BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH
NEW DELHI
.....

REVIEW APPLICATION NO. 02 OF 2016
AND
MISCELLANEOUS APPLICATION NO. 63 OF 2016
IN
APPEAL NO. 58 OF 2015
AND
APPEAL NO. 20 OF 2016
AND
MISCELLANOUS APPLICATION NO. 266 OF 2016

IN THE MATTER OF:

Khatema Fibres Limited
UPSIDC Industrial Area,
Khatima Udham Singh Nagar
Khatima - 262308
Distt. Udham Singh Nagar
Uttarakhand.

.....Applicant

Versus

1. Uttarakhand Environment Protection and Pollution Control Board
Through its Member Secretary
29/20, Nemi Road, Dalanwala,
Dehradun-248001

2. Central Pollution Control Board
Through its Chairman
Parivesh Bhawa, East Arjun Nagar,
Sahadara, Delhi-110032

3. District Magistrate,
Udham Singh Nagar
Uttarakhand

4. Managing Director,
Uttarakhand Power Corporation Ltd.
Urja Bhawan, Kanwali Road
Dehradun (Uttrakhand)

5. General Manager
Jal Sansthan,
Jal Nigam, Dehradun

6. Regional Officer (I/C)
Uttarakhand Environment Protection &
Pollution Control Board,
Kashipur (US Nagar), Uttarakhand

.....Respondents

COUNSEL FOR APPLICANT:
Mr. Kailash Vasdev, Sr. Adv., Mr. Prasenjit Keswani, Ms. Pooja Dhar, Mr. Siddharth Kaushik, Mr. Shreyans Singhwi, Mr. Bhopal Singh and Ms.Pooja Dhas, Advs.

COUNSEL FOR RESPONDENTS:
Mr. Mukesh Verma, Advocate for Respondent No. 1.
Mr. Rajkumar, Advocate and Mr. Bhupinder, LA for Respondent No. 2
Dr. Abhishek Atrey and Mr. Sumit Rajora, Advocates for Respondent No. 4
Mr. B.V. Niren, Adv. For CGWA

JUDGMENT

PRESENT:
Hon'ble Mr. Justice Swatanter Kumar (Chairperson)
Hon'ble Mr. Justice M.S. Nambiar (Judicial Member)
Hon'ble Dr. D.K. Agrawal (Expert Member)
Hon'ble Prof. A.R. Yousuf (Expert Member)
Hon'ble Mr. Bikram Singh Sajwan (Expert Member)

Reserved on: 15th February, 2016
Pronounced on: 4th May, 2016

1. Whether the judgment is allowed to be published on the net?
2. Whether the judgment is allowed to be published in the NGT Reporter?

JUSTICE SWATANTER KUMAR, (CHAIRPERSON)

Review Application No. 2 of 2016 and Miscellaneous Application No. 63 of 2016 has been filed by the applicant with the prayer that the Judgment dated 10th December, 2015 passed in Appeal No. 58 of 2015 be reconsidered and the Joint Inspection Team of Officers from CPCB and the Uttarakhand Environmental Protection and Pollution Control Board (for short 'UKPCB') be directed to re-examine whether the applicant industry uses or does not use chemical in its pulping process and whether it generates any black liquor by conducting an inspection of the industry.

2. Further, it was also prayed that the industry be permitted to resume its manufacturing activity. The application for review of the order dated 10th December, 2015 has been filed on 19th January, 2016 and there is a delay of 5 days in filing the application for review, as per the applicant, for which Miscellaneous Application No. 63 of 2016 has been filed. We will deal with both the applications together. Vide order dated 10th December, 2015 the Tribunal had directed that the industry be shut down as it was a non-compliant and polluting industry as per the reports of the inspecting team and the industry was directed to comply with the directions contained in the Charter issued by CPCB in relation to Paper and Pulp Industries. The industry was also directed to discharge its effluents strictly in accordance with prescribed norms. The industry was given liberty to request the Board for an inspection. The industry could be permitted by the Board for commencing its operations for 2 weeks and upon conducting a joint inspection by CPCB and UKPCB the consent to operate could be granted subject to final orders by the Tribunal.

3. It had been stated before the Tribunal by the official respondents and the Joint Inspection Team that the industry was a non compliant and polluting industry and it was only after examining the inspection report filed by the official respondents that the directions for shutting down the industry of the applicant had been passed. The emphasis of the present applicant is that it is neither using any chemical in its pulping process nor it is generating any black liquor. According to the industry, they only use water

steam for pulping purpose. They do not add any chemical in the digesters. The applicant uses digester followed by low consistency pulpers for the boiling/cooking of speciality grades of waste paper for quality paper production and this has been established in the report of IIT Roorkee which could not be placed before the Tribunal when the judgment dated 10th December, 2015 was passed by the Tribunal.

4. According to the application for condonation of delay it is an admitted case where the application for review has been filed under Section 19 (4) (f) of the National Green Tribunal Act, 2010 (for short 'NGT Act') beyond the prescribed period of limitation of 30 days as provided under terms of Rule 22 (1) of The National Green Tribunal (Practice and Procedure) Rules, 2011 (for short 'Rules of 2011'), Rule 22 (1) states that *"No application for review shall be entertained unless it is filed within 30 days from the date of receipt of the copy of the order."* Order in question was passed on 10th December, 2015 while the present application has been filed on 19th January, 2016. There is admittedly more than 7 days delay in filing the application. The Ld. Counsel appearing for the applicant relied upon the judgment of the Supreme Court in the case of *State of Madhya Pradesh and Anr. V. Anshuman Shukla* (2014 (10) SCC 814) to contend that provisions of Section 5 of the Limitation Act, 1963, (for short 'Limitation Act') would be applicable to the provisions of the NGT Act. It is the contention of the applicant that the NGT Act does not contain any of the aspects deciding on the power of the Tribunal

for entertaining the Review Application beyond the prescribed period of limitation.

5. It is true that Section 19 of the NGT Act, 2010 or any other provision does not specifically exclude the application of the provision of the Limitation Act. No Section of the NGT Act provides any limitation for filing of the Review Application. However, it is the subordinate legislation, i.e., Rule 22(1) of the Rules of 2011 framed by the Competent Authority in exercise of the power conferred under Section 4 read with Section 35 of the NGT Act which provides limitation for filing of a review application. Rule 22(1) opens with a negative word 'No' and requires that the application is filed within the period of 30 days from the date of the copy of receipt of the order which is to be received.

6. Under Section 14 and 16 of the NGT Act where a clear embargo or restriction has been placed upon the power of the Tribunal to condone the delay beyond the prescribed limitation in those provisions, it has been held that the provision of Section 4 to 24 (both inclusive) of the Limitation Act would not be applicable thereto. In the case of *Sunil Kumar Samantha V. West Bengal Pollution Control Board* 2014 Vol 2, NGT Reporter 250. The Tribunal held as follows:-

> "14. The policies underlying the law of limitation are ultimately based on justice and convenience and an individual should not live under the threat of a possible action for an indeterminate period since it would be unjust. Prescription of limitation takes in its ambit fairness and expeditious trial. Indefinite uncertainty in relation to bringing an action would be opposed to public policy. This concept is applicable with great emphasis to the environmental jurisprudence where the project

proponent may invest large amount for making its project operational. Challenge to such project on the ground that it does not have any Environmental Clearance or otherwise, has to be within a specified time, as otherwise it would not only be unfair but also be seriously prejudicial to the interest of a party. Vigilance in the pursuit of rightful claims should be encouraged so that these are ethical or rational justifications for the law of limitation.

15. We have already noticed that NGT Act is a self-contained code in itself. It provides the forum/procedure that has to be adopted, the limitation period within which the jurisdiction of the tribunal gets invoked, and the power and functions of the tribunal in explicit terms. As a self-contained code, it does not admit of any ambiguity with regard to application of other laws in the adjudicatory process of the tribunal. The legislature in its wisdom has worded provisions of Section 16 of the NGT Act so as to prohibit even filing of an appeal beyond a total period of 90 days. The language of these provisions clearly demonstrates the legislative intendment on excluding application of general law of limitation to this special statute. Such a view would also find clear support from the language of Section 29 (2) of the Limitation Act which postulates that when a special law prescribes for any period of limitation different from the period prescribed in the Schedule to the Limitation Act and the language of the provisions of such special law is indicative of express or implied exclusion, then Sections 4 to 24 (inclusive) of the Limitation Act shall apply only and to the extent they are not excluded by the Special Law. The cumulative reading of Section 16, particularly, the proviso and Section 29 of the Limitation Act leaves no doubt in mind that legislature had clearly intended to exclude the application of the general law of limitation provided under the Limitation Act from the NGT Act. Proviso to Section 16 of the NGT Act uses the expression 'allow it to be filed under this Section within a further period not exceeding 60 days'. The use of the negative language 'not' in the proviso makes it mandatory that appeals cannot be filed after the expiry of total period of 90 days and thus, there is lack of jurisdiction of the tribunal to condone the delay beyond a total period of 90 days. The framers of law, where, in their wisdom wanted to give a benefit and/or restrict or place embargo on exercise of a right, have done so by using specific language in Section 16 of the NGT Act. A special concession is made available to an appellant to file an appeal beyond 30 days, the initial period of limitation prescribed under that provision. The framers there put a specific embargo on the power of the Tribunal not to entertain an appeal after the expiry of a further period of 60 days. Thus the legislature, by necessary implication excluded the application of general law of limitation from

the provisions of the NGT Act. At this stage we may refer to the judgment of the Supreme Court in the case of *Hukumdev Narain Yadav v. Lalit Narain Mishra,* (1974) 2 SCC 133, where the Supreme Court was dealing with the provisions of the Representation of the Peoples' Act, 1951 and the applicability of the provisions of the Limitation Act. The Court in relation to the interpretation of the language of Section 29(2) of the Limitation Act held as:

> "17. What we have to determine is whether the provisions of this section are expressly excluded in the case of an election petition. It is contended before us that the words "expressly excluded" would mean that there must be an express reference made in the special or local law to the specific provisions of the Limitation Act of which the operation is to be excluded. As usual the meaning given in the Dictionary has been relied upon, but what we have to see is whether the scheme of the special law, that is in this case the Act, and the nature of the remedy provided therein are such that the Legislature intended it to be a complete code by itself which alone should govern the several matters provided by it. If on an examination of the relevant provisions it is clear that the provisions of the Limitation Act are necessarily excluded, then the benefits conferred therein cannot be called in aid to supplement the provisions of the Act. In our view, even in a case where the special law does not exclude the provisions of Section 4 to 24 of the Limitation Act by an express reference, it would nonetheless be open to the Court to examine whether and to what extent the nature of those provisions or the nature of the subject-matter and scheme of the special law exclude their operation."

16. From the above dictum of the Supreme Court of India, it is clear that the exclusion can be by explicit language or even by necessary implication. It will depend upon the scheme of the Act, it being a self-contained code and what is the intent of legislature? Furthermore, in the case of *Union of India v. Popular Construction & Co.*, AIR 2001 SC 4010, the Supreme Court held that the word 'excluded' appearing in Section 29(2) of the Act would also include 'exclusion by necessary implication'. In the case of *Gopal Sardar v. Karuna Sardar,* (2004) 4 SCC 252, the Supreme Court read exclusion by implication, where some of the provisions in West Bengal Land Reforms Act, 1955, provided for giving benefit of Section 5 of the Limitation Act but Section 8 of the said Act did not make such a provision. The court took the view that legislature consciously excluded the application of Section 5 of the Limitation Act."

7. In contradistinction to the language of Sections 14 and 16 of the NGT Act, the language of Rule 22(1) of the Rules of 2011 does not put any restriction on the outer limit of period whereupon the Tribunal would lose its jurisdiction to condone the delay. From the language of the provisions and the above stated principles it would emerge that Section 14 and 16 are mandatory while that of Rule 22(1) is directory. Reference can be usefully made at this stage to the factors which have to be considered while deciding whether the time limit provided in the Act is directory or mandatory which are provided in interpretation of statues by P.M. Bakshi 2013 at Page 468 as follows:

> "The under mentioned factors have to be considered in deciding whether the time limit provided in the Act is directory or mandatory:-
> 1. The general scheme of the Act and the context of the other provisions.
> 2. Whether the time limited is insisted upon as a protection for safeguarding the right of property of a person.
> 3. Whether the statute relates to performance of a public duty by a public officer.
> 4. Whether serious general inconvenience or injustice to persons who have no control over those entrusted with the duty would arise if the provision is held mandatory and not directory.
> 5. Whether such a decision would not promote the main object of the legislature.
> 6. Where the statute itself expressly provides for the result of non compliance with the statutory provision, what can reasonably be held to be the intent of the Legislature."

8. The distinction in language of Rule 22(1) of the Rules of 2011 and Sections 14 and 16 of the NGT Act is clear and unambiguous and has to be given its appropriate meaning. Once there is clear linguistical distinction between the above mentioned provisions it

will not be proper for the Tribunal to give interpretation to these distinct provisions on the touchstone of same principles. In the case of *Kaushlya Rani v. Gopal Singh* (AIR 1964 SC 260) the Supreme Court while laying emphasis on the fact that if the special or local law expressly excludes the applicability of Section 5, it would stand displaced but if the language necessarily does not specify exclusion or by necessary implication then it will not be possible to displace the application of Section 5 of the Limitation Act. The Supreme Court was dealing with Sub Section 4 of Section 417 of the Code of Criminal Procedure, 1898 and held that the language does not suggest exclusion, much less an express exclusion of Section 5 of the Limitation Act. When in the normal course of events the language of the Section does not create a legal impediment in applying the provisions of Section 5 of the Limitation Act, then in law it will not be permissible to infer exclusion of Section 5 of the Limitation Act and when the provision of Section 5 becomes applicable to Rule 22 (1) of the Rules of 2011 then the Tribunal would have the Jurisdiction to condone the delay beyond the prescribed period of limitation of 30 days.

9. We may refer to the judgment which would further administrate that if legislature has used such language then the provisions of Section 5 of the Limitation Act would be attracted.

10. In view of the above stated position of law we are of the considered opinion that the provisions of the Section 5 of the Limitation Act, 1963 would come to the rescue of the applicant in

getting the delay condoned beyond the specific period of limitation as provided under Rule 22 (1). In view of the settled principle of law stated by the Tribunal in the case of *Sunil Kumar Samanta v. West Bengal Pollution Control Board* (supra), the above conclusion would be of no avail to the applicant who asks for condonation of delay, in excess of the prescribed period of limitation (90 days) under Section 14 & 16 of the NGT Act.

11. The application for condonation of delay is supported by an affidavit, wherein it has been stated that the applicant was complying with the orders of the Tribunal dated 10th December, 2015 and it is at that time the applicant realised that they need to get the Judgment clarified and thereafter the applicant immediately moved to the Tribunal and in any case there is just 7 days delay in filing the application and particularly when the applicant is complying with the directions issued by the CPCB and UKPCB there is no reason as to why the delay in filing of the application could not be condoned. Consequently, we allow the application and condone the delay in filing Review Application 2 of 2016.

As far as the prayer in the review application is concerned it is patently beyond the scope of Order XLVII Rule I of the Code of Civil Procedure 1908 read with Section 19 (4) (f) of the NGT Act. Merely because a document has not been produced before the Tribunal i.e. the IIT Report, would not be a ground for the applicant to invoke review jurisdiction of the Tribunal. Reliance can be placed on the Judgment of the Tribunal dated 1st September, 2015 in the case of

S.P. Muthuraman v. Union of India & Ors., Review Application No. 20 of 2015 which held as under:

> "This Tribunal has been specifically conferred with the power of review under Section 19(4)(f) of the National Green Tribunal Act, 2010 (for short 'Act of 2010'), though in terms of Section 19(1) of the Act of 2010, the Tribunal is not bound by the provisions laid down by the Code of Civil Procedure, 1908 and is to be guided by the principles of natural justice. Furthermore, Section 19(2) of the Act of 2010 confers the power upon the Tribunal to regulate its own procedure. To put it simply, the provisions of the Code of Civil Procedure, 1908 are *stricto sensu* not applicable to the Tribunal but it would be guided by the applied principles of the Code of Civil Procedure, 1908. Thus, when one has to examine the power of the Tribunal to review its decisions, it would be guided by the Principles underlining Order XLVII Rule 1 of the Code of Civil Procedure, 1908. In this context it becomes necessary for us to examine the scope of review jurisdiction of the Tribunal as guided by the provisions of Order XLVII of the Code of Civil Procedure, 1908. The Supreme Court of India in the case of *State of West Bengal and Ors v. Kamal Singh and Anr*, (2008) 8 SCC 612 while examining the identical provisions existing in the Central Administrative Tribunal Act which are *pari materia* to Section 19 of the Act of 2010. The Hon'ble Supreme Court held as under:
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> > "11. Since the Tribunal's power to review its order/decision is akin to that of the Civil Court, statutorily enumerated and judicially recognized limitations on Civil Court's power of review the judgment/decision would also apply to the Tribunal's power under Section 22(3)(f) of the Act. In other words, a Tribunal established under the Act is entitled to review its order/decision only if either of the grounds enumerated in Order 47 Rule 1 is available. This would necessarily mean that a Tribunal can review its order/decision on the discovery of new or important matter or evidence which the applicant could not produce at the time of initial decision despite exercise of due diligence, or the same was not within his knowledge or if it is shown that the order sought to be reviewed suffers from some mistake or error apparent on the face of the record or there exists some other reason, which, in the opinion of the Tribunal, is sufficient for reviewing the earlier order/decision.
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> > …
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> > 15. The term 'mistake or error apparent' by its very connotation signifies an error which is evident per

se from the record of the case and does not require detailed examination, scrutiny and elucidation either of the facts or the legal position. If an error is not self-evident and detection thereof requires long debate and process of reasoning, it cannot be treated as an error apparent on the face of the record for the purpose of Order 47 Rule 1 CPC or Section 22(3)(f) of the Act. To put it differently an order or decision or judgment cannot be corrected merely because it is erroneous in law or on the ground that a different view could have been taken by the Court/Tribunal on a point of fact or law. In any case, while exercising the power of review, the concerned Court/Tribunal cannot sit in appeal over its judgment/decision.

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19. In *Moran Mar Basselios Catholicos and Anr. v. The Most Rev. Mar Poulose Athanasius and Ors*. 1995 (1) SCR 520, this Court interpreted the provisions contained in Travancore Code of Civil Procedure which are analogous to Order 47 Rule 1 and observed:

Under the provisions in the Travancore Code of Civil Procedure which is similar in terms to Order XLVII , Rule 1 of our Code of Civil Procedure, 1908, the Court of review has only a limited jurisdiction circumscribed by the definitive limits fixed by the language used therein. It may allow a review on three specified grounds, namely, (i) discovery of new and important matter or evidence which, after the exercise of due diligence, was not within the applicant's knowledge or could not be produced by him at the time when the decree was passed, (ii) mistake or error apparent on the face of the record and (iii) for any other sufficient reason. It has been held by the Judicial Committee that the words "any other sufficient reason" must mean "a reason sufficient on grounds, or least analogous to those specified in the rule."

8. There are limitations on exercise of Review Jurisdiction of the Courts or Tribunal. A review is by no means an appeal in disguise where by an erroneous decision can be guided. An error which is not self evident and has to be detected by a process of reasoning can hardly be said to be an error apparent on the face of the record. Besides this, the court has also stated that there is clear distinction between the erroneous decision and an error apparent on the face of the record. The first can be corrected by the higher forum while the latter can only be guided by exercise of Review jurisdiction (Refer: *Tungabadra Industries v. Government of Andhra Pradesh,* [964] 5 SCR 174, *Parsion Devi & Ors v. Sumitri Devi and Ors,* (1997) 8 SCC 715.

> 9. After the amendment of Order XLVII the expression "any other sufficient reason" had been added. This expression appearing in Order XLVII Rule 1 means a reason sufficiently analogous to those specified in the Rule. Any other attempt except an attempt to correct an error apparent or an attempt not relatable to any ground set-out in Order XLVII, would amount to the abuse of the liberty given to the Tribunal under the Act of 2010. (Refer: *Ajit Kumar Rath v. State of Orissa and Ors*, AIR 2000 SC 84). It is also a stated principal of review jurisdiction that it is wide power vested in the Tribunal. It is intended to correct the error or a mistake apparent on the face of record but for which the Court would not have passed the order. If such error is persisted with or its perpetration shall result in miscarriage of justice then alone the Court would interfere. It has to prevent irritable justice but a review application cannot be considered favourably merely on the ground that a different view was probable and could have taken by the Tribunal. This power cannot be exercised for correction or mistake or to substitute a view. The review is not rehearing of an original matter in its expended form. A repetition of old over ruled arguments for submissions with a greater emphasis on hardship or financial constraints is not enough to reopen concluded adjudications. Where an applicant virtually seeks the same relief which had been sought at the time of arguing the main matter and had been negated the review would be not maintainable as it would amount to rehearing the matter as opposed to the concept of finality. (Refer: *Ms. Medha Patkar v. Ministry of Environment & Forests,* 2013 ALL (I) NGT REPORTER NEW DELHI 174, *Jain Studios Ltd. v. Shin satellite Public Co. Ltd.,* (2006) 5 SCC *501 and Kamlesh Verma v. Mayawati,* (2013) 8 SCC 320)."

12. Furthermore, after filing of this application it is brought to the notice of the Tribunal that in the connected matter being Appeal no. 20 of 2016 that the joint inspection team has already conducted an inspection and submitted the report to the Tribunal. That matter is pending and would be considered on its own merits. Partly the grievance of the applicant does not even survive but in any case we do not find any merit in this Review Application. The industry cannot be permitted to operate unless it is found to be compliant and non-polluting. The report of the joint inspection team and

objections of the other side would be considered independently in the proceedings which are now pending before the Tribunal.

13. When the above matters were awaiting pronouncement of the Judgement against the order dated 26th February, 2016 the applicant filed another appeal on 18th March, 2016 being Appeal No. 20 of 2016 passed by respondent no. 1 UKPCB stating that the unit cannot be permitted to discharge effluent and emission and also refused to issue the consent under the Water (Prevention) and Control of Pollution Act, 1974, the Air (Prevention) and Control of Pollution Act, 1981 and the Authorisation for dealing with hazardous waste. The applicant unit was given liberty to apply afresh in accordance with Rules.

14. The primary challenge of the applicant to this order is founded on the plea that the applicant unit is neither using chemicals in pulping of the paper nor is a polluting industry and therefore should be permitted to carry on its manufacturing activity. It is averred by the applicant that at least 3 months time is required to stabilise its ETP to bring the discharge of its effluent within the prescribed parameters. Unless, this period is granted for operating the industry, the achievement of requisite parameters would not be possible.

15. The applicant also relies upon an Assessment and Evaluation of the Plant for the manufacturing of speciality papers from imported waste paper prepared by the Department of Paper Technology, Indian Institute of Technology, Roorkee, wherein it has

been recorded that since no chemical is used in boiling of the waste paper in the so called, digester there is no chemical digestion process in the digester and no black liquor is generated. Test results of the samples of the effluent were found to be in order. The ETP installed is adequate to treat 200 metric ton of waste water per day from waste paper.

16. The unit was inspected jointly by a team consisting representatives from CPCB and UKPCB on 2nd February, 2016 and the unit was found non compliant with the prescribed effluent treatment norms. According to the Board, consent to operate has been refused on 26th February, 2016. During the joint inspection, even the joint inspection team found that there is no evidence of use of agro based raw material in chemical pulping which then would not produce black liquor. The Board has asked the industry to file an affidavit and bank guarantee that they are neither using any agro based raw material nor generating black liquor. The unit has also shown willingness to ensure 24 X 7 monitoring of effluent coming out of the ETP and installation of the online effluent monitoring system, to the Board. The unit has appealed that the manufacturing activity without use of any chemical should be permitted for a period of 3 months before the regular consent is granted.

17. With reference to the reports on record, we are of the considered view that conditions imposed by the Board that the digester should be demolished is without substance. When different reports have found that the industry is not using chemicals in pulping of the paper and is not generating any black liquor, then the

industry certainly needs digester for pulping of the paper by steam and water. The imposition of the said condition is without any proper scientific basis.

18. It is commonly conceded that the ETP would require sometime to stabilise to ensure that the effluent discharged is strictly within the prescribed parameters. It is the period for stabilisation of ETP which is the bone of contention. According to the applicant, it needs 3 months while according to the board it could be 6 to 8 weeks.

19. Having heard the counsel appearing for the parties we direct as follows:-

1. The ETP should be stabilised within 6 weeks as that is sufficient period for an ETP which is installed and functioning for ensuring discharge of effluent is within the prescribed parameters, unless the ETP itself was defective and non-performing.

2. The industry would install Online System which would provide continuous data of the effluent parameter and other necessary information to the UKPCB/CPCB.

3. The unit and all authorities concerned would show that there is no by-pass prior to the ETP or subsequent to the ETP in the premises of the industry. Furthermore, there should be no connectivity by underground or any other drain or storm water drain on the boundary of the industry to the manufacturing processes. If the industry is found to be having any by-pass or any other drain

joining the storm water drain connected to any of the processing sections, the industry shall be shut down without any further inquiry by the Board. There shall be a dedicated line to ETP which shall be operative 24 X 7 without default.

4. The industry shall furnish a Bank Guarantee of Rs. 10 lakh in favour of the UKPCB which would be liable to be encashed in the event the industry is found to be in violation of any of the conditions mentioned in this Judgment and the temporary consent order which is to be passed by the Board in terms of this Judgment.

5. The industry would be permitted to operate for a period of 6 months at the first instance and would operate to its optimum capacity and it would be subject to a joint inspection which would be a surprise inspection after a period of 6 months and the joint inspection team shall prepare a comprehensive analysis of the trade effluent, air quality and all other systems in terms of the directions issued by the Tribunal for conducting such inspection. The report shall be submitted to the Registry and would be placed by the Registry before the Tribunal.

6. The Board shall grant regular consent to operate if the joint inspection report is found to be favourable. The consent would be subject to the orders of the Tribunal.

20. With the above observation, the Review Application is dismissed while leaving the parties to bear their own cost. Accordingly, Review Application No. 2 of 2016 and Miscellaneous Application No. 63 of 2016 and Appeal no. 20 of 2016, Miscellaneous Application 266 of 2016 stand disposed of without any order as to costs.

Swatanter Kumar
Chairperson

M.S. Nambiar
Judicial Member

D.K. Agrawal
Expert Member

Prof. A. R. Yousuf
Expert Member

Bikram Singh Sajwan
Expert Member

New Delhi
4th May, 2016