

BEFORE THE NATIONAL GREEN TRIBUNAL WEST  
ZONE BENCH AT PUNE – MAHARASHTRA

Appeal No. 27/2023(WZ)

Space Bound Web Labs Pvt. Ltd ...Appellants

v.

Goa State Pollution Control Board ...Respondent

WRITTEN ARGUMENTS ON BEHALF OF THE  
APPELLANTS

The Appellants herein in support of their case file their written arguments and humbly state and submit as follows:

1. The Appellants in order to better understand the case of put forth by the Appellants place reliance upon the table contained herein below which contains a detailed chronology of the entire Appellants case.

<u>Date</u>	<u>Event</u>
-------------	--------------

22.02.2022	The Appellant sought permission from the Administrator of Comunidades, North Goa to hold the Sunburn Music Festival from 28th December 2022 to 30th December 2022 in property bearing Survey No. 206/1 of Village Anjuna, Bardez Taluka, Goa
21.04.2022	The Appellant applied to the Tourism Department for necessary permissions
05.12.2022	The Appellant applied before the Office of Collector of North Goa, Village Panchayat of Anjuna and the Goa Pollution Control Board for necessary permissions
16.12.2022	Tourism Department granted approval to the Appellant
20.12.2022	The Appellant sought permission from the Goa Coastal Zone Management Authority (GCZMA) for organizing the Sunburn Music Festival
26.12.2022	Village Panchayat of Anjuna granted approval to the Appellant

26.12.2022	The Respondent GSPCB issued Permission for the event
27.12.2022	Administrator of Comunidades granted permission
28.12.2022	GCZMA issued necessary permission
28.12.2022	The Appellant organized the Sunburn Music Festival at Vagator, Goa with all necessary permissions
30.12.2022	
02.01.2023	Inspection Report prepared by the Respondent GSPCB
06.01.2023	Show Cause Notice issued by the Respondent GSPCB based on Inspection Report dated 02.01.2023 for alleged violation of sound levels under the Noise Pollution (Control and Regulation) Rules, 2000
16.01.2023	The Appellant appeared before the Member Secretary of the Respondent and filed preliminary Reply to the Show Cause Notice

# 517

27.03.2023	The Appellant filed detailed reply before the Member Secretary of the Respondent raising various objections
27.03.2023	The Appellant filed Application to lead evidence in the matter and objections to the manner in which evidence was gathered by the Respondent
27.03.2023	The Appellant filed Written Submissions before the Member Secretary
06.04.2023	The Respondent GSPCB passed the impugned directions forfeiting the security deposit of Rs. 10,00,000/-
12.04.2023	Letter dated 12.04.2023 enclosing the impugned directions was sent by registered post
18.04.2023	The Appellant received the impugned directions through registered post

## WRITTEN SUBMISSIONS

2. The Respondent, GSPCB, has no power under law to forfeit the security deposit.
  - a. The Appellant submits that the Respondent GSPCB has no power under the Environment (Protection) Act, 1986 ("EPA") or the Noise Pollution (Regulation and Control) Rules, 2000 ("Noise Rules") to forfeit the security deposit of Rs. 10,00,000/- (Rupees Ten Lakhs only) as environmental compensation. The security deposit was obtained by the Respondent solely for the purpose of securing the noise monitoring equipment installed at the event venue and not as a guarantee for compliance with noise pollution norms.
  - b. The letter dated 26th December 2022 issued by the GSPCB directed the Appellant to pay a noise monitoring fee of Rs. 3,50,000/- for a total of four monitoring stations and two background noise monitoring stations, which included the installation of the noise monitoring system. Additionally, a security deposit of Rs. 10,00,000/- was required specifically for the installation and security of the noise monitoring system.

- c. Upon completion of the event, the noise monitoring system and equipment deployed by the GSPCB were safely returned without any damage. Therefore, the security deposit amount should have been refunded to the Appellant. The retention/forfeiture of the security deposit for alleged violation of the Noise Rules would amount to the GSPCB overreaching the provisions of Section 15 of the EPA.
- d. It is pertinent to mention that the permission dated 26th December 2022 issued by the GSPCB does not mention that the security deposit was to secure any breach of law. The security deposit was sought under a separate letter dated 26th November 2022, which pertained specifically to the installation of the noise monitoring system along with security for the equipment deployed by the GSPCB at the event.

- e. It is also pertinent to note that by way of the Respondents own admission which has been recorded in the Order dated 05/02/2024 passed by this Hon'ble Authority at paragraph 3, the Respondents have clearly stated before this Hon'ble Tribunal that they do not have any specific provision which enables the Respondent to forfeit any security deposit that lies with them.
  - f. Therefore, the retention/forfeiture of the security deposit for alleged violation of the Ambient Air Quality Standards in Respect to Noise is patently illegal and a breach of trust, especially considering that the GSPCB has already initiated proceedings against the Appellant before the competent court under Section 19 of the EPA.
3. The Respondent GSPCB has already initiated separate legal proceedings.
- a. The Appellant submits that the GSPCB has already initiated proceedings under Section 15 read with Sections 16 and 19 of the EPA along with Section 39 of the Air (Prevention and Control of Pollution) Act, 1981 before the Court of Judicial Magistrate First Class at Mapusa, Goa being Case No. IPC/26/2023.

- b. The Appellant states that such an exercise of forfeiting the security deposit while simultaneously initiating criminal proceedings is impermissible in law and is directly in contravention of Article 20 of the Constitution of India.
  - c. There is no power under the provisions of the EPA, the Air Act, or the Noise Rules to issue a separate Show Cause Notice and penalize the Appellant once appropriate proceedings before the competent court have been filed by the GSPCB. Therefore, the imposition of a penalty in the form of forfeiting the deposit would amount to penalizing the Appellant twice in the absence of such a provision in the law.
4. Violation of Section 11 of the Environment (Protection) Act, 1986.
- a. Section 11(3)(b) of the EPA requires that the sample collected pursuant to the Notice under Section 11(3)(b) read with Rule 7 of the Environment Rules should be collected in the presence of the occupier or the person in charge. The Appellant states that such an exercise was not carried out by the GSPCB while the samples were taken.

- b. Section 11(3)(c) requires that the sample taken should be signed and sealed by the person taking the sample along with the occupier or person in charge. The Appellant states that such a procedure was not carried out, as clearly seen from the noise monitoring reports as well as the Inspection Report dated 2nd January 2023.
- c. Section 11(3)(d) clearly requires that the sample obtained should be without delay sent to a Government Lab established under Section 12 of the EPA for analysis by a Government Analyst appointed under Section 13 who is required to submit a Report under Section 14, which can be used as evidence in legal proceedings. The Appellant states that a Report submitted under Section 14 must be based on samples taken under Section 11 and such samples taken have to be compliant with provisions of Section 11, more particularly Section 11(3) of the EPA.

d. In the present case, the Inspection Report dated 2nd January 2023 is based on samples taken in complete violation of Section 11(3) of the EPA and therefore, the samples taken as well as the report based on such samples is completely inadmissible as evidence in legal proceedings including the present Petition in terms of Section 11(2) of the EPA.

5. Violation of Principles of Natural Justice

- a. The Appellant submits that the impugned directions were issued without affording a proper personal hearing to the Appellant. The Respondent Board, being a statutory authority, is expected to comply with the fundamental principles of natural justice.
- b. The Appellant had filed an Application before the Member Secretary seeking leave to examine the officials of the Respondent who had to monitor the sound monitoring equipment as well as the Government Analyst. The Appellant also sought a direction to allow examination of an expert in the field of sound engineering to interpret the sound monitoring logs.
- c. The Appellant was under the impression that it would be allowed to advance arguments in support of the aforesaid

Application for leading evidence or that the same would be allowed by the Respondent. However, to the shock and surprise of the Appellant, the impugned Directions dated 6th April 2023 were served on the Appellant on 18th April 2023.

d. The personal hearing granted to the Appellant was merely a facade, and the Respondent failed to deal with the contentions raised by the Appellant by passing a well-reasoned order.

6. No material evidence to support the impugned directions

a. The Appellant submits that the Respondent Board issued the impugned directions without there being any cogent and material evidence on record. The noise monitoring equipment maintained by the Appellant at the event clearly showed that the Ambient Air Quality Standards with Respect to Noise were not breached.

b. The Appellant states that the Action Plan dated 5th January 2022 notified by the Department of Environment and Climate Change of the Government of Goa on 13th January 2022 based on directions of this Hon'ble Tribunal requires ambient noise monitoring to be carried out for a period of 16 hours (daytime) to identify the specific source of noise due to background noise and verify compliance of the Ambient Air

Quality Standards prescribed under the Noise Rules. The Appellant states that such an exercise was not carried out by the Respondent.

- c. The Appellant further states that the Noise Monitoring Log maintained by the GSPCB clearly exposes the fact that the noise generated at the event was not entirely attributable to the event but also due to other factors including vehicles in the area as well as the crowd present at the event. The Appellant states with great emphasis that the additional factors contributing to the noise levels cannot be attributed to the event and the Appellant being penalized for the same is wholly unfair and illegal.
  - d. It is pertinent to mention that the officials of the Respondent GSPCB did not stop the event for the absence of noise limiters, and this objection has been taken only after the conclusion of the event. The Appellant states that not a single notice was issued to the Appellant by the officials of the Respondent for not setting up the noise limiters during the event.
7. In view of the above submissions, it is most respectfully prayed that this Hon'ble Tribunal may be pleased to:
- a. Quash and set aside the impugned directions dated

6th April 2023 bearing reference No. 1/25/2023-PCB/Legal/333 issued by the Respondent;

- b. Pending hearing and final disposal of this Appeal, stay the impugned directions dated 6th April 2023 bearing reference No. 1/25/2023-PCB/Legal/333 issued by the Respondent;
- c. Grant any other relief as this Hon'ble Tribunal may deem fit.

10/06/2025



Advocate for the Appellants