

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

WESTERN ZONE BENCH, PUNE AT PUNE

ORIGINAL APPLICATION NO. 21 OF 2024

M/s. Lavino-Kapur Cottons Private Limited.)

... APPLICANT

(ORIGINAL APPLICANT)

IN THE MATTER BETWEEN

M/s. Lavino-Kapur Cottons Private)

Limited,

) ... Applicant

VERSUS

Maharashtra Pollution Control)

Board & Ors.)

...Respondents

WRITTEN SUBMISSIONS ON BEHLAF OF APPLICANT

By this Application, challenging mainly the atrocities and illegalities adopted by the concerned Respondents for payment of untenable and non-payable desludging charges as well as revised non payable differential treatment charges. The closure of the SCADA Valve by the Respondents and threats of disconnection of water supply of the Applicant thereby threatening the closure

entire production activity of the Applicant for alleged non-payment of excessive desludging charges, etc. which Applicant is not liable to pay.

Brief Facts of the Case:

1. The Applicant is a 100% EOU producing absorbent cotton of Pharmacopeial grade and earning valuable foreign exchange for the Country. The Applicant is a Green Card holder and a Two Star Export House Certificate holder issued by the Ministry of Commerce and Industry. The concept of CETP inter-alia for MIDC Tarapur was introduced, to the best of knowledge of the Applicant, for environmental protection of the area, requirement being essentially since several small scale units engaged in work resulting in effluent discharge did not have or were required to have their own effluent treatment plants and, therefore, were discharging large amounts of untreated effluents at high levels of COD. As far as the Applicant is concerned, as required, it has its own functional Effluent Treatment Plant (ETP), the Applicant is required to treat its effluent thereat within the norms prescribed by the MPCB through its consent to operate. Hence all the effluents discharged by the Applicant are

treated at its own ETP that is supervised from time to time by the MPCB. The sludge that is generated by the Applicant is collected, dried and disposed of by the Applicant itself through the Mumbai Waste Management as per the rules framed by the MPCB and the effluents discharged by the Applicant do not contain any sludge. In so far as the treated effluents are concerned, till early 2000, the Applicant was required to discharge the same into the MIDC drain outlet provided by the MIDC. Thereafter, when the CETP was introduced, the MIDC drain outlet was diverted to the CETP which was meant to treat effluent discharge of the non ETP industries. This diversion of the drain outlet to the CETP was done unilaterally by the MIDC and the Applicant had no say in the same. Suffice to state, that since the CETP was required to function for the non ETP industries, there was no requirement for the Applicant's treated effluent to be diverted to the CETP. Indeed, there was also no need for the Applicant to be forced to take a membership of the TEPS (Respondent No. 3) which was running the CETP. As stated hereinbelow, the Applicant though not member of the TEPS has been making payments under duress and under protest.

2. Applicant manufactures absorbent cotton of Pharmaceutical grade, it purchases already (pre) cleaned cotton which it further mechanically cleans as per requirements, bleaches it by a simple Hydrogen Peroxide bleaching process, dries the same and further processes it into (carding) / packs it as per the requirement of the overseas customers. Suffice to state that the final product is required to be free of impurities as it is used for hygiene / personal care products and being a 100% EOU, the Applicant exports its product to very quality-conscious markets of Japan, Australia, New Zealand, Hongkong, UK, Germany, France, USA, Canada, amongst others. Considering the very nature of the product being manufactured and the sector for which it is procured by the overseas customers, it was abundantly necessary to have in-house (at the factory itself) its own Effluent Treatment Plant (ETP).
3. Though having an independent ETP, in or about 2005, the Applicant was asked to join and contribute to the CETP. The Applicant explained to the concerned officials of MPCB that it had its own independent ETP installed as per the relevant guidelines and, as such, it should not be asked to contribute to CETP. However, MPCB's Officials insisted that the

Applicant should contribute Rs. 15 Lakhs to CETP which the Applicant did, under protest. Thereafter, the Applicant was also being regularly charged by MIDC (CETP) towards treatment costs. The Applicant had paid the said charges to CETP, albeit under protest, till January 2023, a sum exceeding Rs. 2 Crores, all the while costs were also incurred by the Applicant for running its own ETP. Therefore, since the introduction of CETP, the Applicant was bearing twice the costs for discharge within the same norm.

Sludge Management:

4. The CETP deals with two kinds of effluents, one of them being sludge. In so far as sludge is concerned, the industries which do not have an ETP require their effluents to be desludged at the CETP, dried and disposed-of through the Mumbai Waste Management. In so far as the Applicant is concerned, as per requirements, the Applicant has, on their own premises, sludge drying beds which, after drying, are collected in HDPE bags, which are stored in a closed shed and sent to Mumbai Waste Management after paying necessary charges. The Applicant, therefore, does not discharge any sludge and does not require the CETP to deal with its sludge, as the same is dealt with by the Applicant

itself. In spite of the same, the TEPS continue to levy desludging charges upon Applicant which is arbitrary and amounts to double jeopardy as the Applicant is incurring humongous cost for treatment of said Sludge and at the same time charged by TEPS for the same.

Monitoring committee:

5. With reference to the issues in the present matter, pursuant to letter dated 23/10/2020 addressed by MPCB which was received by the Applicant on 27/10/2020, it was communicated that the Hon'ble Monitoring Committee was appointed by the Hon'ble National Green Tribunal and was directed to take steps for preventing damage to the environment and for its restoration. The Applicant was further informed that an amount of Rs. 77.513/- Lakhs was assessed towards the purported damage supposedly caused by the Applicant which was calculated for the period of 408 days, at a meeting of the said Hon'ble Committee, which was held on 08/08/2020. The Applicant was further directed to deposit the said amount towards the assessed damage allegedly caused to the environment by then as, 'recovery of environment compensation as per Polluters Pay Principles' to MPCB, failing which, as informed to the Applicant, the

legal action would be initiated against it. It is stated and submitted that the said directions are already impugned in Appeal, bearing filing No. 2704138010282021, preferred by the Applicant under the provisions of Section 16 r/w 18 of the National Green Tribunal Act, 2010, on the grounds more particularly mentioned therein. It is important to note that the said Appeal is sub-judice before this Hon'ble Tribunal awaiting final adjudication. Hereto annexed and marked as **Annexure – A** is the copy of Representation made by the Applicant before said Monitoring Committee. Some of the issues raised in the said Appeal which would directly affect the quantum of penalties which would be, if at all, payable by the Applicant are in short as under:

- a. Wrong categorization of the Applicant as a red industry;
- b. The Applicant is not a member of TEPS. In other words, the membership requirement were never completed between the Applicant and TEPS and the Applicant did not even apply for membership. In fact, the membership was never actually and formally given.
- c. Forced contribution towards penalties levied on the CETP independently of the penalties levied on the

Applicant for the same discharge at their own ETP. In other words, dual penalty for the same offence (for lack of a better word);

- d. Closure directions given based on which the number of days of closure are calculated for the purpose of paying penalties both at the Applicant's personal ETP level and contribution towards CETP. The number of days erroneously calculated as closure days for the purpose of imposing penalty. In other words, erroneous number of days of pollution and report of committee.

As and by way of further transparency and disclosure, it is stated that the representation is also made by the Applicant herein pursuant to Order dated 24/01/2022 passed by the Hon'ble National Green Tribunal, Principal Bench, New Delhi in Original Application No. 64 of 2016, wherein liberty was accorded to make a representation before the Hon'ble Committee, as established, to re-visit the amount of compensation so payable and if payable by the Applicant herein. It is further stated that the said representation is also sub-judice awaiting adjudication.

Penalty Imposed by the TEPS:

6. TEPS, vide its letter dated 27/01/2021 addressed to the Applicant, directed the Applicant to deposit the Applicant's contribution (Rs. 3,75,000/-) as per the Debit Note enclosed therewith, which was claimed to be towards 30% contribution of NGT penalty levied on the CETP as per the Hon'ble Supreme Court directions. In response to the said letter dated 27/01/2021, the Applicant, vide its letter dated 06/02/2021, informed TEPS that though it was making the payment towards the contribution so demanded, it was making the said payment under protest and without prejudice to its rights and contentions. TEPS, vide its letter dated 17/05/2021 addressed to the Applicant which was received on 11/06/2021, again directed the Applicant to deposit the Applicant's alleged contribution towards the fine imposed on the CETP (Rs. 16,00,000/- minus Rs. 3,75,000/- = Rs. 12,25,000/-) as per the Debit Note enclosed therewith, which was claimed to be towards 30% contribution of NGT penalty, which was directed to be deposited (by TEPS) as per the Hon'ble Supreme Court directions. It is important to note that TEPS claimed that since there had been multiple members who had not paid their respective contributions, it was causing a severe financial burden in managing its

operations. It further informed the Applicant that TEPS was also incurring additional financial expenses towards the legal fees which it was paying to defend the case. It was on these counts, TEPS revised the contribution allegedly payable by its members and, accordingly, recalculated the contributions of the Applicant at Rs. 16,00,000/-. Thereafter, TEPS, vide its letter dated 18/02/2022, issued on behalf of its Advocate, demanded a payment of Rs. 6,58,225/- towards the Applicant's contribution share in respect of the costs incurred by TEPS in desludging and disposal charges on the grounds mentioned therein. In the said letter, it was categorically mentioned that as per MPCB's direction, MIDC had to desludge MIDC Sump-2. It was further mentioned that instead of MIDC, TEPS would do the desludging and disposal and, therefore, instead of making the payment to MIDC towards the costs incurred for the purpose of desludging (Sump-2 and Sump-3) and disposal work. It was also mentioned that the Applicant was liable to pay its contribution towards the desludging charges.

7. In this context, it is categorically pointed out to this Hon'ble Tribunal that the sludge which gets generated by the Applicant at its plant is dried and then gets handed over to

Mumbai Waste Management, as per the rules framed by MPCB in this regard. Suffice to state that the desludging charges (the contribution) which was imposed by TEPS was, and continued to be so, even today, *ex facie* arbitrary, invalid and illegal as, against the Applicant, since firstly there is no sludge in the effluent discharged by the Applicant's ETP and secondly, since there is no sludge of the Applicant which requires treatment at the CETP and disposal of the same and thirdly, having an independent ETP the effluent being discharged by the ETP itself is under the prescribed norms of MPCB and, therefore, even the Applicant's effluent does not require any further treatment and disposal, as claimed by TEPS. It is also surprising to note that TEPS claimed the so-called contribution under the guise of uniform charges being levied for all its members irrespective of whether or not they have their own ETP. It is in this context, it is submitted that demanding the charges (the contribution) towards the desludging and disposal work, there being no sludge generated by the Applicant requiring treatment by TEPS and which was admittedly not being carried out by TEPS in the backdrop of the Applicant having its own independent ETP *ex-facie* could not have been demanded from the Applicant

herein and that too in the guise of contribution towards penalty levied on the CETP there being no sludge in the effluent itself. The Applicant, by various letters and notices, denied the charges and penalty imposed upon by said Respondents but TEPS continued to issue such demand notices.

a. TEPS, then by its Letter-cum-Notice dated 16/05/2022 which was received by the Applicant on 21/05/2022, once again directed the Applicant to make the payments mentioned therein [desludging charges: Rs. 6,58,225/- and 30% NGT penalty contribution: Rs. 12,25,000/- payable by CETP Operator (enhanced)]. TEPS, for the first time, threatened the Applicant that if the Applicant did not make the said payment within a period of 5 days from the receipt of the letter / notice, it would close the SCADA Valve and it (TEPS) would not accept its (the Applicant) effluent in CETP and on the reasons more particularly mentioned therein. Needless to state while issuing the aforesaid threat of closure of SCADA valve, TEPS was aware that the same would result in closure of Applicant's manufacturing activities, which in any event and without prejudice to the aforesaid, TEPS has no authority to do and is in breach of the Applicant's

fundamental rights under, inter-alia, Article 19(1)(g) of the Constitution of India.

8. The issuance of this very Letter-cum-Notice dated 16/05/2022 is *ex facie* perverse action on the part of TEPS for the simple reasons – **(i)** the Applicant has its own independent ETP, **(ii)** the effluents discharged from the Applicant's said ETP are already within the norms and parameters prescribed by MPCB, **(iii)** there is no sludge in the effluent discharged by the Applicant's said ETP which purportedly required to be desludged as, as mentioned above, it gets handed over to Mumbai Waste Management, as per the rules framed by MPCB in this regard, **(iv)** the issuance of said such Notice by TEPS with a threat of closing the SCADA Valve is along the lines of assuming the jurisdiction over something which is not conferred unto it by any statute or law for that matter, **(v)** the claim of TEPS was bonafide disputed by the Applicant, **(vi)** that disregarding the dispute and enforcing the threat of closure of SCADA valve resulting in closure would clearly lead to civil consequences which the TEPS not being a quasi-judicial authority could not have done and **(vii)** since the amount claimed by the CETP disputed by the Applicant it was

incumbent upon the TEPS to have the same decided by an appropriate forum and on interpretation in favour of the TEPS it could have enforced its claim again by appropriate authorities and not by itself. It would not be out of place to state and submit that TEPS, has acted in arbitrary, invalid and illegal arm-twisting and high-handed manner, especially when it does not have jurisdiction to do so.

Writ Petition No. 6711 of 2022:

9. Feeling aggrieved by the Notice/letter dated 16/05/2022 sent by TEPS, Applicant approached the Hon'ble Bombay High Court, vide its Writ Petition No. 6711 of 2022. The said Writ Petition came to be disposed of by the Hon'ble Bombay High Court, vide its Order dated 14/06/2022 (Page No. 82 of O.A. 21 of 2024). The Hon'ble High Court observed that the issue involved pertains to jurisdiction of Hon'ble NGT and Applicant was directed to approach before NGT, Pune. Pursuant to the said Order dated 14/06/2022, TEPS, vide its Letter-cum-Notice dated 20/06/2022 (Page No. 93 of O.A. 21 of 2024), which is in furtherance of its earlier (impugned) Letter-cum-Notice dated 16/05/2022, once again, for the reasons more particularly mentioned therein, called upon the Applicant to make the payments mentioned therein ((i)

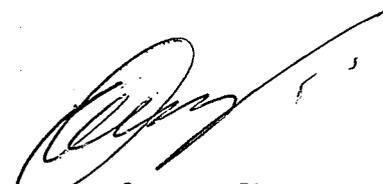
desludging charges: Rs. 6,58,225/-, (ii) 30% NGT penalty contribution: Rs. 12,25,000/-, (iii) Legal and incidental expenses incurred by TEPS: Rs. 2,50,000/- and (iv) revised differential treatment charges: Rs. 9,58,065/-). TEPS also threatened the Applicant that if the Applicant did not make the said payment within a period of 24 hours from the receipt of the letter / notice, it would close the SCADA Valve and it (TEPS) would report the matter to MIDC for disconnection of water supply of the Applicant's industry. The said threat lingers over the head of Applicant till date and consequently resulting into a "Continuous Cause of Action". By reply Notice dated 21/06/2022, Applicant denied the said liability and once again explained how its not liable to pay the same and also questioned about its authority of TEPS to close the SCADA Valve.

Continuous Cause of Action:

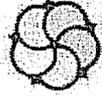
10. The threat of closure of the SCADA Valve by TEPS and threats of disconnection of water supply of the Applicant thereby threatening the closure entire production activity of the Applicant for alleged non-payment of excessive desludging charges, etc. which Applicant is only not liable to pay. The threat being by a private person/entity and not an

authority under the Act is challenged herein and the consequent inaction by Respondent No. 1 & 2 in refusing to ensure that a non-statutory authority does not dangle the sword of closure pursuant to the threats being refusal to exercise jurisdiction and refusing to fulfil their statutory duties of ensuring that the Respondent No. 3 does not carry out its threats which exist even today is the gravamen of the reliefs sought herein though Applicant has also challenged the Notices dated 17th February, 2022, 16th May, 2022 and 20th June, 2022 issued by the Respondents No. 1 & 3 thereby seeking to illegally compel the Applicant herein to make the payments mentioned therein ((i) desludging charges: Rs. 6,58,225/-, (ii) 30% NGT penalty contribution: Rs. 12,25,000/-, (iii) Legal and incidental expenses incurred by TEPS: Rs. 2,50,000/- and (iv) revised differential treatment charges: Rs. 9,58,065/-), the said Notices cannot be considered as the cut of dates for the Cause of Action for the purpose of the limitation. After the said letter cum Notice dated 20th June, 2022 issued by TEPS, the said consequential action of threat of closure of SCADA Valve lingered over the head of Applicant. The Applicant herein diligently addressed the letters/notices to the Respondents thereby clearing its

stand as to how the said Notices from the Respondents were arbitrary and illegal and that how the Applicant herein was not liable to pay the said charges. Moreover, Section 22 of the Limitation Act, 1963, depicts that for a continuing breach of contract or a continuing tort, a new period of limitation begins to run at each moment the breach or wrong continues. This means that the legal time limit for taking action does not just start with the initial act but is extended for as long as the wrongdoing persists. I say that in given case, cause of action does not stop at the impugned Notices challenged but also continued as the threat of closure of SCADA Valve and stoppage of production activity of the Applicant persist beyond the said Notices till date particularly when continued with the inaction by MPCB & MIDC till date. Thus, it's a continuous cause of action for which time frame provided under Section 14 of the National Green Tribunal Act, 2010 doesn't apply. Moreover, the various communication annexed above indicates that Applicant diligently pursuing the Respondents to stop the coercive actions adopted.



Advocate for Applicant



Lavino Kapur
ESTD 1974

Date : 23.04.2022

To,

The Monitoring Committee,
Appointed pursuant to an Order dated 24/01/2022
Passed by the Hon'ble National Green Tribunal,
Principal Bench, New Delhi

Ref : Original Application No. 64 OF 2016 (WZ)

REPRESENTATION-CUM-APPLICATION OF LAVINO-KAPUR COTTONS PVT LTD, THE APPLICANT ABOVE-NAMED, SEEKING APPRECIATION AND RE-DETERMINATION OF COMPENSATION PAYABLE TO MPCB IN LIEU OF CERTAIN FACTS WHICH REMAINED TO BE CONSIDERED:

Respected Committee Members,

Find attached herewith is our Representation-cum-Application preferred pursuant to an Order dated 24/01/2022 passed by the Hon'ble National Green Tribunal, Principal Bench, New Delhi together with the List of Documents being referred to and rely upon by us.

For and on behalf of
M/s. Lavino Kapur Cottons Pvt. Ltd.

Director

Encl : as above.

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To,

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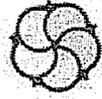
REMAINED TO BE CONSIDERED:

Respected Committee Members,

1. At the very outset, it is stated that the present representation is made by the Applicant above-named pursuant to an Order dated 24/01/2022 passed by the Hon'ble National Green Tribunal, Principal Bench, New Delhi, wherein liberty was accorded to the Applicant(s) mentioned therein to make a representation before this Hon'ble Committee to re-visit the amount of compensation so payable and if payable by the Applicant(s). As and by way of complete transparency

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and disclosure, it is stated that the Applicant above-named has filed its Appeal, bearing Appeal Filing No. 2704138010282021, under the provisions of Section 16 r/w 18 of the national Green Tribunal Act, 2010, on the grounds mentioned therein. It is most humbly submitted that the present representation is filed without prejudice to the rights and contentions of the Applicant above-named.

2. It is categorically submitted that the present representation, as filed, has been filed only to the limited extent of challenging the quantum of compensation imposed which is primarily based on the incorrect calculation of the number of days.

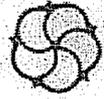
3. Brief facts leading to the filing of the present representation and the grounds upon which the same has been preferred are stated herein below, for the sake of convenience and ready reference.

a. The Applicant is a Company incorporated under the provisions of the Companies Act, 1956, having its factory at Plot No. H1, MIDC, Boisar, District, Palghar.

b. The Applicant is a 100% EOU producing absorbent cotton of Pharmacopeial grade and earning valuable foreign exchange

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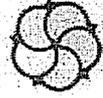
for the Country. It is a Green Card holder and also holder of Two Star Export House Certificate issued by the Ministry of Commerce and Industry. The Applicant exports its entire production to international customers.

c. It is pertinent to note that since the Applicant manufactures Absorbent Cotton of Pharmaceutical grade, it buys already cleaned cotton which it further mechanically cleans as per requirement bleaches it by a simple Hydrogen Peroxide bleaching process, dries the same and further processes it into (carding)/pack it as per the requirement of the overseas customer. Suffice to say that the final product is required to be free of impurities as it is used for hygiene / personal care products and being a 100% EOU, the Applicant exports its product to very quality conscious markets of Japan, Australia, New Zealand, Honkong, UK, Germany, France, USA, Canada, amongst others.

d. Considering the very nature of the product being manufactured and the sector for which it is procured by the overseas customers, it was abundantly necessary to have in-house (at the factory itself) its own Effluent Treatment Plant

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(as suggested by MIDC/MPCB) which was, indeed, installed by Ion Exchange (India) Pvt. Ltd, a specialized entity renowned for the said purpose. The Applicant has regularly received the requisite

consents from Maharashtra Pollution Control Board (MPCB) over the years.

e. Till the early 2000's the Applicant was required to discharge effluents into the MIDC drain outlet provided by the MIDC itself. The concept of CETP (Common Effluent Treatment Plant) for MIDC Tarapur was introduced at about that time and to the knowledge of the Applicant that was for small scale units as such units could not afford their own independent ETP despite their requirement to discharge large amounts of untreated effluents with high levels of COD, which was admittedly not the case with the Applicant on account of it having its own ETP.

f. Despite having an independent ETP, in about 2005, the Applicant was asked to join and contribute to the CETP. The Applicant explained to the concerned officials of MPCB that it had

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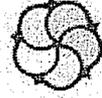
its own independent ETP and, as such, it should not be asked to contribute to CETP. However, the MPCB Officials insisted that the Applicant should contribute Rs. 15 Lakhs to CETP which the Applicant did, under protest.

g. Thereafter, the Applicant was also being regularly charged by MIDC / CETP towards treatment costs. The Applicant had paid the said charges to the CETP till January 2020, a sum exceeding Rs. 1.5 Crores, all the while costs were also incurred by the Applicant for running its own ETP. Therefore, since the introduction of CETP, the Applicant was bearing twice the costs for discharge within the same norm. As far as CETP is concerned, all the industries, without their own ETP, discharged untreated effluents which were collected together and then treated at a common plant, the costs for which were being shared by all, including the Applicant, though not required as it was always having its own independent ETP.

h. Pursuant to letter dated 23/10/2020 which was received by the Applicant on 27/10/2020, it was communicated that

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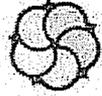
Lavino Kapur
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this Hon'ble Committee has been appointed by the Hon'ble NGT and was directed to take steps for preventing damage to the environment and for its restoration. The Applicant was further informed that an amount of Rs. 77.513 Lakhs was assessed towards the purported damage supposedly caused by the Applicant which was calculated for the period of 408 days, at a meeting of this Hon'ble Committee which was held on 08/08/2020. The Applicant was directed to deposit the said amount towards the assessed damage allegedly caused to the environment by then as, 'recovery of environment compensation as per Polluters Pay Principles' to MPCB, failing which legal action would be initiated against it. The said directions are already impugned in the above-referred Appeal. Annexed hereto and marked as **Exhibit "A"** is a copy of the said letter dated 23/10/2020.

- i. It is important to note, at the cost of repetition that the said Appeal is filed and is awaiting adjudication, however, the present representation is only to the limited extent of the said

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number of days (9 + 399 = 408 days) based on which the amount the purported damages has been assessed at.

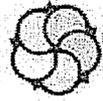
j. It is important to note that on 12/05/2017, MPCB officials visited the Applicant's factory and observed specifically as under:

- i. Industry is found in operation during visit.
- ii. Primary, Secondary, Tertiary treatment facility provided.
- iii. All the units of ETP found in operation.
- iv. JVS collected from final outlet.

k. The said Visit Report was conveyed by Closure Notice dated 17/05/2017 issued under provisions of Sections 33(A) of the Water (P & CP) Act, 1974 and 31(A) of the Air (P & CP) Act, 1981. It is important to note here that it was categorically mentioned therein that MPCB Officials had carried out night surveillance on 12/05/2017 when JVS of the treated effluent was collected and after analysis of the same, the parameter COD 740 mg for per ltr. was found to be exceeding the consented limit

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Lavino Kapur

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which was allegedly disturbing functioning of CETP and which, according to MPCB, was a knowing and willful violation of the consent conditions. In this context, the dates are of paramount importance. The Analysis Report dated 15/05/2017 stated that the Sample was collected on 11/05/2017, Sample was accepted on 12/05/2017 at 3.25 PM. The Closure Notice dated 17/05/2017 was received by the Applicant on 19/05/2017. Immediately thereafter, an email dated 19/05/2017 was addressed to the Principal Scientific Officer of the Respondents as also to the Hon'ble Member Secretary of the MPCB and others, which (email), inter alia, stated that all effluent treatment facilities were provided by the Applicant and were operative around the clock. It was also requested that a fresh sample be taken at any time and the same may be sent to any laboratory for an independent report, for the reasons mentioned therein. Annexed hereto and marked as **Exhibit "B"** is a copy of the said Closure Notice dated 17/05/2017.

I. Thereafter, on 20/05/2017, the Applicant addressed a

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letter to the Regional Officer informing him about various facts in relation to the above-mentioned Closure Notice. Annexed hereto and marked as **Exhibit "C"** is a copy of the said letter dated 20/05/2017.

m. By another letter dated 20/05/2017 addressed to the Senior Regional Officer, it was informed that the date of Sample Collection was shown as 11/05/2017, date of Sample Acceptance was shown as 12/05/2017 and whereas the Visit Report shows that sample was collected on 12/05/2017 and more significantly there was a gap of more than 3 days between the sample collection and the analysis report and it is a well-known fact that COD in the effluent rises if the effluent collected is kept untreated for number of days. Annexed hereto and marked as **Exhibit "D"** is a copy of the said letter dated 20/05/2017.

n. In response to the Applicant's various representations, the MPCB Officials visited the factory on 05/06/2017, i.e. 15 days from the receipt of the Closure Notice on 19/05/2017. Pursuant to the said visit, a conditional re-start direction was issued by MPCB on 09/06/2017. Suffice to say, without getting into the

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merits of the issuance of the Closure Notice dated 17/05/2017, that the factory was closed from 19/05/2017 to 09/06/2017.

o. Thereafter, on 12/10/2017, MPCB Officials, once again, visited the factory to check the water consumption and effluent generation. The report made therefrom categorically mentioned that the Applicant had provided ETP, consisting of primary, secondary and tertiary treatment plant and the same was in operation. There were certain other observations also, from which it was abundantly clear that nothing objectionable and / or violative of any provisions was found.

p. Two more reports of samples collected on 03/05/2018 and 05/06/2018, respectively, also confirmed that there were no problems whatsoever as far as the Applicants' effluents were concerned albeit these reports being from independent private approved / certified laboratories. Annexed hereto and marked as **Exhibit "E" and Exhibit "F"** are copies of the said Reports dated 03/05/2018 & 05/06/2018.

q. The MPCB Officials, thereafter, conducted an inspection in

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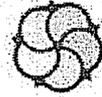
respect of which a report was generated on 25/07/2018. It is very important to note that the said Inspection Report suggested only alleged procedural irregularities but nothing to do with any effluent infractions. Annexed hereto and marked as **Exhibit "G"** is a copy of the said Report dated 25/07/2018.

r. Nevertheless, MPCB Officials issued Closure Notice on 08/08/2018. Only for the sake of clarification and to emphasize in fact that there were no infractions and / or violations related to untreated effluents, the non-compliances mentioned in the report are reproduced herein under:

- i. You are collecting generated effluent through open drain from caking point.
- ii. You have provided 3 numbers of sludge drying bed which are full of sludge and you have not provided monsoon cover to sludge drying bed, hence, chances of sludge flowing with rain water cannot be ruled out.
- iii. You have stored sludge bags about 25 to 30 near the ETP on open land in an unscientific manner.

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- iv. You have been granted consent for nil generation of Hazardous waste, however you are generating HW category number 34.3 and 5.1. (No allegation of discharge as an effluent, since the spent oil was collected and sold to scrap dealers.)
- v. You have provided dust collector to process but found dust emitting from bags.

Annexed hereto and marked as **Exhibit "H"** is a copy of the said Closure Notice dated 08/08/2018.

s. A tertiary glance on the alleged non-compliances clearly indicate that there were no infractions pertaining to discharge of effluent to CETP, much less substandard quality of effluent, however, based on the aforesaid alleged non-compliances, according to MPCB, NGT Order dated 09/09/2016 was violated and consent conditions were allegedly breached by the Applicant and, therefore, Bank Guarantee of Rs. 5,00,000/- furnished by the Applicant was forfeited.

t. Based on incorrect, if not illogical, interpretation, of MPCB's own report, Closure Notice dated 08/08/2018 was issued which

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was received by the Applicant on 11/08/2018. At the cost of repetition, it is categorically pointed out that the said Closure Notice does not indicate actual or even alleged 'discharge of sub-standard effluent to the CETP' based on which premise the same got issued.

u. That much had happened since then but 13 days after the request for the same by the Applicant, a conditional restart direction was issued on 24/08/2018 on such terms and conditions, more particularly mentioned therein. Suffice to state that, even assuming for the sake of argument without admitting the legality of the issuance of the said Closure Notice, the factory was closed only for 13 days.

v. Many requests were made, thereafter, by the Applicant to have the inspection done and after due satisfaction, issue the final Restart Order, the MPCB Officials, for reasons best known to them, arbitrary decided to visit the factory only on 26/09/2019, i.e. after 399 days from the receipt of the conditional restart order dated 24/08/2018. Nevertheless, even if the lethargy and

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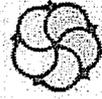
indolence of MPCB authorities is to be ignored, in any event as the calculations above, the penalty can only be for 19 days and not 399 days as taken for the purpose of environmental penalty herein.

w. From the facts mentioned above and the detailed correspondences exchanged by and between the Applicant and the MPCB Officials, it can be seen, beyond reasonable doubt, that the Applicant is not a 'Polluter', much less a 'Repeat Polluter'. Furthermore, even assuming for sake of argument without admitting that the Applicant is a Polluter then also the number of days which were considered for assessing the damage, i.e. 408 (9 + 399) days were illegally, irrationally and illogically calculated. As and by way of convenience, the following dates are reiterated hereinbelow.

- i. In respect of the first alleged closure, Closure Notice is dated 17/05/2017, which was received by the Applicant on 19/05/2017.

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- ii. By the said communication, the Applicant was allowed 72 hours to close down its factory from the date of receipt of the said Closure Notice.
- iii. Accordingly, despite objecting to the said Closure Notice, the Applicant complied with the same and closed down manufacture post 72 hrs.
- iv. A Conditional Restart Order dated 09/06/2017 was then received and the factory was restarted.
- v. While calculating the penalty, the effective days of closure for which the penalty was levied was taken as date of inspection, where irregularities were found i.e. 12/05/2017 to effective date of closure i.e. 21/05/2017 i.e. 9 days.
- vi. Rationally, applying the same formula for the second alleged Closure Notice dated 08/08/2018 received on 11/08/2018, the closure as permitted was after 72 hours.
- vii. A Conditional Restart Order was given and, accordingly, the effective days of closure amount to 19 days on similar parameters as above i.e. date of inspection on which irregularities were found

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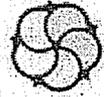
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i.e. 25/07/2018 till 13/08/2018 when closure pursuant to the Closure Notice took place.

- viii. In so far as the second closure is concerned, penalty has been levied on the basis of 399 days instead of 19 days.
- ix. Without prejudice to the challenges of the Applicant to even the said Closure Notices, calculating the effective days of closure and the penalty to be levied thereon would be 28 (19+9) days and not 408 days as has been irrationally imposed upon the Applicant.
- x. The calculation of 399 days for the second instance of closure is furthermore irrational, since it is dependent upon a unilateral compliance verification by MPCB through inspection allegedly carried out for the first time on 25/09/2019.
- xi. In the first instance, the Applicant cannot be penalized for the lethargy of the MPCB in carrying out inspection without any reason after a period of more than a year from the date of the conditional restart order.
- xii. Secondly, even if inspection is the criteria that has to be taken and inspection was carried out after the Conditional Restart Order

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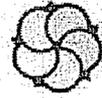
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on 17/12/2018 when samples were collected, the sample acceptance date being 18/12/2018, pursuant to which an Analysis Report was generated on 02/01/2019, whereat no irregularities were found and most certainly no irregularities based on which the second Closure Notice was issued were suggested to be found. Annexed hereto and marked as **Exhibit "I"** is a copy of the said Report dated 02/01/2019.

- xiii. In the circumstances, considering 26/09/2019 as the date of inspection for the purpose of arriving at 399 days is not only illegal but ex-facie arbitrary and untenable at law.
- xiv. The Applicant states and submits, as stated herein above, the Applicant is not a repeat offender, without dealing with the first closure, in as much as the offence leading to imposition of penalty is clearly for environmental damage pursuant to discharge of effluents and the allegations based on which the second closure notice was given does not even suggest that any effluent was actually discharged or was connected to discharge of effluents. The second closure notice, therefore, not being an action for which penalty is leviable cannot be considered for the purpose of

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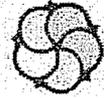
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making the Applicant a repeat offender for the purpose of enhancing the penalties beyond those for a single offence or even for imposing penalty.

4. It is most humbly submitted that the Order dated 17/09/2020, wherein the recovery cost in meeting the environmental damage cost and restoration cost was calculated at Rs. 77.513 Lakhs (with DRCF = 0.0048433) being imposed on the Applicant by the Hon'ble NGT, was based on the number of days of default, though incorrectly considered as 408 days. Pursuant to the Hon'ble Supreme Court's directions dated 18/12/2020, while dealing with the said Order of the Hon'ble NGT, the matter was sent back to the Hon'ble NGT, for considering and deciding the specific objections of the Appellants before the Hon'ble Supreme Court without being influenced by the earlier findings as recorded in the Order dated 17/09/2020 and accordingly, for passing the order therefrom. Thereafter, during the adjudication of the overall dispute, the Hon'ble NGT imposed the recovery cost in meeting the environmental damage cost and restoration cost at 98.397 Lakhs (with DRCF = 0.0061482) on the Applicant, wherein the number of days of default

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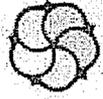
was, once again, incorrectly considered to be 408 days. Suffice to state that not only the incorrect calculation of number of days of default (408 days) remained the same but also because of that DRCF increased invalidly resulting in enhancement of the recovery cost in meeting the environmental damage cost and restoration cost.

5. It is in these premises, reserving the right to agitate the grievances of the Applicant, on the grounds which are more particularly taken in the above-mentioned Appeal, only on this solitary ground of incorrect calculation of number of days based on which the purported damage was assessed, this Hon'ble Committee is requested to revisit the facts related to the calculation of days and reassess (or, truth be told, with due respect, assess as the earlier assessment seems to have been done mechanically) the quantum of compensation towards penalty for the damage allegedly caused by the Applicant. In this context, it is specifically requested of this Hon'ble Committee to kindly accord the Applicant a physical hearing thereby enabling it to satisfy this Hon'ble Committee on our application more effectively and efficaciously.

6. We crave leave to refer to and rely upon the various documents, letters and correspondences as and when and if required.

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7. We crave leave to add/amend/alter any or all of the averments and submissions made hereinabove.

For and on behalf of
M/s. Lavino Kapur Cottons Pvt. Ltd.

Director

Lavino Kapur Cottons Pvt. Ltd.,
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Mumbai 400 021, India.

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Date : 23.04.2022

LIST OF DOCUMENTS

<u>Sr. No.</u>	<u>Particulars</u>	<u>Page Nos.</u>
1.	<u>Exhibit "A"</u> Copy of the letter dated 23/10/2020.	22
2.	<u>Exhibit "B"</u> Copy of the Closure Notice dated 17/05/2017.	23-26
3.	<u>Exhibit "C"</u> Copy of the letter dated 20/05/2017.	27-28
4.	<u>Exhibit "D"</u> Copy of the letter dated 20/05/2017.	29-31
5.	<u>Exhibit "E"</u> Copy of the Report dated 03/05/2018.	32
6.	<u>Exhibit "F"</u> Copy of the Report dated 05/06/2018.	33
7.	<u>Exhibit "G"</u> Copy of the Report dated 25/07/2018.	34-35
8.	<u>Exhibit "H"</u> Copy of the Closure Notice dated 08/08/2018.	36-37
9.	<u>Exhibit "I"</u> Copy of the Report dated 02/01/2019.	38

EXHIBIT 'A' Page 22

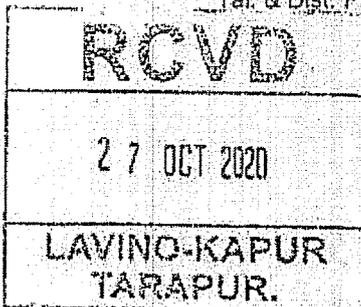
MAHARASHTRA POLLUTION CONTROL BOARD

Tel : 25802272		Regional Office, Thane
Fax : 25805398		5 th Floor, Office Complex Bldg.,
Website: http://mpcb.gov.in		Near Mulund Check Naka,
E-mail Id: rothane@mpcb.gov.in		Wagale Estate, Thane-400 604.

No. MPCB/ROT/647

Date: 23/10/2020

To,
M/s. Lavino Kapoor Cottons Pvt. Ltd.
Plot No. H-1, MIDC Tarapur,
Tal. & Dist. Palghar-401508.



Sub : Directions u/s 33A of the Water (Prevention & Control of Pollution) Act, 1974 and u/s 31A of the Air (Prevention & Control of Pollution) Act, 1981.

Ref : 1. Directions issued by MPCB.
2. Order dtd.17/09/2020 passed by Hon'ble National Green Tribunal, Principal Bench, New Delhi in Original Application No.64/2016 filed by Akhil Bhartiya Mangela Samaj & Ors. vs MPCB & Ors.

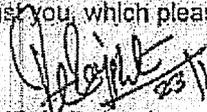
WHEREAS, the Maharashtra Pollution Control Board has issued directions to you time to time.

AND WHEREAS, the Akhil Bhartiya Mangela Samaj and Ors. have filed the Original Application bearing No.64/2016 against MPCB & Ors. before the Hon'ble NGT for seeking directions to close polluting industries discharging effluents in the Arabian Sea and a directions not to grant permission for new industries till CETP norms are complied etc.

AND, WHEREAS, in order to oversee the remedial measures, the Hon'ble NGT has already constituted a Committee vide order dtd.26/09/2019, which will continue vide order dtd.17/09/2020 including District Magistrate, Palghar. The Hon'ble NGT directed the Committee to take steps for preventing damage to the environment and for its restoration. The restoration measures will include improvement of the quality of environment as well as remedying the health of the inhabitant, including providing health care to the affected individuals. The amount assessed be recovered and if, there is non payment, the statutory regulatory bodies will be free to take coercive measures, including closure of the polluting activities and the same may be utilised for restoration of environment.

AND WHEREAS, a meeting of the aforesaid Committee was held on 08/10/2020, wherein, it was decided to assess the environment compensation for the damage caused by you to the environment of an amount of Rs. 77.513 Lakh for 408-days.

AND WHEREAS, as decided by the Committee, you are directed to deposit an amount of Rs. 77.513 Lakh towards the assessment of damage already caused to the environment and recovery of environment compensation as per 'Polluters Pay' Principles to the Maharashtra Pollution Control Board immediately from the receipt of these directions, failing which, the Board will have no option than to initiate appropriate legal action against you, which please note.


(R.A. Rajput)

Regional Officer-Thane

Copy for information to:

- 1) Member Secretary, M.P.C. Board, Sion, Mumbai.
- 2) Principal Scientific Officer, M.P.C. Board, Sion, Mumbai.

Copy to:

Sub Regional Officer, Tarapur-I, M.P.C. Board, Thane: You are directed to serve the directions and report compliance.

EXHIBIT-B

Pages 23 - 26

MAHARASHTRA POLLUTION CONTROL BOARD

Tel : 25802272

Fax : 25805398

Visit us at:

Website : <http://mpcb.gov.in/>E-mail Id: rothane@mpcb.gov.in

No. MPCB/ROT/CD/ 714



RPAD

Regional Office, Thane
5th Floor, Office Complex Bldg.,
Near Mulund Check Naka,
Wagale Estate, Thane-400 604.

Date: 17/06/2017

To,

✓ M/s. Lavino Kapoor Cottons Pvt. Ltd.,

Plot No. H-1,

MIDC Tarapur,

Tal. & Dist. Palghar

Sub:- Closure Directions under section 33A of the Water (P & CP) Act, 1974 & under section 31A of the Air (P. & C.P.) Act, 1981.

Ref :- 1) Consent granted by MPC Board to your Industry
2) Night surveillance carried out by Board officials on dtd. 12/05/2017
3) Office note approved by Member Secretary on dtd. 16/06/2017

WHEREAS, you have been granted consent u/s. 26 of the Water (P & CP) Act, 1974 and U/s 21 of the Air (P & CP) Act, 1981 to your industrial plant in Water Pollution Prevention area subject to certain terms and conditions which are more precisely defined in consent order.

AND WHEREAS, It is obligatory on your part to provide necessary water & air pollution control devices and operate them efficiently and continuously so as to meet the standards prescribed in the consent order. Further, it is mandatory on your part to provide necessary collection, storage, treatment & disposal arrangements for the hazardous waste generated from your activities as per provisions laid down under Hazardous & Other Wastes (M & T M) Rules, 2016.

AND WHEREAS, Board officials has carried out night surveillance on dtd. 12/05/2017 and JVS of treated effluent was collected, and after analysis of the same the parameter COD: 740 mg/lit is exceeding the consented limit which further disturbing functioning of CETP.

AND WHEREAS, after examining all the reports and records available with this office, I have come to the conclusion that you are knowingly and willfully violating the consent conditions thereby provisions of Water (P & CP) Act, 1974 and Air (P & CP) Act, 1981.

2/...

:2:

AND NOW THEREFORE, in the exercise of the powers conferred w/s 33A of Water (Prevention & Control of Pollution) Act 1974, and 31A of Air (Prevention & Control of Pollution) Act, 1981. I, Regional Officer, MPCB, Thane hereby directed to close down your manufacturing activities, with immediate effect. It shall be noted that competent authorities are hereby directed to disconnect your electricity and water supply after completion of time period of 72 hours from receipt of these direction so as to comply with safe closure period and completion of ongoing chemical reactions.

In case of your failure to comply these directions, further suitable action which may be deemed fit, as per the provisions of the Environmental Act's will be initiated against your unit, which may please be noted.

This is issued with the approval of Member Secretary of the Board.


Regional Officer, Thane

Copy submitted to:

1. Hon'ble Member Secretary, M. P. C. Board, Mumbai.
2. Principal Scientific Officer, M. P. C. Board, Slon, Mumbai.
3. Asst. Secretary (Tech.), M. P. C. Board, Mumbai.
4. Law Officer, M. P. C. Board, Mumbai.

Copy to:

1. The Executive Engineer, MSEDCL, Palghar
- He is directed to disconnect electric supply of above mentioned industry after completion of 72 hours from receipt of these direction immediately and report compliance accordingly.
2. The Executive Engineer, Water Supply, MIDC, Wagle Estate, Thane
- He is directed to disconnect water supply of above mentioned industry after completion of 72 hours from receipt of these direction immediately and report compliance accordingly.
3. Sub-Regional Officer, Tarapur-I, MPC Board, Tarapur.
- You are directed to serve these directions to the unit and ensure the compliance of the directions & report accordingly.
4. Master file

Visit Report

1) Name & Add of the Ind :- M/s Lavino Kapoor Cottons
Plot No H-1 MIDC Tarapur

2) Date of visit :- 12/5/2012 00-25 hrs

3) M.P.C.B. officials :-
D.B. Patil R.O.
S.L. Waghmare SRO
K.A. Kerlikar F.O.

4) Ind. Representative :- Ganesh Machhi
ETP operator

5) Observations

⇒ Industry is found in operation during visit

⇒ Primary Secondary Tertiary treatment facilities provided.

⇒ All the units of ETP found in operation.

⇒ TSS collected from final outlet

(PH → 6707)

Ganesh Machhi

K.A. Kerlikar

K.A. Kerlikar
F.O.

S.L. Waghmare

S.L. Waghmare
SRO

D.B. Patil

D.B. Patil
R.O.

MAHARASHTRA POLLUTION CONTROL BOARD
REGIONAL LABORATORY, THANE.



Tel. No. (0253) 25820423
Fax No. (0253) 25805390
Web site: <http://mpcb.gov.in>
Email: mpcbthanelab@mpcb.gov.in

Office Complex Bldg.
5th Floor, Wagla Estate.
Near Mulund Check Naka.
Thane - 400 604.

ANALYSIS REPORT

MPCB/RLT/Urgent JVS/64

Date: 15/05/2017

Regional Officer, Thane

Sample Collected By: RO, Thane,
SRO Tarapur-1 &
Kerlikar (FO) RO Thane.

Lab Report No. J - 327

Sample Collection Date: 11/05/2017
Time: —

Sample Code: MPCB/ROT/NV/JVS-19

Sample Acceptance Date: 12/05/2017
Time: 03.25 pm

Seaf No: 109

Industry Type: Textile.

Parameters	Results
pH	6.7
C.O.D.	740.0
Suspended Solids	25.0

Note: 1) All results are expressed in mg/lit except pH.

- 2) N. A. indicates Not Analyzed.
3) BDL indicates Below Detectable Level.
4) N.D. indicates Not Detectable.

[ETP outlet]

m/s Lavina Kapoor Cottons Ltd
M-1 mpc Tarapur

Ragini Butale
(Ragini Butale)
Scientific Officer
Regional Laboratory, Thane.



ISO 9001:2008 & OHSAS 18001:2007 Certified



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EXHIBIT C

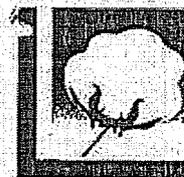
Pages 27-28

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LAVINO-KAPUR COTTONS PRIVATE LIMITED
CIN : U24100MH1974PTC017112

Plant :
Plot H-1, MIDC, Tarapur Industrial Area,
Taps Post, Boisar - 401504,
District - Palghar, India.
Tel. : 00-91 (2525) 272290/91/92
Fax : 00-91 (2525) 273325



Ref. No. FAC/MSS/244/2017-18

20.05.2017

To,
The Senior Regional Officer,
Maharashtra Pollution Control Board,
Sion, Mumbai

MOST URGENT PLEASE

Dear Sir,

Re: M/s. Lavino Kapur Cottons Pvt. Ltd.
Plot No. H-1, MIDC Tarapur,
Tal. & Dist. Palghar
-Letter dated 17.05.2017 received on
19.05.2017 from the Regional Officer

1) In connection with the above, we are enclosing herewith copy of our letter dated 19.05.2017 sent by email to the Regional Officer with copies to Principal Scientific Officer, MPCB, the Hon. Member Secretary, MPCB Board and others. We once again reiterate the submissions made in our earlier letter. In addition to the same, we would like to point out some vital errors that we have noticed in the visit report and Analysis Report.

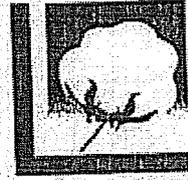
2) In the visit report the name of industry representative is mentioned as Gaurav Machhi, ETP Operator. In this connection it is submitted that Gaurav Machhi is only a worker and not ETP operator. As such the visit report does not bear the signatures of any responsible person from the industry. Further, in the analysis report dated 15.05.2017 the date of sample collection date is shown as 11.05.2017 whereas visit report shows that the sample was collected on 12.05.2017. Further, the sample was collected on 12.05.2017 and the analysis report is dated 15.05.2017 i.e. after a gap of more than three days and it is a well known fact that the COD in the effluent rises if the effluents collected are left untreated for number of days.

... 2



LAVINO-KAPUR COTTONS PRIVATE LIMITED
CIN : U24100MH1974PTC017112

Plant :
Plot H-1, MIDC, Tarapur Industrial Area,
Taps Post, Boisar - 401504,
District - Palghar, India.
Tel : 00-91 (2525) 272290/91/92
Fax : 00-91 (2525) 273325



: 2 :

3) Further, the Analysis Report is not signed by Ragini Butale, Scientific Officer, Regional Laboratory, Thane, and the same is signed by some other unknown person who has clearly put the word 'for' before signing the said report. As such it is clear cut visible that the said report is not signed by Ragini Butale, Scientific Officer, Regional Laboratory, and the same is signed by some unauthorized person and as such the said report has no value whatsoever. Further, as stated above, the said sample was collected behind the back of the assessee company without checking the signatures of any responsible person from the industry and as such the same is of no value and is to be rejected.

4) We, therefore, once again request that the order issued by the Regional Officer, ordering the closure of the unit within 72 hours of the service of the letter be stayed and that fresh sample be collected from the premises of the assessee company in the presence of the responsible officers of the assessee company and the same be sent after sealing and signatures by all concerned to some independent laboratory for their report. As mentioned in our earlier letter, we are a 100% Export Oriented Unit and have been in operations for the last 40 years and we have urgent export orders in hand and we humbly request that our production should not be disrupted for no fault of ours whatsoever.

Thanking you,

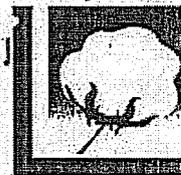
Yours faithfully,
For Lavino Kapur Cottons Pvt. Ltd.

M. S. Kulkarni
Director (Works)



LAVINO-KAPUR COTTONS PRIVATE LIMITED
CIN : U24100MH1974PTC017112

Plant :
Plot H-1, MIDC, Tarapur Industrial Area,
Thaps Post, Boisar - 401504,
District - Palghar, India.
Tel : 00-91 (2525) 272290/91/92
Fax : 00-91 (2525) 273325



Ref.: FAC/MSS/245/2017-18

20.05.2017

To,
The Regional Officer,
Maharashtra Pollution Control Board,
5th Floor, Office Complex Bldg.,
Near Mulund Check Naka,
Wagale Estate,
Thane-400604

The RO-HQ
MPCB
Sion
Mumbai.

MOST URGENT PLEASE

Handy 17
22/5/17
Maharashtra Pollution Control Board
Kelpateru Point, 2/3/4th Floor,
Sion, Malunga Scheme, Road No. 8,
Opp. Sion Circle, Sion (East),
MUMBAI - 400 022.
Phone : 24010437 / 24020781

Dear Sir,

Re: M/s. Lavino Kapur Cottons Pvt. Ltd.
Plot No. H-1, MIDC Tarapur,
Tal.&Dist. Palghar
-Your Letter dated 17.05.2017

1) This has reference to your letter dated 17.05.2017 received in the afternoon on 19.05.2017 and this is in continuation of our earlier email of 19.05.2017 and letter attached to the said email already sent to you. As mentioned in our earlier letters, we have 100% Export Oriented Units situated at the said plot and we have sent you copy of the Green Card in that regard. We would further like to bring to your kind notice that at the Plot No. H-1, MIDC, Tarapur, two independent units are operating, viz:-

- Unit comprising of blow room, kiers and dryers for manufacture of absorbent cotton from raw cotton.
- Unit for manufacture of non-woven roles and finished products therefrom including cotton pads, cotton buds, cotton balls etc.

2) Both the units are housed in two different buildings that are there in the premises. Upto the year 2010 both the units were treated as independent units by Seepz, Central Excise authorities as well as Income-tax authorities. In the year 2010, the company requested Seepz to amalgamate the two units only with a view to reduce the burden of filing of multiple returns for the two units. Copy of letter dated 24.03.2010 approving the merger of the two



LAVINO-KAPUR COTTONS PRIVATE LIMITED

CIN : U24100MH1974PTC017112

Plant :
Plot H-1, MIDC, Tarapur Industrial Area,
Taps Post, Boisar - 401504,
District - Palghar, India.
Tel. : 00-91 (2525) 272290/91/92
Fax : 00-91 (2525) 273325



units received from Seepz is enclosed herewith. Physically, both the units are separate. In the new unit that was put up for manufacture of non-woven roles and products thereof, there is mostly mechanical process involved and there is very little pollution or discharge of harmful waste effluents. The discharged water from the said unit which is discharged after recycling and using it in the said unit only can be tested at any time and it can be seen that the discharge from the said unit is non-polluting and within the norms laid down by the Maharashtra Pollution Control Board.

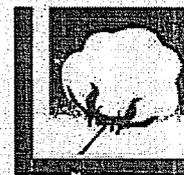
3) Further, as stated above, as the water discharged from the said unit is non-polluting, the said unit's power supply should not be disconnected under any circumstances. As we are a 100% Export Oriented Unit and we have urgent export orders in hand, it is very essential to have the continuous working of the said unit. The purpose of Maharashtra Pollution Control Board is to control the discharge of harmful effluents and not to stop the working of healthy units which have no harmful discharge of effluents. Ours' is one of the first industries in Tarapur and we are there in Tarapur since 1974 and we have been earning valuable foreign exchange for the country. We, therefore, request you to agree to our request and not to disconnect the power supply to our non-woven manufacturing and finished product manufacturing units.

4) As mentioned in our first letter, we have all the effluent treatment facilities provided at our unit. We have the pollution treatment plant which was set by ION Exchange long time back and we are round-the-clock operating the said plant. In fact, we have been putting in all our efforts to improve the efficiency of the said plant. Further, as mentioned in our first letter, the COD mentioned in the analysis report prepared by the Maharashtra Pollution Control Board laboratory is not in order. We have requested that fresh sample may be taken at any time and the same may be sent to independent laboratory for an independent report. We have taken in-house report in respect of the working of the effluent treatment plant during the last few days where the COD was within the permissible limits. As such we were shocked to receive the letter from the Maharashtra Pollution Control Board dated 17.05.2017 received



LAVINO-KAPUR COTTONS PRIVATE LIMITED
CIN : U24100MH1974PTC017112

Plant :
Plot II-1, MIDC, Tarapur Industrial Area,
Taps Post, Boisar - 401504,
District - Palghar, India
Tel. : 00-91 (2525) 272290/91/92
Fax : 00-91 (2525) 273325



by us on 19.05.2017. We may further add that in the absorbent cotton manufacturing unit we use very mild chemicals like Hydrogen Peroxide only for bleaching cotton and that the discharge from our absorbent cotton manufacturing unit after round-the-clock treatment by the ETP operating in our unit is within the norms prescribed by the Maharashtra Pollution Control Board.

5) We, therefore, once again request that the power supply to our company should not be stopped. For the two units there are separate power supply cables in our premises. For the two units separate main switches and starters are installed in our factory. The electric supply for both the units is independent of each other.

6) We once again request that power supply to our non-woven manufacturing unit and the finished product production unit be not disturbed.

7) We humbly request that letter may be issued to M. S. E. B. staying your office earlier letter dated 17.05.2017, issued to them.

Thanking you,

Yours faithfully,

For Lavino Kapur Cottons Pvt. Ltd.

Director (Works)

Aavanira Biotech (P) Ltd. Knowledge Park, D-1 Block, Plot No. - 13/1 Part, MIDC Chinchwad, Pune - 411 019, Maharashtra, India.
 T: +91-20-64100118 / 6300905200; E-mail: info@avanira.com; Web: www.avanira.com
 CINNO: U74900PN2010PTC137544



ISO 9001: 2015 and OHSAS 18001: 2007 Certified Company
ENalyse*

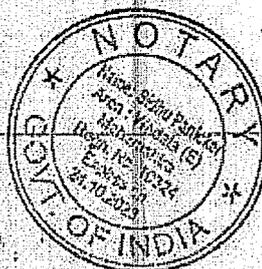
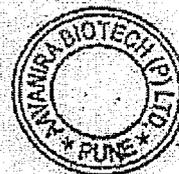
Test Report		REPORT No. AS/LKCP/05/2018-19/1206
Client Details Name & Address: M/s. Lavina Kapur Cottons Pvt Ltd, Plot No. H-1, MIDC, Tarapur Industrial Area, Taps Post, Bofisar.	Sample Code	AS/LKCP/05/2018-19/1206
	Sample Name	Water Sample E/32/18-19
	Sample Collected By	M/s. Shree Swarni Samarth Environmental Consultant.
	Contact Person	Mr. Vitthal Shinde
	Telephone No.	98602 24951
	Method for Sampling	--
	Sample Type	Liquid
	Sample Collected On Date	03/05/2018
	Sample Received On Date	05/05/2018
	Analysis Date	05/05/2018 to 11/05/2018
Reporting Date	11/05/2018	
Sample returned /stored	Stored at 4°C for 1 week from the date of reporting	

Sr. No.	Parameters	Results	Specifications	Units	Standard Methods
Physical Parameter					
1	Suspended Solids	13.0	< 80	mg/lit	IS: 3025 Part-17 (R.A: 1996)
2	TDS	528.0	< 2100	mg/lit	IS: 3025 Part-16 (R.A: 2006)
3	Turbidity	0.75	< 15	NTU	IS: 3025 Part-10 (R.A: 2002)
Chemical Parameter					
1	pH	6.77	6.5 - 9.0	--	IS: 3025 Part-11 (R.A: 2002)
2	BOD	12.0	< 100	mg/lit	IS: 3025 Part-44 (R.A: 2003)
3	COD	42.74	< 250	mg/lit	IS: 3025 Part-59 (R.A: 2006)
4	Oil and Grease	< 2	< 10	mg/lit	IS: 3025 Part-39 (R.A: 2003)
5	Detergents	BDL	< 2	mg/lit	APHA: 22 nd Edition, 5340 C

Verified By - *[Signature]*
 Dr. Neeta Zatakla
 Technical Manager

Authorized By - *[Signature]*
 Sarita Upadhye
 Technical Manager

[Signature]
 Govt. Analyst
 Dr. Girish Alch
 Managing Director
 ---End of Report---



Aavanira Biotech (P) Ltd. Genetic Innovation Park, D-10 Block, Plot No. - 18/1 Part, MIDC Chinchwad, Pune - 411 019, Maharashtra, India.
 Tel: 020-64100119 / 0303005200, e-mail: info@avanira.com, Web: www.avanira.com
 GENO.U7490QPN2010PTC137544



ISO 9001: 2015 and OHSAS 18001: 2007 Certified Company

ENalyze*

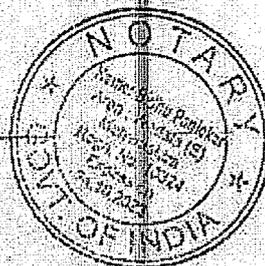
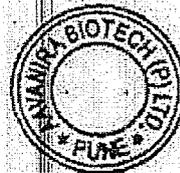
Test Report		REPORT No. AB/LKCPL/06/2018-19/141
Client Details Name & Address: M/s. Lavino Kesar Coltons Pvt Ltd. Plot No. H- 3, MIDC, Tarapur Industrial Area, Tapa Post, Bolnar.	Sample Code: AB/LKCPL/06/2018-19/141	Sample Name: Water Sample-C
	Sample Collected By: M/s. Shree Swami Samarth Environmental Consultant.	Contact Person: Mr. Vitthal Shinde
	Telephone No.: 98602 28951	Method for Sampling:
	Sample Type: Liquid	Sample Collected On Date: 05/06/2018
	Sample Received On Date: 06/06/2018	Analysis Date: 06/06/2018 to 14/06/2018
	Reporting Date: 14/06/2018	Sample returned /stored: Stored at 4°C for 1 week from the date of reporting

Sr. No.	Parameters	Results	Units	Standard Methods
Physical Parameter				
1	Suspended Solids	22.0	mg/lit	IS: 3025 Part-17 (R.A: 1996)
2	Total Dissolved Solids	1095.0	mg/lit	IS: 3025 Part-16 (R.A: 1996)
3	Turbidity	8.39	NTU	IS: 3025 Part-10 (R.A: 2002)
Chemical Parameter				
1	pH	7.02	-	IS: 3025 Part-11 (R.A: 2002)
2	BOD	28.0	mg/lit	IS: 3025 Part-44 (R.A: 2003)
3	COD	96.0	mg/lit	IS: 3025 Part-44 (R.A: 2003)
4	Oil and Grease	3.0	mg/lit	IS: 3025 Part-58 (R.A: 2006)
5	Detergents	0.20	mg/lit	APHA 22nd Edition, 5540 C

Verified By - Dr. Neeta Zatakia
 Technical Manager

Authorized By - Sarita Upadhye
 Technical Manager

Govt. Analyst
 Dr. Bilkash Alch
 Managing Director
 -End of Report-



HEBET.G

MAHARASHTRA POLLUTION CONTROL BOARD

Regional Office Thane

Tel : 022-25829582

email:rothane@mpcb.gov.in



Office Complex Bldg.,
5th Floor, Wagle Estate Road,
Mulund - Cheri Nalin, Thane (W)

Inspection Report

Date: 25/7/18

1. Name & Address of the Industry:- M/s. Lavina Kapur Cottons Pvt Ltd,
Plot No. 4-1, MIDC Tarapur,
Tal of Dist - Palghar
2. Year of Commissioning :- Since 1977
3. Name of the Director/Partner :- M.S. Subramanian, Director.
4. Industry Representative :-
5. Contact Details :- 9823987876, plant@lavinokapur.com
6. Consent Status :- Valid upto 31/10/2017. Applicant for Renew.
7. Water Consumption :- Ind. Process: 1380 CMD Cooling: 75 CMD Domestic: 40 CMD
8. Effluent Generation M³/D :- Ind.: 1380 CMD Domestic: 40 CMD - Consented
9. Water Pollution Control System:- ETP comprising Collection Cum Equalization,
Neutralisation, Cooling tower aeriation,
10. Treated effluent disposal details:- Secondary clarifier, PSP & ACF of Decanter
C-ETP
11. Air Pollution Control System :- Dust Collector to process of stack
12. Hazardous Waste Generation :- 34.5 - ETP Sludge - 100 kg/m, 1200 L

OBSERVATIONS

- ⇒ Industry visited for checking compliance of consent conditions.
- ⇒ During visit industry was found in operation. Engaged in the mfg. of Absorbent Cottons Pharmacopial Grade 5400 MT/ as per official of the unit present production is an average 1800 MT/A.
- ⇒ As per consent total water consumption is 1495 CMD including process, domestic & cooling purpose.
- ⇒ As per last 6 months water bill shows average water consumption is 804 CMD @ (26 working days in a month)
- ⇒ Unit has provided ^{ETP} capacity 1500 CMD.

Industry Representative

⇒ PLS see on next page.
F.O./SRO/RO P.T.D

- ⇒ Provided treated effluent collection tank of lay pump which is discharging to CETP drain
- ⇒ Provided online pH & flow meter
- ⇒ Unit is generating industrial effluent about 90% to 70% COD means as it shows continuity water consumption & generation
- ⇒ Provided separate energy meter to ETP.
- ⇒ Unit has generating H/W category no. 34.3 of S.I.-used oil but not shown category S.I in the consent.
- ⇒ As per form-10 disposed H/W category No 34.3 ~~about~~ S.I 90% to CHWTSDF on ~~24/04/2018~~ 30/04/2018. & category no. S.I - 1040 ~~at~~ by on 24/04/2018 to Daya Lubricants Pvt. Ltd., Vasai through Jai Ambe transport, Vasai.
- ⇒ Provided 3 sludge drying bed which is full of sludge. Not provided manhood cover to it as well as about 25 to 30 gunny bags full of sludge kept near the ETP on open in an unsanitary manner.
- ⇒ Unit is collecting generated effluent through open drain from Caking Unit.
- ⇒ Generated Non H/W disposed to local scrap vendor
- ⇒ Provided dust collector to process but found dust emitting from bags
- ⇒ Generating non H/W i.e. canteen waste which is not shown in the consent. as well as generation quantity of disposal details not available in the factory. As per official generation of canteen waste is negligible of which is disposed to local vendor.

U. S. Subramanian
(U. S. Subramanian)
Director

J. B. Bhutwarra
(J. B. Bhutwarra)
FO

Dr. J. M. Jadhav
(Dr. J. M. Jadhav)
SRO, Tarapur-II

EXHIBIT-H

Page 36-37

MAHARASHTRA POLLUTION CONTROL BOARD

Tel: 25802272

Fax: 25805398

Visit us at:

Website: <http://mpcb.gov.in/>E-mail Id: rothane@mpcb.gov.in

No. MPCB/ROTCD/905



Regional Office, Thane
5th Floor, Office Complex Bldg.,
Near Mulund Check Naka,
Wagale Estate, Thane-400 604.

Date: 08/08/2018

To,

M/s. Lavino Kapur Cotton Pvt. Ltd.,
Plot No. H-1, MIDC Tarapur,
Tal. & Dist. Palghar 401 505

MPCB 720

Recd by
T. P. Mack
ON 21/8/18

Sub:- Closure Directions under section 33A of the Water (P & CP) Act, 1974 & under section 31A of the Air (P. & C.P.) Act, 1981.

Ref :- 1) Consent granted by Board
2) Hon'ble NGT Western Zone (Pune) Order dtd. 09/07/2018
3) Survey Order No. MPCB/JDWPC/2768, dtd. 26/07/2018
4) Approval for action received from M.P.C. Board Head Office dtd. 07/08/2018

WHEREAS, you are operating your Industry in Water & Air pollution prevention area declared under Water (P & CP) Act, 1974 Air (P & CP) Act, 1981. AND WHEREAS, Board has granted consent to your industry subject to certain terms & conditions imposed therein.

WHEREAS, you have been granted Conditional combine Consent to operate and under the provisions of the Water (P&CP) Act, 1974 and the Air (P&CP) Act, 1981 and the Hazardous Waste (Management, Handling & Transboundary Movement) Rules, 2016. AND WHEREAS, it is obligatory on your part to comply those conditions and provide necessary water pollution, air pollution control and Hazardous Waste Management devices and operate the same so as to meet the standards prescribed by the Board.

AND WHEREAS, the Board Officials visited to your unit on 25/07/2018. The non-compliances observed during the visit are as follow:

1. You are collecting generated effluent through open drain from caking unit.
2. You have provided 3 nos. of sludge drying bed which are full of sludge & you have not provided manson cover to sludge drying bed, hence chances of sludge flowing with rain water cannot be ruled out.
3. You have stored sludge bags about 25 to 30 near the ETP on open land in an unscientific manner.
4. You have been granted consent for nil generation of Hazardous waste, however you are generating HW category no. 34.3 & 5.1.
5. You have provided dust collector to process but found dust emitting from bags.

AND WHEREAS, it is observed that, you are violating the NGT Order dtd. 09/09/2016 and consent conditions thereby discharging sub-standard quality of effluent to CETP. Hence the existing Bank Guarantee you have submitted are forfeited.

AND WHEREAS, after examining all the reports and records available with this office, I have come to the conclusion that you are knowingly and willfully violating the consent conditions under the provisions of Water (P & CP) Act, 1974 and Air (P & CP) Act, 1981.

: 2 :

AND NOW THEREFORE, in the exercise of the powers conferred u/s 33A of Water (Prevention & Control of Pollution) Act 1974, and 31A of Air (Prevention & Control of Pollution) Act, 1981, I, Regional Officer, MPCB, Thane hereby directed to close down your manufacturing activities, within 72 hours taking all precautionary measures for safe closure, It shall be noted that competent authorities are hereby directed to disconnect your electricity and water supply.

In case of your failure to comply these directions, further suitable action which may be deemed fit, as per the provisions of the Environmental Act's will be initiated against your unit, which may please be noted.

This is issued with the approval of Competent Authority of Board.


(M. R. Lad)
Regional Officer, Thane

Copy submitted to:

1. Hon'ble Member Secretary, M. P. C. Board, Mumbai.
2. Principal Scientific Officer, M. P. C. Board, Sion, Mumbai.
3. Asst. Secretary (Tech.), M. P. C. Board, Mumbai.
4. Law Officer, M. P. C. Board, Mumbai.

Copy to:

1. The Executive Engineer, MSEDCL, Palghar
- He is directed to disconnect electric supply of above mentioned industry after completion of 72 hours from receipt of these direction immediately and report compliance accordingly.
2. The Executive Engineer, Water Supply, MIDC, Wagle Estate, Thane
- He is directed to disconnect water supply of above mentioned industry after completion of 72 hours from receipt of these direction immediately and report compliance accordingly.
3. Sub-Regional Officer, Tarapur-I, MPC Board, Tarapur.
- You are directed to serve these directions to the unit and ensure the compliance of the directions.
4. Master file

RCVD

21 AUG 2018

LAVINO-KAPUR
TARAPUR.

Time: 12.16

EXHIBIT - I

Page 38

MAHARASHTRA POLLUTION CONTROL BOARD
REGIONAL LABORATORY, THANE



Tel. No. (0253) 25820423
Fax No. (0253) 25805390
Web site: <http://mpcb.gov.in>
Email: mpcbthanelab@mpcb.gov.in

Office Complex Bldg.
5th Floor, Wagle Estate.
Near Mulund Check Naka.
Thane - 400 604.

ANALYSIS REPORT

MPCB/RLT/IJS/270
Sub Regional Officer, Tarapur - I
Lab Report No. J - 896
Sample Code No. SROTR - IJS/1676
Seal No. 108

Date: 2/1/19
Sample Collected By: A. M. Jadhav (FO)
Sample Collection Date: 17/12/2018
Sample Acceptance Date: 18/12/2018
Industry Type: Textile

Particulars	Result
pH	6.8
B.O.D.	65.0
C.O.D.	244.0
Suspended solids	88.0
Oil & Grease	4.2
TAN	5.34
Detergent	0.20

Note: 1) All results are expressed in mg/Lit except pH.
2) N.A. Indicates Not Analysed.
3) BDL Indicates Below Detectable Level.
4) N.D. Indicates Not Detectable.

M/s. Lavimo Kapur Cotton Pict. Ltd.
H-1, MIDC Tarapur
(ETP outlet)

Rajini Bhatle
(Rajini Bhatle)
Scientific Officer,
Regional Laboratory, Thane



ISO 9001: 2015 & OHSAS 18001: 2007 Certified

