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**WRITTEN ARGUMENT IN APPEAL NO.23/2024  
BEFORE THE NATIONAL GREEN TRIBUNAL, WESTERN ZONE BENCH, PUNE  
Appeal No. 23/2024 (WZ)**

**M/s. Padmavati Associates,  
As M/s. Pristine Prism & Pristine Royal**

.....} Applicant.

**VERSUS**

**Regional Officer,  
M.P.C.B. Pune & Another**

.....} Respondents.

**WRITTEN ARGUMENT ON BEHALF OF THE APPELLANT**

The Appellant would like to submit Written Argument in the above Appeal as under :

- 1) The Appeal is mainly filed on the ground that the Respondent No.1 has imposed Environment Damage Compensation (EDC) amounting to Rupees 14,10,50,000/- on the Appellant-Project without extending any opportunity of hearing before imposition of EDC. The Respondent No.1 & 2 there by violated the Principles of Natural Justice. The Appellant was informed on 16<sup>th</sup> February 2024 that Environment Compensation has been imposed on the Appellant on account of not obtaining prior Environment Clearance, Consent to Establish and Consent to Operate.
- 2) However, no details are made available in respect of Environment Compensation, it's calculations and methodology adopted for the same. Therefore, the Appellant has immediately written a Letter dated 17<sup>th</sup> February 2024 with a request to make available the details of EDC. The Appellant has enclosed the copy of the Letter dated 17<sup>th</sup> February 2024 as an Annexure-B at pages 15 and 16 of the Appeal Memo.
- 3) Thereafter, the Appellant has received the copy of EDC on 20<sup>th</sup> February 2024 by Email without any calculations (Page No.4 of Appeal Memo in Para 3). A copy of the said mail received by the CEO of Padmavati Associates is enclosed herewith and marked as an Annexure R1.
- 4) The Appellant therefore in person collected copy of the Affidavit filed in the Execution Application No.17 of 2023 in OA No.34/2020 on 29<sup>th</sup> February 2024 [Page No.4 & 17 of Appeal Memo in sub para-3- (Annexure-C)].

**Thus the Appeal is filed within 30 day's after receipt of EDC order on mail on 20<sup>th</sup> February 2024 and calculations received with Affidavit on 29<sup>th</sup> February 2024.**

- 5) Objections to the Assessment of EDC are as under :
  - 5.1) The First Commencement Certificate granted on 18/03/2006 by PMC at Survey No.6/2 & 7 at Aundh, Pune – 411007. The revised Commencement Certificates granted thereafter (Annexure – D1 to D4. – Pages 22 to 39). The PMC has not imposed any condition to obtain Prior Environment Clearance because at the time of first

Commencement Certificate, no E.C. was required as EIA Notifications issued on 14/09/2006.

5.2) PMC has granted Completion Certificates on 17/12/2009, 16/01/2010, 05/01/2011 and 13/07/2015 (Annexure-E1 to E4-Pages 40 to 50). It can be seen that almost all the Completion Certificates have been issued prior to 5 years of filing of the Original Application by the Applicant bearing no. 34 of 2020. Therefore, the Application itself is time bared as per Sub-Clause (3) of Section 15 of the National Green Tribunal Act, 2010. Therefore, compensation for Environment Damage should not have been imposed for the period for which Completion Certificates have been issued Prior to 5 years from the date which the cause for such compensation or relief first arose.

5.3) The Appellant has already handed over the possession of completed portion of premises on 28/12/2012, 14/06/2018 & 08/11/2016 respectively. The copies of Registration of the Societies are enclosed at Annexure-F (Pages 51 to 57). Therefore, once the Possession is handed over to the societies, the Appellant will not be responsible for if any violation on the part of the societies.

Here, the First Society M/s. Prism Housing Co. Op. Society Ltd. has been handed over on 28/12/2012, quite earlier more than 5 years Prior to cause of Action arose to file OA No. 34/2020 by the Original Applicant.

As per as M/s. Royal Housing Co. Op. Society Ltd. the last possession was handed over on 14/06/2018 and therefore at the most the Original Application can be restricted to EDC, which comes within 5 years after cause of action arose.

As per as M/s. Privilege Housing Co. Op. Society Ltd. the possession is handed over on 08/11/2016. However M/s. Pristine Privilege is situated at Sr. No.6/5, CTS No.2560 (Pt.), Village – Aundh, Pune-411007, having total plot area of the said project is 3800.00 Square Meters. The Commencement Certificate granted on 25/06/2012 and Occupancy Certificate on 17/05/2014. (Annexure-G & H-Pages 58 to 64). Therefore, this particular project being separate project and less than 20,000 Square Meters does not required Prior Environment Clearance. Further since the Commencement Certificate and Completion Certificate granted by PMC on 25/06/2012 & 17/05/2014 respectively, the Project is not covered for Cause of Action on account of more than 5 years before it is completed and granted Occupation Certificates.

5.4) Hon'ble Joint Committee units report dated 20<sup>th</sup> August 2020 has specifically observed that the total built up area of the project is less than 20,000 Square Meters and therefore no E.C. is required (Annexure-I, Page-66). Therefore issuance of EDC Directions dated 16<sup>th</sup> February 2024 to M/s. Pristine Privilege at S.No. 6/5 CTS No. 2560 (pt.) village Aundh, Pune is totally incorrect.

5.5) The Respondent-MPC Board should not have imposed Environment Compensation for the completed portion of the construction project of M/S Pristine Prism & Pristine Royal at Survey No.6/2 & 7 Village -Aundh, District-Pune for which completion certificate/s have been issued by the PMC from time to time as per completion of the construction with

reference to the Commencement Certificate/s have been issued by it from time to time prior to five years of filling of the Application No.34/2020 (WZ).

- 5.6) This Hon'ble Tribunal has specifically observed in the Judgment and Order Passed dated 24/02/2022 that the project proponent has benefited itself by the violation of the STP which has not been being provided in the project with more than 20000.00 Square Meters for at least some of the buildings and other certain minor non compliances such as the source of water for the swimming pools, if not illegal extraction of ground water, provision of open areas only on podium which according to the Committee is in conformity with the DC Rules, ignoring the law laid down in the Municipal Corporation of Greater Mumbai V/s. Kohinoor CTNL infrastructure Co (P) Ltd., (2014) 4 SCC 538. The Respondent MPC Board instead of assessing Environment Compensation for total BUA by application of straight jacket formula laid down by the CPCB, could have restricted assessment of Environment Compensation only to the non-provision of STP for the buildings for which it was not provided and should not have imposed Environment Compensation on total BUA of M/S Pristine Prism at Survey No.6/2 & 7 Village -Aundh, District-Pune.

Hon'ble Joint Committee in its Report dated 20<sup>th</sup> August 2020 at Sr.No.12 has observed that PP has installed 160 CMD capacities STP in M/s. Pristine Prism. However M/s. Pristine Royal has no STP. (Annexure-I, Page-68). Therefore, the EDC should be restricted to the portion for which STP was not provided (M/s. Pristine Royal). After handing over the possession to the societies, it is the responsibility of the concern societies to operate STP.

- 5.7) The Environment Compensation methodology adopted by the Respondent MPC Board as per the formula of  $EC (Rs.) = PI \times N \times Rx \times S \times LF$ , itself does not specifically restrict the assessment of Environment Compensation only to the non-provision of STP to certain buildings, other minor non-compliances and therefore cannot be taken into consideration unless suitably reviewed by giving an opportunity of hearing by following the principles of natural justice. The assessment of compensation for the completed portion of construction of M/S Pristine Prism & Pristine Royal at Survey No.6/2 & 7 Village -Aundh, District-Pune prior to five years of filling of the Application No.34 of 2020 (WZ), for which, the Completion Certificate/s are already issued prior to five years and possessions are already handed over to the societies as per Completion Certificate/s by entering into conveyance deed should not have been assessed with the Environment Compensation (Page – 11 of Appeal Memo – Para 5.8).

The Appellant therefore has filed the present Appeal against unreasonable assessment of EDC without extending opportunity of hearing for imposition of compensation of Rs.14,10,50,000/-. Hence it is prayed that the Appeal may kindly be allowed and Respondent No.1 & 2 may kindly be directed to extend opportunity of hearing to review EDC. Till appeal is decided, the EDC order may kindly be stayed.

Dated this 11<sup>th</sup> Day of April, 2024 at Pune.



(Dattatraya Devale)

Advocate for the Appellant

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Annexure - R-1

**w: Environmental Compensation in respect of M/s. Padmavati Associates as M/s. Pristine Prism & Pristine Royal, Sr. No. 6/2,7 and M/s. Pristine Privilage S.No. 6/5, CTS No. 2560(pt), Village Aundh, Pune w.r.t. NGT Original Application No. 34/2020 (EA N...**

messages

RO Pune 1 <sropune1@mpcb.gov.in>

Tue, Feb 20, 2024 at 5:00 A

: "prashant.sharma@pristinedeveloper.com" <prashant.sharma@pristinedeveloper.com>

Sir,

Please find attached here with Environmental Compensation in respect of M/s. Padmavati Associates as M/s. Pristine Prism & Pristine Royal, Sr. No. 6/2,7 and M/s. Pristine Privilage S.No. 6/5, CTS No. 2560(pt), Village Aundh, Pune w.r.t. NGT Original Application No. 34/2020.

You are requested to comply with the direction.

Thanks & Regards,

Nitin Shinde  
Sub Regional Officer,  
MPC Board, Pune-I.

**From:** RO Pune <ropune@mpcb.gov.in>

**Sent:** 16 February 2024 13:16

**To:** SRO Pune 1 <sropune1@mpcb.gov.in>

**Cc:** Legal Retainer <legalretainer@mpcb.gov.in>

**Subject:** Re: Environmental Compensation in respect of M/s. Padmavati Associates as M/s. Pristine Prism & Pristine Royal, Sr. No. 6/2,7 and M/s. Pristine Privilage S.No. 6/5, CTS No. 2560(pt), Village Aundh, Pune w.r.t. NGT Original Application No. 34/2020 (EA N...

The Letter is enclosed herewith to deposit **Environmental Compensation in respect of M/s. Padmavati Associates as M/s. Pristine Prism & Pristine Royal, Sr. No. 6/2,7 and M/s. Pristine Privilage S.No. 6/5, CTS No. 2560(pt), Village Aundh, Pune w.r.t. NGT Original Application No. 34/2020.**

You are hereby instructed to ensure the receipt of this letter to the concern industry authority .

*With Regards,*

*(Ravindra Andhale)*  
*Regional Officer,*  
*M. P. C Board Pune.*

**From:** SRO Pune 1 <sropune1@mpcb.gov.in>

**Sent:** 02 January 2024 12:09

**To:** Dr. V. M. Motghare <jdair@mpcb.gov.in>; Netra Chaphekar <lo@mpcb.gov.in>

**Cc:** RO Pune <ropune@mpcb.gov.in>; Legal Retainer <legalretainer@mpcb.gov.in>

**Subject:** Environmental Compensation in respect of M/s. Padmavati Associates as M/s. Pristine Prism & Pristine Royal, Sr. No. 6/2,7 and M/s. Pristine Privilage S.No. 6/5, CTS No. 2560(pt), Village Aundh, Pune w.r.t. NGT Original Application No. 34/2020 (EA No. 17/2

Sir,

As per Hon'ble NGT order calculated Environmental Compensation in respect of M/s. Padmavati Associates as M/s. Pristine Prism & Pristine Royal, Sr. No. 6/2,7 and M/s. Pristine Privilage S.No. 6/5,

Submitting here with Office Note for appropriate decision regarding Environmental Compensation of Rs. 14,10,50,000/-.  
The matter is placed on 05/01/2024.

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Thanks & Regards,

Nitin Shinde  
Sub Regional Officer,  
MPC Board, Pune-I.

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373K

Prashant Sharma <prashant.sharma@pristinedeveloper.com>  
: Amitkumar Pawar <pawaramitkumar55@gmail.com>

Thu, Mar 28, 2024 at 5:27 A

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REGARDS,

**Pristine**



**PRASHANT SHARMA**  
GENERAL MANAGER

 prashant.sharma@pristinedeveloper.com  
 www.pristinedeveloper.com  
 

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Prashant Sharma <prashant.sharma@pristinedeveloper.com>  
: Dattatarya Devale <dattadevale252@gmail.com>

Mon, Apr 1, 2024 at 3:41 P

[Quoted text hidden]

REGARDS,

**Pristine**



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S. D. Shilimkar  
True Copy of Email received