

**BEFORE THE NATIONAL GREEN TRIBUNAL
CENTRAL ZONAL BENCH, BHOPAL**

Original Application No. 143/2013(THC) (CZ)

CORAM:

**Hon'ble Mr. Justice Dalip Singh
(Judicial Member)**

**Hon'ble Mr. P.S.Rao
(Expert Member)**

BETWEEN:

1. Nagrik Upbhogta Margdarshak Manch
Through Dr. P.G. Najpandey,
Aged about 74 years,
6/47, Ram Nagar, Adhartal,
Jabalpur (MP)
2. Yuva Prakosth Nagrik Upbhogta Margdarshak Manch
6/47, Ram Nagar, Adhartal, Jabalpur (MP)
Through its President Manish Sharma,
S/o Late Shri C.K. Sharma, Aged about 40 years,
R/o 103, Navadarsh Colony, Vivekanand Ward,
Ram Nagar, Jabalpur (MP)

Applicants

Versus

1. State of Madhya Pradesh
Through the Secretary,
Housing & Environment,
Vallabh Bhawan, Bhopal
2. State of Madhya Pradesh
Through the Secretary,
Urban Administration and Development Department,
Vallabh Bhawan, Bhopal
3. Madhya Pradesh State Pollution Control Board
Through its Member Secretary, Bhopal
4. Director of Urban Administration and Development Department
Madhya Pradesh, Bhopal.
5. State of Rajasthan
Through Chief Secretary, Jaipur.
6. State of Chhattisgarh
Through Chief Secretary, Raipur

7. Rajasthan State Pollution Control Board
Through its Member Secretary, Jaipur
8. Chhattisgarh Environment Conservation Board
Through its Member Secretary, Raipur
9. Central Pollution Control Board
Through its Secretary, New Delhi.
10. Ministry of Environment and Forests
Through its Secretary, New Delhi.
11. Ministry of Commerce and Industries
Through its Secretary, Udyog Bhawan,
New Delhi.

.....Respondents

Counsel for Applicant:	Shri Manish Sharma, Advocate
Counsel for Respondent No. 1,2&4 :	Shri Sachin K.Verma, Advocate
Counsel for Respondent No. 3 &8 :	Ms. Parul Bhadoria, Advocate
Counsel for Respondent 5, 7 & 9:	Shri Sandeep Singh, Advocate
Counsel for Respondent 6:	Shri S.S.Chouhan, Advocate
Counsel for Respondent 10 :	Shri Om S.Shrivastav, Advocate

Dated :January 15th, 2015

JUDGEMENT

1. This application was originally filed as PIL before the Hon'ble High Court of Madhya Pradesh Bench at Jabalpur as Writ Petition No. 14894/2013. Subsequently, as per the orders of the Hon'ble High Court dated 02.12.2013, issued pursuant to the order of the Hon'ble Supreme Court of India dated 9th August, 2012 passed in *Bhopal Gas Peedith Mahila Udyog Sangathan and Others Vs. Union of India & Others (2012) 8 SCC 326*, the case was transferred to the National Green Tribunal, Central Zonal Bench, Bhopal. On receipt, the same was registered as Original Application No. 143 of 2013 and vide order dated 19.12.2013, notices were ordered to be issued to the parties.

2. Since the issue involved in this matter is of substantial importance not only to the State of Madhya Pradesh (in short 'MP') but also the other two States i.e. Rajasthan & Chhattisgarh falling within the jurisdiction of this Bench notices were ordered to be issued to the Chief Secretaries as well as the State Pollution Control Boards of the aforesaid two States. In the order dated 24.01.2014 a direction was issued to file their replies to the issues raised in the petition duly explaining the steps that have been taken by the respective States and their State Pollution Control Boards in this regard.
3. In this petition, the Petitioner has raised the issue of ill effects of Electrical and Electronic waste (in short 'E-waste') in the State of MP. E-waste comprises of electrical appliances such as refrigerators, air conditioners, washing machines, microwave ovens, fluorescent light bulbs etc. and electronic products such as computers and their accessories, television sets, mobile phones, stereo equipment etc. It is the contention of the Applicant that after the notification of the E-waste (Management & Handling) Rules, 2011(in short 'Rules of 2011') under the Environment Protection Act, 1986 by the Ministry of Environment and Forests (in short 'MoEF'), Government of India no concrete steps have been taken by the authorities concerned in the state of MP to implement the Rules of 2011 leading to environmental degradation.
4. The Applicant contended that though the MP State Pollution Control Board (in short 'MPPCB') has put forward a framework for management of E-waste in the State, it has not made any headway in implementing the rules in letter and spirit. To begin with, the MPPCB has done inventarisation of E-waste in 8 major cities and towns in the State. The largest Producer of E-

waste was found to be the city of Indore generating about 8000 Metric Tons of E-waste yearly, followed by Bhopal, Gwalior and Ujjain with 415, 400 & 315 Metric Tons per annum respectively but unfortunately no follow up action was taken and only in the city of Indore the MPPCB in collaboration with Hostech Eco Management Pvt. Ltd., has opened Collection Centres for E-waste but nothing has been done in respect of other major cities such as Bhopal, Gwalior, Jabalpur etc. Though an announcement was made way back in May, 2012 that E-waste Collection Centres will be opened in all the major cities of Madhya Pradesh but nothing has been done in this regard. The Applicant further stated that unscientific handling and disposal of E-waste not only damages the environment but also causes damage to the health of the people particularly those who are engaged in handling E-waste. The Applicant stated that inspite of raising the issue with the concerned authorities no action has been taken by the authorities and therefore he has got no other alternative except to approach the Hon'ble High Court of Madhya Pradesh to direct the Respondents to immediately implement the 'Rules of 2011' in letter and spirit to prevent further damage to the environment as well as health of the workers engaged in handling E-waste in particular and public in general.

5. Consequent to the notice issued by this Tribunal the MPPCB has submitted their reply dated 05.05.2014 stating that the MPPCB had issued a circular in the month of August, 2010 to all the Regional Officers of the MPPCB to immediately start taking necessary action in accordance with draft E-waste (Management & Handling) Rules 2010 published by the MoEF on 14.06.2010. Accordingly, the Regional Officers of MPPCB have directed various organizations, institutions and industries to comply with the draft

rules. Subsequently when the Gazette Notification was published by the MoEF on 12.06.2011 bringing in force the Rules of 2011 with effect from 01.05.2012, the MPPCB issued directions to all the Regional Officers on 24.06.2011 for taking immediate necessary action and also issued letters to various stakeholders, duty holders like industries etc. for implementation of the provisions of the Rules. It was further stated by the MPPCB that it has awarded the work of Micro Level Inventarisation as per the items mentioned in the Schedule-1 of the Rules of 2011, for the cities of Bhopal, Jabalpur, Indore and Gwalior for the financial year 2012-2013 and in case of 6 other divisions i.e. Sagar, Chambal, Hoshangabad, Ujjain, Rewa and Shahdole similar action was taken for the financial year 2013-14. The MPPCB has authorized one Recycler i.e. M/s Unique Eco Recycler, Indore who has got the capacity of 6000 MT for recycling the E-waste per annum. The MPPCB in their reply further stated that the Central Pollution Control Board (in short 'CPCB') has issued detailed guidelines on implementation of Rules of 2011 in April, 2012 (in short 'CPCB Guidelines') and the same were communicated to all the Regional Officers of the MPPCB as well as various organizations, institutions and industries to comply with the guidelines. The MPPCB also stated that it has delegated powers to the Regional Officers for granting authorization for establishment of Collection Centres for collection of E-waste.

6. The MPPCB has filed further reply dated 03.07.2014 pursuant to the directions issued by this Tribunal on 05.05.2014. From their reply it appears that the MPPCB has prepared a list of 19 major companies dealing with the Electrical & Electronic Equipment (in short 'EEE') whose products are distributed throughout the State of MP and under Section 5 of

the Environment (Protection) Act, 1986 issued directions to them in compliance of the provisions of the Rules of 2011 to provide the details of the Collection Centres or 'take back' the E-waste, details of the registered Dismantlers or Recyclers and submit a compliance report on Rules of 2011. List of dealers, consumption centres, sale outlets of the products in the State has also been called for from the respective companies carrying out the business of electronic goods in the State of MP. It was further stated that out of 19 major companies only 3, namely M/s HCL Info System Ltd., M/s LG Electronics India Pvt. Ltd, and M/s Samsung India Pvt. Ltd have responded to the directions issued by the Board. Only two applications, one at Indore and another at Gwalior, for establishment of Recycling unit and one application for establishing Dismantling unit at Bhopal have been received by the Board and these applications are under consideration.

7. During the course of subsequent hearing held on 24.07.2014, the Learned Counsel for the State of MP stated that the reply filed by the MPPCB is read as the reply of the Respondent No. 1 State of MP.
8. In their further reply dated 01.12.2014 the MPPCB has enclosed copies of the annual reports submitted by it to the CPCB on the implementation of Rules of 2011 in the state of MP for the financial years 2012-13 and 2013-14 as prescribed under Rule 15 of the Rules of 2011.
9. The Respondent No.7, Rajasthan State Pollution Control Board (in short 'RSPCB') in their affidavit dated 20.08.2014 stated that the Board has granted authorization to 9 E-waste Dismantlers in the State of Rajasthan out of which 7 Dismantlers are having valid registration and 2 have applied

for renewal. The Board has also granted authorization to 4 E-waste Collection Centres and one E-waste Producer and submitted annual reports to the CPCB for the years 2012-13 and 2013-14. It was further stated by the Learned Counsel for the RSPCB that the Board has issued show cause notices to the major Producers of the E-waste for non compliance of the provisions of the Rules of 2011 and will be duly taking action against the defaulters in accordance with the law and accordingly stated that the RSPCB is taking all the necessary steps for implementation of the Rules of 2011 in the State of Rajasthan.

10. In compliance of the directions issued by this Tribunal the Chhattisgarh Environment Conservation Board (in short 'CECB') has filed their reply stating that immediately after the notification of the Rules of 2011, the CECB issued directions during May, 2012 itself to all the Regional Officers of the Board for implementation of the Rules of 2011 in their respective jurisdiction. It was also stated that the Commissioner, Urban Administration and Development Department, State of Chhattisgarh was also directed for implementation of the Rules along with issuing directions to various stakeholders/duty holders like industries, institutions, municipal bodies etc. for the implementation of the provisions of the Rules. It was also stated that CECB has started preliminary inventerisation work and it is under process and whenever applications are received it has granted authorization and presently only one Dismantler at Rajnandgaon and one Recycling unit exist in the State of Chhattisgarh. It was further stated by the CECB that under the Extended Producer Responsibility (in short 'EPR') the CECB has written letters to the Producer Companies for creating awareness on the Management and Handling of the E-waste and

CECB has received reply from the M/s Samsung India Pvt. Ltd., M/s Philips India Pvt. Ltd., M/s Whirlpool India Pvt. Ltd., M/s LG India Pvt. Ltd. and M/s Videocon Industries Ltd. regarding their 'Buy Back' system and Collection Centres in the State of Chhattisgarh and CECB has written letters to all the companies for obtaining the authorization for Collection Centres in the State. In their subsequent reply filed on 09.12.2014, the CECB stated they are seeking help for appointment of consultant for carrying out inventarisation of E-waste generated in the State of Chhattisgarh.

11. In compliance of the directions issued by the Tribunal on 04.07.2014 the CPCB has filed their reply on 19.09.2014 listing about the responsibilities of the CPCB that have been stipulated in Schedule-III of the Rules of 2011 and accordingly CPCB, being aware of its responsibilities, had initiated various steps for effective implementation of Rules of 2011. However, the CPCB stated that the responsibility of enforcing the Rules of 2011 for proper Collection and disposal of the E-waste lies with the State Pollution Control Boards or Pollution Control Committees as the case may be.

12. We have heard the Applicant who is present in person during the course of hearing of the case as well as the Learned Counsels for the Chhattisgarh, Madhya Pradesh and Rajasthan State Pollution Control Boards and Learned Counsel for the CPCB at length. From the replies filed on behalf of the respondent State Boards as also the reply of Respondent CPCB, we find that still a lot is required to be done with regard to the implementation of the Rules of 2011. As far as the provisions of the rules are concerned, first and foremost that needs to be understood is the applicability of the Rules of

2011 in the form of the duties and responsibilities of the Producer. In this behalf, the definition of 'Producer' as provided under Rule 3 clause 'q' also needs to be fully understood by all concerned and particularly the authorities of the PCBs. If the true meaning of the Producer is understood so as to bring within its ambit not only manufacturers but sellers and suppliers, the next process with regard to the applicability of the rules and ensuring their compliance would become much wider. At present as was submitted before us, the definition of term 'Producer' with regard to whom information is being obtained and supplied by the State Pollution Control Boards, is being given a very restricted meaning limiting it to manufacturer alone which is only one part of the definition of the term 'Producer'. As such the CPCB was directed to explain to the State PCBs the true import of the meaning of the term 'Producer' and that would make the applicability of the Rules of 2011 more effective. Once the definition of the term 'Producer' is understood by all concerned on the respective items as specified in Schedule-I of the Rules, which are EEE to which these rules apply, the responsibilities of the 'Producer' need to be highlighted. The responsibilities of the 'Producer' as have been enumerated particularly under sub-rule 2 of Rule 4 of Rules of 2011 are to ensure Collection and establishment of such Collection Centres so as to channelize the goods to authorized Collection agencies needs to be understood. 'Buy Back' system or 'Take Back' system under sub-rule 3 of Rule 4 also assumes importance and this mechanism must be made to work from the retailer, wholesaler, supplier to the manufacturer who all fall within the purview of the meaning of 'Producer' in terms of the definition under clause 'q'. Sub-rule 5 requires Producers to provide information by way of address, telephone numbers and helplines to the consumers with regard to the facilities and

points of authorized Collection Centres. Similarly, the requirement of creating awareness through publishing and advertising in this behalf is also attributed to the Producers and therefore it should be made mandatory for all Producers of EEE while advertising their goods to provide the aforesaid information with regard to the buyback facility or scheme, as also the necessity of returning the goods to the authorized Collection Centres only.

13. Under Rule 9 every Producer of the EEE listed in Schedule-I is required to obtain the authorisation from the State Pollution Control Board or the Committee as the case may be. It was submitted that the aforesaid information with regard to the number of such Producers with the Pollution Control Boards has so far not been supplied to the CPCB. The provision of the rules also makes the applicability of the EPR in case of Schedule-I items and since the goods from the manufacturer reach the consumer through the chain of wholesaler, supplier and retailer the same chain must be made operative for proper implementation of the EPR system.

14. On the issues which we have noticed herein above, the CPCB was directed to file an additional affidavit which have been discussed before this Tribunal and recorded in our orders. It was also found that proper statistics with regard to the actual generation in terms of volume of E-waste, the quantity that reaches the authorized Collection Centres and then to the Recycling Centres there is presumably a vast gap which would only raise the presumption that E-waste handling is, in fact, not being carried out in a systematic manner in which it is required to be carried out. As such what fails the system and how it can be made more effective needs to be looked

into by the concerned authorities and the experience in the last 3 to 4 years needs to be taken into account for the aforesaid purpose.

15. In compliance of regard to the order dated 24.09.2014 of this Tribunal the CPCB has filed additional affidavit on 09.12.2014 clarifying that 'Producer' is any person who offers to sell EEE manufactured by him under his own brand name. A 'Producer' is also a person who offers to sell by providing a brand name to EEE manufactured or assembled by others. Further, 'Producer' is also a person who offers to sell any brand of imported EEE. Therefore a manufacturer (who is not selling a branded product), wholesaler, dealer, assembler, retailer does not come under the definition of 'Producer'. In view of the above, a 'Producer' is required to be authorized for selling their brand EEE or imported EEE and market and also for implementing the EPR. It was also stated by the CPCB that EPR is the main responsibility given to the Producers under Rules of 2011 wherein the Producer of EEE has the responsibility of managing 'end of life' EEE (E-waste) generated from the EEE sold by him. Further, with regard to EPR the CPCB stated that the Producer is entrusted with the responsibility to finance and organize a system to meet the cost involved in complying with the responsibility under EPR. The CPCB further stated :

i. The Producer shall take an authorization from the concerned SPCB/PCC.

ii. In the application for authorization, the Producer should mention, how he would ensure channelization of the E-waste at the end of its life; details of his own Collection Centres or take-back system or the Collection Centres authorized by him.

iii. A Producer who has manufacturing facility shall also take authorization to ensure that electronic scraps, rejects etc. generated during the manufacturing shall be sent or channelized to registered E-waste recycling facilities.

iv. *The Producer is required to maintain records in Form-2 of these rules along with the details of the E-waste handled/generated and has to submit the annual returns in Form-3 of these rules in accordance with Rule 4 (9) of these Rules.*

v. *Producer shall finance the EPR system either by setting up individual Collection system or by joining a common Collection system by authorizing them.*

vi. *As per Rule 4 (6) of the Rules of 2011, the Producer is responsible for creating awareness for the consumer about the EEE that has been placed on the market through multimedia, such as publications, advertisements, posters, information booklets, internet, use of television, radio, newspaper etc. could be adopted for communicating the information. The information should essentially convey the message for the compliance under these rules and the responsibility undertaken by the Producer on safe handling and disposal at the end-of-life EEE. The details of awareness programs undertaken shall be provided to SPCBs/PCCs while submitting annual return as per Form -3.*

vii. *Under Rule 4 (5) it is mandatory for the Producer to publicize the contact details of the authorized Collection Centres and Collection points or their Collection mechanism to the consumers and such information should be periodically updated. The detailed information should comprise the full address, telephone number, fax number, e-mail etc. for each State. The helpline number (like call centre) may also be publicized so that the consumer can reach the nearest Collection centre from where he/she is located.*

16. The CPCB also submitted that implementation of Rules of 2011 are not satisfactory which may be attributed to one or more of the following reasons :

- a. *Producers are not obtaining authorization from all SPCBs/PCCs which is necessary for selling EEE in the respective States.*
- b. *The information asked in the Form-1 of E-waste (Management & Handling) Rules, 2011 for seeking authorization the Producers for sale of their EEE and implementation of their EPR.*

- c. *The authorization issued to Producers does not specify the scope of implementing EPR.*
- d. *SPCs/PCCS are not able to complete inventory of E-waste generated.*
- e. *Most of the Producers are not setting up Collection Centres on their own.*
- f. *Authorization to Producers are granted without ensuring that they have set up Collection Centres or tied up with authorized Collection Centres.*
- g. *There is high demand for E-waste due to flourishing refurbishing market that reportedly pays more than a registered Dismantler/Recycler for receiving E-waste.*
- h. *SPCBs/PCCs fail to regulate illegal Dismantlers and Recyclers operating in un-organized sector.*

17. From the above, it is evident that none of the three States falling under the jurisdiction of this Bench have started implementing the Rules of 2011 with full force and neither required number of Collection Centres, Dismantlers and Recycling Centres have been authorised so far to take care of the huge quantity of E-waste that is being generated and which is likely to go up in the years to come as people are consuming more and more EEE which is even spreading to rural areas and if prompt and effective measures are not taken to strictly implement the Rules of 2011 the problem of E-waste which has become very acute in big metropolitan cities of the country will get repeated in the above three states also. The basic requirement is to strictly enforce the EPR and ensure that Producer is made responsible for guiding the consumers to the authorised Collection Centres of the E-waste. The fundamental requirement is to establish more number of Collection Centres and make the citizens aware of such centres in/near their locality as

in the absence of Collection Centres the consumers dispose the household E-waste either by mixing it with domestic waste or by selling it to the local scrap dealer and when the E-waste reaches the landfill/dumping site along with the other domestic waste, the toxic metals/substances penetrate the soil damaging the soil as well as the underground water and also the nearby water bodies which is harmful to the people living in the vicinity.

18. We therefore deem it just and proper to issue the following directions to the respective stake holder:-

- i. Direction for the Producers to follow : to comply with the requirement of the rule 4 in respect of the items listed in Schedule I of the Rules of 2011 with regard to collection of E-waste, enforcing and implementation of EPR, setting up Collection Centres and system of take back, developing and financing arrangement, which shall be transparent, for environmentally sound management of E-waste of its own products, providing contact details under rule 4 (5) of authorised collection centre to consumers and creating awareness through publication i.e. advertisement, posters and other means of communication with regards to management of E-waste. It shall also be the responsibility of the producers to get themselves registered and obtain authorisation from the State Pollution Control Boards and fulfill all the requirements of rule 9 of the Rules of 2011. In addition, the Producers shall be responsible to comply with all the requirements as per the CPCB Guidelines for the implementation of E-wastes Rules of 2011 contained in para 7 of the '4.0 Implementation of EPR' and other directions contained in the said guidelines'.

Since it is most important for making the consumer aware about the proper management and handling of the E-waste, every Producer shall incorporate prominently devoting at least 10% of space/time with respect of each of the

advertisement issued for their product under Schedule I of Rules of 2011 with regard to the requirement of proper management and handling of E-waste. This shall be carried out in the advertisement, by means of stickers on the product itself, the packaging material as well as on the bill/cash memo of the product, in addition on the warranty document and other information literature provided with the products.

- ii. Responsibility of State Pollution Control Boards : The State Pollution Control Boards shall inter-alia ensure that the Producer who offers to sell EEE listed in Schedule I of the Rules under their own brand or imported shall obtain authorisation as required under Rule 9 of Rules of 2011. For the aforesaid purpose the Producers shall submit all the necessary information with regard to setting up the Collection Centers, Dismantling units including authorised Dismantler and setting up of authorised Recyclers in respect of each of the products for effective enforcement of the rules. The guidelines issued by the CPCB, for the implementation of E-waste Rules 2011 providing for the role of State Pollution Control Boards shall be adhered to.
- iii. The Bulk Consumer: Likewise, as defined under Rule 3(c) the Bulk consumers are also required to comply with the requirement of Rule 6 of the Rules of 2011.
- iv. The Dismantler and Recycler : They shall apply for registration as required under the Rule 7 & 8 respectively.
- v. The Producer, Bulk Consumer, Dismantler, Recycler shall all comply with the requirement of rules and condition of the authority failing which the respective State Pollution Control Boards shall take steps for

Suspension/Cancellation of Authority in respect of holder of such Authority as empowered under Rule 10 of Rules of 2011.

- vi. Effective implementation of the EPR shall rest entirely with the Producer and for the aforesaid purpose and its sound management the Producer shall be made responsible.
- vii. The State Pollution Control Boards shall issue notice to all stakeholders i.e. Producer, Bulk Consumer, Dismantler, Recycler for getting themselves registered as required under the Rules of 2011 and for submitting necessary information by way of complying with the requirement under the Rules for getting the registration done. The application for registration shall be submitted by the Producer, Dismantler and Recycler within 45 days of the receipt of notice from State Pollution Control Board.
- viii. The Notice shall be issued by the State Pollution Control Boards of all the 3 states within 2 weeks of the receipt of this judgment. Failure to comply with aforesaid direction for submitting the application shall entail the consequence as provided under the Rules.
- ix. The Secretaries of Urban Development Departments of all the 3 states shall apprise all urban local bodies (Municipal Committees/ Councils/ Corporations) with regards to the compliance of the Rules of 2011 including the requirement under Rule 14 read with Schedule 3, item no. 3.
- x. The State Pollution Control Boards of Madhya Pradesh, Chhattisgarh & Rajasthan, along with the respective State Governments shall submit, within

4 months from the date of receipt of the judgment, the action taken report with regard to the implementation of the Rules, 2011.

19. As it has been brought to our notice that a similar petition in Original Application No. 183/2014 in the matter of *Toxics Link Vs. Union of India and Ors.* is being dealt by the Hon'ble Principal Bench of National Green Tribunal at New Delhi on implementation of the Rules of 2011 in the entire country, we restrain ourselves from giving any further directions to the aforesaid three States except to direct them to take up follow up action as stated above and whatever orders/ directions that are going to be issued by the Principal Bench in this regard in the aforesaid O.A. No. 183/2014, shall be implemented in letter and spirit.

20. With the above directions, we dispose of this Original Application. No order as to costs.

The matter shall be listed for compliance on 26th May 2015.

**Bhopal
January, 15th 2015**

**(Mr. Justice Dalip Singh)
Judicial Member**

**(Mr. P.S.Rao)
Expert Member**

NGT