

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

**Original Application No.539/2019
(I.A.No.376/2020)**

IN THE MATTER OF:

Adil Ansari

S/o Mohd. Naushad Ansari
Mob: 9614861414
Add: 2 New Silampur, Garhi Medhu
New Delhi-110053

Applicant

Verses

- 1. M/s Dhampur Sugar Mills Ltd., Asmoli (Sugar Unit)**
Asmoli- Madhan Road, Asmoli
Dist- Sambhal (U.P) 244304
- 2. M/s Dhampur Sugar Mills Ltd., Dhampur (Sugar and Distillery Unit)**
Dhampur, Dist- Bijnor (U.P) 246761
- 3. M/s Dhampur Sugar Mills Ltd., Meerganj**
Sindhauri Road, Meerganj
Dist- Bareilly (U.P) 203504
- 4. District Magistrate**
Collectorate, Behjoi
Dist- Sambhal (U.P) 244302
- 5. District Magistrate**
Collectorate, Dist- Bijnor (U.P) 246701
- 6. District Magistrate**
Collectorate, Station Road
Civil Lines, Dist- Bareilly (U.P) 243001
- 7. Central Pollution Control Board**
Through its member Secretary
"Parivesh Bhawan" East Arjun Nagar
Near- Karkarduma Court, Shahdara
Dist- East Delhi, 110092 (New Delhi)
- 8. Uttar Pradesh Pollution Control Board**
Through its Member Secretary
Building No. – TC-12-V, Vibhuti Khand
Gomti Nagar, Dist- Lucknow (Uttar Pradesh) 226001
- 9. Central Ground Water Authority**
Wing -3, West Block-2, Sector – 1
R.K. Puram, New Delhi - 11006

Respondent(s)

Counsel for Applicant(s):

Ms. Preeti Singh, Advocate

Counsel for Respondent(s):

Mr. Raj Kumar, Advocate for CPCB.

Mr. Pradeep Misra and Mr. Daleep Dhyani, Advocates for UPPCB.

Mr. A.A. Aron, Advocate for M/s. Dhampur Sugar Mills Ltd.

Mr. Sandeep Singh, Advocate for the State of UP.

JUDGMENT

PRESENT:

HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON

HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER

HON'BLE MR. JUSTICE M. SATHYANARAYANAN, JUDICIAL MEMBER

HON'BLE MR. JUSTICE BRIJESH SETHI, JUDICIAL MEMBER

HON'BLE DR. NAGIN NANDA, EXPERT MEMBER

Reserved on: 23rd July, 2021

Pronounced and uploaded on: 01st September, 2021

BY HON'BLE MR. JUSTICE BRIJESH SETHI, JUDICIAL MEMBER

1. Vide this judgment, we shall dispose of Original Application No. 539/2019 and also Interim Application No. 376/2020 filed by the applicant Mr. Adil Ansari seeking directions of this Tribunal to direct the appropriate penal action against the units of the respondents including the imposition of the appropriate environmental compensation for non-compliance of Environmental norms/laws. It was further prayed that action be taken against the violators under relevant provision of The Environment (Protection) Act 1986, Air (Prevention and Control of Pollution) Act, 1981 and Water (Prevention and Control of Pollution) Act, 1974

2. The brief facts as stated in the original application bearing no. 539/2019, are that damage to environment has been caused by units of Dhampur Sugar Mills and distillery which are as follows:-

“1. Dhampur Sugar Mills, Sugar Unit, Dhampur, Bijnore;

2. *Dhampur Sugar Mills, Distillery Unit, Dhampur, District Bijnor;*
3. *Dhampur Sugar Mills, Sugar Unit, Asmoli, Sambhal;*
4. *Dhampur Sugar Mills, Sugar Unit, Meerganj, Barielly.”*

3. It is submitted that respondent units are so unconscionable that despite specific orders by this Tribunal, they have failed to adhere to environmental norms. The environmental damage done by respondent units is massive and if no immediate steps are taken against these industrial units/respondents, substantial environmental damage will be caused to the entire area which comprises of natural flora fauna, agricultural land, human beings, animals and water bodies. Since all these industrial units have completely failed to abide by the environmental norms, the continuous increase in heavy toxic pollution by these industries in their respective areas has led to a substantial increase in air and water borne diseases.

4. It may be pointed out that these Units have earlier history of violation of environmental laws. In Year 2015, an Original Application bearing no. 35/2015 was also filed by one Mr. Shailesh Singh titled “*Shailesh Singh vs. D.S.M. Sugar Distillery Division Asmauli, Sambhal, U.P. & Ors.*”.

5. In the said matter, the Tribunal after hearing the contentions of parties and considering the inspection report, had ordered for closure the unit vide order dated 23.04.2015 which runs as follows;

“	Date and Remarks	Orders of the Tribunal
	<i>Item No. 12 April 23, 2015 SS</i>	<i>We have heard the Learned Counsel appearing for parties. The report of the Joint Inspection Team has been filed on record. In terms of this</i>

report the DSM Sugar Distillery Division unit is not adhering to the prescribed norms. The sample collected and analysed by the Joint Inspection Team is beyond the prescribed limits for different parameters. It is further stated that treated effluent from ETP is not meeting the criteria for the BOD and TSS for disposal on land. The treated effluent storage tank with capacity of 24000 KL was damaged.

Furthermore, there was short circuiting at the primary clarifier Unit. DG set was not equipped with acoustic enclosure.

The Learned Counsel appearing for the industries submits that they will be conducting effective steps in terms of the recommendation made.

Further the Applicant contended that the Groundwater has been polluted to the extent that the population of the nearby localities is suffering from Cancer and some other diseases. It is their contention that there is serious air pollution. Allegations made by the Applicant are of course denied by the industry respondents. In the circumstances afore-stated we direct that this industry shall be closed forthwith. However, industry has liberty to take remedial measures and apply to the Joint Inspection Team for a fresh inspection. The inspection would be conducted by the Joint Inspection Team only in furtherance to the order of the Tribunal. Recommendation of the Joint Inspection Team then would be placed before the Tribunal. Liberty to the Respondent industry to move the Tribunal for seeking permission to operate after achievement of the prescribed standards in respect of its effluent as per the prescribed norms and carrying out rectification of various defects and deficiencies pointed out in the inspection. Both Sugar and Distillery units will remain closed.

With the above directions the

	<p><i>Original Application No. 35 of 2014 as well as all other M.A. No. 348 of 2015 and M.A. No. 349 of 2015 are disposed of. Liberty to Applicant to move as prayed.</i></p>
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6. Against the said order the industrial unit/respondent had preferred a review application no. 13 of 2015 in original application No. 35/2015 wherein this Tribunal after observing the ‘**environmental damage**’, caused by this Industrial Unit had passed the following order on 10.12.2015.

“ Thus, we have to apply the above principals while directing the industry to pay environment compensation in terms of Section 15 and 17 of the National Green Tribunal Act, 2010. In view of our discussion, we pass the following order:-

- 1) *The Industry is permitted to start its manufacturing activity.*
- 2) *Before commencing its sugar manufacturing and distillery it must comply with the discrepancies pointed out by the Joint Inspection Team.*
- 3) *The Unit will be inspected by the Joint Inspection Team immediately upon commencement gets operative.*
- 4) ***The industry is held to be liable pay the Environmental Compensation of Rs. 1 Crore within one month to UPPCB and furnish a bank guarantee as well to the extent of Rs. 10 lakh.***
- 5) *The amount of Rupees One Crore paid to the UPPCB shall be spent upon taking preventive measures, removing of the various pollutants lying in the area, as well as steps for restoring of the environment and ecology as per the records of this file and ensure that no sludge spent wash, fly-ash or other pollutants generated by this industry is permitted to remain in the soil, ground water and even on the land of the industry.*
- 6) *If the unit performs strictly within the prescribed parameters and as per the conditions imposed and is found to be compliant and non-polluting industry, the bank guarantee could be released after a period of two years, failing which the bank guarantee shall be encashed and the amount utilized for prevention and control of pollution in that area.”*

7. It is the case of the applicant that even after above observation/order from the Tribunal, the unit did not bother to comply with environmental norms. The respondent units are still polluting the surrounding area and the pollution caused by these units is directly impacting the health of the villagers and new born children. It is further submitted that despite protest by villagers, these respondent units have ignored the environment issue.

8. It has further submitted that notices under Section 5 of the Environment (Protection) Act, 1986 were issued against the respondents and the same run as follows:

Name of Industries/ Date	Contents
<p>1). M/s Dhampur Sugar Mills Ltd., Vill- Asmoli, Dist- Sambhal (Sugar Division) (20 May 2019)</p>	<p>AND WHEREAS, the unit was inspected by CPCB on 18.03.2019 in which the unit was found operational and following key observations are made by the inspection team:</p> <ol style="list-style-type: none"> 1. The analysis of treated effluent samples showed pH- 7.36 against the norms of 5.5-9.0, BOD: 19mg/ml against the norms of 30mg/l; TSS- 12mg/l against the norms of 30mg/l; COD- 68mg/l against the norms of 250mg/l and TDS- 680mg/l against the norms of 2100 mg/l which indicates compliance with respect to discharge norms of Environment (Protection) Rules 1986. 2. Analysis of treated effluent samples of lagoon showed pH- 7.58, BOD- 11mg/l, COD-60mg/l, TSS- 26mg/l and TDS- 836 mg/ l. 3. Mill has installed the flow meters but not maintained the logbook of hot and cold water and effluent generation. 4. The mill should install flow meter at power turbine and process cooling tower make-up.

	<p>5. Logbook should be maintained for after consumption at various points as sugar plant, cogeneration and residential.</p> <p>6. The Unit is having high pressure boiler and should install the CPU for treatment of condensate to ensure its reuse and recycle within the process.</p> <p>AND NOW, THEREFORE, in view of above observation and in exercise of the power delegated to the Chairman, CPCB under section 5 of the Environment (Protection) Act, 1986, the unit M/s Dhampur Sugar Mills Ltd., Asmouli, Sambhal, U.P. is directed to comply of the following direction:</p> <ol style="list-style-type: none"> 1. The unit shall install Condensate polishing Unit for the Highpressure boiler. 2. The unit shall maintain logbooks of cold and hot water consumption. 3. The unit shall maintain logbooks for individual process units for recording daily water consumption and effluent generation also. 4. The unit shall submit the implementation status of charter in the form of Affidavit and documentary proof of the completion of work as committed in the action plan.
<p>2) M/s Dhampur Sugar Mills Ltd., Dhampur Dist. Bijnor (U.P.) (Distillery Division)</p> <p>(06 February, 2018)</p>	<p>Whereas, as per the methodology for assessing penalty and environmental compensation, the environmental compensation to be levied to the unit is calculated as Rs. 46,80,000/- (Forty- Six lakhs eighty thousand Rupees only) for the non-compliance period (11.11.2018 to 15.04.2019), for the crushing season 2018-19 ; and</p> <p>NOW, THEREFORE, in exercise of powers delegated to Chairman CPCB under section 5 of the Environment (Protection) Act, 1986, the unit (M/s Dhampur Sugar Mills, Dhampur, Binor, U.P.) is directed close down its manufacturing operations immediately and deposit Rs. 46,80,000/- within 15 days in CPCB A/c No. 532702050000164 (Bank name: Union Bank of India, IP Extension Branch,</p>

	<p>Vikas Marg, Extn., Delhi; IFSC: UBINO553271)/ demand draft in favour of EC by CPCB towards environmental compensation and shall comply with the following direction;</p> <ol style="list-style-type: none"> 1. The unit shall close down its sugar manufacturing operations with immediate effect and shall not resume its operations. 2. The unit shall dismantle the bypass arrangements and stop discharge of untreated/ partially treated effluent discharge immediately. 3. The unit shall install flow meters at Mill, fibrizer, power turbine cooling, B and C massecuite cooling, and outlet of R.O. water reject. 4. The unit shall install condensate polishing unit for high pressure boilers, 105 kg/cm². 5. The unit shall install adequate Multi grade filter and Activated carbon filter. 6. The unit shall install mechanical sludge handling system of adequate capacity. 7. The unit shall seek permission from CPCB, after compliance of the above directions, before resumption of operation.
<p>3. M/s Dhampur Sugar Mills (DSM) Ltd. (Formerly J.K. Sugar Limited), Sidhauri Road, Meerganj, Bareilly (U.P.) (Sugar Division), (15 March, 2018)</p>	<p>WHEREAS, the unit was inspected on 28.03.2019 by officials from CPCB, Delhi and following observations are made:</p> <ol style="list-style-type: none"> 1. The unit was operational at the time of inspection. 2. Analysis of treated effluent sample from ETP outlet showed pH-7.40 against the norms of 5.5-8.5, BOD- BDL mg/l against norms of 100 mg/l, COD- 10.9 mg/l against norms of 250 mg/l, TDS- 452 mg/l against norms of 2100 mg/l, and TSS- 27.4 mg/l against norms of 100 mg/l. However, MLSS in aeration tank 2018) was 1291 mg/l which indicated that the aeration tank was unstabilized. Further, Significant reduction of BOD (100%), COD (99:93%), TSS 98.1%) along with low MLSS level indicate that the ETP system was

	<p><i>diluted.</i></p> <p><i>3. Analysis of treatment effluent sample from lagoon showed pH-7.52 against the norms of 5.5-8.5, BOD-BDL mg/l against norms of 100 mg/l, COD- 8 mg/l against norms of 250 mg/l, TDS- 465 mg/l against norms of 2100 mg/l and TSS- 54.4 mg/l against norms of 100 mg/L.</i></p> <p><i>4 BOD level is below detection limit at different treatment operations, It seems that unit has diluted ETP system at different stages.</i></p> <p><i>5. As reported unit representative, the boiler ash and press mud are provided to local farmers for blending in their agricultural field/ land filling. But the unit was unable to provide any documentary evidence for the same.</i></p> <p><i>6. The flow observed at the ETP outlet is equal to that at the ETP inlet even though the spray pond treated effluent is also being dis charged into the ETP.</i></p> <p><i>It is evident that aeration tank to ETP system is not properly stabilized due to poor operation and maintenance of ETP system there is possibility of dilution of ETP system.</i></p> <p><i>NOW, THEREFORE,</i> <i>in view of the above observations and in exercise of the powers, delegated to the Chairman, CPCB under Section 5 of the Environment (Protection) Act, 1986, notice is hereby served to the unit (M/s Dhampur Sugar Mills, (DSM) Ltd., U.P.) to Show cause, why the unit should not be closed down until all the necessary pollution control measures are planned and implemented so as to comply with the prescribed effluent discharge standards notified under Environment (Protection) Act 1986 to satisfaction of CPCB.</i></p>
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9. Applicant has submitted that the respondent units are violating the fundamental rights of the villagers as they are unable to get healthy

pollution free environment. In these circumstances, it is prayed that these Units are required to be shut down with immediate effect.

10. It has next submitted that because of these Units, the entire area is facing the problem of contaminated water. The toxic discharge directly into drain/river and the discharge of industrial effluent in the land has affected the soil properties.

11. It is, therefore, prayed that direction be issued for closure of respondent units and heavy compensation be imposed upon these Units for non-compliance of Environmental norms/laws. It was further prayed that action be taken against the violators under relevant provision of The Environment (Protection) Act 1986, Air (Prevention and Control of Pollution) Act, 1981 and Water (Prevention and Control of Pollution) Act, 1974.

12. Vide order dated 27.06.2019, notices were issued to the respondents for 19.07.2019 in the present Original Application no. 539/2019.

13. On 19th July, 2019, the matter was adjourned for 14.08.2019. On 14.08.2019, the following order was passed:-

“1. Grievance in this application is that M/s Dhampur Sugar Mills Ltd. (Sugar Division), District Sambhal and sugar mill units in District Bijnor and District Bareilly and Distillery in District Bareilly were operating in violation of environmental norms. The unit at Dhampur was directed to be closed earlier vide order dated 23.04.2015 passed by this Tribunal and was allowed to reopen by subsequent order subject to certain conditions, including payment of Rs. 1 Crore towards environmental compensation and furnishing a bank guarantee of Rs. 10 lakhs. However, the pollution still continues to operate without compliance of conditions. Other units in Bijnor and Bareilly Districts are also operating illegally and so is the Distillery unit in Bareilly District.

2. On 27.06.2019, Notice was issued by this Tribunal with reference to the allegations in the application. Reply has been filed by the UP State PCB which is practically of no value. Reply has been filed by the CPCB is that the closure directions have been issued in respect of Dhampur unit of Sugar Mill. Besides, show cause notices have been issued to other two Sugar Mills at Bareilly and Sambhal. Distillery unit at Bareilly is non-functional on account of off season.

3. Let the CPCB and State PCB furnish a further joint factual and action taken report with regard to all the four Units (three sugar mills and one distillery unit) by 30.11.2019 by e-mail at judicial-ngt@gov.in.

List for further consideration on 11.12.2019.”

14. On 11th December, 2019, the matter was adjourned for 04.02.2020 and thereafter, it was taken up on 03.07.2020 and thereafter on 09.11.2020. The order dated 09.11.2020 is a very detailed one and sums up all the proceedings which have taken place right from the inception of the case till the said date.

15. The order dated 09.11.2020 passed by Ld. Principal Bench runs as follows;

“1. The issue for consideration is the remedial action for violation of environmental norms by M/s Dhampur Sugar Mills Ltd. (Sugar Division), District Sambhal, sugar mill units in District Bijnor and District Bareilly and Distillery in District Bareilly.

2. The matter has been earlier considered by several orders including orders dated 14.08.2019, 04.02.2020 and 03.07.2020. It will be suffice to reproduce the relevant part from the said orders. Order dated 14.08.2019 is as follows:-

“1. Grievance in this application is that M/s Dhampur Sugar Mills Ltd. (Sugar Division), District Sambhal and sugar mill units in District Bijnor and District Bareilly and Distillery in District Bareilly were operating in violation of environmental norms. The unit at Dhampur was directed to be closed

earlier vide order dated 23.04.2015 passed by this Tribunal and was allowed to reopen by subsequent order subject to certain conditions, including payment of Rs. 1 Crore towards environmental compensation and furnishing a bank guarantee of Rs. 10 lakhs. However, the pollution still continues to operate without compliance of conditions. Other units in Bijnor and Bareilly Districts are also operating illegally and so is the Distillery unit in Bareilly District.

2. On 27.06.2019, Notice was issued by this Tribunal with reference to the allegations in the application. Reply has been filed by the UP State PCB which is practically of no value. Reply has been filed by the CPCB is that the closure directions have been issued in respect of Dhampur unit of Sugar Mill. Besides, show cause notices have been issued to other two Sugar Mills at Bareilly and Sambhal. Distillery unit at Bareilly is non-functional on account of off season.

3. Let the CPCB and State PCB furnish a further joint factual and action taken report with regard to all the four Units (three sugar mills and one distillery unit) by 30.11.2019 by e-mail at judicial-ngt@gov.in.”

3. Order dated 04.02.2020 is as follows:-

“4.0 M/s Dhampur Sugar Mills Ltd (Sugar Unit), Dhampur, Bijnor – Inspected on 27.11.2019 and 28.11.2019

4.8 Observations

i. The Unit and ETP were found operational during the inspection.

ii. The Unit have valid consent to operate issued by UPPCB, under of Water Act and Air Act till 31.12.2019.

iii. The primary clarifier was found non-operational during inspection. However, as per analysis report of sample collected from ETP outlet, TSS was below detectable limit, therefore the possibility of dilution cannot be ruled out.

iv. The Unit has not installed flow meters at Mill Fibrizer, Mescuite cooling and RO reject as it was recommended in validation report of ETP for session 2018-19 by National Sugar Institute (NSI), Kanpur.

v. The Unit has not installed the Hazardous tank in the boiling house.

vi. The treated effluent is stored in lagoon of 4000 KL capacity for utilization for irrigation purposes.

vii. The Unit has provided Kachcha lagoon (for storage of treated effluent) having lining of PVC sheets, which is not proper and it may result in leaching under wear & tear condition.

viii. The Unit has installed two dryers (for baggase), using the flue gases from stack of the boiler. The utilization of boiler ash at bio-compost site was observed and transport receipts were verified and found matching.

ix. The Unit has not yet installed the Condensate Polishing Unit (CPU) for high pressure boilers (105 Kg/cm²).

x. The Unit has installed additional MGF and ACF for tertiary treatment as the installed capacity of MGF and ACF was inadequate.

xi. The mechanical sludge handling system for better management of sludge waste is not provided by the Unit. As reported by representative of the Unit, the purchase order has been issued for Decanter of 6 m³ per hour capacity.

xii. The Unit has not provided and did not maintained the logbook for the generation and disposal of ETP sludge, Boiler ash and other solid wastes.

xiii. The unit is yet to comply with CPCB direction dated 01.07.2019 by dismantling the bypass provision. However, during visit the discharge of effluent was not observed by the team.

xiv. The team also collected the wastewater sample from the local drain (Ikara Nalla) flowing adjacent to the Unit premises. The characteristic of the wastewater is as:

Table 4 Characteristics of Wastewater flowing through Ikara drain.

Sampling point	Latitude/ Longitude	pH	COD (mg/L)	BOD (mg/L)	Sulphate (mg/L)	TSS (mg/L)	TDS (mg/L)	NH3-N (mg/L)	Phosphate (mg/L)
Ikara Drain at u/s of the Unit	29.292038/ 78.510125	5.88	438	122	137	1200	500	34	3

Ikara Drain at d/s of the Unit	29.290151/ 78.5088303	7.11	776	177	73	1435	468	35	3.1
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xv. The value of COD in the drain waste water is more than that for raw sewage, which shows the addition of industrial effluent in to drain.

xvi. The Unit does not have STP facility for the treatment of domestic wastewater. The domestic waste water is collected, Treated in septic tank and disposed through Soak pits installed in the Units premises.

4.9 Recommendation:

- 1. The Unit must dismantle the by-pass line provided within the premises and ensure that only treated effluent shall be discharged outside the premises.**
- 2. The Unit shall maintain the log-book for the generation and disposal of ETP sludge, Boiler Ash and other solid wastes.**
- 3. The Unit shall ensure to implement the recommendation made by National Sugar Institute (NSI), Kanpur in validation report of ETP (for season 2018-19).**
- 4. The Unit shall install Condensate Polishing Unit (CPU) for high pressure boilers (105 Kg/cm²).**
- 5. The Unit shall explore the possibility of maximum utilization of treated effluent in different process.**
- 6. The lagoon must be properly lined to prevent leaching/ contamination of ground water.**
- 7. Domestic waste water (sewage) generated within the premises and colony shall be discharged after proper treatment. The Unit shall install Sewage Treatment Plant (STP) for the treatment of Sewage.**
- 8. The Unit shall obtain NOCs from CGWA for withdrawal of groundwater at earliest, as the NOC has already expired in April, 2019.**
- 9. The Unit's NOC from CGWA expired on 27.04.2019, but Unit has continued to withdraw groundwater without valid NOC. The CGWA may be requested to verify the status of ground water recharge by the unit and accordingly EC may be calculated.**

4.10 Action taken status

- 1. In crushing season 2016-17, unit was non-operational during the inspection due to off- season.**

CPCB issued compliance direction dated 02.11.2017 under section 5 of the Environment (Protection) Act, 1986 for carrying out adequacy assessment of ETP through govt. reputed institutions.

2. In crushing season 2017-18, CPCB issued show cause notice dt.07.05.2018 under section 5 of the Environment (Protection) Act, 1986 to the unit for non-compliance of BOD-53 mg/l against norms of 30 mg/l with surface water discharge norms prescribed under Environment (Protection) Rules, 1986.

3. CPCB issued compliance direction dated 16.11.2018 under section 5 of the Environment (Protection) Act, 1986 for implementation of charter.

4. In crushing season 2018-19, unit was found non-complying w.r.t. bypass of untreated effluent. BOD- 56 mg/l, TSS-35 mg/l and CPCB issued closure direction dated 23.04.2019 and 01.07.2019 under section 5 of the Environment (Protection) Act, 1986 and levied Environmental Compensation (EC) of Rs 57,30,000/-.

5. CPCB issued compliance direction dated 06.11.2019 under section 5 of the Environment (Protection) Act, 1986 and levied EC of Rs 16,20,000/- As per the revised policy dated 04.09.2019 and 01.11.2019.

6. The unit deposited EC in ESCROW account and submitted action plan for utilization of the EC amount. Action plan has been evaluated by CPCB and approved for execution.

B. 5.0 M/s Dhampur Sugar Mills Ltd (Distillery Unit), Dhampur, Bijnor

5.6 Observations:

i. On the day of inspection, the distillery unit and spent wash management system were found operational.

ii. The Unit has consent to operate at 200 KLPD under Water Act, 1974 and Air Act, 1981 both having validity up to 31.12.2019. (Annexure 2a, 2b).

iii. The Unit has three bore-wells to meet the water requirement of production and domestic consumption. Out of three bore-wells, only two are in use, as per information

provided by industry officials. Flow meters have been installed on each bore well. Average daily water consumption is calculated as 1234.44 KLPD based on three months (Sept, 2019-Nov, 2019) logbook data of flow meters. However, as per water balance data provided by Unit, fresh water requirement is 1726 KLPD.

iv. The Unit's NOC for groundwater abstraction has expired on 07.04.2019 and it has applied for renewal of NOC on 17.02.2019.

v. Total alcohol production during last six months (May, 2019-Oct,2019) was 36429.06 KL. Therefore the average production is 6071.51 KL/month i.e. 202.38 KLPD.

vi. The Unit has provided production data certified by Excise department, data of raw spent wash generation, details of MEE- concentrate and condensate generation, utilization; as well as spent wash consumption for bio-composting and incineration.

vii. As per adequacy report of April, 2019 prepared by NSI, Kanpur, the adequacy of ZLD system has been certified for 250 KLPD.

viii. The Unit has installed mass flow meters with totalizer at inlet and outlet of SMEE as well as inlet and outlet of IMEE. All mass flow meters are connected to CPCB sewer. Mass flow meter readings at the time of inspection is presented below:

Table 8: Details of mass flow meters

SI. No	Mass flow meter	Totalizer reading at inlet	Totalizer reading at outlet
1.	SMEE	1218230.02 MT	278455.46 MT
2.	IMEE	107701 MT	33854 MT.

ix. The raw spent generation as per mass flow meter data during last six months (May, 2019- Oct, 2019) was 3,52,943 MT while concentrated spent wash generation for 6 months is 28736 MT (for 30 °Bx) and 86492 MT (for 58 °Bx) against consumption of 27682 MT in bio-composting and 86442 MT in incineration respectively.

x. As per logbook data of six months, overall average spent wash generation is 9.59 KL per KL of alcohol produced.

xi. As per information provided by industry officials, the average efficiency achieved through SMEE and IMEE is 67.35%.

xii. The concentrated spent wash after third stage evaporator having 30°Bx is utilized for bio composting while concentrated spent wash after the finisher evaporation having 55-60°Bx is incinerated and process condensate is treated in the Condensate-Polishing Unit (CPU).

xiii. At the time of inspection, 120 KLPD distillation Unit with integrated Multi Effect Evaporator (IMEE) was not in operation due to power tripping on 27.11.2019 morning as informed by industry officials. It could only restart on 28.11.2019 afternoon.

xiv. At the time of inspection, the density of spent wash at inlet and outlet of the standalone MEE was 1026.87 Kg/m³ and 1226.89 Kg/m³ respectively.

xv. As per logbook data, average feed to SMEE is 1044 KLPD while average quantity withdrawn after third stage is 287.8 KLPD and average conc. Spent wash from SMEE after fifth stage is 277.7 m³/day.

xvi. The Unit has installed Condensate Polishing Unit (CPU) consisting of three stage RO technology. As per information provided by the industry, the design capacity of the CPU is 2600 m³/day whereas as per revalidated adequacy report dated 29.05.2019, the design capacity of the CPU is 2500 m³/day. The sources of effluent coming into CPU include MEE condensate (2100 m³/day), spent lees (300 m³/day), cooling tower and boiler blow downs (200 m³/day). While the RO permeate (2000 m³/day) is used in process and non-process activities like molasses dilution, cooling tower make up as well as non-process activities like fire safety and gardening, the RO reject (600 m³/day) is circulated back to the MEE.

xvii. There are total of seven tanks/lagoons of which six tanks for spent wash management are within the Unit premises and one at the bio-compost yard site. Details of the tanks within premise and in bio-compost yard are given below:

Table 9: Details of lagoons for spent wash management

SI. No.	Identification	Condition during inspection	Capacity (as provided by the Unit)	Purpose
1.	Settling tank	Filled	2492KL	Used as Settling Tank
2.	Settling tank	Filled	3396KL	Used as Settling Tank
3.	Tank 1	Completely filled	1500KL	Used as buffer tank before SMEE
4.	Lagoon 3	Half filled	6050KL	Storage of conc. spent wash, raw spent wash, RO reject
5.	Lagoon 4	Empty	10,000KL	Used as standby for storage of spent wash in case of sudden breakdown of operations.
6.	Tank 2	60% filled	400KL	Storage of MEE concentrate before bio composting
7.	Tank 3	Closed tank. Conc. Spent wash (slop)	207KL	Storage-cum- Pump sump of MEE concentrate before incineration.

On the day of inspection, settling tank-1 (2492 KL) and settling tank-2 (3396 KL) were observed to be full with raw spent wash combined with RO reject and storm water accumulated in open drains in the industry premises.

Based on above data, total raw spent wash plus CPU (RO) reject stored in all tanks work out to be 10413KL (2492+3396+1500+0.5*6050).

xviii. There was a 10,000 KL capacity empty lagoon which was informed to be used for storage of effluent in cases of emergency breakdown of ZLD system.

xix. The Consent to Operate does not indicate the amount of spent wash to be utilized in bio-composting and amount to be incinerated. As per revalidated adequacy report submitted in May, 2019, 10.56 M³/hr of 30°Bx concentrated spentwash is utilized in bio composting while 22.5 M³/hr of 57.9°Bx is incinerated in incineration boiler while based on logbook data in May, 2019, 36.86% is utilized in bio composting while 63.14% is used in incineration, similarly, in June, 2019, 46.93% is used in biocomposting and 53.67% is incinerated. For the period from July, 2019 to October, 2019, 10% of concentrated spentwash is utilized in

biocomposting while 89% of the spentwash is incinerated in slop furnace (as boiler fuel).

xx. The existing active area for bio-composting is 16 acres while required area for 4 cycles of biocomposting is 14.6 acres.

xxi. The unit has installed only one piezowell/piezometer in the bio-compost yard of 10 acres area.

xxii. Incinerator design capacity is 75 TPH with maximum feed rate of 26 MT/hr and at the time of inspection it was operating at feed rate of 18TPH.

xxiii. The Unit uses 25.5 TPH of MEE slop with 13-15 TPH of bagasse as fuel for the incinerator boiler. Flow meter is installed at the feed line of the slop boiler. At the time of inspection, flow meter reading was 1088.77 kg/hr. Around 30 MT/day of ash is generated from the incinerator, which is utilized for mixing with bio-compost and for land filling within the Units premises.

xxiv. The Unit has installed mass flow meters at inlet and outlet of SMEE as well as inlet and outlet of IMEE. Also, PTZ camera is installed at the bio-compost area.

xxv. The Unit has a bottling plant and sample was collected from its final outlet. The effluent from bottling plants collected, pumped and reused into cooling tower. Cooling tower blow down is treated through CPU.

xxvi. At the time of inspection, samples were collected from various locations of the distillery unit to verify the efficiency of the ZLD system. Analysis results are represented below:

Table 10: Characteristics of spent wash and other effluents in distillery Unit

S.No	Sample location	Parameters					
		pH	COD (mg/l)	BOD (mg/l)	TSS (mg/l)	TDS (mg/l)	TS (mg/l)
1.	Raw spentwash	4.72	154776	-	-	-	167330
2.	MEE feed	5.42	121967	-	-	-	120590
3.	MEE concentrate	5.2	283353	-	-	-	485910
4.	Conc. Spentwash in storage tank	5.04	494155	-	-	-	496010
5.	SW in buffer tank	4.73	192825	-	-	-	196390

6.	<i>SW in lagoon of biocompost yard</i>	4.85	280935	-	-	-	260610
7.	<i>Feed to incinerator</i>	4.85	471987	-	-	-	444270
8.	<i>CPU feed</i>	4.77	2697	1230	15	1548	-
9.	<i>CPU permeate</i>	4.3	1013	323	<10	164	-
10	<i>CPU reject</i>	4.98	9332	5083	<10	4000	-
11.	<i>MEE condensate</i>	3.52	16076	9750	-	756	840
12.	<i>Spent lees</i>	3.76	5668	3200	-	400	488
13.	<i>Final outlet of bottling plant</i>	5.41	333	234	-	-	164

xxvii. As per the analysis report, raw spentwash has COD of 154776 mg/I and total solids 167330 mg/I while raw spentwash stored in buffer tank has COD of 192825 mg/I and total solids of 196390 mg/I.

xxviii. Analysis report indicates that feed to SMEE has COD and TS of 121967 mg/I and 120590 mg/I respectively while concentrated spentwash has COD of 283353mg/I and TS of 485910 mg/I.

xxix. Samples collected from lagoons for concentrated spentwash and spentwash in the lagoon in biocompost yard indicated TS of 496010 mg/I and 260610 mg/I respectively.

xxx. As per the analysis report, CPU permeate has **pH of 4.3, COD- 1013 mg/I, BOD-323 mg/I** and TDS of 164 mg/I and is reported to be used for both process and non-process activities including fire safety and gardening. The quality of treated condensate indicate noncompliance w.r.t land discharge norms.

xxxi. The analysis report indicate acidic characteristic of CPU permeate, reject, MEE condensate and final effluent from bottling plant.

xxxii. Analysis report of sample collected from final outlet of bottling plant indicated pH 5.41, BOD of 234 mg/I and COD 333 mg/I. It was informed that effluent from bottling plant is stored in a tank and further pumped as cooling tower makeup water.

xxxiii. The team also collected wastewater sample from the local drain (Ikara Nalla) flowing adjacent to the unit premises. The characteristic of the wastewater is as follows:

Sampling point	Latitude/ Longitude	pH	COD (mg/L)	BOD (mg/L)	Sulphate (mg/L)	TSS (mg/L)	TDS (mg/L)	NH3_N (mg/L)	Phosphate (mg/L)
Drain at u/s of the unit	29.292038 / 78.510125	6.88	438	122	137	1200	500	34	3
Drain at D/s of the unit	29.290151 / 78.5088303	7.11	776	177	73	1435	468	35	3.1

5.7 Recommendations.

1. The utilization of CPU permeate having pH of 4.3, COD- 1013 mg/I against 250 mg/I and BOD- 323 mg/I against 100 mg/I in non-process activities like gardening, is a violation of ZLD norms and should be stopped immediately.

2. The Unit's NOC from CGWA expired on 07.04.2019, but Unit has continued to withdraw groundwater without valid NOC. The CGWA may be requested to verify the status of ground water recharge by the unit and accordingly EC may be calculated.

3. Based on the available active area for biocomposting (16 acres), Unit can have lagoon capacity of ~9675 M³ for 30 days' storage of conc. spentwash (30°Bx) and 3116 M³ for seven days' storage of concentrated spentwash (55 °Bx) in compliance to CPCB direction dated 07.12.2015. The extra lagoon of capacity 10,000 m³ shall remain vacant and not be used without obtaining permission from UPPCB.

4. The Unit should install three piezowells around biocompost yard as per SOP for distilleries.

5.8 Action taken status of CPCB on M/s Dhampur Sugar Ltd (Distillery Sector), Bijnor

1. The Unit was issued Show Cause Notice dated 06.02.2018 for noncompliance to direction dated 14.06.2017 issued under Section 5 of Environment (Protection) Act, 1986.

2. The Show Cause Notice was revoked on 08.08.2018 following compliance to CPCB direction dated 06.02.2018.

5.9 Action taken status of UPPCB on M/s Dhampur Sugar Ltd (Distillery Sector), Bijnor, U.P

1. Based on inspection carried out by UPPCB officials on 02.08.2019, a Show cause notice dated 13.08.2019 along with imposition of environmental compensation of Rs. 6,75,000/- has been issued to the Unit for violation of ZLD norms, illegal disposal of spentwash in agricultural fields of nearby village-Fena, Chandpur.

C. 6.0 M/s Dhampur Sugar Mills Ltd (Sugar Unit), Asmoli, Sambhal.

Observations

- i. The manufacturing unit and ETP were found operational during the inspection.
- ii. The Unit have CTO (Consent to Operate) under Water Act, 1974 and Air Act, 1981 valid till 31.12.2019.
- iii. The Unit has installed flow meters at fresh water, cold water and hot water consumptions points as recommended by National Sugar Institute (NSI), Kanpur.
- iv. The Unit has installed three (3Nos) of Hazardous tanks with capacity of 43m³, 27m³ and 36m³ for collecting of wash water generated during chemical /mechanical cleaning of evaporators.
- v. The treated effluent from ETP is stored in a lagoon of 16000 KL capacity for utilization for irrigation purposes.
- vi. The Unit has installed two dryers (for baggase), using the flue gases from stack of the boiler. Dryers were found operational.
- vii. Wet scrubber (common to 70 TPH & 50 TPH boilers) was not in working condition.
- viii. The Unit has installed two stage, 2Nos Reverse osmosis (RO) plants for the treatment of 2 nos boilers blow down.
- ix. A new MGF (Multigrade Filter) and ACF (Activated Carbon Filter) for tertiary treatment was under

installation as the installed capacity of existing MGF and ACF was inadequate.

x. The Unit has not provided/maintained the logbook for the generation and disposal of ETP sludge and other solid wastes. However, for boiler ash disposal, documents of transportation and receipts were shown and verified with logbook at Bio- compost yard site of distillery of M/s Dhampur group.

xi. The team also collected the sample from drain (Lat. 28.711214, Long. 78.544426) flowing adjacent to the Unit premises. The characteristic of the wastewater is as:

Table 14: Characteristic of wastewater flowing through drain adjacent to M/s Dhampur Sugar Mills Ltd., Asmoli

Samplingpoint	pH	COD (mg/L)	BOD (mg/L)	Sulphates (mg/L)	TSS (mg/L)	TDS (mg/L)
<i>Drain after mixing</i>	7.85	70	15	238	44	1236
<i>Drain /sewage</i>	7.45	195	97	16	99	700
<i>Ponding, in Sot river</i>	7.82	73	12	127	39	1204

xii. The Unit does not have facility for the treatment of domestic wastewater and untreated sewage is discharged and mixed with treated effluent of the sugar Unit.

Recommendations:

1. Unit shall maintain the log-book for the generation and disposal of ETP sludge and other solid wastes including boiler ash generation.

2. Unit should install Condensate Polishing Unit (CPU) for high pressure boilers (105 Kg/cm²) to treat process condensate for reuse in process. This will help in reduction of fresh water consumption.

3. The Unit must ensure the maximum reuse of treated effluent in process.

4. Wet scrubber (attached to Boilers 70TPH & 50TPH) should be made operational before start of the attached boiler.

5. All domestic waste water generated within the Unit's premises and residential colony shall be discharged after proper treatment. The Unit shall install Sewage Treatment Plant (STP) of adequate capacity for the treatment of domestic wastewater.

6. The Unit shall obtain NOCs from CGWA for withdrawal of groundwater at earliest as the CGWA NOC has already been expired in May, 2019.

7. The Unit's NOC from CGWA expired on 02.05.2019, but Unit has continued to withdraw groundwater without valid NOC. The CGWA may be requested to verify the status of ground water recharge by the unit and accordingly EC may be calculated.

6.10 Action taken status

1. In crushing season 2016-17, unit was found non-complying w.r.t. discharge standard and CPCB issued show cause notice dt.16.01.2017 under section 5 of the Environment (Protection) Act, 1986.

2. CPCB issued direction dated.29.06.2017 under section 5 of the Environment (Protection) Act, 1986 for carrying out adequacy assessment of ETP through govt. repute institutions.

3. CPCB issued compliance direction dated 02.11.2017 under section 5 of the Environment (Protection) Act, 1986 for carrying out adequacy assessment of ETP through govt. repute institutions.

4. In crushing season 2017-18, unit was found non-complying w.r.t. bypass of untreated effluent and CPCB issued closure dt.07.02.2018 under section 5 of the Environment (Protection) Act, 1986.

5. CPCB issued compliance direction dated 22.10.2018 under section 5 of the Environment (Protection) Act, 1986.

6. In crushing season 2018-19, unit was found complying and CPCB issued compliance direction

dt.20.05.2018 under section 5 of the Environment (Protection) Act, 1986.

D.7.0 M/s DSM Sugar Meerganj, Sidhauri Road, Meerganj, Bareilly,

7.8 Observations

i. The manufacturing unit and ETP were found operational during the inspection. The inflow to ETP (flow meter reading) during the inspection was observed 34.0 m³/hour which is equivalent to 616 KLD against the installed capacity of 1000 KLD ETP.

ii. The oil skimmer in oil grease trap was not properly installed and the level of effluent was at bottom/ below the belt.

iii. MLSS growth in Aeration tank was observed satisfactory.

iv. The Unit has not installed flow meters at power turbine cooling, boiler, wet scrubber, B & C Massecuite cooling as it was recommended by National Sugar Institute (NSI), Kanpur in validation report of ETP for season 2018-19.

v. The Unit has installed MGF and ACF for tertiary treatment.

vi. The mechanical sludge dewatering/handling system for better management of wet sludge is not provided by the Unit.

vii. The Unit has not provided/maintained logbook for daily effluent generation and treatment, disposal of ETP sludge, Boiler ash and other solid wastes.

viii. A part of Cooling Tower overflow is being mixed with raw effluent and the rest is being treated in lamella through a separate channel. The channel carrying Cooling Tower overflow to raw effluent channel should be regulated by valve or sluice gate which may be controlled once Unit starts making refined sugar using Double Sulphitation Process.

ix. The Unit was bypassing the untreated effluent through a pipeline laid underground up to Peelakhar

River in Sindholi Village (Lat: 28.556169 and Long: 79.241446) which ultimately meets River Ramganga. This was shown to the Unit's representatives, who accepted the discharge of wastewater and they explained that the PVC pipeline is laid for disposal of storm/rain water from the mill premises to Peelakhar.

x. Samples of untreated effluent bypassed through PVC pipe and flowing through a drain were collected by the CPCB team. The characteristics of the effluent are given below:

Table 18: Characteristics of by-passed effluent by M/s Dhampur Sugar Mills Ltd., Meerganj

Sample Analysis	pH	COD (mg/l)	BOD (mg/l)	TSS (mg/l)	TDS (mg/l)	Sulphate (mg/l)	Color (Hazen)
Multiple outlet/bypass (drain)	5.40	1306	890	248	2464	274	216
Multiple outlet/bypass (pipe)	5.33	1640	967	212	2412	220	237

xi. Samples were also collected from the upstream and downstream of the Peelakhar river where the effluent from the bypass line was meeting with the river water. Analysis results of the water are provided in the following table. The high value of BOD and COD in down stream of the confluence point of bypass line and river shows the impact of untreated effluent being discharged by the Unit.

Table 19: Water quality of river Peelakhar

Sampling point	pH	COD (mg/L)	BOD (mg/L)	Color (Hazen)
River Peelakhar at u/s bypass line	8	BDL	BDL	BDL
River Peelakhar at u/s bypass line	7.7	37	5.3	BDL

xii. The Unit does not have facility for the treatment of domestic wastewater. Untreated domestic effluent was found being discharged outside the premises of the Unit through a hole in the wall of the Unit.

7.9 Recommendations:

- 1. It is proposed that direction under section 18(1)(b) shall be issued to UPPCB to take appropriate action to stop discharge of wastewater in river Peelakhar and to levy environmental compensation of suitable amount to the Unit for illegal discharge/bypass of untreated effluent.**
- 2. The Unit must dismantle the bypass line (PVC pipe) from the premises to the river Peelakhar and ensure that the untreated/partially treated effluent shall not be discharged outside the premises in any case.**
- 3. Unit must take corrective measures to prevent the leaching of untreated effluent into the soil/ ground water.**
- 4. Unit shall maintain the logbook for the generation and disposal of ETP effluent, sludge, Boiler Ash, hazardous waste and other solid wastes.**
- 5. Unit shall ensure to implement the recommendations made by National Sugar Institute (NSI), Kanpur in validation report of ETP for session 2018-19.**
- 6. Unit shall install the flow meters at the places as recommended by the National Sugar Institute (NSI), Kanpur.**
- 7. All domestic wastewater generated within the premises and colony shall be discharged after proper treatment. The Unit shall install Sewage Treatment Plant (STP) for the treatment of domestic wastewater.**

7.10 Action taken status

- 1. In crushing season 2016-17, unit was found complying and CPCB issued compliance direction dated 08.11.2017 under section 5 of the Environment (Protection) Act, 1986 for carrying out adequacy assessment of ETP through govt. repute institutions.*
- 2. In crushing season 2017-18, unit was found non-complying and CPCB issued show cause notice dt.15.03.2018 under section 5 of the Environment (Protection) Act, 1986 for non-*

compliance w.r.t. BOD-31.2 mg/I, TSS- 111 mg/I, MLSS-684mg/I.

3. CPCB issued compliance direction dated 26.10.2018 under section 5 of the Environment (Protection) Act, 1986 for charter implementation.

4. In crushing season 2018-19, CPCB issued show cause notice dt.14.06.2018 under section 5 of the Environment (Protection) Act, 1986 for low MLSS-1291mg/I in aeration tank and BOD at outlet was found BDL and TSS-27.4 mg/I which showed chances of dilution.

5. CPCB issued compliance direction dated 09.08.2019 under section 5 of the Environment (Protection) Act, 1986.

6. In crushing season 2019-2020, unit was found non-complying w.r.t. bypass of untreated effluent and CPCB issued direction under section 18 (1) (b) on 02.01.2020 to UPPCB. In compliance, UPPCB has imposed EC of Rs. 17,70,000/- vide letter dated 21-01-2020 to the unit.”

4. Last order dated 03.07.2020 is as follows:-

“4. Accordingly, a further report has been filed by the CPCB on concluding as follows:

“Compliance status of the units are as follows:

a. **UPPCB has imposed Environmental Compensation of Rs. 17,70,000/- on M/s Dhampur Sugar Mills, Sugar Unit, Meerganj, Bareilly.** Unit has deposited the same and by-pass line has been permanently removed.

b. UPPCB has issued directions to M/s Dhampur Sugar Mills (Distillery Unit) Dhampur, Bijnore vide letter dated 17-06-2020 under Section 33A of Water (Prevention and Control of Pollution) Act, 1974 as amended to utilize the excess stored 1100 KLD and also submit time bound action plan for dismantling the excess storage capacity.

c. **UPPCB vide letter dated 17-06-2020 has issued directions to M/s Dhampur Sugar Mills, Sugar Unit, Dhampur, Bijnore to deposit the EC amount of Rs. 16,20,000/- imposed by CPCB immediately in the account of UPPCB in compliance of directions of Hon’ble NGT.**

d. UPPCB vide letter dated 17-06-2020 has **asked CGWA for imposition of EC on M/s Dhampur Sugar Mills, Sugar Unit, Asmoli, Sambhal due to withdrawal of Ground Water without NOC.**

e. The M/s Dhampur Sugar Mills Ltd. (Sugar unit), Asmoli, Sambhal Moradabad was not found by passing the effluent in the joint inspection.

f. The status of NOC from CGWA is as follows:

- M/s Dhampur Sugar Mills Ltd (Sugar Unit), Dhampur, Bijnor has obtained NOC from CGWA.
- M/s Dhampur Sugar Mills Ltd (Distillery Unit), Dhampur, Bijnor has obtained NOC from CGWA.
- M/s DSM Sugar Meerganj, Sidhauri Road, Meerganj, Bareilly has obtained NOC from CGWA.
- M/s Dhampur Sugar Mills Ltd (Sugar Unit), Asmoli, Sambhal applied NOC from CGWA. UPPCB vide letter dated 17-06- 2020 has asked CGWA for imposition of EC on M/s Dhampur Sugar Mills, Sugar Unit, Asmoli, Sambhal due to withdrawal of Ground Water without NOC.

5. The above shows that while for two units, compensation has been assessed by the State PCB, for the other two units, compensation has been left to be determined by the CGWA. There is no consistency. If in two cases, the State PCB has assessed compensation, there is no reason why for other two units it should not have done so. It is also not clear whether the compensation is as per norms and covers the entire period of illegal drawl of ground water and whether the deterrence factor has been taken into account.

6. Let the State PCB take further action which may be overseen by the CPCB. The CPCB may after coordination with the State PCB furnish a further action taken report before the next date by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF.

5. Accordingly, the CPCB has filed its report dated 05.10.2020:-

“Based on the deliberations held in meeting, following decisions were made:

1. UPPCB would request District Collector and CGWA for calculating and levying EC as per the Hon'ble NGT order dated 28.08.2019 in the matter of Paryavaran Suraksha Samiti & Anr. Versus Union of India & Ors, OA. No. 593 of 2017, which authorizes District Collector/CGWA to levy EC for illegal extraction of ground water.

2. UPPCB was requested to give a statement to CPCB mentioning that UPPCB has not assessed or levied EC on these units.

3. UPPCB was requested to incorporate their stand/opinion about levying of EC for ground water extraction and also the referred Hon'ble NGT order dated 28.08.2019 which authorizes COW Al District Collector to assess and levy EC in the point-wise compliance report (as per the recommendations of the committee) to be submitted by them to CPCB by 25.09.2020.

4. UPPCB was requested to update CPCB about the deposition status of the levied Environmental Compensation as per the compliance report.

As decided in the meeting, UPPCB sent its comments on the issue raised in the meeting submitting that UPPCB had sent two letters to CGWA, dt 17.06.2020 (Annexure-IV) and 21.09.2020 (Annexure-V) requesting to levy EC on M/s Dhampur Sugar Mills Ltd (Sugar Unit), Asmoli, Sambhal for extraction of ground water without obtaining NOC as CGWA is the authority to levy EC for illegal extraction of ground water. Also, UPPCB submitted updated compliance status report of the units as per the recommendations of joint inspection team to CPCB, which is annexed as Annexure-VI. As per the aforementioned report, all 04 units have complied with the recommendations of the Joint Inspection Team.

*CPCB respectfully submits that out of 04 units in the matter, only M/s Dhampur Sugar Mills Ltd (Sugar Unit), Asmoli, Sambhal has not obtained NOC from CGW A. Rest all three units have already obtained NOC from CGW A for extraction of ground water. **Therefore, EC for the illegal extraction of ground was is to be levied on the sugar unit, M/s Dhampur Sugar Mills Ltd (Sugar Unit), Asmoli, Sambhal for which CGW A is required to calculate the amount. The EC already levied on the two units (Mis Dhampur Sugar Mills Ltd (Sugar Unit),***

Meerganj, Bareilly and M/s Dhampur Sugar Mills Ltd (Sugar Unit), Dhampur, Bijnor) as mentioned above was for noncompliance with respect to environmental norms. Now, this Compliance Report is submitted in compliance of Hon'ble NGT order dated 03.07.2020."

6. I.A. No. 376/2020 has been filed on behalf of the applicant on 06.11.2020 inter-alia as follows:-

A. M/s Dhampur Sugar Mills (Sugar Unit), Dhampur, District – Bijnor

“1 to 7. xxx.....xxxxxx

(8) That some of the major violations /non-compliances committed by the said unit as observed by the said joint inspection team during the said Joint Inspection are as follows:

(i).The unit has not installed-flow meters at Mill Fibrizer, Mescuite Cooling and RO Reject as it was recommended in validation report of ETP for session 2018-19 by National Sugar Institute (NSI), Kanpur;

(ii). The Unit has not installed the Hazardous Tank in the boiling house;

(iii). The unit has provided kachcha lagoon (for storage of treated effluent) having lining of PVC sheets, which is not proper and it may result in leaching under wear & tear condition;

(iv). The unit has not yet installed the Condensate Polishing Unit (CPU) for high pressure boilers (105 kg/cm²);

(v). The Mechanical Sludge handling system for better management of sludge waste is not provided by the unit.;

(vi). The unit has not provided and did not maintained the log book for the generation and disposal of ETP sludge, Boiler ash and other solid waste;

(vii). The unit is yet to comply with CPCB direction dated 01.07.2019 by dismantling the by-pass provision.

9. That as per the aforesaid Compliance Report dated 19.06.2020 submitted by the CPCB before this Hon'ble Tribunal, the so called "Action Taken" by the statutory

authorities i.e. the CPCB as well as the UPPCB against the said unit of the Respondent No.1 is to impose an Environmental Compensation of Rs.16,20,000/- (Rupees Sixteen Lakhs and Twenty Thousand only) for 54 days (28.03.2019 to 20.05,2019).

10....xxx.....xxx

11. That said Letter dated 06.11.2019 issued by the CPCB is a follow-up Letter of the previous Letters dated 23.04.2019 and 01.07.2019 issued by the CPCB. That a perusal of the aforesaid Letters i.e. Letter dated 23.04.2019; Letter dated 01.07.2019 and Letter dated 06.11.2019 issued by the CPCB reveals the below- mentioned facts:

(i). That all the aforesaid Letters i.e. Letter dated 23.04.2019; Letter dated 01.07.2019 and Letter dated 06.11.2019 issued by the CPCB pertains for the "Crushing Season — 2018-2019";

(ii). That said Unit starts its operation /production during the said "Crushing Season — 2018 -2019" on 11.11.2018;

(iii). That inspection of the said unit was conducted by the team of CPCB officials on 28.03.2019 i.e. after approximately 3.5 months after the start of the operation /production by the said unit;

(iv). That during the said inspection conducted on 28.03.2019 by the team of CPCB officials, **the said unit was found by-passing the untreated effluent through a separate channel into the outside drains adjacent to the premises of the mill;**

(v). That despite the fact that the said unit was found indulged in such a serious violation of "by-passing the untreated effluent", the officials of the CPCB instead of immediately dismantling and sealing the said by-pass arrangement of the said unit, allow the said unit to continue its operation /production and also allow the said unit to continue the by-passing of the untreated effluent during the said crushing season 2018-19 which was initially supposed to end on 15.04.2019;

(vi). That CPCB firstly issued Closure Notice vide the said Letter dated 23.04.2019 i.e. after the initial date of the end of the crushing season 2018-19 which was 15.04.2019 for the said Unit. That the major directions

issued by the CPCB vide the said Letter dated 23.04.2019 are as under:

- a) The unit shall close down its sugar manufacturing operations with immediate effect and shall not resume its operation;
- b) The Unit shall dismantle the bypass arrangements and stop discharge of untreated /partially treated effluent discharge immediately;

That, further, the CPCB, vide the said Letter dated 23.04.2019, has initially levied an Environmental Compensation of Rs.46,80,000/- (Rupees Forty Six Lakhs and Eighty Thousand only) [for time period from 11.11.2018 to 15.04.2019];

(vii). That although the direction to close down the manufacturing process issued by the CPCB vide the said Letter dated 23.04.2019 after the end of the crushing season (which was initially on 15.04.2019 for the said Unit) is merely a paper formality, however, the said Unit, in utter violation of the said direction issued by the CPCB, continues its operation /production till 20.05.2019;

(viii). That not only the said Unit, in utter violation of the said direction issued by the CPCB vide Letter dated 23.04.2019, continues its operation /production till 20.05.2019, but also the said Unit did not dismantled the said by-pass arrangement and keeps on discharging its untreated effluent through the said by-pass arrangement;

ix) That despite the gross violation of the directions issued by the CPCB vide the said Letter dated 23.04.2019 committed by the said Unit, the only action taken by the CPCB is to issue a second Letter dated 01.07.2019 by which the CPCB has increased the Environmental Compensation to Rs.57,30,000/- (Rupees Fifty Seven Lakh and Thirty Thousand only) [for time period from 11.11.2018 to 20.05.2019];

(x). That once again the CPCB, vide the said Letter dated 01.07.2019, issued direction to dismantle the said bypass arrangement. That, however, the said Unit once again made the mockery of the directions issued by the CPCB and did not dismantled the said by-pass arrangement;

(xi). That, thereafter, the CPCB issued the said Letter dated 06.11.2019 by means of which the CPCB has taken

the so called action against the said Unit. That some of the important "Action Taken" against the said Unit by the CPCB vide the said Letter dated 06.11.2019 are mentioned here-in-under:

(a). The CPCB, vide the said Letter dated 06.11.2019, reduced the said Environmental Compensation from Rs.57,30,000/- (Rupees Fifty Seven Lakh and Thirty Thousand only) to Rs.16,20,000/- (Rupees Sixteen Lakhs and Twenty Thousand only);

(b). The CPCB, vide the said Letter dated 06.11.2019, allow the said Unit to resume its operation for the "Crushing Season — 2019- 20"

(xii) That the CPCB has, vide its said Letter dated 06.11.2019, reduced the Environmental compensation levied on the said Unit on the pretext that the CPCB vide Office Order dated 04.09.2019 has issued a policy for levying Environmental Compensation of industries which prescribe that EC for closure direction issued on the ground on non-compliance of prescribed discharge /emission norms shall be levied for the period between the date of inspection and monitoring to the date of closing of manufacturing operation;

(xiii). That on the pretext of the aforesaid reasoning, the CPCB educed the Environmental Compensation to be levied on the said Unit by reducing the time period of violation /noncompliance i.e. from 191 days (11.11.2018 to 20.05.2019) to 54 days (28.03.2019 to 20.05.2019);

(xiv). That, however, the act of reducing the Environmental Compensation by the CPCB, as aforesaid, on the pretext of its aforesaid Office Order dated 04.09.2019 is illegal, arbitrary and without any basis. That the said Office Order dated 04.09.2019 of the CPCB deals with "EC for closure direction issued on the ground on non-compliance of prescribed discharge /emission norms" which is not the case of the said Unit. That the said Unit was, at the time of inspection held on 28.03.2019, found directly discharging its untreated effluent into the outside drain through by pass arrangement, which is a very serious offence and posses a direct threat to the local Environment and also to the life & health of the local /nearby residents;

(xv). That not only the CPCB has reduced the Environmental Compensation levied on the said unit, as

aforesaid, but also the CPCB has not found the said act of directly discharging its untreated effluent into the outside drain through by pass arrangement committed by the said Unit serious enough to include "Deterrent Factor" while calculating the Environmental Compensation to be levied on the said unit. That the CPCB has simply imposed the reduced Environmental Compensation for 54 days (28.03.2019 to 20.05.2019) without "Deterrent Factor" on the said unit;

(xvi). That moreover, the CPCB vide the said Letter dated 06.11.2019 allowed the said Unit to operate /start manufacturing for the "Crushing Season - 2019-20", as aforesaid. That, however, the CPCB, while allowing the said Unit to operate /start manufacturing for the "Crushing Season - 2019-20" vide the said Letter dated 06.11.2019, has not even bothered to inspect the said unit so as to ensure that whether the said by-pass arrangement has been dismantled by the said Unit or not.

(xvii). That a perusal of the said Letter dated 06.11.2019 issued by the CPCB shows that the CPCB has not even issued direction to dismantle the said by-pass arrangement while allowing the said Unit to operate /start manufacturing for the "Crushing Season - 2019-20" vide the said Letter dated 06.11.2019;

(xviii). That apparently the said by-pass arrangement continued in existence till 03.12.2019 (as mentioned in the said Compliance Report dated 19.06.2020 filed by the CPCB before this Hon'ble Tribunal). That, however, both the statutory authorities i.e. CPCB and UPPCB has not bothered to levy the Environmental Compensation on the said Unit for the time period from 28.03.2019 (date of observation) to 03.12.2019 (date of compliance).

Copies of the Letter dated 23.04.2019, Letter dated 01.07.2019 and Letter dated 06.11.2019 issued by the CPCB (downloaded from the web-site of the CPCB) is annexed as Annexure: A (Cony).

(12). That the other major violation /non-compliance committed by the said Unit, as observed by the said joint inspection team during the said Joint Inspection of the said unit held on 27.11.2019 and 28.11.2019 was to store the treated effluent in a permeable lagoon/kachcha lagoon which may result in the penetration of the said treated effluent through the ground /soil below and may result in the contamination of the ground water of the area

concerned. That in this context this Hon'ble Tribunal may take note of the below-mentioned submissions of the Applicant:

i. That the said violation /non-compliance committed by the said Unit (to store the treated effluent in a permeable lagoon /kachcha lagoon) was observed by the officials of the CPCB during the inspection of the said Unit held on 22.03.2018;

ii. That the recommendation to store the treated effluent in an impermeable lagoon was made by the NSI, Kanpur in its revalidated adequacy assessment report which was submitted by the said Unit vide Letter dated 10.10.2018;

iii. That the CPCB, vide Letter dated 16.11.2018, issued direction to implement the observations and recommendations made by the NSI, Kanpur in its aforesaid revalidated adequacy assessment report;

iv. That, however, apparently, the said Unit has not complied with the said direction of the CPCB issued vide Letter dated 16.11.2018 and therefore, the said Joint Inspection Team of the CPCB and UPPCB in its said Compliance Report dated 31.01.2020 filed before this Hon'ble Tribunal has observed that the said Unit has provided kachcha lagoon (for storage of treated effluent) having lining of PVC sheets, which is not proper and it may result in leaching under wear & tear condition.

v. That, however, both the statutory authorities i.e. CPCB as well as UPPCB has not taken any action against the said unit for the said violation /non-compliance and the said statutory authorities has not even bothered to impose Environmental Compensation on the said Unit for the said violation /non-compliance.

Copy of the Letter dated 16.11.2018 issued by the CPCB (downloaded from the web-site of the CPCB) is annexed as Annexure: B.

12.....xxx.....xxx.....xxx

13. That with respect to the other violations /non-compliances_ committed by the said Unit, as observed by the said joint inspection team during the said Joint Inspection of the said unit held on 27.11.2019 and

28.11.2019, it is submitted that the direction with respect to the said violations were issued by the CPCB vide its aforesaid Letter dated 16.11.2019, which apparently the said Unit has not complied with. That, however, both the statutory authorities i.e. CPCB as well as UPPCB has not taken any action against the said unit for the said violation /non-compliance and the said statutory authorities has not even bothered to impose Environmental Compensation on the said Unit for the said violation/non-compliance.

14. It is submitted that while imposing the Environmental Compensation on the said Unit for the two major violations committed by the said Unit, namely, (a) by-passing the untreated effluent through a separate channel into the outside drains adjacent to the premises of the mill and (b) to store the treated effluent in a permeable lagoon /kachcha lagoon, the CPCB has violated its own Report /Guideline for EC Calculation”

B. Sambhal Unit-

“21 That the said Unit of the Respondent No.1 has a history of serious violations /non-compliances, however, neither any Environmental Compensation has ever been imposed on the said Unit nor any prosecution proceedings has been initiated against concerned officials of the said Unit by the statutory authorities i.e. CPCB as well as UPPCB.

22. That the inspection of the said Unit of the Respondent No.1 was conducted by the officials of the CPCB on **08.12.2016**. That during the said inspection, the said Unit was found **discharging the spray pond overflow outside the premises** of the said Unit. That, moreover, during the said Inspection the said Unit was also found non-complying with respect to the prescribed standards of BOD of the ETP effluent sample. That, however, no action was taken against the said Unit by the statutory authorities i.e. CPCB as well as UPPCB and the said Unit was allowed to start its operation vide a letter dated 02.11.2017 issued by the CPCB. Copy of the Letter dated 02.11.2017 issued by the CPCB (downloaded from the web- site of the CPCB) is annexed as **Annexure: D**.

23. That again the inspection of the said Unit of the Respondent No.1 was conducted by the officials of the CPCB on **10.01.2018**. That during the said inspection, the said Unit was again found **to be by-passing untreated**

effluent discharge from the spray pond overflow and cooling tower ,lowdown being discharged outside the premises region through the drain — connecting to SOT river which meets river Ganga.

24. That, however, once again the officials of the CPCB neither bothered to dismantle and seal the said by-pass arrangement immediately nor bothered to immediately stop, the manufacturing process of the said Unit, rather the CPCB preferred to issue the direction to close down the manufacturing process and also the direction to dismantle the said by-pass arrangement on 07.02.2018 i.e. approximately after one month of the said inspection.

25. xxx.....xxx..... xxx

26. That, till date, the statutory authorities i.e. the CPCB as well as UPPCB, in gross violations of the aforesaid Report /Guidelines for EC Calculation issued by the CPCB, does not bother to conduct a detailed investigation from expert institution /organisation so as to know the actual extent of damage caused to the environment due to aforesaid violation /non-compliance committed by the said Unit, namely, (a) discharging the spray pond overflow outside the premises and (b) by-passing untreated effluent discharge from the spray pond overflow and cooling tower blow-down being discharged outside the premises region through the drain connecting to SOT river which meets river Ganga.”

C. Bareilly Unit:-

27. That in compliance of the directions issued by this Hon'ble Tribunal, the joint inspection of the Sugar Unit of M/s Dhampur Sugar Mills situated at Meerganj, District - Bareilly (U.P.) was conducted by the Joint Inspection Team of the CPCB and UPPCB on 29.11.2019.

28. That some of the major violations /non-compliances committed by the said Unit as observed by the said Joint Inspection Team during the inspection of the said Unit conducted on 29.11.2019 are as under:

- (i) The said Unit was found by-passing the untreated effluent through a pipeline laid underground up-to Peelakhar River in Sindholi Village which ultimately meets Ramganga River;

(ii) *The said Unit was found discharging its untreated domestic effluent outside the premises of the said Unit through a hole in the wall of the said Unit.*

29. *That the so-called "Action taken" by the statutory authorities i.e. CPCB and UPPCB against the said Unit for committing such serious violations /non-compliances is to impose an Environmental Compensation of Rs.17,70,000/- (Rupees Seventeen Lakh and Seventy Thousand only). That in the case of this Unit of the Respondent No.1 also, the statutory authorities i.e. CPCB and UPPCB does not find the illegal act of "discharging the untreated effluent directly into the River" serious enough to initiate the prosecution proceedings against the officials of the said Unit responsible for the said violation /non-compliance.*

30. *xxx.....xxx..... xxx*

31. *It is pertinent to mention here that the said Unit of the Respondent No.1 has also a history of violations /non-compliances. That during the inspection of the said Unit by the officials of the CPCB held on 10.01.2017, it was found that the said Unit has not integrated all process stream and route them to ETP. That during the inspection of the said Unit by the officials of the CPCB held on 25.01.2018, the treated effluent sample taken from the outlet of the ETP of the said Unit was found non-compliant with respect to BOD & TSS norms. That officials of the CPCB during the inspection held on 25.01.2018 observed that the aeration tank of the ETP system of the said Unit was not properly stabilised due to poor operation and maintenance of the ETP system and the treated effluent discharged does not meet the prescribed standards. That again during the inspection held on 28.03.2019, the officials of CPCB again observed that the aeration tank of the ETP system of the said Unit was not properly stabilised due to poor operation and maintenance of the ETP system and there is possibility of dilution of ETP system. Copies of the Letter dated 08.11.2017, Letter dated 15.03.2018 and Letter dated 14.06.2019 issued by the CPCB (downloaded from the web-site of the CPCB) is annexed as Annexure: F (Colly).*

37 o 36.....xxx.....xxx xxx

37. *That it is pertinent to bring to the notice of this Hon'ble Tribunal, that the case of the Units of the Respondent No.1 is not the only case where the CPCB has shown extreme*

leniency /favouritism towards the violator and despite serious violations, has reduced the Environmental Compensation to a great extent by reducing the time period /days of violation on the pretext of the aforesaid Office Order dated 04.09.2019. That the modus — operandi adopted by the officials of the CPCB is same in all such cases, which is as under:

- a) Conduct the inspection of the unit of the violator after passing off substantial time period of the crushing season;
- b) At first levy Environmental Compensation for whole crushing period on the unit of the violator;
- c) Issue Closure Notice after the end of the crushing season;
- d) After conducting meeting(s) with the representatives of the violators, reducing the Environmental Compensation substantially by reducing the time period /days of violation on the pretext of the aforesaid Office Order dated 04.09.2019;
- e) Finally, resuming the operation /manufacturing of the units of the violators before the next crushing season.”

7. No sufficient ground has been explained to meet out the irregularities nor environmental compensation have been calculated by the CPCB and UPPCB for which they are directed to submit a further action taken report on these points.

8. It is further argued that previously joint Committee calculated environmental compensation and later on it was re-examined and re-calculated as per Annexure 1 below which is lower than previous calculation and no sufficient reason has been explained. Either of the two calculations may be wrong. The environmental compensation and its calculation are intended to prevent the further mischief and irregularities by the industrial units and is penal in nature apart from recovering cost of restoration.

Table 1 has been annexed to the IA 376/2020 which is as follows:

S. N.	Industry Name	Operation Period (2018-19)	Date of Inspection and Main Observation	Closure Notice and E.O Levied	2 nd Notice Date (Resume Operation) and Reduced E.C.	Previous Inspection Date
1	Anamika Sugar Mills	04.11.2018 To 12.05.2019	29.03.2019 1) Unit was found to	23.05.2019 Rs.57,60,00/-	06.11.2019 Rs.13,50,00/-	Date: 06.02.2018 Unit is discharging untreated

	Limited, Bulandshahr (U.P.)		By-pass dark grey colour waste water/ untreated effluent through a cemented channel under the boundary wall. The untreated effluent was found stored in low-lying non-lined permeable area , across the road; 2) Mill was discharging colony domestic sewage into road side low lying areas			sewage outside the premises through a channel and there is possibility of discharging the untreated effluent of the process or spray pond through this channel
2	Avadh Sugar & Energy Limited, Shahjahanpur (U.P.)	11.11.2018 to 06.05.2019	29.03.2019 An underground pipeline was traced carrying the industrial effluent from the unit which discharges into the drain behind the unit. It was informed by the local people that the discharge from the said pipeline is made during the night;	30.05.2019 Rs.1,39,20,000/-	07.11.2019 Rs.11,70,000/-	30.01.2018 Spray pond overflow is partially bypassed and discharged directly outside the premises through channel into drain which meets Garra River and ultimately to Ganga River;
3	Bajaj Hindustan Limited, Shahjahanpur (U.P.)	10.11.2018 to 22.04.2019	Date: 30.03.2019 Non-compliance with respect to the parameters, namely, BOD and COD of treated effluent samples from lagoon.	28.05.2019 Rs.1,28,40,000/-	06.11.2019 Rs.7,20,000/-	08.03.2018 1) Non-compliance with respect to the parameters, namely, BOD, COD and TSS of treated effluent samples; 2) Non-compliance with respect to the parameters, namely, BOD, COD and TSS of treated effluent samples from lagoon.
4	Bisalpur Kisan Sahkari Chini Mills Limited, Bilaspur (U.P.)	27.11.2018 to 14.05.2019	26.03.2019 1) Unit has multiple outlets for the discharge of treated /untreated effluents; 2) Spray pond overflow is directly discharged outside the unit's premises	24.05.2019 Rs.1,37,70,000/-	06.11.2019 Rs.16,50,000/-	01.02.2018 1) Treated effluent from secondary clarifier outlet was found to be discharged directly into the drain; 2)Inlet channel of

			without any treatment;			ETP was found broken and untreated effluent was bypassed to outside nallah; 3) Spray pond tank was also found broken and spray pond overflow was bypassed without any treatment to outside nallah.
5	Indian Potash Limited (Sugar Unit), Meerut (U.P.)	15.11.2018 to 28.04.2019	04.04.2019 1) Non-compliance with respect to the parameters, namely, BOD, COD and TSS of treated effluent samples; 2) Non-compliance with respect to the parameters, namely, BOD and COD of treated effluent samples from lagoon; 3) Unit used a Kaccha Lagoon for storage of treated effluent.	30.05.2019 Rs.1,34,10,000/-	07.11.2019 Rs.7,50,000/-	05.01.2018 1) Untreated spray pond overflow is stored in lagoon; 2) Untreated effluent from the storage is discharged on land; 3)Unit is having two outlets.
6	Kisan Sahkari Chini Mill, Amroha (U.P.)	06.11.2018 To 12.05.2019	26.03.2019 1) Non-compliance with respect to the parameters, namely, BOD, COD and TSS of treated effluent samples; 2) Ponding of waste water was observed within the industry premises and analysis result of sample shows BOD — 805 m/l, COD — 1589 mg/l and TSS — 151 mg/l indicating discharge of untreated effluent; 3) Non-compliance with respect to the parameters, namely, COD and TSS of treated effluent samples from lagoon.	28.05.2019 Rs.1,51,20,000/-	06.11.2019 Rs.14,40,000/-	17.01.2018 1. Non-Compliance to the parameters, namely, BOD, COD and TSS of treated effluent samples; 2. Operation and maintenance of in aeration tank of ETP was poor as the MLSS of the aeration tank was 334 mg/l' 3. Tertiary treatment system was not in use and effluent was discharged from secondary clarifier

7	Kisan Sahkari Chini Mills Limited Badaun (U.P.)	30.11.2018 to 13.04.2019	26.03.2019 1) No valid CTO under Water & Air Acts and Hazardous Waste Authorization; 2) The unit has not made proper boundary wall to surround the ETP area to avoid the unauthorized encroachment and discharge of treated /untreated waste water;	21.06.2019 Rs.40,50,000/-	07.11.2019 Rs.5,70,000/-	24.01.2018 1. Treated effluent discharge is 374 l/ton which is higher than permissible limit (200 l/ton); 2. MLSS in aeration tank was 918 mg/l which indicates unestablished ASP system operation and maintenance of ETP system;
8	Kisan Sahkari Chini Mills Limited, Bareilly (U.P.)	28.11.2018 to 12.05.2019	28.03.2019 1) No valid CTO under Water & Air Acts (CTO expired on 31.12.2017); 2) Spray pond overflow of unit was being directly discharged outside premises of the unit without any treatment; 3) Non-compliance with respect to the parameters, namely, BOD and COD of effluent samples from lagoon.	24.05.2019 Rs.1,31,40,000/-	06.11.2019 Rs.13,80,000/-	24.01.2018 1) Unit has bypass arrangement for Untreated effluent through drainage to local drain. Analysis of effluent sample collected from bypass drain showed BOD — 656 mg/l, TSS — 438 mg/l and COD — 1130 mg/l which indicates discharge of untreated effluent; 2. Final waste water discharge is 235 l/ton which is higher than permissible limit
9	Kisan Sahkari Chini Mills Limited, Najibabad (U.P.)	12.11.2018 to 14.05.2019	20.03.2019 1) Non-compliance with respect to the parameters, namely, BOD, and COD of treated effluent sample; 2) Unit has not installed mechanical sludge handling system as well as colour coding in the process pipeline;	23.05.2019 Rs.55,20,000/-	07.11.2019 Rs.15,00,000/-	08.03.2018 1) MLSS in aeration tank was 458 mg/l which indicates unestablished ASP system due to poor operation and maintenance of ETP system; 2) Sludge drying beds were overflowing in ETP plant

10	Kisan Sahkari Chini Mills Limited, Pilibhit (U.P.)	25.11.2018 To 21.04.2019	25.03.2019 1) The Unit was found by-passing untreated effluent into outside nallah; 2) Inlet of the ETP was found with provisions of bypass of the untreated effluent to outside nallah and during visit bypass was observed; 3) The spray pond overflow of the unit was being directly discharged outside premises of the unit without any treatment.	24.07.2019 Rs.1,01,40,000/-	06.11.2019 Rs.37,20,000/-	01.02.2018 1.The treated effluent from secondary clarifier outlet was found to, be discharged directly into the drain; 2.The Unit has by-pass arrangement for untreated effluent from spray pond overflow outside the premises 19.12.2018 1) Unit was found operations but the ETP was found non-operational; 2) InletLine (Open Channel) of the ETP was found with provision of bypassing the untreated effluent to outside nallah; 3) The spray pond verflow was being directlydischarged outside the premises of the unit without treatment.
11.	Kisan Sahkari Chini Mills Limited, Shahjahanpur (U.P.)	18.11.2018 To 12.05.2019	30.03.2019 1) Spray pond overflow was discharged directly without any treatment outside the premises; 2) The unit has multiple outlets for discharge of effluent; 3) The unit has permission for one bore- well for ground water extraction from the CGWA but has two functional bore-	06.06.2019 Rs.1,40,10,000/-	06.11.2019 Rs. 13,20,000/-	29.01.2018 1. Analysis of treated effluent sample shows non-compliance with respect to BOD & COD 2. Analysis of underground water Total Hardness – 270 mg/I, Ca ²⁺ - 75.2 and Alkalinity – 357 mg/I, which is higher than the permissible limit.

			well; 4)Boiler ash is dumped indiscriminately within the premises.			
12.	Lakshmiji Sugar Mills Co. Ltd., Raja — ka — Sahaspur, Bilari, Moradabad (U. P.)	01.12.2018 To 18.04.2019	02.04.2019 1) Lagoon made for storing treated effluent was found filled with molasses; 5)The unit discharges treated effluent into a drain (near railway track) outside the premises; 6)Unlined /permeable lagoon was also observed within the unit's premises near the main gate containing diluted molasses.	21.06.2019 Rs.41,70,000/-	06.11.2019 Rs.5,10,000/-	09.01.2018 1. The unit does not have valid authorization of Hazardous Waste Management; 2. The treated effluent through the pipeline which opens outside into nearby drain; 3. At the time of visit, the drain was found carrying the hot effluent being discharged from the industrial premises. The drain shortly opens into the Sot River which is a tributary river of River Ganga.
13.	P.B.S Foods (Sugar) Pvt. Ltd., Chandpur, District — Bijnor (U.P.)	25.11.2018 To 14.05.2019	18.03.2019 1) Channel carrying waste water was observed coming out of the unit's premises and discharging into nearby agricultural fields; 2) The unit has not installed the spray pond overflow treatment system	Rs.1,37,10,000/-	Rs.16,20,000/-	The unit does not have provision for the treatment of spray pond overflow. The unit has not installed flow meter at the overflow of the spray pond and overflow water is discharged through open drain into a kachcha pond which poses threat to ground water pollution.
14.	Rana Sugars Ltd., Rampur (U.P.)	15.11.2018 To 09.04.2019	03.04.2019 1) Untreated water was found logged at various places inside the premises of the unit; 2) Inlet channel was found full and overflowing; 3) Spray pond overflow was found mixing with the	30.05.2019 Rs.43,80,000/-	06.11.2019 Rs.2,10,000/-	07.03.2018 1) The unit was in operation. However, ETP was non-operational at the time of inspection; 2) The unit does not have provision for

			treated effluent which is directly connected to lagoon.			treatment of spray pond overflow.
15.	Rana Sugars Ltd., Moradabad (U.P.)	14.11.2018 To 15.04.2019	01.04.2019 1). Bypass arrangement was identified in ETP inlet line near sugar storage godown which was temporarily blocked by sand bangs. 2). Water logging of treated/untreated effluent on open land near industry premises was observed; 3) Temporary pumping arrangement with flexible pipelines were found inside the premises having outlet in a drain parallel to Industrial premises and along the roadside; 4) An opening was found in the secondary treated water collection chamber from clarifier which can be directly discharged into outlet slump without treating it from sand and activated carbon filter; 5) The unit has unlined permeable lagoon outside the premises; 6) Leakage /overflow from spray pond was observed to be accumulating in a kachcha channel near the spray pond boundary.	26.04.2019 & 21.06.2019 Rs.45,90,000/-	07.11.2019 Rs.4,50,000/-	
16.	Rudra Bilas Kisan Sahkari Chini Mills Ltd., Bilaspur (U.P.)	30.11.2018 To 13.04.2019	03.04.2019 1.Treated effluent are stored in lagoon and utilized in cleaning and irrigation purposes; 2. Lagoon was found full of algae, no proper cleaning done;	12.06.2019 Rs.40,50,000/-	07.11.2019 Rs.3,30,000/-	08.03.2018 The unit does not have provision for treatment of spray pond overflow

17.	Wave Industries Pvt. Ltd., Bijnor (U.P.)	28.11.2019 To 12.04.2019	19.03.2019 The unit was bypassing the untreated effluent from inlet channel of ETP to nearby land and pond in nearby land;	06.05.2019 Rs.75,60,000/-	06.11.2019 Rs.14,40,000/-	16.01.2018 Treated effluent is discharged into a municipal drain by the unit.
18.	Wave Industries Pvt. Ltd., Bulandshahr (U.P.)	26.11.2018 To 15.04.2019	19.03.2019 The unit has not obtained valid consent to operate under Water Act, 1974 and Air Act, 1981.	14.06.2019 Rs.1,13,70,000/-	07.11.2019 Rs.8,40,000/-	05.02.2018 The unit was operational. However, ETP was functional and treated effluent was not flowing from outlet of ETP. Therefore, lagoon was empty and sample could not be taken from outlet of ETP due to non-availability of treated water
19.	Wave Industries Pvt. Ltd., Dhanaura, J.P. Nagar (U.P.)		25.03.2019 A channel was found before inlet which should be emptied and dismantled and waste water should be treated through ETP	24.06.2019 Rs.32,10,000/ (30.01.2018 to 16.05.2018) For crushing season 2017-18	28.11.2019 Nil	30.01.2018 1) Huge amount of water logging was found just outside the boundary wall of the industry in an unlined pool, on the north- west side, this area has an opening of pipelines coming from ETP, which as per industry representative is meant for irrigation purposes: 2) Analysis of sample collected from unlined pool adjacent to boundary wall as found non-compliant with respect to BOD, COD and TSS parameters.
20.	Mawana Sugar Mills,	04.01.2018 To 16.05.2019	26.03.2019 The unit has open	21.06.2019 Rs.39,90,000/-	22.11.2019 Nil	04.01.2018 1) the unit does not have

	Mawana, (UP)		pipeline system for transferring effluent to the ETP and some effluent was seen accumulate in the sugar cane field near the ETP inlet drain.			<p>provision for the treatment of spray pond overflow;</p> <p>2) The unit was bypassing the untreated effluent from the process into the drain outside the premises of the unit in the front gate of the unit</p> <p>28.02.2018</p> <p>Bypass arrangements opening into outside drain (Municipal Drain was found blocked /closed at the time at inspection. However, an open unlined drain was observed which was opening outside boundary of industry situated around 150-200 meters from Ram Mandir towards the rear side boundary wall in the industry premises and was found discharging into the Mawana drain passing through the field.</p>
21.	U.P. State Sugar Corporation Ltd. Meerut (UP)	11.11.2018 To 15.05.2019	02.04.2019 The unit was bypassing the untreated effluent from ETP inlet channel and equilisation tank of ETP to the adjacent drain (Shekhpur drain) which meet Kadrabad drains and ultimately falls into the East Kali	06.05.2019	07.11.2019	<p>Rs. 90,60,000/-</p> <p>Rs. 8,70,000/-</p>

9. We have heard learned Counsel for the parties appearing before us. Learned Counsel for the applicant submitted that there is large scale violation of Environmental Law as shown by the above table but on account of collusion of the State PCB, no effective steps are taken.

10. Learned Counsel for the State PCB states that according to the understanding of the State PCB, if somebody has applied for extraction of ground water, earlier NOC continues. In the present case, the earlier NOC was upto 02.05.2019 and the unit applied for extension on 04.04.2019 and on that account no action has been taken for illegal extraction of ground water. Reliance has been placed on Notification dated 24.09.2020 issued by the Ministry of Jal Shakti stating as follows:-

“11(vi). If the application for renewal is submitted in time and the CGWA/the respective State/UT Authority is unable to process the application in time, No Objection Certificate shall be deemed to be extended till the date of renewal of No Objection Certificate.”

11. As against above, learned Counsel for the applicant submits that this Tribunal has specifically held that ground water can be allowed to be extracted only in the light of water availability data and if water level is at safe levels. No general permission can be granted without evaluation and by default. In this regard, reliance has been placed on the order of this Tribunal dated 20.07.2020 in Original Application No. 176/2015, Shailesh Singh v. Hotel Holiday Regency, Moradabad & Ors. as follows:-

“1 to 38..xxx.....xxx.....xxx

39. In the light of the above discussion, we direct as follows:

a. MoJS may ensure requisite manning and effective functioning of CGWA so as to ensure **sustainable ground water management** in terms of the Hon’ble Supreme Court mandate by which CGWA was created.

b. Let CGWA and MoJS comply with the directions of this Tribunal in orders dated 3.1.2019, 7.5.2019 and 11.9.2019, to have a meaningful regulatory regime and institutional mechanisms for ensuring prevention of depletion and unauthorized extraction of ground water and sustainable management of groundwater in OCS areas. **Regard must be had to water availability and safe levels to which its drawal**

can be allowed, especially for commercial purposes, based on available and assessed data in each “Assessment unit”. Procedures for assessment of individual applications and institutional mechanism may be clearly laid down.

c. As per orders dated 3.1.2019, undertaking an impact study in light of projected data for the next 50 years (in phased manner with action plan decade-wise).

d. There must be **no general permission for withdrawal of ground water, particularly to any commercial entity, without environment impact assessment of such activity on individual Assessment units in cumulative terms covering carrying capacity aspects by an expert committee.** Such permission should as per Water Management Plans to be prepared in terms of this order based on mapping of individual assessment units. Any permission should be for specified times and for specified quantity of water and not in perpetuity, and be necessarily subject to digital flow meters which cannot be accessed by proponents, with mandatory annual calibration by authorized agency at proponents’ cost. **An annual review by independent and expert evaluation must audit and record ground water levels as well as compliance with the conditions of the permission.** Such audits must be published online for transparency and to track compliance and year-on-year change in ground water levels, and swift action taken against those who fail audit, including withdrawal of permission, blacklisting, initiation of prosecution and recovery of deterrent compensation as per CPCB regime. Records must be maintained online and for a sufficient and reasonable time.

e. As observed in para (a) above, **all OCS assessment units must undergo water mapping. Water Management Plans need to be prepared for all OCS assessment units in the country based on the mapping data, starting with Over-exploited blocks. The Water Management Plans, data on water availability or scarcity and policy of CGWA must be uploaded on its website for transparency and public involvement. Such exercise may be done expeditiously, preferably within next three months.”**

12. In view of above, learned Counsel for the applicant submitted that no order to the contrary can prevail in view of Section 33 of the National Green Tribunal Act, 2010 under which the order of this Tribunal has overriding effect over any other order issued under any other law. No executive order can annul the orders of the Tribunal which are binding, unless set-aside by a higher Judicial forum. The direction of this Tribunal under section 15 read with Section 20 of the NGT Act, 2010 is binding on the Ministry of Jalshakti which has to be followed by the State PCB. Moreover, the principle of sustainable development will have no value if ground water is allowed to be extracted merely on account of pendency of an application without evaluation of availability of adequate ground water and compliance of conditions which may be necessary to be laid down. This will also be failure of directions of the Hon'ble Supreme Court requiring the CGWA to regulate extraction of groundwater. We find merit in the contention.

13. Accordingly, we direct the State PCB to take further appropriate action by way of prohibiting any activity in violation of law, initiating prosecution and recovering compensation as per applicable norms, following due process of law. The State PCB may also respond to the IA filed by the applicant with particulars in the table annexed to the application, reproduced above and file an action taken report before the next date by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF. The CPCB and State PCB may undertake necessary inspection for the purpose.

List for further consideration on 11.02.2021.

A copy of this order be forwarded to the CPCB, the State PCB, the Secretary, Ministry of Jal Shakti and the CGWA by e-mail for compliance.

Adarsh Kumar Goel, CP

S.K. Singh, JM

Dr. S.S. Garbyal, EM

Dr. Nagin Nanda, EM

November 09, 2020

Original Application No. 539/2019”

Reply by CPCB.

16. In compliance of the directions, Central Pollution Control Board has filed its reply dated 26.03.2021. It is submitted that the directions to the M/s Dhampur Sugar Mills Ltd. (hereinafter referred as 'unit') were issued under Section 5 of the Environment (Protection) Act, 1986. As per Section 16 (c) of the National Green Tribunal Act, 2010, National Green Tribunal is the Appellate Authority with respect to the directions issued under Section 5 of the Environment (Protection) Act, 1986.

The said section of the National Green Tribunal Act, 2010 is as follows:

"Section 16 (c) Tribunal to have appellate jurisdiction: Any person aggrieved by directions issued, on or after the commencement of the National Green Tribunal Act, 2010, by a Board, under section 33A of the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974) may, within a period of thirty days from the date on which the order or decision or direction or determination is communicated to him, prefer an appeal to the Tribunal"

17. It is next submitted that this petition may be rejected as directions have been issued by CPCB & UPPCB in pursuance of orders of the National Green Tribunal, Principal Bench, New Delhi and the petitioner has an alternative, efficacious, legal and speedy remedy available with NGT.

18. It is further submitted that this Tribunal vide order dated 14.08.2019 in the matter of Adil Ansari Vs. M/s Dhampur Sugar Mills Ltd. and Ors. O.A. No. 539/2019 directed CPCB and UPPCB to furnish a joint factual and action taken report with regard to four units (three

sugar mills and one distillery unit) of M/s Dhampur Sugar Mills Ltd. thereafter, both statutory authorities had carried out a joint inspection during 27.11.2019 to 29.11.2019 of the following units:

- a. Dhampur Sugar Mills, Sugar Unit, Asmoli, Sambhal*
- b. Dhampur Sugar Mills, Sugar Unit, Dhampur, Bijnor*
- c. Dhampur Sugar Mills, Sugar Unit, Meerganj, Bareilly*
- d. Dhampur Sugar Mills, Distillery Unit, Dhampur, Bynor.”*

19. Thereafter, the compliance report was filed by CPCB and UPPCB before this Tribunal on 31.01.2020. The CPCB issued directions to UPPCB vide letter dated 05.03.2020 and 14.05.2020 under Section 18 (1) (b) of the Water (Prevention and Control of Pollution) Act, 1974 to comply with the following;

- i. UPPCB shall issue appropriate directions to the four units to ensure compliance of observations/recommendations made in the joint inspection reports filled in NGT in O.A. No. 539/2019 in the matter of Adil Ansari vs M/s Dhampur Sugar Mills Ltd. and Ors.*
- ii. UPPCB shall issue appropriate direction to M/s Dhampur Sugar Mills, Sugar Unit, Meerganj, Bareilly, to deposit Rs.16,20,000/- toward EC as levied by CPCB vide direction dated 06/11/2019 under section 5 of Environment (Protection) Act, 1986 into UPPCB account open for such fund.*
- iii. UPPCB shall take appropriate legal action for closure and prosecution of M/s Dhampur Sugar mills Ltd. (Sugar unit), Asmoli, Sambhal Moradabad and Dhampur Sugar Mills, Sugar Unit, Meerganj, Bareilly, which were found to be bypassing the effluents into drains.*
- iv. Compensation for withdrawal of ground water without permission will be recovered by these units.”*

20. It is further submitted that a joint meeting was convened by CPCB with officials of UPPCB to review the action taken in compliance to this Tribunal's order. The relevant submissions regarding each Unit is as follows.

M/s Dhampur Sugar Mills, Sugar Unit, Dhampur, Bijnor

21. It is submitted that CPCB conducts annual inspection of the sugar units during each crushing season. Generally, the crushing season of sugar units starts from October- December every year and continues up to April-May. A one-month time is necessary by the Sugar unit to stabilize ETP, hence inspection of the sugar units is planned from January to March every year. As there are 122 number of sugar units in Ganga main stem states that are categorized as Gross Polluting Industries (GPIs), these units are inspected as per the schedule prepared based on the work force availability.

22. The inspection of the above unit was undertaken on 28.03.2019 and direct discharge of untreated effluent into the outside drain through by-pass arrangement was found which possess direct threat to the environment.

23. Accordingly, CPCB issued Closure directions on 23.04.2019 to M/s Dhampur Sugar Mills (Sugar Unit), Dhampur, Bijnore under Section-5 of the Environment (Protection) Act, 1986, and imposed Environmental Compensation of Rs. 46,80,000/- after the lab analysis

results confirmed the non-compliance w.r.t effluent discharge standards (period of violation from 11.11.2018 to 15.04.2019).

24. However, since the unit kept operating till 20.05.2019 in violation of the closure directions (as informed vide unit's reply dated 10.05.2019), therefore, CPCB vide its subsequent direction dated 01.07.2019, recalculated the EC amount to Rs. 57,30,000/-considering period of violation from 11.11.2018 to 20.05 2019.

25. The Environmental Compensation has been imposed in compliance to this Tribunal order in the matter of O.A. No. (WP (CIVIL) No. 375/2012), Paryavaran Suraksha Samiti & Anr. Vs. Union of India & Ors., which directed CPCB that:

"It may take penal action for failure, if any, against those accountable for setting up and maintaining STPs, CETPs and ETPs. CPCB may also assess and recover compensation for damage to the environment and said fund may be kept in a separate account and utilized in terms of an action plan for protection of the environment".

26. However, some sugar units filed Appeals before this Tribunal vide Appeal No. 34/2019 (WZ) titled M/s Madhukar Sahakari Sakhar Karkhana Ltd. Vs. CPCB, Appeal No. 05/2019 titled Morinda Co-op. Sugar Mills Ltd. Vs. CPCB and Appeal No. 23 of 2019(WZ) against order passed by CPCB requiring the Appellants to pay Environmental Compensation. Thereafter, units namely Shri Vitthalsai SSK Ltd. and Bhairavnath Sugar Works Ltd. approached this Tribunal in Appeal No.

27/2019 (WZ) with Appeal No. 35/2019 (WZ) against the Environmental Compensation levied by CPCB.

27. This Tribunal vide Order dated 22.05.2019 in Appeal No. 27/2019 (WZ) (I.A. No. 49/2019, I.A. No. 50/2019 & I.A. No. 66/2019) with Appeal No. 35/2019 (WZ) (I.A. No.68/2019 & LA. No.69/2019) directed that;

"5. CPCB may treat the impugned order as tentative and pass further appropriate order after permitting the affected parties to furnish their viewpoint. The appellant may furnish its viewpoint to the CPCB within two weeks from today. Similar opportunity may also be given to other affected parties where such orders have been passed in connected cases, including Appeal No. 34/2019(WZ), M/s Madhukar Sahakari Sakhar Karkhana Ltd. vs. Central Pollution Control Board, Appeal No. 05/2019, Morinda Coop. Sugar Mills Ltd. vs. Central Pollution Control Board and Appeal23/2019(WZ), Babasaheb Ambedkar SSK vs. The Member Secretary, CPCB & Ors."

6. Till further order is passed by the CPCB, the impugned order may not be given effect. The fresh order may be passed as far as possible within two months. Further, the Hon'ble NGT vide its Order dated 29.07.2019 in Appeal No. 22/2019 (I.A. No.430/2019) with Appeal No. 12/2019 (I.A. No. 391/2019), Appeal No. 13/2019 (I.A. No. 392/2019), Appeal No. 14/2019 (I.A. No. 393/2019), Appeal No. 15/2019 (I.A. No. 397/2019), Appeal No. 16/2019 (I.A. No. 398/2019), Appeal No. 17/2019 (I.A. No. 400/2019) and Appeal No. 18/2019 (I.A. No. 406/2019) in the matter of The Kisan Sahkari Chini Mills Ltd. Vs. The Member Secretary, Central Pollution Control Board & Ors. directed that;

"It is not disputed that the present matters are identical to the one disposed of by this Tribunal vide order dated 22.05.2019 in Appeal No. 27/2019 (WZ), Shri Vitthalsai SSK Ltd. vs. Central Pollution Control Board. Accordingly, these appeals are disposed of in same terms. On the pattern of above orders, the impugned order will be treated as tentative till further order is passed after considering the viewpoint of the appellants. The appellants may furnish their viewpoint to the

Central Pollution Control Board (CPCB) within two weeks. It is made clear that we have not expressed any opinion on the merits."

28. It is submitted that CPCB vide order dated 04.09.2019, developed the "Policy for levying Environmental Compensation (EC) for industries" to bring uniformity for levying Environmental Compensation (EC) for all industrial sectors. As per policy, one of the conditions to be considered for EC calculation is as follows:-

"Unless there is substantial evidence, date of non-complying days would start with effect from date of non-compliance observed during inspection."

29. Further CPCB held personal hearing of 32 sugar mills on 18.09.2019 and 24.09.2019 in compliance to the NGT order wherein representations were received from individual sugar mills of U.P. Co-operative Sugar Factories Federation Ltd. and Secretary General of UPSMA.

30. It is further submitted that E.C. was recalculated for 32 sugar units including M/S Dhampur Sugar Mills, Sugar Unit, Dhampur, Bijnor, considering the number of days of violation based on the prevailing CPCB policy and Methodology for assessing Environmental Compensation (E.C). Also, 'Deterrent Factor' is not applicable to the unit based on the Methodology for assessing Environment Compensation, Annexure-I, since the unit closed the operation on 20.05.2019 and subsequent crushing season, no illegal discharge was

found during inspection conducted between 26.11.2019 to 27.11.2019.

31. It is submitted that the unit was inspected on 22.03.2018 and found non-complying w.r.t BOD-53 mg/l against the norms of 30 mg/l at ETP outlet. In response, CPCB issued Show-Cause notice vide its letter dated 07.05.2018 under section 5 of E (P) Act, 1986 to the unit. Thereafter, the unit replied vide letter dated 20.07.2018 and 10.10.2018 confirmed the compliance status and submitted the revalidated adequacy assessment report prepared by NSI, Kanpur. Accordingly, CPCB issued compliance direction to the unit vide its letter dated 16.11.2018.

32. It is submitted that a detailed investigation from expert institution for EC calculation is to be undertaken only in the cases where Intentional discharge to the environment results into acute injury or damage to the environment or if there is injection of treated/partially treated/untreated effluent to ground water as listed in Policy guideline for levying Environmental Compensation for Industries whereas the unit was found non-complying with respect to surface water discharge norms of Environment (Protection) Act, 1986.

33. It is submitted that as per the submission made in the above paras regarding Environmental Compensation, the calculation have been made by CPCB.

M/s Dhampur Sugar Mills (Sugar Unit), Asmoil, Sambhal U.P.

34. It is submitted that inspection of the unit was undertaken on 10.01.2018 and the unit was found by-passing untreated effluent from the spray pond overflow and cooling tower blow down, through the drain connecting to Sot River.

35. CPCB had, therefore, issued direction under section-5 of Environment (Protection) Act, 1986 to the unit vide its letter dated 07.02.2018, for discharging untreated effluent with BOD-577 mg/1 against norms of 30 mg/1 & TSS- 198 mg/1 against the norms of 30 mg/1 through drain and also directed to dismantle the by-pass arrangement.

36. The unit requested to revoke the closure direction vide its letters dated 15.02.2018 & 03.03.2018 and submitted the following;

“a. The unit has dismantled the bypass arrangement and has stopped the discharge of untreated effluent

b. The unit has upgraded the ETP system up to tertiary treatment level

c. The unit has submitted waste water analysis reports from EPA approved laboratory

d. The unit has submitted the revalidated adequacy assessment report of ETP & irrigation management plan”

37. Therefore, the unit was re-inspected on 01.03.2018 by CPCB and it was observed that the unit has dismantled the bypass arrangement and ETP was complying w.r.t surface water discharge norms.

38. The unit had also submitted the revalidated adequacy assessment reports prepared by NSI, Kanpur vide letter dated 18.06.2018.

39. In addition, CPCB constituted an Expert committee comprising members from National Sugar Institute (NSI), Vasantdada Sugar Institute (VSI), IITs and representatives from sugar mills to prepare a charter for water recycling. The unit vide letter dated 01.09.2018 submitted their compliance status of the Charter, which was examined and following observations were made:

- “1. The unit has installed necessary flow meters at requisite points as prescribed under the Charter.*
- 2. The unit has submitted action plan/ compliance report on up-gradation of ETP.*
- 3. The unit is maintaining proper logbook for bore-well readings thereby recording their fresh water consumption on regular basis.*
- 4. The unit has stated that no untreated/ partially treated effluent is being discharged on land.*
- 5. The unit shall employ hydro-jet for cleaning of heat exchanger unit.*
- 6. The unit has already set up environmental laboratory with dedicated technical staff.*
- 7. The unit has planned to arrange training for its technical staff on ETP Operation and Maintenance.*
- 8. The unit has submitted compliance report on BMT for Water Recycling and Pollution Prevention.”*

40. The three Member Committee in its meeting held on 04.10.2018 examined the revalidated adequacy assessment report and implementation status of charter. Based on the recommendations of three Member Committee, CPCB issued revoke direction to the unit under section 5 of the Environment (Protection) Act, 1986.

41. It is submitted that a detailed investigation from expert institution for EC calculation is to be undertaken only in the cases

where intentional discharge to the environment results into acute injury or damage to the environment or if there is injection of treated/partially treated/untreated effluent to ground water as listed in Policy guideline for levying Environmental Compensation for Industries, whereas the unit has found non-compliance with respect to surface water discharge norms of Environment (Protection) Act, 1986.

M/s Dhampur Sugar Mills (Sugar Unit), Meerganj, Bareilly, U.P.

42. It is submitted that a detailed investigation from expert institution for EC calculation is to be undertaken only in the cases where intentional discharge to the environment resulting into acute injury or damage to the environment or if there is injection of treated/partially treated/untreated effluent to ground water as listed in Policy guideline for levying Environmental Compensation for Industries, whereas the unit found non-compliance with respect to surface water discharge norms of Environment (Protection) Act, 1986.

43. It is submitted that the unit was inspected by the officials of CPCB on 10.01.2017 and following observations were made:

“1. The unit has generated 236.6 L/T wastewater, which is higher than the permissible limit.

2. The unit has not integrated all process streams and route them to ETP.”

44. The CPCB had, thereafter, issued direction dated 28.02.2017 to the unit to ensure compliance of wastewater discharge norms as per the

notification dated January 14, 2016. The unit's reply dated 10.03.2017 was examined by CPCB and, thereafter, CPCB issued closure direction dated 15.05.2017 to the unit and directed the unit to install on-line effluent monitoring system and provide its connectivity to CPCB server.

45. The unit was re-inspected by CPCB officials on 25.01.2018 and found non-complying w.r.t. discharge norms for BOD and COD. The MISS concentration in the aeration tank was very low, i.e. 684 mg/l, leakages were observed from syrup pumps, sulphide used pumps, magma pumps, condensate pumps etc. The unit did not submit the revalidated ETP adequacy assessment report within 45 days to CPCB. Accordingly, CPCB issued Show Cause Notice under section 5 of the Environment (Protection) Act, 1986, dated 15.03.2018 for non-compliance of stipulated standards.

46. In response, the unit submitted revalidated ETP adequacy assessment report and irrigation management plan validated by NSI, Kanpur vide letter dated 15.06.2018.

47. Subsequently, CPCB issued direction dated 26.10.2018 under section 5 of the Environment (Protection) Act, 1986 to the unit to submit the implementation status of the Charter and performance audit of ETP including actual assessment of water consumption & effluent generation duly validated by reputed expert institute namely NSI, Kanpur, VSI, Pune, IITs during crushing season and submit the report to CPCB within 60 days from resumption period.

48. CPCB and UPPCB carried out inspection of all four units of Dhampur Sugar Mills during 27.11.2019 to 29.11.2019 in compliance to NGT order dated 14.08.2019. **M/s DSM Sugar Mills, Meerganj, Bareilly** was inspected on 29.11.2019 and found non-complying w.r.t effluent discharge standards.

49. Accordingly, CPCB directed UPPCB to take necessary action to stop discharge of untreated effluent into river by the unit and levy Environmental Compensation vide its direction dated 02.01.2020 issued u/s 18(1)(b) of the Water (Prevention and Control of Pollution) Act, 1974. In compliance to this direction, UPPCB imposed an EC amount of Rs. 17,70,000/- on M/s Dhampur Sugar Mills, Sugar Unit, Meerganj, Bareilly. The unit deposited the levied EC and informed that bypass line has been permanently dismantled.

50. It is submitted that, as submitted earlier, a detailed investigation from expert institution for EC calculation is to be undertaken only in the cases where intentional discharge to the environment resulting into acute injury or damage to the environment or if there is injection of treated/partially treated/untreated effluent to ground water as listed in Policy guideline for levying Environmental Compensation for Industries, whereas the unit found non-compliance with respect to surface water discharge norms of Environment (Protection) Act, 1986. That, CPCB is empowered under the Environment (Protection) Act, 1986 to take action against industrial units/authorities to ensure

compliance of notified Environmental standards. Also, CPCB is empowered under the Water (prevention and Control of Pollution) Act, 1974 to issue directions to the state boards.

51. It is submitted that CPCB conducts annual inspection of the sugar units during each crushing season. Generally, the crushing season of sugar units starts from October- December every year and continues up to April-May. A one-month time is necessary by the Sugar unit to stabilize ETP, hence inspection of the sugar units is planned from January to March every year. As there are 122 no. of sugar units, in the Ganga main stem states that are categorized as Grossly Polluting Industries (GPIs), the units are inspected as per the schedule prepared based on the work force availability, limited infrastructure facilities at CPCB laboratory to analyze the ETP effluent/Drain samples.

52. It is submitted that CPCB vide order dated 04.09.2019, in compliance of NGT order in the matter of OA No. 593/2017 (WP (CIVIL) No. 375/2012, Paryavaran Suraksha Samiti & Anr. Vs. Union of India & Ors.), constituted a Committee for developing a formula for imposing penalty and Environmental Compensation on industrial units. As per committee recommendation, the following condition shall be considered for EC calculation;

“Unless there is substantial evidence, date of non-complying days would start with effect from date of non-compliance observed during inspection”

53. In short, the CPCB has justified its stand that the Environmental Compensation imposed by it on the Units is in accordance with law and as per the Office Order dated 04.09.2019, which runs as follows:-

“CENTRAL POLLUTION CONTROL BOARD

DELHI

F.No. B-400(S)/IPC-111/2019-20\162

September 04", 2019

OFFICE ORDER

**POLICY FOR LEVYING ENVIRONMENTAL COMPENSATION
(EC) FOR INDUSTRIES**

In compliance of Hon'ble NGT order in the matter of OA No. 593/2017 (WP (CIVIL) No. 375/2012, Paryavaran Suruksha Sarnia & Anr. Vs. Union of India & Ors.) a Committee was constituted by CPCB for developing a formula for imposing penalty and environmental compensation on industrial units.

As per the Committee recommendations, following cases are considered for levying environmental compensation:

- a) Discharges in violation of consent conditions, mainly prescribed standards/ consent limits.*
- b) Not complying with the directions issued, such as direction for closure due to non-installation of OCEMS, non-adherence to the action plans submitted etc*
- c) Intentional avoidance of data submission or data manipulation by tampering the Online Continuous Emission/ Effluent Monitoring systems.*
- d) Accidental discharge lasting for short durations resulting into damage to the environment.*
- e) Intentional discharges to the environment - land, water and air resulting into acute injury or damage to the environment.*
- f) injection of treated/ partially treated/ untreated effluents in to ground water.*

In the instances as mentioned at a, b and c above, Pollution Index shall be used as a basis to levy the

Environmental Compensations. CPCB has published guidelines for categorization of industries into Red, Orange, Green and White bases on concept of Pollution Index (PI). The Pollution Index is arrived after considering quantity & quality of emissions/effluents generated, types of hazardous wastes generated and consumption of resources. Pollution Index of an industrial sector is a numerical number in the range of 0 to 100 and can be represented as follows:

PL=F (Water Pollution Score, Air Pollution Score & IIW Generation Score)

Pollution Index is a number from 0 to 100 and increasing value of PI denotes the increasing degree of pollution hazard from the industrial sector.

After considering various factors including the policy implementation issues, Committee has derived following formula for levying the Environmental Compensation in instances as mentioned at a, b and c including non-compliance of the environmental standards / violation of directions.

$$EC = PI \times N \times R \times S \times L \times F$$

Where,

PI (pollution Index), N (number of days of violation), R (Rupees factor), S (Scale of operation), L.F (location factor).

In case of d, e and f, the Environmental Compensation may be levied based on the detailed investigations by Expert Institutions/Organizations.

Conditions/policy/operational protocol for levying EC shall be as below:

- 1. Prior to imposition of EC, a Show Cause Notice (SCN) for imposing EC alongwith an opportunity to reply/ hearing be given.*
- 2. Method adopted for calculation of EC may be shared with the concerned industry/ agency if asked during hearing or through reply.*

3. *Unless there is substantial evidence, date of non-complying days would start w.e.f. date of non-compliance observed during inspection.*
4. *In Sugar industry, number of days of violation is calculated based on actual number of days operated during crushing season(s) based on Excise Form RT-8C submitted by the unit.*
5. *EC for non-compliance to CPCB's closure direction regarding installation & connectivity of OCEMS shall apply till establishment of initial uninterrupted data connectivity for all the specified parameters in all the permitted outlets /stacks, as verified by the IT division.*
6. *EC for the closure direction issued on the ground of non-compliance of prescribed discharge/ emission norms shall apply for the period between date of inspection & monitoring to date of closing of manufacturing operation.*
7. *Direction for closure or revocation and direction for imposition of EC to be dealt separately.*

This issues in supersession of the earlier approach & methodology being followed in calculation of EC amount on the ground of non-compliance of closure direction regarding OCEMS and circular no. B19004/NGRBA/CPCB/2015-16(part file) dated 15.05.2019 regarding calculation of EC amount on the ground of non-compliance of notified norms for sugar mills.

*(Prashant Gargava)
Member Secretary”*

54. In view of the above submissions, it was submitted that CPCB has issued requisite directions from time to time and has imposed adequate compensation as per the order dated 04.09.2019.

Action taken report by UPPCB

55. UPPCB has also filed its action taken report on 22.07.2021 in Compliance of the direction passed by NGT on 09.11.2020. It is

submitted that a joint Inspection of the Unit Dhampur Group was conducted by UPPCB. The date of inspection of Dhampur units is tabulated as below:-

M/s Dhampur Sugar Mills Ltd (Sugar Unit), Dhampur, Bijnor	
Date of Inspection	02-02-2021 and 03-02-2021.
Major Observations	<p>1. The analysis result of sample collected from drain coming from colony along front boundary wall of sugar unit shows pH- 4.6, COD-2448 mg/l , BOD-1604 mg/l, which are on higher side of typical sewage characteristics i.e. pH in range of 6.5 to 8.5, BOD in range of 200 mg/l -300 mg/l, COD in range of 400 mg/l -550 mg/l which indicates that the Sugar effluent got mixed with the domestic sewage drain, however no bypass of effluent/waste water was observed from the boundary wall into the drain as the drain was covered.</p> <p>2. The unit has not installed Sewage Treatment Plant (STP) for sewage generated from colony located inside the unit premises; however, the unit provided purchase order of STP (P.O. No.-4100007977) dated 16.10.2020 with capacity of 220 KLD, which was under installation.</p> <p>3. The unit had two lagoons for storage of treated effluent. One with impermeable base having capacity of 10000 m³ and second having PVC sheets with 4000 m³ capacity and retention time of 15 days. The second lagoon was a Kachcha lagoon with improper lining of PVC sheets also mentioned in previous finding. Treated effluent is being used for irrigation purpose.</p>
Compliance made by the unit w.r.t. recommendations of Joint Team.	
Recommendations	Compliance verified on inspection dated 09-06-2021 by UPPCB.
<ul style="list-style-type: none"> • The unit shall take measures to stop discharge of spillage / 	<ul style="list-style-type: none"> • Unit has sealed the leakage points for spillage runoff and there was no

<p>surface runoff containing waste water from industrial premises into drain (Ikra drain and drain coming from city along boundaries of sugar unit) and shall maintain water quality of the drain.</p> <ul style="list-style-type: none"> • The unit shall install the CPU for high-pressure boiler at earliest. • The unit shall install the Sewage Treatment Plant (STP) for sewage generated from colony at the earliest. • The unit shall convert the 4000 m³ capacity storage lagoon in to lined impermeable lagoon to avoid any possibility of leakages and must ensure the compliance of stored treated effluent w.r.t. notified discharge standards under E(P) Rules, 1986. • The unit shall dismantle the sump having capacity of 100 KL located in bio-compost yard of 10 acres. • Unnecessary lines for ETP feed near falling structure shall be dismantled immediately. • Abandoned old pumping station along with connected line shall be dismantled. • Filter backwashing tank of suitable design capacity shall be installed for filter backwashing. Existing fresh water line in ETP area shall be dismantled. • Provision shall be made for DM plant CIP reject shall be treated in ETP only 	<p>leakage found during inspection dated 09-06-2021.</p> <ul style="list-style-type: none"> • Unit has installed CPU for high-pressure boiler and RO membrane (72 cubic meter per hour capacity). • Unit has installed STP of 220 KLD capacity for the treatment of sewage generated from sugar & distillery units. • Unit has submitted vide letter dated 19-06-2021 for conversation of storage lagoon of 4000 cubic meter in impermeable lagoon before the next crushing season. • Unit has also submitted vide letter dated 19-06-2021 that the dismantling of unused lines installed earlier, installation of filter back, washing tank and provision of treatment of reject of DM plant and CEP plant shall be done before next crushing season.
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The comparative chart of monitoring at different points on 02-02-2021 and 09-06-2021 is as below:

Sr. No.	Monitoring Points Dated 02-02-2021	Monitoring Points Dated 09-06-2021
1	Old Lagoon (Capacity 4000 m ³) BOD-117 mg/litre	Old Lagoon (Capacity 4000 m ³) BOD-26 mg/litre

2	<i>New Lagoon (Capacity 10000 m3)</i> BOD-187 mg/litre COD-370 mg/litre	<i>New Lagoon (Capacity 10000 m3)</i> BOD-24 mg/litre COD-192 mg/litre
3	<i>Ikara Drain at UP Stream of the unit</i> COD-296 mg/litre BOD-125 mg/litre TSS-146 mg/litre	<i>Ikara Drain at UP Stream of the unit</i> COD-288 mg/litre BOD-120 mg/litre TSS-126 mg/litre
4	<i>Ikara Drain at Down Stream of the Unit</i> COD-536 mg/litre BOD-296 mg/litre TSS-74 mg/litre	<i>Ikara Drain at Down Stream of the Unit</i> COD-296 mg/litre BOD-130 mg/litre TSS-132 mg/litre
5	<i>Drain near main gate of Sugar mill</i> COD-1604 mg/litre TSS-28 mg/litre TDS-508 mg/litre	<i>Drain near main gate of Sugar mill</i> COD-208 mg/litre TSS-56 mg/litre TDS-418 mg/litre
6	<i>STP is not installed.</i>	<i>STP is installed and operational.</i> Outlet parameter COD-40 mg/litre BOD-08mg/litre TSS-27 mg/litre
7	<i>Local drain behind the spray pond overflow treatment system</i> COD-606 mg/litre BOD-342 mg/litre TSS-194 mg/litre	<i>Local drain behind the spray pond overflow treatment system was found dry.</i>

Action Taken by UPPCB

Considering above facts UPPCB has issued following directions against the unit-

- UPPCB has issued show cause notice vide letter number H61711/Jal-70/2021 dated 13-04-2021 under section 33A read with 27 (2) of Water (Prevention and Control of Pollution) Act 1974 as amended and also issued notice for imposition of Environmental Compensation of Rs. 30,000/- per day from 02-02-2021 till the date of compliance made by the unit. Copy of show-cause letter dated 13-04-2021 is Annexed as **Annexure No.1.**

2- UPPCB vide letter number H62603/C-7/Jal-70/21 dated 22-06-2021 has imposed environmental compensation of Rs. 35,40,000/- against the unit. Annexed as **Annexure No.2**.

M/s Dhampur Sugar Mills Ltd (Sugar Unit), Asmoli, Sambhal	
<i>Date of Inspection</i>	13-01-2021
<i>Major Observations</i>	<p>1- The unit was found operational with consented capacity of 9000 TCD and the ETP was operational at the time of inspection. On the day of inspection, the unit was producing only raw sugar for export purpose.</p> <p>2- As per Daily Manufacturing Reports (DMRs) and RT-TC from 1 Nov, 2020 to 12 Jan, 2021 provided by the unit, average cane crushing is found 8501.36 TCD.</p> <p>3- Unit is having valid Consent to Operate under section 21/22 of the Air (Prevention & Control of Pollution) Act, 1981 (as amended) and Water under section 25/26 (Prevention & Control of Pollution) Act, 1974 (as amended) for discharge, both valid up to 31st December, 2021.</p> <p>4- The unit is also having valid Authorization under the provisions of Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 for storage and disposal of hazardous wastes valid up to 27th December, 2022.</p> <p>5- The NOC for ground water withdrawal is expired on 02.05.2019, however, the unit has applied the same from Ground Water Department, Uttar Pradesh on 30.11.2020.</p> <p>6- The unit has provided 2 stream of DM plant having capacity 30 m³/hr & 50 m³/hr for water treatment for boiler use. Both units consist of MGF, RO unit, degasser, cationic and anionic resin unit. Regeneration reject from DM plant along with spray pond overflow & IBD & CBD goes to spray pond treatment system for treatment. The unit had single UGR of capacity 540 m³ for Hot and Cold-water recirculation system.</p> <p>7- The unit has provided separate physio-chemical treatment for spray pond overflow (Design capacity 60 m³/hr.) which comprises of equalization tank, flash mixer, flocculator and lamella clarifier. Manual dosing of line observed</p>

	<p><i>in the equalization tank.</i></p> <p><i>8- Decanter is also installed but yet to commissioned for mechanical sludge handling. The unit has provided Proforma Invoice/ Purchase Order (P.O. No.-4100007358) dated 30.07.2020.</i></p> <p><i>9- Unit has provided OCEMS at outlet of ETP for continuous monitoring of treated effluent parameters and found connected with CPCB server. OCEMS reading w.r.t. flow-50.60 m³/hr, pH7 .91 COD-77.2 mg/l, BOD-17.7 mg/l and TSS-18.31 mg/l were recorded during inspection. The flow at outlet was 25 m³/hr as measured by V-notch installed at outlet of channel.</i></p> <p><i>10- MLSS in AT-I and AT-II measured 3155 mg/l & 2708 ml/l respectively which indicate that both aeration tanks were in stabilized condition.</i></p> <p><i>11- MLVSS/MLSS ratio in AT-I and AT-II measured 0.87 & 0.86 respectively indicating that optimum active microbial consortium exists in both aeration tanks.</i></p> <p><i>12- The lagoon capacity of 16000 m³ is adequate for 10-11 days, which is less than the 15 days of holding capacity of treated effluent storage during no demand of period for irrigation purpose. However, it is also mentioned in validation of ETP performance report performed by National Sugar Institute, Kanpur, submitted of 14.10.2020.</i></p> <p><i>13- Unit is in the process of installation of 36 m³/hr Condensate Polishing Unit (CPU) for condensate recycling.</i></p>
<p>Conclusions</p>	<p><i>1- The unit is operating with valid Consent to Operate Authorization.</i></p> <p><i>2- The unit has disposed huge quantity of scrap metal near ETP in open area in the unit premises.</i></p> <p><i>3- Partition wall of one sludge drying bed was in damaged condition.</i></p> <p><i>4- The unit has installed Decanter which is yet to be commissioned for sludge handling.</i></p> <p><i>5- Storage lagoon of final treated effluent with capacity of 16000 m³ is adequate for only 10-11 days which is less than maximum permissible storage of 15days.</i></p> <p><i>6- The unit is planning for installation of Condensate Polishing Unit (CPU) for condensate recycling.</i></p>

	<p>7- Analysis result of sample collected from ETP outlet (pH-7.2 against 5.5-8.5, COD- 128 mg/l against 250mg l.BOD-36 mg l against 100 mg.TSS-64 against 100 mg/l, TDS- 732 mg/l against 2100 mg l. 0 & G-06 against 10 mg l and Lagoon outlet (pH-7.4 against 5.5-8.5, COD- 76 mg/l against 250 mg l.BOD-11 mg l against 100 mg/l. TSS- 25 against 1 00 mg/l, TDS- 896 mg/l against 2100 mg.l) are complying wr.t the discharge standards for land disposal.</p> <p>8- The unit has not installed Sewage Treatment Plant (STP) for treatment of sewage generated from residential colony.</p> <p>9- Toe analysis of sample taken from sewage drain coming from residential area discharging into irrigation channel outside the unit premises and ponding in downstream of drain merging in Sot River indicates the characteristics of untreated domestic sewage.</p>
Compliance made by the unit w.r.t. recommendations of Joint Team.	
Recommendations	Compliance verified on inspection dated 12-07-2021 by UPPCB.
<ul style="list-style-type: none"> • The unit shall provide suitable capacity dosing pump for dosing of chemicals like lime and polyelectrolyte solution for optimum utilization of chemical as per feed flow condition. • The unit shall safely dispose crap/metal. • The unit shall commission Decanter for better sludge management. • The unit shall repair partition wall sludge drying bed. • The unit shall install Condensate Polishing Unit CPU). • The unit shall install Sewage Treatment Plant (STP) for treatment of sewage generated from 	<ul style="list-style-type: none"> • Complied. • Unit is disposing the metals scrap through authorised vender. Complied. • Complied. • Complied. • Unit has installed Condensate Polishing Unit (CPU). Complied. • Unit has installed STP of 60 KLD capacity, which shall be operational very soon.

<p><i>residential colony as soon as possible.</i></p> <ul style="list-style-type: none"> • <i>The unit shall restrict the drainage of domestic sewage into irrigation channel coming from residential area.</i> • <i>The unit shall obtain the NOC from Ground Water Department, Uttar Pradesh as soon as earliest.</i> 	<ul style="list-style-type: none"> • <i>The drainage of domestic sewage shall be restricted after operation of the STP.</i> • <i>Unit has obtained registration from UP ground water department.</i>
Action Taken by UPPCB	
<p><i>UPPCB has issued directions to the unit vide letter number H61712/Jal-59/2021 dated 13-04-2021 to comply with the recommendations/suggestions of the Joint Team. Copy of letter dated 13-04-2021 is Annexed as Annexure No.3</i></p>	

M/s Dhampur Sugar Mills Ltd. (Sugar Unit), Meeranaj, Bareilly	
<i>Date of Inspection</i>	<i>14-02-2021</i>
<i>Major Observations</i>	<p><i>1- NOC issued by CGWA was valid up to 07.06.2020 for the abstraction of ground water from 04 tube wells of total quantity 743 m³/day (not exceeding 99,356 m³/year). The unit has applied for renewal of CGWA NOC dated 28.04.2020. Apart from 04 permitted borewells, one additional bore-well was observed near residential colony of the unit, which is violation of CGWA NOC conditions, however the unit has provided the photographic evidence of this dismantled borewell.</i></p> <p><i>2- The unit is engaged in production of sugar with consented capacity of 5000 TCD using sugarcane. On the day of inspection, the unit was found operational. The unit started cane crushing on 3rd November, 2020. On the date of 13.01.2021, the sugar plant was operated at 5350 TCD. The ETP was reported to be operational from 27.09.2020.</i></p> <p><i>3- The earlier reported bypass of untreated effluent through a pipeline laid underground up to Peelakhar river in Sindholi Village, found removed and a slope joining Peelakhar river also found</i></p>

	<p><i>dry during the inspection.</i></p> <p><i>4- Previously, the unit had two lagoons of 5000 m³ and 2200 m³ capacity for storage of final treated effluent. However, during joint inspection, it was found that, the unit has kept only one lagoon of 5000 m³ capacity for storage of final treated effluent and the second lagoon of 2200 m³ capacity converted into aeration tank for spray pond overflow treatment.</i></p> <p><i>5- The lagoon capacity of 5000 m³ is adequate for only 6-7 days, which is less than the maximum permissible storage of 15. However, it is also mentioned in validation of ETP performance report performed by National Sugar Institute, Kanpur in the month of March, 2020.</i></p> <p><i>6- Treated effluent as claimed by unit was being provide to farmers via fixed HDPE pipeline but unit was not able to make the line operational and no flow was observed at the point of treated effluent supply to farm land. After about 3-4 hours, the flow was observed at the point in farmland in the HDPE line from where sample was collected. This indicates that unit is not providing regularly for irrigation via HDPE pipeline. Sample analysis also shows high BOD (122 mg/l) and COD (196 mg/l) indicates no supply of treated effluent for irrigation regularly.</i></p> <p><i>7- To treat the domestic wastewater generated from this colony, the unit has installed 50 KLD Sewage Treatment Plant (STP) and laying of the pipeline connection was under progress. STP was not operational at the time of inspection.</i></p> <p><i>8- Ponding of untreated sewage observed besides the boundary wall of the sugar mill.</i></p>
<p>Compliance made by the unit w r.t. recommendations of Joint Team.</p>	
<p>Recommendations</p>	<p>Compliance verified on inspection dated 21-01-2021 and 01-07-2021 by UPPCB.</p>
<ul style="list-style-type: none"> • <i>ETP inlet flowmeter should be installed at the main inlet of ETP.</i> 	<ul style="list-style-type: none"> • <i>Unit has installed ETP inlet flow meter.</i>

<ul style="list-style-type: none"> • <i>Periodic removal of sludge shall be ensured.</i> • <i>Flow meter shall be installed at mill house and boiling house outlet for monitoring of generated effluent.</i> • <i>The oil skimmer shall be installed within a tank having approximate retention time of 45 min.</i> • <i>The treated effluent discharges for irrigation shall comply with MOEFF&CC Notification dated 14.01.2016 (G.S.R. (35E)) for land disposal.</i> • <i>Installed STP shall be made operational for treatment of generated sewage. Treated sewage shall be utilized for irrigation & other purposes.</i> • <i>The unit shall keep only single arrangement to pump the treated effluent from the lagoon to irrigation supply.</i> • <i>Unit shall obtain amended Hazardous waste authorization from UPPCB to handle and safe disposal of discarded containers, oily rags, cotton waste, O&G and spray pond ETP sludge.</i> 	<ul style="list-style-type: none"> • <i>Complied.</i> • <i>Complied.</i> • <i>Unit has submitted that the compliance shall be made before the next crushing season.</i> • <i>Complied.</i> • <i>The sample collected from the outlet of STP by UPPCB on 21-01-2021 and 01-07-2021 were found to be complying.</i> • <i>Unit has submitted that the compliance shall be made before the next crushing seasons.</i> • <i>Unit has applied for amended authorisation on 19-07-2021 which is under process.</i> • <i>Unit has obtained NOC from UP Ground Water Authority for abstraction of ground water, valid till 18-05-2026.</i>
Action Taken by UPPCB	
<p><i>Considering above facts UPPCB has issued following directions against the unit-</i></p> <p><i>1- Third Party NSI Kanpur authorized by CPCB has inspected the unit on 28-01-2021, during inspection the unit was found complying w.r.t. discharge norms and the various units of</i></p>	

treatment plants were considered adequate.

2- UPPCB has issued show cause notice vide letter number H61710/Ja1-773/2021 dated 13-04-2021 under section 33A read with 27 (2) of Water (Prevention and Control of Pollution) Act 1974 as amended and issued notice for imposition of Environmental Compensation of Rs. 30,000/- per day from 14-01-2021 till the date of compliance made by the unit. Copy of letter dated 13-04-2021 is Annexed as **Annexure No.4**.

M/s Dhampur Sugar Mills Ltd (Distillery Unit), Dhampur Bijnor	
<i>Date of Inspection</i>	02-02-2021
<i>Major Observations</i>	<p>1- The Unit has installed mass flow meters with totalizer at inlet and outlet of SMEE, IMEE and at incineration boiler feed. All mass flow meters are connected to CPCB server. At the time of inspection, the reading of mass flow meters (totalizer and flow rate) were noted and are as follows:</p> <p>a. Reading of mass flow meter (totalizer and flow rate) at IMEE;</p> <p style="padding-left: 40px;">i. At inlet of IMEE: totalizer reading-527719 T, flow rate-52.2 T/hr (49.24 m³/hr, considering Sp.Gr.1.06)</p> <p style="padding-left: 40px;">ii. At outlet of IMEE (IMEE Concentrate): totalizer reading-151864 T, flow rate- 13.56 T/hr (11.69 m³/hr, considering Sp.Gr.1.16)</p> <p>b. Reading of mass flow meter (totalizer and flow rate) at SMEE;</p> <p style="padding-left: 40px;">i. At inlet of SMEE: totalizer reading-1693558 T, flow rate-54.8 T/hr (51.69 m³/hr, considering Sp.Gr.1.06)</p> <p style="padding-left: 40px;">ii. At outlet of SMEE (SMEE Concentrate): totalizer reading-371896 T, flow rate- 12.20 T/hr (10.52 m³/hr, considering Sp.Gr.1.16)</p> <p>c. Reading of mass flow meter (totalizer and flow rate) at Incineration boiler;</p> <p style="padding-left: 40px;">i. At inlet of incineration boiler:</p>

	<p>totalizer reading-587 T, Slop (Concentrate) flow rate-26 T/hr (20.15 m³/hr, considering Sp.Gr.1.29)</p> <p>2- In CPU, the unit has installed flow meter at RO-Feed, RO-Permeate and RO-Reject, at the time of inspection flow meter totalizer reading were found 66827.5 m³ (flow rate: 116.5 m³/hr), 61918.3 m³ (flow rate: 71 m³/hr) and 3072.2 m³ (flow rate: 39 m³/hr) respectively.</p> <p>3- Previously, the unit had opted bio-composting as well as incineration boiler for achieving Zero Liquid Discharge (ZLD), however as informed by the unit representative that the process of bio-composting has been discontinued from June-2020 and presently the unit has opted for concentration incineration system. During joint inspection, the bio-composting operation was found not in operation.</p> <p>4- Presently, in 10 acres of active bio-compost yard, the unit is mixing boiler ash coming from distillery & sugar plant with press mud and after mixing, the prepared mixture is distributed to the farmers at free of cost through open trolleys.</p> <p>5- As per the submitted purchase order, STP will be comprising of bar screen, equalization tank, oil & grease trap, chemical dosing system, tube settler, aeration tank, multi grade sand filter, activated carbon filter, chlorine dosing system and treated water storage tank.</p> <p>6- Analysis of effluent samples collected from inlet of Condensate Polishing Unit shows pH- 4.2, COD - 4120 mg/l and BOD-1933 mg/l, TDS-1096 mg/l and colour-12 Hazen. Sample collected from the outlet of CPU permeate shows pH- 5.2, COD - 1272 mg/l and BOD-833 mg/l, TDS-156 mg/l and colour-BDL.</p> <p>7- Analysis of samples collected from the inlet of SMEE and IMEE (common) shows pH4.8, COD - 92000 mg/l and BOD-29500 mg/l and TS- 126448 mg/l (12%). Sample collected from the outlet of SMEE and IMEE shows pH- 4.6, COD - 467200 mg/l and BOD-142000 mg/l, TS-425784 mg/l (42%) and pH- 4.7, COD - 614400 mg/l and BOD-208000 mg/l, TS-640892 mg/l (64%).</p> <p>8- Concentrated spent wash (slop) collected from the feed line of the boiler</p>
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	shows pH4.6, COD - 550400 mg/1 and BOD-200000 mg/1 and TS- 495472 mg/1 (49%).
Compliance made by the unit w r.t. recommendations of Joint Team.	
Recommendations	Compliance verified on inspection dated 09.06.2021 by UPPCB.
<ul style="list-style-type: none"> • The unit has total 03 nos. of tube wells against 02 nos. of permitted tube wells as per CGWA NOC. The unit shall dismantle the 3"1 no. of non-operational tube well. • The unit shall obtain hazardous waste authorization from the respective state pollution control board. • The unit shall complete the construction work of STP at the earliest and shall treat the sewage generating from the residential colony as well as industrial plants in STP only. • The unit shall ensure complete filling of both the lagoons of capacity 6159.60 KL and 10,173 KL with ash. • If the concerned state pollution control board allows the unit to carry out temporary bio-composting for utilization of bio-methanated sludge, in that case the unit shall comply with the following; • The unit shall ensure to consume the bio-methanated spent wash in bio-composting before monsoon season. 	<ul style="list-style-type: none"> • Unit has dismantled 03rd tubewell. Complied. • The unit has obtained authorization for disposal of Hazardous Waste vide letter dated 16-05-2021 of UPPCB valid till 16-05-2026. Annexure No. 5 • Unit has installed STP of 220 KLD which was found operational during inspection dated 09-06-2021. Complied. • Unit has completed the work of filling of both the lagoons of capacity 6159.60 KL and 10,173 KL with ash. Complied. • Complied

<ul style="list-style-type: none"> • After completion of the temporary bio-composting, the unit shall completely dismantle the pump sump of MEE concentrate, which is located at bio-compost yard of 10 acres. • After completion of the temporary bio-composting, the unit shall completely dismantle the newly built pipeline. 	<ul style="list-style-type: none"> • Complied • Complied
Action Taken by UPPCB	
<ul style="list-style-type: none"> • CPCB inspected the Ikra drain on 02-11-2020, during the monitoring of upstream and downstream of the unit it was found that the wate quality of the drain is effected by the polluted discharge by the unit. • Considering above UPPCB vide letter number H57268/C-7/Ja1-105/2021 dated 12-01-2021 has issued show cause notice under section 33A of Water (Prevention and Control of Pollution) Act, 1974 to the unit for closure and also issued notice for imposition of environmental composition of Rs. 30,000/- per day from 02-11-2020 till the compliance made by the unit. Annexure no. 6. • UPPCB vide letter number H63682/C-7/Ja1-105/Aaswani/21 dated 20-07-2021 has imposed environmental compensation of Rs. 65,70,000/- against the unit. Annexure no. 7. 	

Additional written submissions by CPCB

56. In addition to its reply dated 26.03.2021, CPCB has further filed its written submission dated 30.07.2021 which is as follows;

“In the above mentioned O.A. No. 539/2019 further action has been taken that UP Pollution Control Board has filed complaint case number 3306 of 2021 on 27-07-2021 against M/s Dhampur Sugar Mills Ltd., (Sugar Unit) Dhampur Bijnor under section-43 of the Water (Prevention & Control of Pollution) Act, 1974 in the Court of Special Judicial Magistrate (Water & Air Pollution Control), Lucknow.”

Written submissions by Resp. no. 1 to 3.

57. Respondent no. 1 to 3 have filed their Written Submissions on 04.08.2021. Respondent no. 1 to 3 at the very outset have submitted

that they deny each and every statement, averments and allegations contained in the Original Application filed by the Applicant. It is submitted that the applicant has filed the present Original Application being O.A. No.539 of 2019 against the four units of the said M/s Dhampur Sugar Mills Ltd., namely, M/s Dhampur Sugar Mills, Asmoli (Sugar Unit), M/s Dhampur Sugar Mills, (Sugar Unit and Distillery Unit), Dhampur and M/s Dhampur Sugar Mills, Meerganj which are arrayed-as Respondent No.1, Respondent No.2 and Respondent No.3 respectively in the present Original Application.

58. It is next submitted that the Applicant in the present Original Application has, alleged that the answering Respondents are not complying with the environmental norms referring to the final Judgment dated 10-12-2015 passed by this Tribunal in Original Application No.35 of 2015 titled as "Shailesh Singh vs. M/s D.S.M. Sugar Distillery Division Asmoli & Ors." and the directions of the CPCB vide Letter dated 23-04-2019 (Dhampur Sugar Unit), Letter dated 2005-2019 (Asmoli Sugar Unit) and Show Cause Notice dated 14-06-2019 (Meerganj Sugar Unit).

59. It is further submitted that this Tribunal, vide Order dated 27.06.2019, admitted the present Original Application and further directed to issue notice to the Respondents by registered post /acknowledgement due and dasti as well. It is submitted that however, no notice was ever served upon the answering Respondents and the answering Respondents came to know about the present Original Application from their counsel. It is further submitted that during the whole proceedings in the present Original Application before this Tribunal, no opportunity of hearing was ever provided to the Respondents no. 1 to 3.

60. It is further submitted by the respondents no. 1 to 3 that this Tribunal, during the proceedings in the present Original Application being O.A. No.539 of 2019, has directed for the inspection of the answering Respondents through the Joint Inspection Team consisting of the officials of the Respondent No.7 i.e. Central Pollution Control Board (CPCB) and the Respondent No.8 i.e. Uttar Pradesh Pollution Control Board (UPPCB) and in compliance to the directions issued by this Tribunal, the Joint Inspection Team has conducted several inspections of the answering Respondents and various directions were issued time to time by the Joint Inspection Team during the said inspections. The Respondent No.7 i.e. Central Pollution Control Board (CPCB) has filed several Compliance Reports before this Tribunal and the Respondent No.8 i.e. Uttar Pradesh Pollution Control Board (UPPCB) has also filed several Action Taken Reports before this Tribunal.

61. It is submitted that a perusal of the Compliance Reports filed by the Respondent No.7 i.e. Central Pollution Control Board (CPCB) and the Action Taken Reports filed by the Respondent No.8 i.e. Uttar Pradesh Pollution Control Board (UPPCB) clearly shows that the answering Respondents are complying with the directions / recommendations issued by the Joint Inspection Team. However, because of some discrepancies noticed by the Joint Inspection Team during the said inspections of the answering Respondents, the Respondent No.7 i.e. Central Pollution Control Board (CPCB) and the Respondent No.8 i.e. Uttar Pradesh Pollution Control Board (UPPCB) have levied the Environmental Compensation on the Respondents no. 1 to 3.

62. It is next submitted that in compliance with the directions issued by this Tribunal, the latest inspection of the answering Respondents was conducted by the Joint Inspection Team on the following dates:

S.No	Name of the Unit	Date of Joint Inspection
1.	M/s Dhampur Sugar Mills Ltd. (Sugar Unit), Asmoli, Sambhal, U.P.	13.01.2021
2.	M/s Dhampur Sugar Mills Ltd. (Sugar Unit), Meerganj, Bareilly, U.P.	14.01.2021
3.	M/s Dhampur Sugar Mills Ltd. (Distillery Unit), Dhampur, Bijnor, U.P.	02.02.2021
4.	M/s Dhampur Sugar Mills Ltd. (Sugar Unit), Dhampur, Bijnor, U.P.	03.02.2021

63. It is further submitted that the Respondent No.8 i.e. Uttar Pradesh Pollution Control Board (UPPCB) has filed an Action Taken Report before this Tribunal with respect to the aforesaid Joint Inspections of the answering Respondents. The Joint Inspection Team has issued several recommendations with respect to the aforesaid latest Joint Inspections of the answering Respondents.

64. It is further submitted that the answering Respondents have complied with the said recommendations issued by the Joint Inspection Team with respect to the aforesaid latest Joint Inspections of the answering Respondents. On 22.07.2021, the Respondent No.8 i.e. Uttar Pradesh Pollution Control Board (UPPCB) has filed a Response to I.A. No.376/2020 in O.A. No.539/2019 and the said Response contains the Compliance Status with respect to the said recommendations as verified by the Respondent No.8 i.e. Uttar Pradesh Pollution Control Board (UPPCB). The relevant contents of the said response are as under:

Dhampur Sugar Mills Limited (Sugar Unit), Asmoli, Sambhal (the Respondent No.1 herein):

Recommendations	Compliance verified on Inspection dated 12-07- 2021 by UPPCB	Status as per the answering Respondent
<ul style="list-style-type: none"> The Unit shall provide suitable capacity dosing pump for dosing of chemicals like lime and polyelectrolyte solution for optimum utilization of chemical as per feed flow condition. 	<ul style="list-style-type: none"> Complied. 	<ul style="list-style-type: none"> Complied
<ul style="list-style-type: none"> The Unit shall safely dispose scrap /metal. 	<ul style="list-style-type: none"> Unit is disposing the metals scrap through authorized vendor. Complied. 	<ul style="list-style-type: none"> Complied
<ul style="list-style-type: none"> The unit shall commission Decanter for better sludge Management 	<ul style="list-style-type: none"> Complied. 	<ul style="list-style-type: none"> Complied
<ul style="list-style-type: none"> The Unit shall repair partition wall sludge drying bed. 	<ul style="list-style-type: none"> Complied. 	<ul style="list-style-type: none"> After installation of Decanter, sludge bed not required. Damaged sludge bed has been removed
<ul style="list-style-type: none"> The Unit shall install the Condensate Polishing Unit (CPU) 	<ul style="list-style-type: none"> Unit has installed the Condensate Polishing Unit (CPU). Complied 	<ul style="list-style-type: none"> Complied
<ul style="list-style-type: none"> The Unit shall install the Sewage Treatment Plant (STP) for treatment of sewage generated from residential colony as soon as possible. 	<ul style="list-style-type: none"> Unit has installed STP of 60 KLD capacity, which shall be operational very soon. 	<ul style="list-style-type: none"> Complied, delayed due to COVID. Shall be operational soon
<ul style="list-style-type: none"> The Unit shall restrict the drainage of domestic sewage into irrigation channel coming from residential area. 	<ul style="list-style-type: none"> The drainage of domestic sewage shall be restricted after operation of the STP. 	<ul style="list-style-type: none"> Complied
<ul style="list-style-type: none"> The Unit shall obtain the NOC from Ground Water Department, Uttar Pradesh as soon as earliest. 	<ul style="list-style-type: none"> Unit has obtained registration from UP ground water department. 	<ul style="list-style-type: none"> Complied. Unit has obtained NOC valid till 28-06-2026 for all the three tube-wells from UP Ground Water Authority

Copy of NOC issued by the Ground Water Department, Ministry of Jal Shakti (U.P.) (valid till 28-06-2026) bearing Registration Nos. 202104000082, 202104000085 & 202104000117 for the Sugar Unit, **Asmoli** has also been placed on record.

“(ii) Dhampur Sugar Mills Limited (Sugar & Distillery Unit), Dhampur, Bijnor (the Respondent No.2 herein):

Recommendations	Compliance verified on Inspection dated 09-06.2021 by UPPCB	Status as per the answering Respondent
<ul style="list-style-type: none"> The Unit shall take measures to stop discharge of spillage /surface runoff containing waste water from industrial premises into drain (Ikra drain and drain coming from city along boundaries of Sugar Unit) and shall maintain water quality of the drain. 	<ul style="list-style-type: none"> Unit has sealed the leakage points for spillage runoff and there was no leakage found during inspection dated 09-06-2021. 	<ul style="list-style-type: none"> Complied
<ul style="list-style-type: none"> The Unit shall install the CPU for high pressure boiler at earliest. 	<ul style="list-style-type: none"> Unit has installed CPU for high pressure boiler and RO membrane (72 cubic meter per hour capacity). 	<ul style="list-style-type: none"> Complied. Confirmed as per Inspection dated 09-06-2021
<ul style="list-style-type: none"> The Unit shall install the Sewage Treatment Plant (STP) for sewage generated from colony at the earliest. 	<ul style="list-style-type: none"> Unit has installed STP of 220 KLD capacity for the treatment of sewage generated from sugar & distillery units. 	<ul style="list-style-type: none"> Complied. Confirmed as per Inspection dated 09-06-2021
<ul style="list-style-type: none"> The Unit shall convert the 4000 m3 capacity storage lagoon in to lined impermeable lagoon to avoid any possibility of leakages and must ensure the compliance of stored treated effluent w.r.t. notified discharge standards under EP 	<ul style="list-style-type: none"> Unit has submitted vide letter dated 19.06.2021 for conversation of storage lagoon of 4000 cubic meter in impermeable lagoon before the next crushing season. 	<ul style="list-style-type: none"> Job to be completed before the start of the next crushing season

Rules, 1986.		
<ul style="list-style-type: none"> The Unit shall dismantle the sump having capacity of 100KL located in bio-compost yard of 10 acers. 	<ul style="list-style-type: none"> Unit has also submitted vide letter dated 19-06-2021 that the dismantling of unused lines installed earlier, installation of filter back, washing tank and provision of treatment of reject of DM plant and CEP plant shall be done before next crushing season. 	<ul style="list-style-type: none"> Complied
<ul style="list-style-type: none"> Unnecessary lines of ETP feed near falling structure shall be dismantled immediately. 		<ul style="list-style-type: none"> Complied. All unnecessary lines have been dismantled
<ul style="list-style-type: none"> Abandoned old pumping station along with connecting line shall be dismantled. 		<ul style="list-style-type: none"> Complied. Old pumping station and connection lines have been dismantled
<ul style="list-style-type: none"> Filter back washing tank of suitable design capacity shall be installed for filter backwashing. Existing freshwater line in ETP area shall be dismantled. 		<ul style="list-style-type: none"> Complied. Filter back washing tank to be operational in the next crushing season
<ul style="list-style-type: none"> Provision shall be made for DM plant CIP reject shall be treated in ETP only. 		<ul style="list-style-type: none"> DM plant CIP reject arrangement will be operative before the next crushing season

65. Copy of CGWA NOC for Ground Water Extraction valid till 26-04-2022 and the Certificates of Registration issued by the Ground Water Department, Ministry of Jal Shakti (U.P.) bearing Registration Nos. 202104000201, 202104000202, 202104000203 & 202104000204 for the Sugar Unit, Dhampur has also been placed on record.

Distillery

Recommendations	Compliance verified on Inspection dated 09-06.2021 by UPPCB	Status as per the answering Respondent

<ul style="list-style-type: none"> The Unit has total 03 nos. of tube wells against 02nos. of permitted tube wells as per CGWA NOC. The Unit shall dismantle the 3rd no. of non-operational tube well. 	<ul style="list-style-type: none"> Unit has dismantled 03rd tube-well. Complied. 	<ul style="list-style-type: none"> Complied
<ul style="list-style-type: none"> The Unit shall obtain hazardous waste authorization from the respective State Pollution Control Board. 	<ul style="list-style-type: none"> The unit has obtained authorization for disposal of Hazardous Waste vide letter dated 16-05-2021 of UPPCB valid till 16-05-2026. 	<ul style="list-style-type: none"> Complied.
<ul style="list-style-type: none"> The Unit shall complete the construction work of STP at the earliest and shall treat the sewage generating from the residential colony as well as industrial plants in STP only. 	<ul style="list-style-type: none"> Unit has installed STP of 200 KLD which was found operational during inspection dated 09-06-2021. Complied 	<ul style="list-style-type: none"> Complied.
<ul style="list-style-type: none"> The Unit shall ensure complete filling of both the lagoons of capacity 6159.60 KL and 10,173 with ash. 	<ul style="list-style-type: none"> Unit has completed the work of filing of both the lagoons of capacity 6159.60 KL and 10,173 with ash. Complied 	<ul style="list-style-type: none"> Complied.
<ul style="list-style-type: none"> If the concerned State Pollution Control Board allows the unit to carry out temporary bio-composting for utilization of bio methanated sludge, in that case the Unit shall comply with the following. The unit shall ensure to consume the Bio- methanated spent wash in bio- composting 	<ul style="list-style-type: none"> Complied. 	<ul style="list-style-type: none"> Complied.

before monsoon season.		
<ul style="list-style-type: none"> After completion of the temporary bio-composting, the unit shall completely dismantle the pump sump of MEE concentrate, which is located at bio-compost yard of 10 acres. 	<ul style="list-style-type: none"> Complied. 	<ul style="list-style-type: none"> Complied.
<ul style="list-style-type: none"> After completion of temporary bio-composting, the unit shall completely dismantle the newly built pipeline. 	<ul style="list-style-type: none"> Complied. 	<ul style="list-style-type: none"> Complied.

Copy of CGWA NOC for Ground Water Extraction valid till 06-042022 and the Certificate of Registration issued by the Ground Water Department, Ministry of Jal Shakti (U.P.) bearing Registration Nos. 202104000250 & 202104000251 for the Distillery Unit, Dhampur has also been filed on record.

(iii) M/s Dhampur Sugar Mills Ltd. (Sugar Unit), Meerganj, Bareilly, UP (the Respondent No.2 herein)

Recommendations	Compliance verified on Inspection dated 21.01.2021 and 01.07.2021 by UPPCB		Status as per the answering Respondent
<ul style="list-style-type: none"> ETP inlet flow meter should be installed at the main inlet of ETP. 	<ul style="list-style-type: none"> Unit has installed ETP inlet flow meter. 	<ul style="list-style-type: none"> 	<ul style="list-style-type: none"> Complied
<ul style="list-style-type: none"> Periodic removal of sludge shall be 	<ul style="list-style-type: none"> Complied. 	<ul style="list-style-type: none"> 	<ul style="list-style-type: none"> Complied

ensured.			
<ul style="list-style-type: none"> Flow meter shall be installed at Mill house and boiling house outlet for monitoring of generated effluent. 	<ul style="list-style-type: none"> Complied. 	<ul style="list-style-type: none"> 	<ul style="list-style-type: none"> Complied
<ul style="list-style-type: none"> The Oil Skimmer shall be installed within a tank having approximate retention time, of 45 minute. 	<ul style="list-style-type: none"> Unit has submitted that the compliance shall be made before the next crushing season. 	<ul style="list-style-type: none"> 	<ul style="list-style-type: none"> Complied. A new Oil Skimmer has been installed
<ul style="list-style-type: none"> The treated effluent discharges for irrigation shall comply with MOEF&CC Notification dated 14.01.2016 (G.S.R. (35E)) for land disposal. The installed STP shall be made operational for treatment of generated sewage. Treated sewage shall be utilised for irrigation and other purposes. 	<ul style="list-style-type: none"> Complied. The sample collected from the outlet of STP by UPPCB on 21-01-2021 and 01-07-2021 were found to be complying. 	<ul style="list-style-type: none"> 	<ul style="list-style-type: none"> Complied Complied
<ul style="list-style-type: none"> The Unit shall keep only single arrangement to pump the treated effluent from lagoon to irrigation supply. 	<ul style="list-style-type: none"> Unit has submitted that the compliance shall be made before the next crushing season. 	<ul style="list-style-type: none"> 	<ul style="list-style-type: none"> Complied. Single arrangement for pumping the treated effluent from the lagoon has already been made.
<ul style="list-style-type: none"> The Unit shall obtain amended Hazardous waste authorisation from UPPCB to handle and safe disposal of discarded containers, oily rags, cotton waste, O&G and spray pond ETP sludge 	<ul style="list-style-type: none"> Unit has applied for amended authorisation on 19-07-2021 which is under process 	<ul style="list-style-type: none"> 	<ul style="list-style-type: none"> Complied. Applied for the amended authorization

Copy of NOC issued by the Ground Water Department, Ministry of Jal Shakti (U.P.) (Valid till 1805-2026) bearing Application Serial Nos. BRLY0421NIN0027, BRLY0421NIN0028, BRLY0421NIN0029 &

BRLY0421NIN0030 for the Sugar Unit, Meerganj has also been placed on record.

66. It is further submitted that the aforesaid facts show that the Respondents have already complied with the directions made by the Joint Inspection Team during the aforesaid latest Joint Inspections of the Respondent units. **Though some of the recommendations complied can become operative only during the cane crushing season.**

67. It is next submitted that as far as the subject matter of the Original Application No.35 of 2015 titled as "*Shailesh Singh vs. M/s D.S.M. Sugar Distillery Division Asmoli & Ors.*" is concerned, it is submitted that this Tribunal, vide Order dated 23-04-2015, has provided liberty to the Sugar and Distillery units of the DSM Sugar, Asmoli at Asmoli, District — Sambhal (U.P.) [arrayed as Respondent No.2 in the present Original Application] to take remedial measures and thereafter to apply to the Joint Inspection Team for a fresh inspection of the said Sugar and Distillery units. This Tribunal, vide the said Order dated 23-04-2015, has provided further liberty to the said Sugar and Distillery units to move this Tribunal for seeking permission to operate after achievement of the prescribed standards in respect of its effluents as per the prescribed norms and carrying out rectification of the various defects and deficiencies pointed out in the inspection.

68. It is further stated that the said Sugar and Distillery units, after rectification of the various defects and deficiencies pointed out in the inspection and as directed by this Tribunal vide the aforesaid Order dated 23.04.2015, filed a Review Application being Review Application No.13 of 2015 in the said Original Application No.35 of 2015. This Tribunal, vide

order dated 10-12-2015, disposed off the said Review Application No.13 of 2015 filed by the said Sugar and Distillery units.

69. It is next submitted that a perusal of the said Judgment dated 10.12.2015 passed by this Tribunal shows that while allowing the said Sugar and Distillery units to start its operation, this Tribunal has observed that the said Sugar and Distillery units has complied with the major recommendations of the Joint Inspection Team and said Sugar and Distillery units herein becomes a compliant unit.

70. It is further submitted that, however, this Tribunal, vide the said Judgment dated 10.12.2015, has imposed an Environmental Compensation of Rs.1 Crore and further directed to furnish a Bank Guarantee of Rs.10 Lakhs. That on 07-01.2016 the said DSM Distillery Division, Asmoli has duly deposited the said Environmental Compensation of Rs.1 Crore as well as furnished the said Bank Guarantee of Rs.10 Lakhs as directed by this Tribunal.

71. In the facts and circumstances as stated above, it has prayed for dismissal of the present Original Application being Original Application No.539 of 2019 titled as "***Adil Ansari vs. M/s Dhampur Sugar Mills Ltd. & Ors.***" filed by the Applicant.

Analysis of the submissions:

72. We have considered the rival submissions. The present matter is a classic example of total indifference, lack of concern and sensitivity by respondent no. 1 to 3 towards compliance of environmental laws. Persistent non-compliance, defiance of directions of CPCB and apathy towards the ecosystem has been the attitude of all the four units. It will

not be an exaggeration to state that respondent units while working have ignored, disregarded and given a good bye to all established principles of sustainable development. In short, it is a matter which shows self-concern rather than concern for others. The respondents have run the industry as per their own will showing total indifference for established rules, regulations and norms. Each and every inspection of the Units has only shown deficiencies and shortcomings regarding compliance of environmental laws. Though this case is pending since the year 2019 but it has earlier history of litigation of non-compliance of the year 2015 when an OA No. 35/2015 was filed against one of the units of the respondent no.1 to 3 and directions were issued for closure of the same vide order dated 23.04.2015. However, the matter was reviewed on 10.12.2015 and unit was allowed to operate with the direction that it will comply with the discrepancies pointed by Joint Inspection Team and Unit was also held liable to pay environmental compensation of Rs. 1 Crore within one month to UPPCB and furnish a Bank Guarantee of Rs. 10 lakhs.

73. So far as role of CPCB & UPPCB is concerned, it also no doubt shows failure on their part to act and do their statutory duty and take action when gross violations were observed by them. Their latitude, soft corner and a meek approach in taking prompt action when it was immediately required speaks a lot about their working.

74. The functioning of respondent no.1 to 3, as will be highlighted in the coming paras will reveal that Units have never shown any concern towards environmental norms and thereby they have violated the fundamental rights of others. The respondent Units have forgotten the concept that protection and cleaning of environment was the essence of

'Vedic Culture'. Nature had a special place of respect in the ancient texts. They attached great attachment to protection and purity of environment. They persisted on safeguarding the habitation and firmly believed in the principle of non-pollution. The man was taught to live in harmony with nature and to recognize the fact that diversity prevails in all elements. Our ancestors treated nature holistically giving utmost reverence to preserving its various entities and elements.

75. "माता भूमि पुत्रोहं पृथिव्या"

"Earth is my mother and I am her Son"

The above Sanskrit Shloka clearly indicates the relationship of humans with Earth which is like a mother and child inferring that one should not harm either the environment or its flora and fauna.

76. The Hon'ble Supreme Court in number of its judgments has also emphasized the need for a clean environment and has held that Article 21 of the Constitution includes the right to enjoyment of pollution free water and air for full enjoyment of life. In **Subhash Kumar vs. State of Bihar, 1991 AIR 420**, the Hon'ble Apex Court has held that right to life is a fundamental right under Article 21 of the Constitution and it includes the right of enjoyment of pollution free water and air for full enjoyment of life.

77. In "**T. Damodhar Rao And Ors. vs The Special Officer, Municipal, AIR 1987 AP 171**", the High Court of Andhra Pradesh has held that the slow poisoning by the polluted atmosphere caused by environmental pollution and spoliation should also be regarded as amounting to violation of Article 21 of Indian Constitution.

78. With the above background let us proceed to analyze the submissions made by the parties and various reports showing violations by respondent units of environmental norms.

79. The first **OA No. 35/2015** was filed by one Mr. Shailesh Singh against DSM Sugar Distillery Division and Ors. and order dated 23rd April, 2015 speaks a lot about the working of Distillery at the said time. The said order runs as follows:-

Date and Remarks	Orders of the Tribunal
Item No. 12 April 23, 2015. SS	We have heard the Learned Counsel appearing for parties. The report of the Joint Inspection Team has been filed on record. In terms of this report the DSM Sugar Distillery Division unit is not adhering to the prescribed norms. The sample collected and analysed by the Joint Inspection Team is beyond the prescribed limits for different parameters. It is further stated that treated effluent from ETP is not meeting the criteria for the BOD and TSS for disposal on land. The treated effluent storage tank with capacity of 24000 KL was damaged. Furthermore, there was short circuiting at the primary clarifier Unit. DG set was not equipped with acoustic enclosure. The Learned Counsel appearing for the industries submits that they will be conducting effective steps in terms of the recommendation made. Further the Applicant contended that the Groundwater has been polluted to the extent that the population of the nearby localities is suffering from Cancer and some other diseases. It is their contention that there is serious air pollution. Allegations made by the Applicant are of course denied

	<p>by the industry respondents. In the circumstances afore-stated we direct that this industry shall be closed forthwith. However, industry has liberty to take remedial measures and apply to the Joint Inspection Team for a fresh inspection. The inspection would be conducted by the Joint Inspection Team only in furtherance to the order of the Tribunal. Recommendation of the Joint Inspection Team then would be placed before the Tribunal. Liberty to the Respondent industry to move the Tribunal for seeking permission to operate after achievement of the prescribed standards in respect of its effluent as per the prescribed norms and carrying out rectification of various defects and deficiencies pointed out in the inspection. Both Sugar and Distillery units will remain closed. With the above directions the Original Application No. 35 of 2014 as well as all other M.A. No. 348 of 2015 and M.A. No. 349 of 2015 are disposed of. Liberty to Applicant to move as prayed.</p>
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80. Perusal of the above order reveals that as per the joint inspection team report, the sample collected and analyzed was far beyond the prescribed limits for different parameters. After examining the report, this Tribunal had ordered for closure of unit forthwith. However, thereafter a review application was filed and the Tribunal had passed the following order on 23.04.2015:-

“Thus, we have to apply the above principals while directing the industry to pay environment compensation in terms of Section 15 and 17 of the National Tribunal Act, 2010. In view of our discussion, we pass the following order:-

- 1) "The Industry is permitted to start its manufacturing activity.
- 2) Before commencing its sugar manufacturing and distillery it must comply with the discrepancies pointed out by the Joint Inspection Team.
- 3) 3) The Unit will be inspected by the Joint Inspection Team immediately upon commencement gets operative.
- 4) The industry is held to be liable pay the Environmental Compensation of Rs. 1 Crore within one month to UPPCB and furnish a bank guarantee as well to the extent of Rs. 10 lakh.
- 5) The amount of Rupees One Crore paid to the UPPCB shall be spent upon taking preventive measures, removing of the various pollutants lying in the area, as well as steps for restoring of the environment and ecology as per the records of this file and ensure that no sludge spent wash, fly-ash or other pollutants generated by this industry is permitted to remain in the soil, ground water and even on the land of the industry.
- 6) If the unit performs strictly within the prescribed parameters and as per the conditions imposed and is found to be compliant and non-polluting industry, the bank guarantee could be released after a period of two years, failing which the bank guarantee shall be encashed and the amount utilized for prevention and control of pollution in that area."

81. Even after the above order, the respondents had not bothered to comply with the environmental norms and, therefore, the present OA no. 539/2019 was filed by the applicant alleging that respondent Units are still polluting the surrounding area and directly impacting the health of the villagers. Perusal of record reveals that notices under Section 5 of the Environment (Protection) Act were issued against the industry in the year 2018 as well as 2019. The record further reveals that a notice under Section 5 of the Environment Protection Act was issued against M/s.

Dhampur Sugar Mills Ltd., Village Asmoli, Distt. Sambhal on 20th May, 2019 categorically mentioning that inspection was carried out on 18th March, 2019 and the samples show that Mill has installed the flow meters but not maintained the log book of hot and cold water and effluent generation. It further shows that mill was advised to install flow meter at power turbine and process cooling tower make-up. It was further directed that log book should be maintained regarding consumption at various points as sugar plant, cogeneration and residential. It was further observed that Unit should install CPU for treatment of condensate to ensure its reuse and recycle within the process.

82. Similarly, a notice u/s. 5 of the Environment (Protection) Act was issued against M/s. Dhampur Sugar Mills Ltd. Dhampur, Distt. Bijnor i.e. a Distillery Division on 06.02.2018. The report shows that an environmental compensation of Rs. 46,80,000/- was imposed upon the Unit for non-compliance for the period dated 11.11.2018 to 15.04.2019 for crushing season 2018-19. The said notice also contemplated that Unit shall close down its Sugar manufacturing operations with immediate effect and it shall also dismantle the bypass arrangements and stop discharge of untreated/ partially treated effluent discharge immediately. The Unit shall also install flow meters at Mill, fibrizer, power turbine cooling, B and C massecuite cooling, and outlet of R.O. water reject. The unit shall install condensate polishing unit for high pressure boilers, 105 kg/cm². The unit shall install adequate Multi grade filter and Activated carbon filter. The unit shall install mechanical sludge handling system of adequate capacity.

83. The record further shows that a notice dated 15.03.2018 u/s. 5 of the Environmental Act was issued to M/s. Dhampur Sugar Mills, (DSM) Ltd., Sidhauri Road, Meerganj, Bareilly (U.P.) (Sugar Division) observing

that inspection was carried out on 28th March, 2019 and analysis of treatment effluent sample from lagoon showed pH-7.52 against the norms of 5.5-8.5, BOD-BDL mg/l against norms of 100 mg/l, COD 8 mg/l against norms of 250 mg/l, TDS- 465 mg/l against norms of 2100 mg/l and TSS- 54.4 mg/l against norms of 100 mg/l. BOD level was below detection limit at different treatment operations. It was observed that unit has diluted ETP system at different stages. Though, it was reported by unit representative that the boiler ash and press mud are provided to local farmers for blending in their agricultural field/ land filling but the unit was unable to provide any documentary evidence regarding the same. The flow observed at the ETP outlet was equal to that at the ETP inlet even though the spray pond treated effluent was also being discharged into the ETP. It was, thus, evident that aeration tank to ETP system was not properly stabilized. Due to poor operation and maintenance of ETP system there was possibility of dilution of ETP system. A show-cause notice was, thus, issued to the Unit as to why it should not be closed down until all the necessary pollution control measures are planned and implemented.

84. According to the applicant, the said Unit has not complied with environmental norms and is violating the fundamental rights of the villagers. It was also submitted that because of non-adherence to environmental norms, the entire area is facing problem of contaminated water and toxic effluent is being directly discharged into drain which ultimately goes to River and discharge of effluent in the land is also affecting the soil and, therefore, he has filed the present Original Application OA no. 539/2019. The order dated 14th August, 2019 of the Tribunal sums up the grievance of the applicant. It runs as follows:-

“1. Grievance in this application is that M/s Dhampur Sugar Mills Ltd. (Sugar Division), District Sambhal and sugar mill units in District Bijnor and District Bareilly and Distillery in District Bareilly were operating in violation of environmental norms. The unit at Dhampur was directed to be closed earlier vide order dated 23.04.2015 passed by this Tribunal and was allowed to reopen by subsequent order subject to certain conditions, including payment of Rs. 1 Crore towards environmental compensation and furnishing a bank guarantee of Rs. 10 lakhs. However, the pollution still continues to operate without compliance of conditions. Other units in Bijnor and Bareilly Districts are also operating illegally and so is the Distillery unit in Bareilly District.

2. On 27.06.2019, Notice was issued by this Tribunal with reference to the allegations in the application. Reply has been filed by the UP State PCB which is practically of no value. Reply has been filed by the CPCB is that the closure directions have been issued in respect of Dhampur unit of Sugar Mill. Besides, show cause notices have been issued to other two Sugar Mills at Bareilly and Sambhal. Distillery unit at Bareilly is non-functional on account of off season.

3. Let the CPCB and State PCB furnish a further joint factual and action taken report with regard to all the four Units (three sugar mills and one distillery unit) by 30.11.2019 by e-mail at [judicial-ngt@gov.in.](mailto:judicial-ngt@gov.in)”

85. The record further reveals that CPCB had filed a report on 31.01.2020 in respect of inspection of all the four Units from 27.11.2019 to 29.11.2019. The said reports which have been placed on record again point out the violations of environmental laws by the Units on the earlier date of inspection i.e. May, 2019 in case of Dhampur Sugar Mills, Sambhal and inspection carried out on 06.02.2018 in respect of M/s. Dhampur Sugar Mills Ltd. Bijnor as well as the Distillery Unit and the inspection dated 15.03.2018 of M/s. Dhampur Sugar Mill DCM Ltd. at Meerganj.

86. Let us first take up the case of Dhampur Sugar Mill, Bijnor.

M/s. Dhampur Sugar Mill, Bijnor.

87. Inspection of the above unit which took place on 27.11.2019 & 28.11.2019 shows that Unit has not installed the flow meters, it has not installed the hazardous tank, it has provided a Kachha Lagon (for storage of treated effluent) having lining of PVC sheets, which is not proper and it may result in leaching because of wear & tear. The Unit has also not installed Condensate Polishing Unit (CPU) for high pressure boilers. It has also not gone for mechanical sludge handling system. The Unit has not provided and did not maintain the logbook for generation and disposal of ETP sludge. The Unit has also not complied with the direction of CPCB dated 01.07.2019 regarding dismantling of bypass provision. The CPCB had, therefore, recommended that the Unit must dismantle the bypass and maintain the logbook and follow other directions given in the inspection report. It was also observed that examination of waste water samples collected from the local drain (Ikara Nalla) flowing adjacent to the Unit premises revealed that COD in the drain waste water was more than that for raw sewage, which shows the addition of industrial effluent in to the drain. It was further observed that Unit did not have STP facility for treatment of domestic waste water. It was further observed that NOC obtained for the Unit from CGWA had expired on 27th April, 2019 but Unit continued to withdraw ground water without valid NOC. In crushing season 2018-2019, Unit was not found complying with respect to bypass of untreated effluent and an environmental compensation of **Rs. 57,30,000/-** was imposed upon it. However, thereafter, CPCB had reduced the environmental compensation to **Rs. 16,20,000/-** as per the revised policy dated 04.09.2019.

M/s Dhampur Sugar Mills Ltd. (Distillery Unit), Dhampur, Bijnor.

88. Perusal of the inspection report of CPCB in respect of above Unit's inspection conducted on 27.11.2019 & 28.11.2019 reveals that utilization of CPU permeate having pH of 4.3, COD- 1013 mg/l against 250 mg/l and BOD-323 mg/l against 100 mg/l in non-process activities like gardening was found to be in violation of ZLD norms and required to be stopped immediately. It was observed that Unit's NOC from CGWA expired on 07.04.2019 but Unit has continued to withdraw groundwater without valid NOC. The unit was asked to install three Piezowells around bio compost yard as per SOP for distilleries. The report further reveals that based upon inspection carried out by UPPCB officials on 02.08.2019, a Show cause notice for environmental compensation of **Rs. 6,75,000/-** was issued to the Unit for violation of ZLD norms and illegal disposal of spentwash in agricultural fields of nearby Village-Fena, Chandpur.

M/s. Dhampur Sugar Mills Ltd (Sugar Unit) Asmoli, Sambhal.

89. During inspection of the above unit on 28.11.2019, it was observed that wet scrubber (common to 70 TPH & 50 TPH boilers) was not in working condition. It was also observed that a new MGF (Multigrade Filter) and ACF (Activated Carbon Filter) for tertiary treatment was under installation as the installed capacity of existing MGF and ACF was inadequate. The Unit has not provided/maintained the logbook for the generation and disposal of ETP sludge and other solid wastes.

90. The Inspection Team had also collected sample from the drain flowing adjacent to the Unit premises. It further showed that the Unit did not have facility for the treatment of domestic waste water and untreated sewage was discharged and mixed with treated effluent of the sugar Unit.

91. It was observed that Unit has not maintained the logbook for the generation and disposal ETP sludge and other solid wastes including boiler ash generation. It was further observed that Unit should install Condensate Polishing Unit (CPU) for high pressure boilers (105 Kg/cm²) to treat process condensate for reuse in process. This will help in reduction of fresh water consumption. It was also observed that the Unit must ensure the maximum reuse of treated effluent in process. It was further observed that wet scrubber (attached to Boilers 70TPH & 50TPH) should be made operational before start of the attached boiler. It was also observed that all domestic waste water generated within the Unit's premises and residential colony shall be discharged after proper treatment. The Unit shall install Sewage Treatment Plant (STP) of adequate capacity for the treatment of domestic wastewater. It was further observed that the Unit shall obtain NOCs from CGWA for withdrawal of groundwater at earliest as the CGWA NOC has already been expired in May, 2019. It was also observed that the Unit's NOC from CGWA expired on 02.05.2019, but Unit has continued to withdraw groundwater without valid NOC.

M/s DSM Sugar Meerganj, Sidhauri Road, Meerganj, Bareilly, UP

92. Perusal of the inspection report of the above Unit dated 29.11.2019 reveals that the Unit has not installed flow meters at power turbine cooling, boiler, wet scrubber. The mechanical sludge dewatering/handling system for better management of wet sludge was not provided by the Unit. The Unit did not provide/maintain logbook for daily effluent generation and treatment, disposal of ETP sludge, Boiler ash and other solid wastes.

93. It was further observed that the Unit was bypassing the untreated effluent through a pipeline laid underground up to Peelakhar River in Sindholi Village (Lat: 28.556169 and Long: 79.241446) which ultimately meets River Ramganga. Samples of untreated effluent bypassed through PVC pipe and flowing through a drain were also collected by the CPCB team. The examination of the same revealed high value of BOD and COD in downstream of the confluence point of bypass line and river showed the impact of untreated effluent being discharged by the Unit.

94. The water quality of river Peelakhar was also examined and it was found that Unit doesn't have facility for the treatment of domestic wastewater and untreated domestic effluent was found being discharged outside the premises of the Unit through a hole in the wall of the Unit.

95. The Unit was directed to dismantle the bypass line. It was directed to take corrective measures to prevent the leaching of untreated effluent into the soil/ ground water. Unit was directed to maintain the logbook for the generation and disposal of ETP effluent, sludge, Boiler Ash, hazardous waste and other solid wastes. Unit was asked to implement the recommendations made by National Sugar Institute (NSI), Kanpur in validation report of ETP for session 2018-19. Unit was advised to install the flow meters at the places as recommended by the National Sugar Institute (NSI), Kanpur. It was directed that all domestic wastewater generated within the premises and colony shall be discharged after proper treatment and Unit must install Sewage Treatment Plant (STP) for the treatment of domestic wastewater.

96. The action taken status mentioned that UPPCB has imposed EC of **Rs. 17,70,000/-** vide letter dated **21.01.2020** upon the unit.

97. Thus, in short, the above inspection reports reveal gross violation of environmental norms i.e. non-installation of flow meters, discharge of untreated effluent into drain as well as other non-compliances which are essential for running a Unit without causing damage to the environment.

98. Thereafter, an I.A. bearing no. 376/2020 was filed by the applicant in which several objections were raised. The first objection related to the Dhampur Sugar Mills (Sugar Unit) Bijnor. The learned counsel for the applicant has referred to the inspection report which revealed number of deficiencies. Since these deficiencies have been pointed out in detail in earlier part of the judgment and these are, therefore, not being repeated for the sake of repetition. However, some additional points were also raised by Ld. Counsel for the applicant. It was submitted in the Interim Application that earlier an inspection of the Unit was conducted on 28.03.2019 and the said Unit was found bypassing the untreated effluent through a separate channel into the outside drain adjacent to the premises of the Mill, however, the officials of CPCB instead of immediately dismantling the same had allowed the Unit to function. Even the closure notice was issued on 23.04.2019 (after the crushing season was over on 15.04.2019). It was further submitted that CPCB by the said notice dated 23.04.2019 had levied an environmental compensation of Rs. 46,80,000/- for the period i.e. from 11.11.2018 to 15.04.2019).

99. It was further submitted by Ld. Counsel for the applicant that Unit had continued to operate despite closure order 23.05.2019 and, therefore, an enhanced environmental compensation of Rs. 57,30,000/- for the period from 11.11.2018 to 20.05.2019 was imposed upon it. However, strangely the CPCB vide its letter dated 06.11.2019 reduced the compensation to Rs. 16,20,000/- on the basis of CPCB order dated 04.09.2019 which contemplates that EC for closure direction issued on

the ground of non-compliance of described discharge/emission norms shall be levied for the period between the date of inspection and monitoring to the date of closing of manufacturing operation. In these circumstances, time period for violation was reduced from 191 days i.e. from 11.11.2018 to 20.05.2019 to 54 days i.e. from 28.03.2019 to 20.05.2019.

100. It was further submitted that the said reduction is illegal because the said Unit at the time of inspection on 28.03.2019 was found directly discharging the untreated effluent into the outside drain through bypass arrangement which is a serious offence and imposes direct threat to the local environment and also to the life and health of local/ nearby residents. It was submitted that the CPCB has not considered the deterrent factor while imposing the environmental compensation as the said bypass arrangement had continued for a considerable time i.e. up to 27.11.2019 and the inspection report dated 03.12.2019 has revealed that it was closed by RCC by the concerned Unit.

M/s Dhampur Sugar Mills, Dhampur, Sambhal.

101. So far as Sambhal Unit is concerned, it is submitted that it has a history of serious violation. On 08.12.2016 when inspection was conducted the Unit was discharging untreated effluent overflow outside the premises of the Unit. Thereafter, the inspection of the said Unit was conducted by CPCB on 10.01.2018 and it was again found to be bypassing untreated effluent discharge from the spray pond overflow and cooling tower, lowdown being discharged outside the premises region through the drain connecting to SOT river which meets river Ganga.

102. It was next alleged that a detailed investigation from expert institution/ organization has not been conducted regarding the actual damage caused to the environment due to the above-said violations.

M/s Dhampur Sugar Mills (Sugar Unit), Meerganj, District - Bareilly (U.P.)

103. Objections were also raised regarding functioning of Bareilly Unit and action taken by Pollution Board. It was observed that the Unit was bypassing the untreated effluent to a pipeline laid underground up to Peelakhar River in Sindholi Village which ultimately meets Ramganga River. It was further observed that said Unit was found discharging its untreated domestic effluent outside the premises of the said Unit through a hole in the wall. An environmental compensation of Rs. 17,70,000/- only was imposed upon the said Unit.

104. It was observed that even during the inspection of the said unit by CPCB on 10.01.2017, it was found that the said unit has not integrated all process stream and route them to ETP. Thereafter, inspection of the said unit was conducted by CPCB on 25.01.2018. The treated effluent sample taken from the outlet of the ETP of the said unit was found non-compliant with respect to BOD and DSS norms. The report further reveals that CPCB during the inspection held on 25.01.2018 had observed that the aeration tank of the ETP system of the said Unit was not properly established due to poor operation and maintenance of the ETP system and the treated effluent discharged doesn't meet the prescribed standards. It was also observed that the aeration tank of the ETP system of the said Unit was not properly established due to poor operation and maintenance of the ETP system and there is possibility of dilution of ETP system. It was, thus, submitted that CPCB has shown

extreme leniency /favouritism towards the violator, despite the serious violations and has even reduced the Environmental Compensation and all these factors need to be considered by this Tribunal.

105. The above facts have been taken by the Learned Counsel for the applicant from the reports and these, no doubt, point out towards gross violation of the environmental norms which shows indifferent attitude of the respondents in complying with environmental norms and this has caused great damage to the environment.

106. The above deficiencies noted during various inspections, thus, reveal that units have been carrying out their working without bothering about environment. The untreated water was being discharged into the drain but surprisingly the officials of CPCB had not taken immediate action and ordered for dismantling the bye-pass arrangement. No prosecution was launched against erring units under Water (Prevention and Control of Pollution) Act, 1974 except in case M/s. Dhampur Sugar Mills Ltd., (Sugar Unit) Dhampur, Bijnor. These issues will be discussed by us while deciding appropriate action against the erring unit, let us first examine the written submissions filed by CPCB.

107. The CPCB has filed written submissions and tried to justify its actions and also raised a preliminary objection that notices under Section 5 of The Environmental Protection Act, 1986, were issued to the units and if a person is aggrieved against the said direction, he or she can file an appeal under Section 16(c) of the NGT Act. The petitioner has, thus, an alternative efficacious remedy and should have approached the Tribunal in appeal against the said directions. It was further submitted that environmental compensation has been levied against the Units and their illegal activities have been stopped and restricted.

108. We have considered the objection raised by Learned counsel for CPCB, but are afraid that the same cannot be accepted for the simple reason that Original Application No. 539/2019 has not been filed only against the notices issued under Section 5 of the Environmental (Protection) Act but for the gross violation of environmental norms by all the four Units which have caused water pollution and affected the flora and fauna, ground water & soil and caused damage to the environment, which stands clearly established in the inspections carried out by CPCB and UPPCB.

109. The CPCB in its submissions has admitted the violations committed by all four Units and has submitted that it had issued directions to UPPCB vide letter dated 05.03.2020 and 14.05.2020 under Section 18(1)(b) of the Water (Prevention and control of Pollution) Act 1974 to comply with the following directions:-

- i. UPPCB shall issue appropriate directions to the four units to ensure compliance of observations/recommendations made in the joint inspection reports filled in NGT in O.A. No. 539/2019 in the matter of Adil Ansari vs M/s Dhampur Sugar Mills Ltd. and Ors.,*
- ii. UPPCB shall issue appropriate direction to M/s Dhampur Sugar Mills, Sugar Unit, Meerganj, Bareilly, to deposit Rs.16,20,000/- toward EC as levied by CPCB vide direction dated 06/11/2019 under section 5 of Environment (Protection) Act, 1986 into UPPCB account open for such*
- iii. UPPCB shall take appropriate legal action for closure and prosecution of M/s Dhampur Sugar mills Ltd. (Sugar unit), Asmoli, Sambhal Moradabad and Dhampur Sugar Mills, Sugar Unit, Meerganj, Bareilly, which were found to be bypassing the effluents into drains.*
- iv. Compensation for withdrawal of ground water without permission will be recovered by these units.*

110. The CPCB has further pointed out that a joint meeting was also convened by CPCB with officials of UPPCB to review the action taken in compliance to this Tribunal's Order. The relevant observation regarding each Unit is discussed in coming paras and it reveals that violations of environmental norms were found and these continued for a considerable time.

Observations regarding deficiencies found in M/s Dhampur Sugar Mills, Sugar Unit, Dhampur, Bijnor

111. It is admitted that an inspection was undertaken on **28.03.2019** and it was observed that Unit was discharging its untreated effluent into the outside drain through bypass. Thereafter closure directions were issued on 23.04.2019 to the unit and Environmental Compensation of **Rs. 46,80,000/-** was imposed upon it and, thereafter, since the unit had kept operating till 20.05.2019 despite direction of closure, the EC amount was increased to **Rs. 57,30,000/-**. However, the CPCB vide its order dated 04.09.2019 has come out with a new policy relating to environmental compensation and as per the said policy, one of the condition to be considered for EC calculation is as under:-

“Unless there is substantial evidence, date of non-complying days would start with effect from date of non-compliance observed during inspection.”

112. It was also submitted that ‘Deterrent Factor’ is not applicable to the unit based on the methodology for assessing Environmental Compensation, since the unit closed the operation on 20.05.2019 and in subsequent crushing season, no illegal discharge was found during inspection conducted between 27.11.2019 to 28.11.2019. It was further submitted that there was no need for a detailed investigation from expert institution for EC calculation for the reason that such

calculation is to be undertaken only in the cases /instances of intentional discharges to the environment resulting into acute injury or damage to the environment or in case of injection of treated/partially treated/untreated effluent into ground water as per order dated 04.09.2019 issued by CPCB. The CPCB had, therefore, reduced the environmental compensation to Rs. 16,20,000/- vide its letter dated 06.11.2019. It may also be pointed out that UPPCB had thereafter further imposed an environmental compensation of Rs. 35,40,000/- vide its letter dated 22.06.2021.

113. In our opinion, since the inspection reports appearing on record reveal that Units were continuously polluting and damaging the environment, the CPCB has not correctly interpreted its order dt. 04.09.2019. The CPCB has ignored the fact that there was substantial evidence of continuous breach of environmental laws by the Unit in inspection reports dated 27.11.2019 and 28.11.2019. During the inspection on 27.11.2019 and 28.11.2019 it was observed that as per analysis of report of sample collected from ETP outlet, TSS was below detectable limit and therefore, the possibility of dilution cannot be ruled out. The unit had not installed Hazardous Tank in the boiling house. The Unit has provided Kachcha lagoon (for storage of treated effluent) having lining of PVC sheets, which is not proper and it may result in leaching because of wear & tear. The unit had not installed the condensate polishing unit. The unit had not provided mechanical sludge handling system for better management of sludge waste. The unit had not provided and maintained the log book for the generation and disposal of ETP sludge. The unit had not complied with CPCB direction dated 01.07.2019 of dismantling the bye-pass. The value of COD in the drain was more than that of raw sewage which shows the addition of industrial

effluent in drain. The unit did not have STP facility for treatment of domestic waste water. The inspection conducted by UPPCB on 23.09.2020 revealed that unit had yet to install STP. Thereafter a joint inspection of CPCB and UPPCB of the unit was carried out on 02.02.2021 & 03.02.2021 and it was observed that sugar effluent was getting mixed with the domestic sewage drain. The unit had, thus, not installed STP. The unit had also not installed condensate polishing unit till that date. In view of the above discussion, it is difficult to say that there is no substantial evidence to show continuous non-compliance of environmental norms by the Unit. It is also difficult to accept the argument that acute damage has not been caused to environment in view of the violations appearing on record.

M/S Dhampur Sugar Mills, Sugar Unit Asmoli, Sambhal, U.P.

114. Regarding the second unit i.e. M/S Dhampur Sugar Mills, Sugar Unit Asmoli, Sambhal, U.P, the CPCB has admitted the fact that unit was discharging effluents into the drain and had also made a bypass arrangement through which the untreated effluent was thrown into the drain when the premises was inspected on 10.01.2018. Thereafter, the unit was re-inspected on **01.03.2018** and it was observed that the unit had dismantled the bypass arrangements.

115. The unit was inspected on 28.11.2019 by joint committee. It was found that wet scrambler (Common to 70 TPH to 50 TPH boilers) was not in working condition. The unit had not provided/maintained the log book for the generation of RTP sludge and other solid wastes. The unit does not have facility for the treatment of domestic waste water and untreated sewage was discharged and mixed with treated effluent of sugar unit.

116. An inspection by UPPCB on 23.09.2020 also revealed that the unit was not found to have installed CPU. The STP was promised to be installed before start of crushing season.

117. As stated earlier, it is strange that despite the fact that there was a bypass arrangement vide which the effluent was discharged into the drain and it had continued for a long time, the CPCB had not thought fit to impose adequate compensation and had failed to launch prosecution against erring officials under Water (Prevention and Control of Pollution) Act, 1974 and has not bothered to conduct detailed investigation for EC calculation and since there was no STP, the untreated sewage discharge was being thrown into drain which ultimately merges into river and therefore, it cannot be said that there was no substantial evidence of continuous violation of norms and no injury was caused to the environment.

118. An inspection carried out on 14.01.2020 revealed that Decanter was installed but was yet to be made functional. The team had observed that unit was discharging Sewage into Sot river through a channel which was also connected with the treated effluent storage lagoon for irrigation. The unit had not installed STP even on the said date.

119. The UPPBC has observed in its latest report dated 12.07.2021 that unit has installed Condensate Polishing Unit (CPU). However, STP plant for domestic sewage was yet to be made operational. The report also reveals that unit has installed condensate polluting unit on 12.07.2021 which ought to have been installed years ago.

120. It is strange that despite the above observations, the CPCB and UPPCB have taken a lenient view. We are, thus, not inclined to accept the argument of learned counsel for CPCB that there is no substantial

evidence showing continuous harm caused to environment by the Unit in question.

Dhampur Sugar Mills situated at Meerganj, District - Bareilly (U.P.)

121. We have also examined the submission of CPCB regarding the above Unit. The CPCB has admitted the fact that that vide its directions dated 28.02.2017, the Unit was directed to ensure compliance of wastewater discharge norms as per the notification dated January 14, 2016. Reply given by the Unit on 10.03.2017 was examined by CPCB and, thereafter, closure directions were issued on 15.05.2017 and unit was also asked to install online effluent monitoring system and to provide its connectivity to DPCB server. The unit was, thereafter, re-inspected on 25.01.2018 and CPCB had found non-compliance with respect to discharge norms for BOD and COD. The MISS concentration in the Aeration tank was very low. The leakages were observed from the syrup pumps, sulphide used pumps, magma pumps and condensate pumps. Since the unit had not submitted the adequacy assessment report a show-cause notice was issued under section 5 of the Environment (Protection) Act, 1986, dated 15.03.2018 for non-compliance of stipulated standards.

122. The unit had, thereafter, submitted revalidated ETP adequacy assessment report and irrigation management plan validated by NSI, Kanpur vide letter dated 15.06.2018. Other deficiencies regarding ETP were informed to the unit vide notice under Section 5 of the Environmental Protection Act dated 26.10.2018. Thereafter, CPCB and UPPCB had carried out inspections of all four units of M/s Dhampur Sugar Mills on 29.11.2019.

123. CPCB had directed UPPCB to take necessary action to stop discharge of untreated effluent into river by the unit and levy Environmental Compensation vide its direction dated 02.01.2020 issued u/s 18(1)(b) of the Water (Prevention and Control of Pollution) Act, 1974 and UPPCB had imposed an EC amount of Rs. 17,70,000/- on M/s Dhampur Sugar Mills, Sugar Unit, Meerganj, Bareilly.

124. During inspection on 29.11.2019, it was noticed that treated effluent is used for irrigation purpose of about 128 areas of land. However, the presence of BOD and COD in sample collected from bore well indicates that ground water is contaminated. It was found that unit had not installed flow meters at power Turbine cooling, boiler, wet scrubber, B & C Massecuite cooling as it was recommended by National Sugar Institute, Kanpur. The unit had not provided mechanical sludge handling system for better management of wet sludge. The unit was not maintaining log book for daily effluent generation and treatment, disposal of ETP sludge, Boiler Ash and other solid wastes. The unit was bypassing the untreated effluent through a pipeline laid underground up to Peelakhar river which ultimately meets river Ramganga. Samples were collected from upstream and downstream of the Peelakhar River. The high value of BOD and COD in downstream shows untreated effluent was being discharged by the unit.

125. Thereafter, inspection of the Unit was conducted on 14.02.2021 and it was observed that untreated sewage water was found besides the boundary wall of sugar unit. It was observed that the Sewage Treatment Plant (STP) for sewage generated from colony located inside the unit premises was not yet made operational.

126. The perusal of above reports presents a very grim picture regarding the working of unit. The inspection carried out on 14.02.2021 has revealed that sewage water plant was not yet made operational by the unit even till that date for sewage generated from colony located inside the unit. It is, therefore, difficult to accept the contention of learned counsel for the CPCB that substantial evidence is not on record regarding continuous violations of environmental norms and damage caused to the environment.

127. The UPPCB has, thereafter, given its report regarding inspection of Dhampur Sugar Mill Ltd. Bareilly on 14.02.2021 and has observed that treated effluent as claimed by unit was being provided to farmers via a fixed HDPE pipeline but unit was not able to make the line operational and no flow was observed at the point of treated effluent supply to farm land. After about 3-4 hours, the flow was observed at the point in farmland in the HDPE line from where sample was collected. This indicates that unit is not providing treated effluent regularly for irrigation via HDPE pipeline. Sample analysis of treated effluent also showed high BOD and COD. STP was not found operational at the time of inspection. Untreated sewage was observed besides the boundary wall of the sugar mill. Thereafter, it is submitted that inspection was conducted on 01.07.2021 by UPPCB and it was found that much of the compliances have been made but some of them were still to be done and unit had assured UPPCB that it will be done before the next crushing season. The UPPCB has also issued notices to impose environmental compensation of Rs. 30,000/- per day from 14.01.2021 till the date of compliance made by the unit u/S 33A read with 27 (2) of Water (Prevention and Control of Pollution) Act 1974.

128. The above report also presents a dismal picture regarding functioning of unit and shows gross non-compliance regarding supply of untreated effluent to the farms. No doubt, considerable number of directions have been complied with but after inordinate delay and, therefore, it is nothing but failure of duty on the part of UPPCB to impose nominal environment compensation without carrying out a detailed study. The casual approach of CPCB is not appreciable and more painful is the fact that they have defended a wrong and asserted that no detailed investigation or study is required to assess the detailed actual damage though violations are writ large and admitted by it in its inspection reports.

M/S Dhampur Sugar Mills Ltd. (Distillery Unit) Dhampur, Bijnor.

129. We have also assessed the inspection report of the above unit. The joint inspection team had inspected the Ikra drain on 02.02.2021. The monitoring of upstream of the unit had revealed that the water quality of the drain is affected by the sewage discharge by the unit. The UPPCB had, thereafter issued show cause notice under Section 33A of Water Prevention and Control of Pollution) Act for closure of the unit and imposing environmental Compensation of Rs.30,000/- per day from 02.11.2020 till compliance was made by the unit. The UPPCB vide letter dated 20.07.2021, had also imposed environmental compensation of Rs. 65,70,000/- against the unit. The CPCB had, thereafter made a submission to the effect that UPPCB had filed a Complaint case bearing no. 3306/20-21 on 27.07.2021 against M/s Dhampur Sugar Mill Ltd. (Sugar Unit) Dhampur Bijnor U/S 43 of the Water (Prevention and control of Pollution) Act,. 1974 in the court of special Judicial Magistrate.

130. This report further reveals that unit was still polluting the drain and ultimately the river where its water merges with it. The polluted discharge has, continued for a considerable time.

131. Respondents no.1 to 3 at the very outset have made a submission in their written arguments that they were never served or heard in the present matter. It will be better to first decide the contention raised by the respondents. Perusal of the ordersheet reveals that the Tribunal vide its order dated 27.06.2019 had directed for the service of the respondents for 19.07.2019. Perusal of the record reveals that registered post letters have been dispatched to the respondents. There is, thus, a presumption that service has been effected upon them as per Section 27 of the General Clauses Act. The respondents No. 1 to 3 have also filed written submissions and in these circumstances, the contention of the respondents that they were never served or given an opportunity to present their version cannot be accepted.

132. Respondents no. 1 to 3, in their written submissions, have denied each and every allegation made in the application filed by the applicant. It is submitted that various directions issued by this Tribunal as well as directions issued by the joint inspection team have been complied with by the units. Environmental compensation imposed against the units has been paid and it is clear from the reports filed by the CPPCB and UPPCB that all the deficiencies stand removed. The units have also obtained NOC from CGWA for ground water abstraction.

133. Thus, in short, the respondents no. 1 to 3 have submitted that they have complied with all the recommendations made by the joint committee. It is further submitted that vide its earlier order in Shailesh Singh's case (Supra), the unit was allowed to operate on filing of review

application. The unit even at that time had complied with all the major recommendations of the inspection team and the same is clear from the order also.

134. We have given our thoughts to the matter. Perusal of the various inspections reports filed by CPCB and UPPCB clearly reveals that there was continuous violation of environmental laws by the Units for a considerable time and has continued as late as conclusion of final arguments. One thing which has very clearly emerged from above discussions is that all the four Units were continuously violating the environmental laws and have shown indifferent attitude and non-concern towards the harmful effect of pollution on environment. These Units, in fact, have deprived the other persons and local inhabitants of their right to live in a pollution free environment. There are flagrant violations of the environmental norms as have appeared clearly in various inspection reports filed by CPCB & UPPCB. These inspection reports have also not been disputed by respondent no.1, 2 & 3.

135. As discussed in earlier paras, no proper assessment of damages caused to the environment has been assessed. The action taken by the authorities can by no stretch of imagination can be said to be adequate. The CPCB as well as UPPCB have given their own explanation that they have issued requisite notices under Section 5 of Environmental Protection Act and have given various directions to the units to rectify the deficiencies and to stop the violation of environmental laws and have levied sufficient environmental compensation and have thus discharged their duty in accordance with law. However, as discussed in detail above, the CPCB & UPPCB have failed to take appropriate action on the violations appearing in their own reports.

136. It is, thus, clear that Units have totally ignored the Principle of sustainable development which contemplates that development should be brought without jeopardising environmental interest.

137. In **K. Guruprasad Rao v. State of Karnataka, (2013) 8 SCC 418**, the Hon'ble Apex Court explained the ambit and scope of sustainable development. In this case, the appellant had filed a PIL praying for the cancellation of a mining lease granted to the respondent and to stop mining within the radius of 1km. from Jambunatheswara Temple. The Court held that sustainable development includes preservation and protection of historical/ archaeological monumental wealth for future generations. Right to development includes the right to whole spectrum of civil, cultural, economic, political and social process for the improvement of people's well being and realisation of their full potential.

138. In **Citizen, consumer and Civic Action Group v. Union of India, AIR 2002 Mad. 298**, the Court has held that there should be a proper balance between protection of environment and development activities which are essential for progress. There can be no dispute that the society has to prosper, but it shall not be at the expense of environment. In the like vein, the environment shall have to be protected, but not at the cost of development of the society. Both development and environment shall co-exist and go hand-in-hand.

139. Unfortunately, the Units have not followed the Principle of sustainable development. They have followed the Principle of its own sustenance and unjust enrichment at the cost of damage to the environment.

140. Let us now examine the fact whether the Pollution Boards have levied just and adequate compensation. As discussed earlier, it is clear

that CPPCB and UPPCB have been very lenient towards the violations of environmental laws committed by these units and whatever has been done is a paper formality. The appropriate action has not been taken at the appropriate time and the officials have not performed their duty when it was required most to curb the pollution. The officials had shut their eyes towards the violations and were happy in issuing notices for compliance and by levying nominal compensation forgetting the fact that to keep the environment clean is their basic duty. They have forgotten the fact that people have imposed faith upon them so that they (people) can live in a pollution free atmosphere. It is disheartening to note the conduct of the officials and the action taken by them against the above four units which has encouraged the units to violate the norms. No doubt, the units had to comply with most of the norms in the end because of the directions issued by this Tribunal. However, even in last compliance report, it is submitted that some part of directions will be complied with before the next crushing season. Thus, compliance of directions issued were not complete even on the date of conclusion of final arguments.

141. We may now sum up the violations of environmental norms by each industrial unit and environmental compensation imposed upon it by CPCB and UPPCB.

(i) M/s Dhampur Sugar Mills Ltd., District Sambhal.

The unit has a history of serious violation/ non-compliances. However, neither any environmental compensation has ever been imposed upon it nor any prosecution has been initiated against it. During the inspection on 08.12.2016 by CPCB, the unit was found discharging the spray pond overflow outside the premises of the unit. The unit was also not found complying with the prescribed

standards of BOD of the ETP effluent sample. The unit was again inspected by CPCB on 10.01.2018. The unit was again found to be by-passing untreated effluent discharge from the spray pond overflow and cooling tower outside the premises through the drain which was connected to Sot River. During the inspection on 28.11.2019, it was found that unit did not have the STP facility for treatment of domestic waste water. The untreated sewage was being discharged mixed with treated effluent of the Sugar Unit. The unit had not installed Condensate Polishing Unit (CPU) for high pressure boilers. The unit had also not maintained the logbook for generation and disposal of ETP sludge and other solid wastes. The STP was not made operational till 12.07.2021 by the unit.

(ii) M/s Dhampur Sugar Mills Ltd., District Bijnor.

This unit was also found violating the environmental norms. The unit was inspected on 27.11.2019 and 28.11.2019. It had not installed flow meters at Mill Fibrizer, Masecuite cooling and RO reject. The Unit had not installed the Hazardous tank in the boiling house. The Unit had provided Kachcha lagoon (for storage of treated effluent) having lining of PVC sheets, which was not proper as it may result in leaching under wear & tear condition. The Unit had not yet installed the Condensate Polishing Unit (CPU) for high pressure boilers (105 Kg/cm²). The unit had not provided mechanical sludge handling system. The Unit had not provided and did not maintain the logbook for the generation and disposal of ETP sludge, Boiler ash and other solid wastes. The unit had not complied with CPCB direction dated 01.07.2019 for dismantling the bypass provision. The team also collected the wastewater sample from the local drain (Ikara Nalla) flowing adjacent to the Unit

premises. The value of COD in the drain waste water was found more than that for raw sewage, which showed the addition of industrial effluent in to drain. The Unit did not have STP facility for the treatment of domestic wastewater. The inspections carried out on 02.02.2021 and 03.02.2021 revealed that unit had not installed STP till the said date. The unit till 09.06.02021 had not converted the storage lagoon of 4,000 cubic meter to impermeable lagoon and had submitted that it will be done before the next crushing season.

Perusal of the record reveals that CPCB had first imposed an environmental compensation of Rs. 57,30,000/- on 01.07.2019 which was later on reduced to Rs. 16,20,000/- vide letter dated 06.11.2019. However, UPPCB on 22.06.2021 had imposed an environmental compensation of Rs. 35,40,000/-.

(iii) M/s Dhampur Distillery Unit, District Bijnor.

The unit was inspected on 27.11.2019 and 28.11.2019. it was found that there were violations of ZLD norms. The unit had not installed piezowells around biocompost yard as per SOP for distilleries.

An environmental compensation of Rs. 6,75,000/- was imposed upon the unit for violation of ZLD norms, illegal disposal of spentwash in agricultural fields of nearby village-Fena, Chandpur. The UPPCB had thereafter further imposed environmental compensation of Rs. 65,70,000/- vide letter dated 20.07.2021.

(iv) M/s Dhampur Sugar Mills Ltd., Meerganj, District Bareilly.

The unit was inspected on 27.11.2019 and 28.11.2019. It was found that the unit had not installed flow meters at power turbine cooling, boiler, wet scrubber, B & C Massequite cooling. The unit

had not installed mechanical sludge dewatering/handling system. The unit had not provided/maintained logbook for daily effluent generation and treatment, disposal of ETP sludge, Boiler ash and other solid wastes. The Unit was found bypassing the untreated effluent through a pipeline laid underground up to Peelakhar River in Sindholi Village which ultimately meets River Ramganga. Samples were also collected from the upstream and downstream of the Peelakhar river where the effluent from the bypass line was meeting with the river water. The high value of BOD and COD in downstream of the confluence point of bypass line and river showed the impact of untreated effluent being discharged by the Unit. The Unit did not have facility for the treatment of domestic wastewater. Untreated domestic effluent was found being discharged outside the premises of the Unit through a hole in the wall of the Unit.

The CBCP had levied environmental compensation of Rs. 46,80,000/- vide letter dated 23.04.2019 and thereafter UPPCB had levied environmental compensation of Rs. 17,70,000/- vide letter dated 02.01.2020. The UPPCB had further issued notice for imposition of environmental compensation of Rs. 30,000/- per day from 14.01.2021 till the date of compliance made by the unit.

142. Keeping in mind the above facts and the discussion and gross violations of environmental norms by all the four units, this Tribunal is of the opinion that the compensation levied by CPCB and UPPCB upon the units is inadequate and insufficient as they have taken a very lenient view while imposing environmental compensation. The CPCB and UPPCB in fact have ignored the continuous violation of environmental norms by these units, with the result that these units have enriched themselves at

the cost of environment. The 'Polluter Pays' principle contemplates that the Units which have polluted the environment must also pay the compensation not only to the victims of pollution but also for the cost of restoring the environment. The Hon'ble Supreme Court in "**Indian Council for Enviro-Legal Action v Union of India, 2011 (8) SCC 161**" has defined the principle of 'Polluters Pay'. The said principle demands that the financial costs of preventing or remedying the damage caused by pollution should lie with the undertakings which cause the pollution. The respondents no. 1 to 3 will, therefore, have to pay adequate environmental compensation as per the above principle which also finds mentioned in Section 20 of the National Green Tribunal Act, 2010.

143. The Hon'ble Supreme Court in number of cases has laid down the criteria for assessing the compensation for causing damage to the environment. In **M C Mehta vs. Union of India, (1987) 1 SCC 395**, the Hon'ble Apex Court has held that while granting the compensation, the court must keep in mind the magnitude and financial capacity of the enterprise so that the compensation is such that it has a deterrent effect. The relevant para of the judgment runs as follows:

"31. We would also like to point out that the measure of compensation in the kind of cases referred to in the preceding paragraph must be co-related to the magnitude and capacity of the enterprise because such compensation must have a deterrent effect. The larger and more prosperous the enterprise, the greater must be the amount of compensation payable by it for the harm caused on account of an accident in the carrying on of the hazardous or inherently dangerous activity by the enterprise."

144. The Hon'ble Apex Court in **Municipal Corporation of Delhi vs. Uphaar Tragedy Victims Association, 2011 14 SCC 481** has held that compensation should not only be compensatory but also punitive in nature so that it should deter future misconduct. It was further held that

several factors such as conduct of wrongdoer, gravity of the violation and willful disregard for safety norms have to be kept in mind while determining the punitive damages.

145. In **Sterlite Industries (India) Ltd. & Ors Vs. UOI, (2013) 4 SCC 575**, the Hon'ble Apex Court has held that while awarding compensation, the magnitude, capacity and prosperity of the errant company needs to be considered and has observed as under:-

“47. In the Annual Report 2011 of the appellant-company, at pages 20 and 21, the performance of its copper project is given. We extract hereinbelow the paragraph titled Financial Performance:

PBDIT for the financial year 2010-11 was Rs.1,043 Crore, 40% higher than the PBDIT of Rs.744 Crore for the financial year 2009-10. This was primarily due to higher LME prices and lower unit costs at Copper India and with the improved by-product realization.

Considering the magnitude, capacity and prosperity of the appellant company, we are of the view that the appellant-company should be held liable for a compensation of Rs. 100 crores for having polluted the environment in the vicinity of its plant and for having operated the plant without a renewal of the consents by the TNPCB for a fairly long period and according to us, any less amount, would not have the desired deterrent effect on the appellant-company.”

146. In **Samaj Parivartana Samudaya & Ors. vs. State of Karnataka & Ors., (2013) 8 SCC 154**, the Hon'ble Apex Court was considering the issue of illegal mining by the lease-holders in District Bellary, State of Karnataka. The Hon'ble Court in the said case after observing flagrant violations by the lease holders had imposed a compensation of 10% of the sale-proceeds for reclamation and rehabilitation of the mining area.

147. The Hon'ble Apex Court in **M/s Goel Ganga Developers India Pvt. Ltd. vs. Union of India, MANU/SC/0841/2018**, while deciding an appeal against the order of this Tribunal imposing environmental compensation for restoration and restitution of environment damage by the project proponent had imposed a cost of Rs. 100 Crores or 10% of the

project cost which was to be in addition to further compensation of Rs. 5 Crores for contravening mandatory provisions of several environmental laws.

148. The Hon'ble Supreme Court in **M.C. Mehta Vs. Union of India, (2018) 18 SCC 397** had imposed compensation of 10% of the total project cost which was about Rs. 50 Crores upon one R. Kant & Co. who had developed Kant Enclave in Aravalli Hills for causing damage to the environment. The relevant para in this regard runs as follows:

“134. The Polluter Pays Principle is a wholesome principle that has been universally accepted and also adopted and applied in our country through several decisions of this Court. In this context, we may draw attention to among two of the earliest decisions rendered by this Court, namely, Indian Council for Enviro-Legal Action v. Union of India²⁴ and Vellore Citizens' Welfare Forum v. Union of India.²⁵ The law having been settled for more than two decades, we are of the view that it must be applied in a case such as the present. The damage caused to the Aravalli hills, as already noted, is irreversible. However, perhaps some of the damage could be remedied - (1996) 3 SCC 212 (1996) 5 SCC 647 at least we hope so. According to R. Kant & Co. it has expended 50 crore in developing Kant Enclave. We do not know the exact or accurate figure but proceed on the basis as stated. In our opinion, it would be reasonable to require R. Kant & Co. to deposit 10% of this amount (that is, 5 crore) for rehabilitation of the damaged areas. This amount should be deposited by R. Kant & Co. in the Aravalli Rehabilitation Fund within one month and in any case on or before 31st October, 2018”.

149. Thus, adequate compensation in the present case has to be assessed keeping in view the above principles laid down by the Hon'ble Apex Court in its various pronouncements regarding damage caused to the environment. As discussed earlier, the Respondent No. 1 to 3 have blatantly violated the environmental norms for a considerable long time and these violations would have continued but for the directions issued by this Tribunal. In case, the criteria laid down by the Hon'ble Supreme Court in the above judgments is applied and units are imposed 10% of the turnover as environmental compensation, it would have come to

approximately Rs. 400 Crores, since the information shown on the website of M/s Dhampur Sugar Mills Ltd. shows that the unit had a turnover of Rs. 3245.54 Crore in the financial year 2020-2021 and it had earned a profit of Rs. 120.62 Crore and similarly, the distillery/ chemical unit shows the turnover of Rs. 843.12 Crore and profit of Rs. 199.82 Crore. However, keeping in mind the fact that the units have complied with the orders of this Tribunal and directions issued by the concerned authorities and this fact stands confirmed by UPPCB, we deem it proper to impose a compensation of Rs. 5 Crores (Rupees Five Crores) against each unit which will be in addition to the compensation already levied by the Pollution Boards.

150. Each unit i.e. (i) M/s Dhampur Sugar Mills Ltd., District Sambhal, (ii) M/s Dhampur Sugar Mills Ltd., District Bijnor, (iii) M/s Dhampur Distillery Unit, District Bijnor and (iv) M/s Dhampur Sugar Mills Ltd., Meerganj, District Bareilly is now directed to pay environmental compensation of Rs. 5 Crores (Rupees Five Crores) each as mentioned above within a period of 30 days from today.

151. We have also noticed that prosecution has been initiated against M/s Dhampur Sugar Mills Ltd., District Bijnor by UPPCB under Section 24 of the Water (Prevention and Control of Pollution) Act, 1974 which is punishable under section 43 of the said Act. However, no prosecution seems to have been launched against the other three units. Let the CPCB and UPPCB examine this aspect and if there is incriminating material on record, they may initiate the proceedings against the other units as well under the above Act, as per law.

152. The amount of compensation as stated above may be deposited with the CPCB so that the above amount can be utilized for remedial

action to be taken for restoration of flora and fauna, damage caused to the soil, agricultural crops as well as to the ground water.

153. A detailed study, of course, needs to be carried out regarding extent of damage caused to the environment. For that purpose, we constitute a Committee which will have three Members from CPCB (to be nominated by Chairman, CPCB), one from UPPCB and the District Magistrates concerned. The Committee will be constituted within a period of 15 days from today. The committee will hold its first meeting within 15 days, thereafter. It is further directed that the said Committee will assess the damage caused to the environment which includes contamination of the soil, underground water, loss to the agricultural crops, contamination of river Sot and river Peelakhar as well as the damage caused due to air pollution by the units. The Committee will also interact with the farmers and local inhabitants who may have suffered loss/ damage because of pollution caused by the units. It shall thus, assess the compensation not only for the loss/ damage caused to the local inhabitants but also for the cost of remediation and submit its report to the Chairman, CPCB within a period of three months from today.

154. On the basis of the above report, the remediation work will be carried out under the supervision and directions of the Chairman CPCB, who will also ensure compliance thereof. In case, after carrying out the remediation work, if some balance amount remains out of the amount of environmental compensation, it will be utilized for the purpose of cleaning the environment and if, the remediation requires more funds, the deficiency will be made good by the respondents no. 1 to 3. It is further directed that the said Committee will complete the above task within a period of one year.

155. The Units will deposit the compensation amount within one month from the date of judgment. In case they fail to do so, the CPCB will issue directions for closure of Units till the payment of compensation. In an eventuality the compensation is not paid within one month, the realization of the same will also be ensured by the District Magistrates concerned. It is ordered accordingly.

156. We also impose a litigation cost of Rs. 10 lacs which shall be paid by respondents no. 1 to 3 to CPCB within a period of one month and the said amount will be utilized for the protection and preservation of environment.

157. We are further of the opinion that following directions are necessary for ensuring compliance of environmental norms by the units:-

- i.) All the Units must ensure continuous running of ETPs even during the non-crushing season for the adequate maintenance of required bio-mass so that the ETP is able to take the load/shock when it receives the pollution load/effluent at the start of the crushing season.
- ii.) All the Units in question must provide for separate Energy Meter for entire ETP setup including its accessory units with data logging facility which shall be inspected by UPPCB and CPCB from time to time.
- iii.) UPPCB must ensure Interlocking of Pollution Control Devices with production processes (one way but not vice-versa) so as to ensure that whenever ETPs/PCDs are intentionally closed, the production also comes to halt.
- iv.) Regular inspections should be carried out by the statutory authorities in both halves of the crushing season and also at least once in non-crushing season.
- v.) Since the Asmoli Unit falls in the critical zone with respect to ground water withdrawal, an assessment of water recharge needs to be carried out by CGWA or UPGWB before issuance of NOC.

The Statutory Authorities are directed to ensure the above directions strictly so that industries may run without causing damage or loss to the

environment as well as to the local inhabitants and farmers residing nearby the Units.

158. A copy of this judgment be forwarded to CPCB, UPPCB, District Magistrates of District-Sambhal, Bijnor and Bareilly by e-mail for compliance.

159. In view of above judgment, the Original Application no. 539/2019 and I.A. No. 376/2020 stand disposed of.

Adarsh Kumar Goel
Chairperson

Sudhir Agarwal,
Judicial Member

M. Sathyanarayanan,
Judicial Member

Brijesh Sethi,
Judicial Member

Dr. Nagin Nanda,
Expert Member

September 01, 2021
Original Application No. 539/2019
Interim Application No. 376/2020
AP, AG & AS