

Item No.01

(Pune Bench)

**BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE**

(By Video Conferencing)

I.A. No. 119/2022(WZ)

Appeal No. 34/2022 (WZ)

M/s Sahjanand Chemicals through
Sarad Ishwarbhai Patel

.....Appellant(s)

Gujarat Pollution Control Board

....Respondent(s)

Date of hearing: 08.09.2022

**CORAM: HON'BLE MR. JUSTICE DINESH KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. VIJAY KULKARNI, EXPERT MEMBER**

Appellant(s) : Ms. Pallavi A. Sarda along with Mr. Sudhirschandra Patil
Advocates

Respondent(s) : Mr. Maulik Nanavati, Advocate :

ORDER

1. The present Appeal has been preferred against the orders dated 06.10.2019 and 08.04.2021 passed by Respondent/GPCB whereby closure direction has been passed under Section 33 A of the Water (Prevention and Control of Pollution) Act, 1974.

2. This Appeal has been preferred after delay of 157 days as per the averment made in the application for delay condonation and reason for delay is stated to be that the Appellant had moved applications dated 05.12.2020 and 10.02.2022 before the Respondent seeking cancellation of Environmental Damage Compensation (EDC) which was not responded till today. Hence, delay has taken place in moving the present Appeal.

3. As per the Section 16 (c) of the National Green Tribunal Act, 2010:- the period of limitation to move such an Appeal is prescribed 30 days from the date on which the order or decision or direction or

determination is communicated to the Appellant with proviso that the Tribunal, if satisfied may allow further period not exceeding 60 days.

4. In the present case the order which has been challenged is dated 08.04.2021 and even if we take into consideration the exemption from limitation granted by Hon'ble Apex Court in *Suo Moto* WP(C) No. 3 of 2020 which grants exemption from 15.03.2020 to 28.02.2020, in the present case, the Appeal falls beyond the period of limitation because if the limitation is counted from 01.03.2022, 90 days would expire on 27.05.2022. The relevant paragraph of the order/judgment passed by the Hon'ble Apex Court in *Suo Moto* is quoted here in below:-

“5. Taking into consideration the arguments advanced by learned counsel and the impact of the surge of the virus on public health and adversities faced by litigants in the prevailing conditions, we deem it appropriate to dispose of the M.A. No. 21 of 2022 with the following directions:-

- I. The order dated 23.03.2020 As is restored and in continuation of the subsequent orders dated 08.03.2021, 27.04.2021 and 23.09.2021, it is directed that the period from 15.03.2020 till 28.02.2022 shall stand excluded for the purposes of limitation as may be prescribed under any general or special laws in respect of all judicial or quasi-judicial proceedings.*
- II. Consequently, the balance period of limitation remaining as on 03.10.2021. if any, shall become available with effect from 01.03.2022.*
- III. In cases where the limitation would have expired during the period between 15.03.2020 till 28.02.2022, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 01.03.2022. In the event the actual balance period of limitation remaining. with effect from 01.03.2022 is greater than 90 days, that longer period shall apply.*
- IV. It is further clarified that the period from 15.03.2020 till 28.02.2022 shall also stand excluded in computing the periods prescribed under Sections 23 (4) and 29A of the Arbitration and Conciliation Act. 1996, Section 12A of the Commercial Courts Act. 2015 and provisos (b) and (c) of Section 138 of the Negotiable Instruments Act. 1881 and any other laws, which prescribe period(s) of limitation for*

instituting proceedings., outer limits (within which the court or tribunal can condone delay) and termination of proceedings.”

5. In view of the above, we find that the present Appeal is not entertainable on account of extraordinary delay which is not condonable. Hence, delay condonation is rejected. Consequently, the Appeal is also dismissed.

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

September 08, 2022
I.A. No. 119/2022(WZ)
Appeal No. 34/2022 (WZ)

JG