

**BEFORE THE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI**

(Through Physical Hearing with Hybrid VC Option)

Original Application No. 522/2022

**IN THE MATTER OF:**

**1. Bhushan Kumar,**  
14-B/29, Dev Nagar, Pyare Lal Road,  
Karol Bagh, New Delhi- 110005.

...Applicant

Versus

**1. Government of NCT of Delhi,**  
Through Chief Secretary, Government of NCT of Delhi,  
Delhi Secretariat, IP Estate,  
New Delhi- 110002.  
Email: csdelhi@nic.in.

**2. District Magistrate, Central Delhi,**  
16, Padam Chand Marg, Daryaganj,  
New Delhi- 110002.  
Email : dccentral@nic.in.

**3. Delhi Pollution Control Committee,**  
Mahatma Gandhi Road, Civil Lines,  
Delhi- 110054.  
Email: msdpcc@nic.in.

**4. Mr. Chhajju Ram S/o Mr. Sohan Lal,**  
(Project Proponent),  
1-B/28, Pyarelal Road, Karol Bagh.

**5. Central Public Works Department,**  
6, Pandit pant Marg, Havlock Square,  
Kali Bari Marg, Hanuman Road,  
New Delhi- 110002.  
Email: [cpwd\\_dgw@nic.in](mailto:cpwd_dgw@nic.in),

**6. Municipal Corporation of Delhi,**  
17<sup>th</sup> Floor, Civic Centre,  
S.P.Mukherjee Marg,  
New Delhi- 110002.  
Email: [commissioner@mcd.nic.in](mailto:commissioner@mcd.nic.in).

...Respondents

**For the Applicant:**

None for the applicant.

**For the Respondents:**

Ms. Jyoti Mendiratta and Ms. Ananya Basudha, Advocates for respondents no. 1 and 2.

Mr. Virendra Singh, Counsel for Ms. Puja Kalra Standing Counsel for respondent no. 6.

Mr. Kush Sharma, Advocate for respondent no. 3 (through VC).

Mr. Chhaju Ram, respondent no. 4-Project Proponent.

Mr.Gi. Gi.C. George Advocate for respondent no. 5.

**PRESENT:**

**HON'BLE MR. JUSTICE ARUN KUMAR TYAGI, JUDICIAL MEMBER**  
**HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER**

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**Judgment Reserved on:- 06.05.2024**

**Judgment pronounced on :- 05.08.2024.**

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**Application is registered based on a letter petition received by Post.**

**JUDGMENT**

**PRONOUNCED BY: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI,**  
**JUDICIAL MEMBER**

1. Mr. Bhushan Kumar resident of 14-B/29, Dev Nagar, Pyarelal Road, Karol Bagh, New Delhi, has sent the present letter petition, which has been treated and registered as original application.

2. The applicant has complained that illegal scrap unit is being operated in residential area of Dev Nagar, Pyarelal road, Karol Bagh, New Delhi. The Project Proponent is also doing iron welding business in the said unit. Grinder, cutter, fire producing instruments cause noise and air pollution in the area. The Project Proponent purchases old copper and silver wires and burns them under the trees for extraction of metals which causes dense smoke of poisonous gases in the area creating respiratory problems to the inhabitants of the locality and dries up the green trees. On 22.03.2022 the Project Proponent burnt lot of wires

which caused dense smoke due to which fire brigade was summoned which doused the fire. The Police also reached but did not take any action.

3. The relevant part of the letter petition enumerating grievances of the applicant is reproduced as under:-

**“विषय:- सुनील कुमार पुत्र श्री सोहन लाल और बेटे योगेश और संदीप के खिलाफ शिकायत पत्र।**

मैं भूषण कुमार परिवार समेत 14-B/29, देव नगर, प्यारे लाल रोड करोल बाग, नई दिल्ली-110005 में रहता हूँ। मेरे मकान के साथ ही उनकी इनकी कबाड़ी कि दुकान है साथ में लोहे के वेल्डिंग का काम करते हैं, जिसका इनके पास विभाग से कोई अनुमति नहीं। जिसमें ग्राइंडर, कटर, अग्नि उत्पदाक यंत्रों से ध्वनि व वायु प्रदूषण से अधिक शोर है होता शराबा-प ध्वनि और वायु जिससे प्रदूषण हो जाता है।

ये लोग पुराना ताम्बे और सिल्वर की तार खरीदते हैं और ताम्बे को निकालने के लिए के उसे सड़क पर ही हरे पेड़ों के निचे जलाते जिससे जहरीला का धुआँ निकलता है जिससे हरे पेड़ों को सूखने का खतरा है और लोगों को सांस लेने में परेशानी होती है। जिससे जीना दुभर हो जाता है। 20/03/2022 को इन लोगे ने बहुत सारी तारें जलाई जिससे चारो तरफ अंधेरा छा गया लोगो को बहुत परेशानी हुई। मैने दमकल विभाग को फोन करके बुलाया दमकल विभाग ने तुरंत आग बुझाई, कोई कार्यवाई नहीं करी और चले गए। जिसकी 04 फोटो सगलन है। PCR पुलिस आई उसने भी कोई कार्यवाई नहीं करी।

श्रीमान जी में वरिष्ठ नागरिक हूँ और मैं काफी बिमारियों से पीड़ित हूँ। मेरी पत्नी भी कैंसर रोग से पीड़ित है। मैं और मेरे परिवार वाले इन लोगो कह कह कर थक गए हैं, लेकिन इनपर किसी प्रकार कोई असर नहीं होता। आपसे निवेदन है कि इनलोगो पर सख्त से सख्त कार्यवाई कि ताकि मुझे और आसपास के लोगो को स्वच्छ वातावरण मिल सके।”

4. Vide order dated 02.09.2024 this Tribunal constituted a Joint Committee with direction to submit its report within one month. The relevant part of the order is reproduced below:-

*“...3. Prima facie, the allegations made in the application raise questions relating to environment arising out of the implementation of the enactments specified in Schedule I to the National Green Tribunal Act, 2010. In view of the allegations made in the application, we consider it appropriate that a Joint Committee be constituted to verify the factual position. Accordingly, we constitute a Joint Committee comprising of the representative of the Delhi Pollution Control Committee (DPCC) and Deputy Commissioner (Central), Delhi and direct the same to meet within two weeks, undertake visits to the site, look into the grievances of the applicant, associate the applicant and representative of the concerned project proponent, verify the*

*factual position and submit its report within one month by e-mail at judicialngt@gov.in preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF. The DPCC will be the nodal agency for coordination and compliance.*

*4. In case the Joint Committee observes any violation of consent conditions/environmental norms then it shall notify these proceedings and forward a copy of its report to:-*

*(i) the Project Proponent to enable him to comply with the recommendations or file objections against the observations/recommendations in its report and file his response before this Tribunal as desired within one month from the date of receipt of a copy of its report; and*  
*(ii) the DPCC and Deputy Commissioner (Central), Delhi to enable them to take appropriate remedial action by giving notice to/hearing the project proponent and following due process of law in accordance with Statutory provisions mandating them to take remedial action for prevention, control and abatement of environmental pollution/degradation and protection and improvement of environment and submit their action taken reports within one month from the date of receipt of a copy of the report of the Joint Committee....”*

5. Vide order dated 13.12.2022 request made by learned Counsel for the DPCC for grant of some more time for filing of the report was allowed with direction that the report of the Joint Committee be submitted within one month.

6. In compliance thereof reports have been filed by the Delhi Pollution Control Committee (DPCC) and the District Magistrate (Central), Delhi vide emails dated 05.01.2023 and 24.01.2023 respectively.

7. The relevant part of the report filed by DPCC vide email dated 05.01.2023 is reproduced below:-

**“ACTION TAKEN REPORT ON BEHALF OF DELHI POLLUTON CONTROL COMMITTEE IN COMPLIANCE TO THE ORDER DATED 02.09.2022.**

X X X X

2. That, DPCC issued a letter on 12.09.2022 to DM(Central) to nominate a representative for a Joint inspection to be carried out in terms of Hon'ble Tribunal order dated 02.09.2022. No response received from the side of Deputy Commissioner

(Central), so far. Copy of the letter dated 12.09.2022 is annexed herewith as **ANNEXURE-1.**

3. That an inspection of the site was carried out on 10.11.2022 by the DPCC officials. During the inspection it was observed that:

- Unit was found operational engaged in the activity of scrap shop including segregation, cutting and welding of metal scrap etc. with light engineering work.
- Scrap found stored on public road and also found stored at CPWD premises, Double Story Quarters, Block-13, Pyarelal Road, Karol Bagh.
- Unit is operating without obtaining Consent from DPCC.
- Sign of burning/ ash residue also observed at CPWD premises.

Copy of the inspection report dated 10.11.2022 alongwith photographs are enclosed herewith as **ANNEXURE-2.**

4. That, DPCC issued a show cause notice on 27.12.2022 for imposing Environmental Damages Compensation to "Sh. Sandeep (Owner)" to the tune of Rs. 40,000/- (Rupees Forty thousands). Copy of the show cause notice dated 27.12.2022 is annexed herewith as **ANNEXURE-3.**

5. That, DPCC has also issued direction u/s 31(A) of the Air Act, 1981 on 27.12.2022 to The Commissioner (MCD) to take necessary action for closure of the unit. The area where activity is being carried out is a residential area. The Chief Secretary, Delhi in compliance of the directions of the Hon'ble Supreme Court dated 07.05.2004 in WP( C) 4677/ 1985 decided that action on industries operating in non-confirming areas and violation Master Plan of Delhi will be taken under the Delhi Development Act by DDA in development areas and MCD in other areas. DPCC acts under the provisions of Environmental Laws only on legal units. Copy of the direction dated 27.12.2022 is annexed herewith as **ANNEXURE-4.**

6. That, DPCC also issued a letter on 27.12.2022 to CPWD to take necessary steps for stopping of illegal entry/ garbage burring in your land/ premises by making proper boundary/ Gate and to keep a constant vigil of the site and submitted action taken report at the earliest. Copy of the letter dated 27.12.2022 is annexed herewith as **ANNEXURE-5.**

8. The relevant part of the report filed by District Magistrate (Central), Delhi vide email dated 24.01.2023 is reproduced below:-

**"ACTION TAKEN REPORT ON BEHALF OF THE DISTRICT  
MAGISTRATE (CENTRAL), IN COMPLIANCE OF THE ORDER  
DATED 02.09.2022**

X

X

X

X

1. That this Hon'ble Tribunal took up the above referred matter on 02.09.2022 and was pleased to constitute a Joint Committee comprising of DPCC and Deputy Commissioner (Central) to verify the factual position and take action against the illegal scrap unit being operated in residential area of Dev Nagar, Pyarelal Road, Karol Bagh, New Delhi.

2. That the then SDM, Karol Bagh was transferred on 01/11/2022 to District South West, Revenue Department, GNCT of Delhi.

3. The current SDM, Karol Bagh joined on 04/11/2022, as soon as he joined the dates for General Election MCD-2022 were announced.

4. The SDM (Karol Bagh) is also Returning Officer, AC-23 (Karol Bagh), he had to attend to the duties of Returning Officer, immediately upon his joining. The Election process continued till the 15<sup>th</sup> of December, 2022.

5. As soon as, the Election work was over the various works which had piled up due to the elections also had to be cleared.

6. A team consisting of SDM(Karol Bagh), Tehsildar (Karol Bagh) and others inspected the polluting unit on 24.01.2023 and found that it was not just functional but also encroaching upon the footpath across the road and had not even deposited the penalty of Rs. 40,000/- (E.C imposed by the DPCC).

7. The unit was sealed by the SDM, Karol Bagh immediately. **(ANNEXURE-I).**

8. The local police authorities were also informed of the sealing and the report has been lodged vide GD No.0039A dated 24.01.2023. **(ANNEXURE-II).**

9. Apart from this, a challan of **Rs. 1,00,000/- (Rupees One Lac Only)** was also imposed for encroaching upon the public land i.e. footpath across the road as well as the area in front of his shop as well as causing air and noise pollution. **(ANNEXURE-III).**

10. Photographs of the shop are also annexed for the kind perusal of the Hon'ble NGT. **(ANNEXURE-IV)**"

9. Vide order dated 25.01.2023, the Government of NCT of Delhi, through Chief Secretary; the District Magistrate (Central), Delhi; the DPCC and the Project Proponent, were impleaded as respondents no. 1 to 4 and notices were issued to respondents no. 1 to 4.

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10. Pursuant to notice, report has been filed by DPCC vide email dated 22.03.2023 and Status Report has been filed by SDM, Karol Bagh vide email dated 16.09.2023.

11. The relevant part of the report filed by the DPCC vide email dated 22.03.2023 is reproduced as under: -

**“STATUS REPORT ON BEHALF OF DELHI POLLUTION CONTROL COMMITTEE IN COMPLIANCE TO THE ORDER DATED 25.01.2023.**

X X X  
4. That, DPCC issued a show cause notice on 27.12.2022 for imposing Environmental Damages Compensation qua "Sh. Sandeep (Owner)" to the tune of Rs. 40,000/- (Rupees Forty thousands), as the project proponent found engaged in the activity of storage, segregation, cutting, welding of metal scrap and light engineering works. In response to the show cause notice, unit has submitted a reply interalia stating that tools related to light engineering works and welding has been removed and also deposited EDC of Rs. 40,000/- vide DD No. 554416 dated 14.02.2023. MCD licence was also obtained. Copy of the reply dated 14.02.2023 alongwith its enclosures are collectively annexed herewith as **ANNEXURE-1.**

5. That DPCC issued directions to the MCD and CPWD in this matter (which were enclosed with the ATR dated 005.01.2023). No response received from CPWD/ MCD so far”

12. The relevant part of the report filed by SDM Karol Bagh vide email dated 16.09.2023 is reproduced below:-

**“Status Report**

- That a copy of the order dated 25.01.2023 has been served to Sh. Chajju Ram.
- He has already paid Rs. 40,000/- as fine which was imposed by the DPCC
- He has also made a part payment of Rs 10,000/- out of the penalty imposed of Rs 1,00,000/- on him.
- He has also filed an affidavit stating that, he will not encroach on Public Land, make another payment of Rs 40,000/- and he will not indulge in any such work, in future. **(Annexure-I)”**

13. Vide order dated 18.09.2023, the DPCC was directed to submit its Action Plan, within two months for utilization of the amount of Rs. 40000/- deposited with it and respondent no. 4-Project Proponent was

allowed two months' time to file his reply/response. By the above said order CPWD and MCD were also impleaded as respondents no. 5 and 6.

14. Written submissions were filed by respondent no.4-Sh. Chhajju Ram through speed post (which was received by this Tribunal on 20.09.2023). The relevant part of the written submissions is reproduced below:-

***“Sub: Request for removal of Tower installed at Property No 14B/29, Dev Nagar, Pyare Lal Road, Karol Bagh, New Delhi- 110005 on the terrace.***

*Land owner are Mr. Vijay Kumar, Mr. Bhushan Kumar*

*X X X X*  
This is to inform your good office that I being a resident of 14B/28, Dev Nagar, Pyare Lal Road, Karol Bagh, New Delhi-110005 request you that one tower is installed at next Property No 14B/29, Dev Nagar, Pyare Lal Road, Karol Bagh, New Delhi- 110005 on the terrace. The **land owner are Mr. Vijay Kumar, Mr. Bhushan Kumar** who straight away denied to remove the Tower which they have given on rent to some company destroying our peace and health all the time for the last many years.

*On several request to them they are not bothered and not considering our request. Now they have started abusing languages whenever we request to remove the tower. We are family people with Senior Citizen living in the house. We all know that these Towers have hazardous consequences which will not at all allow to do so. We will always be at health risk.*

*Now we request your office to take immediate action and remove the Tower. We are enclosing all the necessary documents including the Complaint given to North Municipal Corporation of Delhi, SDM, Karol Bagh, Photographs of the tower, Complaint given to Police Station Prasad Nagar,. They have not taken any permission from our area Association.”*

15. Report has been filed by DPCC vide email dated 17.11.2023. The relevant part of the report is reproduced below:-

***“Compliance report on behalf of Delhi Pollution Control Committee in compliance to the order dated 18.09.2023.***

*X X X X*  
4. That, in view of the order passed by this Hon'ble Tribunal DPCC shall transfer EC amount Rs. 40,000/- to MCD with the request to MCD (Horticulture Wing) to raise tall seedlings of trees @ Rs 40,000/- in the nearby MCD park and maintain them for 3 years, the numbers of which may be decided by MCD as per their standard approved rates.

5. *The above details may kindly be taken on record in compliance to the order dated 18.09.2023.”*

16. Vide order dated 20.11.2023 notice was again issued to respondent no. 5 for ensuring appearance of its representative and filing its response within two weeks.

17. Status report has been filed by Mr. Rajesh Kumar Bansal, Administrative Officer, Karol Bagh Zone, MCD on behalf of respondent no. 6-MCD vide email dated 17.11.2023. The relevant part of the status report is reproduced below:-

***“Status Report on behalf of Municipal Corporation of Delhi in respect of Shop No. 14-B/28, GF, Pyare Lal Road, Dev Nagar, Karol Bagh, New Delhi.***

X X X X

2. *That the field officials of answering respondent have inspected the Shop No. 14-B/28, GF, Pyare Lal Road, Dev Nagar, Karol Bagh on 05.12.2023 & 12.12.2023. During inspections, it has been revealed that the said shop is being run for the purpose of scrap work. At the time of inspections no burning or any polluting activity of any kind was noticed. The photographs of the site were also taken during inspections which are annexed herewith for kind perusal of this Hon'ble Tribunal as **Annexure-A.***

3. *It is further submitted that as per record, a General Trade/Storage Licnese vide No. NGTLO123270792 dated 19.01.2023 and valid upto 31.03.2025 u/s 417 of the DMC Act, 1957 has also been obtained in the name of Chajju Ram, for the trade category Local Commercial for Unit/Establishment Chajju Ram Scrap in respect of Shop No. 14-B/28, GF, Pyare Lal Road, Dev Nagar, Karol Bagh. Copy of the Trade License and terms and conditions are annexed herewith as **Annexure-B.***

4. *That a Notice dt.12.12.2023 has also been issued by concerned Sanitary Inspector of the ward to Sh. Chajju Ram, Shop No.14-B/28, GF, Pyare Lal Road, Dev Nagar, N. Delhi to the effect that in case any wires/chemicals/scrap materials etc. are found to be burn by him, action as per DMC Act/NGT Act shall be taken. Copy of the Notice is annexed herewith as **Annexure-C.**”*

18. This Tribunal considered the status report and observed in order dated 13.12.2023 as under:-

“2. We have gone through the status report filed and we find that no mention has been made regarding compliance with the direction issued by the DPCC on 27.12.2022 as mentioned in DPCC report dated 05.01.2023.

3. Learned Counsel for the respondent no. 6 seeks time to file additional status report.

4. Learned Counsel for the respondent no. 5 also seeks time to file response with reference to the allegations of encroachment made on CPWD land and also the recommendations made by DPCC regarding preventing any such further encroachment on the same.

5. A perusal of order dated 24.01.2023 passed by the SDM (Karol Bagh) shows that by the above said order penalty of Rs. 1 lakh was imposed on respondent no. 4 in pursuance of order passed by this Tribunal but no such order imposing penalty of Rs. 1 lakh on respondent no. 4 has been passed by this Tribunal. The above order does not show that any opportunity of being heard was granted to respondent no. 4 before passing of the same SDM (Karol Bagh) ought to have passed order imposing such penalty after giving opportunity of being heard to respondent no.4 in compliance with principles of natural justice. It may be added here that after imposition of penalty the amount of Rs. 1 Lakh has not been fully recovered and there is no mention as to what steps have been taken for the recovery of the amount of penalty. SDM (Karol Bagh) is directed to look into these aspects and pass appropriate orders in this regard.

6. Response by respondent no. 4, additional status report by respondent no. 6 and further action taken report by SDM (Karol Bagh), and response by respondent no. 5 be filed **within two months** through **E-filing portal (not through E-mail)** in the **form of searchable PDF/OCR Support PDF** (not in the form of Image PDF).”

19. In compliance of order dated 13.12.2023 additional report has been filed by DPCC vide email dated 18.12.2023. Reports have been filed by MCD vide email dated 21.02.2024 and by SDM, Karol Bagh vide email dated 01.05.2024.

20. The relevant part of the Additional report filed by DPCC vide email dated 18.12.2023 is reproduced below:-

**“ADDITIONAL STATUS REPORT ON BEHALF OF DELHI POLLUTON CONTROL COMMITTEE IN COMPLIANCE TO THE ORDER DATED 20.11.2023.**

X X X X

3. That, subsequent to hearing dated 20.11.2023, DPCC has issued letter on 04.12.2023 to the Commissioner (MCD) and requested to provide the Bank Account Details in which this amount can be transferred. In the letter it was also requested to utilize the EC amount of Rs. 40,000/- to raise tall seedlings of trees in the nearby MCD park of alleged site. Copy of the letter dated 04.12.2023 is enclosed herewith as **ANNEXURE-1**. Response from MCD is still awaited.”

21. The relevant part of the status report filed by MCD vide email dated 21.02.2024 is reproduced below:-

**“STATUS REPORT ON BEHALF OF MUNICIPAL CORPORATION OF DELHI IN RESPECT OF SHOP NO. 14-B/28, GF, PYARE LAL ROAD, DEV NAGAR, KAROL BAGH, NEW DELHI.**

X X X X

2. That as per record a letter dated 27.12.2022 was received from DPCC in Karol Bagh Zone vide diary No. 1717/DC/KBZ on 03.01.2023 from the office of Commissioner, MCD.
3. That as the owner/occupier of the shop at 14-B/28, GF, Pyare Lal Road, Dev Nagar, Karol Bagh had stopped the activity of welding work in the month of January 2023.
4. That, as per MPD 2021 Pyare Lal Road comes under the category of Mix Land Use and the owner/occupier of the shop at 14-B/28, GF, Pyare Lal Road, Dev Nagar, Karol Bagh is running the scrap/junk shop after obtaining the valid Municipal License.
5. That the site has also been inspected on 20.02.2024 and it has been noticed that no polluting/industrial/welding work activity is carried out from the site (Photographs taken during the inspection are also annexed herewith).”

22. The relevant part of the report filed by SDM, Karol Bagh vide email dated 01.05.2024 is reproduced below:-

**“ACTION TAKEN REPORT ON BEHALF OF THE SDM, KAROL BAGH IN COMPLIANCE OF ORDER DATED 13.12.2023**

- X X X X
2. That a complaint vide DD No. 43A dated 20.03.2022 PS Prasad Nagar, Central District, Delhi under Section 133 Cr.P.C. was received in the office of the undersigned on 21.03.2022 vide Diary No. 1773 filed by Shri Bhushan Kumar, the applicant herein alleging that his immediate neighbour, Sh.

*Chhaju Ram Son of Sohan Lal resident of 14 B/ 28, Pyarelal Road, Dev Nagar Karol Bagh was creating nuisance, obstruction and disturbance to the local residents by carrying out scrap work illegally, which it was claimed, was causing sound pollution as well as filthy conditions.*

3. *That the office of the undersigned issued notices dated 10.06.2022 and 13.06.2022 to the said Shri Chhaju Ram asking him to show cause as to why action should not be initiated against him. Copies of the said notices dated 10.06.2022 and 13.06.2022 are annexed hereto as **Annexure 1 (Colly)**.*

4. *The office of the undersigned issued further notices on 03.10.2022 and 27.10.2022, copies annexed as **Annexure 2(Colly)**. However, neither any response was received nor any the said Sh. Chhaju Ram appeared on the said dates. Resultantly, the office of the undersigned imposed a fine of Rs. 1,00,000/-vide Order dated 24.01.2023 which is referred to in Order dated 13.12.2023 of this Hon'ble Tribunal as above. As such, not only show cause notice was issued but also sufficient opportunity was granted to Sh. Chhaju Ram to present his case.*

5. *That the challan dated 24.01.2024 was issued as per Office Order, F. No. DPCC/RDPC/EC/2022/3522-3530 dated 30.03.2022 whereby the methodology for assessment and quantum of environmental compensation to be levied on defaulter units was decided on the basis of degree of violation. In respect of illegal godowns in non-conforming areas, Sector 7, the following was recommended:*

*"Non Conforming areas in the areas outside notified industrial/ Redevelopment areas the Committee recommended that the environment compensation amount may be imposed on lump sum basis as under:*

*Godown/ storage of plastic scrap Rs. 1 Lakh"*

*Copy of the said Office Order dated 30.03.2022 is annexed hereto as **Annexure 3**.*

6. *However, in deference to the Order dated 13.12.2023 passed by this Hon'ble Tribunal, the office of the undersigned issued yet another notice dated 17.02.2024 to Sh. Chhaju Ram asking him why balance amount of ₹90,000 of penalty, after deducting Rs. 10,000/- paid by him, should not be recovered from him as per Extant Laws. Copy of the said notice dated 17.02.2024 is annexed hereto as **Annexure 4**.*

7. *Sh. Chhaju Ram submitted his reply on 22.02.2024 admitting that he was carrying on the scrap business, however stating that the same was his only source of income. It was further averred that he had deposited the fine of ₹40,000 imposed by the DPCC and ₹10,000 against the penalty of 1,00,000 imposed by the office of the undersigned. Thus, he sought waiver of the balance amount of penalty of ₹90,000. Copy of the said reply is annexed hereto as **Annexure 5**.*

8. That the office of the undersigned, however, decline to review its earlier order and confirmed the penalty of Rs 1,00,000. Sh. Chhaju Ram was there for once again directed to pay the balance amount of ₹90,000. Copy of the said order dated 28.03.2024 is annexed hereto as **Annexure 6**.

9. That as the violator, Sh. Chhaju Ram failed to deposit the outstanding amount of ₹90,000 the office of the undersigned has since issued a writ of demand vide Notice dated 05.04.2024, copy whereof is annexed hereto as **Annexure 7**."

23. None has appeared for the applicant in the course of the hearing of the present Original Application.

24. We have heard submissions made by learned counsel for the respondents and respondent no. 4-Project Proponent and we have gone through the relevant record carefully.

25. In the present case the applicant filed the letter petition complaining about illegally running of scrap shop and welding unit in residential area and burning of old copper and silver wires for extraction of metal by respondent no. 4-Project Proponent causing noise and air pollution. The officials of the DPCC found environmental violations by running of scrap shop and welding unit, burning of wires and encroachments by respondent no.4-Project Proponent. In view thereof environmental compensation of Rs. 40,000/- was imposed by DPCC on respondent no.4-Project Proponent vide order dated 27.12.2022.

26. The DPCC also issued directions to the MCD vide letter dated 27.12.2022. The relevant part of the letter reads as under:-

**"Sub:- Directions u/s 31(A) of the Air (Prevention & Control of Pollution) Act, 1981, as amended to date in matter of "Bhushan Kumar Vs. GNCTD" in Hon'ble NGT OA No. 522/2022**

*Central Pollution Control Board has delegated all its powers and functions under Air (Prevention & Control of Pollution) Act, 1981 and under Water (Prevention & Control of Pollution) Act, 1974 in*

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*respect of Union Territory of Delhi to Delhi Pollution Control Committee.*

*And whereas, the whole Union Territory of Delhi has been declared as an Air Pollution Control area, under sub section (I) of section 19 of the Air (Prevention & Control of Pollution) Act, 1981 vide notification no. GSR 106 (E) dated 20.02.1987.*

*And whereas, Hon'ble NGT vide its order dated 02.09.2022 in matter of "Bhushan Kumar Vs. GNCTD" ordered for inspection of alleged site at 14-B/28, Pyarelal Road, Karol Bagh, Delhi.*

*And whereas, inspection at the alleged address i.e. **Scrap Shop at 14-B/28, Pyarelal Road, Karol Bagh, Delhi** was conducted by DPCC officials on 10.11.2022 and during inspection illegal Scrap Shop found operational, engaged in activity of segregation, cutting and welding of metal scrap etc. with light engineering work (Copy of Inspection Report enclosed).*

*And whereas, in pursuance of orders dated 07.05.2004 passed by Hon'ble Supreme Court in the matter regarding "Shifting of Industries from non-conforming/ residential areas". In the order dated 07.05.2004; Hon'ble Supreme Court directed that all industrial units operating in nonconforming/ residential areas of the Delhi in violation of Master Plan of Delhi have to be closed down/ shifted.*

*And whereas, in the meetings held on 08.12.2010, 14.07.2011, 09.12.2011 & 05.06.2015 in the office of Chief Secretary Delhi for implementation of above order, it has been decided that action/on industries operating in non-conforming areas and violating Master Plan of Delhi will be taken under the Delhi Development Act by DDA in development areas and MCD, in other areas. DPCC acts under the provisions of Environmental Laws only on legal units, 'duly explained and agreed in the said meetings.*

*Now therefore in exercise of powers conferred upon it, under the provisions u/s 31(A) of the Air (Prevention & Control of Pollution) Act, 1981, as amended to date, hereby issue the following direction*

*1. That you shall take necessary action for closure of the said unit with immediate effect.*

*This is being issued as per the approval of the Competent Authority of Delhi Pollution Control Committee"*

27. However, in status report filed vide email dated 21.02.2024, Mr. Rajesh Kumar Bansal, Administrative Officer, Karol Bagh Zone, MCD has submitted that respondent no.4-Project Proponent (owner/occupier of the shop at 14-B/28, GF Pyarelal Road, Dev Nagar, Karol Bagh) had stopped the

activity of welding work in the month of January, 2023; that as per MPD Plan 2021, Pyarelal Road comes under the category of **mixed land use** and respondent no.4-Project Proponent (owner/occupier of the shop at 14-B/28, GF Pyarelal Road, Dev Nagar, Karol Bagh) is running the scrap/junk shop after obtaining valid licence from MCD; and that on inspection on 20.02.2024 it was noticed that no polluting/industrial/welding work activity is carried out from the site.

28. Since the premises where respondent no.4-Project Proponent is running the shop is situated in mixed land use area and not in residential area and respondent no. 4-Project Proponent had stopped the activity of welding work in the month of January, 2023 and is running the scrap/junk shop after obtaining valid licence from MCD, direction issued by DPCC for taking of action by MCD for closing of the unit has become infructuous.

29. It may be observed here that environmental compensation of Rs. 1,00,000/- was imposed by SDM Karol Bagh on respondent no.4-Project Proponent vide order dated **24.01.2023**. This Tribunal observed in order dated **13.12.2023** that penalty of Rs. 1,00,000/- was imposed in pursuance of order passed by the Tribunal but no such order for imposing of penalty on respondent no.4-Project Proponent was passed by this Tribunal and that the order did not show that any opportunity of being heard was granted to respondent no. 4-Project Proponent before passing of the order and SDM, Karol Bagh was directed to look into these aspects and pass appropriate orders in this regard.

30. SDM, Karol Bagh has submitted in his response filed vide email dated 01.05.2024 that complaint under section 133 of the CRPC was filed against respondent no. 4-Project Proponent in which notices were issued to him but he did not appear and file any response on which fine of Rs. 1,00,000/- was imposed on respondent no.4-Project Proponent in respect of illegal godown

in non-conforming area in accordance with DPCC office order dated 30.03.2022.

31. It may be observed here that order dated 24.01.2023 was passed by SDM, Karol Bagh without giving opportunity of being heard to respondent no. 4-Project Proponent. Notices issued on complaint filed under section 133 of the CRPC cannot be treated as grant of opportunity of being heard qua imposition of environmental compensation of Rs. 1,00,000/- by SDM, Karol Bagh. It may be added here that environmental compensation amounting to Rs. 40,000/- was imposed on respondent no.4-Project Proponent by UPPCB vide order dated 27.12.2022 for past violations which amount was deposited by respondent no. 4-Project Proponent vide DD No. 554416 dated 14.02.2023. Environmental compensation could not be imposed on respondent no.4-Project Proponent again for the same past violations on the basis of DPCC office order. It may also be added here that respondent no. 4-Project Proponent was carrying on scrap business and welding unit in his premises situated in mixed land use area. Respondent no.4-Project Proponent had already stopped the welding unit/welding activity in the month of January 2023. Respondent no.4-Project Proponent is running his shop situated in mixed land use area after obtaining license from MCD. In view thereof his premises cannot be said to fall within definition of illegal godown in non-conforming area. In these facts and circumstances order imposing environmental compensation/penalty of Rs. 1,00,000/- in respect of illegal godown in non-conforming area suffers from illegality and is liable to be and accordingly set aside. Consequently the amount of Rs. 10,000/- deposited by respondent no.4-Project Proponent with the SDM Karol Bagh is ordered to be refunded to him.

32. Respondent No.4-Project Proponent filed written submissions by speed post alleging installation of mobile tower illegally by the applicant in

his property. Such written submissions filed by respondent no.4-Project Proponent cannot be treated as Original Application. Respondent no.4-Project Proponent may file original application or avail other remedies in accordance with law, if so desired.

33. In its response filed vide email dated 17.11.2023 DPCC stated that EC amount of Rs. 40,000/- will be transferred to MCD with request to utilize the same for raising tall seedlings of trees in the nearby MCD park. In response filed vide email dated 18.12.2023, DPCC has submitted that MCD did not respond to its letter seeking bank account details for transfer of the amount of environmental compensation to MCD for utilization for compensatory afforestation.

34. MCD is directed to provide requisite bank account details to DPCC to enable it to transfer environmental compensation amount of Rs. 40,000/- to MCD within one month. MCD is further directed to utilize the said amount environmental compensation amount of Rs. 40,000/- for compensatory afforestation in any park/suitable vacant land in the vicinity of the affected area within three months and to file action taken report within one month thereafter expiry of the period of three months.

35. In view of the above discussion, no further action is required to be taken by this Tribunal on the present Original Application which is disposed of accordingly.

36. Action Taken Report be filed by MCD as directed above by email in the form of searchable PDF/OCR supported PDF and not in the form of image PDF, before the learned Registrar General, National Green Tribunal, Principal Bench, New Delhi who may, if necessary, put up the matter before the Bench for further directions.

37. A copy of this Judgment be forwarded to the Commissioner, MCD, Member Secretary, DPCC and SDM, Karol Bagh by email for requisite compliance.

Arun Kumar Tyagi, JM

Dr. Afroz Ahmad, EM

August 5<sup>th</sup>, 2024  
AG