

**BEFORE HON'BLE NATIONAL GREEN TRIBUNAL,  
PRINCIPAL BENCH AT NEW DELHI  
APPEAL NO. 29 OF 2022**

**IN THE MATTER OF:**

Rathi Special Steels Limited

... Appellant

*Versus*

Commission for Air Quality Management  
in NCR and Adjoining Area & Ors

... Respondents

**I N D E X**

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Date: 15.06.2022  
Place: New Delhi

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**REJOINDER ON BEHALF OF APPELLANT**

1. That the present Appeal has been filed against the final Order dated 05.05.2022 (Annexure 14 – Pg No. 186 - 202) passed by the Respondent No. 1 Commission inter alia directing closure of the unit of the Appellant with immediate effect. The original closure order dated 21.01.2022 (Page 107 to 109) is under challenge in Appeal No. 28 of 2022.
2. The present Appeals have been filed under Section 18 of the Commission for Air Quality Management in National Capital Region and Adjoining Areas Act, 2021. The Original Closure Order dated 21.01.2022 was passed for alleged violation of Commission's direction No. 49 dated 15.12.2021 and for running the factory even after expiry of the consent to operate (expired on 31.07.2021) issued by Rajasthan State Pollution Control Board (Respondent No. 2 herein).

3. The Original Closure Order was Impugned vide Appeal No. 04 of 2022 (now renumbered as Appeal No. 28 of 2022). This Hon'ble Tribunal (Central Zone) vide its Order dated 29.03.2022 was pleased to direct the Respondent No. 1 Commission *to take a decision on the stand of the Appellant in accordance with law*. It is only while passing the Second Closure Order dated 05.05.2022, that the issue relating to not obtaining Environmental Clearance (EC) under EIA Notification 2006 has been made a ground. This amounts to travelling beyond the scope of show cause of order dated 21.01.2022.
4. The Impugned Orders dated 05.05.2022 and 21.01.2022 are both liable to be set aside for the following reasons:
  - A. No requirement of Environmental Clearance under EIA Notification, 2006 (amended to date) in respect of the Appellant**
  - 4.1 The Environmental Impact Assessment (EIA) Notification was introduced on 14.09.2006, placing a requirement of prior environmental clearance on a number of sectors. The EIA Notification 2006 has notified a list of sectors as A or B based on their capacity and likely environmental impacts. True Copy

of EIA Notification 2006 and 2009 amendment is annexed herewith and marked as **Annexure – “A” Colly.**

- 4.2 The EIA Notification 2006 did not provide for any definition of “Secondary Metallurgical Processes” and this resulted in uncertainty regarding applicability of EIA. Even if it is assumed that the works done by Appellant amounts to Secondary Metallurgical Processes, Clause 3(a) provides for thresholds regarding requirement of prior EC. Clause 5(2) which provides the general conditions for applicability which are as follows:

Project or Activity		Category with Threshold		
		A	B	Conditions if any
3		Material Production		
1	2	3	4	5
3(a)	Metallurgical Industries (ferrous & non ferrous)	a) Primary metallurgical industry All Projects  b) Sponge Iron manufacturing > 200 TDP  c) Secondary Metallurgical processing industry  All toxic	Sponge Iron manufacturing <200 TDP Secondary Metallurgical processing industry  i) All toxic and heavy metal producing <20,000 tonnes / annum  ii) All other	Central conditions shall apply note: i) the recycling industrial units registered under the HSM Rules, are exempted.  <u>ii) In case of secondary metallurgical processing industrial units, those projects involving operation of furnaces, only such as induction and electric arc furnaces, submerged arc furnace and cupola</u>

		and heavy metal producing > 20,000 tonnes / annum	non toxic secondary metallurgical processing industries >5000 tonnes/ annum	with capacity more than 30000 tonnes per Annum (TPA) would requirement <u>environment clearance.</u>  iii) Plants/ units other than power plant (given against entry no. 1(d) of the schedule) based on municipal solid waste (non hazardous) are exempted.
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4.3 As per the thresholds provided under the EIA Notification 2006, clearly provides that only such induction furnaces with capacity of more than 30,000 tonnes per annum (TPA). Thus, from the aforesaid notification, it is clear that the requirement for obtaining Environmental Clearance does not apply to the Appellant unit which admittedly has the capacity of 27,000 tonnes per annum. The capacity of Appellants unit is recorded as 27,000 tonnes per annum under Clause 7 of the consent to operate dated 21.06.2018 (Page 51 of Appeal).

4.4 This specific objection regarding Appellant's business not falling within threshold was taken in Para 12(g) to 12(h) of the written representation submitted before the Respondent No. 1 Commission pursuant to NGT's Order dated 29.03.2022. True Copy of Written Representation submitted by Appellant pursuant to Order dated 29.03.2022 filed before Commission

for Air Quality Management is annexed herewith and marked as **Annexure ‘B’**.

- 4.5 It is notable that in the Impugned Order dated 05.05.2022, the Commission although has noted the submission to non applicability of thresholds in Para 17(6), no specific finding has been given regarding non applicability of thresholds under Clause 3(a) of Schedule to EIA Notification 2006. The Impugned Order is liable to be set aside on this ground alone. Further, MoEF has also issued DRAFT Notification dated 23.03.2020 for Environmental Impact Assessment. Section 26(25) of Draft Notification provides that there shall be an exemption for standalone re-rolling mills (which does not involve pickling operations) with a capacity of upto 2 Lakh Tonnes per annum. Further, the thresholds prescribed are above the production capacity of the Appellant Company. True Copy of MoEF Draft EIA Notification dated 23.03.2020 is annexed herewith and marked as **Annexure ‘C’**.

**B. Violation of principles of Natural Justice in respect of findings regarding applicability of Environmental Clearance**

- 4.6 It is settled law that a Show Cause Notice must clearly and specifically allege the violations and the resultant

consequences thereof. In the present matter, Original Closure Order dated 21.01.2022 (*Page No. 107 to 109*) only alleged two counts of violations i.e. breach of Commission's Directive No. 49 and running the unit even after expiry of consent to operate (CTO) which expired on 31.07.2021. Not a word was mentioned regarding applicability and requirement for Environmental Clearance (EC) under EIA Notification 2006.

- 4.7 No specific notice was issued at any juncture, despite the order dated 29.03.2022 of NGT regarding alleged violation on count of not having a valid EC. While passing reasons to justify the closure, the Respondent No. 1 Commission has travelled beyond its original closure order dated 21.01.2022. It has manufactured anew ground to justify closure. No specific notice regarding EC has ever been issued to the Appellant.
- 4.8 The findings regarding Environmental Clearance was a mere afterthought on the part of Commission to justify its closure order dated 21.01.2022. As this exercise was done without any show cause or specific notice, the Impugned Order dated 05.05.2022 deserves to be set aside.

**C. No clarity regarding applicability of Environmental Clearance on Hot Rolling Mills till 13.04.2022**



4.9 The Appellant has been running its Hot Re-rolling Mill since year 2006. The EIA Notification came in effect in September 2006. There was never any requirement in place regarding applicability of EIA Notification to the nature of Hot Re-rolling activity carried on by the Appellant. For this reason alone, the latest Consent to operate (CTO) was issued under the provisions of Water Act and Air Act on 21.06.2018 valid uptill 31.07.2021.

4.10 This position would be clear from a perusal of a few correspondences which are as follows:

- (a) 13.12.2010 (Page 203 - 204): This is a letter issued by Ministry of Environment & Forest specifically clarified in Para 4 and 5 that Secondary Metallurgical Processing Industrial Unit involving operation of Re-heating furnace does not attract the provisions of EIA notification.
- (b) 04.12.2018 (Page 205-206): This is a letter issued by Central Pollution Control Board to the Impact Assessment Division of MoEF & CC (in respect of a clarification sought by Chhattisgarh Steel Re-Rollers Association), wherein it was clarified that the stand alone steel re-rolling mill does not appear to be covered under

EC Notification, which is applicable on primary and secondary metallurgical processing unit.

- (c) 12.02.2020 (Page 207-214): Hon'ble NGT passed a Judgment dated 12.02.2020 in the matter of *Gajubha Jesar Jadeja Vs Union of India*. This Judgment was applicable in respect of mills producing Cold Rolled Coils (CRC) and it was directed as follows:

*“12. It would appear from the sequence of events that the position that subsisted earlier in respect of Cold Rolled Coils (CRC) of stainless steel was quite obscure as it was not clear as to whether such activity would require environmental clearance under the EIA Notification 2006. The MoEF upon consideration of the expert opinion appears to have **now clarified** that such industry do require prior environmental clearance but, having regard to the fact that there were a large number of such mills operating on the strength of CTE and CTO, opportunity should be provided to such units to fall within the EC regime by granting a period of at least one year to operate for the purpose.”*

- (d) 22.10.2020 (Page 216-217): This communication was issued pursuant to the aforementioned Judgment of Hon'ble NGT in *Gajubha Jesar Jadeja Vs Union of India*. In this correspondence, it was clearly admitted by MoEF

in Para 2 that there is a further need for clarifying if EIA notification is applicable only to Cold Rolling or to all Re-rolling Mills.

- (e) 08.03.2022 (Page 220-221): A representation was filed by Bhiwadi Rolling Mills Association seeking clarification regarding applicability of Hon'ble NGT's Order to all Re-Rolling Mills.
- (f) 23.02.2022 (Page 235-236): There was still lack of clarity regarding applicability of Environmental Clearance on all Rolling Mills. It was specifically pointed out that the Respondent No. 1 Commission has withdrawn all closure directions except one unit i.e. of the Appellant. It was also mentioned that there is a lot of confusion amongst operators of Re-heating furnaces and rolling operations about applicability to obtain environmental clearance. When the regulator of the Appellant i.e. RSPCB itself was unclear, there is no basis to insist on prior EC.
- (g) 13.04.2022 (Page 238-239): It is only on 13.04.2022 that the applicability of EIA Notification 2006 was clarified by MoEF&CC to the Respondent No. 2. In Para 2 and 4 it was clarified that even a Hot Re-rolling Mill shall attract the provisions of EIA.

4.11 In view of the aforementioned exchange of correspondences it would be clear that applicability of requirement of EC was authoritatively clarified only on 13.04.2022 (Page 238-239) by the MoEF&CC. Appellant is entitled to parity of treatment as was granted to all Col Re-rolling Mills (vide order dated 12.02.2022 Para No. 12) of one year from 13.04.2022 to ensure this compliance. This submission is without prejudice to the objection that Appellant's unit does not meet the threshold for obtaining an EC under the EIA Notification.

**D. The Order of Closure amounts to penalty greater than that is prescribed under the law in force.**

4.12 It is basic tenet of law and principles of natural justice that *no person shall be subjected to a penalty greater than that which might have been inflicted under the law in force*. The Respondent No. 1 Commission has already decided and collected the maximum permissible penalty for the alleged violation of running the unit on days earmarked for keeping the Unit inoperative (Directive No. 49).

4.13 On 02.02.2022 (Page No. 111) it is clearly mentioned that the Respondent No. 1 Commission has already (without even issuance of Show Cause) decided to impose a heavy penalty / Environmental Compensation on the Appellants Unit. The

relevant portion of Order dated 02.02.2022 issued by the Respondent No. 1 Commission reads as follows:

*“2. The penalty for gross violation of statutory Directions of the Commission, (including direction no. 49) needs to be seen as deterrent against non-compliance of the statutory directions of the Commission and to be recovered from the defaulting units/ entities **before permitting them to resume operations.***

*3. In view of the above all SPCBs / DPCC are required to impose and collect a suitable amount of EC by appropriately revising the ‘R’ factor and calculating ‘N’ factor in the EC formula of CPCB based on the number of days of actual violation of direction No. 49 of the Commission besides the number of days of operation **before the unit closed its operation** pursuant to the closure direction of the commission”*

This Order clearly mentioned that resumption of operation shall be allowed after payment of compensation. Once the Compensation has been paid and accepted, it is now not open for Respondent No. 1 to continue close on same ground.

4.14 On 07.02.2022 (Page 112-113) a detailed order was passed by Rajasthan State Pollution Control Board deciding the penalty for running the unit with an expired consent to operate and violation of Directive No. 49. It is clearly mentioned in Para 9 of the Order dated 07.02.2022 that a cumulative penalty of Rs.

2,41,875/- was imposed under Section 33A of Water Act and Section 31A of Air Act.

4.15 On 07.02.2022 (Page 114-116) the entire Environmental Compensation Penalty of Rs. 2,41,875/- has already been paid by the Appellant. Payment of penalty has been acknowledged by Respondent No. 2. Thus, after having collected the maximum penalty, for both counts of alleged violations, there is no basis to continue closure of the Appellant's unit, as has been done vide Order dated 05.05.2022.

**E. Renewal Application for Consent to Operate well within time AND “Deemed Consent” under Section 25(7) of Water Act and Section 21(1) of Air Act**

4.16 The Consent to Operate is issued by the Respondent No. 2 under Section 25 / 26 of Water Act and Section 21 of Air Act. On 21.06.2018, the last Consent to Operate (CTO) was issued in favour of the Appellant, valid uptill 31.07.2021.

4.17 The Application for renewal of CTO, complete in all respects, was submitted on 10.03.2021 (Page 74 - 92). The application was done more than 3 months before the due date of expiry. Till date the Application for CTO has not been rejected. In these circumstances, the Appellant is entitled for deemed

consent as provided under Section 25(7) of the Water Act and Section 21(1) of the Air Act.

4.18 Even if it is assumed that the Appellant cannot be give the benefit of “Deemed Consent”, it must be noted that the said consent was not being issued under the confusion of applicability of Environmental Clearance. This position is admitted by the Rajasthan State Pollution Control Board in its Letter dated 23.02.2022 issued to the Respondent No. 1 Air Commission. (*Page 235-236*)

4.19 The Appellant cannot be faulted for delay in grant of CTO (applied more than 120 days before its expiry) for the time taken by Rajasthan State Pollution Control Board in issuance of the Consent. Besides this, the entire Environmental Compensation for alleged violation has already been collected.

**F. Closure Order is not justified for alleged violation of Directive No. 49**

4.20 On 15.12.2021, a directive was issued by Respondent No. 1 Commission regarding not keeping the Industrial Units in NCR operative for two days a week. As per Clause 12(c) of Directive dated 15.12.2021 (*See Page No. 52-55 of Counter Affidavit in Appeal No. 04 of 2022*). As per Clause 12(c), the Appellant’s Unit was to be kept inoperative on Thursdays and Fridays.

- 4.21 Clause 12(i) and (ii) provide for “Closure”. On the other hand Clause 12(iii) provides for keeping the unit inoperative, meaning thereby, there was no impediment on carrying on trial testing and maintenance activities. The Closure order dated 21.01.2022 was passed without sharing a copy of Investigation Report or even a Show Cause Notice. No material was placed for rebuttal of Appellant alleging *manufacturing being carried out in the unit*.
- 4.22 In the later reasons supplied vide order dated 05.05.2022 (in Para No. 25) some inferences have been drawn by the inspection team on the basis of electricity consumption data acquired through Jaipur Vidyut Vitran Nigam Limited. An inference has been drawn on the basis of electricity consumption alleging that manufacturing process was undertaken on the days earmarked for keeping the unit inoperative. This data was never given under a specific show cause to the Appellant till date. The Appellant was never confronted with this question vide the closure order dated 21.01.2022. The Respondent No. 1 ought to have appreciated that Re-heating furnaces require maintenance to be carried out from time to time and the directive no. 49 (Clause 12(iii))



had only prohibited manufacturing and not trial and testing activities on the days earmarked for closure.

- 4.23 Nevertheless, no further consequences can be imposed for alleged violation of Directive No. 49 as the compensation (Maximum penalty) imposable has already been paid on 07.02.2022. After having collected the penalty (Environmental Compensation) there is no basis to continue with the Closure Order.

**G. Impugned Order is in Violation of law laid down by the Hon'ble Supreme Court**

- 4.24 It is also relevant to place reliance on some of the observations by Hon'ble Supreme Court in the matter of *M/s Pahwa Plastics Private Limited Vs. Dastak NGO* – Civil Appeal No. 4791 of 2021 (decided on 25.03.2022), which are as follows:

*54. The manufacturing units of the Appellants appoint about 8,000 employees and have a huge annual turnover. An establishment contributing to the economy of the country and providing livelihood ought not to be closed down only on the ground of the technical irregularity of not obtaining prior Environmental Clearance irrespective of whether or not the unit actually causes pollution.*

...

*56. As held by this Court in *Electrosteel Steels Limited (supra)* ex post facto Environmental Clearance should not ordinarily be*

*granted, and certainly not for the asking. At the same time ex post facto clearances and/or approvals and/or removal of technical irregularities in terms of a Notification under the EP Act cannot be declined with pedantic rigidity, oblivious of the consequences of stopping the operation of mines, running factories and plants.*

*“57. The 1986 Act does not prohibit ex post facto Environmental Clearance. Grant of ex post facto EC in accordance with law, in strict compliance with Rules, Regulations, Notifications and/or applicable orders, in appropriate cases, where the projects are in compliance with, or can be made to comply with environment norms, is in our view not impermissible. The Court cannot be oblivious to the economy or the need to protect the livelihood of hundreds of employees and others employed in the project and others dependent on the project, if such projects comply with environmental norms.*

*60. Even though this Court deprecated ex post facto clearances, in Alembic Pharmaceuticals Ltd. (supra), this Court did not direct closure of the units concerned but explored measures to control the damage caused by the industrial units. This Court held:-*

*“However, since the expansion has been undertaken and the industry has been functioning, we do not deem it appropriate to order closure of the entire plant as directed by the High Court.”*

*64. The question in this case is, whether a unit contributing to the economy of the country and providing livelihood to hundreds of people, which has been set up pursuant to requisite approvals from the concerned statutory authorities, and has applied for ex post facto EC, should be closed down for the technical irregularity of want of prior environmental clearance, pending the issuance of EC, even though it may not cause pollution and/or may be found to comply with the required norms. The answer to the aforesaid question has to be in the negative, more so when the HSPCB was itself under the misconception that no environment clearance was required for the units in question. HSPCB has in its*

counter affidavit before the NGT clearly stated that a decision was taken to regularize units such as the Apcolite Yamuna Nagar and Pahwa Yamuna Nagar Units, since requisite approvals had been granted to those units, by the concerned authorities on the misconception that no EC was required.

65. It is reiterated that the 1986 Act does not prohibit ex post facto EC. Some relaxations and even grant of ex post facto EC in accordance with law, in strict compliance with Rules, Regulations, Notifications and/or applicable orders, in appropriate cases, where the projects are in compliance with environment norms, is not impermissible. As observed by this Court in Electrosteel Steels Limited (supra), this Court cannot be oblivious to the economy or the need to protect the livelihood of hundreds of employees and others employed in the units and dependent on the units in their survival.

66. Ex post facto EC should not ordinarily be granted, and certainly not for the asking. At the same time ex post facto clearances and/or approvals cannot be declined with pedantic rigidity, regardless of the consequences of stopping the operations. This Court is of the view that the NGT erred in law in directing that the units cannot be allowed to function till compliance of the statutory mandate.”

4.25 Further, it is also relevant to place reliance on the observations of the Hon’ble Apex Court in the matter of *Electrosteel Steels Limited Vs Union of India* – Civil Appeal Nos. 7576-7577 of 2021 (decided on 09.12.2021), which are as follows:

82. The question is whether an establishment contributing to the economy of the country and providing livelihood to hundreds of people should be closed down

for the technical irregularity of shifting its site without prior environmental clearance, without opportunity to the establishment to regularize its operation by obtaining the requisite clearances and permissions, even though the establishment may not otherwise be violating pollution laws, or the pollution, if any, can conveniently and effectively be checked. The answer has to be in the negative.

84. The 1986 Act does not prohibit *ex post facto* Environmental Clearance. Some relaxations and even grant of *ex post facto* EC in accordance with law, in strict compliance with Rules, Regulations Notifications and/or applicable orders, in appropriate cases, where the projects are in compliance with, or can be made to comply with environment norms, is in over view not impermissible. The Court cannot be oblivious to the economy or the need to protect the livelihood of hundreds of employees and others employed in the project and others dependent on the project, if such projects comply with environmental norms.

87. The Notification being SO 804(E) dated 14th March, 2017 was not an issue in *Alembic Pharmaceuticals (supra)*. This Court was examining the propriety and/or legality of a 2002 circular which was inconsistent with the EIA Notification dated 27th January, 1994, which was statutory. *Ex post facto* environmental clearance should not however be granted routinely, but in exceptional circumstances taking into account all relevant environmental factors. Where the adverse consequences of *ex post facto* approval outweigh the consequences of regularization of operation of an industry by grant of *ex post facto* approval and the industry or establishment concerned otherwise conforms to the requisite pollution norms, *ex post facto* approval should be given in accordance with law, in strict conformity with the applicable Rules, Regulations and/or Notifications. *Ex post facto* approval should not be withheld only as a penal measure. The deviant industry may be penalised by an imposition of heavy penalty on the principle of 'polluter

*pays' and the cost of restoration of environment may be recovered from it.*

*88. We are of the view that the High Court erred in passing the impugned order, vacating interim orders which had been in force for two years. The impugned order is not in conformity with the principle of proportionality. This is not a case where the steel plant was started without environmental clearance or consent of JSPCB. The Appellant had applied for and obtained environmental clearance to set up an integrated steel plant (3MTPA) on 1350 acres of land at Mauza South Parbatpur, as observed above. Environmental Clearance had been granted on 21st February 2008 and Consent to Operate had been granted by JSPCB on 5<sup>th</sup> May 2008.*

*95. The appeals are allowed. The impugned order is set aside. The Respondent No.1 shall take a decision on the application of the Appellant for revised EC in accordance with law, within three months from date. Pending such decision, the operation of the steel plant shall not be interfered with on the ground of want of EC, FC, CTE or CTO."*

5. This Hon'ble Tribunal vide its Order dated 29.03.2022 had only directed the Respondent No. 1 to hear and give reasons for *Closure Order dated 21.01.2022*. It was not a *carte blanche* to manufacture new grounds to justify closure (such as Environmental Clearance under EIA) which has been purportedly done. Besides, once the adequate and deterrent penalty has already been accepted for both counts of alleged violations mentioned in *Closure Order dated 21.01.2022* (and

accepted by Respondents), it is not open for them to continue with closure of Appellants Unit.

6. There are more than 300 workers employed by the Appellant. Life and livelihood of hundreds of families are at stake due to this closure order.
7. That by way of abundant caution and to obviate any further allegations of violation, the Appellant has already applied for Environmental Clearance (EC) vide application dated 10.05.2022. Acknowledgement of complete application was received by Appellant on 10.06.2022. Further, a notification has been issued stating that its request alongwith proposal shall be placed for consideration in the next EAC Meeting dated 13/14 June 2022. These documents have been filed alongwith Additional Affidavit dated 08.06.2022 before this Hon'ble Tribunal.
8. That decision of Respondent No. 1 to keep the Unit closed till receipt of EC is in egregious violation of the mandate of Hon'ble Supreme Court in the matter of *Electrosteel Steels Limited Vs Union of India* – Civil Appeal Nos. 7576-7577 of 2021 (decided on 09.12.2021) (Para No. 82 – 95) and in in the matter of *M/s Pahwa Plastics Private Limited Vs. Dastak NGO* – Civil Appeal No. 4791 of 2021 (decided on 25.03.2022).

9. It is respectfully prayed that the Impugned Order for Closure dated 21.01.2022 and 05.05.2022 be set aside. The Appellant be permitted to resume its operations, pending consideration of EC, CTO, CTE etc by the concerned authorities. Appellant shall remain bound by any further directions of this Tribunal, in respect of resumption of its operations.

For Rathi Special Steels Limited  
  
APPELLANT Director  
**RATHI SPECIAL STEELS LIMITED**



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Date: 15/06/2022  
Place: New Delhi

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Commission for Air Quality Management  
in NCR and Adjoining Area & Ors

... Respondents

**AFFIDAVIT**

I, Anurag Rathi Son of Late Shri Kamlesh Kumar Rathi aged about 48 years, Resident of 6, Sadhna Enclave New Delhi presently at New Delhi do hereby solemnly affirm and state as under:

1. That I am the Director and Authorised Representative of the Appellant in the above matter and am conversant with the facts and circumstances of the case. As such I am competent to sign, swear and affirm this affidavit.
2. That the accompanying Rejoinder has been drafted by my counsel upon my instructions. I have read and understood the contents of the application. I say that the facts stated therein are true and correct to my knowledge derived from official records.
3. That the documents filed along with the Rejoinder are the true copy of respective originals.

For Rathi Special Steels Limited

*Anurag Rathi*  
**DEPONENT**

**VERIFICATION:**

I, the deponent abovenamed, do hereby verify that the contents of Para 1 to 3 of my above affidavit are true to the best of my knowledge based on official records, nothing material has been concealed therefrom.

Verified at New Delhi on this the \_\_\_\_th day of JUNE 2022.



For Rathi Special Steels Limited  
*Anurag Rathi*  
**DEPONENT**  
Director

**ATTESTED**

**NOTARY PUBLIC  
DELHI (INDIA)**

15 JUN 2022



(Published in the Gazette of India, Extraordinary, Part-II, and Section 3, Sub-section (ii)  
**MINISTRY OF ENVIRONMENT AND FORESTS**  
 New Delhi 14<sup>th</sup> September, 2006

**Notification**

S.O. 1533(E). - Whereas, a draft notification **under sub-rule (3) of Rule 5 of the Environment (Protection) Rules, 1986 for imposing** certain restrictions and prohibitions on new projects or activities, or on the expansion or modernization of existing projects or activities based on their potential environmental impacts as indicated in the Schedule to the notification, being undertaken in any part of India<sup>1</sup>, unless prior environmental clearance has been accorded in accordance with the objectives of National Environment Policy **as approved by the Union Cabinet on 18<sup>th</sup> May, 2006** and the procedure specified in the notification, by the Central Government or the State or Union territory Level Environment Impact Assessment Authority (SEIAA), to be constituted by the Central Government in consultation with the State Government or the Union territory Administration concerned under sub-section (3) of section 3 of the Environment (Protection) Act, 1986 for the purpose of this notification, was published in the Gazette of India ,Extraordinary, Part II, section 3, sub-section (ii) vide number S.O. 1324 (E) dated the 15<sup>th</sup> September ,2005 inviting objections and suggestions from all persons likely to be affected thereby within a period of sixty days from the date on which copies of Gazette containing the said notification were made available to the public;

And whereas, copies of the said notification were made available to the public on 15<sup>th</sup> September, 2005;

And whereas, all objections and suggestions received in response to the above mentioned draft notification have been duly considered by the Central Government;

Now, therefore, in exercise of the powers conferred by sub-section (1) and clause (v) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986, read with clause (d) of sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986 and in supersession of the notification number S.O. 60 (E) dated the 27<sup>th</sup> January, 1994, except in respect of things done or omitted to be done before such supersession, the Central Government hereby directs that on and from the date of its publication the required construction of new projects or activities or the expansion or modernization of existing projects or activities listed in the Schedule to this notification entailing capacity addition with change in process and or technology shall be

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I; II; III (i), (ii); IV (a), (b); V (i), (ii), (iii)(a), (b), (c), (iv), (v), (vi) (a), (b), (vii), (viii) (a), (b), (ix), (x), (xi), (xii) (a), (b) , (xiii), (xiv) (a), (b), (xv) (a), (b), (xvi) (a), (b), (xvii); VI (a), (b); VII & VIII of the Notification, S.O. 3067(E) dated 01.12.2009 of the Ministry of Environment and Forests, (Published in the Gazette of India, Extraordinary, Part-II, and Section 3, Sub-section (ii), No. 2002] New Delhi, Tuesday, November 1, 2009; an amendment to EC notification S.O.1533(E) dated 14.09.2006

undertaken in any part of India only after the prior environmental clearance from the Central Government or as the case may be, by the State Level Environment Impact Assessment Authority, duly constituted by the Central Government under sub-section (3) of section 3 of the said Act, in accordance with the procedure specified hereinafter in this notification.

<sup>1</sup>Includes the territorial waters

**2. Requirements of prior Environmental Clearance (EC):-** The following projects or activities shall require prior environmental clearance from the concerned regulatory authority, which shall hereinafter referred to be as the Central Government in the Ministry of Environment and Forests for matters falling under Category 'A' in the Schedule and at State level the State Environment Impact Assessment Authority (SEIAA) for matters falling under Category 'B' in the said Schedule, before any construction work, or preparation of land by the project management except for securing the land, is started on the project or activity:

- (i) All new projects or activities listed in the Schedule to this notification;
- (ii) Expansion and modernization of existing projects or activities listed in the Schedule to this notification with addition of capacity beyond the limits specified for the concerned sector, that is, projects or activities which cross the threshold limits given in the Schedule, after expansion or modernization;
- (iii) Any change in product - mix in an existing manufacturing unit included in Schedule beyond the specified range.

**3. State Level Environment Impact Assessment Authority:-** (1) A State Level Environment Impact Assessment Authority hereinafter referred to as the SEIAA shall be constituted by the Central Government under sub-section (3) of section 3 of the Environment (Protection) Act, 1986 comprising of three Members including a Chairman and a Member – Secretary to be nominated by the State Government or the Union territory Administration concerned.

- (2) The Member-Secretary shall be a serving officer of the concerned State Government or Union territory administration familiar with environmental laws.
- (3) The other two Members shall be either a professional or expert fulfilling the eligibility criteria given in Appendix VI to this notification.

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I; II; III (i), (ii); IV (a), (b); V (i), (ii), (iii)(a), (b), (c), (iv), (v), (vi) (a), (b), (vii), (viii) (a), (b), (ix), (x), (xi), (xii) (a), (b), (xiii), (xiv) (a), (b), (xv) (a), (b), (xvi) (a), (b), (xvii); VI (a), (b); VII & VIII of the Notification, S.O. 3067(E) dated 01.12.2009 of the Ministry of Environment and Forests, (Published in the Gazette of India, Extraordinary, Part-II, and Section 3, Sub-section (ii), No. 2002] New Delhi, Tuesday, November 1, 2009; an amendment to EC notification S.O.1533(E) dated 14.09.2006

- (4) One of the specified Members in sub-paragraph (3) above who is an expert in the Environmental Impact Assessment process shall be the Chairman of the SEIAA.
- (5) The State Government or Union territory Administration shall forward the names of the Members and the Chairman referred in sub- paragraph 3 to 4 above to the Central Government and the Central Government shall constitute the SEIAA as an authority for the purposes of this notification within thirty days of the date of receipt of the names.
- (6) The non-official Member and the Chairman shall have a fixed term of three years (from the date of the publication of the notification by the Central Government constituting the authority).
- <sup>1</sup>“(7) All decisions of the SEIAA shall be taken in a meeting and shall ordinarily be unanimous:  
Provided that, in case a decision is taken by majority, the details of views, for and against it, shall be clearly recorded in the minutes and copy thereof sent to MoEF.”

#### **4. Categorization of projects and activities:-**

- (i) All projects and activities are broadly categorized in to two categories - Category A and Category B, based on the spatial extent of potential impacts and potential impacts on human health and natural and man made resources.
- (ii) All projects or activities included as Category ‘A’ in the Schedule, including expansion and modernization of existing projects or activities and change in product mix, shall require prior environmental clearance from the Central Government in the Ministry of Environment and Forests (MoEF) on the recommendations of an Expert Appraisal Committee (EAC) to be constituted by the Central Government for the purposes of this notification;
- (iii) All projects or activities included as Category ‘B’ in the Schedule, including expansion and modernization of existing projects or activities as specified in sub paragraph (ii) of paragraph 2, or change in product mix as specified in sub paragraph (iii) of paragraph 2, but excluding those which fulfill the General Conditions (GC) stipulated in the Schedule, *will* require prior environmental clearance from the State/Union territory Environment Impact Assessment Authority (SEIAA). The SEIAA shall base its decision on the recommendations of a State or Union territory level Expert Appraisal Committee (SEAC) as to be constituted for in this notification. <sup>II</sup> “In the absence of a duly constituted SEIAA

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I; II; III (i), (ii); IV (a), (b); V (i), (ii), (iii)(a), (b), (c), (iv), (v), (vi) (a), (b), (vii), (viii) (a), (b), (ix), (x), (xi), (xii) (a), (b), (xiii), (xiv) (a), (b), (xv) (a), (b), (xvi) (a), (b), (xvii); VI (a), (b); VII & VIII of the Notification, S.O. 3067(E) dated 01.12.2009 of the Ministry of Environment and Forests, (Published in the Gazette of India, Extraordinary, Part-II, and Section 3, Sub-section (ii), No. 2002] New Delhi, Tuesday, November 1, 2009; an amendment to EC notification S.O.1533(E) dated 14.09.2006

or SEAC, a Category 'B' project shall be considered at Central Level as a Category 'B' project;"

#### **5. Screening, Scoping and Appraisal Committees:-**

The same Expert Appraisal Committees (EACs) at the Central Government and SEACs (hereinafter referred to as the (EAC) and (SEAC) at the State or the Union territory level shall screen, scope and appraise projects or activities in Category 'A' and Category 'B' respectively. EAC and SEAC's shall meet at least once every month.

- (a) The composition of the EAC shall be as given in Appendix VI. The SEAC at the State or the Union territory level shall be constituted by the Central Government in consultation with the concerned State Government or the Union territory Administration with identical composition;
- (b) The Central Government may, with the prior concurrence of the concerned State Governments or the Union territory Administrations, constitutes one SEAC for more than one State or Union territory for reasons of administrative convenience and cost;
- (c) The EAC and SEAC shall be reconstituted after every three years;
- (d) The authorised members of the EAC and SEAC, concerned, may inspect any site(s) connected with the project or activity in respect of which the prior environmental clearance is sought, for the purposes of screening or scoping or appraisal, with prior notice of at least seven days to the applicant, who shall provide necessary facilities for the inspection;
- (e) The EAC and SEACs shall function on the principle of collective responsibility. The Chairperson shall endeavour to reach a consensus in each case, and if consensus cannot be reached, the view of the majority shall prevail.

#### **6. Application for Prior Environmental Clearance (EC):-**

An application seeking prior environmental clearance in all cases shall be made in the prescribed Form 1 annexed herewith and Supplementary Form 1A, if applicable, as given in Appendix II, after the identification of prospective site(s) for the project and/or activities to which the application relates, before commencing any construction activity, or preparation of land, at the site by the applicant. The applicant shall furnish, along with the application, a copy

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I; II; III (i), (ii); IV (a), (b); V (i), (ii), (iii)(a), (b), (c), (iv), (v), (vi) (a), (b), (vii), (viii) (a), (b), (ix), (x), (xi), (xii) (a), (b), (xiii), (xiv) (a), (b), (xv) (a), (b), (xvi) (a), (b), (xvii); VI (a), (b); VII & VIII of the Notification, S.O. 3067(E) dated 01.12.2009 of the Ministry of Environment and Forests, (Published in the Gazette of India, Extraordinary, Part-II, and Section 3, Sub-section (ii), No. 2002] New Delhi, Tuesday, November 1, 2009; an amendment to EC notification S.O.1533(E) dated 14.09.2006

of the pre-feasibility project report except that, in case of construction projects or activities (item 8 of the Schedule) in addition to Form 1 and the Supplementary Form 1A, a copy of the conceptual plan shall be provided, instead of the pre-feasibility report.

## **7. Stages in the Prior Environmental Clearance (EC) Process for New Projects:-**

**7(i)** The environmental clearance process for new projects will comprise of a maximum of four stages, all of which may not apply to particular cases as set forth below in this notification. These four stages in sequential order are:-

- Stage (1) Screening (Only for Category 'B' projects and activities)
- Stage (2) Scoping
- Stage (3) Public Consultation
- Stage (4) Appraisal

### **I. Stage (1) - Screening:**

In case of Category 'B' projects or activities, this stage will entail the scrutiny of an application seeking prior environmental clearance made in Form 1 by the concerned State level Expert Appraisal Committee (SEAC) for determining whether or not the project or activity requires further environmental studies for preparation of an Environmental Impact Assessment (EIA) for its appraisal prior to the grant of environmental clearance depending up on the nature and location specificity of the project . The projects requiring an Environmental Impact Assessment report shall be termed Category 'B1' and remaining projects shall be termed Category 'B2' and will not require an Environment Impact Assessment report. For categorization of projects into B1 or B2 except item 8 (b), the Ministry of Environment and Forests shall issue appropriate guidelines from time to time.

### **II. Stage (2) - Scoping:**

- (i) "Scoping": refers to the process by which the Expert Appraisal Committee in the case of Category 'A' projects or activities, and State level Expert Appraisal Committee in the case of Category 'B1' projects or activities, including applications for expansion and/or modernization and/or change in product mix of existing projects or activities, determine detailed and comprehensive Terms Of Reference (TOR) addressing all relevant environmental concerns for the preparation of an Environment Impact Assessment (EIA) Report in respect of the project or activity for which prior environmental clearance is sought. The Expert Appraisal Committee or State level Expert Appraisal Committee

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I; II; III (i), (ii); IV (a), (b); V (i), (ii), (iii)(a), (b), (c), (iv), (v), (vi) (a), (b), (vii), (viii) (a), (b), (ix), (x), (xi), (xii) (a), (b) , (xiii), (xiv) (a), (b), (xv) (a), (b), (xvi) (a), (b), (xvii); VI (a), (b); VII & VIII of the Notification, S.O. 3067(E) dated 01.12.2009 of the Ministry of Environment and Forests, (Published in the Gazette of India, Extraordinary, Part-II, and Section 3, Sub-section (ii), No. 2002] New Delhi, Tuesday, November 1, 2009; an amendment to EC notification S.O.1533(E) dated 14.09.2006

concerned shall determine the Terms of Reference on the basis of the information furnished in the prescribed application Form 1/Form 1A including Terms of Reference proposed by the applicant, a site visit by a sub-group of Expert Appraisal Committee or State level Expert Appraisal Committee concerned only if considered necessary by the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned, Terms of Reference suggested by the applicant if furnished and other information that may be available with the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned. All projects and activities listed as Category 'B' in Item 8 of the Schedule (Construction/Township/Commercial Complexes /Housing) shall not require Scoping and will be appraised on the basis of Form 1/ Form 1A and the conceptual plan.

- (ii) The Terms of Reference (TOR) shall be conveyed to the applicant by the Expert Appraisal Committee or State Level Expert Appraisal Committee as concerned within sixty days of the receipt of Form 1. In the case of Category A Hydroelectric projects Item 1(c) (i) of the Schedule the Terms of Reference shall be conveyed along with the clearance for pre-construction activities. If the Terms of Reference are not finalized and conveyed to the applicant within sixty days of the receipt of Form 1, the Terms of Reference suggested by the applicant shall be deemed as the final Terms of Reference approved for the EIA studies. The approved Terms of Reference shall be displayed on the website of the Ministry of Environment and Forests and the concerned State Level Environment Impact Assessment Authority.
- (iii) Applications for prior environmental clearance may be rejected by the regulatory authority concerned on the recommendation of the EAC or SEAC concerned at this stage itself. In case of such rejection, the decision together with reasons for the same shall be communicated to the applicant in writing within sixty days of the receipt of the application.

### III. **Stage (3) - Public Consultation:**

- (i) "Public Consultation" refers to the process by which the concerns of local affected persons and others who have plausible stake in the environmental impacts of the project or activity are ascertained with a view to taking into account all the material concerns in the project or activity design as appropriate. All Category 'A' and Category B1 projects or activities shall undertake Public Consultation, except the following:-

- (a) modernization of irrigation projects (item 1(c) (ii) of the Schedule).

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I; II; III (i), (ii); IV (a), (b); V (i), (ii), (iii)(a), (b), (c), (iv), (v), (vi) (a), (b), (vii), (viii) (a), (b), (ix), (x), (xi), (xii) (a), (b), (xiii), (xiv) (a), (b), (xv) (a), (b), (xvi) (a), (b), (xvii); VI (a), (b); VII & VIII of the Notification, S.O. 3067(E) dated 01.12.2009 of the Ministry of Environment and Forests, (Published in the Gazette of India, Extraordinary, Part-II, and Section 3, Sub-section (ii), No. 2002] New Delhi, Tuesday, November 1, 2009; an amendment to EC notification S.O.1533(E) dated 14.09.2006

- (b) all projects or activities located within industrial estates or parks (item 7(c) of the Schedule) approved by the concerned authorities, and which are not disallowed in such approvals.
- (c) expansion of Roads and Highways (item 7 (f) of the Schedule) which do not involve any further acquisition of land.
- III “(cc) maintenance dredging provided the dredged material shall be disposed within port limits.”;
- III “(d) All Building or Construction projects or Area Development projects (which do not contain any category ‘A’ projects and activities) and Townships (item 8(a) and 8(b) in the Schedule to the notification).”
- e) all Category ‘B2’ projects and activities.
- f) all projects or activities concerning national defence and security or involving other strategic considerations as determined by the Central Government.
- (ii) The Public Consultation shall ordinarily have two components comprising of:-
  - (a) a public hearing at the site or in its close proximity- district wise, to be carried out in the manner prescribed in Appendix IV, for ascertaining concerns of local affected persons;
  - (b) obtain responses in writing from other concerned persons having a plausible stake in the environmental aspects of the project or activity.
- (iii) the public hearing at, or in close proximity to, the site(s) in all cases shall be conducted by the State Pollution Control Board (SPCB) or the Union territory Pollution Control Committee (UTPCC) concerned in the specified manner and forward the proceedings to the regulatory authority concerned within 45(forty five ) of a request to the effect from the applicant.
- (iv) in case the State Pollution Control Board or the Union territory Pollution Control Committee concerned does not undertake and complete the public hearing within the specified period, and/or does not convey the proceedings of the public hearing within the prescribed period directly to the regulatory authority concerned as above, the regulatory

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I; II; III (i), (ii); IV (a), (b); V (i), (ii), (iii)(a), (b), (c), (iv), (v), (vi) (a), (b), (vii), (viii) (a), (b), (ix), (x), (xi), (xii) (a), (b), (xiii), (xiv) (a), (b), (xv) (a), (b), (xvi) (a), (b), (xvii); VI (a), (b); VII & VIII of the Notification, S.O. 3067(E) dated 01.12.2009 of the Ministry of Environment and Forests, (Published in the Gazette of India, Extraordinary, Part-II, and Section 3, Sub-section (ii), No. 2002] New Delhi, Tuesday, November 1, 2009; an amendment to EC notification S.O.1533(E) dated 14.09.2006

authority shall engage another public agency or authority which is not subordinate to the regulatory authority, to complete the process within a further period of forty five days,.

- (v) If the public agency or authority nominated under the sub paragraph (iii) above reports to the regulatory authority concerned that owing to the local situation, it is not possible to conduct the public hearing in a manner which will enable the views of the concerned local persons to be freely expressed, it shall report the facts in detail to the concerned regulatory authority, which may, after due consideration of the report and other reliable information that it may have, decide that the public consultation in the case need not include the public hearing.
- (vi) For obtaining responses in writing from other concerned persons having a plausible stake in the environmental aspects of the project or activity, the concerned regulatory authority and the State Pollution Control Board (SPCB) or the Union territory Pollution Control Committee (UTPCC) shall invite responses from such concerned persons by placing on their website the Summary EIA report prepared in the format given in Appendix IIIA by the applicant along with a copy of the application in the prescribed form, within seven days of the receipt of a written request for arranging the public hearing. Confidential information including non-disclosable or legally privileged information involving Intellectual Property Right, source specified in the application shall not be placed on the web site. The regulatory authority concerned may also use other appropriate media for ensuring wide publicity about the project or activity. The regulatory authority shall, however, make available on a written request from any concerned person the Draft EIA report for inspection at a notified place during normal office hours till the date of the public hearing. All the responses received as part of this public consultation process shall be forwarded to the applicant through the quickest available means.
- (vii) After completion of the public consultation, the applicant shall address all the material environmental concerns expressed during this process, and make appropriate changes in the draft EIA and EMP. The final EIA report, so prepared, shall be submitted by the applicant to the concerned regulatory authority for appraisal. The applicant may alternatively submit a supplementary report to draft EIA and EMP addressing all the concerns expressed during the public consultation.

#### **IV. Stage (4) - Appraisal:**

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I; II; III (i), (ii); IV (a), (b); V (i), (ii), (iii)(a), (b), (c), (iv), (v), (vi) (a), (b), (vii), (viii) (a), (b), (ix), (x), (xi), (xii) (a), (b), (xiii), (xiv) (a), (b), (xv) (a), (b), (xvi) (a), (b), (xvii); VI (a), (b); VII & VIII of the Notification, S.O. 3067(E) dated 01.12.2009 of the Ministry of Environment and Forests, (Published in the Gazette of India, Extraordinary, Part-II, and Section 3, Sub-section (ii), No. 2002] New Delhi, Tuesday, November 1, 2009; an amendment to EC notification S.O.1533(E) dated 14.09.2006



- (i) Appraisal means the detailed scrutiny by the Expert Appraisal Committee or State Level Expert Appraisal Committee of the application and other documents like the Final EIA report, outcome of the public consultations including public hearing proceedings, submitted by the applicant to the regulatory authority concerned for grant of environmental clearance. This appraisal shall be made by Expert Appraisal Committee or State Level Expert Appraisal Committee concerned in a transparent manner in a proceeding to which the applicant shall be invited for furnishing necessary clarifications in person or through an authorized representative. On conclusion of this proceeding, the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned shall make categorical recommendations to the regulatory authority concerned either for grant of prior environmental clearance on stipulated terms and conditions, or rejection of the application for prior environmental clearance, together with reasons for the same.
- (ii) The appraisal of all projects or activities which are not required to undergo public consultation, or submit an Environment Impact Assessment report, shall be carried out on the basis of the prescribed application Form 1 and Form 1A as applicable, any other relevant validated information available and the site visit wherever the same is considered as necessary by the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned.
- (iii) The appraisal of an application shall be completed by the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned within sixty days of the receipt of the final Environment Impact Assessment report and other documents or the receipt of Form 1 and Form 1 A, where public consultation is not necessary and the recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee shall be placed before the competent authority for a final decision within the next fifteen days .The prescribed procedure for appraisal is given in Appendix V ;

**7(ii). Prior Environmental Clearance (EC) process for Expansion or Modernization or Change of product mix in existing projects:**

All applications seeking prior environmental clearance for expansion with increase in the production capacity beyond the capacity for which prior environmental clearance has been granted under this notification or with increase in either lease area or production capacity in the case of mining projects or for the modernization of an existing unit with increase in

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I; II; III (i), (ii); IV (a), (b); V (i), (ii), (iii)(a), (b), (c), (iv), (v), (vi) (a), (b), (vii), (viii) (a), (b), (ix), (x), (xi), (xii) (a), (b) , (xiii), (xiv) (a), (b), (xv) (a), (b), (xvi) (a), (b), (xvii); VI (a), (b); VII & VIII of the Notification, S.O. 3067(E) dated 01.12.2009 of the Ministry of Environment and Forests, (Published in the Gazette of India, Extraordinary, Part-II, and Section 3, Sub-section (ii), No. 2002] New Delhi, Tuesday, November 1, 2009; an amendment to EC notification S.O.1533(E) dated 14.09.2006

the total production capacity beyond the threshold limit prescribed in the Schedule to this notification through change in process and or technology or involving a change in the product –mix shall be made in Form I and they shall be considered by the concerned Expert Appraisal Committee or State Level Expert Appraisal Committee within sixty days, who will decide on the due diligence necessary including preparation of EIA and public consultations and the application shall be appraised accordingly for grant of environmental clearance.

#### **8. Grant or Rejection of Prior Environmental Clearance (EC):**

- (i) The regulatory authority shall consider the recommendations of the EAC or SEAC concerned and convey its decision to the applicant within forty five days of the receipt of the recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned or in other words within one hundred and five days of the receipt of the final Environment Impact Assessment Report, and where Environment Impact Assessment is not required, within one hundred and five days of the receipt of the complete application with requisite documents, except as provided below.
- (ii) The regulatory authority shall normally accept the recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned. In cases where it disagrees with the recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned, the regulatory authority shall request reconsideration by the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned within forty five days of the receipt of the recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned while stating the reasons for the disagreement. An intimation of this decision shall be simultaneously conveyed to the applicant. The Expert Appraisal Committee or State Level Expert Appraisal Committee concerned, in turn, shall consider the observations of the regulatory authority and furnish its views on the same within a further period of sixty days. The decision of the regulatory authority after considering the views of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned shall be final and conveyed to the applicant by the regulatory authority concerned within the next thirty days.
- (iii) In the event that the decision of the regulatory authority is not communicated to the applicant within the period specified in sub-paragraphs (i) or (ii) above, as applicable, the

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I; II; III (i), (ii); IV (a), (b); V (i), (ii), (iii)(a), (b), (c), (iv), (v), (vi) (a), (b), (vii), (viii) (a), (b), (ix), (x), (xi), (xii) (a), (b), (xiii), (xiv) (a), (b), (xv) (a), (b), (xvi) (a), (b), (xvii); VI (a), (b); VII & VIII of the Notification, S.O. 3067(E) dated 01.12.2009 of the Ministry of Environment and Forests, (Published in the Gazette of India, Extraordinary, Part-II, and Section 3, Sub-section (ii), No. 2002] New Delhi, Tuesday, November 1, 2009; an amendment to EC notification S.O.1533(E) dated 14.09.2006

applicant may proceed as if the environment clearance sought for has been granted or denied by the regulatory authority in terms of the final recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned.

- (iv) On expiry of the period specified for decision by the regulatory authority under paragraph (i) and (ii) above, as applicable, the decision of the regulatory authority, and the final recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned shall be public documents.
- (v) Clearances from other regulatory bodies or authorities shall not be required prior to receipt of applications for prior environmental clearance of projects or activities, or screening, or scoping, or appraisal, or decision by the regulatory authority concerned, unless any of these is sequentially dependent on such clearance either due to a requirement of law, or for necessary technical reasons.
- (vi) Deliberate concealment and/or submission of false or misleading information or data which is material to screening or scoping or appraisal or decision on the application shall make the application liable for rejection, and cancellation of prior environmental clearance granted on that basis. Rejection of an application or cancellation of a prior environmental clearance already granted, on such ground, shall be decided by the regulatory authority, after giving a personal hearing to the applicant, and following the principles of natural justice.

## 9. Validity of Environmental Clearance (EC):

The "Validity of Environmental Clearance" is meant the period from which a prior environmental clearance is granted by the regulatory authority, or may be presumed by the applicant to have been granted under sub paragraph (iv) of paragraph 7 above, to the start of production operations by the project or activity, or completion of all construction operations in case of construction projects (item 8 of the Schedule), to which the application for prior environmental clearance refers. The prior environmental clearance granted for a project or activity shall be valid for a period of ten years in the case of River Valley projects (item 1(c) of the Schedule), project life as estimated by Expert Appraisal Committee or State Level Expert Appraisal Committee subject to a maximum of thirty years for mining projects and five years in the case of all other projects and activities. However, in the case of Area Development projects and Townships [item 8(b)], the validity

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I; II; III (i), (ii); IV (a), (b); V (i), (ii), (iii)(a), (b), (c), (iv), (v), (vi) (a), (b), (vii), (viii) (a), (b), (ix), (x), (xi), (xii) (a), (b), (xiii), (xiv) (a), (b), (xv) (a), (b), (xvi) (a), (b), (xvii); VI (a), (b); VII & VIII of the Notification, S.O. 3067(E) dated 01.12.2009 of the Ministry of Environment and Forests, (Published in the Gazette of India, Extraordinary, Part-II, and Section 3, Sub-section (ii), No. 2002] New Delhi, Tuesday, November 1, 2009; an amendment to EC notification S.O.1533(E) dated 14.09.2006

period shall be limited only to such activities as may be the responsibility of the applicant as a developer. This period of validity may be extended by the regulatory authority concerned by a maximum period of five years provided an application is made to the regulatory authority by the applicant within the validity period, together with an updated Form 1, and Supplementary Form 1A, for Construction projects or activities (item 8 of the Schedule). In this regard the regulatory authority may also consult the Expert Appraisal Committee or State Level Expert Appraisal Committee as the case may be.

#### **10. Post Environmental Clearance Monitoring:**

- IV “(i)(a) In respect of Category ‘A’ project, it shall be mandatory for the project proponent to make public the environment clearance granted for their project along with the environmental conditions and safeguards at their cost by prominently advertising it at least in two local newspapers of the district or State where the project is located and in addition, this shall also be displayed in the project proponent’s website permanently.
- (b) In respect of Category ‘B’ projects, irrespective of its clearance by MoEF / SEIAA, the project proponent shall prominently advertise in the newspapers indicating that the project has been accorded environment clearance and the details of the MoEF website where it is displayed.
- (c) The Ministry of Environment and Forests and the State/Union Territory Level Environmental Impact Assessment Authorities (SEIAAs), as the case may be, shall also place the environmental clearance in the public domain on Governmental portal.
- (d) The copies of the environmental clearance shall be submitted by the project proponents to the Heads of local bodies, Panchayats and Municipal Bodies in addition to the relevant offices of the Government who in turn has to display the same for 30 days from the date of receipt.”;
- IV (ii) It shall be mandatory for the project management to submit half-yearly compliance reports in respect of the stipulated prior environmental clearance terms and conditions in hard and soft copies to the regulatory authority concerned, on 1<sup>st</sup> June and 1<sup>st</sup> December of each calendar year.
- IV (iii) All such compliance reports submitted by the project management shall be public documents. Copies of the same shall be given to any person on application to the

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I; II; III (i), (ii); IV (a), (b); V (i), (ii), (iii)(a), (b), (c), (iv), (v), (vi) (a), (b), (vii), (viii) (a), (b), (ix), (x), (xi), (xii) (a), (b), (xiii), (xiv) (a), (b), (xv) (a), (b), (xvi) (a), (b), (xvii); VI (a), (b); VII & VIII of the Notification, S.O. 3067(E) dated 01.12.2009 of the Ministry of Environment and Forests, (Published in the Gazette of India, Extraordinary, Part-II, and Section 3, Sub-section (ii), No. 2002] New Delhi, Tuesday, November 1, 2009; an amendment to EC notification S.O.1533(E) dated 14.09.2006

concerned regulatory authority. The latest such compliance report shall also be displayed on the web site of the concerned regulatory authority.

**11. Transferability of Environmental Clearance (EC):**

A prior environmental clearance granted for a specific project or activity to an applicant may be transferred during its validity to another legal person entitled to undertake the project or activity on application by the transferor, or by the transferee with a written “no objection” by the transferor, to, and by the regulatory authority concerned, on the same terms and conditions under which the prior environmental clearance was initially granted, and for the same validity period. No reference to the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned is necessary in such cases.

**12. Operation of EIA Notification, 1994, till disposal of pending cases:**

From the date of final publication of this notification the Environment Impact Assessment (EIA) notification number S.O.60 (E) dated 27<sup>th</sup> January, 1994 is hereby superseded, except in suppression of the things done or omitted to be done before such suppression to the extent that in case of all or some types of applications made for prior environmental clearance and pending on the date of final publication of this notification, the Central Government may relax any one or all provisions of this notification except the list of the projects or activities requiring prior environmental clearance in Schedule I , or continue operation of some or all provisions of the said notification, for a period not exceeding one year from the date of issue of this notification.

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I; II; III (i), (ii); IV (a), (b); V (i), (ii), (iii)(a), (b), (c), (iv), (v), (vi) (a), (b), (vii), (viii) (a), (b), (ix), (x), (xi), (xii) (a), (b) , (xiii), (xiv) (a), (b), (xv) (a), (b), (xvi) (a), (b), (xvii); VI (a), (b); VII & VIII of the Notification, S.O. 3067(E) dated 01.12.2009 of the Ministry of Environment and Forests, (Published in the Gazette of India, Extraordinary, Part-II, and Section 3, Sub-section (ii), No. 2002] New Delhi, Tuesday, November 1, 2009; an amendment to EC notification S.O.1533(E) dated 14.09.2006

## SCHEDULE

(See paragraph 2 and 7)

## LIST OF PROJECTS OR ACTIVITIES REQUIRING PRIOR ENVIRONMENTAL CLEARANCE

Project or Activity		Category with threshold limit		Conditions if any
		A	B	
1		Mining, extraction of natural resources and power generation (for a specified production capacity)		
(1)	(2)	(3)	(4)	(5)
<sup>v</sup> “1(a)	(i) Mining of minerals.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  			

I; II; III (i), (ii); IV (a), (b); V (i), (ii), (iii)(a), (b), (c), (iv), (v), (vi) (a), (b), (vii), (viii) (a), (b), (ix), (x), (xi), (xii) (a), (b), (xiii), (xiv) (a), (b), (xv) (a), (b), (xvi) (a), (b), (xvii); VI (a), (b); VII & VIII of the Notification, S.O. 3067(E) dated 01.12.2009 of the Ministry of Environment and Forests, (Published in the Gazette of India, Extraordinary, Part-II, and Section 3, Sub-section (ii), No. 2002] New Delhi, Tuesday, November 1, 2009; an amendment to EC notification S.O.1533(E) dated 14.09.2006

(1)	(2)	(3)	(4)	(5)
1(d)	Thermal Power Plants	<sup>v</sup> " ≥ 500 MW (coal / lignite / naphtha & gas based); ≥ 50 MW (Pet coke diesel and all other fuels including refinery residual oil waste except biomass); ≥ 20 MW (based on biomass or non hazardous municipal waste as fuel).";	< 500 MW (coal / lignite / naphtha & gas based); <50 MW ≥ 5MW (Pet coke, diesel and all other fuels including refinery residual oil waste except biomass); ≥ 20 MW > 15 MW (based on biomass or non hazardous municipal waste as fuel).";	<sup>v</sup> "General Condition shall apply. Note: (i) Power plant up to 15 MW, based on biomass and using auxiliary fuel such as coal / lignite / petroleum products up to 15% are exempt. (ii) Power plant up to 15 MW, based on non-hazardous municipal waste and using auxiliary fuel such as coal / lignite / petroleum products up to 15% are exempt. (iii) Power plants using waste heat boiler without any auxiliary fuel are exempt.";
1(e)	Nuclear power projects and processing of nuclear fuel	All projects		
2		<b>Primary Processing</b>		
2(a)	Coal washeries	≥ 1 million ton/annum throughput of coal	<1million ton/annum throughput of coal	General Condition shall apply (If located within mining area the proposal shall be appraised together with the mining proposal)
2 (b)	Mineral beneficiation	≥ 0.1million ton/annum mineral throughput	< 0.1million ton/annum mineral throughput	General Condition shall apply (Mining proposal with Mineral beneficiation shall be appraised together for grant of clearance)

I; II; III (i), (ii); IV (a), (b); V (i), (ii), (iii)(a), (b), (c), (iv), (v), (vi) (a), (b), (vii), (viii) (a), (b), (ix), (x), (xi), (xii) (a), (b), (xiii), (xiv) (a), (b), (xv) (a), (b), (xvi) (a), (b), (xvii); VI (a), (b); VII & VIII of the Notification, S.O. 3067(E) dated 01.12.2009 of the Ministry of Environment and Forests, (Published in the Gazette of India, Extraordinary, Part-II, and Section 3, Sub-section (ii), No. 2002] New Delhi, Tuesday, November 1, 2009; an amendment to EC notification S.O.1533(E) dated 14.09.2006

<b>3</b>				
<b>Materials Production</b>				
<b>(1)</b>	<b>(2)</b>	<b>(3)</b>	<b>(4)</b>	<b>(5)</b>
3(a)	Metallurgical industries (ferrous & non ferrous)	a) Primary metallurgical industry  All projects  b) Sponge iron manufacturing $\geq 200$ TPD  c) Secondary metallurgical processing industry  All toxic and heavy metal producing units $\geq 20,000$ tonnes /annum	Sponge iron manufacturing <200TPD  Secondary metallurgical processing industry  i.) All toxic and heavy metal producing units <20,000 tonnes /annum  ii.) All other non –toxic secondary metallurgical processing industries >5000 tonnes/annum	<sup>v</sup> “General condition shall apply. Note: (i) The recycling industrial units registered under the HSM Rules, are exempted. (ii) In case of secondary metallurgical processing industrial units, those projects involving operation of furnaces only such as induction and electrical arc furnace, submerged arc furnace, and cupola with capacity more than 30,000 tonnes per annum (TPA) would require environmental clearance. (iii) Plant / units other than power plants (given against entry no. 1(d) of the schedule), based on municipal solid waste (non-hazardous) are exempted.”
3( b)	Cement plants	$\geq 1.0$ million tonnes/annum production capacity	<1.0 million tonnes/annum production capacity. All Stand alone grinding units	General Condition shall apply
<b>4</b>				
<b>Materials Processing</b>				
<b>(1)</b>	<b>(2)</b>	<b>(3)</b>	<b>(4)</b>	<b>(5)</b>
4(a)	Petroleum refining industry	All projects	-	-
4(b)	Coke oven plants	$\geq 2,50,000$ tonnes/annum	<2,50,000 & $\geq 25,000$ tonnes/annum	<sup>v</sup> “General Condition shall apply.”
4(c )	Asbestos milling and asbestos based products	All projects	-	-

I; II; III (i), (ii); IV (a), (b); V (i), (ii), (iii)(a), (b), (c), (iv), (v), (vi) (a), (b), (vii), (viii) (a), (b), (ix), (x), (xi), (xii) (a), (b), (xiii), (xiv) (a), (b), (xv) (a), (b), (xvi) (a), (b), (xvii); VI (a), (b); VII & VIII of the Notification, S.O. 3067(E) dated 01.12.2009 of the Ministry of Environment and Forests, (Published in the Gazette of India, Extraordinary, Part-II, and Section 3, Sub-section (ii), No. 2002] New Delhi, Tuesday, November 1, 2009; an amendment to EC notification S.O.1533(E) dated 14.09.2006



(1)	(2)	(3)	(4)	(5)
4(d)	Chlor-alkali industry	≥300 TPD production Capacity or a unit located out side the notified industrial area/ estate	<sup>v</sup> “(i) All projects irrespective of the size, if located in a Notified Industrial Area/ Estate. (ii) <300 tonnes per day (TPD) and located outside a Notified Industrial Area/ Estate.”	<sup>v</sup> “General as well as specific condition shall apply. No new Mercury Cell based plants will be permitted and existing units converting to membrane cell technology are exempted from this notification.”
4(e)	Soda ash Industry	All projects	-	-
4(f)	Leather/skin/hide processing industry	New projects outside the industrial area or expansion of existing units out side the industrial area	All new or expansion of projects located within a notified industrial area/ estate	<sup>v</sup> “General as well as specific condition shall apply.”
5		<b>Manufacturing / Fabrication</b>		
5(a)	Chemical fertilizers	<sup>v</sup> “All projects except Single Super Phosphate.”	<sup>v</sup> “Single Super Phosphate.”	-
5(b)	Pesticides industry and pesticide specific intermediates (excluding formulations)	All units producing technical grade pesticides	-	-
5(c)	Petro-chemical complexes (industries based on processing of petroleum fractions & natural gas and/or reforming to aromatics)	All projects -	-	-
5(d)	Manmade fibers manufacturing	Rayon	Others	General Condition shall apply
5(e)	Petrochemical based processing (processes other than cracking & reformation and not covered under the complexes)	Located out side the notified industrial area/ estate -	Located in a notified industrial area/ estate	<sup>v</sup> “General as well as specific condition shall apply.”

I; II; III (i), (ii); IV (a), (b); V (i), (ii), (iii)(a), (b), (c), (iv), (v), (vi) (a), (b), (vii), (viii) (a), (b), (ix), (x), (xi), (xii) (a), (b), (xiii), (xiv) (a), (b), (xv) (a), (b), (xvi) (a), (b), (xvii); VI (a), (b); VII & VIII of the Notification, S.O. 3067(E) dated 01.12.2009 of the Ministry of Environment and Forests, (Published in the Gazette of India, Extraordinary, Part-II, and Section 3, Sub-section (ii), No. 2002] New Delhi, Tuesday, November 1, 2009; an amendment to EC notification S.O.1533(E) dated 14.09.2006

(1)	(2)	(3)	(4)	(5)
5(f)	Synthetic organic chemicals industry (dyes & dye intermediates; bulk drugs and intermediates excluding drug formulations; synthetic rubbers; basic organic chemicals, other synthetic organic chemicals and chemical intermediates)	Located out side the notified industrial area/ estate	Located in a notified industrial area/ estate	<sup>v</sup> “General as well as specific condition shall apply.”
5(g)	Distilleries	(i) All Molasses based distilleries (ii) All Cane juice/ non-molasses based distilleries $\geq 30$ KLD	All Cane juice / non-molasses based distilleries – $< 30$ KLD	General Condition shall apply
5(h)	Integrated paint industry	-	All projects	General Condition shall apply
5(i)	Pulp & paper industry excluding manufacturing of paper from waste paper and manufacture of paper from ready pulp with out bleaching	Pulp manufacturing and Pulp & Paper manufacturing industry	Paper manufacturing industry without pulp manufacturing	General Condition shall apply
5(j)	Sugar Industry	-	$\geq 5000$ tcd cane crushing capacity	General Condition shall apply
5(k)	<sup>v</sup> Omitted			
6	<b>Service Sectors</b>			
6(a)	Oil & gas transportation pipe line (crude and refinery/ petrochemical products), passing through national parks / sanctuaries / coral reefs / ecologically sensitive areas including LNG Terminal	All projects		-

I; II; III (i), (ii); IV (a), (b); V (i), (ii), (iii)(a), (b), (c), (iv), (v), (vi) (a), (b), (vii), (viii) (a), (b), (ix), (x), (xi), (xii) (a), (b), (xiii), (xiv) (a), (b), (xv) (a), (b), (xvi) (a), (b), (xvii); VI (a), (b); VII & VIII of the Notification, S.O. 3067(E) dated 01.12.2009 of the Ministry of Environment and Forests, (Published in the Gazette of India, Extraordinary, Part-II, and Section 3, Sub-section (ii), No. 2002] New Delhi, Tuesday, November 1, 2009; an amendment to EC notification S.O.1533(E) dated 14.09.2006

(1)	(2)	(3)	(4)	(5)
6(b)	Isolated storage & handling of hazardous chemicals (As per threshold planning quantity indicated in column 3 of schedule 2 & 3 of MSIHC Rules 1989 amended 2000)	-	All projects	General Condition shall apply
7		<b>Physical Infrastructure including Environmental Services</b>		
7(a)	Air ports	<sup>v</sup> "All projects including airstrips, which are for commercial use."	-	<sup>v</sup> "Note: Air strips, which do not involve bunkering/ refueling facility and or Air Traffic Control, are exempted."
7(b)	All ship breaking yards including ship breaking units	All projects	-	-
7©	Industrial estates/ parks/ complexes/ areas, export processing Zones (EPZs), Special Economic Zones (SEZs), Biotech Parks, Leather Complexes.	If at least one industry in the proposed industrial estate falls under the Category A, entire industrial area shall be treated as Category A, irrespective of the area.  Industrial estates with area greater than 500 ha. and housing at least one Category B industry.	Industrial estates housing at least one Category B industry and area <500 ha.  Industrial estates of area > 500 ha. and not housing any industry belonging to Category A or B.	<sup>v</sup> "Genral as well as special conditions shall apply.  Note: 1. Industrial Estate of area below 500 ha. and not housing any industry of Category 'A' or 'B' does not require clearance. 2. If the area is less than 500 ha. but contains building and construction projects > 20,000 Sq. mts. And or development area more than 50 ha it will be treated as activity listed at serial no. 8(a) or 8(b) in the Schedule, as the case may be."
7(d)	Common hazardous waste treatment, storage and disposal facilities (TSDFs)	All integrated facilities having incineration & landfill or incineration alone	All facilities having land fill only	General Condition shall apply

I; II; III (i), (ii); IV (a), (b); V (i), (ii), (iii)(a), (b), (c), (iv), (v), (vi) (a), (b), (vii), (viii) (a), (b), (ix), (x), (xi), (xii) (a), (b), (xiii), (xiv) (a), (b), (xv) (a), (b), (xvi) (a), (b), (xvii); VI (a), (b); VII & VIII of the Notification, S.O. 3067(E) dated 01.12.2009 of the Ministry of Environment and Forests, (Published in the Gazette of India, Extraordinary, Part-II, and Section 3, Sub-section (ii), No. 2002] New Delhi, Tuesday, November 1, 2009; an amendment to EC notification S.O.1533(E) dated 14.09.2006

(1)	(2)	(3)	(4)	(5)
7(e)	<sup>v</sup> “Ports, harbours, break waters, dredging.”	≥ 5 million TPA of cargo handling capacity (excluding fishing harbours)	< 5 million TPA of cargo handling capacity and/or ports/ harbours ≥10,000 TPA of fish handling capacity	<sup>v</sup> “General Condition shall apply. Note: 1. Capital dredging inside and outside the ports or harbors and channels are included; 2. Maintenance dredging is exempt provided it formed part of the original proposal for which Environment Management Plan (EMP) was prepared and environmental clearance obtained.”
7(f)	Highways	i) New National High ways; and ii) Expansion of National High ways greater than 30 KM, involving additional right of way greater than 20m involving land acquisition and passing through more than one State.	<sup>v</sup> “ i) All State Highway Project; and ii) State Highway expansion projects in hilly terrain (above 1,000 m AMSL) and or ecologically sensitive areas.”	General Condition shall apply. Note: Highways include expressways.”
7(g)	Aerial ropeways	<sup>v(xvi)(a)</sup> “(i) All projects located at altitude of 1,000 mtr. And above. (ii) All projects located in notified ecologically sensitive areas.”	<sup>v(xvi)(b)</sup> “All projects except those covered in column (3).”	General Condition shall apply
7(h)	Common Effluent Treatment Plants (CETPs)		All projects	General Condition shall apply
7(i)	Common Municipal Solid Waste Management Facility (CMSWMF)		All projects	General Condition shall apply
8		<b>Building /Construction projects/Area Development projects and Townships</b>		
8(a)	Building and Construction projects		≥20000 sq.mtrs and <1,50,000 sq.mtrs. of built-up area#	#(built up area for covered construction; in the case of facilities open to the sky, it will be the activity area)
8(b)	Townships and Area Development projects.		Covering an area ≥ 50 ha and or built up area ≥1,50,000 sq .mtrs ++	++All projects under Item 8(b) shall be appraised as Category B1

I; II; III (i), (ii); IV (a), (b); V (i), (ii), (iii)(a), (b), (c), (iv), (v), (vi) (a), (b), (vii), (viii) (a), (b), (ix), (x), (xi), (xii) (a), (b), (xiii), (xiv) (a), (b), (xv) (a), (b), (xvi) (a), (b), (xvii); VI (a), (b); VII & VIII of the Notification, S.O. 3067(E) dated 01.12.2009 of the Ministry of Environment and Forests, (Published in the Gazette of India, Extraordinary, Part-II, and Section 3, Sub-section (ii), No. 2002] New Delhi, Tuesday, November 1, 2009; an amendment to EC notification S.O.1533(E) dated 14.09.2006

**Note:-****V(xvii) “General Condition (GC):**

Any project or activity specified in Category ‘B’ will be treated as Category A, if located in whole or in part within 10 km from the boundary of: (i) Protected Areas notified under the Wild Life (Protection) Act, 1972, (ii) Critically Polluted areas as identified by the Central Pollution Control Board from time to time, (iii) Eco-sensitive areas as notified under section 3 of the Environment (Protection) Act, 1986, such as, Mahabaleshwar Panchgani, Matheran, Pachmarhi, Dahanu, Doon Valley, and (iv) inter-State boundaries and international boundaries:

Provided that the requirement regarding distance of 10 km of the inter-State boundaries can be reduced or completely done away with by an agreement between the respective States or U.Ts sharing the common boundary in case the activity does not fall within 10 kilometres of the areas mentioned at item (i), (ii) and (iii) above.”

**Specific Condition (SC):**

If any Industrial Estate/Complex / Export processing Zones /Special Economic Zones/Biotech Parks / Leather Complex with homogeneous type of industries such as Items 4(d), 4(f), 5(e), 5(f), or those Industrial estates with pre –defined set of activities (not necessarily homogeneous, obtains prior environmental clearance, individual industries including proposed industrial housing within such estates /complexes will not be required to take prior environmental clearance, so long as the Terms and Conditions for the industrial estate/complex are complied with (Such estates/complexes must have a clearly identified management with the legal responsibility of ensuring adherence to the Terms and Conditions of prior environmental clearance, who may be held responsible for violation of the same throughout the life of the complex/estate).

[No. J-11013/56/2004-IA-II (I)]

(R.CHANDRAMOHAN)

JOINT SECRETARY TO THE GOVERNMENT OF INDIA

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I; II; III (i), (ii); IV (a), (b); V (i), (ii), (iii)(a), (b), (c), (iv), (v), (vi) (a), (b), (vii), (viii) (a), (b), (ix), (x), (xi), (xii) (a), (b), (xiii), (xiv) (a), (b), (xv) (a), (b), (xvi) (a), (b), (xvii); VI (a), (b); VII & VIII of the Notification, S.O. 3067(E) dated 01.12.2009 of the Ministry of Environment and Forests, (Published in the Gazette of India, Extraordinary, Part-II, and Section 3, Sub-section (ii), No. 2002] New Delhi, Tuesday, November 1, 2009; an amendment to EC notification S.O.1533(E) dated 14.09.2006

## MINISTRY OF ENVIRONMENT AND FORESTS

## NOTIFICATION

New Delhi, the 1st December, 2009

S.O. 3067(E).— Whereas, in exercise of the powers conferred by sub-section (1) and clause (v) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986 (29 of 1986), a draft notification for making certain amendments in the Environment Impact Assessment notification, 2006 issued vide no. S.O. 1533 (E), dated the 14<sup>th</sup> September, 2006, was published under sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986, vide number S.O. 195 (E), dated the 19<sup>th</sup> January, 2009, inviting objections and suggestions from all the persons likely to be affected thereby, within a period of 60 days from the date of publication of the said notification in the Gazette of India;

And whereas, all objections and suggestions received in response to the above mentioned draft notification have been duly considered by the Central Government;

Now, therefore, in exercise of the powers conferred by sub-section (1) and clause (v) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986, read with clause (d) of sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986, the Central Government hereby makes the following amendments in the said notification, namely:-

In the said notification, -

**I in para 3, for sub-para (7), the following shall be substituted, namely:—**

"(7) All decisions of the SEIAA shall be taken in a meeting and shall ordinarily be unanimous:

Provided that, in case a decision is taken by majority, the details of views, for and against it, shall be clearly recorded in the minutes and a copy thereof sent to MoEF."

**II in para 4, in sub-para (iii), for the words and letters "In the absence of a duly constituted SEIAA or SEAC, a Category 'B' project shall be treated as a Category 'A' project", the words and letters "In the absence of a duly constituted SEIAA or SEAC, a Category 'B' project shall be considered at the Central Level as a Category 'B' project" shall be substituted.**

**III in para 7(i), in sub-para III relating to Stage (3) - Public Consultation, in clause (i),—**

(i) after item (c), the following item shall be inserted, namely:—

"(cc) maintenance dredging provided the dredged material shall be disposed within port limits.";

(ii) for item (d), the following item shall be substituted, namely:—

"(d) All Building or Construction projects or Area Development projects (which do not contain any category 'A' projects and activities) and Townships (item 8(a) and 8(b) in the Schedule to the notification).".

**IV In para 10 relating to Post Environmental Clearance Monitoring,-**

(a) the existing sub-para (i) shall be renumbered as sub-para (ii) and before sub-para (ii) as so re-numbered, the following sub-para shall be inserted namely;

"(i) (a) In respect of Category 'A' projects, it shall be mandatory for the project proponent to make public the environmental clearance granted for their project along with the environmental conditions and safeguards at their cost by prominently advertising it at least in two local newspapers of the district or State where the project is located and in addition, this shall also be displayed in the project proponent's website permanently. (b) In respect of Category 'B' projects, irrespective of its clearance by MoEF / SEIAA, the project proponent shall prominently advertise in the newspapers indicating that the project has been accorded environment clearance and the details of MoEF website where it is displayed. (c) The Ministry of Environment and Forests and the State/Union Territory Level Environmental Impact Assessment Authorities (SEIAAs), as the case may be, shall also place the environmental clearance in the public domain on Government portal. (d) The copies of the environmental clearance shall be submitted by the project proponents to the Heads of local bodies, Panchayats and Municipal Bodies in addition to the relevant offices of the Government who in turn has to display the same for 30 days from the date of receipt.";

(b) existing sub-para (ii) shall be renumbered as sub-para (iii).

**V in the Schedule,—**

(i) for item 1(a) and the entries relating thereto, the following item and entries shall be substituted, namely:—

(1)	(2)	(3)	(4)	(5)
"1(a)	(i) Mining minerals. of	<p>≥50 ha of mining lease area in respect of non-coal mine lease.</p> <p>&gt;150 ha of mining lease area in respect of coal mine lease.</p> <p>Asbestos mining irrespective of mining area.</p>	<p>&lt;50 ha ≥5 ha of mining lease area in respect of non-coal mine lease.</p> <p>≤150 ha ≥5 ha of mining lease area in respect of coal mine lease.</p>	<p>General Condition shall apply.</p> <p>Note: Mineral prospecting is exempted.";</p>
	(ii) Slurry pipelines (coal lignite and other ores) passing through national parks/ sanctuaries/ coral reefs, ecologically sensitive areas.	All projects.		

(ii) against item 1(c), for the entries in column (5), the following entries shall be substituted, namely:—

**"General Condition shall apply.**

Note: Irrigation projects not involving submergence or inter-state domain shall be appraised by the SEIAA as Category 'B' Projects.";

(iii) against item 1(d),—

(a) in column (3), for the entries, the following entries shall be substituted, namely—

- "≥ 500 MW (coal/lignite/naphtha and gas based);
- ≥ 50 MW (Pet coke, diesel and all other fuels including refinery residual oil waste except biomass);



≥ 20 MW (based on biomass or non hazardous municipal solid waste as fuel).";

**(b) in column (4), for the entries, the following entries shall be substituted, namely:—**

"<500MW (coal/lignite/naphtha and gas based);  
 <50 MW ≥ 5 MW (Pet coke, diesel and all other fuels including refinery residual oil waste except biomass);  
 <20MW > 15MW (based on biomass or non hazardous municipal solid waste as fuel).";

**(c) in column (5), for the entries, the following entries shall be substituted, namely:—**

"General Condition shall apply.

Note:

- (i) Power plants up to 15 MW, based on biomass and using auxiliary fuel such as coal / lignite / petroleum products up to 15% are exempt.
- (ii) Power plants up to 15 MW, based on non-hazardous municipal waste and using auxiliary fuel such as coal / lignite / petroleum products up to 15% are exempt.
- (iii) Power plants using waste heat boiler without any auxiliary fuel are exempt.";

**(iv) against item 3(a), in column (5), for the entries, the following entries shall be substituted, namely:—**

"General condition shall apply.

Note:

- (i) The recycling industrial units registered under the HSM Rules, are exempted.
- (ii) In case of secondary metallurgical processing industrial units, those projects involving operation of furnaces only such as induction and electric arc furnace, submerged arc furnace, and cupola with capacity more than 30,000 tonnes per annum (TPA) would require environmental clearance.
- (iii) Plant / units other than power plants (given against entry no. 1(d) of the schedule), based on municipal solid waste (non-hazardous) are exempted."

- (v) against item 4(b), in column (5), for the entry, the following entry shall be substituted, namely:—

“General conditions shall apply.”;

- (vi) against item 4(d),—

- (a) in column (4), for the entry, the following entry shall be substituted, namely:—

“(i) All projects irrespective of the size, if it is located in a Notified Industrial Area/Estate.

(ii) < 300 tonnes per day (TPD) and located outside a Notified Industrial Area/ Estate.”;

- (b) in column (5), for the entry, the following entry shall be substituted, namely:—

“General as well as specific conditions shall apply.

No new Mercury Cell based plants will be permitted and existing units converting to membrane cell technology are exempt from the notification.”;

- (vii) against item 4(f), in column (5), for the existing entry, the following entry shall be substituted, namely:—

“General as well as specific conditions shall apply.”;

- (viii) against item 5(a),—

- (a) in column (3), for the existing entry, the following entry shall be substituted, namely:—

“All projects except Single Super Phosphate.”;

- (b) in column (4), for the entry, the following entry shall be substituted, namely:—

“Single Super Phosphate.”;

- (ix) against item 5(e), in column (5), for the existing entry, the following entry shall be substituted, namely:—

"General as well as specific conditions shall apply.";

- (x) against item 5(f), in column (5), for the existing entry, the following entry shall be substituted, namely:—

"General and specific conditions shall apply." ;

- (xi) item 5(k) and the entries relating thereto shall be omitted;

- (xii) against item 7(a),—

(a) in column (3), for the entry, the following entry shall be substituted, namely:—

"All projects including airstrips, which are for commercial use.";

(b) in column (5), for the entry, the following entry shall be substituted, namely:—

"Note:

Air strips, which do not involve bunkering/ refueling facility and or Air Traffic Control, are exempted.";

- (xiii) against item 7(c), in column (5), for the entry, the following entry shall be substituted, namely:—

"General as well as specific conditions shall apply.

Note:

1. Industrial Estate of area below 500 ha. and not housing any industry of Category 'A' or 'B' does not require clearance.
2. If the area is less than 500 ha. but contains building and construction projects > 20,000 Sq. mtr. and or development area more than 50 ha it will be treated as activity listed at serial no. 8(a) or 8(b) in the Schedule, as the case may be.";

**(xiv) against item 7(e),—**

**(a) in column (2), for the entry, the following entry shall be substituted, namely:—**

"Ports, harbours, break waters, dredging."

**(b) in column (5), for the entry, the following entry shall be substituted, namely:—**

"General Condition shall apply."

Note:

1. Capital dredging inside and outside the ports or harbors and channels are included;
2. Maintenance dredging is exempt provided it formed part of the original proposal for which Environment Management Plan (EMP) was prepared and environmental clearance obtained.";

**(xv) against item 7(f),**

**(a) in column (4), for the entry, the following entry shall be substituted namely:-**

- "(i) All State Highway Projects; and
- (ii) State Highway expansion projects in hilly terrain (above 1,000 m AMSL) and or ecologically sensitive areas.";

**(b) in column (5) for the existing entry, the following entry shall be substituted, namely:-**

"General Condition shall apply."

Note:

Highways include expressways.";

**(xvi) against item 7(g),—**

**(a) in column (3), for the entry, the following entry shall be substituted, namely:—**

- "(i) All projects located at altitude of 1,000 mtr. and above.  
(ii) All projects located in notified ecologically sensitive areas.";

**(b) in column (4), for the entry, the following entry shall be substituted, namely:—**

"All projects except those covered in column (3).";

**(xvii) after the Schedule, in the 'Note', for sub-heading relating to 'General Condition (GC)', the following shall be substituted, namely:—**

**"General Condition (GC):**

Any project or activity specified in Category 'B' will be treated as Category 'A', if located in whole or in part within 10 km from the boundary of: (i) Protected areas notified under the Wildlife (Protection) Act, 1972; (ii) Critically polluted areas as identified by the Central Pollution Control Board from time to time; (iii) Eco-sensitive areas as notified under section 3 of the Environment (Protection) Act, 1986, such as, Mahabaleshwar Panchgani, Matheran, Pachmarhi, Dahanu, Doon Valley, and (iv) inter-State boundaries and international boundaries:

Provided that the requirement regarding distance of 10 km of the inter-State boundaries can be reduced or completely done away with by an agreement between the respective States or U.Ts sharing the common boundary in case the activity does not fall within 10 kilometres of the areas mentioned at item (i), (ii) and (iii) above."

**VI in the Appendix I, in Form I,—**

**(a) for item (I) relating to the Basic Information, the following shall be substituted, namely:—**

**"(I) Basic Information**

Serial Number	Item	Details
1.	Name of the project/s	
2.	S. No. in the schedule	

3.	Proposed capacity/area/length/tonnage to be handled/command area/lease area/number of wells to be drilled	
4.	New/Expansion/Modernization	
5.	Existing Capacity/Area etc.	
6.	Category of Project i.e. 'A' or 'B'	
7.	Does it attract the general condition? If yes, please specify.	
8.	Does it attract the specific condition? If yes, please specify.	
9.	Location	
	Plot/Survey/Khasra No.	
	Village	
	Tehsil	
	District	
	State	
10.	Nearest railway station/airport along with distance in kms.	
11.	Nearest Town, city, District Headquarters along with distance in kms.	
12.	Village Panchayats, Zilla Parishad, Municipal Corporation, Local body (complete postal addresses with telephone nos. to be given)	
13.	Name of the applicant	
14.	Registered Address	
15.	Address for correspondence :	
	Name	
	Designation (Owner/Partner/CEO)	
	Address	
	Pin Code	
	E-mail	
	Telephone No.	
	Fax No.	
16.	Details of Alternative Sites examined, if any. Location of these sites should be shown on a topo sheet.	Village-District-State 1. 2. 3. ";
17.	Interlinked Projects	
18.	Whether separate application of interlinked project has been submitted?	
19.	If yes, date of submission	
20.	If no, reason	

21.	Whether the proposal involves approval/clearance under: if yes, details of the same and their status to be given. (a) The Forest (Conservation) Act, 1980 ? (b) The Wildlife (Protection) Act, 1972 ? (c) The C.R.Z Notification, 1991 ?	
22.	Whether there is any Government Order/Policy relevant/relating to the site?	
23.	Forest land involved (hectares)	
24.	Whether there is any litigation pending against the project and/or land in which the project is propose to be set up? (a) Name of the Court (b) Case No. (c) Orders/directions of the Court, if any and its relevance with the proposed project.	

**(b) the following shall be inserted at the end, namely:—**

"I hereby given undertaking that the data and information given in the application and enclosures are true to the best of my knowledge and belief and I am aware that if any part of the data and information submitted is found to be false or misleading at any stage, the project will be rejected and clearance give, if any to the project will be revoked at our risk and cost.

Date: \_\_\_\_\_

Place: \_\_\_\_\_

Signature of the applicant  
With Name and Full Address  
(Project Proponent / Authorised Signatory)

**NOTE:**

1. The projects involving clearance under Coastal Regulation Zone Notification, 1991 shall submit with the application a C.R.Z map duly demarcated by one of the authorized agencies, showing the project activities, w.r.t. C.R.Z (at the stage of TOR) and the recommendations of the State Coastal Zone Management Authority (at the stage of EC). Simultaneous action shall also be taken to obtain the requisite clearance under the provisions of the C.R.Z Notification, 1991 for the activities to be located in the CRZ.
2. The projects to be located within 10 km of the National Parks, Sanctuaries, Biosphere Reserves, Migratory Corridors of Wild Animals, the project proponent shall submit the map duly authenticated by Chief Wildlife Warden showing these features vis-à-vis the project location and the

## ANNEXURE B

1

BEFORE THE COMMISSION FOR AIR QUALITY MANAGEMENT IN  
NATIONAL CAPITAL REGION AND ADJOINING AREAS  
17<sup>TH</sup> FLOOR, JAWAHAR VYAPAR BHAWAN (STC BUILDING)  
TOLSTOY MARG, NEW DELHI- 110001

IN RE:

IN THE MATTER OF THE IMPUGNED ORDER DATED 21.01.2022  
PASSED BY YOUR GOOD OFFICE AND SUBSEQUENT ORDER DATED  
29.03.2022 PASSED BY THE HON'BLE NATIONAL GREEN TRIBUNAL,  
BHOPAL.

REPRESENTATION ON BEHALF OF M/S RATHI SPECIAL STEELS LTD.

The present representation is being filed by the Appellant through its Director and authorised signatory Mr. Anurag Rathie aged 48 years, S/o Late Shri Kamlesh Kumar Rathie, R/o 6 Sadhna Enclave, New Delhi. A copy of the board resolution dated 11.04.2022 duly authorizing Mr. Anurag Rathie to represent the Appellant is enclosed herewith and marked as Annexure- 1.

The instant representation arises out of the impugned order dated 21.01.2022 (F.No. 16014/14/2021/MERD/IP/CLOSURE/6386-6390) passed by your good office directing closure of the Appellant unit under section 12(2)(xi) of



the Commission for Air Quality Management in National Capital Region and Adjoining areas Act, 2021.

Aggrieved by the aforesaid order, M/s RATHI SPECIAL STEELS LTD. (hereinafter referred to as "Appellant"), filed an appeal before the Hon'ble National Green Tribunal Central Zone Bench, at Bhopal. The said appeal was instituted as Appeal No. 04/2022 titled as Rathi Special Steels Ltd. vs Commission for Air Quality management in NCR & Ors.

Vide order dated 29.03.2022, the Hon'ble Tribunal was pleased to issue notices and pass an interim order in favour of the Appellant and it was permitted to resume the operations of its unit. Relevant portion of the order is reproduced herein below for ease of reference-

*"...The appellant has pressed the interim relief as mentioned in the application with the prayer that an appropriate direction and order be passed to stay the operation of the order dated 21.01.2022 and the appellant may be permitted to resume the operation of industry. The Learned Counsel of the appellant has relied on 2021 SCC online NGT 316 (Appeal No. 34/2021 order dated 17.12.2021) wherein this Tribunal observed as follows:*

*"On due consideration but without expressing any opinion on merits, we find it appropriate to direct Respondent No. 2 – Commission to take a decision on the stand of the appellant in accordance with law. The appellant may appear before the Commission for further consideration on 20.12.2021 at 11 AM for further proceedings. Pending further*

*consideration and subject to further orders of the Commission, having regard to stand of the appellant, the appellant is permitted to resume operations. The Commission may pass further order in the matter within one week".*

*5. In view of the above observation, we direct the appellant to appear before the Commission on 18.04.2022 at 11:00 AM for further proceedings and consideration before the Respondent/Commission and we direct the Respondent /Commission to take a decision on stand of the appellant in accordance with law. Having regard to stand of the appellant, the appellant is permitted to resume the operations, pending further consideration and subject to further orders of the commission..."*

Photocopy of the order dated 29.03.2022 is annexed herewith and marked as Annexure-2.

In compliance of the aforesaid order, the Appellant is submitting its representation as follows-

FACTUAL MATRIX-

1. That M/s RATHI SPECIAL STEELS LTD. (hereinafter referred to as "Appellant"), is *inter alia* engaged in manufacturing and trading of thermo-mechanical treatment (TMT) reinforcement steel bars and low carbon billets. The Appellant unit is a reheating furnace engaged in rolling operation.

The manufacturing process of the Appellant unit is described in brief herein below-

Having received cold ingot on shop floor from ingot yard, the re-heating furnace are prepared to run. Initially, the coal are pulverize in a machine known by the name pulverizer which is just like dust, thereafter blower is started which creates fire fumes and fire furnace. Billets are fed to re-heating furnace which gets heated and thereafter the same is shock upto a temperature of about 1150 °C. The Billets/ingots are heated to the required rolling temperature of about 1150 °C and are discharged from the re-heating furnace one by one. Hot billet/ingot is conveyed to the first stand of the roughing mill i.e. R<sub>1</sub> through the mill approach table. Six to-and-fro passes are given at R<sub>1</sub>. Seventh pass from R<sub>1</sub> is repeated to R<sub>2</sub> through a repeater. Which is further repeated to R<sub>2</sub> making it eighth pass. Ninth pass is repeated from 2<sup>nd</sup> Stand to 3<sup>rd</sup> Stand through repeater. After R<sub>3</sub>, bar is conveyed to the intermediate mill through channels. On the way, front and rear ends are cropped at the rotary shears. Pinch rolls help to push the bar when it has left R<sub>3</sub>. After the material leaves the 3<sup>rd</sup> roughing stand it passes through 6 stands of intermediate mill and four stands of finishing mill to enter into water cooled pipes for making Thermex

Bars. There are two sets of pipes. One is for making 8mm to 12mm dia bars and other for making 16mm to 32mm dia bars.

After passing through the cooling pipes, the Thermex Bars are sent to cooling beds in straight lengths where these are cut by cold shears into marketable lengths and are subsequently ready to dispatch.

2. That the Appellant has a steel rolling mill at Khushkhera, Alwar district, Rajasthan. Approximately 300 employees, casual workers and laborers are engaged in its unit. Not only has the Appellant provided employment to several persons, even their families are dependent upon the running of unit.
3. That taking into consideration the capital intensive nature of establishing its manufacturing plant as also the implementation of pollution control and safety measures as mandated, the Appellant availed financial assistance from HDFC Bank, New Delhi for an approx. amount of 75 crores which is required to be repaid in quarterly installments. Photocopy of the sanction letter dated 16.10.2021 is annexed hereto and marked as Annexure-3. Besides the term loan, additional funds were also sourced for establishing the plant. As per the valuation report prepared by a qualified chartered accountant, the total investment made in the said plant, land and building, plant and

machinery was approximately Rs. 77.78 Crore and the Appellant also spent a huge amount on various pollution control measures as mandated by RSPCB initially.

4. That ever since, the Appellant was running its industry and conducting manufacturing activities smoothly without any hindrances and in compliance of the norms as prescribed by the statutory authorities. It is pertinent to mention here that timely inspections of the Appellant's unit were carried out by various state authorities and at no point of time, any issue was raised by them indicating violation by the Appellant of norms so prescribed.
5. That with a view to ensure continued monitoring of industries, the Water Act, 1974 and the Air Act, 1981 provides for a detailed regulatory mechanism. Section 21 of the Air Act, 1981 states that no person shall establish or operate any industrial plant in an air pollution control area without the previous consent of the State Board. In the instant case, the last Consent to operate was granted to the Appellant by the RSPCB on 21.06.2018 for setting up of its plant which was valid up to 31.07.2021. Photocopy of the last Consent to operate dated 21.06.2018 is annexed hereto and marked as Annexure-4. Admittedly, the Appellant submitted an application to RSPCB on 10.03.2021 for

renewal of Consent to Operate along with all requisite documents and fees. Photocopy of the application dated 10.03.2021 for renewal of consent to operate along with documents is annexed hereto and marked as Annexure- 5(Colly). As on date, the aforesaid application is pending before the RSPCB.

6. That to the utter shock and surprise of the Appellant, on 17.01.2022, the Appellant's industry was inspected by a flying squad constituted by the Commission. No notice or intimation regarding such inspection was ever given to the Appellant. During the inspection the flying squad directed the Appellant orally to email its production data. In compliance thereof, the Appellant duly submitted its production data. It is relevant to submit here that after the inspection, no report was handed over to the Appellant. Further, no clarification was sought from the Appellant. Thereafter, your good office passed an order on 21.01.2022 directing closure of the Appellant's industrial operations/process. Photocopy of the said impugned order dated 21.01.2022 is annexed hereto and marked as Annexure-6. No opportunity of hearing was given to the Appellant prior to the passing of the order, neither any notice was given. It was alleged in the order that the Appellant industry is operational with an expired consent to operate and further averred to be in non-compliance of the direction

No. 49 dated 15.12.2021 passed by your good office, under section 12 of the Act of 2021. In terms of the direction No. 49, it was *inter alia* directed that until further orders, Industries related to textiles, garments and apparels including dyeing processes and other set of industries, shall also be permitted to schedule their operations (without any restrictions on number of hours per day) only for 5 days per week i.e. from Saturday to Wednesday and shall remain inoperative on Thursdays and Fridays. Direction No. 49 dated 15.12.2021 issued by your good office is annexed hereto and marked as Annexure-7. It was alleged by your good office that the Appellant operated its industry on 6,7,13 and 14 January, 2022 i.e. Thursday and Friday.

7. That in response thereto, the Appellants submitted detailed clarifications setting out as to how the order/letter issued by your good office cannot be made applicable to it in the facts and circumstances of the present case. Photocopies of communications dated 27.01.2022, 31.01.2022, 03.02.2022, 02.03.2022 sent by the Appellant are annexed hereto and marked as Annexure-8. Further, regarding operation of the unit on 6,7,13 and 14 January, 2022 i.e. Thursday and Fridays, the Appellant industry categorically submitted its production data and stated that it did not operate its plant on those dates and had only dispatched its finished goods on those dates. The

direction no. 49 dated 15.12.2021 issued by the Commission does not attract the sales of finished goods and is merely related to production and hence the Appellant industry cannot be said to be in non-compliance of any direction. Photocopy of the production data of unit on 6,7,13 and 14 January, 2022 and relevant Form- R.G.1 are annexed hereto and marked as Annexure-9, which shows that production was NIL during 6,7,13 and 14 January, 2022.

8. That vide a letter dated 02.02.2022, the RSPCB imposed an additional compensation on the Appellant and accordingly, the Appellants were directed to deposit environmental compensation. Photocopy of the letter dated 02.02.2022 is annexed hereto and marked as Annexure-10. Since the Appellants version was not considered and in order to avoid the closure, it had no option but to pay the aforesaid compensation. The Appellant was demanded an amount of Rs. 2,41,875/- and therefore it paid an amount of Rs. 2,41,875/- vide DD No. 000738 dated 07.02.2022 in favour of the Member Secretary, RSPCB. Photocopy of the covering letter dated 07.02.2022 and DD submitted are annexed hereto and marked as Annexure- 11(Colly).

It is submitted that when compensation has been demanded and collected without there being any pollution caused by the Appellant,



then order of closure should have been withdrawn. However, it was not done.

9. The Appellant sent various communications/letters dated 31.01.2022, 08.02.2022, 07.02.2022 to your good office as well as the RSPCB submitting its stance however, no heed was paid to the genuine requests of the Appellant. The Appellant categorically mentioned that the industry is operating since 2006 and obtained consent from state board time to time and last consent to operate was granted vide letter dated 21.06.2018 which was valid up to 31.07.2021. Thereafter industry applied for renewal of consent to operate vide application dated 10.03.2021 and admittedly, the same is pending.
10. That it is submitted that any issue with regards to operation of unit without valid consent is only amenable to jurisdiction of State pollution control board under the provisions of Rajasthan Air and water Act and hence your good office has no jurisdiction to issue directions of closure for operating the unit without consent. The adjudication regarding the Consent to Operate is a matter of Rajasthan State Pollution Control Board only under the Air & Water Pollution Act. Hence it is the Rajasthan State Pollution Control Board to examine and adjudicate the issue relating to Consent to Operate. Further, since

the Appellant already paid the penalty/compensation in compliance of direction of your good office, therefore, the instant proceedings against the Appellant should be dropped.

11. That in this context, even RSPCB issued a letter dated 23.02.2022 to the your good office stating and clarifying that the Appellant industry has timely applied for renewal of the Consent to Operate and has adopted adequate pollution control measures and deposited environmental compensation and hence requested your good office to allow the industry to resume its operations till clarity is received from MOEF. Photocopy of the letter dated 23.02.2022 is annexed hereto and marked as Annexure- 12. It is a settled position of law that when an application for renewal of consent is made within the stipulated period of time and is pending, it shall be deemed that such industrial plant is operating with the consent of the State board until the consent applied for has been refused. For this purpose, reliance is placed on section 21 of the Air (Prevention and control of pollution) Act, 1981 and section 25 of the Water (Prevention and control of Pollution). Therefore it cannot be said that the industrial plant is operating with an expired consent to operate since admittedly, the Appellant had applied for renewal of consent to operate in a time bound manner, however, the same is pending because of the uncertainty in the department. Hence, your good office

does not have jurisdiction to usurp the powers of the State pollution control boards in such a manner.

Section 21 of the Air (Prevention and control of pollution) Act, 1981 is reproduced herein below for ease of reference-

*"...21. Restrictions on use of certain industrial plants. –*

*(1) Subject to the provisions of this section, no person shall, without the previous consent of the State Board, establish or operate any industrial plant in an air pollution control area: Provided that a person operating any industrial plant in any air pollution control area immediately before the commencement of section 9 of the Air (Prevention and Control of Pollution) Amendment Act, 1987 (47 of 1987), for which no consent was necessary prior to such commencement, may continue to do so for a period of three months from such commencement or, if he has made an application for such consent within the said period of three months, till the disposal of such application.]*

*(2) An application for consent of the State Board under sub-section (1) shall be accompanied by such fees as may be prescribed and shall be made in the prescribed form and shall contain the particulars of the industrial plant and such other particulars as may be prescribed: Provided that where any person, immediately before the declaration of any area as an air pollution control area, operates in such area any industrial plant, <sup>16</sup> [\*\*\*] such person shall make the application under this sub-section within such period (being not less than three months from the date of such declaration) as may be prescribed and where such person makes such application, he shall be deemed to be operating such industrial plant with the consent of the State Board until the consent applied for has been refused.*

*(3) The State Board may make such inquiry as it may deem fit in respect of the application for consent referred to in sub-section (1) and in making any such inquiry, shall follow such procedure as may be prescribed.*

*(4) Within a period of four months after the receipt of the application for consent referred to in sub-section (1), the State Board shall, by order in*

writing,<sup>17</sup> [and for reasons to be recorded in the order, grant the consent applied for subject to such conditions and for such period as may be specified in the order, or refuse such consent:]<sup>18</sup> [Provided that it shall be open to the State Board to cancel such consent before the expiry of the period for which it is granted or refuse further consent after such expiry if the conditions subject to which such consent has been granted are not fulfilled: Provided further that before cancelling a consent or refusing a further consent under the first proviso, a reasonable opportunity of being heard shall be given to the person concerned.]

(5) Every person to whom consent has been granted by the State Board under sub-section (4), shall comply with the following conditions, namely: –

(i) the control equipment of such specifications as the State Board may approve in this behalf shall be installed and operated in the premises where the industry is carried on or proposed to be carried on;

(ii) the existing control equipment, if any, shall be altered or replaced in accordance with the directions of the State Board;

(iii) the control equipment referred to in clause (i) or clause (ii) shall be kept at all times in good running condition;

(iv) chimney, wherever necessary, of such specifications as the State Board may approve in this behalf shall be erected or re-erected in such premises;

(v) such other conditions as the State Board may specify in this behalf; and

(vi) the conditions referred to in clauses (i), (ii) and (iv) shall be complied with within such period as the State Board may specify in this behalf:

Provided that in the case of a person operating any industrial plant<sup>19</sup> [\*\*\*] in an air pollution control area immediately before the date of declaration of such area as an air pollution control area, the period so specified shall not be less than six months: Provided further that –

(a) after the installation of any control equipment in accordance with the specifications under clause (i), or

(b) after the alteration or replacement of any control equipment in accordance with the directions of the State Board under clause (ii), or

*(c) after the erection or re-erection of any chimney under clause (iv),*

*no control equipment or chimney shall be altered or replaced or, as the case may be, erected or re-erected except with the previous approval of the State Board.*

*(6) If due to any technological improvement or otherwise the State Board is of opinion that all or any of the conditions referred in to sub-section (5) require or requires variation (including the change of any control equipment, either in whole or in part), the State Board shall, after giving the person to whom consent has been granted an opportunity of being heard, vary all or any of such conditions and thereupon such person shall be bound to comply with the conditions as so varied.*

*(7) Where a person to whom consent has been granted by the State Board under sub-section (4) transfers his interest in the industry to any other person, such consent shall be deemed to have been granted to such other person and he shall be bound to comply with all the conditions subject to which it was granted as if the consent was granted to him originally..."*

Section 25 of the Water (Prevention and control of Pollution). Is reproduced herein below for ease of reference-

*"...25. Restrictions on new outlets and new discharges. - 1[*

*(1) Subject to the provisions of this section, no person shall, without the previous consent of the State Board, -*

*(a) establish or take any steps to establish any industry, operation or process, or any treatment and disposal system or any extension or addition thereto, which is likely to discharge sewage or trade effluent into a stream or well or sewer or on land (such discharge being hereafter in this section referred to as discharge of sewage); or*

*(b) bring into use any new or altered outlet for the discharge of sewage; or*

*(c) begin to make any new discharge of sewage: Provided that a person in the process of taking any steps to establish any industry, operation or process immediately before the commencement of the Water (Prevention and Control of Pollution) Amendment Act, 1988, for which no consent was necessary prior*

to such commencement, may continue to do so for a period of three months from such commencement or, if he has made an application for such consent, within the said period of three months, till the disposal of such application.

(2) An application for consent of the State Board under sub-section (1) shall be made in such form, contain such particulars and shall be accompanied by such fees as may be prescribed.]

(3) The State Board may make such inquiry as it may deem fit in respect of the application for consent referred to in sub-section (1) and in making any such inquiry shall follow such procedure as may be prescribed. 2[(4) The State Board may –

(a) grant its consent referred to in sub-section (1), subject to such conditions as it may impose, being –

(i) in cases referred to in clauses (a) and (b) of sub-section (1) of section 25, conditions as to the point of discharge of sewage or as to the use of that outlet or any other outlet for discharge of sewage;

(ii) in the case of a new discharge, conditions as to the nature and composition, temperature, volume or rate of discharge of the effluent from the land or premises from which the discharge or new discharge is to be made; and

(iii) that the consent will be valid only for such period as may be specified in the order, and any such conditions imposed shall be binding on any person establishing or taking any steps to establish any industry, operation or process, or treatment and disposal system of extension or addition thereto, or using the new or altered outlet, or discharging the effluent from the land or premises aforesaid; or

(b) refuse such consent for reasons to be recorded in writing.

(5) Where, without the consent of the State Board, any industry, operation or process, or any treatment and disposal system or any extension or addition thereto, is established, or any steps for such establishment have been taken or a new or altered outlet is brought into use for the discharge of sewage or a new discharge of sewage is made, the State Board may serve on the person who has established or taken steps to establish any industry, operation or process, or any treatment and disposal system or any extension or addition thereto, or

using the outlet, or making the discharge, as the case may be, a notice imposing any such conditions as it might have imposed on an application for its consent in respect of such establishment, such outlet or discharge.

*(6) Every State Board shall maintain a register containing particulars of the conditions imposed under this section and so much of the register as relates to any outlet, or to any effluent, from any land or premises shall be open to inspection at all reasonable hours by any person interested in, or affected by such outlet, land or premises, as the case may be, or by any person authorised by him in this behalf and the conditions so contained in such register shall be conclusive proof that the consent was granted subject to such conditions.]*

*(7) The consent referred to in sub-section (1) shall, unless given or refused earlier, be deemed to have been given unconditionally on the expiry of a period of four months of the making of an application in this behalf complete in all respects to the State Board.*

*(8) For the purposes of this section and sections 27 and 30, —*

*(a) the expression "new or altered outlet" means any outlet which is wholly or partly constructed on or after the commencement of this Act or which (whether so constructed or not) is substantially altered after such commencement;*

*(b) the expression "new discharge" means a discharge which is not, as respects the nature and composition, temperature, volume, and rate of discharge of the effluent substantially a continuation of a discharge made within the preceding twelve months (whether by the same or a different outlet), so however that a discharge which is in other respects a continuation of previous discharge made as aforesaid shall not be deemed to be a new discharge by reason of any reduction of the temperature or volume or rate of discharge of the effluent as compared with the previous discharge..."*

Hence it is the Rajasthan State Pollution Control Board to examine and adjudicate the issue relating to Consent to Operate.

12. That without prejudice to the aforesaid, it also stated that that-

- a. rolling mills were exempted from obtaining environmental clearance as per EIA notification, Further, the Hon'ble NGT's order dated 12.2.2020 in O.A. No. 55/2019(WZ) in the matter of Gajubha Jesar Jadeja vs Union of India & Ors. received through Ministry of Environment, Forest and Climate Change letter dated 22.10.2020 and as per that industry was required to apply for fresh environmental clearance from the competent authority and get covered under EIA notification, 2006 and in this duration the industry will be allowed to resume their operation. Due to the aforesaid, there was a lot of confusion among operators of such type of re-heating furnaces engaged in rolling operation about applicability of obtaining environment clearance and have therefore submitted various representations to the State board, Certificate of public convenience and necessity & Ministry of Environment, Forest and Climate Change in this regard, which are pending before the authorities and have not been decided yet.
- b. Additionally, a civil appeal has been filed against the aforesaid order before the Hon'ble Apex Court which is instituted as Civil appeal no. 3116/2020. After hearing the parties, the Hon'ble court was pleased to issue notices and hence the matter is *sub-judice*



before the Hon'ble Supreme Court. Photocopy of the order dated 15.09.2020 is annexed herewith and marked as Annexure-13.

- c. It is pertinent to mention that there is no change in the production capacity in the Appellant 's unit since 30.06.2006, the consent to operate was also valid till 31.07.2021 and an application for renewal for consent to operate was also submitted on 10.03.2021 with the same production capacity as obtained in the year 2006. Therefore, the aforesaid NGT order dated 12.02.2020 are not applicable to the Appellant unit.
- d. It is also pertinent to mention here that the industry M/s. Chromeni Steel Private Limited (CSPL) as in the case of Gajubha Jadeja Jesar differs from the Appellant industry as Gajubha Jadeja Jesar industry is a rolling mill and its process involves acid pickling, acid handling, acid recovery plant etc. Even an effluent treatment plant for the treatment of waste water that contains hexavalent chromium. Further, the pollution index score of the pickling process alone is very high. Further, the order passed has been challenged before the Hon'ble Supreme court and hence the matter is *sub-judice* before it.

- e. That the Appellant unit produces steel bars/angles from steel billets/ingots by Thermo Mechanical Treatments (TMT) process and all the industries manufacturing TMT bars are environmentally conscious. Further, the pollution index score of the Appellant unit is not high as other rolling mills whose process includes acid pickling, acid handling, acid recovery plant etc., and hence there appears to be no reason for not renewing consent to operate.
- f. That it is pertinent to mention here that the Ministry of Environment & Forests (MOEF) introduced the Environmental impact Assessment (EIA) Notification, on 14th September 2006, which introduced a number of sectors which would require prior environmental clearance. The EIA Notification 2006 has notified a list of sectors which have been further categorized as A or B based on their capacity and likely-environmental impacts. The notification stipulated the requirement of prior environmental clearance in certain cases. Photocopy of the 2006 notification is annexed hereto and marked as Annexure- 14(Colly).
- g. That the secondary metallurgical processing industry is listed under category 3(a) of the schedule given in the EIA Notification, 2006. However, the EIA notification 2006 does not prescribe any

definition of "Secondary metallurgical processes" and this has resulted in uncertainty and consequently seeking of information by a number of industries. The secondary metallurgical processing industry is listed under category 3(a) of the schedule given in the EIA Notification, 2006. However, the EIA notification 2006 does not prescribe any definition of "Secondary metallurgical processes" and this has resulted in uncertainty and consequently seeking of information by a number of industries.

It is relevant to mention here that category 5(k) of the EIA Notification 2006 required obtaining of the environmental clearance by all the industries involving use of "Induction/ arc furnaces/cupola furnaces of capacity 5TPH or more". However, the said notification was silent about "reheating furnaces"

*Vide* a notification dated 1<sup>st</sup> December, 2009, the Ministry of Environment & Forests (MOEFs) made certain amendments in its earlier EIA 2006 notification. Photocopy of the 2009 amendment notification is annexed hereto and marked as Annexure-15.

The provisions under category-3(a), Schedule of the EIA on Metallurgical Industries (ferrous & non-ferrous and the

amendments brought in 2009 are summarized in the table given below:

Project or Activity		Category with threshold limit		
		A	B	Conditions if any
3		Material Production		
1	2	3	4	5
3(a)	Metallurgical Industries (ferrous & non-ferrous)	a) Primary metallurgical industry All projects b) Sponge iron manufacturing $\geq 200\text{TDP}$ c) Secondary metallurgical processing industry All toxic and heavy metal producing $\geq 20,000$ tonnes/ annum	Sponge iron manufacturing $< 200\text{TDP}$ Secondary metallurgical processing industry i) All toxic and heavy metal producing $< 20,000$ tonnes/ annum ii) All other non-toxic secondary metallurgical processing industries $> 5000$ tonnes/ annum	General conditions shall apply Note: i) The recycling industrial units registered under the HSM Rules, are exempted. ii) In case of secondary metallurgical processing industrial units, those projects involving operation of furnaces, only such as induction and electric arc furnaces, submerged arc furnace, and cupola with capacity more than 30,000 tonnes per Annum (TPA) would requirement environment clearance. iii) Plant/units other

				than power plant (given against entry no. 1(d) of the schedule), based on municipal solid waste (non-hazardous) are exempted.
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- h. The category 5(k) of the EIA Notification 2006 which required obtaining of the EC by all the industries involving use of "Induction/ arc furnaces/cupola furnaces of capacity 5TPH or more" was submitted through its amendment notification of 2009.
- i. It is relevant to mention here that the EIA notification 2006 and the amendments' thereof do not provide any definition of metallurgical processes. However, vide the aforesaid notification, it was stated that in case of secondary metallurgical processing industrial units, those projects involving operation of furnaces, only such as induction and electric arc furnaces, submerged arc, and cupola with capacity more than 30,000 tonnes per annum (TPA) would require environment clearance. It does not include the type of metals involved in such furnaces. Also, the notification is silent about the processing of metals using the other types of furnaces such as rotary and crucible furnaces. Hence, based on the aforesaid notification, it is clear that the requirement of obtaining

environmental clearance does not apply to the Appellant unit as it produces steel bars/angles from steel billets/ingots through metal forming process which involves heating of the billets in reheating furnaces followed by their rolling using mechanical forces.

- j. It is reiterated that vide MoEFCC's letter dated December 13, 2010, it was clarified that a unit proposed for manufacturing of the TMT (Thermo Mechanical Treatment) bars is a secondary metallurgical process involving operation of Re-heating furnace and does not attract the provisions of EIA notifications 2006. Photocopy of the letter dated 13.12.2010 is annexed hereto and marked as Annexure-16. According to this clarification the secondary metallurgical processing units using Re-heating furnaces do not require obtaining of environmental clearance under the EIA Notification 2006 regardless of their capacity, even though these industries are also called as rolling mills.
- k. Additionally, the Central Pollution Control Board vide its letter dated December 4, 2018 clarified that Rolling is metal forming process wherein steel (or any other metal or alloys) is converted into products of required shape by physical force or a combination of heating and physical force. It is not a Primary or Secondary steel making process. Therefore, stand-alone steel re-rolling mill does not

appear to be covered under EC notification, which is applicable on Primary and Secondary Metallurgical processing industrial units. Photocopy of the letter dated 04.12.2018 is annexed hereto and marked as Annexure-17.

13. Without prejudice, it is submitted that, it appears that the RSPCB has not yet issued the consent to operate to the Appellant unit since there is confusion and the issue of EC is not yet decided. There is no other allegation of causing pollution or any other non-compliance against the Appellant unit.
14. That it is submitted that the Appellant unit employs 300 people and even their livelihood is based on the operation of the industry. The industry was established after obtaining all approvals and licenses from the concerned authorities and further due consents were obtained from the RSPCB and the Appellant had duly applied for renewal of consent to operate as stated *supra*. It appears that your good office on the basis of the averments made by flying squad passed an order for closure of the Industry without granting any opportunity of hearing to the Appellant.
15. That additionally, the entire proceedings which have been initiated vide which the Appellants industry was directed to be closed, did not

allege it to be responsible and/or a defaulter for causing damage or pollution in the area. The only case made out by your good office was that the Appellant was in non-compliance of directions passed by the Commission. However, the powers conferred upon your good office vide the Act of 2021 only empowers to impose penalty for alleged non-compliance of any direction issued by the Commission. A closure of an industry can only be directed as a consequence of pollution or if there is an anticipation of pollution being caused. Relevant sections of the Act of 2021 are reproduced herein below for ease of reference-

#### POWERS AND FUNCTIONS OF THE COMMISSION

*".....12. (1) Notwithstanding anything contained in any other law for the time being in force, the Commission shall have the power to take all such measures, issue directions and entertain complaints, as it deems necessary or expedient, for the purpose of protecting and improving the quality of the air in the National Capital Region and adjoining areas and shall also have the duty to take all such measures as may become necessary for protecting and improving the quality of air in the National Capital Region and adjoining areas.*

*(2) In particular and without prejudice to the generality of sub-section (1), the Commission shall, for the purposes of sub-section (1), have the following powers to perform its duties, including taking measures to abate air pollution and to regulate or prohibit activities that are likely to cause or increase air pollution in the National Capital Region and adjoining areas, namely:—*

*(i) co-ordination of actions by the Governments of the National Capital Territory of Delhi and the States of Punjab, Haryana, Rajasthan and Uttar Pradesh, officers and other authorities under this Act or the rules made*



- thereunder or under any other law for the time being in force, which is relatable to the objects of this Act;
- (ii) planning and execution of a programme for the region for prevention, control and abatement of air pollution;
  - (iii) laying down parameters for the quality of air in its various aspects;
  - (iv) laying down parameters for emission or discharge of environmental pollutants from various sources whatsoever that have implications on air quality in the region: Provided that different parameters for emission or discharge may be laid down under this clause from different sources having regard to the quality or composition of the emission or discharge of environmental pollutants from such sources that have implications on air quality in the region;
  - (v) restriction of areas in which any industries, operations or processes or class of industries, operations or processes, that have implications on air quality in the region, shall not be carried out or shall be carried out subject to certain safeguards;
  - (vi) carrying out and requiring investigations and research relating to problems of environmental pollution that have implications on air quality in the region;
  - (vii) inspection of any premises, plant, equipment, machinery, manufacturing or other processes, materials or substances and giving, by order, of such directions to such authorities, officers or persons as it may consider necessary to take steps for the prevention, control and abatement of air pollution in the region;
  - (viii) collection and dissemination of information in respect of matters relating to air pollution in the region;
  - (ix) preparation of manuals or codes or guidelines relating to the prevention, control and abatement of air pollution in the region;
  - (x) appoint officers, with prior approval of the Central Government, with such designations, as it thinks fit, for the purposes of this Act and may entrust to them such of the powers and functions under this Act or for the purposes of achieving the objects of this Act, as it may deem fit;
  - (xi) issue directions in writing to any person, officer or any authority and such person, officer or authority shall be bound to comply with such directions.

*Explanation.* – For avoidance of doubts, it is hereby declared that the power to issue directions under this section includes the power to direct –

- (a) the closure, prohibition or regulation of any industry, operation or process; or*
- (b) stoppage or regulation of the supply of electricity or water or any other service.*
- (3) (a) Subject to the provisions of this section, any person authorised by the Commission in this behalf shall have a right to enter, at all reasonable times, and with such assistance as he considers necessary, any place, for the purpose of—*
  - (i) performing any of the functions of the Commission entrusted to him;*
  - (ii) determining whether and if so, in what manner any such functions are to be performed or whether any provisions of this Act or the rules made thereunder or any notice, order, direction or authorisation served, made, given or granted under this Act is being or has been complied with;*
  - (iii) examining and testing any equipment, industrial plant, record, register, document or any other material object or for conducting a search of any building in which he has reasons to believe that an offence under this Act or the rules made thereunder has been or is being or is about to be committed and for seizing any such equipment, industrial plant, record, register, document or other material object if he has reasons to believe that it may furnish evidence to the Commission of an offence punishable under this Act or the rules made thereunder or that such seizure is necessary to prevent or mitigate environmental pollution;*
- (b) every person carrying on any industry, operation or process or handling any hazardous substance shall be bound to render all assistance to the person empowered by the Commission under clause (a) for carrying out the functions under that clause and if he fails to do so without any reasonable cause or excuse, he shall be guilty of an offence under this Act;*
- (c) if any person wilfully delays or obstructs any person authorised by the Commission under clause (a) in the performance of his functions, he shall be guilty of an offence under this Act;*
- (d) the provisions of the Code of Criminal Procedure, 1973 shall apply to any search or seizure under this section as they apply to any search or seizure made under the authority of a warrant issued under section 94 of the said Code or, as the case may be, under the corresponding provisions of the said law.*

(4) (a) The Commission or any officer authorised by it in this behalf, shall, for the purpose of analysis, have power to take samples of air from any factory, premises or other place in such manner as may be prescribed;

(b) the result of any analysis of a sample taken under clause (a) shall not be admissible in evidence in any legal proceeding unless the provisions of clauses (c) and (d) are complied with;

(c) subject to the provisions of clause (d), the person taking the sample under clause (a) shall, —

(i) serve on the occupier or his agent or person in-charge of the place, a notice, then and there, in such form as may be prescribed, of his intention to have it so analysed;

(ii) in the presence of the occupier or his agent or person, collect a sample for analysis; (iii) cause the sample to be placed in a container or containers which shall be marked and sealed and shall also be signed both by the person taking the sample and the occupier or his agent or person;

(iv) send without delay, the container or the containers to the laboratory established or recognised by the Central Government;

(d) when a sample is taken for analysis under clause (a) and the person taking the sample serves on the occupier or his agent or person, a notice under sub-clause (i) of clause (c), then, —

(i) in a case where the occupier, his agent or person wilfully absents himself, the person taking the sample shall collect the sample for analysis to be placed in a container or containers which shall be marked and sealed and shall also be signed by the person taking the sample; and

(ii) in a case where the occupier or his agent or person present at the time of taking the sample refuses to sign the marked and sealed container or containers of the sample as required under sub-clause (iii) of clause (c), the marked and sealed container or containers shall be signed by the person taking the samples, and the container or containers shall be sent without delay by the person taking the sample for analysis to the laboratory established or recognised by the Central Government and such person shall inform the Government Analyst appointed or recognised, about the wilful absence of the occupier or his agent or person, or, as the case may be, his refusal to sign the container or containers.

(5) In discharge of its functions and exercising of its authority, the Commission and the Sub-Committees mentioned in section 11 shall be

bound by such general or specific directions of the Central Government, as may be issued from time to time.

(6) In particular and without prejudice to the generality of the foregoing provisions, the Commission shall perform all or any of the following functions, namely: –

- (a) take up matters *suo motu*, or on the basis of complaints made by any individual, representative body or organisation functioning in the field of environment, against any individual, association, company, public undertaking or local body carrying on any industry, operation or process;
- (b) provide the mechanism and the means to implement in the National Capital Region and adjoining areas –
  - (i) the National Clean Air Programme;
  - (ii) the National Air Quality Monitoring Programme;
  - (iii) the National Ambient Air Quality Standards;
- (c) provide an effective framework and platform in the National Capital Region and adjoining areas for –
  - (i) source identification of air pollutants on a periodic basis;
  - (ii) taking on-ground steps for curbing air pollution;
  - (iii) specific research and development in the field of air pollution;
  - (iv) synergising the energies and efforts of all stakeholders in developing innovative ways to monitor, enforce and research on the issues concerning air pollution;
  - (v) building a network between technical institutions working or researching in the field of air pollution;
  - (vi) international co-operation including sharing of international best practices in the field of air pollution;
  - (vii) training and creating a special work-force for tackling the problem of air pollution;
- (d) provide an effective frame work, action plan and take appropriate steps for –
  - (i) tackling the problem of stubble burning;
  - (ii) monitoring, assessing and inspecting air polluting agents;
  - (iii) increasing plantation;
  - (e) monitoring the measures taken by the States to prevent stubble burning;
  - (f) undertake and promote research in the field of air pollution;
  - (g) spread awareness regarding air pollution among various sections of society and promote awareness of the collective steps that the public may take through publications, the media, seminars and other available means;

*(h) encourage the efforts of non-governmental organisations and institutions working in the field of air pollution;*

*(i) any other functions as have been entrusted to any ad hoc committee or commission or task force or body formed for the purpose of dealing with issues concerning air pollution, stubble burning or the monitoring of related factors, in pursuance of any judicial order passed from time to time;*

*(j) such other functions as it may consider necessary for the prevention of air pollution in the National Capital Region and adjoining areas.*

Bare perusal of Section 12 of the Act of 2021 demonstrates that your

good office has powers to take all such measures and issue directions

as it deems necessary or expedient, for the purpose of protecting and

improving the quality of the air in the National Capital Region and

adjoining areas.

#### Section 14-

*"....14. (1) Any non-compliance or contravention of any provisions of this Act, rules made thereunder or any order or direction issued by the Commission, shall be an offence punishable with imprisonment for a term which may extend up to five years or with fine which may extend up to one crore rupees or with both: Provided that the provisions of this section shall not apply to any farmer for causing air pollution by stubble burning or mismanagement of agricultural residue.*

*(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the offence under this Act shall be non-cognizable and triable by the Jurisdictional Judicial Magistrate of the First Class, who shall not take cognizance of the offence except upon a complaint made by the Commission or any officer authorised by the Commission in this behalf.*

*(3) Where any offence under this Act has been committed by a company, every person who, at the time when the offence was committed, was directly in-charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly: Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he*

*proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.*

*(4) Notwithstanding anything contained in sub-section (3), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly. Explanation. — For the purposes of sub-sections (3) and (4), — (a) "company" means any body corporate, and includes a firm or other association of individuals; and (b) "director", in relation to a firm, means a partner in the firm.*

*(5) Where an offence under this Act has been committed by any Department of the Government, the Head of the Department shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly: Provided that nothing contained in this section shall render such Head of the Department liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.*

*(6) Notwithstanding anything contained in sub-section (5), where an offence under this Act has been committed by a Department of Government and it is proved that the Annual report. Penalty for contravention of provisions of Act, rules, order or direction. offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any officer, other than the Head of the Department, such officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.*

*(7) For the purpose of this section and the procedure to be followed thereunder, the provisions of the Code of Criminal Procedure, 1973, shall apply..."*

A bare perusal of section 14 demonstrates that for non compliance of any direction passed by your good office, the wrong doer would be punished with imprisonment or fine or both. Further, it does not state that the non-compliance would lead to closure. Assuming without

admitting that the industry was in non-compliance of any direction, at best your good office could have only imposed fine and could not direct closure.

It was not even once contended that the Appellant industry is causing pollution and hence, the entire process of directing closure of industry and also imposition of compensation on the appellant industry as defaulter was inherently wrong and misleading.

16. That on a perusal of the impugned order dated 21.01.22, it appears that the order has been passed for closure of Appellants manufacturing unit on the basis of alleged investigation report dated 18.01.2022 received from Enforcement task force which was constituted by this Hon'ble commission as per its order dated 02.12.2021, however, the alleged investigation report dated 18.01.2022 was neither supplied to the Appellant nor it is confronted till date despite repeated request made by the Appellant which includes the letter dated 14.03.2022 as well as e-mail dated 13.04.2022 duly acknowledged by your office. The copy of the letter dated 14.03.2022 and e-mail dated 13.04.2022 are collectively enclosed herewith and marked as Annexure-18 (Colly). It is therefore submitted that the copy of the alleged investigation report dated 18.01.2022 which was submitted by task force to your good office

may be made available to the Appellant with an opportunity to rebut the same because the Appellant never violated direction no 49 dated 15.12.2021 of the commission in as much as no production was taken place in the unit on 6,7,13,14 January, 2022.

17. That the Appellants manufacturing unit never violated any directions or any provision of the law of this Hon'ble commission in any manner whatsoever including the direction no. 49 dated 15.01.2022. The Appellants manufacturing unit is running by abiding the law of pollution right from the inception. The Appellant unit is strictly adhering to the guidelines for abatement the pollution in steels rolling mills published by Rajasthan State Pollution Control Board, Jaipur as well as the law enacted under The Commissioner for Air Quality Management in National Capital Region and Adjoining Areas ACT, 2021.
18. That at this juncture, it is also imperative to state that various other industries producing steel bars/angels from ingots/billets based on TMT process, like the Appellant industry have not applied for environmental clearance since there is a lot of confusion amongst such industries. In light of the uncertainty amongst such industries, various representations were sent by the association. Even a discussion paper on "Applicability if EIA notification 2006 to



secondary metallurgical processing industries" was submitted by the association. Photocopies of the letter, representations and discussion papers are annexed herewith and marked as ANNEXURE-19(Colly).

It is reiterated that the RSPCB has to decide and give clarity regarding the applicability.

19. That as per the guidelines for abatement of pollution in steel re-rolling mills issued by Rajasthan State Pollution Control Board, Jaipur, read with the environmental impact assessment notification S.O 1533 (E ) of 14.09.2006 as amended in 2009, it is mandatory that secondary metallurgical processing industrial units, those projects involving operation of furnace such as induction furnace having production capacity more than 30,000 M.T per annum is required to obtain environment clearance, hence the Appellants Khushkera manufacturing unit is not required to obtain environment clearance under environmental impact assessment notification S.O 1533 (E ) of 14.09.2006 as amended in 2009, because the per annum capacity of the Appellants induction furnace installed is much less than 30,000 M.T per annum. Photocopy of the guidelines for abatement of pollution in steel re-rolling mills issued by Rajasthan State Pollution

Control Board, Jaipur is enclosed herewith and marked as Annexure-20.

20. That it is also imperative to mention here that as per notification dated 23.03.2020 issued by MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE, Government of India certain exceptions of projects have been mentioned in clause 26 which states that certain cases shall not require prior-EC or prior-EP. Stand alone rolling mills not involving pickling operation with a capacity up to 2,00,000 ton per annum are exempted from obtaining environment impact assessment as per sub clause 25 of exemption list. The Appellants re-rolling mill is having capacity much less than 2,00,000 ton per annum right from the inception and its operation does not involve pickling operation in any manner whatsoever. Photocopy of notification dated 23.03.2020 issued by MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE Government of India is enclosed herewith is enclosed herewith and marked as Annexure-21. From a perusal of the aforesaid notification the intention of the legislature is unambiguous that it intended to exempt re-rolling mills from taking environmental clearance. For sake of reference, the Appellants unit is covered under the aforesaid exemptions mentioned. Therefore, the Appellant unit is exempted from obtaining environmental clearance

and hence the proceedings initiated against the Appellant may be withdrawn.

Further, the Appellant seeks liberty to submit various legal provisions and other judgments before the authority on various issues at the time of oral hearing, along with additional note, if required.

The Appellant further seeks to have an opportunity of hearing through counsel before any adverse order is passed.

It is therefore humbly prayed that-

- a. this representation/submissions be taken on record;
- b. the order dated 21.01.2022 may be withdrawn;
- c. the proceedings initiated against the Appellant be dropped;
- d. the Appellant may be allowed to operate its industry uninterruptedly and
- e. any other order or direction in favour of the Appellant.



FOR THE APPELLANT

M/S RATHI SPECIAL STEEL LTD.

## MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE

## NOTIFICATION

New Delhi, the 23rd March, 2020

**S.O. 1199(E).**—Whereas, the Central Government proposes to issue following notification in exercise of the powers conferred by sub-section (1), and clause (v) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986 (29 of 1986) for imposing certain restrictions and prohibition on the undertaking some projects or expansion or modernization of such existing projects entailing capacity addition, in any part of India, in supersession of the Environment Impact Assessment notification vide S.O. 1533 dated the 14<sup>th</sup> September, 2006 and its subsequent amendments, is hereby published, as required under sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986, for the information of the public likely to be affected thereby; and notice is hereby given that the said draft notification shall be taken into consideration on or after the expiry of a period of sixty days from the date on which copies of the Gazette containing this notification are made available to the Public;

Any person interested in making any objections or suggestions on the proposal contained in the draft notification may forward the same in writing for consideration of the Central Government within the period so specified to the Secretary, Ministry of Environment, Forest and Climate Change, Indira Paryavaran Bhawan, Jor Bagh Road, Aliganj, New Delhi-110 003, or send it to the e-mail address at [eia2020-moefcc@gov.in](mailto:eia2020-moefcc@gov.in).

## Draft Notification

WHEREAS by notification of the Government of India in the erstwhile Ministry of Environment and Forests vide number S.O. 1533 (E) dated the 14<sup>th</sup> September, 2006 (hereinafter referred to as 'EIA Notification, 2006'), the Central Government imposed certain conditions and thresholds on the undertaking of some projects or expansion or modernization of such existing projects entailing capacity addition, in any part of India listed in Schedule to the EIA Notification, 2006 unless Prior Environment Clearance has been accorded by the Ministry or the State Level Environment Impact Assessment Authority or District Level Environment Impact Assessment Authority, as the case may be, in accordance with the procedure specified in the EIA Notification, 2006 and subsequent amendments;

AND WHEREAS, there have been several amendments issued to the EIA Notification, 2006, from time to time, for streamlining the process, decentralization and implementation of the directions of Courts and National Green Tribunal. Though the EIA Notification, 2006 has helped in realizing necessary environmental safeguards by assessing environment impacts due to the proposed projects, that require Prior Environment Clearance at the planning stage itself, the Central Government seeks to make the process more transparent and expedient through implementation of online system, further delegations, rationalization, standardization of the process, etc.;

AND WHEREAS, the Ministry had issued the notification number S.O. 804 (E), dated the 14<sup>th</sup> March, 2017 laying down procedure for appraisal of the violation cases with a time window of six months. The said notification defined violation of projects which have started the construction work, or have undertaken expansion or modernization or change in product-mix without Prior Environment Clearance.

However, such violations being recurring in nature may come to the notice in future during the process of appraisal or monitoring or inspection by Regulatory Authorities. Therefore, the Ministry deems it necessary to lay down the procedure to bring such violation projects under the regulations in the interest of environment at the earliest point of time rather than leaving them unregulated and unchecked, which will be more damaging to the environment;

AND WHEREAS, the Hon'ble High Court of Jharkhand's order dated the 28th November, 2014 in W.P. (C ) No. 2364 of 2014 in the matter of Hindustan Copper Limited *Versus* Union of India, *inter alia*, held that the consideration for the proposal for Environment Clearance must be examined on its merits, independent of any proposed action for alleged violation of the environmental laws;

AND WHEREAS, the Hon'ble National Green Tribunal in Original Application Number 837/2018 in the matter of Original Application Number 837/2018 Sandeep Mittal Vs Ministry of Environment, Forest and Climate Change & Ors., has held that Ministry shall strengthen the monitoring mechanism for compliance of conditions of Prior Environment Clearance;

AND WHEREAS, the Central Government hereby publishes this draft notification in exercise of the powers conferred by sub-section (1) and clause (v) of sub-section (2) of section 3 and section 23 of the Environment (Protection) Act, 1986, read with clause (d) of sub-rule (3) or rule 5 of the Environment (Protection) Rules, 1986 and in supersession of the notification number S.O. 1533 (E) dated the 14<sup>th</sup> September, 2006 read with subsequent amendments, notification numbers S.O. 190 (E) dated the 20<sup>th</sup> January, 2016, S.O. 4307(E) dated the 29<sup>th</sup> November, 2019, S.O. 750(E) dated the 17<sup>th</sup> February, 2020, except in respect of things done or omitted to be done before such supersession.

**1. Short title and commencement: -**

- i. This notification may be called the Environment Impact Assessment Notification, 2020 (hereinafter referred to as 'EIA Notification, 2020').
- ii. This notification shall come into force on the date of publication of final notification in the Official Gazette.

**2. Application of the notification: -** This notification is applicable to whole of India including territorial waters.

**3. Definitions: -** In this notification, unless the context otherwise requires, the terms are defined as follows:

- (1) **"Accredited Environment Impact Assessment Consultant Organization** (hereinafter referred to as 'ACO') is an organization that is accredited with the National Accreditation Board for Education and Training (NABET) of Quality Council of India (QCI) or any other agency, as may be notified by the Ministry from time to time;
- (2) **"Act"** means the Environment (Protection) Act, 1986 (Act number 29 of 1986);
- (3) **"Appraisal"** means detailed scrutiny of the application in prescribed form(s) and all documents including final EIA report, outcome of the public consultations by the Appraisal Committee for grant of Prior Environment Clearance;
- (4) **"Appraisal Committee"** means Central Level Expert Appraisal Committee or State Level Expert Appraisal Committee or Union Territory Level Expert Appraisal Committee or District Level Expert Appraisal Committee, as the case may be.
- (5) **"Baseline data** (hereinafter referred to as 'BLD') means data depicting the pre-project or pre-expansion environmental scenario including data related to air, water, land, flora, fauna, socio-economic, etc., of the proposed project at the site(s) and study area;
- (6) **"Border Area"** means area falling within 100 kilometers aerial distance from the Line of Actual Control with bordering countries of India;
- (7) **"Built-up area"** means the built up or covered area on all the floors put together including its basement and other service areas, that is proposed in the buildings or construction projects;
- (8) **"Capital dredging"** means one time process involving removal of virgin material from the sea bed to create, or deepen a shipping channel in order to serve larger ships. This includes dredging activity inside and outside the ports or harbors and channels;
- (9) **Category 'A'** means projects or activities as listed in the column (3) of the Schedule to this notification;
- (10) **Category 'B1'** means projects or activities as listed in the column (4) of the Schedule to this notification;
- (11) **Category 'B2'** means projects or activities as listed in the column (5) of the Schedule to this notification;
- (12) **"Central Pollution Control Board** (hereinafter referred to as 'CPCB') is a Board constituted under the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974);
- (13) **"Certificate of Green Building"** means certificate issued under the rating programmes of Green Rating for Integrated Habitat Assessment (GRIHA); Indian Green Building Council (IGBC); Leadership in Energy and Environmental Design (LEED) India, Excellence in Design for Greater Efficiencies (EDGE) or any other third-party green building rating system as issued by the Ministry, from time to time;

- (14) **“Cluster”** means an area formed by group of mines or leases as per the criteria given in sub-paragraph (3) of paragraph 24 of this notification;
- (15) **“Cluster certificate”** is the certificate for cluster of mines or leases issued by the Director of Mines and Geology or any other Competent Authority;
- (16) **“Corporate Environment Responsibility** (hereinafter referred to as ‘CER’)” is the part of EMP wherein the project proponent is mandated to carry out certain activities for environment safeguard in the immediate surroundings of the project based on the issues raised during the public consultation and / or social need based assessment carried during the EIA studies;
- (17) **“Coastal Regulatory Zone** (hereinafter referred to as ‘CRZ’)” is the zone as notified under the Coastal Regulatory Zone Notification, 2019 and subsequent amendments, from time to time.
- (18) **“Critically Polluted Area”** means industrial cluster or area as identified by the Central Pollution Control Board, from time to time;
- (19) **“District or Divisional Level Expert Appraisal Committee** (hereinafter referred to as ‘DEAC’)” is a committee of experts constituted for the purpose of this notification, at district level or at divisional level, by the SEIAA or UTIAA in exercise of powers conferred under the section 23 of the Act, on the recommendation of the State Government or Union Territory administration, for environment appraisal of projects referred to it, and for making appropriate recommendations;
- (20) **“District Survey Report”** means a report prepared by the Geology Department or Irrigation Department or Forest Department or Public Works Department or Ground Water Boards or Remote Sensing Department or Mining Department, etc. in the district for identification of areas of aggradations or deposition where mining can be allowed; and identification of areas of erosion and proximity to infrastructural structures and installations where mining should be prohibited and calculation of annual rate of replenishment and allowing time for replenishment after mining in that area;
- (21) **“Eco-sensitive areas** (hereinafter referred to as ‘ESA’)” are the areas as notified under sub-section (2) of section 3 of the Environment (Protection) Act, 1986 and subsequent amendments, from time to time;
- (22) **“Eco-sensitive zones** (hereinafter referred to as ‘ESZ’)” are the zones as notified under sub-section (2) of section 3 of the Environment (Protection) Act, 1986 and subsequent amendments, from time to time;
- (23) **“Environment Impact Assessment** (hereinafter referred to as ‘EIA’) **Report”** is the document prepared by the Project Proponent through an ACO for the proposed project based on the Terms of Reference prescribed by the Regulatory Authority and as per the generic structure given in the Appendix-X of this notification;
  - a. **“Draft EIA Report”** is the EIA Report prepared for the purpose of Public Consultation or in accordance with the directions of the Regulatory Authority;
  - b. **“Final EIA Report”** is the EIA Report prepared, after public consultation, including mitigation measures duly addressing the concerns raised by the public, time bound action plan, budgetary provision for the commitments made therein by the project proponent, for the purpose of appraisal;
- (24) **“EIA Coordinator”** is a sectoral expert and coordinator of Functional Area Experts and is accredited by the ACO;
- (25) **“Environment Management Plan** (hereinafter referred to as ‘EMP’) **Report”** is the document prepared by the project proponent through ACO for the proposed project as per the generic structure given in the Appendix-XI of this notification;
- (26) **“Expansion”** means any increase in mine lease area or project area or Culturable Command Area or built-up area or length or number or generation capacity or production capacity or throughput or handling capacity, etc., as applicable to the project, entailing the capacity addition beyond the limits specified for the concerned project, in the schedule or prior-EC or prior-EP, as the case may

- be, obtained. In case of mining projects or activity any increase in mine lease area and or production capacity shall be considered as expansion;
- (27) **“Expert Appraisal Committee** (hereinafter referred to as ‘EAC’)” is a committee of experts constituted at central level by the Ministry for appraisal of projects referred to it and for making appropriate recommendations;
- (28) **“Form”** means form(s) appended to this notification;
- (29) **“Functional Area Expert** (hereinafter referred to as ‘FAE’)” is an expert accredited by ACO, and working or empaneled with the ACO;
- (30) **“General Condition** (hereinafter referred to as ‘GC’) means that any project or activity specified in Category ‘B1’ shall be appraised at the Central Level without change in the Category, if located in whole or in part, in areas mentioned in (a) or (b) below:-
- a. within 10 km in respect of items numbers 3, 5, 32, 33 of the schedule and within 5 km in respect of other items, from the boundary of-
    - (i) Protected Areas; or
    - (ii) Critically Polluted Area; or
    - (iii) Eco-sensitive area; or
    - (iv) Inter State or Union Territory.
  - b. within the boundary of-
    - (i) Severely Polluted Area; or
    - (ii) Eco-sensitive Zone.
- (31) **“Island Coastal Regulatory Zone** (hereinafter referred to as ‘ICRZ’)” is the zone as notified under the Island Coastal Regulatory Zone Notification, 2019 and subsequent amendments, from time to time.
- (32) **“Maintenance dredging”** means the periodic removal of shoals or sediments from existing navigational channels, berths, swinging moorings etc. in order to maintain an appropriate safe depth of water for navigation, construction or operational purposes;
- (33) **“Micro, Small and Medium Enterprises”** means the project as defined under Micro, Small and Medium Enterprises Development Act, 2006 (Act number 27 of 2006) and its subsequent amendments;
- (34) **“Mineral Beneficiation”** means a process by which valuable constituents of ore are concentrated by means of physical or Physico-chemical separation process;
- (35) **“Ministry”** means Ministry of Environment, Forest and Climate Change in the Government of India;
- (36) **“Modernization”** is any change in the process or technology or change in the raw material mix or product mix or de-bottlenecking or increase in the number of working days or increase in the capacity utilization of plant and machinery in the project including increase in the rate of excavation in the existing mine lease area, etc., for which prior-EC or prior-EP, as the case may be, granted by the Regulatory Authority;
- (37) **“Non-compliance”** means non-compliance of terms and conditions prescribed by the Regulatory Authority in the Prior Environment Clearance or Prior Environment Permission to the project.
- (38) **“Notified Industrial Estate”** means the Industrial Estate including parks; complexes; areas; Export Processing Zones (EPZs); Special Economic Zones (SEZs); Biotech Parks; Leather Complexes; Coastal Economic Zones (CEZs); Special Investment Region (SIR); National Investment and Manufacturing Zones (NIMZs); Industrial Cluster; Petroleum, Chemicals and Petrochemicals Investment Regions (PCPIRs), that are notified by the Central Government or State Government or Union Territory administration prior to the 14<sup>th</sup> September, 2006 or that have obtained the Prior Environment Clearance as mandated under the EIA Notification, 2006 or under this notification;

- (39) **“Protected Areas”** means areas as notified under the Wild Life (Protection) Act, 1972 (53 of 1972) and its subsequent amendments, from time to time;
- (40) **“Prior Environment Clearance (hereinafter referred to as ‘prior-EC’)”** means the clearance or consent of Regulatory Authority, on the recommendation of the Appraisal Committee for the Category ‘A’; Category ‘B1’ and Category ‘B2’ projects that are required to be placed before Appraisal Committee as specified in the Schedule;
- (41) **“Prior Environment Permission (hereinafter referred to as ‘prior-EP’)”** means the permission or consent of Regulatory Authority for carrying out the proposed project listed in the Schedule in respect of Category ‘B2’ that are not required to be placed before Appraisal Committee as specified in the Schedule;
- (42) **“Prior Environment Clearance Conditions”** means conditions prescribed by the Regulatory Authority, for the project, for which Prior Environment Clearance or Prior Environment Permission has been sought;
  - a. **“Specific Conditions”** means project specific or location specific conditions, on case to case basis, if any, prescribed by the Appraisal Committee; and
  - b. **“Standard Conditions”** means conditions prescribed by the Ministry from time to time, for stipulating while granting prior-EC or prior-EP, as the case may be. However, such conditions may be modified, on due diligence, during the appraisal, on case to case basis, by the Appraisal Committee (in case of Prior-EC); and by the Regulatory Authority (in case of prior-EP).
- (43) **“Project”** means project or an activity;
- (44) **“Project Life”** means life of the project including phases of, (i) construction or installation or establishment or commissioning; (ii) operation; and (iii) redundancy or closure or dismantling;
- (45) **“Project Proponent”** means an individual or public or private entity or private entity, that has ultimate control over the affairs of the project and is duly authorized or appointed by the Board of Directors of the company or a competent authority of such entity or firm or trust or Limited Liability Partnership or Joint Venture or Special Purpose Vehicle or Central or State or Local Government to manage the affairs of the project and to correspond and execute documents before the Regulatory Authority for the purpose of this notification;
- (46) **“Public Consultation”** means the process by which the concerns of local affected persons and others, who have plausible stake in the environmental impact of the project, are ascertained with a view to appropriately take into account all such material concerns while designing the project;
- (47) **“Regulatory Authority”** means the Ministry or State Level Environment Impact Assessment Authority or Union Territory Level Environment Impact Assessment Authority;
- (48) **“Schedule”** means Schedule appended to this notification;
- (49) **“Scoping”** means the process of determining the Terms of Reference by the Regulatory Authority for the preparation of EIA Report, for the project, seeking prior-EC;
- (50) **“Secondary metallurgical processes”** means the production processes that starts with the output of the ore reduction process, scrap, salvage and ingots as input to the industry and its products are semi-finished products or finished products;
- (51) **“Severely Polluted Area”** means the industrial cluster or area as identified by the Central Pollution Control Board as Severely Polluted Area, from time to time;
- (52) **“State Level Expert Appraisal Committee (hereinafter referred to as ‘SEAC’)”** means a committee of experts constituted for the purpose of this notification, at state level, by the Ministry for environment appraisal of projects referred to it and for making appropriate recommendations;
- (53) **“State Pollution Control Board (hereinafter referred to as ‘SPCB’)”** is a board constituted under the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974);
- (54) **“State Level Environment Impact Assessment Authority (hereinafter referred to as ‘SEIAA’)”** means an authority constituted by the Central Government under sub-section (3) of section 3 of the Environment (Protection) Act, 1986;



- (55) **“Study area”** means the immediate surrounding area within an aerial distance of, 10 km around the boundary of the project falling under Category ‘A’ or 5 km around the boundary of the project falling under Category ‘B’, as the case may be;
- (56) **“Terms of Reference (hereinafter referred to as ‘ToR’)”** means detailed scope prescribed by the Regulatory Authority, for the project, for the purpose of preparation of EIA Report;
  - a. **“Specific Terms of Reference”** means project specific or location specific Terms of Reference, prescribed by the Appraisal Committee, deemed necessary for the preparation of an EIA Report; and
  - b. **“Standard Terms of Reference”** means standard Terms of Reference issued by the Ministry from time to time, for the preparation of EIA Report, in respect of the projects listed in the Schedule.
- (57) **“Union Territory Level Expert Appraisal Committee (hereinafter referred to as ‘UTEAC’)”** means a committee of experts constituted for the purpose of this notification at Union Territory Level by the Ministry for environmental appraisal of projects referred to it and for making appropriate recommendation;
- (58) **“Union Territory Level Environment Impact Assessment Authority (hereinafter referred to as ‘UTEIAA’)”** means an authority constituted by the Ministry under sub-section (3) of section 3 of the Environment (Protection) Act, 1986;
- (59) **“Union Territory Pollution Control Committee (hereinafter referred to as ‘UTPCC’)”** is a Committee constituted under the Water (Prevention and Control of Pollution) Act, 1974 (Act number 6 of 1974); and
- (60) **“Violation”** means cases where projects have either started the construction work or installation or excavation, whichever is earlier, on site or expanded the production and / or project area beyond the limit specified in the prior-EC without obtaining prior-EC or prior-EP, as the case may be.

#### 4. Requirement of Prior Environment Clearance or Prior Environment Permission:-

- (1) New projects or activities including expansion or modernization of project or activities listed in the schedule under Category ‘A’; Category ‘B1’; and Category ‘B2’ that are required to be placed before Appraisal Committee as specified in the Schedule, shall require Prior Environment Clearance from the concerned Regulatory Authority before start of any construction work or installation or establishment or excavation or modernization, whichever is earlier, on site or before expanding the production and / or project area beyond the limit specified in the prior-EC or prior-EP, as the case may be, granted earlier.
- (2) New projects or activities including expansion or modernization of project or activities listed in the schedule under Category ‘B2’ that are not required to be placed before Appraisal Committee as specified in the Schedule, shall require Prior Environment Permission from the concerned Regulatory Authority before start of any construction work or installation or establishment or excavation or modernization, whichever is earlier, on site or before expanding the production and / or project area beyond the limit specified in the prior-EC or prior-EP, as the case may be, granted earlier.
- (3) It is, however, clarified that ‘construction work’ for the purpose of this notification shall not include securing the land by fencing or compound wall; temporary shed for security guard(s); leveling of the land without any tree felling; geo-technical investigations if any required for the project.

#### 5. Categorization of projects and activities: -

- (1) All the projects, listed in the schedule, are divided into three categories namely, Category ‘A’, Category ‘B1’, and Category ‘B2’ based on the potential social and environmental impacts and spatial extent of these impacts.
- (2) All projects under Category ‘A’ in the Schedule including expansion and modernization of existing projects shall require prior-EC from the Ministry.

- (3) All projects under Category 'B1' in the Schedule, including expansion and modernization of existing projects, but excluding those which fulfill the General Conditions defined under sub-clause (30) of clause 3 of this notification, shall require prior-EC from the SEIAA or UTEIAA, as the case may be.
- (4) All projects under Category 'B1' in the Schedule including expansion and modernization of existing projects, and those which fulfill the General Conditions defined under sub-clause (30) of clause 3 of this notification, shall require prior-EC from the Ministry without any change in the category of the project.
- (5) All projects under Category 'B2' that are required to be placed before Appraisal Committee as specified in the Schedule, shall require prior-EC from the SEIAA or UTEIAA, as the case may be.
- (6) All other projects under Category 'B2' (other than those projects specified under sub-clause (5) above), shall require prior-EP from the SEIAA or UTEIAA, as the case may be. These projects shall not be placed before Appraisal Committee.
- (7) All projects concerning national defence and security or involving other strategic considerations, as determined by the Central Government, shall require prior-EC or prior-EP, as the case may be, from the Ministry without any change in the category of the project. Further, no information relating to such projects shall be placed in public domain.

#### 6. Expert Appraisal Committee (EAC):-

- (1) The EAC shall consist of only experts fulfilling the following eligibility criteria:-
  - (a) **Qualification:** The person should have at least Post Graduate Degree in Science or Commerce or Arts or Law or Business Administration or Agriculture or Horticulture or Economics; or Graduate Degree in Technology or Engineering or Architecture from any recognized University or professional certification (C.A, C.S., and CMA).
  - (b) **Age:** Below 70 years as on date of nomination for the Appraisal Committee.
  - (c) **Experience:** 15 years of experience in the relevant fields given below:
    - (i) **Environment Quality:** Experts in measurement, monitoring, analysis and interpretation of data with relation to environment quality;
    - (ii) **Sectoral Project Management:** Experts in project management or management of process or operations or facilities in the sectors namely mining, extraction of natural resources, irrigation, power generation, nuclear energy, primary processing, materials production, materials processing, manufacturing, fabrication, physical infrastructure including environment services;
    - (iii) **Environment Impact Assessment Process:** Experts in conducting and carrying out EIA and preparation of EMP and other management plans and who have wide expertise and knowledge of predictive techniques and tools used in the EIA process;
    - (iv) Risk Assessment or Occupational health;
    - (v) Life Science (Floral and Faunal Management) or Forestry or Wildlife or Marine Science;
    - (vi) Environment Economics with experience in project appraisal;
    - (vii) Pollution prevention and mitigation or environmental sciences;
    - (viii) Public administration or management covering various developmental sectors and environment issues;
    - (ix) Environment laws; and
    - (x) Social impact assessment or Rehabilitation and Resettlement.
- (2) The tenure of the EAC shall not be more than three years.
- (3) The strength of the EAC shall not exceed fifteen regular members including Chairman or Chairperson and Secretary. However, the Chairman or Chairperson may co-opt expert(s) as the member(s) in a relevant field for a particular meeting of the Committee.

- (4) The Chairman or Chairperson shall be an eminent person having experience in environment policy related issues, in management or in public administration dealing with various developmental sectors.
- (5) The Chairman or Chairperson shall nominate one of the members as the Vice-Chairman or Chairperson who shall preside over the EAC, in the absence of the Chairman or Chairperson.
- (6) The maximum tenure of a member, including Chairman or Chairperson, shall be for two terms of three years each or part thereof either in any of the Appraisal Committee or Authority. Chairman or Chairperson and member shall not serve simultaneously in more than one Authority or Committee constituted under this notification.
- (7) The tenure of Chairman or Chairperson and members may not be curtailed arbitrarily prior to expiry of the tenure, without cause and proper enquiry conducted by the Ministry.
- (8) More than one Expert Appraisal Committees can be constituted, as deemed necessary, by the Ministry.
- (9) The authorised members of the EAC concerned may inspect any site connected with the project in respect of which the Prior Environment Clearance is sought for the purpose of scoping or appraisal with prior notice of at least seven days to the project proponent who shall provide necessary cooperation for the inspection.
- (10) The EAC shall function on the principle of collective responsibility. The Chairman or Chairperson shall endeavor to reach a consensus in each case and if consensus cannot be reached, the view of the majority shall prevail. Provided that in case a decision is taken by majority the details of views, for and against, shall be recorded in the minutes.
- (11) A representative of the Ministry not below the rank of Director or Scientist 'E' or equivalent shall function as Member-Secretary of the Committee.
- (12) EAC shall meet at least once every month.
- (13) Ministry shall issue the procedure to be followed for constitution of the EAC, from time to time.

**7. State Level Environment Impact Assessment Authority or Union Territory Level Environment Impact Assessment Authority: -**

- (1) The SEIAA or UTEIAA shall comprise of three Members including a Chairman or Chairperson and a Member-Secretary. The Member-Secretary shall be a serving officer of the concerned State Government or Union Territory administration, not below the rank of Director or equivalent in the State Government or Union Territory. The Member-Secretary is expected to be, familiar with environment laws.
- (2) The tenure of the SEIAA or UTEIAA shall be three years. However and wherever considered necessary and expedient, Ministry may extend the tenure of existing authority for a period of not more than three months.
- (3) The Chairman or Chairperson shall be an eminent person having experience in environment policy related issues or in management or in public administration dealing with various developmental sectors. The qualification, age and experience shall be as per the criteria given in sub-clause (1) of clause 6 of this notification.
- (4) The maximum tenure of the non-official member including Chairman or Chairperson, shall be for two terms of three years each or part thereof either in any of Appraisal Committee or Authority. Chairman or Chairperson and member shall not serve simultaneously in more than one authority or committee constituted under this notification.
- (5) The tenure of Chairman or Chairperson and members may not be curtailed arbitrarily prior to expiry of the tenure, without cause and proper enquiry conducted by the concerned State or Union Territory.
- (6) The State Government or Union Territory administration shall forward the names of the Members and the Chairman to the Ministry, at least, forty-five days before expiry of the tenure of existing authority, and the Ministry shall constitute the SEIAA or UTEIAA, as an authority for the purposes of this notification, before expiry of the tenure of existing authority.
- (7) In case the State Government or Union Territory administration fails to forward the names of the Members and the Chairman to the Ministry forty-five days before expiry of the tenure of the existing

authority, the Ministry shall constitute the SEIAA or UTEIAA, as an authority, for the purposes of this notification, without referring to State Government or Union Territory Administration.

- (8) All decisions of the SEIAA or UTEIAA shall be taken in a meeting and shall ordinarily be unanimous. Provided that, in case a decision is taken by majority, the details of views, for and against shall be clearly recorded in the minutes and a copy thereof sent to Ministry.
- (9) SEIAA or UTEIAA shall meet at least once in every month.

#### **8. State or Union Territory or District Level Expert Appraisal Committee:-**

- (1) The qualification, age and experience of chairman or chairperson or members of the SEAC or UTEAC or DEAC shall as per the criteria given in sub-clause (1) of clause 6 of this notification.
- (2) The other criteria and functions of the SEAC or UTEAC or DEAC shall as per the criteria given in sub-clause (2) to sub-clause (10) of clause 6 of this notification.
- (3) A representative of the State Government or Union Territory administration, not below the rank of Director or equivalent in the State Government or Union Territory shall function as Secretary of the Committee, in case of the SEAC or UTEAC.
- (4) An officer of the State Pollution Control Board or Union Territory Pollution Control Committee shall function as Secretary of the DEAC.
- (5) The DEAC shall be reconstituted after every three years by the SEIAA or UTEIAA based on the names forwarded by the District Administration or State Government or Union Territory Administration.
- (6) The SEAC or UTEAC shall be reconstituted after every three years through a gazette notification by the Central Government. Wherever considered necessary and expedient, Ministry may extend the tenure of existing committee for a period, not more than 3 months.
- (7) The State Government or Union Territory Administration shall forward the names of the Members and the Chairman to the Ministry, at least, 45 days before expiry of the tenure of existing SEAC or UTEAC and the Ministry shall constitute the SEAC or UTEAC for the purposes of this notification before expiry of the tenure of existing committee.
- (8) In case the State Government or Union Territory Administration fails to forward the names of the Members and the Chairman to the Ministry, before 45 days of expiry of the tenure of the existing SEAC or UTEAC, the Ministry shall constitute the SEAC or UTEAC as an Appraisal Committee for the purposes of this notification, without referring to State Government or Union Territory Administration.
- (9) In case the District Administration or State Government or Union Territory Administration fails to forward the names of the Members and the Chairman of DEAC to the SEIAA or UTEIAA, as the case may be, before 45 days of expiry of the tenure of the existing DEAC, the SEIAA or UTEIAA, as the case may be, shall constitute the DEAC as an Appraisal Committee for the purposes of this notification, without referring to District Administration or State Government or Union Territory Administration.
- (10) Further, in case the respective SEIAA or UTEIAA, as the case may be, fails to constitute DEAC within the time period notified by the ministry from time to time, the Ministry shall constitute the relevant DEAC, comprising of members as deemed appropriate, for such period (not less than 6 months) till the time the respective SEIAA or UTEIAA, as the case may be, does not constitute the respective SEAC.
- (11) The Ministry may constitute more than one SEAC or UTEAC for the State or Union Territory for reasons of administrative convenience and expeditious disposal of the proposals.
- (12) SEAC or UTEAC or DEAC shall meet at least once in every month.

#### **9. Technical Expert Committee: -**

- (1) A Technical Expert Committee shall be constituted by the Central Government under sub-section (3) of section 3 of the Environment (Protection) Act, 1986 comprising maximum of 10 members including chairman/chairperson and member-secretary.

- (2) The Technical Expert Committee shall undertake categorization or re-categorization of projects on scientific principles including any streamlining of procedures, other tasks assigned to the committee for the purpose this notification, by the Ministry from time to time.
- (3) The tenure of the committee shall be five years.
- (4) The authorized members of Technical Expert Committee may visit any site connected with any project or activity for the purpose of assessing the environment impact involved in the project, with prior notice of at least seven days to the project proponent by the Ministry.

#### **10. Stages in the Prior Environment Clearance or Prior Environment Permission Process:-**

- (1) The Prior Environment Clearance process for Category 'A' or Category 'B1' will comprise of a maximum of six stages. However, the applicability of such stages for particular case or class of cases is set forth in this notification. The six stages, in sequential order, are:

Stage (1): Scoping;

Stage (2): Preparation of Draft EIA Report;

Stage (3): Public Consultation;

Stage (4): Preparation of Final EIA;

Stage (5): Appraisal; and

Stage (6): Grant or Rejection of Prior Environment Clearance.

- (2) The Prior Environment Clearance process for Category 'B2' that are required to be placed before Appraisal Committee as specified in the Schedule, will comprise of a maximum of three stages. The three stages, in sequential order, are:

Stage (1): Preparation of EMP Report;

Stage (2): Appraisal;

Stage (3): Grant or Rejection of Prior Environment Clearance.

- (3) The Prior Environment Permission process for Category 'B2' that are not required to be placed before Appraisal Committee as specified in the Schedule, will comprise of a maximum of two stages. The two stages, in sequential order, are:

Stage (1): Preparation of EMP Report;

Stage (2): Verification of completeness of the application by the Regulatory Authority; and

Stage (3): Grant or Rejection of Prior Environment Permission.

Provided that the ACO preparing the EMP and the Project Proponent, shall be responsible for the adequacy of the EMP.

Provided further that the EMP Report is kept on record and the Regulatory Authority reserves the right to prescribe additional measures for the project.

#### **11. Process of application for Prior Environment Clearance or Prior Environment Permission, as the case may be: -**

- (1) The project proponent seeking prior-EC or prior-EP, as the case may be, for the project listed in the schedule, shall make an application, through notified online portal, in the respective form(s), mentioned against each stage. No off-line application shall be entertained.

Stage/ Purpose	Forms	Supplemented with	Applicability	Regulatory Authority
Scoping	Form-1	Prefeasibility report	All projects under Category 'A' and Category 'B1'.	Ministry: For the projects under Category 'A' and Category 'B1' (those which attracts the General Conditions); and SEIAA or UTEIAA, as the case may be: For the projects

				under Category 'B1' (those which do not attract the General Conditions) and Category 'B2'.
Public consultation	Simple letter addressed	(i) At least 10 hard copies and a soft (electronic) copy of the Draft EIA Report prepared in English; and  (ii) At least 10 hard copies of summary of EIA Report in English and in the official language of the State or Union Territory or Regional language.	All projects as given in sub-clause (1) of clause 14 of this notification	Member Secretary of SPCB / UTPCC concerned.
Appraisal	Form-1	(i) Form-1A; and (ii) Conceptual plan	All projects mentioned at column (5) under item 42 and 43 of the schedule.	SEIAA or UTEIAA, as the case may be
	Form-1	(i) Form-1B2; (ii) EMP; (iii) Final Layout plan; (iv) Feasibility Report or Mining plan in case of mining projects; (v) District Survey Report in case of mining of minor minerals; and (vi) Cluster certificate in case of cluster situation.	All projects falling under Category 'B2'.	SEIAA or UTEIAA, as the case may be.
	Form-2	(i) Final EIA Report; (ii) Copy of Feasibility Report or Approved Mining Plan in case of mining projects; (iii) Copy of final layout plan; (iv) Public consultation proceedings; (v) District Survey Report in case of mining of minor minerals; and (vi) Cluster certificate in case of cluster situation; and (vii) Certificate of compliance of	All projects falling under Category 'A' or Category 'B1'.	Ministry: For the projects under Category 'A' and Category 'B1' (those which attracts the General Conditions);  SEIAA or UTEIAA, as the case may be: For the projects under Category 'B1' (those which do not attract the General Conditions) and Category 'B2'

		conditions earlier prior-EC or prior-EP, as the case may be, issued by the Component Authority in case of expansion or modernization proposals; and  (vii) Other pre-requisites as specified at sub-paragraph (5) of paragraph 17 of this notification.		
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- (2) The schematic representation of process in respect of prior-EC or Prior-EP, as the case may be, is given at Appendix-XIV

## 12. Scoping:-

- (1) All projects listed under Category “B2” of the Schedule shall not require Scoping.
- (2) To facilitate due diligence by the Project Proponent including collection of primary or secondary data, as the case may be, even before filing of application for grant of ToR or prior-EC or prior-EP, sector wise Standard ToR developed by the Ministry, from time to time, shall be displayed on the website of the Ministry.
- (3) The Standard ToR shall be issued to the following projects through online mode, on acceptance of application within 7 working days, without referring to Appraisal Committee by the Regulatory Authority:
  - (a) All Highway projects in Border Areas covered under entry (i) and (ii) of columns (3) and (4) against item 38 of the Schedule;
  - (b) All projects, proposed to be located in notified industrial estates and which are not disallowed in such notification;
  - (c) All expansion proposals of existing projects having earlier Prior Environment Clearance;
  - (d) All Building construction and Area development projects covered under entries of column (4) against item 42 and 43 of the Schedule.

Provided that Appraisal Committee shall be informed regarding issuance of standard ToR for a project. The Appraisal Committee may recommend specific ToR in addition to the Standard ToR, if found necessary for that project, within 30 days from the issue of Standard ToR.

- (4) All new projects other than specified in sub-paragraph (3) above, shall be referred to the Appraisal Committee by the Regulatory Authority within 30 days from the date of application, for recommending the specific ToR in addition to the Standard ToR, if deemed necessary. In case, the Regulatory Authority does not refer the matter to the Appraisal Committee within 30 days of date of application in Form-I, sector specific Standard ToR shall be issued, online, on 30<sup>th</sup> day, by the Regulatory Authority.
- (5) Applications for ToR may be rejected by the Regulatory Authority concerned on the recommendation of the Appraisal Committee. In case of such rejection, the decision together with reasons for such rejection, shall be communicated to the Project Proponent in writing after due personal hearing within sixty days of the receipt of the application.
- (6) The project proponent shall prepare the EIA report based on the sector specific Standard ToR as well as specific ToR, if any, stipulated by the Appraisal Committee.
- (7) The Terms of Reference for the projects except for River valley projects, issued by the regulatory authority concerned, shall have the validity of four years from the date of issue. In case of the River valley projects, the validity will be for five years.
- (8) In case of any change in the scope of the project, for which the ToR was prescribed by the Regulatory Authority, an application shall be made by the project proponent, online, in Form-3, for amendment

in ToR within the validity of the ToR and before public consultation. All such proposals may be referred to the Appraisal Committee, if required, within 30 days from the date of application. However, the validity of the amended ToR will be counted from the date of issue of earlier ToR.

- (9) In case, more than one proposal is received for the same land or having land overlapping with the other project(s), in part or full for which, ToR or prior-EC or prior-EP, have already been granted to some other project, all such cases will be kept on hold. The Regulatory Authority will make written communication to the Chief Secretary of the Concerned State or Union Territory and the decision will be taken based on the advice of the State Government or Union Territory Administration.

### **13. Preparation of Environment Impact Assessment Report:-**

- (1) Baseline data shall be collected as per the protocols specified in the sector specific EIA Guidance manuals issued by the Ministry or prescribed by CPCB from time to time.
- (2) Baseline data shall be collected for one season other than monsoon for EIA Report in respect of all projects other than River Valley projects. However, the baseline data of monsoon season shall also be required to be collected, in case of such requirement being prescribed by the Appraisal Committee while granting the ToR.
- (3) Baseline data shall be collected for one year including monsoon for EIA Report in respect of River Valley projects.
- (4) The collection and analysis of baseline data shall be carried through an environment laboratory duly notified under Environment (Protection) Act, 1986.
- (5) The secondary data available shall also be considered as baseline for the projects proposed beyond 12 Nautical Miles.
- (6) Baseline data, referred in sub-clause (1) to (5) above, can be collected at any stage, irrespective of the application for the scoping. However, such baseline data shall not be older than three years at the time of submission of draft EIA Report to the SPCB or UTPCC for Public Consultation.
- (7) The post-project monitoring data collected through an environment laboratory duly notified under Environment (Protection) Act, 1986 shall also considered for expansion or modernization of the projects.
- (8) The EIA Report shall be prepared as per the generic structure given at Appendix-X, by the project proponent through an ACO, which are accredited for a particular sector and the category of project for that sector.
- (9) Draft EIA report shall be prepared for the purpose of public consultation and Final EIA Report for the purpose of appraisal.
- (10) Disclosure of the accredited EIA Consultant Organization along with the EIA Coordinator and Functional Area Expert(s) involved in the environment impact assessment shall be included in the EIA Report in the format specified at Appendix-XIII and they are accountable for the contents or data provided therein in addition to the project proponent.
- (11) No EIA Report shall be required for the projects listed under Category 'B2'. However, EMP Report as per the generic structure given at Appendix-XI shall be prepared through ACO and submitted along with the application.

### **14. Public Consultation:**

- (1) The public consultation shall ordinarily have two components comprising of:
  - a. A public hearing at the site or in its close proximity, district wise in case of the project area located in more than one district, to be carried out in the manner prescribed in the notification, for ascertaining concerns of local affected persons;
  - b. Inviting responses in writing from other concerned persons having a plausible stake in the environmental aspects of the project;
  - c. In addition, if required, based on the nature of project, public consultation through any other appropriate mode may be recommended by the Appraisal Committee, or the Regulatory Authority, on case to case basis;



However, the Regulatory Authority may decide on the feasibility and requirement of Public Hearing and/or consultation in the case of defence projects being considered under sub-clause (7) of clause 5 of this notification.

- (2) All Category 'A' and Category "B1" projects of new or expansion proposals or modernization with capacity increase more than 50 percent shall undertake Public Consultation.

Provided, the public consultation is exempted for the following:-

- a. modernization of irrigation projects falling under the item 4 of the Schedule;
- b. all projects falling under items 10(f), 16, 17, 19, 20, 21, 23, 24, 25, 27, 36, 40 of the schedule located within Notified Industrial Estates;
- c. all projects falling under item 42 and 43 of the Schedule;
- d. all Category 'B2' projects and activities;
- e. all projects concerning national defence and security or involving other strategic considerations as determined by the Central Government;
- f. all linear projects under item 31 and 38, in Border Areas.
- g. All the off-shore projects located beyond the 12 Nautical Miles

Provided further, that in all the projects under item 31 of the schedule, the public consultation shall be limited to the district (s), where the National Park or Sanctuary or Coral Reef or Ecological Sensitive Area is located.

- (3) Where a public consultation through public hearing is required, the project proponent shall submit a request letter in the specified format as given at Appendix-I to the concerned Member Secretary of SPCB or UTPCC, as the case may be, in whose jurisdiction the project is located, along with at least 10 hard copies and a soft (electronic) copy of the Draft EIA Report prepared in English; and at least 10 hard copies of summary of EIA Report in English and in the official language of the State or Union Territory or Regional Language.
- (4) In case the project site is covering more than one District or State or Union Territory, the project proponent shall make separate requests to each concerned SPCB or UTPCC for holding the public hearing as per the procedure.
- (5) The public consultation shall be undertake, specific to the project, as per the procedure given at Appendix-I.
- (6) The public hearing including submission of proceedings of public hearing to the concerned Regulatory Authority, shall be completed by the SPCB or UTPCC concerned within a period of forty working days from date of receipt of the request letter from the project proponent.
- (7) In case the SPCB or UTPCC concerned does not undertake and complete the public hearing within the specified period, as above, the Regulatory Authority shall engage another public agency or authority which is not subordinate to the Regulatory Authority, to complete the process within a further period of forty working days, as per procedure laid down in this Notification.
- (8) If the public agency or authority nominated under the sub-clause (7) above reports to the Regulatory Authority concerned that owing to the local situation, it is not possible to conduct the public hearing in a manner which will enable the views of the concerned local persons to be freely expressed, it shall report the facts in detail to the concerned Regulatory Authority, which may, after due consideration of the report and other reliable information that it may have, decide that the public consultation in the case need not include the public hearing.
- (9) For obtaining responses in writing from other concerned persons having a plausible stake in the environment aspects of the project, the concerned SPCB or UTPCC shall invite responses from such concerned persons by placing the Summary EIA report prepared by the applicant along with a copy of the application in the prescribed form, on their website, within ten days of the receipt of a written request for arranging the public hearing. Confidential information including non-disclosable or legally privileged information involving Intellectual Property Right, source specified in the application shall not be placed on the web site. The Regulatory Authority concerned may also use other appropriate media for ensuring wide publicity about the project. The Regulatory Authority

shall, however, make available on a written request from any concerned person the Draft EIA report for inspection at a notified place during normal office hours till the date of the public hearing. All the responses received as part of this public consultation process shall be forwarded to the project proponent through the quickest available means.

- (10) After completion of the public consultation, a copy of proceedings of public hearing will also be provided to the project proponent. The project proponent shall address all the material environment concerns expressed during this process, and make appropriate changes including mitigation plan in the draft EIA Report and the EMP. The final EIA report, so prepared, shall be submitted by the project proponent to the concerned Regulatory Authority for appraisal.

#### 15. Appraisal: -

- (1) The application, submitted by the project proponent, shall be scrutinized within fifteen working days from the date of its receipt, strictly with reference to the ToR prescribed for the project by the concerned Regulatory Authority. The inadequacies in the application shall be communicated online, or completed application shall be accepted online.
- (2) Every application, except for the matters falling under Category 'B2' unless specifically mentioned against the item in the schedule, accepted by the Regulatory Authority, shall be placed before the Appraisal Committee and its appraisal shall be completed within forty-five working days of the acceptance of the application. The recommendations of the Appraisal Committee, through the minutes of meeting, shall be displayed on the website of the concerned Regulatory Authority.
- (3) Every application for the matters falling under Category 'B2' unless specifically mentioned against the item in the schedule, on acceptance of application by the Regulatory Authority, shall be issued prior-EP through online system appending standard conditions applicable to those projects within fifteen working days from the date of application. In case of rejection of the application shall inform reasons for the same.
- (4) The appraisal in respect of cases, as per the sub-clause (2) of clause 15 of this notification, shall be made by Appraisal Committee in a transparent manner in a proceeding to which the project proponent shall be invited for furnishing necessary clarifications in person or through an authorized representative (not below the level of officer in Board of Directors) or through video conference. The project proponent may take assistance of the EIA Coordinator and Functional Area Expert(s) involved in the preparation of EIA report during appraisal, before the committee. On conclusion of this proceeding, the Appraisal Committee shall make categorical recommendations to the Regulatory Authority concerned either for grant of prior-EC on stipulated terms and conditions, or rejection of the application for prior-EC, together with reasons for the same.
- (5) In case the project is recommended for grant of prior-EC, then the minutes shall clearly list out the specific environment safeguards and conditions. In case the recommendations are for rejection, the reasons for the same shall also be explicitly stated.
- (6) The project proponent shall be informed at least ten days prior to the scheduled date of meeting of the Appraisal Committee, through online system regarding consideration of the proposal and agenda of the meeting.
- (7) No fresh studies shall be sought by the Appraisal Committee at the time of appraisal, unless new facts come to the notice of the Appraisal Committee and it becomes inevitable to seek additional studies from the project proponent and same shall be clearly reflected in the minutes of the meeting.
- (8) In case of the projects under column (4) of Item 42 of the Schedule having provisional certificate of Green Building, the proposals shall be considered on priority.
- (9) Ministry shall issue guidelines for the Corporate Environment Responsibility from time to time, envisaging slabs for new projects; expansion projects; modernization projects, proposed to be located in Critically Polluted Areas, Severely Polluted Areas, Other Areas, etc.
- (10) The proposal shall be placed before the Competent Authority within fifteen working days from the date of display of minute of the meeting of the Appraisal Committee for final decision.
- (11) The Competent Authority within another fifteen working days shall take final decision.

**16. Procedure for grant of Prior Environment Clearance for modernization: -**

- (1) All applications seeking prior-EC for modernization within the existing premises or mine lease area, as the case may be, in respect of projects listed in the schedule, shall be subjected to the requirements as per matrix given hereunder:-

Slabs	Intended increase in production capacity through modernization	Application in form through online portal	Requirement of Scoping	Requirement of revised EIA report	Requirement of revised EMP	Whether refer to Appraisal Committee	Requirement of Public Consultation
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
I	Modernization without increase in the production capacity	Form-2	No	No	No	No	No
II	Up to 10 percent	Form-2	No	No	Yes	No	No
III	More than 10 and up to 25 percent	Form-2	No	No	Yes	Yes	No
IV	More than 25 and up to 50 percent	Form-2	No	Yes	Yes	Yes	No
V	More than 50 percent	Form-I	Yes	Yes	Yes	Yes	Yes (as per clause 14)

- (2) The requirement, as per the matrix, shall apply to cumulative increase in production capacity taking reference to the latest prior-EC (including prior-EC under 'expansion' category) issued to the project without involving relaxation under this clause

E.g. if prior-EC has been issued for a production capacity of 'X' units, an application for grant of prior-EC for modernization can be considered under different slabs as per the following:-

Prior-EC (say, granted on 1/1/2016)

Production capacity : X

Sl	Cumulative production	Date	Applicable Slab	Stage	Reason
1	X		I	--	Modernization without increase in the production capacity
2	Up to 1.1 X	1/12/2020	II	1 <sup>st</sup> Modernization	New production is 1.1X (X: Production level for which Prior-EC has been granted)
3	Up to 1.2X	1/06/2021	III	2 <sup>nd</sup> Modernization	New production is 1.2 times the production for which Prior-EC was granted (X). This is notwithstanding the fact that the proposed production is less than 10% of 1.1X (which was approved previously at 1 <sup>st</sup> modernization stage)
4	Up to 1.4X	1/06/2022	IV	3 <sup>rd</sup> Modernization	New production is 1.4 times the production for which Prior-EC was granted (X). This is notwithstanding the fact that the proposed production is less than 25% of 1.2X (which was approved previously at 2 <sup>nd</sup> modernization stage)

- (3) However, the prior-EC issued in terms of Slab (V), shall be deemed to be granted under the 'expansion' category

- (4) Provisions of sub-clause (2) above, shall not be applicable for the projects -
  - (a) falling under Category 'B2' and converting to Category 'B1' or Category 'A' by virtue of modernization; and
  - (b) public hearing was not conducted during life time of the project for which public hearing was applicable as per the EIA Notification(s);
- (5) All applications for prior-EC, for the proposals intended for modernization without increase in the production capacity or increase in production capacity up to 10 percent with respect to prior-EC granted earlier shall be issued online, on acceptance of application by the Regulatory Authority.
- (6) All applications for prior-EC, for the proposals intended for increase in production capacity from 10 percent to 50 percent with respect to prior-EC granted earlier shall be considered by the Appraisal Committee within forty-five working days from the date of application and appraised accordingly for grant of prior-EC.
- (7) 'No increase in pollution load' certificate issued by the SPCB or UTPCC on recommendation of Technical Committee constituted under Air (Prevention and Control of Pollution) Act, 1981 or Water (Prevention and Control of Pollution) Act, 1974, shall also be considered in place of EIA and EMP required under column (5) and column (6) of the table given at sub-clause (1) above.

**17. Grant or Rejection of Prior Environment Clearance: -**

- (1) The Regulatory Authority shall consider the recommendations of the Appraisal Committee and convey its decision to the project proponent within thirty working days of the minutes of meeting of the Appraisal Committee or within ninety working days of the receipt of the complete application with requisite documents, except as provided below.
- (2) The Regulatory Authority shall normally accept the recommendations of the Appraisal Committee. In cases where it disagrees with the recommendations of the Appraisal Committee, the Regulatory Authority shall request reconsideration by the Appraisal Committee within forty-five working days of the minutes of meeting of Appraisal Committee while stating the reasons for the disagreement. An intimation of this decision shall be simultaneously conveyed to the applicant through online mode. The Appraisal Committee in turn, shall consider the observations of the Regulatory Authority and furnish its views on the same within a further period of forty-five working days. The decision of the Regulatory Authority after considering the views of the Appraisal Committee shall be final. The decision shall be conveyed to the project proponent by the Regulatory Authority concerned within the next thirty working days.
- (3) In the event that the decision of the Regulatory Authority is not communicated to the applicant within the period specified in sub-clause (2) above, the applicant may proceed as if the prior-EC sought for has been granted or denied by the Regulatory Authority in terms of the final recommendations of the Appraisal Committee.
- (4) On expiry of the period specified for decision by the Regulatory Authority under sub-clause (2) above, the decision of the Regulatory Authority, and the final recommendations of the Appraisal Committee shall be public documents.
- (5) Clearances from other regulatory bodies or authorities shall not be required prior to receipt of applications for prior-EC or prior-EP, as the case may be, or scoping, or appraisal, or decision by the Regulatory Authority Concerned, except:-
  - (a) Approval of mining plan from the Competent Authority, in case of mining projects;
  - (b) In-principle approval for diversion of Forestland under Forest (Conservation) Act, 1980 (Act number 6 of 1980) involved in the project;
  - (c) Recommendations of State or Union Territory Coastal Management Authority, in case of the project located in the CRZ or ICRZ area; and
  - (d) While full acquisition of land may not be pre-requisite for the consideration of proposal for prior-EC, in case of land with respect to project site(s) proposed to be acquired through Government intervention, a copy of preliminary notification issued by the concerned state government or union territory administration regarding acquisition of the land as per the

provisions of Land Acquisition, Rehabilitation and Resettlement, Act, 2013 (Act number 30 of 2013) as amended from time to time shall be required. In case of land is being acquired through private negotiations with the land owners, credible document showing the intent of the land owner to sell the land for the proposed project shall be required. In case of mining projects, 'Letter of Intent' shall be considered as a credible document.

- (6) Concealment and/or submission of false or incorrect or misleading information or data by the project proponent or ACO or EIA Coordinator or Functional Area Expert involved in the preparation of EIA Report, which is material to scoping or appraisal or decision on the application including EIA or EMP Report, shall make the application liable for rejection, and cancellation of prior-EC or prior-EP, as the case may be, granted on that basis. Rejection of an application or cancellation of a prior-EC or prior-EP, as the case may be, already granted, on such ground, shall be decided by the Regulatory Authority, after giving a personal hearing to the project proponent, and following the principles of natural justice.
- (7) Cognizance of the false or incorrect or misleading information or data by the project proponent or ACO or EIA Coordinator or Functional Area Expert involved in the preparation of EIA Report, Ministry shall take appropriate action including black listing of organization or individual responsible.
- (8) Where any lease or license or right or permission or authorization granted by the Government in respect of a project or activity is cancelled either in any legal proceedings or by Government in accordance with law and the said lease or license or right or permission or authorization in respect of that project is granted to any other person or successful bidder then, in case of:-
  - (a) Specific enactment on the aforesaid subject under any law for the time being in force: The provisions of such law shall be applicable; and
  - (b) No specific enactment on the aforesaid subject under any law for the time being in force: Legal person entitled to undertake the project or successful bidder selected by the Government in accordance with law shall make an application in Form - 6 as given in Appendix-VI of this notification, for grant of prior-EC. All such applications shall be considered by the Appraisal Committee considering the existing EIA Report and the prior-EC granted earlier. The Appraisal Committee may recommend for grant of prior-EC subject to the same validity period, terms and conditions, as was initially granted. However, the Appraisal Committee may stipulate case specific additional conditions to such projects as deemed necessary.

#### **18. Amendment in prior-EC or prior-EP: -**

- (1) The project proponent shall make an online application in Form-4 to the Regulatory Authority concerned on the designated portal regarding any change in the terms and conditions of prior-EC or prior-EP, as the case may be.
- (2) All the applications for amendment in prior-EC shall be considered by the Appraisal Committee within forty-five working days from the date of application and appraised for recommendation of amendment in prior-EC.
- (3) All the applications for amendment in prior-EP shall be considered by the Regulatory Authority within twenty working days from the date of application and approved amendment in prior-EP shall be issued accordingly.
- (4) Any shift in the project site location after conduct of public consultation or grant of prior-EC will be deemed to be a new proposal and will be appraised *de-novo*, as per the procedure prescribed, unless the Appraisal Committee is satisfied that the shift is so minor as to have no change in the EIA Report. On recommendation of the Appraisal Committee, the Regulatory Authority shall issue an amendment in prior-EC.
- (5) As long as the peak production capacity, mining lease area, mine closure conditions remain unchanged and have been put in place by the project proponent, nature and extent of mitigation measures, as committed in the prior-EC granted, are in place corresponding to the quantum of excavation being made at that point in time the project proponent can produce up to a maximum of peak production capacity permitted in the prior-EC and change in the sequence of operations of mining is also allowed. However, the project proponent shall report such change in the Scheduled

production and or/ sequence of operations along with corresponding mitigation measures in the periodic compliance report. Further, failures on part of mitigation measure corresponding to the quantum of production or as required in view of change in sequence of operation, shall be considered as 'non-compliance' on part of the project proponent, who shall be liable for requisite action.

- (6) In case of other projects, no amendment in the prior-EC or prior-EP, as the case may be, is required for change in configuration of the units or equipment or machinery, without change in overall sanctioned capacity for which prior-EC or prior-EP, as the case may be, has been granted.
- (7) Change in irrigation technology that result in environmental benefits (e.g. flood irrigation to drip irrigation etc.), leading to increase in Culturable Command Area, but without increase in dam height and submergence, shall not require amendment in the prior-EC or prior-EP, as the case may be.

#### 19. Validity of Prior Environment Clearance or Prior Environment Permission: -

- (1) The validity of period of the prior-EC or prior-EP, as the case may be, involves three phases of the project:
  - (a) Construction or Installation Phase;
  - (b) Operational Phase; and
  - (c) Redundancy or Closure or Dismantling Phase
- I. **Construction or Installation Phase:** The construction or installation phase means period from the date of grant of prior-EC or prior-EP, as the case may be, by the Regulatory Authority to:-
  - (a) Completion of all construction activities, in case of construction projects (item 42 and 43 of the Schedule), to which the application for prior-EC or prior-EP, as the case may be, refers; and / or
  - (b) Completion of installation of plant and machinery including commencement of production operations in all other cases (other than item 1, 42 and 43 of the Schedule), to which the application for prior-EC or prior-EP, as the case may be, refers;
  - (c) Project life as estimated by the Appraisal Committee subject to a maximum of fifty years or up to the period of validity of mining lease; whichever is earlier.

The period of validity of the prior-EC for construction and / or installation phase shall be:

- (d) **Mining projects:** Project life as estimated by the Appraisal Committee subject to a maximum of fifty years; or up to the period of validity of mining lease; whichever is earlier, subject to commencement of mining activities within ten years from the date of grant of prior-EC or prior-EP, as the case may be;
- (e) **River valley projects (item 3 of the Schedule) or Irrigation projects (item 4 of the Schedule) or Nuclear Power Projects and processing of nuclear fuel (item 6 of the Schedule):** Fifteen years;
- (f) **All other projects:** Ten years.

Provided that the period of insolvency resolution process of companies before the National Company Law Tribunal or period of prohibition or restriction on the construction and/or installation of the project, by any other tribunal or court or moratorium imposed under any authority shall be excluded for calculating the period of validity of the prior-EC or prior-EP, as the case may be, specified above, subject to maximum of three years

- II. **Operational Phase:-** The validity of the operational phase shall lapse if the construction and / or installation, as the case may be, is not completed within the corresponding validity period as per the sub-clause (2) and (3) of clause (19) of this notification. Subject to the provisions of sub-clause (2) of clause (19) of this notification, validity of the prior-EC or prior-EP, as the case may be, for the operational phase of projects, except mining, shall be:
  - (a) Perpetual for the remaining life of the project;
  - (b) Confined to the completed project, it is clarified that and only completed part of the project shall be considered as perpetual for the remaining life of the project where the project is implemented partially, within the period specified above.

- (2) Validity of the prior-EC, or prior-EP, as the case may be, in the case of Area Development projects, shall be limited only to such activities as may be the responsibility of the project proponent as a developer.
- (3) In case of the mining projects that have operated below the capacity granted in the prior-EC or prior-EP, as the case may be, and reserves are not exhausted within the project life as estimated by the Appraisal Committee, the validity period of the prior-EC may be extended, on recommendation of the Appraisal Committee for the same production capacity and mining lease area for which prior-EC or prior-EP, as the case may be, was granted. However, the validity of the prior-EC or prior-EP, as the case may be, shall not be more than the period of mining lease.

**20. Monitoring of post project prior-EC or prior-EP: -**

- (1) The project proponent shall prominently advertise, at his own cost in at least two local newspapers, the fact that the project has been accorded prior-EC or prior-EP, as the case may be, along with the details of website of Regulatory Authority, where the copy of prior-EC or prior-EP, as the case may be, shall be displayed. Copy of the prior-EC or prior-EP, as the case may be, shall also be displayed permanently on the website of the company and relevant project.
- (2) The Regulatory Authority shall place the prior-EC or prior-EP, as the case may be, in the public domain on its designated portal.
- (3) The copies of the prior-EC shall be submitted by the project proponents to the following authorities within thirty days of grant of clearance, who in turn have to display the same for thirty days from the date of receipt:
  - (a) District Magistrate / District Collector / Deputy Commissioner/s;
  - (b) Zila Parishad or Municipal Corporation or Panchayats Union;
  - (c) District Industries Office;
  - (d) Urban Local Bodies (ULBs) / Panchayati Raj Institutions concerned / Development Authorities;
  - (e) Concerned Regional Office of the Ministry; and
  - (f) Concerned Regional office of SPCB or UTPCC.
- (4) It shall be mandatory for the project proponent to submit compliance reports in respect of conditions stipulated in prior-EC or prior-EP, as the case may be, pertaining to previous financial year by 30<sup>th</sup> June, online through the designated portal. The yearly compliance report shall be submitted, each year, from the date of grant of prior-EC, till the project life, to the Regulatory Authority concerned. However, Regulatory Authority can seek such compliance reports at more frequent intervals, if deemed necessary.
- (5) In case of failure to submit yearly compliance reports in respect of the conditions stipulated in prior-EC or prior-EP, as the case may be, pertaining to previous financial year by 30<sup>th</sup> June, of the relevant financial year, a late fee of Rs. 500/- per day in case of Category 'B2' projects; Rs. 1000/- per day in case of Category 'B1' projects; and Rs. 2,500/- per day in case of Category 'A' projects shall be levied. If such non-submission of the compliance reports in respect of the stipulated conditions in prior-EC or prior-EP, as the case may be, conditions continue for a period of consecutive three years, the prior-EC or prior-EP, as the case may be, shall be deemed to have been revoked without any notice in this regard.
- (6) All the compliance reports submitted by the project proponent shall be available on the website of the concerned Regulatory Authority.
- (7) The latest compliance report shall also be displayed on the web site of the project proponent.
- (8) The compliance monitoring of conditions prescribed in respect of prior-EC, for Category 'A' projects shall be carried out by the Regional office of the Ministry or Regional Directorate of CPCB. The monitoring report shall be uploaded on the designated web portal within fifteen days from the date of inspection.

- (9) The compliance monitoring of conditions prescribed in respect of prior-EC, for Category 'B1' and prior-EP for Category 'B2' projects, shall be carried out by the SPCB or UTPCC. The monitoring report shall be uploaded on the designated web portal within fifteen days from the date of inspection.
- (10) Notwithstanding above provisions, to supplement the efforts of the Ministry for monitoring through Regional office of the Ministry, Regional Directorate of CPCB, SPCB or UTPCC, the Ministry may empanel government institutions of national repute for carrying out compliance monitoring of conditions of prior-EC or prior-EP, as the case may be, of projects in a random manner.
- (11) The compliance monitoring shall be done *inter-alia* against the baseline information available in the EIA Report as appraised by Appraisal Committee, terms and conditions of the prior-EC or prior-EP, as well as other provisions, as may be specified by the Ministry, from time to time.

#### **21. Transferability of Prior-EC or Prior-EP: -**

- (1) A prior-EC or prior-EP, as the case may be, granted for a specific project to a project proponent may be transferred during its validity to another legal person entitled to undertake the project on application by the transferor or by the transferee in Form-5 within one year of the date of transfer, with a written "no objection" by the transferor, to be filed before the Regulatory Authority. The Regulatory Authority shall transfer the prior-EC, or prior-EP, as the case may be, on the same terms and conditions, under which the prior-EC or prior-EP, as the case may be, was initially granted and for the same validity period. No reference to the Appraisal Committee shall be made in such cases.
- (2) A prior-EC granted for a specific project may be split among two or more legal persons, entitled to undertake the project and transferred during its validity to another legal person(s) on application by the transferor in Form-5 to be filed before the Regulatory Authority within one year of the date of transfer. The regulatory authority shall transfer the prior-EC, on recommendation of the Appraisal Committee, who shall prescribe the conditions for all the projects split among the two or more legal person(s).
- (3) The prior-EC, granted to two or more legal persons entitled to undertake the projects, and these projects being located in the contiguous land, may be amalgamated and transferred during their validity to another legal person entitled to undertake the projects. The application shall be filed by the transferee in Form-5 with a written "no objection" by the transferor, to be filed before the Regulatory Authority applicable for the amalgamated activity, within one year of the date of transfer. The Concerned Regulatory Authority shall transfer the prior-EC, on recommendation of the Appraisal Committee, who shall prescribe the conditions for the amalgamated prior-EC.

#### **22. Dealing of Violation cases:**

- (1) The cognizance of the violation shall be made on the:-
  - (a) *suo moto* application of the project proponent; or
  - (b) reporting by any Government Authority; or
  - (c) found during the appraisal by Appraisal Committee; or
  - (d) found during the processing of application, if any, by the Regulatory Authority.
- (2) The cases of violation will be appraised by Appraisal Committee with a view to assess that the project has been constructed or carried at a site, which under prevailing laws is permissible or expansion has been done which can be run sustainably under compliance of environmental norms with adequate environmental safeguards; In case, finding of the Appraisal Committee is negative, closure of the project shall be recommended along with other actions under the law including directions for remediation. Also refer Appendix-XV of this notification
- (3) In case, where the findings of the Appraisal Committee are positive, the project under this category will be prescribed with appropriate specific Terms of Reference on assessment of ecological damage, remediation plan and natural and community resource augmentation plan in addition to the standard ToR applicable to the project.
- (4) The CPCB shall issue guidelines for assessment of ecological damage from time to time.
- (5) The project proponent shall prepare the report of assessment of ecological damage as per the guidelines issued by the CPCB in this regard from time to time, along with remediation plan and



natural and community resource augmentation plan as an independent chapter in the EIA Report through an ACO.

- (6) The collection and analysis of data for assessment of ecological damage, preparation of remediation plan and natural and community resource augmentation plan shall be done by an environment laboratory duly notified under Environment (Protection) Act, 1986, or an environment laboratory accredited by National Accreditation Board for Testing and Calibration Laboratories, or a laboratory of a Council of Scientific and Industrial Research institution working in the field of environment.
- (7) The Appraisal Committee shall stipulate the implementation of EMP, comprising remediation plan and natural and community resource augmentation plan corresponding to the 1.5 times the ecological damage assessed and economic benefit derived due to violation in case of the *suo moto* applications or two times the ecological damage assessed and economic benefit derived due to violation in cases reported by any Government Authority or found during the appraisal of Appraisal Committee or during the processing of application if any by the Regulatory Authority, as a condition of Environment Clearance:

Provided that the Ministry may prescribe suitable guidelines or mechanism through which the project proponent shall discharge the above obligation.

- (8) On cognizance of violation through *suo moto* application, a late fee of Rs. 1,000/- per day in case of Category 'B2' projects; Rs. 2,000/- per day in case of Category 'B1' projects; and Rs. 5,000/- per day in case of Category 'A' projects shall be paid by the Project Proponent, at the time of application, calculated for a period of date of violation to date of application.
- (9) On cognizance of violation reporting by any Government Authority or found during the appraisal by Appraisal Committee or processing of application, if any, by the Regulatory Authority, a late fee of Rs. 2,000/- per day in case of Category 'B2' projects; Rs. 4,000/- per day in case of Category 'B1' projects; and Rs. 10,000/- per day in case of Category 'A' projects shall be paid by the Project Proponent, at the time of application, calculated for a period of date of violation to date of application.

For the purpose of the sub-clause (8) and (9) above, the date of violation shall be deemed to be 14<sup>th</sup> April, 2018 (date of closure of the time window provided for violation cases vide notification number S.O. 804(E) dated the 14<sup>th</sup> March, 2017 and subsequent orders of Hon'ble High Court of judicature at Madras vide order dated 14<sup>th</sup> March, 2018 in WMP No. 3361 and 3362 of 2018 and WMP No. 3721 in WP No. 11189 of 2017) or 1<sup>st</sup> April of the year falling in which the violation occurred.

- (10) The project proponent will be required to submit a bank guarantee valid for five years equivalent to the amount of remediation plan and Natural and Community Resource Augmentation Plan and with the SPCB or UTPCC, as the case may be, and the quantification will be recommended by Appraisal Committee and finalized by Regulatory Authority, with a condition to implement the same within a period of three years.
- (11) The project proponent shall prepare the EIA Report as per the provisions given in clause 13 of this notification and public consultation shall be carried as per the provisions given in clause 14 of this notification.
- (12) The appraisal of the proposals shall be carried as per the provisions given in clause 15 of this notification.
- (13) The bank guarantee shall be deposited prior to the grant of Environment Clearance and will be released after successful implementation of the remediation plan and Natural and Community Resource Augmentation Plan, and after the recommendation by Regional Office of the Ministry in case of category "A" project or activities or SPCB or UTPCC, as the case may be, and approval of the Regulatory Authority.
- (14) Further, the action will be taken against the project proponent by the respective State Government or Union Territory Administration or SPCB or UTPCC, as the case may be, under the provisions of section 19 of the Environment (Protection) Act, 1986.
- (15) Further, no consent to operate or occupancy certificate for the violation component of the project will be issued till the project is granted the Environmental Clearance. If the project has been issued Consent to Operate or Occupancy Certificate without prior-EC or prior-EP, as the case may be, the

same shall be considered as provisional and shall expire within six months of reporting the violation for the projects do not required to undergo public consultation as per the sub-clause (2) of the clause 14 of this notification; and one year for the projects required to undergo public consultation, unless application for prior-EC has been filed along with the EIA Report or EMP, as the case may be, within such period.

### 23. Dealing of Non-compliances:-

- (1) The cognizance of the non-compliance of conditions of prior-EC or prior-EP, as the case may be, shall be made based on the *suo moto* reporting by the project proponent or reporting by any Government Authority or found during the appraisal of Appraisal Committee or during the processing of application if any by the Regulatory Authority.
- (2) The non-compliances of conditions of prior-EC in respect of Category “A” projects shall be referred to the Expert Committee constituted for the purpose by the Ministry, at central level.
- (3) The reported non-compliances of conditions of prior-EC in respect of Category “B” projects shall be referred to the Expert Committee constituted for the purpose by the Ministry, at state level.
- (4) In the absence of duly constituted Expert Committee, the respective Appraisal Committee shall function as Expert Committee.
- (5) The expert committee shall deliberate on the non-compliances reported in a transparent manner in a proceeding to which the project proponent shall be invited for furnishing necessary clarifications in person or through an authorized representative or through video conference, to be decided by the Regulatory Authority.
- (6) On conclusion of the proceeding, the Expert Committee shall make categorical recommendations to the project proponent for time bound action plan for compliance of the conditions of prior-EC conditions and the amount of the bank guarantee deposited as an assurance for the purpose of compliance with the SPCB or UTPCC, as the case may be.
- (7) The bank guarantee will be released after successful implementation of the action plan and on the recommendations of the Regional office of the Ministry or Regional Directorate of CPCB in case of Category “A” projects; SPCB or UTPCC in case of the Category “B” projects.

### 24. Preparation of District Survey Report and monitoring procedure for Sand Mining or River Bed Mining and Mining of other Minor Minerals, Cluster formation: -

- (1) Ministry of Environment, Forest and Climate Change shall issue prescribed procedure for preparation of District Survey Report for mining of ‘minor minerals’ from time to time.
- (2) Ministry of Environment, Forest and Climate Change shall issue the procedure for enforcement, monitoring of mining of ‘minor minerals’ including environmental audit, from time to time.
- (3) The procedure in respect of cluster situation shall be as follows:-
  - (a) A cluster shall be formed when the distance between the peripheries of one lease is less than 500 meters from the periphery of other lease in a homogeneous mineral area which shall be applicable to the mine leases or quarry licenses granted on and after 9<sup>th</sup> September, 2013. Provided that in contiguous area, the Mines and Geology Department of the State Government shall, -
    - (i) Define the size of cluster as per local situation for effective formulation and implementation of mine plan and EIA or EMP, as the case may be;
    - (ii) Prepare mine plan and an EIA or EMP, as the case may be, for the cluster;
    - (iii) Prepare a Regional Mine Plan and Regional EIA or EMP, as the case may be, including all the clusters in that contiguity; and
    - (iv) Provide for mobilisation of funds from the Project Proponents in predetermined proportion for implementation of cluster and Regional EIA or EMP, as the case may be;

Provided further that the leases not operative for three years or more and leases which have got environmental clearance as on 15<sup>th</sup> January, 2016, shall not be counted for calculating the area of cluster, but shall be included in the EIA or EMP, as the case may be.

- (b) The District Mineral Fund can also be used to augment the fund for implementation of EIA or EMP, as the case may be;
- (c) The 'Cluster EIA' or 'Cluster EMP', as the case may be is required to be prepared for the entire cluster in order to capture all the possible externalities. These reports shall capture carrying capacity of the cluster, transportation and related issues, replenishment and recharge issues, geo-hydrological study of the cluster area. The 'Cluster EIA' or 'Cluster EMP', as the case may be, shall be prepared by the State or State nominated agency or group of project proponents in the cluster or the project proponent in the cluster, as the case may be;
- (d) There shall be one public consultation for entire cluster after which the final 'Cluster EIA' or 'Cluster EMP', as the case may be, for the cluster shall be prepared;
- (e) Prior-EC or Prior-EP, as the case may be, shall be applied for and issued to the individual project proponent. The individual lease holders in cluster can use the same 'Cluster EIA' or 'Cluster EMP', as the case may be, for purpose of application for Prior Environmental Clearance. The 'Cluster EIA' or 'Cluster EMP', as the case may be, shall be updated keeping in view any significant change at the filed level;
- (f) The details of 'Cluster EIA' or 'Cluster EMP', as the case may be, shall be reflected in each Prior Environment Clearance in that cluster. The Appraisal Committee shall ensure that mitigative measures, emanating from the 'Cluster EIA' or 'Cluster EMP', as the case may be, study are fully reflected as conditions of prior-EC or prior-EP, as the case may be, to the individual project proponents in that cluster.

**25. Appeal against the Prior Environment Clearance or Prior Environment Permission granted by the Regulatory Authority.**

- (1) Any appeal against the prior-EC or prior-EP, as the case may be, granted by the Regulatory Authority, shall lie with the National Green Tribunal, if preferred, within a period of thirty days as prescribed under Section 16 of the National Green Tribunal Act, 2010 :

Provided that the National Green Tribunal may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within said period, allow it to be filed under Section 16 of the National Green Tribunal Act, 2010, within a further period not exceeding sixty days.

**26. Exception of projects**

The following cases shall not require prior-EC or prior-EP, namely:-

- (1) Extraction of ordinary clay or sand by manual mining, by the Kumhars (Potter) to prepare earthen pots, lamp, toys, etc. as per their customs;
- (2) Extraction of ordinary clay or sand by manual mining, by earthen tile makers who prepare earthen tiles;
- (3) Removal of sand deposits on agricultural field after flood by farmers;
- (4) Customary extraction of sand and ordinary earth from sources situated in Gram Panchayat for personal use or community work in village;
- (5) Community works like de-silting of village ponds or tanks, construction of village roads, ponds, bunds undertaken in Mahatma Gandhi National Rural Employment and Guarantee Schemes, other Government sponsored schemes, and community efforts;
- (6) Extraction or sourcing or borrowing of ordinary earth for the linear projects such as roads, pipelines, etc.
- (7) Dredging and de-silting of dams, reservoirs, weirs, barrages, river, and canals for the purpose of their maintenance, upkeep and disaster management;
- (8) Traditional occupational work of sand by Vanjara and Oads in Gujarat vide notification number GU/90(16)/MCR-2189(68)/5-CHH, dated the 14th February, 1990 of the Government of Gujarat;
- (9) Manual extraction of Lime shells (dead shell), shrines, etc., within inter tidal zone by the traditional community;
- (10) Digging of well for irrigation or drinking water purpose;

- (11) Digging of foundation for buildings, not requiring prior-EC or prior-EP, as the case may be;
- (12) Excavation of ordinary earth or clay for plugging of any breach caused in canal, nallah, drain, water body, etc., to deal with any disaster or flood like situation upon orders of District Collector or District Magistrate or any other Competent Authority;
- (13) Activities declared by State Government under legislations or rules as non-mining activity;
- (14) Solar Photo Voltaic (PV) Power projects, Solar Thermal Power Plants and development of Solar Parks, etc.;
- (15) Research and Development activities for the projects listed in the schedule subject to laboratory scale operations where and no commercial production is involved;
- (16) The projects which are not covered in the schedule, proposed to carry out or establish in the premises of the projects for which prior-EC or prior-EP, as the case may be, was already granted;
- (17) Individual industries including proposed industrial housing within such notified Industrial Estate with homogeneous type of industries such as Items 16, 18, 24, 25 or those Industrial Estates with pre-defined set of activities (not necessarily homogeneous), so long as the Terms and Conditions for the industrial estate are complied with (Such estates/complexes must have a clearly identified management with the legal responsibility of ensuring adherence to the terms and conditions of conditions of prior-EC and who may be held responsible for violation of such terms and conditions throughout the life of the Industrial Estate);
- (18) Industrial Estate with project area below 500 hectares and not housing any industry of category 'A' or 'B1' or 'B2' project listed in the Schedule;
- (19) Coal and non-coal mineral prospecting;
- (20) Seismic surveys which are part of exploration surveys for offshore and onshore oil and gas including coal bed methane and shale gas, provided the concession areas have got previous conditions of prior-EC or prior-EP for physical survey;
- (21) Minor Irrigation projects involving culturable command area up to 2000 hectare;
- (22) Thermal Power plants using Waste Heat Recovery Boilers (WHRB) without any auxiliary fuel;
- (23) Crushing and screening (sizing of ore) without up gradation process of ore;
- (24) Secondary metallurgical foundry units,-
  - (a) non-toxic, involving furnaces such as Induction Furnace or Electric Arc Furnace or Submerged Arc Furnace or other gas-based furnaces, with capacity up to 1,00,000 ton per annum;
  - (b) non-toxic, involving furnaces such as cupola and other furnaces using coal or briquettes with capacity up to 60,000 ton per annum;
  - (c) re-cycling units registered under Hazardous and Other Waste Rules, 2016.
- (25) Stand-alone re-rolling mills,-
  - (a) involving pickling operation with a capacity up to 1, 00, 000 ton per annum;
  - (b) not involving pickling operation with a capacity up to 2, 00, 000 ton per annum;
  - (c) not involving pickling and no requirement of fuel for re-heating;
- (26) Change in product mix for Ordinary Portland Cement (OPC), Portland Pozzolana Cement (PPC), Portland Slag Cement (PSC), Masonary cement or any other type of cement within the sanctioned capacity of conditions of prior-EC.
- (27) Stand-alone projects for melting of 'coal tar pitch';
- (28) Stand-alone Granulation of single super phosphate powder;
- (29) Neem coating of fertilizers or fortification of fertilizers, provided that the total production does not exceed the sanctioned capacity of prior-EC plus the weight of the coating or fortification material used;
- (30) Processing of paraffin wax;

- (31) Extraction of Alkaloid from Opium;
- (32) Manufacturing of products from polymer granules or manmade fibers from granules or flakes or chips;
- (33) Manufacturing of Linear Alkyl Benzene Sulphonic Acid (LABSA) from LAB;
- (34) Country Liquor (e.g. based on Mahuwa flower, Cashew, etc.) units up to capacity of 10 kilo liter per day;
- (35) Paper or paper board manufacturing from waste paper or ready pulp without deinking or bleaching or decolorizing;
- (36) Manufacturing unit under the Ministry of Defence or strategic units for explosives, detonators, fuses including management and handling units or depots under the Ministry of Defence;
- (37) Air strips that do not involve bunkering or refueling facility and / or Air Traffic Control including non-commercial airstrips;
- (38) Common Effluent Treatment Plant (CETP) proposed for projects which by themselves do not require prior-EC. If any of the existing or proposed member units of the said CETP produces or proposes to produce any product requiring conditions of prior-EC, then the CETP shall need prior-EC;
- (39) Maintenance dredging;
- (40) Micro enterprises in respect of project against item numbers 8(a), 8(b), 9, 10(f), 11(a), 11(b), 20, 24, 25(d) and 27 and small enterprises in respect of project against item numbers 10(f), 24 and 27.

**27. Operation of EIA Notification, 2006, till disposal of pending cases: -**

- (1) From the date of final publication of this notification the EIA Notification, 2006 and subsequent amendments are hereby superseded, except for the things done or omitted to be done before such supersession to the extent in case of all applications made for prior-EC and pending on the date of final publication of this notification, the Central Government may relax any one or all provisions of this notification, or continue operation of some or all provisions of the 2006 notification, for a period not exceeding twenty four months from the date of issue of this notification.
- (2) It is hereby clarified that all prior-EC issued after the final publication of this notification shall be considered to be issued under this notification even in respect of application received and processed or partially processed under any of earlier EIA Notifications.
- (3) Regulatory Authority may, based on the information available or environmental issues brought out subsequent to the issuance of prior-EC, impose additional conditions, as deemed fit.

[F. No. 22-50/2018-IA-III]

GEETA MENON, Jt. Secy.

**SCHEDULE**

(See paragraph 2 and 7)

**LIST OF PROJECTS REQUIRING PRIOR ENVIRONMENT CLEARANCE OR PRIOR ENVIRONMENT PERMISSION, AS THE CASE MAY BE**

Item	Project	Category with threshold limit			Conditions if any
		A	B1	B2	
(1)	(2)	(3)	(4)	(5)	(6)
1	(a) Mining of Minor Minerals	>100 hectare of mining lease area	> 5 hectares and ≤ 100 hectares of mining lease area	≤5 hectares of mining lease area	Note: (1) Mining of minor mineral projects with mine lease area more than 2 hectare and up to 5 Ha shall be referred to District Level Expert Appraisal
	(b) Mining of Major Minerals including Coal	>100 hectare of mining lease area	≤ 100 hectares of mining lease area	Dump mining (excavation or handling of dump or overburden or	

Item	Project	Category with threshold limit			Conditions if any
		A	B1	B2	
(1)	(2)	(3)	(4)	(5)	(6)
				waste material)	Committee (2) Mining lease area includes cluster situation
2	Offshore and Onshore Oil & Gas including CBM and Shale Gas				
	a) Exploration	--	--	All projects	
	b) Development and Production (including infrastructure facilities e.g. Gas Collecting or Gathering Station, Early production Systems, pipelines, etc.).	All projects	--	--	
3	River Valley	> 75 megawatts hydroelectric power generation;	≤ 75 megawatts hydroelectric power generation;	Up to 25 megawatts hydroelectric power generation	Note: Category 'B1' river valley projects falling in more than one State or Union Territory shall be appraised at the Central Government Level.
4	Irrigation	≥ 50,000 hectares of culturable command area	≥10,000 hectares and <50,000 hectares of culturable command area.	> 2000 hectare and < 10,000 hectares of culturable command area.	
5	Thermal Power	≥ 500 megawatts (coal/lignite/naphtha & gas based); ≥100 megawatts (all other fuels).	≥ 5 megawatts and < 500 megawatts (coal / lignite / naphtha & gas based); ≥ 5 megawatts and <100 megawatts (all other fuels except biomass and municipal solid non-hazardous waste); >15 megawatts and <100 megawatts (using municipal solid non-hazardous waste / biomass as fuel).	≥ 5 megawatts and ≤ 15 megawatts, based on biomass or non-hazardous municipal solid waste using auxiliary fuel such as coal, lignite / petroleum products up to 15%.	

Item	Project	Category with threshold limit			Conditions if any
		A	B1	B2	
(1)	(2)	(3)	(4)	(5)	(6)
6	Nuclear Power or processing of nuclear fuel	All projects	--	--	
7	Coal washeries	≥ 1 million ton per annum throughput of coal	<1million ton per annum throughput of coal	--	Note: If Coal washery is located within mining lease area, the proposal shall be appraised together with the mining proposal.
8	(a) Mineral Beneficiation involving physical process and physico-chemical processes	--	All projects	Small and Medium enterprises	Note: If Mineral Beneficiation plant located within mining lease area the proposal shall be appraised together with the mining proposal.
	(b) Chemical processing of ores/concentrate	≥1.0 million ton per annum throughput	<1.0 million ton per annum throughput		
9	Pellet plants or agglomeration plants	--	All Projects	Small and Medium enterprises	
10	Metallurgical industries (ferrous & non ferrous)				
	(a) Integrated Steel Plants	> 1 million ton per annum of crude steel	≤ 1 million ton per annum of crude steel	--	
	(b) Sponge Iron Plants	>0.5million ton per annum	≤0.5million ton per annum	--	
	(c) Non-ferrous smelting and refining	All projects	--	--	
	(d) Ferro Alloy Plants	>1.5 Lakh ton per annum	≤1.5 Lakh ton per annum	--	
	(e) Secondary metallurgical industry (Toxic metals)	≥20,000 ton per annum	<20,000 ton per annum	--	
	(f) Secondary metallurgical industry (Non-toxic metals)	--	(i) Foundries involving furnaces such as Induction Furnace or Electric Arc Furnace or submerged arc furnace or other gas-based furnaces with capacity more than 1,50,000 ton per annum	(i) Foundries involving furnaces such as Induction Furnace or Electric Arc Furnace or Submerged arc furnace or other gas-based furnaces, with capacity more than 1,00,000 ton per annum to 1,50,000 ton per annum	

Item	Project	Category with threshold limit			Conditions if any
		A	B1	B2	
(1)	(2)	(3)	(4)	(5)	(6)
			(ii) Foundries involving furnaces such as cupola and other furnaces with capacity more than 1,00,000 ton per annum	(ii) Foundries involving furnaces such as cupola or other furnaces using coal with capacity more than 60, 000 ton per annum to 1,00,000 ton per annum.  (iii) Standalone re-rolling mills involving pickling with a capacity more than 1, 00, 000 ton per annum.  (iv) Standalone re-rolling mills not involving pickling with a capacity more than 2, 00, 000 ton per annum.  (v) Medium enterprises	
11	(a) Cement Plants	≥ 1.0 million ton per annum production capacity except plants with vertical shaft kiln.	(i) <1.0 million ton per annum production capacity.  (ii) All cement plants with vertical shaft kiln.	Small and Medium enterprises.	Note:  Fuel for cement industry may be coal, petcoke, mixture of coal and petcoke and co-processing of waste provided it meets the emission standards.
	(b) Standalone clinker grinding units	--	≥ 1.0 million ton per annum production capacity	(i) Stand-alone grinding units up to 1 million ton per annum.  (ii) All standalone grinding units in case of transportation of clinker and finished product proposed through rail / sea mode.  (iii) Small and Medium enterprises.	
12	Lead acid battery manufacturing (excluding assembling and charging of lead acid battery)	--	All projects	--	



Item	Project	Category with threshold limit			Conditions if any
		A	B1	B2	
(1)	(2)	(3)	(4)	(5)	(6)
13	Petroleum refining industry	All projects	--	--	
14	(a) Coke oven plants	≥ 0.8 million ton per annum	< 0.8 million ton per annum	--	
	(b) Coal Tar processing units or Calcination plants	--	All projects	--	
15	Asbestos milling and asbestos based products	All projects	--	--	
16	Chlor-alkali industry or Production of Halogens	≥300 ton per day production capacity if a unit located outside the notified industrial estates.	(i) ≥300 ton per day production capacity if a unit located within the notified industrial estates. (ii) <300 ton per day and located outside the notified industrial estates.	<300 ton per day production capacity if a unit located within the notified industrial estates.	Note: No new Mercury Cell based plants will be permitted and existing units converting to membrane cell technology are exempted from the Notification if provided there is no increase in the production capacity.
17	Soda ash Industry	All projects	--	--	--
18	Skin/hide processing including tanning industry	All projects located outside the notified industrial estates.	All projects located within notified industrial estates.	All projects of leather production without tanning and located within the notified industrial estates.	
19	Chemical fertilizers and standalone ammonia plants.	(i) All projects except Single Super Phosphate including Sulphuric acid. (ii) Standalone ammonia plants	Single Super Phosphate including sulphuric acid production.	--	
20	Manufacturing of Acids	Stand-alone phosphoric acid or ammonia.	Stand-alone sulphuric acid	All other acids	
21	Pesticides including insecticides; herbicides; weedicides; pestcontrol; etc., and their specific intermediates (excluding formulations)	All projects located outside the notified industrial estates.	All projects located within the notified industrial estates.	--	
22	Petro-chemical complexes (industries based on processing of	All projects	--	--	

Item	Project	Category with threshold limit			Conditions if any
		A	B1	B2	
(1)	(2)	(3)	(4)	(5)	(6)
	petroleum fractions, natural gas, production of carbon black)				
23	Manmade fibers manufacturing	Viscose Staple Fiber (VSF); Viscose Filament Yarn (VFY); and Rayon.	Nylon and Others	--	
24	Petroleum products and petrochemical based processing including production of carbon black and electrode grade graphite (processes other than cracking & reformation and not covered under the complexes)	All projects located outside the notified industrial estates.	All projects located within the notified industrial estates.	Medium enterprises	
25	Synthetic Organic Chemicals				
	a) Dyes & dye intermediates	--	All projects except column (5)	(i) Projects proposed with zero liquid discharge and located within the notified industrial estates. (ii) All micro, small and medium enterprises.	
	b) Bulk drugs and intermediates excluding drug formulations	--	All projects except column (5)	(i) Projects proposed with zero liquid discharge and located within the notified industrial estates. (ii) All micro, small and medium enterprises.	
	c) Synthetic rubbers	All projects located outside the notified industrial estates.	All projects located within the notified industrial estates.	All micro, small and medium enterprises.	
	d) Basic organic chemicals, other synthetic organic chemicals, chemical intermediates, synthetic resins and	All projects located outside the notified industrial estates.	All projects located within the notified industrial estates.	(i) All small and medium enterprises. (ii) Manufacturing of synthetic resins /	

Item	Project	Category with threshold limit			Conditions if any
		A	B1	B2	
(1)	(2)	(3)	(4)	(5)	(6)
	synthetic adhesives			adhesives up to 1000 ton per annum.	
26	Distilleries and molasses-based manufacturing units (e.g. Yeast)	(i) Molasses based distilleries $\geq$ 100 kilo liter per day; (ii) Molasses based manufacturing units (e.g. Yeast) $\geq$ 100 ton per day; (iii) Non-molasses based distilleries $\geq$ 200 kilo liter per day.	(i) Molasses based distilleries <100 kilo liter per day. (ii) Molasses based Yeast manufacturing units <100 ton per day (iii) Non-molasses based distilleries < 200 kilo liter per day	(i) Country Liquor (e.g. based on Mahuwa flower, Cashew, etc.) units more than capacity of 10 kilo liter per day. (ii) Expansion of distilleries within the premises, having earlier Prior Environment Clearance and for production of ethanol to be used as fuel for blending only.	
27	Manufacturing of paints, varnishes, pigments, intermediates (excluding blending / mixing)	All projects located outside the notified industrial estates.	All projects located within the notified industrial estates.	Medium enterprises	
28	Pulp & Paper Industry	Pulp manufacturing and Pulp & Paper manufacturing industry except from waste paper	--	Paper manufacturing from waste paper or ready pulp involving deinking or bleaching or de-coloring.	
29	Sugar Industry	--	$\geq$ 5000 ton of cane per day crushing capacity	--	
30	Manufacturing of explosives, detonators, fuses including management and handling activities		All projects		
31	Pipelines				
	(a) Oil & gas transportation pipe line (crude and refinery or petrochemical products), passing through national	All Projects	--	--	

Item	Project	Category with threshold limit			Conditions if any
		A	B1	B2	
(1)	(2)	(3)	(4)	(5)	(6)
	parks or sanctuaries or coral reefs or Ecologically Sensitive Areas.				
	(b) Slurry pipelines (coal, lignite and other ores) passing through national parks or sanctuaries or coral reefs, Ecologically Sensitive Areas.	All the projects	--	--	--
32	Air Ports and Heliports including terrestrial and water ports	All projects including terrestrial airstrips, which are for commercial use.	--	(i) Water - aerodromes which are for commercial use.  (ii) Heliports which are for commercial use.	
33	All ship breaking yards including ship breaking units	All projects	--	--	
34	Industrial Estate including parks; complexes; areas; export processing Zones (EPZs); Special Economic Zones (SEZs); Biotech Parks; Leather Complexes; Coastal Economic Zones (CEZs); Special Investment Region (SIR); National Investment and Manufacturing Zones (NIMZs); Industrial Cluster; Petroleum, Chemicals and Petrochemicals Investment Regions (PCPIRs)	(i) If the area of proposed project is more than 500 hectares and houses at least one Category 'A' or Category 'B1' project listed in the Schedule.  (ii) If area of the proposed project is less than 500 hectares and houses at least one category 'A' project listed in the Schedule.	If the area of the project is less than 500 hectares and houses at least one category 'B1' project listed in the Schedule.	(i) If the area of the proposed project is more than 500 hectares and does not house category 'A' or 'B1' project listed in the Schedule.  (ii) Irrespective of the area of the proposed project and houses at least one Category 'B2' project listed in the Schedule	
35	Common hazardous waste, Treatment, Storage and Disposal Facilities (TSDFs)	All integrated facilities having incineration & landfill or incineration alone.	All facilities having land fill only.	--	
36	Common Bio-Medical Waste Treatment Facilities	--	All projects		

Item	Project	Category with threshold limit			Conditions if any
		A	B1	B2	
(1)	(2)	(3)	(4)	(5)	(6)
37	Ports, harbors, breakwaters and capital dredging (inside and outside the ports or harbors and channels)	≥ 5 million ton per annum of cargo handling capacity (excluding fishing harbors).	(i) < 5 million ton per annum of cargo handling capacity (excluding fishing harbors).  (ii) ≥ 30000 ton per annum of fish handling capacity.	All projects in respect of Inland water ways	
38	Highways or Expressways or Multi-modal corridors or Ring Roads	i) New National Highways or Expressways or Multi-modal corridors or Ring Roads  ii) Expansion or widening of existing National Highways or Expressways or Multi-modal corridors or Ring Roads by length more than 100 km involving widening or right of way more than 70 m on existing alignments or re-alignments or by-passes.	(i) All new State Highway projects  (ii) State Highway expansion projects in hilly terrain (above 1,000 meter above mean sea level).	(i) Expansion or widening of existing National Highways or Expressways or Multi-modal corridors or Ring Roads by length between 25 km and 100 km involving widening or right of way more than 70 m on existing alignments or re-alignments or by-passes.  (ii) Expansion or widening of existing State Highways (500 m to 1000 m above mean sea level)	Note:  Width at toll plaza and junction improvement at intersection of other roads excluded from right of way.
39	Aerial ropeways	--	--	All projects located in notified ecologically sensitive areas.	--
40	Common Effluent Treatment Plants (CETP)	--	All projects	--	
41	Common Municipal Solid Waste Management Facility (CMSWMF) involving land filling and / or incineration	--	All projects	--	
42	Building Construction and Area Development projects	--	>1,50,000 sq. mtrs. of built-up area and or total land area of ≥ 50 hectare	(i) ≥20,000 sq. mtrs. and ≤50,000 sq. mtrs. of built-up area  (ii) > 50,000 sq. mtrs. and ≤ 1, 50,000 sq. mtrs. of built-up area projects having provisional	Note  1. Projects under (i) and (ii) of Column (5) shall not be referred to Appraisal Committee.  2. Any change in the intended use, prior-permission from the Regulatory Authority for amendment in the prior-

Item	Project	Category with threshold limit			Conditions if any
		A	B1	B2	
(1)	(2)	(3)	(4)	(5)	(6)
				‘certificate of green building’ or relating to industrial sheds, educational institutions, hospitals and hostels for educational institutions	EP shall be obtained. All such cases shall be referred to Appraisal Committee.
				> 50,000 sq. mtrs. and ≤ 1, 50,000 sq. mtrs. of built-up area	Note: Projects under Column (5) shall be referred to Appraisal Committee
43	Elevated roads or standalone flyovers or bridges	--	--	>1,50,000 sq. mtrs. of built-up area	

Note:

1. General Conditions shall not apply for:-
  - i. Items 9, 10(f), 11(b), 25, 38, 40, 41, 42, and 43
  - ii. River bed mining projects on account of inter-state boundary; and
  - iii. All Category ‘B2’ projects.
2. Category ‘B2’ projects shall not be placed before Appraisal Committee except for those projects mentioned against the item

## APPENDIX-I

(Refer clause 14)

### Procedure of Public Consultation

#### (1) Public Hearing:

1.1 The Public Hearing shall be arranged in a systematic, time bound and transparent manner ensuring widest possible public participation at the project site(s) or in its close proximity District -wise, by the concerned State Pollution Control Board (SPCB) or the Union Territory Pollution Control Committee (UTPCC)

#### (2) Process

2.1 The project proponent shall arrange to forward copies, one hard and one soft, of the draft EIA Report along with the Summary EIA, simultaneously with application for conduct of public hearing, to the following authorities or offices, within whose jurisdiction the project will be located:

- (a) District Magistrate / District Collector / Deputy Commissioner/s;
- (b) Zila Parishad or Municipal Corporation or Panchayats Union;
- (c) District Industries Office;
- (d) Urban Local Bodies (ULBs) / PRIs concerned / Development authorities;
- (e) Concerned Regional Office of the Ministry;
- (f) Concerned Regional office of SPCB or UTPCC.

## PROOF OF SERVICE



Mailbox of office@asjlegal.in

**Subject: KIND ATTN: SERVICE Rejoinder on behalf of Appellant in Appeal No. 29 of 2022 NGT Principal Bench New Delhi**

From: ASJ Legal <office@asjlegal.in> on Thu, 16 Jun 2022 11:38:24

To: <RAJESH.K64@GOV.IN>, <KUTTYDM@NIC.IN>, <ACP.RPCB@RAJASTHAN.GOV.IN>, <ROBHINWADI@GMAIL.COM>

Cc: "anandjha " <anand.jha@asjlegal.in>

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**1 attachment(s)** - Rejoinder\_Appeal\_No.\_29\_of\_2022\_RSSL\_Vs\_CAQM.pdf (5.17MB)

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TO,

1. COMMISSION FOR AIR QUALITY MANAGEMENT IN NATIONAL CAPITAL REGION (NCR) AND ADJOINING AREAS,

17<sup>TH</sup> FLOOR, JAWAHAR VYAPAR BHAWAN  
(STC BUILDING) TOLSTOY MARG,  
NEW DELHI- 110001

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CONTACT: 011-23701191

2. RAJASTHAN STATE POLLUTION CONTROL BOARD,  
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JAIPUR - 302004

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CONTACT: 0141-2716809

3. RAJASTHAN STATE POLLUTION CONTROL BOARD,  
BHIWADI OFFICE: G.O.-1, PH-II, RIA,  
BHIWADI

EMAIL: [ROBHINWADI@GMAIL.COM](mailto:ROBHINWADI@GMAIL.COM)

CONTACT: 01493-221435

Please find attached along with the present Email Rejoinder being filed on behalf of Apellant in Appeal No. 29 of 2022 (Old Appeal No. 11 of 2022 (CZ)). Please also note that this matter is listed on 17.06.2022.

Request you to kindly acknowledge the receipt of this email along with attachment.

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Regards

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