

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE

APPEAL NO. 61 OF 2026 (WZ)

AL-SAAD BUILDERS & DEVELOPERS AND ORS.

... APPELLANTS

versus

ADMINISTRATION OF THE UNION TERRITORY OF

DADRA AND NAGAR HAVELI AND DAMAN AND DIU AND ORS.

... RESPONDENTS

WRITTEN SUBMISSIONS ON BEHALF OF THE APPELLANTS

1. The captioned appeal has been preferred by the Appellant under Sec. 16(g) of the NGT Act challenging the show cause notice dated 02.02.2026 issued by the Respondent No. 2 (the “**Impugned SCN**”) with respect to a building known as ‘Al Saad Terrace’ situated at Sy. No. 50/130-H, I & K, Khariwad, Nani Daman (the “**subject construction**”), and the order dated 18.02.2026 passed by the Respondent No. 2 directing demolition of the subject construction (the “**Impugned Order**”).
2. The captioned appeal has been preferred on two broad grounds, namely, the multiple and distinct violations of principles of natural justice, which cannot be cured in appeal; and the fact that the subject construction is a re-construction of an existing authorised structure and falls in CRZ-II.

VIOLATIONS OF PRINCIPLES OF NATURAL JUSTICE

3. ***Failure to comply with Hon’ble Supreme Court’s directions:*** The Hon’ble Supreme Court has, in ***Re Directions in the matter of demolition of structures***, (2025) 5 SCC 1 (para 94.1), prescribes a minimum notice of 15 days in cases involving the demolition of any structure. Contrary to the said direction, the Impugned SCN directed the Appellant to provide its “*written*

reply within 7 days from the date of receipt” (*See pg. 38 at 39*). This attracts contempt proceedings (para 95), apart from vitiating the process.

4. ***Failure to comply with Rule 4(3a) of the ENVIRONMENT PROTECTION RULES, 1986*** (the “**EP Rules**”) which mandates that a notice period of at least 15 days as well as an opportunity of hearing must be given to a person against whom a direction is proposed. The Impugned SCN, issued under these very Rules, gave the Appellant only 7 days.
5. This, it is submitted, renders the Impugned SCN void *vide Nawabkhan Abbazkhan v. State of Gujarat*, (1974) 2 SCC 121 (para 14), wherein it has been held that an order passed in violation of principles of natural justice imbibed in a statute is void.
6. ***Failure to comply with the mandatory directions of this Hon’ble Tribunal***: In *Sesa Goa Limited v. State of Goa*, 2013 SCC OnLine NGT 27 (para 47(3) and (5)), this Hon’ble Tribunal has issued directions to all Coastal Zone Management Authorities across the country on how to conduct their quasi-judicial proceedings. Both the Impugned SCN and the Impugned Order are non-compliant them since:
 - a. They rely on the joint inspection report dated 30.01.2026 which records the subject construction to be within 100 mts. from the High Tide Line (HTL) based on the Outline Development Plan (ODP), 2023 (*See pg. 444, R2’s Reply*), but was not supplied to the Appellant (*See pgs. 38 at 39, 41*); and
 - b. The Impugned Order does not have a semblance of a consideration of the factual and legal assertions made by the Appellant in its reply to the Impugned SCN dated 09.02.2026 (*See pg. 189*), namely, that the subject construction was a pre-existing structure (*See pg. 190*); that the area in question was CRZ II, and not CRZ IA (*See pgs. 191-192*); and that re-

- construction of such is structure permissible in CRZ II (*See pgs. 194-195*). This demonstrates absence of a fair opportunity to the Appellant.
7. In addition to the above, the Appellant had also addressed a communication dated 10.02.2026 to the Respondent No. 3 seeking copies of the construction license dated 01.09.1994, approved plan and completion certificate dated 17.10.1995 (*See pg. 200*) which would have further demonstrated the legality of the structure in issue. Accordingly, on 16.02.2026, the Appellant had sought an extension of time to produce material to show the pre-existence of the structure (*See pg. 202*).
 8. Unfortunately, the Impugned Order does not consider any of the justifications offered by the Appellant and only records a plea of ignorance of the CRZ Notification by the Appellant (*See pg. 41 at 42*).
 9. It is settled law that such violations of principles of natural justice cannot be cured at an appellate stage *vide ICAI v. L.K. Ratna*, (1986) 4 SCC 537 (para 17), and that an appeal cannot validate such a nullity *vide Krishnadatt Awasthy v. State of M.P.*, (2025) 7 SCC 545 (para 66). In *Zon Hotels (P) Ltd. v. GCZMA*, 2025 SCC OnLine SC 771 (para 11), the Hon'ble Supreme Court applied this principle to hold that a violation by the GCZMA was not capable of being cured by this Hon'ble Tribunal, in appeal.
 10. **No basis provided for computation of environmental damage compensation (EDC):** The Impugned Order seeks to impose EDC, without providing any underlying basis for arriving at the amount of Rs. 1,01,60,000/-, and without any prior notice to the Appellant contrary to the mandate of Rule 4 of the EP Rules, which enjoins the authority issuing notice to specify the nature of the action contemplated. Moreover, the formula in *Paryavaran Suraksha Samiti v. UoI*, OA No. 593/2017,

seemingly sought to be relied upon by the Respondent No. 2, is inapplicable to the subject construction since that judgment was rendered in the context of industrial units.

MERITS

11. ***Subject construction is a re-construction of a pre-existing building before the enforcement of CRZ notification:*** As can be seen from the following clauses of the CRZ Notification, the rigours of the CRZ notification, including the requirement to obtain permission from the CRZ authority only commences with the notification of the CZMP:
 - i. Clause 3(3)(ii) provides that approvals are to be granted based only on the notified CZMP (*See pg. 402 at 407*);
 - ii. Clause 3(3)(iii) is in the nature of a transitional provision and requires the Government to ensure adherence to the CRZ Notification till such CZMP is prepared, (*See pg. 402 at 407*);
 - iii. Clause 6(1) classifies areas “within the municipal limits” as CRZ-II areas (*See pg. 402 at 407*); and
 - iv. Clause 6(2) provides that reconstruction of existing authorised buildings is permissible and the same would be subject only to the local town and country planning regulations (*See pg. 402 at 408*).
12. Simply put, till the enforcement of the CRZ notification (with the notification of the CZMP), the State authorities are competent to grant construction permission.
13. In the instant case, the subject construction predates the enforcement of the CRZ Notification 1991, i.e., 29.11.1996, when the CZMP for Daman and Diu came to be notified, as can be seen from the following chronology:

Date	Particulars
01.11.1993	Appellant's predecessor-in-title purchased the subject property (<i>See pg. 190</i>)
01.09.1994	A construction license was issued to the Appellant's predecessor-in-title with respect to the subject property (<i>See pg. 200,201</i>).
17.10.1995	A competition certificate came to be issued (<i>See pg. 201</i>).
29.11.1996	CZMP for Daman and Diu came to be notified
26.11.1998	DCZMA (Respondent No. 2 herein) came to be constituted.
09.11.2012	Daman Municipal Corporation granted a construction license to the Appellant on to construct Ground + 10 floors (<i>See pg. 44</i>)

14. Therefore, it can be safely concluded that:
- i. The subject construction falls within the Municipal limits of the Daman Municipality, and hence, falls in CRZ-II;
 - ii. The grant of the construction license and completion certificate confirms that the subject construction was not in an NDZ.
 - iii. The subject construction was an "existing authorised structure" on the day when the CZMP was notified, which structure significantly became the line demarcating the landward and seaward side for the purposes of CRZ-II.
 - iv. The permission dated 01.09.1994 is more of a confirmation of the structure being pre-existing in CRZ II. That a structure of ground + 10 floors was thereafter granted permission on 09.11.2012, is proof of the plot not being governed by the CRZ notification which allows only ground + one floor.
15. ***Subject construction falls in CRZ-II, and hence reconstruction is permissible:*** It is submitted that once the situs of plot is confirmed in CRZ II, subsequent constructions would be governed only by the municipal laws and not the CRZ regulations.

16. The Appellant, in its reply dated 27.03.2017 to previous show cause notices issued by the Respondent No. 3 dated 15.03.2017 and 16.03.2017, had specifically stated that the subject construction is in CRZ-II, and was a reconstruction in terms of addition and alteration of an existing building within the municipal limits. Further, the Appellant, in its reply dated 09.02.2026 to the Impugned SCN reiterated this stand.
17. Significantly, this position has been confirmed by the District Court in its order dated 20.10.2022 passed in Civil Misc. Appeal No. 02/2019, where it was held that the subject construction does not fall in any of the prohibited categories of the CRZ (*See pg. 74 at 88*). Further, this was also confirmed by the Respondent No. 3 in its affidavit (filed in December 2022), in WP No. 13339 of 2022 (*See pg. 150 at 160*).
18. Lastly, it is of relevance that the Impugned SCN and Impugned Order have been passed in violation of the Hon'ble High Court's order dated 18.12.2025 in WP No. 13339 of 2022 (*See pg. 177 at 178*), whereby the Hon'ble High Court had restrained the Respondents from taking any coercive action "*based on the orders*" impugned in RCS No. 16 of 2019 (filed by the Appellant), i.e., the Respondent No. 3's order dated 27.06.2019, which was based *inter alia* on the lack of permission from the CZMA (*See pg. 62*).
19. To summarise, it is submitted that:
 - a) The failure to comply with the mandatory directions of the Hon'ble Supreme Court in *Re Demolition Matters* and so also the statutory mandate of Rule 4 (3a) of the EP Rules, *ipso facto* renders the Impugned SCN and the Impugned Order void *vide Nawabkhan Abbazkhan (supra)*.

- b) The Impugned SCN and the Impugned Order are also liable to be set aside for failure to comply with the mandatory directions of this Hon'ble Tribunal in *Sesa Goa (supra)*, in not supplying the joint inspection report dated 30.01.2026 to the Appellant, while relying on the same to direct demolition of the subject construction; and in not reflecting any consideration of the justifications offered by the Appellate.
- c) The aforesad violations of principles of natural justice cannot be cured at an appellate stage *vide L.K. Ratna (supra)* and *Zon Hotels (supra)*.
- d) Even on merits, the subject construction is legal and valid being a reconstruction of an existing authorised structure, predating the CRZ Notification's enforcement in Daman and Diu.
- e) The mere distance from the HTL is not determinative of CRZ zoning in municipal areas. The regime of CRZ II cannot be ignored in concluding that subject construction is in CRZ-1A, solely on distance.
20. In view of the above conspectus, it is submitted that the Impugned SCN and Impugned Order are liable to be set aside.

Place- Pune

Date- 12/06/2026



Advocate for the Appellants