

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
(THROUGH PHYSICAL HEARING WITH HYBRID MODE)**

APPEAL NO.25/2022/EZ

IN THE MATTER OF:

Jai Venktesh Concast Private Limited,
A Company incorporated under the Companies Act, 1956,
Having its Registered Office at –Bamunara Industrial Estate,
P.S.-Kankas, Durgapur, District-Paschim Burdwan, W.B.,
Pin – 713212, represented through one of its directors,
Mr. Akhilesh Jha alias Akhilesh Kumar Jha.

...Appellant(s)

Versus

1. The West Bengal Pollution Control Board,
Through the Chairman,
Paribesh Bhavan, 10A, Block-LA, Sector-III,
Salt Lake City, Kolkata, West Bengal,
Pin – 700106,
2. The Member Secretary,
West Bengal Pollution Control Board,
Paribesh Bhavan, 10A, Block-LA, Sector-III,
Salt Lake City, Kolkata, West Bengal,
Pin – 700106,
3. Chief Engineer, Operation and Execution Cell,
West Bengal Pollution Control Board,
Paribesh Bhavan, 10A, Block-LA, Sector-III,
Salt Lake City, Kolkata, West Bengal,
Pin – 700106,
4. The Environmental Engineer,
West Bengal Pollution Control Board,
Durgapur Regional Office, District-Paschim Burdwan,
Durgapur, West Bengal,
Pin – 713216,

...Respondent(s)

Date of hearing: 21.03.2023

**CORAM: HON'BLE MR. JUSTICE B. AMIT STHALEKAR, JUDICIAL MEMBER
HON'BLE PROF. A. SENTHIL VEL, EXPERT MEMBER**

For Appellant(s) : None

For Respondent(s) : Mr. Nayan Chand Bihani, Adv. (in Virtual Mode) a/w
Mr. Dipanjan Ghosh, Advocate for R-1 to 4 ,

ORDER

1. Case called out. No one is present for the Appellant.
2. Mr. Nayan Chand Bihani, learned Counsel assisted by Mr. Dipanjan Ghosh, learned Counsel is present for the Respondent Nos. 1 to 4, West Bengal Pollution Control Board.
3. This Appeal has been filed by the Appellant, seeking a direction to set aside the order passed by the West Bengal Pollution Control Board on 06.05.2022, imposing Environmental Compensation to the tune of Rs. 2,85,000/- (Rupees Two Lakhs Eighty Five Thousand only) and also furnishing a Bank Guarantee of Rs. 5,00,000/- (Rupees Five Lakhs only) in favour of the Pollution Control Board.
4. With respect to the impugned order dated 06.05.2022 determining Environmental Compensation against the Appellant and requiring him to furnish a Bank Guarantee, it is stated that Appellant submitted a representation dated 31.05.2022 before the West Bengal Pollution Control Board for waiver of the Penalty and Bank Guarantee. It is alleged by the Appellant that Environmental Compensation and Bank Guarantee have been imposed against him in the absence of any established principles of computation.
5. In the representation, it is stated that repair work of pollution control devices installed in the factory of the Appellant have already been completed and the said devices are working properly during operation of the Plant; the slag crusher machine is in operation; necessary documents have already been submitted to the Regional Office, West Bengal Pollution Control Board; and the Plant was not in operation since long as the Appellants' Unit was facing acute financial crunch.

6. While it has been sought to be portrayed that the impugned order dated 06.05.2022 is illegal and arbitrary, we may note that the Appellant Unit was inspected by the team of the West Bengal Pollution Control Board, Durgapur Regional Office, on 02.11.2021 in the presence of one Mr. Rocky Singh, Maintenance In-Charge of the Unit. The observations, statutory compliances and remarks in the Inspection Report read as under:-

“INSPECTION REPORT

.....XXX.....XXX.....XXX.....

10. Observations:

- *During inspection the unit was found in full operation except the operation of Slag Crusher.*
- *Air Pollution Control Device (APCD) designed for induction furnaces as individual swielving hood, common spark arrestor, common bbag filter followed by approximate 30m height common stack.*
- *Air Pollution Control Device (APCD) attached with induction furnaces was found not in operation at the time of inspection. There was no swielving hood over the induction furnaces. Swielving hood was not in proper position above the induction furnace.*
- *There was no dust suppression mechanism at the unit including slag crushing area. Galvanized/anodized scrap was found using as raw material.*
- *High fugitive emission was observed near the induction furnace of the unit.*

11. Statutory Compliances:

- *Consent to Operate of the unit expired 28/02/2019 and applied for renewal on 29/03/2019.*
- *A letter issued by the State Board to the Unit on 01/07/2019 soughting some clarification regarding renewal application of Consent to Operate.*

12 Remarks:

” Necessary action may be taken as deem fit and proper.”

7. A perusal of the Inspection Report of inspection carried out on 02.11.2021 would show that the Unit was in full-fledged operation during operation except operation of Slag Crusher; Air Pollution Control Device (APCD) designed for induction furnaces as individual swiveling hood, common spark arrestor, common bag filter followed by approximate 30m height common stack; Air Pollution Control Device (APCD) attached with induction furnaces was found to be not in operation at the time of inspection. There was no swiveling hood over the induction furnace. Swiveling hood was not in proper position above the induction furnace; there was no dust suppression mechanism at the Unit including Slag Crushing area. Galvanized/anodized scrap was found being used as raw material; and high fugitive emission was observed near the induction furnaces of the Unit; the Consent to Operate of the Unit had expired on 28.02.2019 and the Unit had applied for renewal of the same on 29.03.2019 on which a letter was issued by the State Board to the Appellant's Unit on 01.07.2019 seeking some clarifications.
8. Thereafter, the Appellant's Unit was again inspected by the West Bengal Pollution Control Board, Durgapur Regional Office, 16.02.2022 in the presence of one Mr. Sourav Banerjee, Manager, Administration. The observations, statutory compliances and remarks in the Inspection Report read as under:-

"Inspection Report"

.....XXX.....XXX.....XXX.....

7. Observations:

- *This unit is engaged in the production of MS billets. The unit has two nos. induction furnaces of capacities 2 x 15 MT per heat. Each induction furnace is equipped with two crucibles. All the furnaces are connected to common*

stack. The unit has also one no. Continuous Casting Machine of size 6 x 11.

- During inspection two nos. induction furnaces were in full-fledged operation. The Continuous Casting Machine was also found operating.
- The furnaces are not equipped with swiveling hoods. Huge fugitive emission was noticed from the factory shed.
- Air Pollution Control Device (APCD) attached with the induction furnaces consists of bag filter (which was also found in defunct condition). Entire factory shed near the Steel Melting Shop was found engulfed in thick smoke.
- On enquiry, the representative of the unit could not provide any satisfactory reply.

8. Statutory Compliances:

- The unit had valid Consent to Operate up to 28.02.2019.
- The unit has applied for renewal of Consent.

Remarks:

- Necessary action may be taken against the unit for operation of the unit violating environmental norms.”

9. In addition to the environmental violations found in the inspection conducted on 02.11.2022, the second inspection carried out on 16.02.2022 showed further violations of environmental norms which are already outlined in the Inspection Report, already extracted hereinabove, and during the second inspection it was observed that the Air Pollution Control Device attached to the induction furnaces consisting of bag filter was found in defunct condition. The entire factory shed near the Steel Melting Shop was found engulfed in thick smoke. Thus, in spite of the first inspection having been carried out and irregularities found in maintaining environmental norms and Pollution Control Devices, the Appellant's Unit had completely failed to remedy the defects which was exposed in the second Inspection Report carried out on 16.02.2022. Thus, it

could hardly be said that there was no environmental violations either prior to the first inspection of 02.11.2021 or subsequent thereto till the date of second inspection on 16.02.2022.

10. With respect to the environmental violations, the Appellant's Unit was called for hearing on 28.12.2021 before the Board and at the time of hearing the General Manager of the Appellant's Unit appeared and submitted that they have installed proper Pollution Control Devices for its induction furnaces. However, the Board noted that the Plant and its Air Pollution Control (APC) system was not operation for almost two years since DVC, electricity supplying authority, had disconnected the power supply to the Unit in June, 1999 due to non-payment of electricity bills. The DVC again re-connected the power supply of the Appellant's Unit in June, 2021 and it was stated by the Appellant's Unit during the hearing before the Board that the Unit is in the process of total overhauling, upgradation of the APC system for the induction furnaces and requested for time to complete the said work and that they would comply with all the environmental norms.
11. This clearly shows that for two years the Appellant's Unit was operating without electricity and the Air Pollution Control Devices were not in operation during this period and thick huge smoke had engulfed the entire factory shed near the Steel Melting Shop.
12. Thus, the Appellant Unit was indulging in mass emission of noxious gases in the form of thick huge smoke in the atmosphere thereby polluting the entire area for the last two years since the electricity was disconnected and it had taken absolutely no steps till the date of the second inspection carried out on 16.02.2022 to install functional Air Pollution Control Devices.

13. No rejoinder has been filed by the Appellant refuting the averments made in the affidavit of the West Bengal Pollution Control Board or disputing the two Inspection Reports.
14. For the reasons aforesaid, we do not find any merit in the present Appeal and the same is accordingly dismissed.
15. There shall be no order as to costs.

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B. Amit Sthalekar, JM

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Prof. A. Senthil Vel, EM

March 21, 2023,
Appeal No.25/2022/EZ
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NGT