, Mansa Road and same was approved in a meeting in October 2014. Respondent No. 1 states that the Claimant took over the 10 acres of land after a delay of 20 months, i.e. on 17.07.2016. Respondent No. 1 argues that the abovementioned actions shows that the Claimant has failed to properly perform its obligations under the Concession Agreement. Respondent No. 1 states that the Learned NGT passed Orders dated 25.11.2014 and 01.12.2017 wherein the Claimant was ordered to complete the construction of the Processing Facility including the Waste to Energy Plant. However, the design constructed by the Claimant turned out to be faulty, emitting odours which resulted in Punjab Pollution Control Board's refusal to renew the Consent to Operate.
236. Respondent No. 1, therefore, asserts that Termination Notice is invalid. It is also argued that in any case, the provision regarding Termination Payment is invalid and void.

J2.3 Respondent No. 2's Version

237. Apart from questioning the validity of Termination Notice, Respondent No. 2 argued that it is not liable to pay any Termination Payment. It also contends that the clause of Termination Payment is invalid and unenforceable.

J2.4 Tribunal's Analysis

238. The case set up by the Claimant is that there were material breaches committed by the Respondents which forced the Claimant to terminate the Contract and, on that premise, the Claimant argues that the termination of the CA is valid. The Respondents deny commission of any material breach and, on the contrary, blame the Claimant for committing breaches.

239. Article 9 deals with Events of Default and Termination. Whereas Article 9.1(a) enlists the Concessionaire's Event of Default, Article 9.1(b) lists out the events that would constitute event of default on the part of Respondent No. 1 and reads as under:

“

(b) The Concessions Authority's Event of Default

Any of the following events shall constitute an event of default by the Concessions Authority ("Event of Default - Concessions Authority") when not caused by an Event of Default - Concessionaire or Force Majeure Event:

- (i) The Concessions Authority is in Material Breach of any of its obligations under this Agreement and has failed to cure such breach within sixty (60) days of receipt of notice thereof issued by the Concessionaire
- (ii) The Concessions Authority has unlawfully repudiated this Agreement or otherwise expressed its intention not to be bound by this Agreement.
- (iii) The Concessions Authority has failed to make any payments due to Concessionaire and more than ninety (90) days have elapsed since such payment default;

“

240. Article 9.2(b) confers right upon the Claimant to terminate the Agreement upon the occurrence of event of default on the part of Respondent No. 1. The procedure therefor is provided in the subsequent sub-articles of Article 9 which shall be taken note of and dealt with at a later stage to find out as to whether the Claimant adhered to the said procedure or not.

241. Suffice it to state that the Party intending to terminate has to give Consultation Notice in the first instance, whereafter the Parties

have to endeavour to arrive at an agreement as to the manner of rectifying or remedying the underlying event of default. In case the underlying event or default is cured or waived, the Consultation Notice is to be withdrawn. In case it is not cured, steps for termination are provided under Article 9.8.

242. Under Article 9.8, the party which has given the Notice is entitled to terminate the Agreement on account of an event of default and shall do so by issuing a Notice in writing known as ‘Termination Notice’ to the other party and simultaneously delivering a copy thereof to the lenders. The Termination Notice is required to give the following details:

- “
- (i) in sufficient detail the underlying Event of Default;
 - (ii) the Termination Date which shall be a date occurring not earlier than (forty five) 45 days from the date of Termination Notice;
 - (iii) the estimated Termination Payment including the details of computation thereof; and
 - (iv) any other relevant information.
- ”

243. Thus, first aspect which needs determination is as to whether there were material breaches on the part of the Respondents. The Claimant has alleged the following event of defaults:

- (a) EOD 1: Respondent No. 1’s failure to make timely Tipping Fee
- (b) EOD 2: Failure to create Tipping Fee Fund and deposit money in the Tipping Fund
- (c) EOD 3: Failure to appoint Independent Expert
- (d) EOD 4: Respondent No. 1 delayed in providing vacant land for the Processing Facilities

- (e) EOD 5: Respondent No. 1 delayed in providing vacant land for the Disposal Facilities
- (f) EOD 6: Failure of Respondent No. 1 to declare a No Development Zone
- (g) EOD 7: Respondent No. 1 failed to notify/publish User Charges for Commercial Establishments
- (h) EOD 8: Respondent No. 1 delayed in transferring the Environmental Clearance in the name of the Claimant
- (i) Other non-compliances of Respondent No. 1

244. Since the Claimant treated the aforesaid events as EODs in terms of Article 9.1(b)(i), these have to be in the nature of “Material Breach” of the obligations of Respondent No. 1 under the Agreement. Material Breach is defined in Article 1.1.79 as under:

“
 1.1.79. **“Material Breach”** shall mean a breach by any Party of any of its obligations under this Agreement which has or is likely to have a Material Adverse Effect on the Project and which such Party shall have failed to cure;
 “

245. This definition makes it clear that every breach will not be treated as Material Breach and it is only the breach of that obligation under the Agreement which has or is likely to have a ‘Material Adverse Effect’ on the Project which the party failed to cure. Material Adverse Effect is also defined in the Agreement in the following terms:

“
 1.1.78. **“Material Adverse Effect”** means a material adverse effect of any act or event on the ability of any Party to perform any of its obligations under and in accordance with the provisions of this Agreement and which act or event causes a material financial burden or loss to any or all Party(ies);
 “

246. It is important that adverse effect of a breach has to be of a nature which causes a material financial burden or loss to any or all party(ies). A combined reading of the aforesaid two definitions would bring forth the following ingredients which need to be satisfied:

- (a) There is a breach of obligation(s) under the Agreement
- (b) The breach is of the nature which has an adverse effect on the Project
- (c) Such adverse effect has to be Material Adverse Effect
- (d) In order to constitute Material Adverse Effect, it is to be established that it has caused material financial burden or loss.

247. The expression 'material financial burden' or 'loss' is not defined in the Agreement and, therefore, it has to be given ordinary meaning, acceptable in the legal parlance. In the opinion of the Tribunal, financial burden or loss has to be of a nature which is unduly burdensome and makes the working of the Agreement unviable for the Concessionaire/Claimant.

248. Keeping in mind the aforesaid ingredients, various events of defaults alleged by the Claimant are discussed hereunder:

- (a) While discussing Claim No. 1, the Tribunal has come to the conclusion that the Claimant is entitled to the payment of Tipping Fee in the sum of INR 1,83,57,074.

Notwithstanding the above, it is also to be examined as to whether the alleged breach constituted Material Breach in the

sense it had Material Adverse Effect on the ability of the Claimant to perform its obligations under the Agreement. The Respondents have argued that the Claimant was paid Tipping Fee from time to time. The total amount of Tipping Fee paid by the Respondents to the Claimant during this period comes to INR 19.39 crore, out of the bills of INR 21.63 crore raised by the Claimant on all ULBs. Thus, almost 90% of the amount on account of Tipping Fee had already been received, even as per the Claimant's own showing and the dispute was limited with respect to 10% of the amount of Tipping Fee. Therefore, contend the Respondents, it cannot be treated as material breach. It is also argued that in a contract of this magnitude where the Claimant is claiming INR 100 crore as Termination Payment and INR 646.82 crore on account of loss of profit, the disputed amount of INR 2.24 crore was negligible and cannot be treated as material breach for this reason as well. That apart, as discussed while analysing Claim No. 1, the Respondents had their own *bona fide* reasons for not making further payments on account of Tipping Fee, which included non-performance of certain obligations under the Agreement on the part of the Claimant. Also, Respondent No. 1 has a *bona fide* dispute on the plea (though not established) that it had made overpayments.

The Tribunal finds strength in the aforesaid submissions of the Respondent and holds that even if there was any breach on account of non-payment of Tipping Fee, it cannot be treated as material breach.

(b) Here again, the so-called breach cannot be treated as material breach. As already discussed, while dealing with Issues 5 & 6, it is not that the Tipping Fund was not created. Respondent No. 1 has given the details of creation of this fund as mentioned in para 225 above. The fact remains that, even when the Tipping Fee Fund was not created strictly in terms of the Agreement, the Claimant waived this condition by its own conduct, as it proceeded with the execution of the Project/Agreement. More importantly, the Claimant was paid the Tipping Fee by the ULBs from time to time on regular basis. Therefore, this alleged failure also cannot be treated as material breach.

(c) No doubt, the Independent Expert was not appointed by Respondent No. 1 which position remained throughout. In terms of Article 2.2.2.1, Respondent No. 1 was supposed to appoint an Independent Expert, which was one of the Conditions Precedent. Respondent No. 1 has explained that in spite of adequate steps taken by it and efforts made, it could not get a suitable person for appointment.

As already recorded above, notwithstanding non-fulfilment of these Conditions Precedent by Respondent No. 1, the Claimant waived the same and proceeded with the Contract. Therefore, this event also cannot be treated as material breach.

(d) EOD 4 & 5 are taken up together. Providing vacant land for the Processing Facilities and Disposal Facilities by Respondent No. 1 to the Claimant was Conditions Precedent specified under Article 2.2.3.1. As per this provision, the

Concessioneing Authority/Respondent No. 1 shall have executed the Project Site Lease Deed and Processing Facilities and Processing Facilities Lease Deed and handed over vacant and unencumbered possession of the Project Site to the Claimant in accordance with Annexure 5. Annexure 5 mentions the particulars of the site where specific Project Facility was to be commissioned as well as area to be given, which is as under.

“

| <u>S. No.</u> | <u>Name of City/Site</u> | <u>Project Facility</u> | <u>Approx. Area (In acres)</u> | <u>Land Provided by (Land ULR)</u> |
|---------------|--|-----------------------------------|--------------------------------|---------------------------------------|
| 1 | <u>Mansa Road, Bathinda(Bathinda)</u> | <u>Processing Facility</u> | <u>15</u> | <u>Bathinda Municipal Corporation</u> |
| 2 | <u>Village Mandi Khurad (Bathinda)</u> | <u>Sanitary landfill Facility</u> | <u>36.81</u> | <u>Bathinda Municipal Corporation</u> |
| 3 | <u>Mansa</u> | <u>Transfer Station</u> | <u>2</u> | <u>Mansa Municipal Council</u> |
| 4 | <u>Malout</u> | <u>Transfer Station</u> | <u>2</u> | <u>Malout Municipal Council</u> |

“

It is argued by the Claimant in furtherance of the above Land Lease Agreement dated 01.02.2012 for P&D Facilities was executed wherein Respondent No. 1 represented that the site was free from encroachment and encumbrances. However, this was not a true representation as the site at Mansa Road was encumbered with the heaps of garbage (being used as a dumping site for the past 20-25 years by Respondent No. 1) and the same had to be cleaned by the Claimant. The vacant land was made available only in mid-2014 and construction was completed in October 2015, whereafter the Processing Facilities were commissioned on 30.11.2015. This is termed as material breach by Respondent No. 1.

The Tribunal finds that even going by the Claimant’s assertions as recorded above, there may be some delay only in

providing vacant land for the Processing Facility. However, this delay did not prompt the Claimant to terminate the Contract at that time. On the contrary, after the land was made available, the Claimant not only took possession thereof but as per its own showing, commissioned the Processing Facilities on 30.11.2015. Therefore, delay, if any, had been waived and it cannot be treated as material breach.

Coming to the land situated at Mandi Khurad, the Claimant argues that it was under litigation since November 2011 and the Hon'ble High Court of Punjab & Haryana passed Orders dated 08.08.2012 directing to maintain *status quo*. For this reason, the Claimant had itself requested Respondent No. 1 to provide an additional 10-15 acres of land adjacent to the Processing Facility at Mansa Road for establishing Sanitary Landfill Facility (SLF). However, it is only on 14.07.2016, alternative land admeasuring 10 acres at Mansa Road was provided for establishing the SLF. Even this was not unencumbered. Moreover, Environmental Clearance (EC) was not amended by Respondent No. 1 for change of site to SLF. However, for failure to get amendment in EC, SLF could not be established. As a result, the Claimant could not achieve COD-P&D and COD-CTP&D due to the failure on the part of Respondent No. 1.

Respondent No. 1, on the other hand, has pleaded that the land lease for both the parcels viz., Mansa Road and Mandi Khurad was executed by the Claimant only on 01.02.2012 and the initial delay was on the part of the Claimant. The possession of unencumbered land was handed over to the

Claimant and there was no litigation on any parcel of land at that time. However, the Claimant did not start any work on these lands and a *status quo* Order in respect of Mandi Khurad land was passed by the Hon'ble High Court of Punjab & Haryana on 08.08.2012. Till then, the Claimant had not taken any steps to implement the sanitary landfill site even though nine months had elapsed. Insofar as allotment of 10 acres of land at Mansa Road in lieu of the Mandi Khurad land, the Respondent blames the Claimant for taking over the said land only on 17.02.2019 after a delay of more than 20 months as the Lease Deed is dated 14.07.2016. Respondent No. 1 also refutes the allegation of the Claimant in respect of grant of EC and submits that a perusal of Orders dated 25.11.2014 and 01.12.2017 passed by the NGT would show that there were specific orders directing the Claimant to complete the construction of the Processing Facilities, including the Waste to Energy Plant.

From the respective submissions, it becomes clear that in view of the litigation about the Mandi Khurad land, the Parties agreed that alternative land could be provided at Mansa Road itself. It was the request of the Claimant itself viz., for an additional 10-15 acres of land adjacent to the Processing Facilities for establishing the SLF. It is also an admitted case that alternative land admeasuring 10 acres at Mansa Road was provided for establishing the SLF. Though the Claimant states that it was only on 14.07.2016, Respondent No. 1 blames the Claimant for taking possession belatedly. Be that as it may, the possession was taken by the Claimant and even if it is presumed that there was a delay on the part of

Respondent No. 1, it was waived by the Claimant after taking the possession and, therefore, it cannot be treated as an event of default.

However, the Claimant could not establish the SLF on the said additional land and the pleaded case of the Claimant that it was earlier used as a dumping site for the last 20-25 years and cleared land was not given. Another submission of the Claimant is that it required fresh approval from the State Level Environment Impact Assessment Authority (SEIAA), Punjab, but Respondent No. 1 could not obtain amendment in EC for establishing the SLF at Mansa Road.

The Tribunal finds that though additional land provided by Respondent No. 1 to the Claimant was earlier used as a dumping site, the Claimant had taken possession thereof and, therefore, it was not appropriate on its part of later on take an objection about the condition of the site. It was for the Claimant to remove the garbage and establish the SLF. Consent to operate was obtained from the Pollution Board which was granted on 02.12.2016 and was valid till 31.03.2017. The condition 2 of GCC of CTO specifically puts an obligation on the part of the Claimant to seek amendment in the EC. For the aforesaid reasons, the Claimant cannot treat this as an event of failure on the part of Respondent No. 1.

(e) EOD 6: Non-declaration of No Development Zone

Article 6.1(g) of the CA provides that Respondent No. 1 would declare a No Development Zone around the P&D facilities. Though the Claimant alleges that Respondent No. 1 failed to

declare a No Development Zone, this assertion of the Claimant is not correct inasmuch as the plan of the Bathinda city specifically declares the area around the P&D facilities as No Development Zone (greenbelt 15 metres). Presumably, for this reason, the emphasis of the Claimant is not on the area being declared as No Development Zone and it alleges that residential area existed within 100 metres of the Project facilities, whereas the manual on Solid Waste Management (MSW) shows that the MSW facility should be at least 500 metres. from a notified habitation. Therefore, it appears that even when No Development Zone was declared, the habitation around the area sprung up which was within 100 metre and not 1500 metres away from the P&D Facilities. Thus, insofar as the obligation under the CA is concerned, that was fulfilled by Respondent No. 1. If, in spite of the same, some residential areas have come up, that would be a different matter altogether and not the breach of the CA on the part of Respondent No. 1. Even otherwise, the residential area in the vicinity may have health implications for the inhabitants and cannot be treated as material default insofar as the Claimant is concerned. The only allegation made by the Claimant, which remains unsubstantiated is that there were protest from the residents of the said area.

- (f) EOD 7 – Failure to notify/publish User Charges for commercial establishments

Here again, the charge of the Claimant is not that there was complete failure on the part of Respondent No. 1 to approve the User Charges for commercial establishments. Instead, the

gravamen of the charge is that there was no timely approval as the User Charges for commercial establishments were not timely notified and there was delay in approving the same. In this behalf, the Claimant submits that some establishments were notified on 22.08.2012 and some other on 06.06.2014.

It is stated at the cost of repetition that notwithstanding the aforesaid delay, the Claimant went ahead with the Project and did not treat the same as material breach/non-fulfilment of Conditions Precedent and rescinded the Contract. Another allegation of the Claimant is that the other Cluster ULBs did not notify/publish the Door-to-Door MSW Collection Policy for commercial establishments within the stipulated time, but belatedly. In the first instance, those ULBs are not impleaded as Parties which could give their explanation. Secondly, as mentioned above, the allegation is only about the delay which was waived by the Claimant.

Another grievance in this respect made by the Claimant, is that the Claimant was hindered from covering from 100% households and establishments in the Bathinda Cluster on account of resistance from local residents, for which Respondent No. 1 or the ULBs cannot be blamed. Though the Claimant asserts that it was because of not adequate publicity of the Door-to-Door Policy, which allegation, however, does not appear to be correct.

- (g) EOD 8 - Delay in transferring the environmental clearance in the name of the Claimant

Here again, it is not the case of the Claimant that EC was not obtained by Respondent No. 1 or that it was not transferred in the name of the Claimant. The only allegation is about the delay. Notwithstanding the alleged delay, EC was transferred way back on 09.04.2013 which cannot be the basis of termination of the Agreement in the year 2018.

(h) Other alleged non-compliances of Respondent No. 1

The Claimant has also alleged the following non-compliances on the part of Respondent No. 1:

- (a) Non-compliance of NGT Orders
- (b) Alleged violation to ensure sale of RDF
- (c) Failure to cooperate with the Claimant for establishing the WTE Plant
- (d) Failure to provide usable dumping site.

The first three alleged violations are premised on the ground that NGT had passed Orders from time to time in this behalf which were not complied with by the Respondents and that is treated as violation. The Respondents have denied any such violation. It is also alleged that Respondent No. 1 failed to supply 300 MT of MSW in terms of Order dated 01.12.2017 of NGT. The Respondents have refuted the aforesaid allegations and their argument is that after passing of Orders dated 21.12.2017, 16.01.2018 and 08.10.2018 (on which date the matter was disposed of by NGT), the Respondents were not obliged to supply 300 MT of MSW per day. The Respondents

have denied any violation. Be that as it may, these are not the violations of any provisions of the CA or WOTA and, therefore, cannot be treated as an EOD in terms of the Agreement.

(e) Dumping Site

Insofar as the provision of dumping site is concerned, the allegation of the Claimant is that the dumping site provided by Respondent No. 1 was either exhausted or not being maintained in proper manner causing problems for disposing MSW despite the obligation of Respondent No. 1 to maintain the dumping site until the Project achieved COD-P&D.

The response of the Respondents is that dumping sites were provided by Respondent No. 1 as well as all 17 ULBs to the Claimant within the respective areas of 17 ULBs and the Claimant has not alleged that such dumping sites were not provided. Respondent No. 1 also argues that no doubt, as per Article 2.2.2.1(d) of the CA, it was to allocate/demark site for dumping of MSW till the time Processing and Disposal Facilities are established by the Claimant. Such dumping of MSW was to be at the risk and responsibility of Respondent No. 1 till the Project achieves COD-P&D. However, this provision nowhere provides that dumping sites demarcated/allocated for the Claimant were to be maintained by BMC till the processing facilities are started by JITF.

The Tribunal finds force in the aforesaid submission of Respondent No. 1. No doubt, till the achievement of COD-

P&D, dumping of MSW was at the risk and responsibility of Respondent No. 1. However, once the site was given to the Claimant, it naturally follows that the maintenance thereof was the responsibility of the Claimant, more particularly, when the Claimant was to take care of the management of solid waste as per the CA in conformity with MSW (M&H) Rules, 2000. In the absence of any specific stipulation in Article 2.2.2.1(d), imposing the obligation of maintenance on Respondent No. 1 would be untenable.

The Claimant also argues that these dumping sites were not accessible by proper approach road, which allegation is strongly refuted by Respondent No. 1. The Tribunal finds that there is no credible evidence placed on record by the Claimant to prove this assertion. CW1 was put specific question in this behalf, i.e., Q 154 which is as under:

“Q. 154 Do you have anything to show that the various dumping sites for Mansa, Budhlada, Bhikki, Sardulgarh, Malout, Giddarbaha, Kot Fatta, Goniana, Rampura Phul, Rama Mandi, Baretta, Maur Mandi and Abohar were not accessible by proper approach road?”

The answer of CW1 was that “It is a matter of record.” However, the Claimant has not shown any record which proves that the roads were not accessible.

249. The upshot of the aforesaid discussion is to conclude that no event of default on the part of Respondent No. 1 occurred in terms of the Agreement which entitled the Claimant to terminate the Contract. The termination is, therefore, held to be illegal and contrary to the

provisions of the CA. The Claimant is, thus, not entitled to declaration that the Consultation Notice dated 24.08.2018 and Termination Notice dated 05.12.2018 are valid and legal. As a consequence, the Claimant is not entitled to Termination Payment as well.

250. The Respondents have also argued that the clause relating to Termination Payment is unenforceable. *Prima facie* this argument appears to be without any merit. However, it is not necessary for the Tribunal to give any authoritative view on this aspect as the Claimant's claim has failed on merits.

251. It also needs to be specifically reiterated that notwithstanding the termination of the CA under the Orders of the Court passed under Section 9 of the Act, which has been continued by this Tribunal, the Claimant continues to manage the Project. As the termination of the CA is found to be illegal, the Claimant would be required to continue with the Project till the expiry of the Concession Period or early termination thereof in a valid manner. For this reason also, there is no occasion to give the Termination Payment to the Claimant at this stage.

Some important observations

252. The Tribunal finds that the circumstances and the manner in which both the Parties have conducted themselves during the period of the Contract and even after the termination (as the operations continued by virtue of Interim Orders) is somewhat intriguing and baffling. According to the Claimant, some Conditions Precedent were not fulfilled by the Respondent. However, ignoring the same merrily, the Claimant chose to go ahead with the Contract which

shows that it had an understanding that it is capable of carrying out the Operations under the CA and, may be, in the perception of the Claimant, it was a lucrative assignment. For this reason, the Claimant even ignored delays in fulfilment of some of the Conditions Precedent.

253. When it comes to Respondent No. 1 and other ULBs, their conduct and response is equally intriguing. On the one hand, the Respondents have come out with so many alleged failures and unsatisfactory performance on the part of the Claimant, on the other hand, the Respondents want the Claimant to continue with the Contract. In spite of the alleged failures on the part of the Claimant or its so-called unsatisfactory performance, the Respondents never took any steps to terminate the Contract treating the same as Events of Default. It is for this reason the Respondents filed the Application under Section 9 of the Act and obtained directions against the Claimant to continue with the Contract.

J3 Claim No. 3

Claim of INR 646.82 crore towards loss of profit to be paid by the Respondent No. 1 to the Claimant

J3.1 Claimant's Version

254. The Claimant states that it terminated the Concession Agreement on 05.12.2018, w.e.f. 19.01.2019, due to the defaults of the part of Respondent No. 1 as given under Claim No. 2 above. The Claimant avers that even when its performance during the Concession Period was satisfactory it could not earn the profits until 2036 due the termination of the Concession Agreement. The plea of the Claimant is that entitled to the INR. 646.82 crore on account of loss of profit.

255. The Claimant states that in order to achieve the Financial Closure (which was a Conditions Precedent), it approached the Punjab National Bank which prepared a Techno-Economic Viability Report dated 19.03.2012 (“**TEV Report**”) to ascertain Project viability. The TEV Report consists of a Financial Model and a profitability statement based on which the Project was declared technically feasible and economically viable and the present Claim of loss of Profit is based on it which has also been proved by CW-2 and CW-3. The Claimant states that it submitted the said Financial Model to Respondent No. 1 *vide* letter dated 30.12.2014,
256. The Claimant argues that due to the due to the material breaches of Respondent No. 1, there was huge difference between the actual revenue generated by the Claimant during the execution of the Project and the revenue conceived in the TEV Report. The Claimant goes on to state that it is a settled that when there is a breach of reciprocal promises /Section 51 to 55 of Indian Contract Act, 1872/ under the Contract, parties are entitled to claim damages under Section 73 of the Indian Contract Act, 1872. (Maharashtra State Electricity Distribution Company Ltd. v. Datar Switchgear Limited and Ors., (2018) 3 SCC 133). Further, the TEV Report concluded the Project to be viable and the Analysis undertaken on the basis of following parameters:

a) Financial Aspects

257. The financial model in the TEV Report was prepared on the basis of the following assumptions: Quoted Tipping Fee INR 300 per MT ; MSW: 293 MT; Tipping Fee Realization: 100%; User Charges collection Efficiency (for Slums-10% and for others- 50%); Cost of the Project- INR 39.47 crore; Means of Finance included Equity of

32.03% and Debt of 67.97% totalling to INR 39,47 crore; Components of the Project i.e. Equipment for Primary Collection- INR 6.54 crore, Equipment for Secondary Transport - INR 5.14 crore, Workshop - INR 0.25 crore and Plant & Civil Works. - INR 14.83 crore

b) Profitability of the Project-

258. The Claimant states that the Profitability of the Project was assessed in TEV Report based on the abovementioned financial aspects. PAT till 31.03.2022 was calculated INR 100.13 crore. The profitability statement has considered only the revenue and expenses for C&T Operations in the 1 year ending 31/03/2012 because the Claimant was required to commence C&T works after 60 days from the Appointed Date i.e., date of execution of the Concession Agreement (23.11.2011). Further, the profitability statement has not considered the P&D operations in the first year as the construction was to be completed within 360 days from the compliance date of P&D (i., 120 days from the Appointed Date). Further, the Hon'ble High Court of Delhi in National Highways Authority of India v. M/s D.S. Toll Road Pvt. Ltd. (2024 SCC OnLine Del 316, Para 37) while upholding the grant of loss of revenue by the Ld. Arbitrator held that since the financial model was submitted by the contractor to the Authority and the viability of the Project was validated by the said financial model, it formed a relevant material for quantifying the claim for loss of revenue. Therefore, the Claimant seeks to claim for loss of profit on the basis of financial model contained in the TEV Report.

Computation of Loss of Profit amounting to INR 646.82 crore

259. CW-2 has computed loss of profit amounting to INR 646.82 crore for the entire Concession Period on the basis of methodology adopted in the TEV Report. Furthermore, Financial Expert (CW-3) has validated the claim for Loss of Profit by independently computing the loss of profit amounting to INR 646.82 crore. The Claimant states that CW-3 has applied the but-for principle to compute loss of profit according to which the harmed party should be put into the same financial position they were in or would have been, if the event that harmed them had not taken place. CW-3 also computed the cash profits based on the TEV Report. In order to do so, CW-3 has bifurcated the Concession Period into two parts-

- i. From 23.11.2011 to 31.03.2022: since TEV Report provided the projections until March 2022. CW-3 has adopted the same method and calculated cash profits as INR 100.13 crore.
- ii. For the remaining period, i.e. from 01.04.2022 to 23.11.2036 CW-3 extrapolated method used in the TEV Report and computed cash profit to be INR 546.69 crore.

260. Therefore, a total loss of profit computed CW-3 amounted is INR 646.82 crore. The Claimant urges that CW-3 has been proved to be a reliable witness

261. The Claimant drew out various case-law to buttress its claims. Reasonable expectation of profit is implicit in a works contract and its loss ought to be compensated by way of damages if the other party to the contract is guilty of breach of contract. Further, while estimating the loss of profit that is claimed for breach of contract by

the other side, it would be unnecessary to go into the minutest details of the work executed in relation to the value of the works contract and a broad evaluation would be sufficient. [*A.T. Brij Paul Singh and Ors. v. State of Gujarat, (1984) 4 SCC 59, Para 9 & 10; Dwaraka Das v. State of Madhya Pradesh, (1999) 3 SCC 500, Para 9.*] When the contractor is constrained to terminate the agreement due to breaches committed by the other party, it would be entitled to the profits it would have made in the entire contract, i.e., for the part which is performed and also for the part of the contract which it was prevented from performing. [*Maharashtra State Electricity Distribution Company Ltd. v. Datar Switchgear Limited and Ors, (2018) 3 SCC 133, Para 67*] In a commercial contract entered with a business sense, business efficacy ought to be read into the Agreement. [*Nabha Power Ltd. v. Punjab State Power Corporation Ltd., (2018) 11 SCC 508, Para 49*] It is well within the domain of the Arbitrator to adopt one or the other formula having regard to the facts and circumstances of a particular case. [*McDermott International Inc. v. Burn Standard Co. Ltd., (2006) 11 SCC 181, Para 106*]. The Claimant contends that in terms of Order 8 Rule V read with Section 58 of the Indian Evidence Act, 1872, the methodology and the computation of loss of profit is deemed to have been admitted by Respondent No. 1 and thus, not required to be proved by the Claimant. [*Gian Chand and Brothers and Ors. v. Rattan Lal, (2013) 2 SCC 606, Para 22-24; Sushil Kumar v. Rakesh Kumar, (2003) 8 SCC 673, Para 69, 70 & 71*]

262. The Claimant next submits that that the 'Project' is same under the Concession Agreement and WOTAs and moreover, the WOTAs do not have an independent existence without the Concession Agreement.

263. The Claimant argues that it's right to claim loss of profit is saved by Article 9.11 of the Concession Agreement and is in no way or manner affected by Article 15.15(d) of the Concession Agreement. It is argued that Article 15.15(d) of the Concession Agreement which prohibit the grant of damages does not debar the Arbitrator from entertaining such claims. [*Board of Trustees for the Port of Calcutta v. Engineers-D-Space-H, (1996) 1 SCC 516, Para 4 & 5; Bharat Drilling and Foundation Treatment Pvt. Ltd. v. State of Jharkhand, (2009) 16 SCC 705, Para 3, 5 & 9 (relied on Board of Trustees) (also read, State of Jharkhand v. Bharat Drilling and Foundation, 2003 SCC Online Jhar 329, Para 3,11, 13, 22, 24 and 29]* and such clauses that restrict the right of a party from claiming damages to which the party is otherwise entitled under the law, is void. [*Simplex Concrete Piles (India) Ltd. v. Union of India, 2010 SCC OnLine Del 821, Para 1, 10, 15, 16 & 19]*
264. The Claimant contends that Respondent No. 1 's argument that the Claimant cannot claim both Termination Payment and loss of profit is wrong. It argues that the Termination Payment is in addition to any other payment that has accrued to the Claimant prior to termination. It states that it is trite law that there is no impediment for the parties to contract to make provision for liquidated damages for specific breaches and to leave other types of breaches to be dealt with as unliquidated damages [*Steel Authority of India Ltd. v. Gupta Brother Steel Tubes Ltd., (2009) 10 SCC 63*]. The Claimant urges that Termination Payment is intended to return only some portion of the capital employed for the Project and it does not cover breach of business efficacy or the ability of the Claimant to earn profits in the future.

J3.2 Respondent No. 1's Version

265. The Respondent No. 1 argues that the claim towards loss of profit is specious, misconceived and without any material to support provided by the Claimant.
266. Respondent No. 1 submits that the Concession Agreement does not mention any such responsibility upon Respondent No. 1 to compensate the Claimant towards loss of profit and cannot be read into the Concession Agreement. Respondent No. 1 further submits that the loss of profit, if any, is solely on account of the defaults on behalf of the Claimant and the burden of it cannot be passed on to Respondent No. 1.
267. Respondent No. 1 points out that the TEV Report relied on by the Claimant was formulated by the Bank for their internal verification before approving the loan provided to the Claimant. Respondent No. 1 argues that the TEV Report was unheard of so far and was introduced only while raising the present Claim and therefore, Respondent No. 1 cannot be compelled to accept the projections made in the TEV Report Further, even if for the sake of argument, Respondent No. 1 accepted the TEV Report, the said Report will have no bearing on the Respondent No. 1 since the Report has not taken into account the defaults of the Claimant. Respondent No. 1 submits that the present project is on a Public Private Partnership Model, and Concession Agreement does not deal with profit sharing or loss sharing, therefore the Claimant cannot at this stage go beyond the scope of the Agreement.

J3.3 Tribunal's Analysis

268. This Claim is for loss of profit and predicated on the terms that the Claimant is entitled for loss of profit on account of valid termination of the CA. Once it is found that the termination of the CA was not valid, this Claim automatically fails. For this reason, it is not necessary to go into the computation of this Claim as done by the Claimant. It may also be recorded that Respondent No. 1 has argued that this Claim is, in any case, untenable and not maintainable in view of Article 15.15(d) of the CA which bars claim for profits. The Claimant, on the other hand, has asserted that this clause has a limited purpose, as per which the Claimant as Concessionaire, has provided indemnity to Respondent No. 1 against third party claims, damages, liabilities, etc. Be that as it may, since the Claim is found to be inadmissible because of the reasons mentioned above, it is not necessary for the Tribunal to give its finding on the interpretation of Article 15.15(d).

J4 Claim No. 4

Claim of INR 3.3 crore towards return of Performance Security Bank Guarantee No. 00070100006493 dated 11.08.2011 by Respondent No. 1

J4.1 Claimant's Version

269. The Claimant states that pursuant to the Article 2.2.2.2 (d), i.e. Conditions Precedent read with Article 5.1 (a)(iii) of the Concession Agreement and as also mentioned in the RFP and the LOI, it was obligated to furnish the Performance Security/ Bank Guarantee.

270. The Claimant argues that as per the proviso to Article 7.1 of the Concession Agreement, the Performance Security was to be

returned back to the Claimant upon the termination of Concession Agreement due to any event other than the Claimant's Event of Default. The proviso further stipulates that the discharge and release of the Performance Security back to the Claimant by Respondent No. 1 is to be done within 30 days from the Termination Date, subject to Respondent No. 1's right to receive amounts at prevailing time if any, due from the Claimant under the Concession Agreement

271. The Claimant states that the Concession Agreement was validly terminated due to Respondent No. 1's Events of Default, and therefore the Bank Guarantee was to be duly discharged and released to the Claimant within 30 days from the date of Termination by Respondent No. 1, however, Respondent No. 1 failed to return the same.
272. The Claimant contends that there are no outstanding claims or amount due to Respondent No. 1 from it. The Claimant states that in its Termination Notice, it had called upon Respondent No. 1 to return the Performance Security which Respondent No. 1 completely disregarded.
273. The Claimant states that during the subsistence of the Concession Agreement, Respondent No. 1 sought renewal of the Performance Security time and again and also accepted the renewed Bank Guarantee issued on behalf of Jindal Urban Infrastructure ("**JUIL**") without any objection. Further, RW-3 admitted that the Bank Guarantee was originally issued in 11.08.2011 and renewed from time to time until 2020. The Claimant submits that the said Bank Guarantee is valid till date.

274. The Claimant submits that Respondent No. 1 is estopped from contending that the return of the Bank Guarantee can only be initiated by JUIL. It further submits that CW-1 deposed that it is, in the capacity of Claimant's authorized signatory, duly authorised by JUIL *vide* JUIL's Board Resolution dated 24.12.2018 to seek the return of the Performance Security.
275. The Claimant disputes Respondent No. 1's claim that that the Claimant has not fulfilled its obligation under the Concession Agreement. The Claimant sought to make two submissions in this behalf. First, with regard to Respondent No. 1's assertion that it had to step in and perform Claimant's obligation under the Concession Agreement as the Claimant failed to do so, the Claimant submits that the Learned NGT in its Orders dated 01.12.2017 and 16.01.2018 had transferred the responsibility of collecting Primary and Secondary MSW on Respondent No. 1 and had also directed it to supply 300 MT/day of MSW to the Claimant. Second, with regard to development and maintenance of the Green Belt the Claimant goes on to submit that it had developed and maintained the Green Belt after the EC was transferred to it. Further, the Learned NGT *vide* Order dated 25.11.2014, directed the Claimant and Respondent No. 1 to share responsibility towards development and maintenance of the Green Belt. The Claimant states that CW-1 had also deposed during the cross examination that the Claimant developed and maintained a green belt around the Processing Facilities which is also evident from the certificate dated 28.01.2020 issued by M/s G.S. Associates, an independent agency.
276. The Claimant argues that it is not liable to pay Respondent No. 1 for expenses incurred on account of maintenance of dump site as it is

not the Claimant's responsibility to bear these costs. The Claimant contends that the Concession Agreement provides that it is Respondent No. 1's risk and responsibility to maintain the dumping site till the Project achieved COD-P&D. Further, it states that Respondent No. 2 had directed Respondent No. 1 to refund the Claimant the sums that were wrongfully deducted by Respondent No. 1 towards maintenance of the dumping site from the Tipping Fee invoices of the Claimant.

277. In view of the above, the Claimant seeks directing Respondent No. 1 to return the Performance Security submitted through bank guarantee bearing no. 00070100006493 for an amount of INR 3.3 crore to the Claimant.

J4.2 Respondent No. 1's Version

278. Respondent No. 1 has denied that the Claimant is entitled to the return of the Performance Security as the Claimant has not fulfilled numerous contractual obligations. Respondent No. 1 states that it had to step in and carry out the out the contractual obligation of the Claimant such as Primary and Secondary Collection of MSW, Maintenance of Green Belt initially and the dump site for which Respondent No. 1 incurred expenses.

279. Respondent No. 1 contends that the Claimant is liable to compensate the expenses incurred as per the terms of the Concession Agreement.

J4.3 Tribunal's Analysis

280. Foundation of this Claim for return of the Bank Guarantee is again upon the termination of the CA due to alleged event of default on the

part of the Respondents. In view of the finding of the Tribunal on Claim No. 2, this Claim also fails.

281. In terms of Article 7.1 of the CA, the performance security given by the Claimant in the form of Bank Guarantee needs to be kept valid by replenishment or otherwise throughout the Concession Period. The Claimant is specifically required to extend the Bank Guarantee from time to time. Proviso to the said Article permits the Claimant to seek discharge and release of the Bank Guarantee in the event termination of the Agreement is not due to the defaults of the Claimant/Concessionaire. As the termination is not found to be legal, the Bank Guarantee needs to be kept alive. This Claim is also rejected.

J5 Claim No. 5

Claim towards pendente lite and future interest

J5.1 Claimant's Version

282. The Claimant has sought *pendente lite* interest and future interest from the Respondents pursuant to Article 7.7 (i) and Article 15.2 of the Concession Agreement or alternatively under section 31 (7) of the Arbitration and Conciliation Act, 1996 till the date of actual receipt of the amounts stated in the Claims. The Claimant further seeks to reserve the right to provide the calculation thereof to this Tribunal as and when required.

[End of page]

J6 Claim No. 6

Claim towards Costs

J6.1 Claimant's Version

283. The Claimant submits that Section 31(A) of the Arbitration and Conciliation Act, 1996 entitles it to claim costs from the Respondents. The Claimant submits that pursuant to its right to compute costs in accordance with Section 31 (A) of the Arbitration and Conciliation Act, 1996 including the litigation cost, it has duly proved its Claim through cogent and affirmative evidence. It avers that it is entitled to costs under the present Claim as proved by its witnesses.

J6.2 Respondent No. 1's Version for Claim No. 5 & 6

284. Respondent No. 1 avers that the Claimant is not entitled to *pendente lite* and future interests either under Article 7.7(i) and Article 15.2 of the Concession Agreement or Section 31 (7) or any other provision of the Arbitration & Conciliation Act, 1996. Conversely, Respondent No. 1 argues that it is entitled to recover from the Claimant some amount along with other costs, the details of which are stated in Respondent No. 1's Counterclaims.

285. Respondent No. 1 asserts that it is entitled to reimbursement of costs including litigation cost as given under its Counterclaim and not the other way round as per Section 31 (A) of the 1996 Act.

J6.3 Tribunal's Analysis

286. The Tribunal has awarded Claim No. 1 in the sum of INR 1,83,57,074 together with *pendente lite* interest. Insofar as interest

for future period, i.e., from the date of Award is concerned, the same is awarded @ prevailing PLR of State Bank of India (as stipulated in Article 15.2 of the CA) till its payment. The interest payable, however, will be on the principal amount awarded.

287. As far as Cost is concerned, going by the outcome of the proceedings whereby most of the Claims of the Claimant (except one Claim) as well as the Counterclaims of Respondent No. 1 (except one Counterclaim) are rejected, the Tribunal directs that both the Parties shall bear their own costs.

K COUNTERCLAIMS

K1 Counterclaim No. 1

Claim of INR 3,37,28,895 towards Liquidated Damages under Annexure 15 of the Concession Agreement.

K1.1 Respondent No. 1's Version

288. Respondent No. 1 states that Annexure 15 of the Concession Agreement gives the details of the liquidated damages that may be imposed on the Claimant if the Claimant fails to achieve the scheduled timelines of the COD of the Project facilities given under Annexure 14 of the Concession Agreement.
289. Respondent No. 1 states that Learned NGT extended the timeline for setting up the Project Facility *vide* its Order dated 25.11.2015 and that the Claimant agreed to set up Processing & Disposal Plant by 30.06.2015. However, the Claimant obtained the Consent to Operate from the Punjab Pollution Control Board only on 23.03.2016 and had failed to complete the Project Facilities by 30.06.2015.

Respondent No. 1 alleges that there is a delay in achieving the target of completion of the Processing Plant by 265 days or 38 weeks.

290. Respondent No. 1 states that as per Annexure 15 of the CA the Liquidated Damages are to be 2.5 % per week of delay of the Performance Security up to a maximum of 30 % of the Performance Security, i.e. upto delay max of 12 weeks. Based on the aforesaid, Respondent No. 1 submits that since the Claimant has caused a delay of 38 weeks, the Claimant is liable to pay 30 % of the Performance Security, i.e. 30 % of 3,30,00,000 = INR 99,00,000 along with an interest of 14 % upto 2020 which comes to INR 1,90,61,608.
291. Thereafter, *vide* letters dated 21.10.2015 and 24.04.2017, Respondent No. 1 issued show cause notices to the Claimant seeking an explanation as to why Liquidated Damages should not be recovered. Letter dated 24.04.2017 was sent as Claimant was unable to set up the Power Plant by December 2016 as per Order dated 25.11.2015 passed by the Learned NGT. Respondent No. 1 claims INR 99,00,000 with interest of 14% up to 2020 which amount to INR 146,67,287.
292. It is mentioned that the 'Note' at the end of Annexure 15 states that if the Liquidated Damage is not deposited by the Claimant within 15 days of the first written demand, then Respondent No. 1 is empowered to encash the Performance Security.
293. Thus, Respondent No. 1 has claimed INR 3,37,28,895 (INR 19061608 + INR 146,67,287) on account of Liquidated Damages.

K1.2 Claimant's Version

294. The Claimant denies that it is liable to pay any liquidated damages. The Claimant states that Counterclaim No. 1 is barred by limitation as it is the case of Respondent No. 1 that the Processing Facility was supposed to be completed by 30.06.2015, therefore the cause of action arose on 1st July 2015 but the instant Counterclaim was filed only on 15.09.2019 which beyond the period of limitation. argues that Respondent No. 1's interpretation of provisions of the Concession Agreement relating to liquidated damages is misleading.
295. The Claimant argues that the ingredients of Annexure 15, i.e. Liquidated Damages and Defaults, provides that Liquidated Damages may be levied upon the Claimant for achieving COD-P&D, if it did not occur on account of defaults of Respondent No. 1. It submits that the ingredients of Annexure 15 are not fulfilled as the delay in achieving COD-P&D was on account of Respondent No. 1.
296. The Claimant points out that the Independent Expert was not appointed by Respondent No. 1 which was a condition required to be fulfilled in order to achieve COD-P&D.
297. Further, the Claimant states that as per Article 5.4 of the Concession Agreement, the Claimant cannot be said to be in breach of its obligations if performance of its obligations is affected by Respondent No. 1's Events of Default.
298. The Claimant states that it completed the construction of the Processing Plant timely, i.e. by 30.06.2015. It argues that Respondent No. 1 failed to fulfil its Condition Precedent under Concession Agreement, therefore the implementation schedule

provided under Annexure 14 of the Concession Agreement is not triggered. The Claimant states that notwithstanding the same, as per Article 5.1(a)(ii) read with Annexure 14 of the Concession Agreement, it had 360 days from the Compliance Date P&D to complete construction of P&D. The Claimant points out that Respondent No. 1 provided vacant and unencumbered possession of land only on 25.11.2014 and accordingly, the Claimant commissioned the Processing Facilities on 30.11.2015. Further, the trial run of the Processing Facilities commenced in June 2015 and Respondent No. 1 was also informed and there was no delay in setting up of the Plant.

299. The Claimant states that it obtained the Consent to Operate on 23.03.2016 from the Punjab Pollution Control Board. The Claimant contends Respondent No. 1 is estopped from raising any allegations of delay/ non-compliance by the Claimant, as Respondent No. 1 was continually aware and did not object at the relevant time. The Claimant denies any delay of 265 days or 38 weeks as alleged by Respondent No. 1.
300. The Claimant argues that the construction of the WTE Plant was subject to the condition that Respondent No. 1 would supply 500 MT of MSW from Bhatinda Cluster or any other place once the plant is established. The Claimant states that it submitted the DPR for the proposed WTE Plant and requested for amending the Concession Agreement to cover eventualities pertaining to the WTE Plant but Respondent No. 1 neither confirmed the supply of 500 MT of MSW nor amended the Concession Agreement. The Claimant states that it was not bound by any obligation to set up a power plant and that under the Concession Agreement it was only optional for the

Claimant to do so. The Claimant also argues that Liquidated Damages for failure to achieve COD for WTE plant may be imposed if it has not occurred on account of default of Respondent No. 1 but in the present case, as explained above, the COD for WTE plant was not achieved owing to Respondent No. 1's default.

301. Claimant denies vehemently the contents of Respondent No. 1's letter dated 21.10.2015 and 24.04.2017. Further the Claimant also denies that there was any failure to meet the deadlines in accordance with the Order dated 25.11.2014 passed by the Learned NGT.
302. The Claimant states that Respondent No. 1 has not produced any evidence to prove actual loss incurred by it as also it cannot take advantage of its own wrong by levying Liquidated Damages.
303. The Claimant contends that Liquidated Damages towards delay achieving COD for WTE plant is limited to 25% of the Performance Security, i.e. 82,50,000 as per Annexure 15 of the Concession Agreement. Respondent No. 1 claimed INR 99,00,000 which is 33% of the Performance Security and the same was admitted by Respondent No. 1 during the cross examination.
304. Thus, the Claimant submits that it is not liable to pay INR 3,37,28,895 or any other amount to Respondent No. 1.

K1.3 Tribunal's Analysis

305. Since Annexure 15 of the CA contains the provision for Liquidated Damages (LDs) and defaults, it would be apposite to take note of this provision in the first instance. The opening sentence of this Annexure reads as under:

“If the Concessionaire is not able to meet the scheduled timelines in achieving COD of the Project Facilities, the Concessionaire shall be liable to pay liquidated damages as detailed below: “

306. Thereafter, the annexure mentions about collection and transportation (C&T) of MSW and LDs are specified in the event of the Concessionaire failing to CT&D within the prescribed time. It is however, clarified in this provision that LD would not be imposed if such an event has occurred on account of *Force Majeure*, or default of the Concessioneing Authority. Likewise, failing to achieve COD for Processing and Disposal (COD-P&D) within 360 days from the CP-P&D entitles the Concessioneing Authority to impose LDs of the amount specified therein. Here also, no LD is leviable if the event has occurred on account of *Force Majeure* or default of the Concessioneing Authority. LDs can also be levied as per this annexure in the event the Concessionaire fails to achieve COD for MSW Management System for other Cluster ULBs within 15 days from the COD-P&D with identical exception relating to *Force Majeure* or default of the Concessioneing Authority.
307. As can be seen from the case of Respondent No. 1 noted above, Respondent No. 1 is seeking to impose LDs on account of the alleged failure on the part of the Claimant to set up the Processing and Disposal Plants by 30.06.2015 and imputes a delay of 265 days/38 weeks. After due consideration, this Counterclaim is liable to be rejected for the following reasons:
- (a) In the first instance, LD can be imposed if there is no default of the Concessioneing Authority/Respondent No. 1. The Tribunal has already arrived at a finding that there were some defaults on the part of Respondent No. 1 as well, more particularly, in respect of some Conditions Precedent. The

obligation of the Claimant triggers only when those Conditions Precedent are satisfied by the Respondent. No doubt, the Claimant went ahead with the Project thereby waiving the Conditions Precedent. However, that does not mean that there is no default on the part of the Concessing Authority. Therefore, going by the language relating to the provision of LDs, LDs cannot be imposed.

- (b) The LDs are sought to be levied on account of delay in establishing Process Facility site as well as Waste to Energy Plant. Insofar as WTE is concerned, as per Respondent No. 1's own showing, time to set up the facility was extended by the NGT up to 30.06.2015. As per the Claimant, it completed the same by this date and commissioned it in November 2015. Respondent No. 1 denies this and points out that the environmental clearance, i.e., consent to operate was obtained on 23.03.2016. However, no LD was imposed by Respondent No. 1 at that time.
- (c) In any case, the claim for LDs is patently time-barred. As per Respondent No. 1's own assertion, the Claimant failed to set up P&D plant by 30.06.2015 and alleges delay on 265 days (roughly 9 months), which means that even as per Respondent No. 1, the plant was set up by March 2016. However, no LD was imposed thereafter. No doubt, letter dated 21.10.2015 asking the Claimant to show cause as to why LD should not be recovered was sent. However, no action was taken on the said Show Cause Notice. Respondent No. 1 has, instead, preferred this claim for the first time in the present proceedings in its Statement of Defence/Counterclaims filed

on 31.07.2019, which is after a lapse of three years from the date of action.

- (d) Insofar as the WTE Plant is concerned, NGT recorded in its Order dated 25.11.2014 that the Claimant agreed to establish the WTE Plant in the Second Phase, i.e., by December 2016. According to the Respondent, the Claimant has not established the WTE Plant till date. Respondent No. 1 has preferred Counterclaim of LD for non-establishment of WTE in the sum of INR 99 lakh along with interest. It may be noted that Annexure 15 does not mention about the imposition of any LD for non-establishment of WTE Plant. Respondent No. 1 is endeavouring to impose this penalty on the basis of the directions given by the NGT. Even if such directions were not followed, the remedy for Respondent No. 1 was elsewhere. As far as the imposition of the LD is concerned, it has to be in accordance with the contractual provisions which does not prohibit imposition of LD on account of non-setting up of WTE Plant. Presumably for the reason that under the CA, setting up of this Plant is optional.

308. This Counterclaim is, therefore, rejected.

K2 Counterclaims No. 2 & 4

Counterclaim No. 2

Claim of INR 5,22,83,737 towards Penalties under Annexure 18 on account of failure to meet the Performance Parameters mentioned under Annexure 17.

K2.1 Respondent No. 1's Version

309. Respondent No. 1 submits that Annexure 18 of the CA empowers it to levy penalties on the Claimant if the Claimant fails to ensure compliance of the Performance Parameters laid down under Annexure 17 of the CA. It is the contention of Respondent No. 1 that the Claimant failed to achieve the Performance Parameters stipulated under Annexure 17 (i) of the CA. The instances thereof are also provided by Respondent No. 1, which are as follows:

- (a) Respondent No. 1 states the Claimant was required to ensure Door-to-Door collection service of MSW collection for all of the 7 days in a week. However, the Door-to-Door collection was irregular, no attendance documentation was provided by the Claimant and the GPS Report was not provided by the Claimant. Respondent No. 1 points out that the Claimant ought to submit documents required by Respondent No. 1, which *inter alia* includes details of Door-to-Door MSW collection system covering collection from number of waste generators, percentage of collection of User Charges, monthly log sheet covering quantity of MSW collected, etc. as per the terms of Annexure 16 of the Concession Agreement.
- (b) Respondent No. 1 submits that the Claimant did not initiate and undertake to organize public awareness campaigns for MSW management. This was supposed to be done by the Claimant during a period of 1 month from the Compliance Date CT&D.

- (c) Respondent No. 1 states that the Claimant had to provide for Door-to-Door MSW collection service so as to achieve the targets as per the following schedule:

| Months from Compliance Date CT&D | Total percentage of Waste Generators to be covered in MSW Area |
|----------------------------------|--|
| 1 | 20 |
| 2 | 50 |
| 3 (up to 09/09/12) | 100 |

- (d) Respondent No. 1 alleges that the till date Claimant has not provided any documents to prove the percentage of waste generators covered in the MSW area as mandated in Annexure 16 (c) of the CA.
- (e) Respondent No. 1 states that the Claimant failed to create a Complaint Redressal System within 15 days from Compliance Date- CT&D. Further, in the Complaint Redressal System, a log was to be maintained with a 24 X7 access given to the Project Engineer at some specified location in Bathinda. However, the access of the said log was only between 09.00 hrs to 14.00 hrs.
- (f) Respondent No. 1 submits that the Claimant had to ensure that all complaints were resolved within 24 hrs from the time of registration but the complaints remained pending for long periods.

- (g) Respondent No. 1 also states that the Claimant was required to create a website within 3 months from Compliance Date-CT&D. Thereafter the website was to be updated at intervals not extending beyond 15 days. Respondent No. 1 submits that the Claimant has not performed this obligation till date.

310. Respondent No. 1 next listed Claimant's defaults with regard to the Claimant's obligations under Annexure 17(ii) of the CA:

- (a) Claimant has not complied with the Technical Specifications/guidelines mentioned in the Concession Agreement as there is no separate storage for MSW, street sweeping waste and drain desilting waste at the secondary collection points.
- (b) The Claimant never provided secondary containers for segregated storage of biodegradable, non- biodegradable and street sweeping & drain silting waste at the Secondary Collection Points.
- (c) There was very frequent spillage & overflow of MSW from the containers kept at the Secondary Collection Points. It was Claimant's responsibility to prevent the aforementioned.
- (d) The Claimant did not maintain the cleanliness and hygiene of the Secondary Collection Points.
- (e) The Claimant transported the MSW only from Bhatina Secondary Collection Point and ignored ensuring transportation of MSW as per the Technical Specifications, guidelines mentioned in the CA.

- (f) The Claimant did not have adequate number of vehicles were available at all times during the Concession Period.
- (g) The Claimant did not ensure that the biodegradable waste lifted daily from the commencement of the Compliance Date-CT&D.
- (h) The Claimant was required to install MSW tracking system through GPS with Quad Band GSM/GPRS transceiver from Compliance Date CT&D in vehicles. Respondent No. 1 submits that the Claimant installed the said GPS chips without internet connection which ultimately served no use.

311. Respondent No. 1 disputes all the payments made at its behest with regard to the tipping fee from 2011 onwards since the Concession Period. Respondent No. 1 argues that it had disputed said payments on account of non-fulfilment of pre-requirements such as not submitting of the absentee sheet/attendance sheet/declaration of coverage, etc. by the Claimant for the collection of MSW. Respondent No. 1 states that it had specifically sought information from the Claimant regarding the service deficiency but the Claimant never provided any such information. Therefore, keeping interest of the project as a priority, Respondent No. 1 states that it had released payments as advance only to support the Claimant. Respondent No. 1 urges that as on date, it contests all the payments made against the Tipping Fee and are considered advances lacking the prerequisite data like Coverage Percentage, Attendance proof, GPS reports, Complaint resolution records. Further, it can be seen from the 'notings' on the payment vouchers that the Tipping Fee has always been disputed by Respondent No. 1. A copy of all the vouchers and notings has been provided as ANNEXURE CC-7.

312. Respondent No. 1 states that it had to pay INR 2.5 crore to the Claimant pursuant to Order dated 04.08.2017 which was passed by the Learned NGT without considering the plea of Respondent No. 1 that the said amount is disputed. It points out that the Order of the Learned NGT, s observed that *“these payments will be without prejudice to the rights and claims of the parties in the appropriate proceedings.”*
313. Pursuant to the Orders passed by the Learned NGT, Respondent No. 1 had carried out a reconciliation of its accounts, regarding the Tipping Fee payment and the details of the payments along with the deduction are reproduced in the form of a Table from pages 14- 16 of the Amended Supplementary Counter Claim on behalf of Respondent No. 1. While placing reliance on the said Table at pages 14-16 of the Amended Supplementary Counter Claim on behalf of Respondent No. 1, Respondent No. 1 argues that there is no outstanding Tipping Fee. On the contrary, it states that it has paid an excess of INR 40,62,944 on 20.08.2017 pursuant to direction of the Learned NGT which upon reconciliation was discovered to be deductions.
314. Therefore, Respondent No. 1 contends that it is entitled to INR 5,22,83,737 along with interest.

K2.2 Claimant’s Version

315. The Claimant contends that the procedure prescribed under Annexure 18 of the Concession Agreement was not followed by Respondent No. 1 to levy Penalty. It states that without the certificate of an independent expert appointed by Respondent No. 1, without written complaints against the Claimant towards door-to

door collection of MSW and without constituting a committee in terms of Annexure 18 of the Concession Agreement, no penalty can be imposed by Respondent No. 1.

316. The Claimant submits that since no such Independent Expert was appointed and also since no comments were raised by the Project Engineer within 10 days of the receipt of the invoices, the invoices raised by the Claimant are final and binding on Respondent No. 1 and no penalty can be imposed on these invoices.
317. With regard to submissions of Respondent No. 1 relating to Annexure 16, the Claimant states that Respondent No. 1 has, with a *mala fide* intention suppressed material fact that in fact Respondent No. 1 was satisfied with the services provided by the Claimant including relating to Door-to-Door coverage of the Claimant for both households and commercial establishments and with daily waste collection and transportation by the Claimant by pointing out Respondent No. 1's certificates dated 9.01.14 and 07.10.15. The Claimant submits that at all times Respondent No. 1 was aware or had to be aware of the Door-to-Door collection and of about the quantity of waste collected. The Claimant states that this is further substantiated by the fact that the Collection of MSW was duly shared
318. Further, the Claimant also submits that the outstanding Tipping Fee invoices raised by the Claimant are deemed approved in accordance with Article 7.3 read with Annexure 13 of the Concession Agreement as no observations were made on these invoices within 10 days from its receipt by the Project Engineer/ Respondent No. 1 and now no penalty can be imposed.

319. Further, the Claimant denies that it had to provide attendance sheet/ absentee sheets. It states that in any case, attendance report had nothing to do with Performance Parameters of the Claimant or with its assessment thereunder. The Claimant submits that its performance parameters were not related to or subject to any attendance reports and no such attendance report was mandated by the CA.
320. The Claimant points out that the contingent bills and '*notings*' relied upon by Respondent No. 1 are the internal documents of Respondent No. 1 and relying upon it is erroneous.
321. The Claimant next argues that provisions of the CA do not provide for advance payments of Tipping Fees which is alleged by Respondent No. 1. It states that the record establishes that the Project Engineer/ Respondent No. 1 did not provide any observations whatsoever to any of the outstanding Tipping Fee invoices (submitted along with the statement and weighment slips) of the Claimant in terms of the Concession Agreement. The outstanding Tipping Fees invoices were deemed to be approved. The Claimant further states that it fulfilled all the pre-requisites for payment of Tipping Fees under the Concession Agreement.
322. With regard to the Order dated 04.08.2017, the Claimant does not dispute submission advanced by Respondent No. 1 that are a matter of record, however, the Claimant submits that the amount of INR 2.5 crore was towards Tipping Fee outstanding for the Bhatinda Cluster.
323. Next the Claimant states that as per the agreed terms of the Concession Agreement, no deductions or penalties can be imposed

on the Claimant without a certificate of the Independent Expert and in any case the invoices were deemed approved.

324. The Claimant states that the reconciliation of Tipping Fee was arbitrary and unilateral.
325. The Claimant points out that as on date, an amount of INR 2,24,36,450 remains outstanding towards Tipping Fee and the relevant invoices have been submitted before this Tribunal as Annexure C-92 along with the Statement of Claim. These invoices, therefore, are deemed approved.
326. The Claimant submits that Respondent No. 1 has not paid any excess amount of Tipping Fee and it denies that Respondent No. 1 is entitled to INR 5,22,83,737.

Counterclaim No. 4

Claim of INR 60,19,431 towards refund of excess Tipping Fee along with interest

K2.3 Respondent No. 1's Version

327. Respondent No. 1 contends that there is no outstanding Tipping Fee that is pending payment from it to the Claimant. Respondent No. 1 states that while reconciling accounts pursuant to the Order dated 16.01.2018 passed by the Learned NGT, Respondent No. 1 discovered that it has paid an excess sum of INR 40,62,944 to the Claimant while making payment for the Tipping Fee.
328. Respondent No. 1 has under Counterclaim 4 sought a refund from the Claimant of the excess Tipping Fee along with an interest @14%, which amount to INR 60,19,431.

K2.4 Claimant's Version

329. The Claimant argues that said Counterclaim is liable to be rejected. It submits that there is no outstanding Tipping Fee owed by it to Respondent No. 1. It further contends that Respondent No. 1 has failed to prove that an excessive Tipping Fee payment was made to the Claimant or the interest @ 14%. The Claimant avers that the alleged reconciliation of Tipping Fee of INR 1.92 crore prepared pursuant to the Order dated 16.01.2018 passed by the Learned NGT is arbitrary and unilateral as Respondent No. 1 did not consider Claimant's invoices after May/June 2016. It states that Respondent No. 1 owes the Claimant INR 2,24,36,451 for outstanding amount of Tipping Fee and it has also substantiated the said amount in its Claims herein above. Further, Respondent No. 1 has not complied with the directions of the Hon'ble NGT to pay the outstanding tipping fee.

K2.5 Tribunal's Analysis

330. Counterclaims No. 2 and 4 are intertwined inasmuch as while alleging non-fulfilment of certain obligations on the part of the Claimant as specified in Annexure 17 of the CA, Respondent No. 1 seeks to impose penalties in terms of Annexure 18 of the CA. It is also mentioned that since the Claimant did not fulfil these obligations, it was not entitled to Tipping Fee which was paid under the Orders of the NGT as well as in the interest of the Project by Respondent No. 1 to the Claimant. Respondent No. 1, therefore, seeks recovery of the alleged overpayment of Tipping Fee. Respondent No. 1 has mentioned the amounts of these two Counterclaim in para 33 and 34 of the Counterclaim (while giving its version *qua* Counterclaim No. 2) as under:

“

33. Further, a copy of all the vouchers along with notings are being annexed as ANNEXURE CC-7. A perusal of the table and the vouchers reveal that as on date, there is no amount of Tipping Fee that is outstanding, rather, Respondent no.1 has paid an excess amount of Rs. 4,06,2944/-, which was paid on 20.08.2017, in compliance of the order of the Hon'ble NGT, which after reconciliation, were found to be deductions. This amount of Rs. 4,06,2944/-, is being claimed by the Respondent no.1 along with interest @ 14% which comes to is Rs. 60,19,431/- by way of Claim No. 4.

34. The Respondent No.1 is entitled to Claim an amount of Rs. 56,346,681 which is the entire amount paid on account of Tipping Fee minus Rs. Rs. 4,06,2944/ = Rs. 5,22,83,737/-. Therefore, the Respondent no.1 is claiming Rs. 5,22,83,737/- along with interest as this Hon'ble Tribunal may deem fit.

“

331. As can be seen, in para 33, Respondent No. 1 mentions that it has made excess payment of Tipping Fee in the sum of INR 4,06,2944 (*sic*), and refund thereof along with interest is sought by preferring Counterclaim No. 4. Counterclaim No. 2 is, as per Respondent No. 1, for refund of entire amount paid on account of Tipping Fee, i.e., INR 5,63,46,681 (-) 40,62,944, i.e., in the sum of INR 5,22,83,737. However, the nomenclature of the claim suggests that it is on account of penalties under Annexure 18. As per Annexure 18, penalties can be imposed in case the Concessionaire fails to meet the performance parameters mentioned in Annexure 17. Annexure 18 mentions the manner in which these penalties can be imposed as well as the amount of penalties that can be imposed. These can be on account of failure on the part of the Concessionaire in respect of the following:

- (a) In case the service of Door-to-Door MSW collection is not provided to minimum percentage of waste generators, households as per targets specified in Annexure 17 and as evidenced by appropriate certificates issued by the Independent Expert in terms of Annexure 18. Admittedly, there is no such procedure followed.

- (b) In case lifting of MSW has not been carried out on daily basis for second consecutive day or for total of more than seven days in any Financial Year, in that event, Respondent No. 1 may, at its discretion, carry out (either on its own or by some contractor), the operation activities of CT&D and C&T on such days at the risk and cost of the Concessionaire. It is not the case of Respondent No. 1 that it carried out any such operations on its own at the risk and cost of the Claimant.
- (c) In case the Processing Facilities are not operational for eighth consecutive day and onwards till fourteenth consecutive day, or for a total period of more than thirty days till forty-five days, penalty for every such day equivalent to 5% of average monthly payment made to the Concessionaire on Processing & Disposal head over immediately preceding six months can be imposed. No such penalty is imposed.
- (d) In case of the quantity of rejects over a month exceeding 250 of total MSW processed in the month, penalty for every percentage increase equivalent to 2% of average monthly payment made to the Concessionaire on P&D head over immediately preceding six months can be imposed.

332. It is clear that no procedure for imposition of penalty as mentioned in Annexure 18 has been followed by Respondent No. 1. In fact, no penalty is imposed even when the Counterclaim is in respect of the penalty. On the contrary, a reading of the aforesaid Counterclaim reflects that it is for refund of Tipping Fee on the ground that the Claimant did not adhere to the performance parameters as mentioned in Annexure 17, it was not entitled to the Tipping Fee paid by Respondent No. 1 to the Claimant and on this ground,

Respondent No. 1 seeks refund of the amount paid. The Counterclaim is, therefore, not on account of penalty.

333. Be that as it may, insofar as the Tipping Fee is concerned, this aspect has been discussed in detail while dealing with Claim No. 1 of the Claimant. As per the findings recorded in that Claim, the claim for refund of Tipping Fee already paid (Counterclaim No. 2) or for refund of the alleged excess Tipping Fee (Counterclaim No. 4) merit dismissal. These Counterclaims are, accordingly rejected.

K3 Counterclaim No. 3

Claim of INR 26,11,136 towards outstanding Land Lease Payment along with Interest on account of delay & compensation on account of Land used by the Claimant

K3.1 Respondent No. 1's Version

334. Respondent No. 1 states that it was responsible for handing over of the physical possession of the Land detailed in Annexure 5 of CA (i.e., 15 Acres for the Processing Facility and 36.81 Acres for the Sanitary Landfill site) and in pursuance thereto, the Claimant was requested to take over the possession of both the parcels of land *vide* letter No. 5302 dated 02.12.2011.
335. Owing to the Claimant's belated action thereon, Land Lease agreements between the parties for both the parcels of land were executed on 1.02.2012 and the possession of the unencumbered land was handed over to the Claimant. The office noting would reveal that the land lease agreement for
336. Later on, however, the land measuring 36.81 at village Mandi Khurd, became a subject matter of litigation in CWP No. 21960 of

2011 in '*Jarnail Singh & Others vs State of Punjab & others*', before the Hon'ble Punjab and Haryana High Court wherein it was directed to maintain status quo on the said land on 08.08.2012. The Respondent states that the Claimant did not start any work on these lands even though the land lease agreement was executed duly on 01.02.2012 which means that the Claimant had not taken any steps to implement the Sanitary Landfill Site, even though 9 months had passed.

337. Respondent No. 1 states that it provided an additional area of 10-acre land at ITI Chowk, Mansa Road in lieu of the above 36.81 acres of land at Village Mandi Khurd which was approved by the House of the Respondent No. 1 in the meeting in October, 2014. Respondent No. 1 points out that the said 10 acres of land was taken over by the Claimant only 17.07.2016, i.e. after the delay of more than 20 months which is evident from the Lease Deed dated 14.7.2016. Respondent No. 1 submits that there was no default on its part with regard to the land measuring 15 acres for the Processing Facility and with respect to other parcel of land measuring 36.81 acres, it stood substituted by the 10 acres of land at ITI Chowk, Mansa Road.
338. Further, Respondent No. 1 alleges that the Claimant has also defaulted to pay the land lease fee of INR 6,89,957 since 2011 as per the Land lease Agreement.

Land Lease Calculations:

339. Land Lease was executed on 01.02.2012, as per agreement a total of 15 acres (Processing Facility) + 36.81 acres (SLF] was to be handed over, however, a total of 20 acres + 36.81= 56.81 acres was actually handed over to the Claimant.

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340. As per the terms of the Land Lease, the lease charges were @ INR 1/ SQM. Respondent No. 1 contends that the Claimant has admitted to not making any payment toward it till date. Therefore, the Claimant is liable to pay land lease charges as calculated hereunder:

Land leased: $20 + 36.81 = 56.81$ Acres = $56.81 \times 4,047 = 2,29,910$ SQM

- For 36.81 acres of land, upto 08.08.2012 i.e. for half year, land lease charges:

$$14,8970 \times \text{INR } 1 \times 0.5 \text{ year} = \text{INR } 74,485 \text{ only}$$

- For 20 acres of land upto date 31st Aug, 2019 i.e. for 7.5 years, land lease charges:

$$80,940 \times \text{INR } 1 \times 7.5 \text{ years} = \text{INR } 6,07,050 \text{ only}$$

Other land lease of 10 acres executed on 14.07.2016

- Land lease charges for 10 acres upto 31st Aug, 2019 i.e., for 3 years are:

$$40,470 \times \text{INR } 1 \times 3 \text{ year} = \text{INR } 1,21,410 \text{ only}$$

341. In view of the above calculation, Respondent No. 1 submits that the Total land lease charges due from the Claimant = INR 8,02,945. It further submits that after adding interest @ 14% compounded every year since 2011 onwards upto 2020, the land lease payment due totals to INR 26,11,136.

342. Therefore, on account of land lease payment, Respondent No. 1 has claimed INR 26,11,136 from the Claimant.

K3.2 Claimant's Version

343. The Claimant argues that the Land Lease Deed for 36.81 acres of land at Mandi Khurd was executed on 01.02.2012 and the cause of action arose on 01.02.2012 and therefore the claim is barred by limitation.
344. Further, the Claimant states that Respondent No. 1 has deliberately and intentionally concealed a material fact that the land at Mandi Khurd was never provided to the Claimant, and nor was the Claimant ever handed over possession of said land. The Claimant claims that the record would establish that it was on account of Respondent No. 1's delay that the Land lease agreement was signed on 01.02.2012. The Claimant states that it did not take any belated action and it denies that the land lease agreement was executed with delay due to its actions. Further the Claimants denies that possession of the unencumbered land at Mandi Khurd was handed over to the it after the execution of the lease deed on 01.02.2012. The Claimant disputes the contents of Annexure R-31. And Annexure R-32. The Claimant submits that Annexure R-34 confirms the Claimant's submission that the land at Mandi Khurd was never handed over to it, therefore the question of the Claimant not taking steps for 9 months does not arise. Claimant once again reiterates that the land at Mandi Khurd had litigation going on, as alleged. The Claimant points out that the litigation on the land at Mandi Khurd precedes the date of the lease deed.
345. Therefore, the claim of INR 74,485 sought by Respondent No. 1 from the Claimant for the Land Lease for 36.81 acres of land at Mandi Khurd upto 08.08.2012 is denied.

346. The Claimant denies that it is liable to pay INR 1,21,410 for 3 years upto 31.08.2019 Land Lease for 10 acres of land at Mansa Road for the SLF as the said land was being used a dumping site and was covered with heaps of garbage since 20-25 years.
347. The Claimant contends that Respondent No. 1's claim for the Land Lease for 20 acres of land at Mansa Road was executed on 01.02.2012 and the cause of action arose on 01.02.2012. Therefore, the claim for lease from 01.02.2012 till 01.01.2016 is barred by limitation. The Claimant states that vacant and unencumbered land was given to it only in mid-2014 and computation of the lease from 01.02.2012 is wrong and the claim of INR 6,07,050 is not maintainable.
348. The Claimant has denied the contents of Annexure R-34 for want of knowledge that its request to provide alternate 10 acres of land was approved by the House in October 2014. It states that 10 acres of alternative land was not taken over by it after a delay of 20 months or any other period. The Claimants refutes that there was no default on the part of Respondent No. 1 in respect of 15 acres of land for the processing facility and that the land at Mandi Khurd of 36.81 Acres stands novated/substituted by the 10 Acres, of ITI Chowk, Mansa Road.
349. The Claimant states that it has not delayed the construction of the Processing Facility over the 15 acres land. It further states that there were encumbrances on the 15 acres of land and the land was embroiled in the litigation before the Learned NGT. The Claimant denies that it had to pay INR 6,89,957 or any other amount. It states that the alleged amount claimed by Respondent No. 1 is incorrect as

Respondent No. 1 is claiming rent for the land that were not handed over to the Claimant.

350. The Claimant states the 56.81 acres of land was actually handed over to it. It states that it is not liable to pay any lease charges on account of Land Lease Charges to Respondent No. 1. It submits that in 2014, vide Orders dated 02.1.2014 and 04.07.2014 given by Respondent No. 2, Respondent No. 1 was directed to refund the amount deducted from the Claimant for the said lease money as both the lands were not provided to the Claimant. It is strongly denied that it has to pay land lease charges of INR 74,485 (for half year) 36.81 acres of land, INR 6,07,050 for 20 acres of land, (for 7.5 years, till 31.08.2019) and INR 1,21,410 (for 3 years up to 31.08.2019) for 10 acres of land

351. The Claimant avers that Respondent No. 1 could only provide vacant and unencumbered possession of the said land on 25.11.2014. It further states that land originally earmarked for Disposal Facilities (i.e. 36.81 acres at Mandi Khurd) got embroiled in litigation and Respondent No. 1 provided alternate land of 10 acres at Mansa Road, which was already in use as a Dumping Site, so no SLF could be established at Mansa Road. The Claimant submits that due to the failure of Respondent No. 1 to get environment clearance amended, the SLF, in any case, could not be established at the said land of 10 acres. The Claimant points out that Respondent No. 1 is trying to do is to claim land lease charges for the lands not handed over to the Claimant as per the terms of the Concession Agreement.

352. The Claimant submits that Respondent No. 1's computation of the Land lease is contrary to Article 15.2 of the Concession Agreement. Respondent No. 1 has calculated 14% compound interest every year

since 2011 up to 2020 and exaggerated its claims. It further submits that interest calculated should be simple interest at the prevailing PLR of State Bank of India per annum from the due date for payment until the same is paid.

K3.3 Tribunal's Analysis

353. Undoubtedly, lease charges in respect of land lease executed on 01.02.2012 are payable by the Claimant @ Re. 1/sqm in respect of the first land lease. Likewise, for the second land lease of 10 acres executed on 14.06.2016, similar land lease charges are payable by the Claimant to Respondent No. 1. Respondent No. 1 has calculated the land lease charges from the date of the two Lease Deeds viz., 01.02.2012 and 14.07.2016 respectively up to 31.08.2019. There is a dispute about the date of handing over of the land insofar as the first Lease Deed is concerned. However, it is not necessary to go into this aspect for the simple reason that Respondent No. 1 would be entitled to lease charges for a period of three preceding years which fall within the period of limitation.

354. Therefore, land lease under this lease is 20 + 36.81, i.e., 56.81 acres which includes 2,29,910 sqm (56.81 x 4047). Since the lease charges are Re. 1/sqm, the land charges per year under this lease would be INR 2,29,910/year. For three years, it would come to INR 6,89,730.

355. Likewise, the second lease is for 10 acres which calculates to 40,470 sqm. Lease charges for three years, therefore, would be INR 1,21,410. The Tribunal is not impressed with the contention of the Claimant that in respect of the second lease for 10 acres, no lease charges are payable as the land is used as dumping site and the Claimant has not been able to use it for SLF. As already mentioned

above, it is the duty of the Claimant to clear the garbage and establish the SLF.

356. The other submissions made by the Claimant contesting the liability in respect of 56.81 acres relate to the past period, for which the Tribunal has, in any case, rejected the Claim.

357. This Counterclaim is, thus, awarded in the sum of INR 8,11,140. Respondent No. 1 shall also be entitled to interest on the aforesaid Claim which is awarded @ prevailing PLR of State Bank of India (as stipulated in Article 15.2 of the CA) from the date of filing of the Counterclaim, i.e., 31.07.2019. Since prior thereto no demand for payment of lease charges was made, the Tribunal is not inclined to grant interest for the period prior thereto.

K4 Counterclaim No. 5

Claim of INR 631,94,01,227 towards compensation on account of expenditure incurred by Respondent No. 1 to carry out Door-to-Door collection which was an obligation of the Claimant

K4.1 Respondent No. 1's version

358. Respondent No. 1 argues it is an admitted fact that the Claimant stopped Door-to-Door collection of Municipal Solid Waste in the Municipal Corporation Bathinda w.e.f. 01.05.2018 which left Respondent No. 1 to bear all the expenses for Primary and Secondary Collection and Transportation.

359. The Respondent No. 1 states that it is in the process of reconciliation of its accounts and reserves its right, under Section 23 of the 1996 Act, to claim the Costs incurred on account of Door-to-Door Collection, Primary and Secondary Transportation. However, it has

provided a detailed break-up of the expenditure incurred which is as follows:

- (a) Two compactors were taken on rent from the Claimant by way of an agreement. As per the said agreement, the daily rent of one compactor was INR 4,400 which is 1,32,000 (per month) +18% GST which would amount to INR 1,55,760. Since Respondent No. 1 had taken two compactors on rent for 11 months, the expense incurred by Respondent No. 1 is INR 36,34,400.
- (b) Rental charges paid for 5 mini tippers taken from Claimant for a period of one month @ 1,200 per day + 18 % GST per vehicle amounts to INR 2,12,400.
- (c) Cost incurred towards buying 46 mini tippers so as to carry out the work for Door-to-Door collection of MSW. Respondent No. 1 contends that the Concession Period was to be of 25 years from November 2011 till November 2036 and therefore, expenses would amount to INR 2,38,51,000.
- (d) Respondent No. 1 urges that as per Chapter 9 of the Detailed Project Report (DPR), the value of the machinery depreciates @ 15% per year. Therefore, new machinery will have to be purchased every 6th year. Taking into account an increase in the number of vehicles as per the population, which is taken at the rate of @ 2.76% and the subsequent increase in waste generated, the cost of vehicles will 10 % escalate every year. The cost estimated for machinery that Respondent No. 1 will have to bear is tabulated at page 21 of the Amended

Supplementary Counter Claim on behalf of Respondent No. 1 and is calculated to be INR 39,38,09,828.

- (e) Respondent No. 1 placed reliance upon a calculation sheet along with documents which is annexed as Annexure CC-11 to show the present monthly cost of Operation and Maintenance incurred by it. As per the calculations made by Respondent No. 1, the cost of collection and transportation of 1 MT of MSW is INR 3,662, the average MSW generated in Bhatinda is 110 TPD and therefore, the cost incurred per year on C&T of the same by MC Bhatinda would be $3,662 \times 110 \times 365 = \text{INR } 14,46,20,300$. Respondent No. 1 points out that as per the bid documents and the Concession Agreement, it was paying the Claimant INR 367.5 tonnes of MSW for collection and Transportation, which come to INR 1,47,55,125 per year. At present, the additional cost of collection and Transportation per year, according to Respondent No. 1 is INR 12,98,65,175. At page 22 of the Amended Supplementary Counter Claim on behalf of Respondent No. 1, a table has been provided by Respondent No. 1 to show excess cost that Respondent No. 1 would incur every year upto 2036 which is INR 592,17,44,599.

360. Therefore, Respondent No. 1 claims INR 631,94,01,227 (INR 36,34,400+ INR 2,12,400 + INR 39,38,09,828+ INR 592,17,44,599) as compensation from the Claimant.

K4.2 Claimant's version

361. The Claimant vehemently denies that Respondent No. 1 had to bear any expenses for Primary and Secondary Collection & Transportation on account of any default of the Claimant. The

Claimant states that it handed over the collection and transportation of MSW including Primary and Secondary collection of MSW pursuant to the Orders dated 01.12.2017, 21.12.2017 and 16.01.2018 passed by the Learned NGT with effect from 01.05.2018. It states that Respondent No. 1 was to undertake collection and transportation work as per the directions of the Learned NGT at its own cost and not at the cost of the Claimant. Therefore, the Claimant asserts that it cannot be made liable for any expenses incurred by Respondent No. 1 towards the same.

362. The Claimant argues that as per Article 5.4 of the Concession Agreement, it cannot be made liable for complying with Orders of any Court of competent jurisdiction. Hence, it is not responsible for any expenditure incurred by Respondent No. 1 towards rental charges for Mini Tippers and compactors, purchase of 46 mini tippers and expenses for carrying out C&T upto 2036.
363. It further argues that Respondent No. 1 has failed to discharge its burden of proof of any actual loss suffered and the Order dated 01.12.2017 passed by the Learned NGT was agreed upon by Respondent No. 1 and Respondent No. 1 is estopped from claiming compensation.
364. The Claimant next denies that Respondent No. 1 hired employees for Door-to-Door collection or hired/purchased vehicles to transport the MSW from the houses to MSW pits/ processing facilities or incurred any towards operation and maintenance. The Claimant contends that Respondent No. 1 had not provided any proof for any of the abovementioned expenses and has thus failed to discharge its burden of proof.

K4.3 Tribunal's Analysis

365. After giving due consideration of the respective cases, the Tribunal finds force in the submission of the Claimant. The Claimant is right in its submission that it had handed over the collection and transportation of MSW including Primary and Secondary collection of MSW pursuant to the Orders dated 01.12.2017, 21.12.2017 and 16.01.2018 passed by the Learned NGT with effect from 01.05.2018. Thus, it was Respondent No. 1 which was to undertake the collection and transportation of MSW as per these Orders and, therefore, Respondent No. 1 cannot make any claim in this behalf from the Claimant. Moreover, Respondent No. 1 has not filed any documents in support of the alleged expenses incurred by it and, therefore, has not been able to substantiate/prove the computation. This Counterclaim is, therefore, rejected.

K5 Counterclaim No. 6

Claim of INR 212,41,42,000 towards compensation on account of expenditure incurred by Respondent No. 1 to carry out other obligations of the Claimant

K5.1 Respondent No. 1's Version

366. Respondent No. 1 states that as per the CA, although the Claimant was responsible for the development and maintenance of the land fill and greenbelt it had not done so and the greenbelt and landfill are in poor condition. Respondent No. 1 contends that it is evident from the records that it performed the said responsibilities of the Claimant at its own expense till the completion of the Processing Facility.

367. Respondent No. 1 points out that that for receiving fresh MSW at the plant, the Claimant dug 12 MSW pits as part of the Processing Facility and these pits are overflowing due to no maintenance thereby leaving no space even for a single MT of MSW. Respondent No. 1 states that it has at its own expenses developed 5 acres of land as Sanitary Landfill and the Green Belt with fencing around 30 acres of land. Respondent No. 1 submits that it ought to be reimbursed by the Claimant for the above stated expenses as the said works were to be carried out by the Claimant at its own cost as given in Annexure 3 of the Concession Agreement. It further states that the land is under the Claimant's use and control since 01.02.2012.
368. Respondent No. 1 states that it has to maintain the dump site and the SLF which involves segregation on the dump site (manual), levelling of MSW dumped, covering the MSW with earth, spraying of sanitizer, lime-powder and fogging to control the bad odour, insects, hiring and paying a watchman and gardener for the Green belt, and the bills of the expenses is annexed as Annexure CC-12. Respondent No. 1 further states that as per Chapter 8 of DPR, it is entitled to claim INR 6,42,000 and INR 25 crore towards development of Green Belt and the cost of construction of the SLF in the land measuring 36.81 acres respectively. It submits that the cost incurred for construction of the SLF in 5 acres is INR 35,00,000 which it is entitled to claim from the Claimant.
369. Without prejudice to the submission that the Termination Notice is illegal, Respondent No. 1 states that upon termination of the Concession Agreement, it will have to carry out all the functions and obligations which fall under the scope of the work of the Claimant

till 2036 as per the Concession Agreement. It submits that it is entitled to claim expenses which will be incurred for running the Processing Facility, which are as follows:

Expenses to be incurred for running, operating and maintaining the Project Facility:

i. O&M of P&D Facility for 17 years-

Respondent No. 1 states that as per Chapter 9, Financial Analysis for P& D Facility and the Detailed Project Report (DPR) submitted by the Claimant, the Operation & Maintenance costs is INR 11 crore per year. Therefore, from 2020 to 2036 (17 years), the cost of Operation & Maintenance to be borne by the Respondent No. 1 will be 11 crore x 17= INR 187 crore

ii. Expenses towards overhauling of the P & D Facility to make it ready for processing again-

Respondent No. 1 points out that on 18.08.2019, the State Level Monitoring Committee (SLMC) which was constituted by the Learned NGT, inspected the Processing Facility and submitted its report on it which annexed as Annexure CC-13. In the said report, some deficiencies were indicated in the processing plant e.g. odour emissions from the composting pits, no leachate treatment, insufficient number of plants etc. Further, Respondent No. 1 contends that the show-cause notice served by Punjab Pollution Control Board also mentioned these deficiencies.

Respondent No. 1 states that taking into account the overhauling/ new equipment cost along with the civil works

etc, taking 50% of the Cost of project (as per depreciation taken @ 15% for P&M mentioned in Chapter 9, Financial Analysis of the DPR) with escalation @10% every year on base price i.e. INR 28.12 crore mentioned by the Claimant it's the DPR in chapter 8, upto year 2020 (taken over as the year of handing over) the estimated Cost to overhaul the Processing Facility will be as under:

| Year | Cost to be taken with 10% cost Escalation in base 2014 cost |
|-------------|--|
| 2014 | 14.1 |
| 2015 | 15.5 |
| 2016 | 17.1 |
| 2017 | 18.8 |
| 2018 | 20.7 |
| 2019 | 22.7 |
| 2020 | 25.0 |

370. It claims INR 25 crore on account of estimated extra cost to be incurred towards rehauling the Processing Plant for operation as per norms/ guidelines.
371. Respondent No. 1 has therefore claimed compensation to the tune of INR 212,41,42,000 from the Claimant on account of expenditure incurred and to be incurred by Respondent No. 1 for carrying out the obligations of the Claimant.

K5.2 Claimant's Version

372. The Claimant denies the submissions made by Respondent No. 1 under this Counterclaim. With regard to Respondent No. 1 stepping in to carry out the obligations of the Claimant relating to greenbelt, it states that it is Respondent No. 1's own case that it only initially maintained the green belt and upon transfer of Environment Clearance in the Claimant's name on 01.08.2013, the Claimant planted 600 plants.
373. The Claimant urges that the Learned NGT vide its Order dated 25.11.2014, stated that Respondent No. 1 and the Claimant had a joint obligation of to develop and maintain the Greenbelt. Thereafter, it was decided that 1000 Plants would be planted by the Claimant and the Respondent No. 1. It is evident from the certificate 28.01.2020 issued by M/s GS Associates that the green belt was maintained by the Claimant.
374. The Claimant vehemently denies that the pits have not been maintained or are overflowing or have no space for more MT of MSW. It states that Respondent No. 1 has made allegations regarding the capacity of the MSW pit without any basis and proof. The Claimant denies that Respondent No. 1 developed 5 acres of land as a Sanitary Land Fill and 30 acres of land was handed over to the Claimant. It states that Respondent No. 1 did not develop the Green Belt with fencing all around such alleged land. Claimant states that the land has not been under its control and use since 01.02.2012. The Claimant avers that it was carrying out the works as per Concession Agreement and no expenses were incurred by Respondent No. 1 any on account of the Claimant's noncompliance.

375. Claimant contends that it did not have any obligation to maintain the dumping site or the SLF under the Concession Agreement. Further, the maintenance of dumping site or SLF was the responsibility of Respondent No. 1 and the Claimant is not liable for any expenditure incurred by Respondent No. 1 on the maintenance, and that Respondent No. 1 is estopped from claiming expenses towards the same. the Claimant argues that Respondent No. 1 was not maintaining the Dumping Site despite repeated requests of the Claimant. The Claimant denies the bills of expenditure on account of the alleged expenses incurred on development of Green Belt. The Claimant states that Respondent No. 1 is not entitled to claim INR 6,42,000.
376. Further, the Claimant states that it is a matter of record that the SLF could not be established for reasons attributable to Respondent No. 1. It states that Respondent No. 1's calculation on the basis of Chapter 8 of the DPR are wrong and Respondent No. 1 is not entitled to INR 35,00,000.
377. The Claimant argues that the Concession Agreement was validly terminated and it is not liable to the Respondent No. 1 for any function or obligation for the remaining period under the Concession Agreement. It submits that Respondent No. 1 is not entitled to claim any expenses which Respondent No. 1 may incur on account of running the Processing Facility. Further, Respondent No. 1 has enjoyed the benefits of the Project Facilities deployed by the Claimant for the Project since its commissioning, despite being in default of its payment obligations and others. Respondent No. 1 is barred from seeking any reliefs.

378. The Claimant states that it had terminated the Concession Agreement due to Events of Default of Respondent No. 1 and upon termination of the Concession Agreement, Respondent No. 1 is the sole beneficiary and takes handover from the Claimant of all Project facilities, including the Processing Facilities set up by the Claimant. Further, Respondent No. 1's reliance on the DPR for the Operation and Maintenance costs is baseless and *mala fide*. The Claimant states that Respondent No. 1 is not entitled to claim INR 187 crore towards Operation and Maintenance and is liable to be rejected.
379. The Claimant states that there were no deficiencies in the processing plant. The submissions made by Respondent No. 1 relating to the inspection report of the State Level Monitoring Committee dated 18.08.2019 or the Show Cause Notice of PPCB are incorrect and misleading. Further, there were no odour emissions from the compositing pits and there was no leachate treatment or that the number of pits were insufficient. The Claimant submits that that in response to the observations and recommendations made by the State Level Monitoring Committee, it had submitted its compliances to PPCB on 5.10.2019, and also to Respondent No. 1 vide letter dated 11.10.2019. Respondent No. 1's allegations in this regard are baseless and have no merit.
380. Further, Respondent No. 1's reliance on the DPR is baseless and untenable for calculating overhauling of Processing facility, new equipment or civil works. The Claimant states that no such cost had to be incurred by Respondent No. 1 in overhauling, new equipment or civil works. The Claimant denies that any such costs is to be borne by Respondent No. 1 as per the norms/guidelines and that said claim

of Respondent No. 1 is unsubstantiated and is an afterthought. Claimant states that it is not liable to pay INR 25 crore.

381. The Claimant, therefore, states that it is not liable compensate Respondent No. 1 an amount of INR 212,41,42,000 (INR 6,42,000 + INR 35,00,000 + INR 187 crore + INR 25 crore).

K5.3 Tribunal's Analysis

382. Without going into the merits of this Counterclaim, maintainability whereof is seriously disputed by the Claimant, this Counterclaim needs to be rejected solely on the ground that Respondent No. 1 has not led any credible/cogent evidence insofar as alleged incurring of the expenditure is concerned. There is, thus, lack of evidence on this behalf, which disentitles Respondent No. 1 to make this Claim. This Counterclaim is, accordingly, rejected.

K6 Counterclaim No. 7

Claim of INR 18,23,48,117 towards Closure and Post Closure Maintenance Plan and compensation for remediation of the land used by the Claimant for dumping MSW, which may have to be carried out by Respondent No. 1

K6.1 Respondent No. 1's version

383. Respondent No. 1 contends that as per Annexure 3.4.5.B (vii) of the Concession Agreement, the Claimant had to develop and prepare the closure plan and obtain necessary approvals according to the MSW (Management & Handling) Rules at its own cost. Additionally, the Claimant was also liable for the maintenance of SLF at its own cost based on the post closure maintenance plan.

384. Respondent No. 1 states that the Claimant in its SOC admitted that the Dumping Sites are filled with MSW and are unusable. Respondent No. 1 further states that the RDF has piled up, which it may have to be clear / dispose of, subject to the outcome of the present proceedings. Respondent No. 1 urges to reserve its right to Claim cost/ expenses towards Closure, Post Closure and clearing of the MSW dumping sites and the RDF stocks.
385. The Respondent No. 1 submits that while it has urged to reserve its right to claim the cost/ expenses towards Closure, Post Closure and clearing of MSW dumping sites and RDF stocks based on the quantities of actual stock, but based on Claimant's Report dated 08.09.2019, the unfinished stock lying at the facility is = 42,869 MT (13634 MT of RDF + 10990 MT of semi-finished compost + 18245 MT of Raw MSW in MSW pits). Respondent No. 1 also claims that it would incur expenses to re-process the 42,869 MT of MWS/RDF/Compost lying at the Processing Facility. It states that based on the present status of the operations, if Processing Plant runs at @100TPD (claimed by the Claimant), then re-processing of 42,869 MT of MSW would take around 14 months. Respondent No. 1 points out that as per the Claimant's DPR, Annexure CC-10, Respondent No. 1 will incur expenses @ 11 crore per year, which would amount to INR 13 crore for 14 months.
386. Respondent No. 1 argues that the Claimant might also reject some of the MSW stating that it is unfit for processing. As a result, such rejected MSW would have to be sent to the SLF. Respondent No. 1 states that as per the MSW Rules 2000, maintaining a dumping site is an everyday process which entails levelling of the dumped MSW, covering with earth and then spraying of disinfectant/fogging etc.

and Respondent No. 1 is carrying out the same at its own expense. It submits that the amount of MSW dumped in the SLF from December 2011 till 23.03.2016 was 153.315 MT and from 23.03.2016 till 30.04.2018 the MSW dumped was (approx.) 18774 MT and therefore, the total MSW dumped by Claimant in the dumping site is 1,72,089 MT. Respondent No. 1 submits that the money spent on operation and maintenance per MT is INR 300/MT and hence, it claims INR 5,16,26,700 on account of expense incurred for maintenance of the dump site.

387. Respondent No. 1 states that Annexure 13 of Concession Agreement prescribes 1.5% of positive tipping fee to be deposited by Claimant after the COD- P&D. Respondent No. 1 argues that since the plant was operational from October 2015, as per the statement of the Claimant itself, therefore, the Claimant ought to deposit an amount to Respondent No. 1 as per the table given at page 27 and 28 of the Amended Supplementary Counter Claim filed by Respondent No. 1.
388. Respondent No. 1 points out that the records submitted indicate that the tipping fee paid to the Claimant after October 2015 till Oct 2017 is INR 3,24,62,400. It submits that post closure, only INR 4,86,936 remains pending to be deposited as per the Concession Agreement and the records and along with interest compounded up to 2020 the amount payable @ 14% is INR 7,21,417.
389. Therefore, Respondent No. 1 claims INR 18,23,48,117 (INR 13,00,00,000 + INR 5,16,26,700 + INR 7,21,417) towards closure, post closure and remediation of land.

K6.2 Claimant's Version

390. The Claimant argues that Respondent No. 1 is not entitled to any claim towards Closure, Post Closure, or clearing of MSW Dumping Sites or RDF stocks. It states that the SLF could not be constructed due to reasons attributable to Respondent No. 1. Therefore, the question of any Closure or Post Closure plan does not even arise. Further, it is also reiterated that maintenance of Dumping Site in any case is the responsibility of Respondent No. 1 and therefore, Respondent No. 1 is not entitled for any claim cost or expenses towards the same. As for the stocks of RDF, it is reiterated that the piling up of stocks is solely attributable to Respondent No. 1 as it has failed to ensure that the RDF is purchased by the Bio-Mass plants and therefore the Respondent No. 1 is not entitled for any claim cost or expenses towards the same. It submits that the Respondent No. 1 ought not to be granted any leave to reserve any right subject to the outcome of the present proceedings to claim any costs or expenses from the Claimant as alleged.
391. The Claimant states that it was constrained to terminate the Concession Agreement on 05.12.2018 due to the Events of Default of Respondent No. 1. It further states that Respondent No. 1 was giving the Claimant, construction and demolition waste mixed with the MSW. The Claimant avers that Respondent No. 1 failed to provide usable Dumping Site and failed to maintain it as per the Concession Agreement. The Claimant points out that as per Article 2.2.2.1(d) of the Concession Agreement, the dumping of MSW was to be at risk and responsibility of the Respondent No. 1 till the Project achieved COD-P&D. It is denied that any amount of MSW has been dumped into the SLF as alleged. The Claimant vehemently denies

that 1,72,089 MT of MSW (153,315 MT from December 2011 till 23.03.2016 or 18744 MT from 23.03.2016 till 30.04.2018) has been dumped.

392. The Claimant refutes that the 1.5 % of the Positive Tipping Fees was to be deposited by it. The Claimant argues that COD (P&D) was not achieved due to omissions of the Respondent No. 1.
393. The Claimant states that Respondent No. 1 has wrongly calculated 14% compound interest every year since October 2015 upto 2020 on the sum due as Post Closure and it is contrary to Article 15.2 of the Concession Agreement which provides for simple interest.
394. Therefore, the Claimant denies that Respondent No. 1 is entitled to INR 18,23,47,117 (INR 13,00,0000 + INR 5,16,26,700 + INR 7,21,417) on account of closure, post closure and remediation of the land.

K6.3 Tribunal's Analysis

395. This Counterclaim, as of now, is hypothetical as Respondent No. 1 has not incurred any expenditure in this behalf. The claim is for cost of remediation of land used by the Claimant for dumping MSW and in the Counterclaim preferred by Respondent No. 1, it admits that the amount claimed is estimation of the cost that may have to be incurred by Respondent No. 1. Therefore, the Counterclaim is premature at this stage and is rejected on this short ground without going into the merits/maintainability of this Counterclaim.

K7 Counterclaim No. 8

Claim towards *Pendente lite* and future interest under the CA and the 1996 Act and Cost u/s 31 (A) of the 1996 Act.

K7.1 Respondent No. 1's Version

396. Respondent No. 1 submits that it is entitled to pendente lite and future interests. Respondent No. 1 also submits that it is entitled to seek Costs including the cost of litigation from the Claimant. It has requested this Tribunal to permit it to calculate and claim the interest and Costs as and when it is required by this Tribunal.

K7.2 Claimant's Version

397. The Claimant submits that Respondent No. 1 is not entitled to receive pendent lite or future interest and other costs as claimed. The Claimant further submits it would be bad in law to permit Respondent No. 1 to calculate or claim any interest, Costs including the cost of litigation.

K7.3 Tribunal's Analysis

398. This claim is for interest. The Tribunal has allowed only Counterclaim No. 3 in the sum of INR 8,11,140 on which interest from 31.07.2019 till the passing of the Award at prevailing PLR of SBI from time to time is awarded. Since Respondent No. 1 is given credit of this amount against the claim awarded in favour of the Claimant, the question of payment of future interest does not arise.

[End of page]

L SUMMARY OF THE AWARD**L1 Claims of the Claimant**

| CLAIM NO. | PARTICULARS OF THE CLAIM | DECISION OF THE TRIBUNAL |
|------------------|---|--|
| 1 | Claim of INR 2.24 crore towards non-payment of outstanding tipping fee, INR 0.94 crore towards interest on delayed payments of tipping fee and INR 0.34 crore towards interest on the outstanding tipping fee till 29.06.2019 by Respondent No. 1 | Awarded in the sum of INR 1,83,57,074. On this amount, the Claimant is also entitled to interest at the rate provided in Article 7.7 of the CA, i.e., prevailing annual PLR of the SBI. |
| 2 | Declaration that the Consultation Notice and Termination Notice are valid and legal and Claim of INR 99.68 crore along with interest towards the termination payment as per Article 9.8(d)(i) of the Concession Agreement from the Respondents | Rejected |
| 3 | Claim of INR 646.82 crore towards loss of profit to be paid by the Respondent No. 1 to the Claimant | Rejected |
| 4 | Claim of INR 3.3 crore towards return of Performance Security Bank Guarantee No. 00070100006493 dated 11.08.2011 by Respondent No. 1 | Rejected |
| 5 | Claim towards <i>pendente lite</i> and future interest | Rejected |
| 6 | Claim of INR 750.02 crore towards costs | Rejected |

L2 Counterclaims of Respondent No. 1

| COUNTER-CLAIM NO. | PARTICULARS OF THE COUNTERCLAIMS | DECISION OF THE TRIBUNAL |
|--------------------------|--|---------------------------------|
| 1 | Claim of INR 3,37,28,895 towards Liquidated Damages under Annexure 15 of the Concession Agreement | Rejected |
| 2 | Claim of INR 5,22,83,737 towards Penalties under Annexure 18 on account of failure to meet the Performance Parameters mentioned under Annexure 17. | Rejected |
| 4 | Claim of INR 60,19,431 towards refund of excess Tipping Fee along with interest | |

| COUNTER-CLAIM NO. | PARTICULARS OF THE COUNTERCLAIMS | DECISION OF THE TRIBUNAL |
|-------------------|---|--|
| 3 | Claim of INR 26,11,136 towards outstanding Land Lease Payment along with Interest on account of delay & compensation on account of Land used by the Claimant | Awarded in the sum of INR 8,11,140 together with interest on the aforesaid Claim which is awarded @ prevailing PLR of State Bank of India (as stipulated in Article 15.2 of the CA) from the date of filing of the Counterclaim, i.e., 31.07.2019. |
| 5 | Claim of INR 631,94,01,227 towards compensation on account of expenditure incurred by Respondent No. 1 to carry out Door-to-Door collection which was an obligation of the Claimant | Rejected |
| 6 | Claim of INR 212,41,42,000 towards compensation on account of expenditure incurred by Respondent No. 1 to carry out other obligations of the Claimant | Rejected |
| 7 | Claim of INR 18,23,48,117 towards Closure and Post Closure Maintenance Plan and compensation for remediation of the land used by the Claimant for dumping MSW, which may have to be carried out by Respondent No. 1 | Grants liberty to Respondent No. 1 to raise this claim as and when any remedial cost is incurred |
| 8 | Claim towards <i>Pendente lite</i> and future interest under the CA and the 1996 Act and Cost u/s 31 (A) of the 1996 Act | See Counterclaim No. 3 above. |

M GENERAL

399. Wherever necessary, relevant portions of the Contract Agreement, judgments, laws, etc. are reproduced in the Award. Despite all care having been taken, it may be possible that some typographical and/or clerical errors in the quoted portions may have crept in. It is observed that such errors would be treated as corrected and substituted by the original text of the concerned documents and/or evidence.

400. This Award is pronounced on this the 21st day of May 2025 on the aforesaid terms.

Badar Ahmed
Justice Badar Durrez Ahmed
Former Chief Justice
High Court of Jammu and Kashmir
Co-Arbitrator

A.K. Sikri
Justice A.K. Sikri
Former Judge
Supreme Court of India
Presiding Arbitrator

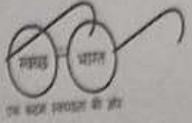
Jatinderbir Singh
Jatinderbir Singh, IAS (Retd.)
Former Chairman, Punjab
Infrastructure Regulatory Authority
Co-Arbitrator

1550

MUNICIPAL CORPORATION BATHINDA

PH.NO: 0164-2252812

EMAIL:CMCBATHINDA@GMAIL.COM



Date:- 15/07/25

No. 2154

ANNEXURE-5

To,

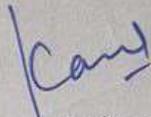
The Project Manager,
M/s JITF Urban Waste Management Ltd.
Mansa Road. Bathinda.

Subject: Municipal Solid Waste Management Services for Bathinda cluster.

Reference: In the matter of Arbitration between JITF Urban waste management (Bathinda) Ltd. and Municipal Corporation Bathinda & Anr. Dated 21.05.2025

With reference to subject cited above, as you are aware that the arbitration award in the above matter has been received by the parties and it is imperative that the terms and conditions outlined therein are adhered with. In light of this development, it is hereby requested to efficiently continue providing solid waste management services to the Municipal Corporation Bathinda and other cluster ULBs as per the agreement and the arbitration award. It is also emphasized that uninterrupted Municipal solid waste management services and adherence to Municipal Solid Waste Management Rules and Hon'ble National Green Tribunal directions for maintaining the cleanliness and hygiene of the city is crucial.

Please ensure to continue the services in the efficient manner so that the work is executed smoothly to abide the Government/NGT/PPCB guidelines.


Commissioner,
Municipal Corporation,
Bathinda.

1551



 **GPS Map Camera**



Bathinda, Punjab, India
 106827, near Fun Time, Prasram Nagar, Bathinda, Punjab 151001, India
 Lat 30.211553°
 Long 74.935169°
 17/07/24 09:50 AM GMT +05:30



1553



 **GPS Map Camera**

Bathinda, Punjab, India
106827, near Fun Time, Prasram Nagar, Bathinda, Punjab 151001, India
Lat 30.211529°
Long 74.935278°
17/07/24 09:50 AM GMT +05:30



Proposed Expansion of Integrated Municipal Solid Waste Facility by addition of 10 acres additional land and Sanitary Landfill site (SLF) of capacity 15 TPD within the existing processing facility at mansa Road, Back side D mart, Bathinda, Punjab by Municipal Corporation Bathinda Detail - (SW No. : SW/254284/2025)

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PUNJAB, BATHINDA

Applied On: 19/07/2025

CAF/239369/2025
Applicant : Sandeep Gupta

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Clearances Applied

Application for ToR (Category A, B1, and B2 Violation)/EC (Category B2) - Form 1

| Proposal No. | Proposal State | Proposal Status | Proposal Submission Date | |
|---------------------------|----------------|-------------------|--------------------------|--|
| SIA/PB/INFRA2/545305/2025 | PUNJAB | Under Examination | 19/07/2025 | View Form Track Withdraw |