

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

Appeal No.77/2019
(I.A. Nos. 606/2019 & 607/2019)
(With report dated 27.11.2019)

M/s. Platinum AAC Blocks Pvt. Ltd.

Appellant(s)

Versus

The Pollution Control Committee,
Daman Diu & Dadra Nagar Haveli & Ors.

Respondent(s)

Date of hearing: 17.01.2020

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE S.P WANGDI, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER
HON'BLE MR. SIDDHANTA DAS, EXPERT MEMBER**

For Appellant(s): Ms. Saumya Chaudhari and Ms. Fizza
Zaidi, Advocates

For Respondent(s): Mr. Srinivas Vishven, Advocate for CPCB

ORDER

This appeal has been preferred against the order of the Pollution Control Committee (PCC), Dadra Nagar Haveli, Silvassa under Section 33-A of the Water (Prevention and Control of Pollution) Act, 1974 and Section 31-A of the Air (Prevention and Control of Pollution) Act, 1981 directing closure of the unit of the appellant incidental directions after holding that the activities of the Appellant were not permissible and were without requisite consent.

Considering the plea of the appellant that utilization of fly ash was not red category industry, as wrongly assumed, by order dated 19.09.2019, the Tribunal sought a report from a joint Committee comprising CPCB and PCC Daman Diu and Dadra Nagar Haveli.

Accordingly, a report has been filed on 27.11.2019 concluding as follows:

“6.0. CONCLUSIONS & RECOMMENDATIONS

On the basis of facts and observations recorded as above, it is concluded that the said unit has established and operated without getting Consent to Establish (CTE) and Consent to Operate (CTO) from the PCC. PCC has rejected to grant CTE to the unit as the unit falls under Category-I, which is banned in the Union Territory of DD&DNH as per the Gazette Notification No. PCC/DMN/ 13-(Part-IV)/98-99/2014-15/1200, dated 09/10/2015.

In order to harmonize the “criteria of Categorization of Industries” and bring about necessary uniformity in its application across the country, CPCB has issued directions to all SPCBs/PCCs dated 07/03/2016, to revise/prepare the inventory of Red, Orange, Green and White Categories of industries operating in their jurisdiction based on the revised criteria specified in the document (Final document on revised Classification of industrial sector under Red, Orange, Green & White Categories) published by CPCB dated 29/02/2016. The PCC, Daman Diu& Dadra Nagar Haveli is in the process to harmonize the categorization of industries in compliance of the direction issued by CPCB.

The unit carries out the following two activities to produce the fly ash bricks/blocks:

1. *Fly ash Transport*
2. *Fly ash Bricks/blocks manufacturing using fuel*

Based on Joint Committee of CPCB & PCC officials visit to the unit, observations and calculations, it is concluded that the unit falls under the categories mentioned at Sr. No. 1 (for transportation of Fly ash) and Sr. No. 3 (for fly as bricks/blocks manufacturing using fuel.

S. No.	Industry sector	Category of the industry as per CPCB Criteria (document dated 29/02/2016	Category of Industry as per PCC Gazette notification dated 09/10/2015
1.	<i>Fly ash export, transport & disposal Facilities</i>	<i>Green Category</i>	<i>Category-1 (which is banned in PCC)</i>

2.	<i>Fly ash Bricks/Blocks manufacturing</i>	<i>White Category</i>	<i>Category-III</i>
3.	<i>*Fly ash Bricks/Blocks manufacturing using Fuel</i>	<i>New/Left-out Sector (to be categorized by SPCB/PCC) However, as per the Joint Committee Calculation the unit falls under "Green Category"</i>	<i>Not Categorized</i>

**It is also clarified in the "Final document on revised classification of industrial sector under Red, Orange, Green & White Categories", published by CPCB that addition of any new or left over industrial sector and their categorization which is not listed in the categorization done by CPCB shall be done by the committee at the level of concerned SPCB/PCC in accordance with the revised criteria and guidelines. There is no classification of 'Fly ash Bricks/blocks manufacturing using fuel' under the CPCB classification document. It is new/left-out industrial sector.*

As per the score calculated by the joint committee, based on the observations made during the visit and documentary made available, it is concluded that 'Fly ash export, transport and disposal facility' falls under "Green Category" and 'Fly ash Bricks/Blocks Manufacturing using Fuel' and falls under "Green Category" as mentioned at Sr. No. 1 and Sr. No.3 respectively, of the above table. The detailed score calculation is provided at Section 4.0 of this report.

The PCC is yet to harmonize the categorization of industries in compliance of Modified Directions issued by CPCB vide letter dated 07/03/2016, under Section 18(1)(b). Now any consideration about admissibility of the consent to the said unit may be viewed based on harmonization of industries by PCC. The violations w.r.t. Consent to Establish and Consent to Operate by the unit maybe dealt by PCC as per provisions of relevant Acts and Rules."

In view of the above, the view taken by the PCC cannot be sustained and is set aside. The PCC may pass a further order in accordance with law within two weeks.

The appeal is disposed of.

Adarsh Kumar Goel, CP

S.P Wangdi, JM

Dr. Nagin Nanda, EM

Siddhanta Das, EM

January 17, 2020
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