BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,

WESTERN ZONE BENCH, PUNE

APPEAL NO. 144 OF 2025

IN THE MATTER OF :

VIJAYKUMAR KARSANBHAI GADHAVI & ORS. ...APPELLANTS

VERSUS

UNION OF INDIA & ORS. ...RESPONDENTS

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WRITTEN ARGUMENTS ON BEHALF OF RESPONDENT NO. 3 (FOREST AND ENVIRONMENT DEPARTMENT, GOVERNMENT OF GUJARAT) AND RESPONDENT NO. 4 (PRINCIPAL CHIEF CONSERVATOR OF FOREST, STATE OF GUJARAT)

MOST RESPECTFULLY SHOWETH :

The Respondent No. 3 and 4 most respectfully submit as under :

A. PRELIMINARY SUBMISSIONS :

1. The present Written Arguments are filed on behalf of Respondent No. 3 (Forest and Environment Department, Government of Gujarat) and Respondent No. 4 (Principal Chief Conservator of Forest and Chief Wildlife Warden, Government of Gujarat) in continuation of and read together with the Affidavit-in-Reply dated 31.12.2025 of the Respondent No. 3 and 4 already filed on record.

2. The proposal of the User Agency dated 21.09.2021 was processed strictly in accordance with the Forest (Conservation) Act, 1980 and the Forest (Conservation) Rules, 2022 through the PARIVESH Portal and traversed the statutory hierarchy of scrutiny prescribed under Rule 9 of FC Rules from the Deputy Conservator of Forest (**"DCF"**), Chief Conservator of Forest (**"CCF"**), Nodal Officer, State Government and finally the Central Government/ MoEF&CC. The proposal underwent independent scrutiny at every stage.

3. Chronology of processing based on the record annexed to the Affidavit-in-Reply dated 31.12.2025 filed by the Respondent No. 3 and 4 is set out hereinbelow:

Sr. No.	Date	Particulars	Annexure
1.	21.09.2021	Proposal (Form A, Part I) submitted online through the PARIVESH Portal by the User Agency to the State Government under Rule 9(2), FC Rules 2022	R2
2.	24.11.2021 & 01.12.2021	DCF sought and User Agency furnished requisite maps/documents, including Compensatory Afforestation particulars	R4 (Colly)
3.	29.11.2021	Site Inspection carried out and report prepared by DCF, Kutch West Division	R5
4.	27.12.2021	DCF forwarded Site Inspection Report, proposal and Compensatory Afforestation Scheme (double-degraded land) to CCF	--
5.	11.01.2022	CCF raised query to DCF specifically on presence/habitat of sea turtles and need for a study/conservation plan. The proposal was therefore, reverted to the DCF.	R6
6.	12.01.2022	DCF responded with clarification and submitted Revised Part II of Form A incorporating recommendation for sea-turtle conservation which forms part of physical record	R7/R8
7.	28.01.2022	CCF completed Part III recommending preparation and implementation of a holistic Conservation Plan for sea turtles and forwarded proposal to Nodal Officer	R9/R10
8.	31.01.2022	Nodal Officer forwarded Part IV to State Government, carrying forward the recommendations of DCF and CCF	R11
9.	16.05.2023	State Government (Part V) recommended sanction of the proposal, incorporating recommendations of DCF, CCF and Nodal Officer	R12
10.	18.07.2023	Stage-I (In-Principle) Approval granted by MoEF & CC subject to conditions including sea-turtle conservation	--
11.	04.10.2023	DCF called upon User Agency to comply with In-Principle Approval conditions and issued demand note for CA/NPV (₹21,71,521/-)	R13

12.	11.10.2023	User Agency deposited CA (₹12,43,258/-) and NPV (₹9,27,933/-) in State CAMPA	--
13.	07.11.2023	User Agency submitted Compliance Report and undertaking to DCF/Nodal Officer	R14
14.	02.12.2023	Nodal Officer forwarded compliance report to State Government	R15
15.	28.12.2023	State Government forwarded compliance report to Regional Office, MoEF & CC	R16
16.	04.01.2024	Stage-II (Final) Approval granted by MoEF & CC	--
17.	21.03.2025	Memorandum/Work Permission Order issued by Forest & Environment Department, Gandhinagar, incorporating conditions of Stage-I and Stage-II Approvals	--

4. A plain reading of the departmental record, much of which the Appellants themselves rely upon and annex, shows that every discrepancy complained of was identified and corrected within the multi-tier statutory process itself, well before any approval was granted. The Respondent Nos. 3 and 4 proactively insisted upon scientific study and conservation measures before recommending the proposal.

<u>B. RESPONSE TO THE APPELLANTS' WRITTEN SUBMISSIONS DATED 30.06.2026 :</u>

5. Not a single averment in the Appellants' Written Submissions dated 30.06.2026 demonstrates that the Respondent No. 3 and 4 acted mala fide or that any of the alleged infirmities survived scrutiny by the time the Stage-I Approval came to be granted on 18.07.2023.

6. The Appellants rely upon judgments namely *Milind Pariwakam & Anr. Vs. Union of India (O.A. No. 52 of 2015)* (Annexure A/1) and *Vimal Bhai vs. Union of India, 2012 SCC OnLine NGT 77* for the proposition that the Section 2 Order and the Stage-I and Stage-II Approvals are open to challenge before this Hon'ble Tribunal. The Respondent No. 3 and 4 do not dispute this settled proposition *qua* the final orders. It is however, submitted that *Milind Pariwakam* (Annexure A/1) simultaneously holds that it is only an order passed under Section 2 of the Forest (Conservation) Act, 1980 that is appealable under Section 16 of the National Green Tribunal Act, 2010 and that

any condition put up by MoEF in its approval can only be complied with to the extent it is administrative in nature. This very principle relied upon by the Appellants themselves establishes that Form A Part II (filled by DCF), the Site Inspection Report, Part III (CCF), Part IV (Nodal Officer) and Part V (State Government) are internal, administrative, recommendatory communications forming part of the file that culminates in the Section 2 Order and they are not in themselves quasi-judicial orders required to independently satisfy a standalone 'detailed reasons' test of the kind applicable to a final adjudicatory order.

C. THE ALLEGED DISCREPANCY IN FORM A PART II WAS DULY RECTIFIED :

7. The Appellants contend that Serial Nos. 8(i) and 8(v) of the original Part II of Form A incorrectly recorded the absence of wildlife and rare/endangered species. However, the alleged discrepancy was identified during departmental scrutiny. **Pursuant to the CCF's query dated 11.01.2022, the DCF, vide letter dated 12.01.2022, submitted a revised Part II of Form A in the physical record incorporating recommendations relating to sea turtle conservation. As the PARIVESH portal does not permit revision or substitution of uploaded documents, the revised Part II could not be uploaded online. The said revised Part II of Form A of physical record specifically incorporated conditions requiring (i) a Study/Assessment of Sea Turtles within a 10 km radius of the project area, and (ii) preparation and implementation of a Holistic Conservation Plan**. **Accordingly, Parts III, IV and V were prepared on the basis of the revised Part II available in the physical record.**

8. These revisions were made nearly 18 months before the Stage-I Approval dated 18.07.2023 and were consistently carried forward in Parts III, IV and V before the proposal was considered by the Central Government. The approvals were thus granted on the basis of the revised proposal, demonstrating that the statutory scrutiny mechanism under Rule 9 of the FC Rules functioned effectively and not mechanically.

D. PARTS III, IV AND V REFLECT DUE APPLICATION OF MIND :

9. The Appellants' contention that the recommendations in Parts III, IV and V are mechanical is misconceived. The CCF's recommendation for a Holistic Conservation Plan was made after raising specific queries regarding sea turtle habitat and considering the DCF's revised Part II and Parts IV and V merely carried forward these recommendations while forwarding the proposal to the competent authority.

E. THE INCOME-TAX PRECEDENTS RELIED UPON ARE FACTUALLY AND LEGALLY DISTINGUISHABLE :

10. It is submitted that the authorities relied upon by the Appellant viz. *Capital Broadways Pvt. Ltd. v. Income Tax Officer (W.P. No. 4303 of 2017), Central India Electric Supply Co. Ltd. v. ITO, 2011 SCC OnLine Del 472, Chhugamal Rajpal v. S.P. Chaliha, (1971) 79 ITR 603 (SC),* and *PCIT v. Pioneer Town Planners Pvt. Ltd., 2024 SCC OnLine Del 4453,* all arise under Sections 147/148/151 of the Income Tax Act, 1961 where the recording of 'reasons to believe' by an Assessing Officer and independent application of mind by the sanctioning authority is a jurisdictional pre-condition, expressly mandated by the statutory text, for reopening a completed assessment, a power that directly affects a concluded, vested position of a taxpayer and is for that reason construed strictly. In contrary under Rule 9 of FC Rules the DCF, CCF, Nodal Officer and State Government perform only a recommendatory role with the final decision resting exclusively with the Central Government. The comparison is therefore, wholly misconceived.

F. *SAVE MON REGION FEDERATION* AUTHORITY HAS NO APPLICATION TO THE PRESENT PROCEEDINGS :

11. The Appellants' reliance on *Save Mon Region Federation and Another v. State of Arunachal Pradesh and Others* (*2026 SCC OnLine SC 526)* is misplaced. The said decision arose from allegations of systemic nepotism, conflict of interest, non-transparent award of public contracts and large-scale departures from the prescribed procurement process, warranting investigation by the CBI. The present matter involves no allegation of mala fides, private benefit or procedural violation. The departmental record demonstrates due scrutiny and compliance with the statutory framework. The ratio of *Save Mon Region Federation* is therefore, wholly inapplicable.

G. THE RTI REPLIES DO NOT ESTABLISH SUPPRESSION OF SEA TURTLE HABITAT :

12. The Appellants rely upon the RTI replies and geo-tagged photographs to contend that the presence of sea turtle nesting sites was suppressed. The contention is misconceived. The Appellants themselves sought information under the Right to Information Act, 2005 regarding the presence of Green Sea Turtle Nesting Sites in the proposed project area and the Respondents duly furnished the information sought which forms part of the record. During the statutory scrutiny, the DCF specifically required a Sea Turtle Study within a 10 km radius and a Holistic Conservation Plan, which were incorporated into the subsequent approvals. The RTI material, therefore, demonstrates transparency on the part of the Respondents and are consistent with the environmental safeguards imposed.

13. The reliance on *Sandeep Desai v. State of Goa (O.A. No. 47 of 2012)* is equally misplaced. Unlike the said case where environmental clearances were granted without proper verification, the present record demonstrates a documented process of scrutiny, clarification, revision and incorporation of specific safeguards relating to sea turtles before the grant of approvals.

PRAYER

14. In light of the aforesiad the Respondent No. 3 and 4 most respectfully pray that this Hon'ble Tribunal may be pleased to:
    a. dismiss the Appeal *qua* the Respondent No. 3 and 4; and
    b. pass such other and further order(s) as this Hon'ble Tribunal may deem fit and proper in the interest of justice.

AND FOR THIS ACT OF KINDNESS THE RESPONDENTS SHALL DUTY BOUND EVER PRAY.

Place: Ahmedabad
Date: 22.07.2026

Parth B hatt

Adv. Parth H. Bhatt
Advocate for Respondent No. 3 & 4