Item No. NATIONAL LGREEN TRIBUNAL

SOUTHERN ZONE, CHENNAI

Appeal No.4 of 2020

(I.A.No.17 & 58/2020)

Through Video Conference)

In the matter of

The Thandava Co-operative Sugars Ltd.,
Their Managing Director,
Payakaraopeta,
Visakhapatnam District,
Andhra Pradesh .. Appellant

Vs.

1.Central Pollution Control Board,
Through their Member Secretary,
East Arjun Nagar, Delhi.

2. Andhra Pradesh Pollution Control Board,
Through their Member Secretary,
Industrial Estate, Sanath Nagar,
Hyderabad.

3. CPCB Regional Directorate (South),
Through their Regional Director,
Central Pollution Control Board,
Thimmaiah Road, Shivanagar,
Bangalore .. Respondents

Judgment reserved date: 27.7.2020

Date of pronouncement/uploading: 28 .8.2020

Coram: Hon'ble Mr. Justice K. Ramakrishnan, Judicial Member

Hon'ble Mr. Saibal Dasgupta, Expert Member

Whether judgment is allowed to be published on the Internet – Yes/No

Whether judgment is to be published in All India NGT Reporter - Yes/No

Counsel for appellant .. Mr. Bhartari

Counsel for respondents .. Mr. D.S. Ekambaram and
Mrs. Jaylakshmi for R1 & R3

Judgment

Delivered by Justice K. Ramakrishnan, Judicial Member

The above appeal has been filed by appellant against the impugned order passed by first respondent against appellant unit as per Annexure A-1 proceedings No.B-360(S)/IPC-III/2019-20/10206 dated, 17.12.2019, imposing an environmental compensation of Rs.21.90,000/- (Rupees Twenty One Lakhs and Ninty Thousand Only).

2. Appellant is a co-operative society, registered under the provisions of Madras Co-operative Societies Act, 1932 on 9.2.1957. Appellant is engaged in sugar manufacturing , having their unit at Payakaraopeta,

Visakhapatnam District. The Certificate of Registration of the appellant dated 5.2.2014 is produced as Annexure A-2. Appellant had obtained 'consent to operate' from Andhra Pradesh Pollution Control Board and it was renewed as per letter dated 3.12.2018 upto 30.11.2023. It was produced as Annexure A-3.

3. Appellant received Annexure A-4 show-cause notice dated 24.7.2015 issued by first respondent for non-installation of online emission and effluent monitoring system (OCEMS). Appellant sent Annexure A-5 reply dated 14.9.2015 stating that necessary steps were being taken for the same. Since appellant could not comply with the direction within the time, first respondent issued Annexure A-6 'closure' direction dated 22.8.2016 directing appellant not to proceed with the manufacturing process until the on-line monitoring system is installed and started functioning.

4. Appellant placed orders for the machineries required for installation of on-line effluent monitoring system and they had installed the same during the season for the year 2016-17. Appellant also registered the unit on the on-line portal, specifically with respondents 1 and 2. They had also intimated the same to first respondent vide Annexure A-7 letters dated 29.9.2016, 1.10.2016, 25.11.2016 and 6.6.2017. They had also sent the screen shots of their emission and effluent parameters during the operation

of their unit to first respondent along with self-certificate and other related documents, as required by first respondent. The purchase order dated 24.11.2016 and other related papers are produced as Annexure A-7 series.

5. The on-line monitoring system had been installed in the appellant unit and the appellant commenced their crushing operation from 3.12.2016. Due to the remote location of their unit, they faced connectivity problems of their on-line monitoring system and lot of time was taken by the service provider for providing continuous internet connection to the appellant unit. The information with regard to the operation of the appellant unit was also sent to the Excise Department as per the provisions of the Central Excise Rules, including the date when the crushing operation for sugar for the year 2016 – 17 was started and completed on 3.12.2016 and 17.2.2017 respectively for the period of operation for the sugar season 2016-17 vide Annexure A-8. The first respondent vide Annexure A-9 revocation order dated 4.7.2017 allowed the appellant to resume their manufacturing operation.

6. However, first respondent noticed that appellant closed their operation on 17.2.2017, after operating the unit for the crushing season 2016-17 and they did not comply with the 'closer' direction dated 22.8.2016. Thereafter, they issued Annexure A-10 notice dated 20.2.2019

showing cause as to why penalty of Rs.23,10,000/- (Rupees Twenty Three Lakhs and Ten Thousand Only) should not be imposed against appellant, as they had started operation during crushing season 2016-17 without obtaining 'revocation' order of 'closure' direction.

7. Appellant sent Annexure A-11 reply statement dated 16.32019. They had also submitted Annexure A-12 representation dated 22.3.2019 requesting first respondent to withdraw the order, levying environmental compensation stating that they had installed the equipment but due to poor connectivity, they could not comply with the direction fully. They also mentioned that the appellant was a non profit unit, suffered heavy loss and expressed their inability to pay the amount. They are having lot of financial commitments.

8. Since the application was not considered, they filed Appeal Diary No.43 of 2019, evidenced by Annexure A-14 before the Tribunal and the Tribunal, by Annexure A-15 order disposed of the appeal by order dated 22.5.2019, directing the first respondent to give opportunity to appellant to submit their view point and pass appropriate final orders in accordance with law. Thereafter, appellant submitted Annexure A-16 view point dated 29.5.2019. Thereafter, personal hearing was conducted on 9.8.2019. Then first respondent passed the present impugned order dated

17.12.2019, imposing environmental compensation of Rs.21,90,000/- (Rupees Twenty One Lakhs an Ninty Thousand only) for the non compliance of the direction for the period from 3.12.2016 till 13.2.2017. Appellant also produced Annexure A-17 and A-18 orders of first respondent in respect of other units, reducing the environmental compensation substantially. Appellant sent Annexure A-19 representation, seeking withdrawal of the order.

9. But there was no response received from first respondent and the present appeal has been filed by appellant, challenging that order on the following grounds:

(i)There is no provision under the Environment (Protection) Act, 1986 for imposing any environmental compensation by first respondent.

(ii) The order does not show the manner in which the compensation was calculated.

(iii) There is no uniform standard adopted by first respondent in imposing environmental compensation in respect of other units.

(iv) They have already complied with the direction.

(v) The appellant had extended the time for installation of OCEMS for other units till 31.1.2017 but such extension was not granted in respect of the appellant unit.

(vi) It is not a polluting unit.

(vii) If that period is taken as the period of installation of OCEMS in their unit, then there was no violation on their part.

(viii) They are not liable to pay any environmental compensation.

10. The first respondent filed counter affidavit contending as follows:

The application is not maintainable. Central Pollution Control Board has taken a policy decision for installation of on-line emission effluent monitoring system for possible polluting industries as a precautionary measure and improve the pollution control mechanism and monitor the same in an effective manner. Accordingly, directions were issued to the State Pollution Control Boards/Pollution Control Committees to direct the industries to install on-line continuous effluent monitoring system (OCEMS).

11. Since appellant did not install the same within the time specified, 'closure' direction dated 22.8.2016 was issued to the appellant unit,

directing them not to operate the unit until the on-line continuous effluent monitoring system is installed in their unit.

12. Appellant sent a letter dated 25.11.2016 informing that they placed purchase order for on-line continuous effluent monitoring system and on getting it, the same would be installed. They also received letter dated 19.5.2017 and 6.2.2017 for revoking the closure order issued, without furnishing the necessary connectivity details. Further, on inspection, it was revealed that the appellant unit was functioning during crushing season, commencing from 3.12.2016 and it was closed only on 17.2.2017.

13. After installation of the on-line continuous effluent monitoring system in the appellant unit, first respondent had issued Annexure IV revocation order dated 4.7.2017. Thereafter, since the appellant had not closed the unit during the pendency of the closure direction in full and also the delay in implementing the direction, they have decided to issue Annexure - V direction dated 20.2.2019, levying environmental compensation of Rs.23,10,000/- (Rupees Twenty Three Lakhs and Ten Thousand only) and directed them to deposit the same within 15 days, invoking the power under Section 5 of the Environment (Protection) Act, 1986. In the direction, it was mentioned that the amount was imposed for the non-compliance period from 3.12.2016 to 17.2.2017. The steps were

taken to realize environmental compensation from appellant on the basis of the general directions issued by the National Green Tribunal, Principal Bench, New Delhi in PARYAVARAN SURAKSHA SAMITI & ANR VSA. UNION OF INDIA & ORS (O.A.No.593 of 2017 (W.P.(Civil) No.375 of 2012) where a direction was issued to Central Pollution Control Board to evolve a methodology and formula for imposing environmental compensation against the erring industrial units and on that basis, a committee was constituted by Central Pollution Control Board and methodology was evolved and it was submitted to the Principal Bench of the National Green Tribunal, New Delhi and the same has been accepted by the Principal Bench of the National Green Tribunal, New Delhi as per order dated 28.8.2019 in the above proceedings and it was also mentioned that this amount can be utilized for the purpose of restoring the damage caused to environment.

14. Further, appellant has filed an appeal before the National Green Tribunal earlier and the said appeal was allowed, directing the Central Pollution Control Board to treat the impugned notice, as a preliminary order and after giving an opportunity to appellant to submit their view point on the quantum of compensation and liability to pay the amount, pass appropriate fresh orders in the matter.

15. Accordingly, appellant had submitted their objection and personal hearing was given and thereafter, the amount was recalculated. Further, considering the objections, the present impugned order was passed for the period of non compliance from 3.2.2016 to 13.2.2017 refixing the amount of Rs.21,90,000/- (Rupees Twenty One Lakhs and Ninety Thousand Only) as there was a reduction in the number of days of violation calculated by Central Pollution Control Board. There is no illegality committed by first respondent in imposing environmental compensation and they prayed for dismissal of the appeal.

16. The appellant filed rejoinder, denying the averments in the reply affidavit and also reiterating their contention in the appeal memorandum for justifying their stand of non liability to pay the environmental compensation imposed. Further, they have also mentioned that the unit could not be closed and if it was closed, great loss would have been caused to the unit and also hardship would have been caused to the employees and the stock collected prior to the closure order would have been deteriorated, if the crushing operation was not done. So according to them, the operation of the unit was not willful or deliberate. They also mentioned that they ought to have been given extension upto 31.1.2017 as appellant unit has also installed OCEMS and not extending the period to

appellant is not proper. If that period is taken, the number of days of violation will be far less and there will be reduction in the compensation payable. So they prayed for allowing the appeal.

17. Both appellant as well as first respondent submitted their written submission and they were heard in detail.

18. Mr. Bhartari, learned counsel appearing for appellant submitted that the period of violation taken is not proper. Further, first respondent has no power to impose environmental compensation under Section 5 of the Environment (Protection) Act, 1986. The benefit of extending time for installation upto 31.1.2017 should have been extended to appellant unit as well. The amount of compensation assessed is excessive. There is no uniform yard stick applied by first respondent for imposing environmental compensation in respect of other industries when compared to appellant unit. Without prejudice to the above contentions, learned counsel also submitted that if for any reason the Tribunal feels that the imposition of environmental compensation is justifiable, they may be given facility of depositing the compensation amount in monthly instalments and that amount can be deposited in the account of environmental compensation of industries of the State Government to utilize as per the action plan to be

submitted by appellant for improving their environmental causes, as permitted by first respondent in respect of other industrial units.

19. On the other hand, Mrs. Jayalakshmi, learned counsel appearing for Central Pollution Control Board submitted that 'closure' order was issued as early as on 22.8.2016 for non compliance of the direction of installation and connectivity of OCEMS and they were directed not to operate the unit till the system was installed. They have not installed the system but operated unit from 3.12.16 and stopped functioning from 17.2.2017 and when they went for verification, it was revealed that inspite of 'closure' order issued for the crushing season starting from 3.12.2016 upto 17.2.2017 they were functioning without getting the revocation order. in view of that, the violation period was taken as 77 days and it is on that basis the environmental compensation of Rs.23,10,000/- (Rupees Twenty Three Lakhs and Ten Thousand Only) was imposed earlier. Later, after disposal of the earlier appeal and in compliance with the direction in that appeal, personal hearing was conducted and after considering objections, the period of violation was reduced to the period from 3.12.2016 to 13.2.2017 when the OCEMS was installed and started functioning and thereby the present amount of Rs.21,90,000/- (Rupees Twenty One Lakhs and Ninty Thousand Only) was imposed as environmental compensation.

The environmental compensation was imposed on the basis of the directions given by the Principal Bench of National Green Tribunal, New Delhi in PARYAVARAN SURAKSHA SAMITI & ANR VSA. UNION OF INDIA & ORS (O.A.No.593 of 2017 (W.P.(Civil) No.375 of 2012). So there is no illegality committed by first respondent in imposing environmental compensation and that does not call for any interference.

20. Heard learned counsel on both sides and perused the submissions made by them.

21. The points that arise for consideration are:

(i)Whether the contention of appellant that Central Pollution Control Board has no jurisdiction or power to impose environmental compensation is sustainable?

(ii) Whether the quantum of environmental compensation imposed requires any interference?

(iii) If so, what is the quantum of compensation payable?

22. POINT NO.(i): Learned counsel for appellant submitted that Central Pollution Control Board has no power to impose environmental compensation either under the Environment (Protection) Act, 1986 or under

the Water (Prevention and Control of Pollution) Act, 1974 or Air (Prevention and Control of Pollution) Act, 1981.

Section 3 of the Environment (Protection) Act, 1986 reads as follows:

"*Section 3 of The Environment (Protection) Act, 1986*

Power of Central Government to take measures to protect and improve environment. —

(1) Subject to the provisions of this Act, the Central Government shall have the power to take all such measures as it deems necessary or expedient for the purpose of protecting and improving the quality of the environment and preventing, controlling and abating environmental pollution.
(2) In particular, and without prejudice to the generality of the provisions of sub-section (1), such measures may include measures with respect to all or any of the following matters, namely:—
(i) co-ordination of actions by the State Governments, officers and other authorities—
(a) under this Act, or the rules made thereunder; or
(b) under any other law for the time being in force which is relatable to the objects of this Act;
(ii) planning and execution of a nation-wide programme for the prevention, control and abatement of environmental pollution;
(iii) laying down standards for the quality of environment in its various aspects;
(iv) laying down standards for emission or discharge of environmental pollutants from various sources whatsoever: Provided that different standards for emission or discharge may be laid down under this clause from different sources having regard to the quality or composition of the emission or discharge of environmental pollutants from such sources;
(v) restriction of areas in which any industries, operations or processes or class of industries, operations or processes shall not be carried out or shall be carried out subject to certain safeguards;
(vi) laying down procedures and safeguards for the prevention of accidents which may cause environmental pollution and remedial measures for such accidents;

(vii) laying down procedures and safeguards for the handling of hazardous substances;
(viii) examination of such manufacturing processes, materials and substances as are likely to cause environmental pollution;
(ix) carrying out and sponsoring investigations and research relating to problems of environmental pollution;
(x) inspection of any premises, plant, equipment, machinery, manufacturing or other processes, materials or substances and giving, by order, of such directions to such authorities, officers or persons as it may consider necessary to take steps for the prevention, control and abatement of environmental pollution;
(xi) establishment or recognition of environmental laboratories and institutes to carry out the functions entrusted to such environmental laboratories and institutes under this Act;
(xii) collection and dissemination of information in respect of matters relating to environmental pollution;
(xiii) preparation of manuals, codes or guides relating to the prevention, control and abatement of environmental pollution;
(xiv) such other matters as the Central Government deems necessary or expedient for the purpose of securing the effective implementation of the provisions of this Act.
(3) The Central Government may, if it considers it necessary or expedient so to do for the purposes of this Act, by order, published in the Official Gazette, constitute an authority or authorities by such name or names as may be specified in the order for the purpose of exercising and performing such of the powers and functions (including the power to issue directions under section 5) of the Central Government under this Act and for taking measures with respect to such of the matters referred to in sub-section (2) as may be mentioned in the order and subject to the supervision and control of the Central Government and the provisions of such order, such authority or authorities may exercise the powers or perform the functions or take the measures so mentioned in the order as if such authority or authorities had been empowered by this Act to exercise those powers or perform those functions or take such measures.

23. Section 5 of The Environment (Protection) Act, 1986 reads as follows:

Section 5 in The Environment (Protection) Act, 1986

Power to give directions. —Notwithstanding anything contained in any other law but subject to the provisions of this Act, the Central Government may, in the exercise of its powers and performance of its functions under this Act, issue directions in writing to any person, officer or any authority and such person, officer or authority shall be bound to comply with such directions. Explanation. —For the avoidance of doubts, it is hereby declared that the power to issue directions under this section includes the power to direct—
(a) the closure, prohibition or regulation of any industry, operation or process; or
(b) stoppage or regulation of the supply of electricity or water or any other service.

24. In view of Section 3 of the Environment (Protection) Act, 1986, Central Pollution Control Board has a duty to make measures to protect and improve environment and certain aspects have been provided as to how they have to be dealt with. Sub-clause (xiv) of sub-section (2) of Section 3 the Environment (Protection) Act, 1986 gives power to give further direction for the purpose of effective implementation of the provisions of this Act. Sub-section (3) of Section 3 of the Environment (Protection) Act, 1986 authorises the Central Government to constitute an 'appropriate authority' to take measures, as provided under sub-section (2) of Section 3. That was how Central Pollution Control Board has been constituted for the purpose of effective implementation of the Environment (Protection) Act, 1986 to take all measures to abate pollution that is likely to be caused on account of operation of industrial units due to their non-compliance of the directions issued or conditions imposed in the consent

granted. Further, the Apex Court, in several cases, have come to the conclusion that unless the violators are directed to pay compensation for causing pollution by applying the 'polluter pays' principle, no purpose will be served and evolved the doctrine of 'polluter pays' to realise environmental compensation from the erring units and directed the regulating authorities to take steps to implement the order and realise environmental compensation and utilise that amount for restoration of damage caused to environment.

25. Further, the Principal Bench of the National Green Tribunal in PRYAVARAN SURAKSHA SAMITI & ANR. VS. UNION OF INDIA & ORS (O.A.No.593 of 2017 (W.P.(Civil) No.375 of 2012) on the basis of the direction issued by the Hon'ble Supreme Court directed Central Pollution Control Board to evolve a formula for assessing environmental compensation against the erring units for non-compliance of the direction and accordingly Central Pollution Control Board had constituted a committee and evolved a formula as to how Environmental Compensation has to be assessed and the formula so evolved is Penalty = PI x N x R x S x LF where environmental compensation is in rupees. PI = Pollution Index of industrial sector , N - means number of days violation took place. R – means a factor of rupees or environmental compensation, S – means

factor of scale of operation and LF – means location factor and also given as to how the amount will have to be given in each case for the purpose of calculating environmental compensation and that formula in principle was accepted by the Tribunal and directed Central Pollution Control Board to issue further directions to State Pollution Control Boards to recover compensation, applying the 'polluter pays' principle from the violators. This direction of the Principal Bench of this Tribunal has not been challenged by any one. It is on that basis that Central Pollution Control Board had issued directions to the State Pollution Control Boards/ Pollution Committees to apply the formula and recover environment compensation from the violator units on the basis of the guide lines issued.

26. Central Pollution Control Board also filed O.A.No.256 of 2017 before this Bench, seeking interference of this Tribunal to implement the 'closure' order issued by Central Pollution Control Board which this Tribunal had disposed of by order dated 3.2.2020 on the basis of the status report submitted by Central Pollution Control Board regarding implementation of 'closure' order issued. So it is clear from this that till the time the Central Government or State Government shall come with any policy of imposing environmental compensation, the Tribunal, applying the 'precautionary principle' to avoid pollution being caused to environment and prevent the

persons from violating the norms or directions issued by the authorities like Central Control Board or State Pollution Control Board, directed Central Pollution Control Board to evolve the policy of imposing environmental compensation, applying the 'polluters pay' principle and in compliance of the order of the Principal Bench of the National Green Tribunal the Central Pollution Control Board has to evolve a formula for calculating environmental compensation and that was directed to be implemented by the Principal Bench and in view of the decision mentioned above the environmental compensation is being assessed by the regulating authority.

27. So the submission made by learned counsel for appellant that Central Pollution Control Board has no power to impose environmental compensation is without any substance and the same is liable to rejected. So the contention of appellant that Central Pollution Control Board/regulating authority has no power to impose environmental compensation is rejected. The point is answered accordingly.

28. **Points 2 and 3**: The contention of appellant that the impugned order does not disclose the manner in which the environment compensation has been calculated. It is settled law that quasi judicial authorities are expected to give 'reasoned' order, specifying the manner in which the issues raised by the parties are considered and specify the reason for arriving at that

decision in the order for enabling the parties to understand the reasons given by the authority for passing the impugned order. Inspite of the fact that the above proposition was directed to be followed by the quasi judicial authorities in the decisions by the Hon'ble Apex Court, High Courts and also by this Tribunal in several cases, the authorities are not following the same. They are passing the impugned cryptic order, exercising the quasi judicial power vested in them when deciding the matter. Normally we will be setting aside the order passed by the quasi judicial authorities on that ground and remit the case to the authority which passed the order to pass fresh reasoned order. But in this case, it appears from the documents produced that at the time of hearing, the details were furnished and opportunity has been given to appellant to meet the same. Further, even during the course of hearing, on the basis of the documents produced by first respondent, the Tribunal had given opportunity to the appellant to meet that aspects as well and as such there is no necessity to set aside that order on that ground. This Tribunal can consider the same in this appeal and pass appropriate orders in accordance with law.

30. It is an admitted fact that as early as in 2014, there was a general direction given by Central Pollution Control Board to all the State Pollution Control Boards/State Pollution Control Committees to direct the highly

polluting 17 categories of industries to install OCEMS in their units within a time frame and accordingly the State Pollution Control Boards had issued such direction to the industrial units including appellant unit. It is also not in dispute that appellant unit has not installed the same within the time frame. It is also an admitted fact that a show cause notice dated, 24.7.2015 was issued as to why the unit should not be closed down with a direction regarding installation of OCEMS before 30 June, 2015 if it was not installed. Since the explanation given by appellant unit was not satisfactory, it was followed by 'closure' direction dated 22.8.2016 issued by first respondent with a direction to appellant unit not to resume its manufacturing operation till the installation and commissioning of on line 24 x 7 monitoring system and supply of data to State Pollution Control Boards (SPCBs), Pollution Control Committees (PCCs) and Central Pollution Control Board (CPCB).

31. Admittedly appellant unit has not closed down the industry during the crushing season starting from 3.12.2016 to 17.2.2017. They have engaged in manufacturing process by operating the crushing unit. It is also an admitted fact that they have installed the OCEMS and made it operational from 14.2.2017 only. Revocation of 'closure' order was issued only on 4.7.2017. These aspects have not been disputed. So it is clear that

there is non compliance of the direction issued and also appellant unit was in operation during closure order was in force which amount to unauthorized operation of the unit, calling for environmental compensation being paid by defaulting unit.

32. In view of the direction issued by the Principal Bench of the National Green Tribunal in PRYAVARAN SURAKSHA SAMITI & ANR. VS. UNION OF INDIA & ORS (O.A.No.593 of 2017 (W.P.(Civil) No.375 of 2012), Central Pollution Control Board was perfectly justified in imposing environmental compensation, invoking Section 5 of the Environment (Protection) Act, 1986 against appellant.

33. It is an admitted fact that earlier, an amount of Rs.23,10,000/- (Rupees Twenty Three Lakhs and Ten Thousand only) was imposed as environmental compensation which was later modified on the basis of the direction issued by this Tribunal in the appeal against that order filed by appellant unit. Now, the default/violation period was taken only from 3.12.2016 to 13.2.2017 and applying the formula evolved by Central Pollution Control Board viz., PI – Pollution Index, N – Number of days violation, R – A factor in Rupees, S – Factor for scale of operation and LF – Location Factor, imposed a compensation of Rs.21,90.000/- (Rupees Twenty One Lakhs and Ninty Thousand only). It is also seen from

Annexure – V produced along with counter statement of first respondent that Pollution Index was taken as '80' and it is a 'red' category industry. Earlier, the 'number of days violation' was taken as 77 days and it was reduced to '73' days, 'rupees factor' was taken as '250', 'scale of operation' was taken as '1.5' and 'location factor' was taken as '1' and thereafter arrived at the present quantum of compensation at Rs.21,90,000/- (Rupees Twenty One Lakhs and Ninty Thousand only) and merely because for certain industries the time line for installation of OCEMS was extended upto 31.1.2017 is not a ground for applying the same yard stick to appellant unit. It is also a 'red' category industry and also one of the 17 categories of highly polluting industries, identified by Central Pollution Control Board.

34. Under these circumstances, the quantum of environmental compensation assessed by Central Pollution Control Board cannot be said to be excessive and it does not warrant any interference. The points are answered accordingly.

35. As regards deposit of the amount in account with the Department of Industries, to be utilised as per the action plan to be submitted by appellant for improvement of their environmental process as permitted by first respondent in respect of other industrial units, cannot be considered by this Tribunal and no direction can be given to first respondent and it is for first

respondent to decide as to how the amount of environmental compensation has to be utilized as directed by the Principal Bench in O.A.No.593 of 2017 referred supra.

36. As regards prayer in I.A.No.58 of 2020 is concerned, this Tribunal feels that this unit being seasonal industry which is not operating throughout the year, time can be given for depositing the environmental compensation amount imposed and appellant is permitted to deposit the said amount with first respondent in three monthly instalments, starting from November, 2020. If appellant fails to deposit the amount as directed, then first respondent is entitled to recover the same from appellant in accordance with law. The points are answered accordingly.

37. In view of the above discussion the appeal fails and the same is liable to be disposed of with above direction and observations..

38. In the result, the appeal fails and the same is hereby disposed of as mentioned above. Parties are directed to bear their respective costs in the appeal.

39. Since prayer for direction to pay the environmental compensation in instalments has been considered and directions have been given while disposing of the appeal, no separate order need to be passed in I.A.No.58

of 2020. So I.A.N o.58 of 2020 is closed. All interlocutory applications if any pending are also closed.

.....J.M.

(Justice K. Ramakrishnan)

.....E.M.

Apl.4/2020-28 .8.2020-kkr

(Shri. Saibal Dasgupta)