

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Appeal No. 87/2018

Vedanta Limited

Applicant(s)

Versus

State of Tamil Nadu & Ors.

Respondent(s)

Date of hearing: 28.11.2018

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE RAGHUVENDRA S. RATHORE, JUDICIAL MEMBER
HON'BLE MR. JUSTICE S.P. WANGDI, JUDICIAL MEMBER
HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

For Applicant(s): Mr. C.A. Sundaram, Senior Advocate with
Ms. Rohini, Advocate

For Respondents (s): Mr. C.S. Vaidyanaman, Senior Advocate with
Mr. M. Yogesh Kanna, Advocate for State of
Tamil Nadu
Mr. R. Rakesh Sharma, V. Mowli, Advocates
for TNPCB
B. Vinodh Kanna, Advocate for T.N. Elec.
Board
Beno Bencigar, Advocate
Satish Kumar, V. Senthil Kumar, Theerthe
Gowda, Advocates for CPCB
V. Elangovan, Advocate
Ritwick Dutta, Kanika Sood, Advocates

ORDER

1. This Appeal has been preferred against the order of Tamil Nadu Pollution Control Board (TNPCB) under Section 33A of the Water (Prevention and Control of Pollution) Act, 1974, directing sealing of premises of the Appellant.
2. On 05.07.2018, Notice was issued. On 09.08.2018, the matter was heard by this Tribunal and certain directions were issued, pending information from the TNPCB. The directions included that TNPCB will not dispose of the material and the representative of the Appellant will be entitled to access the Administrative Section but not the production unit.

3. On 20.08.2018, the matter was further considered in the light of the report of the Central Pollution Control Board (CPCB) on the issue of disposal of the material. The Tribunal observed that in substitution of the impugned orders, the matter should be considered afresh by a Committee constituted by the Tribunal, subject to further orders of this Tribunal. It was open to the Committee to hear the interveners, visit the site, consider the technical data and take an appropriate decision. Recommendations of the CPCB were directed to be carried out under supervision of the Committee of representatives of CPCB and the Ministry of Environment, Forest and Climate Change (MoEF & CC). The representative of the Appellant was permitted to access the Administrative Section, as already directed.

4. Report of the Committee dated 20.11.2018 has been received in this Tribunal and has been put up for consideration today. The cover of the report has been opened during the hearing.

5. The operative part of the report has been read out which is as follows:

“On the basis of the site visit, public hearing and after hearing the appellant Company, State of Tamil Nadu, Tamil Nadu Pollution Control Board, and the interveners and, upon consideration of the issues raised, the Committee is of the opinion:

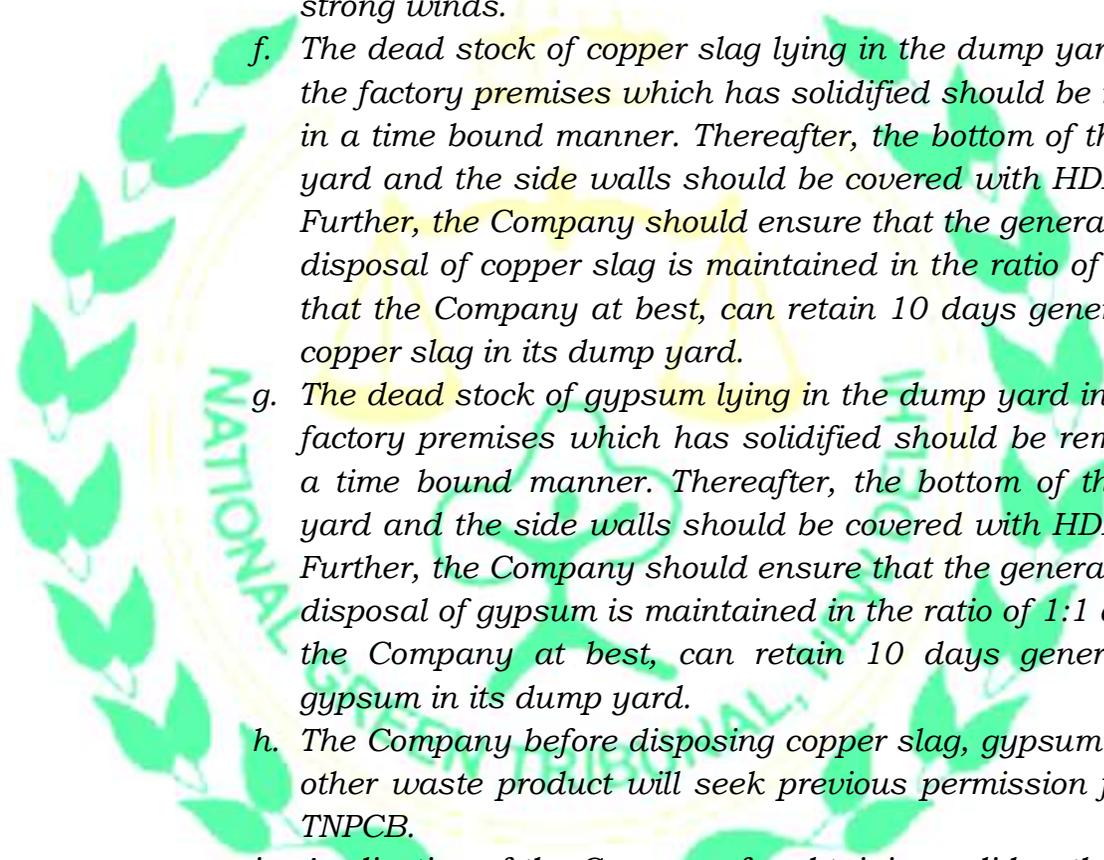
The impugned orders cannot be sustained as it is against the principles of natural justice. No notice or opportunity of hearing was given to the appellant.

The grounds mentioned in the impugned orders are not that grievous to justify permanent closure of the factory.

Other issues raised also does not justify the closure of the factory even if the appellant was found to be violating the conditions/norms/ directions.

In the event the Hon’ble Tribunal is of the opinion that the factory should commence production, the committee is of the opinion that the following directions may be issued.

a. As per condition no. 44 of the Consent Order dated 19-04-2005, the appellant should be directed to monitor ground water quality including heavy metals such as Arsenic, Cadmium, Silver, Copper, Fluoride, etc. in and around the factory premises and nearby villages once a month and such report should be furnished to the TNPCB.

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- b. *The sampling of the above should be taken in the presence of an official from TNPCB.*
 - c. *In addition to the above, the sampling of effluent/emission and solid waste should also be done by a monitoring group to be constituted by TNPCB comprising a representative of the District Collector, an official of TNPCB, NGOs and academicians as per condition no. 43 of Consent Order dated 19-04-2005.*
 - d. *Both the reports should be sent by TNPCB to CPCB for analysis. Recommendations made by CPCB should be followed.*
 - e. *Copper slag dumped at all the eleven sites including the Uppar River should be removed. If copper slag has been used for landfill purposes, then the excess amount of the slag over and above the level of ground would be removed and thereafter the landfill should be compacted with one feet of soil, so that the copper slag is not blown away by the strong winds.*
 - f. *The dead stock of copper slag lying in the dump yard inside the factory premises which has solidified should be removed in a time bound manner. Thereafter, the bottom of the dump yard and the side walls should be covered with HDPE liner. Further, the Company should ensure that the generation and disposal of copper slag is maintained in the ratio of 1:1 and that the Company at best, can retain 10 days generation of copper slag in its dump yard.*
 - g. *The dead stock of gypsum lying in the dump yard inside the factory premises which has solidified should be removed in a time bound manner. Thereafter, the bottom of the dump yard and the side walls should be covered with HDPE liner. Further, the Company should ensure that the generation and disposal of gypsum is maintained in the ratio of 1:1 and that the Company at best, can retain 10 days generation of gypsum in its dump yard.*
 - h. *The Company before disposing copper slag, gypsum (or) any other waste product will seek previous permission from the TNPCB.*
 - i. *Application of the Company for obtaining valid authorization for disposal of hazardous waste under Hazardous & Other Wastes (Management, & Transboundary Movement) Rules, 2016 should be disposed of by the TNPCB in a time bound manner.*
 - j. *Even though there is no requirement of analyzing the air samples through an accredited laboratory nonetheless a direction should be issued to the appellant that they will conduct a periodical survey for ambient air quality/ noise level/ stack emission through accredited laboratories of MoEF&CC/NABL and furnish such report to the TNPCB.*
 - k. *The appellant company should be directed that they shall develop a green belt of 25 metres width around the battery limits of its factory by planting native and high foliage tree and also in and around the factory.*

- l. *The State of Tamil Nadu/ TNPCB should collect data from their primary health centres and Govt. Hospitals to monitor the various ailments that are being complaint of by the inhabitants living in and around the factory premises.*
- m. *The State Government should specify the module to the appelliant for conducting the proper and designed health monitoring study.*
- n. *The direction no. (iii) on “Source Apportionment Study” and direction no. (ix) on “conducting a study on health hazards” passed by the NGT in its judgement dated 8/8/2013 in Appeal 58 of 2013 should be carried out by the Tamil Nadu State Government and TNPCB. Such reports should be furnished to NGT in a time-bound manner.*
- o. *The appelliant should be directed to start the construction of gypsum pond immediately and complete the same in a time bound manner as per the conditions laid down in the guidelines given by CPCB in October, 2014.*
- p. *The appelliant shall undertake a fresh detailed hydrogeological study for determining aquifer vulnerability and migration of leachate from the existing phosphogypsum pond through a reputed organization approved by the TNPCB as per condition no. 15 of the Consent Order dated 19/04/2005.*
- q. *Direction should be given to the TNPCB as well as to the appelliant to take independent ground water samples from the same points for the purpose of finding out groundwater pollution if any. Such reports should then be compared by the CPCB. Recommendations made by CPCB should be followed.*
- r. *Directions/regulation may be framed for import of high grade copper ore.*
- s. *Irrespective of the norms, stack height in any case be increased in order to remove the ambiguity and the grievance of inhabitants of the people of the Tuticorin with regard to emission of SO₂.*
- t. *Till such time, the stack height is not increased, the production of copper as well as sulfuric acid should be restricted/reduced to match the existing stack height.*
- u. *The transportation of copper ore concentrate from the port to the factory premises should be done in a closed conveyance or through a pipe conveyor system.*
- v. *Self-monitoring mechanism needs to be prepared by the appelliant for the periodic monitoring of Ambient Air Quality/Stack emissions/ Fugitive emissions/ground water quality/ surface water quality/ soil quality/slag analysis through third party and report shall be furnished to the concerned regulatory agencies.*
- w. *All the monitoring data, compliance reports of CTE/CTO/EC and environmental statement shall be uploaded on the website of the Company.*
- x. *TNPCB should be directed to commission “Regional Environmental Impact Assessment Study” in and around Tuticorin District by engaging a reputed national agency.*

y. CPCB recommendations as contained in the order of NGT, dated 20.08.2018 to be complied with.”

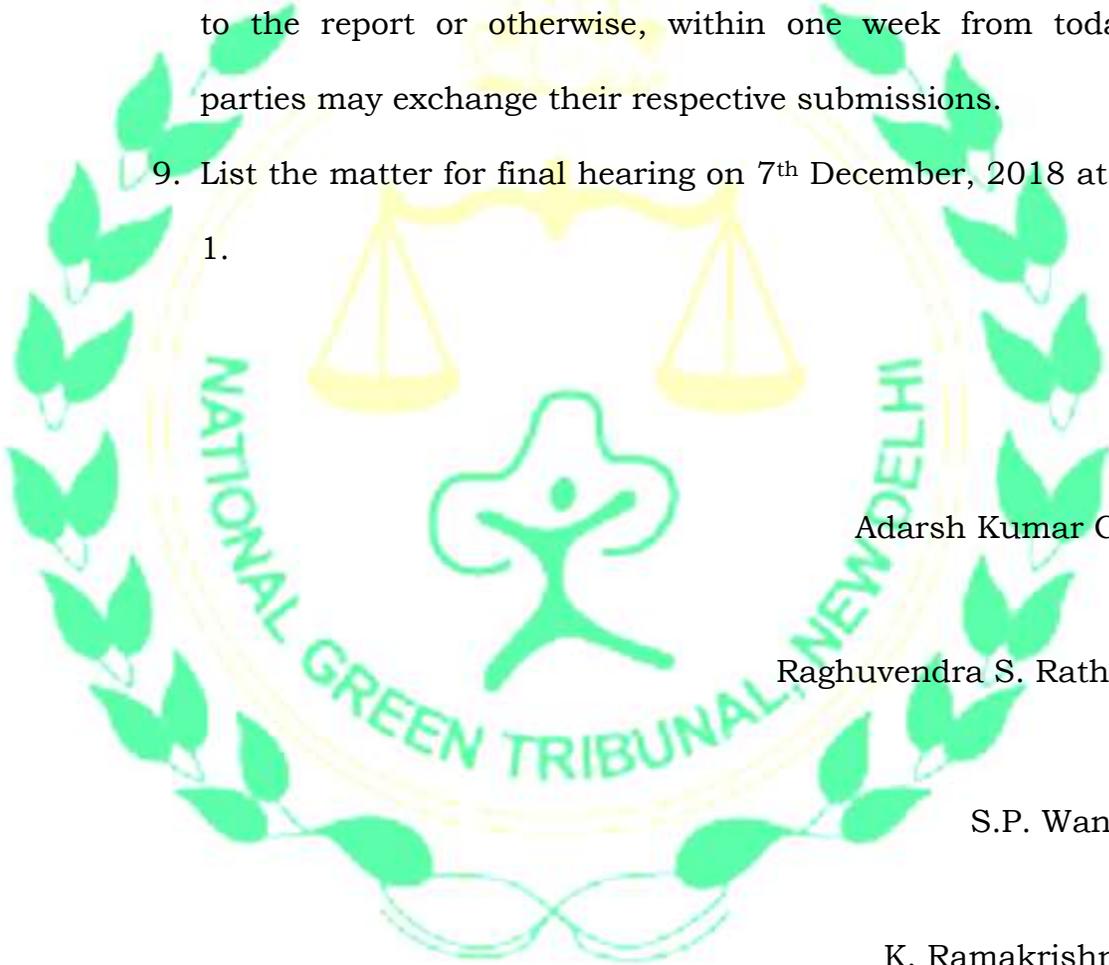
6. The report has also been sent in softcopy by way of a pendrive.

We direct the softcopy of the report be furnished to learned counsel for the Appellant, the State of Tamil Nadu, TNPCB and CPCB by email. The annexures filed by the parties are in 48 boxes with the report.

7. The interveners would be at liberty only to assist the State Counsel and not to individual hearing. At this stage only a copy of the report be furnished, as earlier directed.

8. It will be open to the parties to file any submissions with respect to the report or otherwise, within one week from today. The parties may exchange their respective submissions.

9. List the matter for final hearing on 7th December, 2018 at Sr. No. 1.



Adarsh Kumar Goel, CP

Raghuvendra S. Rathore, JM

S.P. Wangdi, JM

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

November 28, 2018

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