

Item No. 2

(Court No. 2)

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPALBENCH, NEW DELHI**

(Through Physical Hearing with Hybrid VC Option)
Original Application No. 649/2022

Mr. Narender Pratap Singh,
Bishada Village, Dadri Tehsil,
Gautam Buddh Nagar, Uttar Pradesh

...Applicant

VERSUS

1. Central Pollution Control Board,
Parivesh Bhawan, East Arjun Nagar,
Delhi-110032,
Email Address: ccb.cpcb@nic.in/sanand.cpcb@nic.in
mccb.cpcb@nic.in

2. Uttar Pradesh Pollution Control Board,
Building No. TC-12V
Vibhuti Khand, Gomti Nagar
Lucknow-226010, U.P.
Email Address: ms@uppcb.in

3. State of Uttar Pradesh,
Through Chief Secretary,
Government Of Uttar Pradesh,
101, 'B' Block, Lok Bhawan,
U.P. Secretariat, Lucknow - 226001,
Email Address: csup@nic.in

4. District Magistrate, Gautam Buddh Nagar
G-33, Tulsi Marg, G Block, Pocket G,
Sector 27, Noida, Uttar Pradesh 201301
Email: dmgbn@nic.n

5. M/s UPS Asbestos Ltd.
(Project Proponent)
15, Mahmoodabad Estate building,
Mahatama Gandhi Marg, Mahatama Gandhi Marg,
Near K D Singh Babu Stadium, Hazratganj, Lucknow,
Uttar Pradesh 226001
Email: upasbestoslimitedcs@gmail.com

...Respondents

Counsel for the Appellant

None.

Counsel for the Respondents:

Mr. Vikrant Pachnanda, Advocate for respondent no. 1-CPCB.
Mr. Pradeep Misra, Advocate for respondent no. 2-UPPCB (through VC).
Mr. Nalin Kohli, Advocate and Mr. Ankit Roy, Advocates for respondent
no. 5- the Project Proponent.
Mr. Pramod Kumar, DFO, Gautam Budh Nagar.

Present:

HON'BLE MR. JUSTICE ARUN KUMAR TYAGI, JUDICIAL MEMBER.
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER.

Reserved on : 19.05.2023

Date of Judgment: 17.07.2023

Judgment

1. Mr. Narender Pratap Singh, Gram Pradhan, Bishada, Block Bisrakh, Tehsil Dadri, District Gautam Budh Nagar, Uttar Pradesh has filed the present application under the provisions of the National Green Tribunal Act, 2010 complaining about causing of environmental pollution in village Bishada, Block Bisrakh, Tehsil Dadri, District Gautam Buddha Nagar, Uttar Pradesh by M/s UPS Vistage Pvt. Ltd. The applicant has submitted that the hazardous waste is being thrown in the open and highly polluted industrial effluent is being discharged in the drain and nearby fields. Many domesticated and wild animals have died due to drinking of polluted water. The villagers are also suffering from health problems due to pollution of ground water. Complaints were made to the concerned authorities but no action has been taken on the same.

2. Vide order dated 15.09.2022, this Tribunal constituted a Joint Committee comprising of Central Pollution Control Board (CPCB), Uttar

Pradesh State Pollution Control Board (UPSPCB) and District Magistrate, Gautam Budh Nagar and directed the same to verify the factual position and submit its report within one month and to send the copies of its report to the Project Proponent and concerned Statutory Authorities.

3. In compliance thereof, Mr. Radhe Shyam, Regional Officer, UPPCB has submitted report of the Joint Committee vide letter dated 10.12.2022 through email dated 10.12.2022. The relevant part of the report is reproduced below:-

JOINT INSPECTION REPORT OF COMMITTEE IN THE MATTER OF OA NO.649/2022 (NARENDRA PRATAP SINGH V/S CPCB)			
General Information & Operational Details		Date of Inspection 16.11.2022	
1.	Name & complete Address:	M/s U. P. Asbestos Limited Village and post Bishada, NTPC Road, Tehsil- Dadri, Greater Noida District- Gautam Budh Nagar, 201301	
2.	Geographical Coordinates (Latitude and Longitude) in Decimal	N: 28.573422 E: 77.565712	
3.	Name of the: occupier/ contact person(s) with designation: Telephone/Mobile(s) E-mail ID(s)	Sh. Rohit Goyal (GM-Admin & HR) 9149154872 carohit123@gmail.com	
4.	Date/year of commissioning	2005	
5.	Name of SPCBs Regional Office	UPPCB RO Greater Noida	
6.	Operational Status of the unit	Operational	
7.	Operational Schedule	24 Hrs/Day 25 Days/Month	
8.	Manufacturing process flow chart for each product (Flowchart to be attached)	Flow chart provided by unit is attached (Annexure-1)	
9.	CGWA NOC status	Validity with date (Valid copy to be attached)	If not valid, whether applied for renewal? (Application and expired NOC copy to be attached)

	NOC from CGWA as a permission to abstract groundwater	29.11.2020	Renewal application not filed by the unit
10	Consent	Validity	
	Consent to Operate issued under Water Act, 1974 by SPCB	31.12.2026 (annexure-2)	
	Consent to Operate issued under Air Act, 1981 by SPCB	31.12.2026 (annexure-3)	
	Authorization for Hazardous Waste Disposal issued under Hazardous and Other Wastes (Management & Transboundary Movement) [HOWM] Rules, 2016 by SPCB	08.09.2027 (annexure-4)	
11	Product(s) & Capacity-	TOTAL. Permitted production (As per consent):	
		Finished product (in TPD): 160 MTPD	
12	Type of Industry / Processes involved in operation	Manufacturing of Asbestos/Non-Asbestos Sheet	
RAW WATER SUPPLY			
13	Source(s) of raw water supply	Borewell however unable to locate.	
		Production process, Washing, etc.	
14	Average Water Consumption (KLD) (Based on logbook of Water abstracted)	Approx. 7.0 KLD	
	Water Consumption in KL/ MT of product	0.1 KL/MT	
EFFLUENT TREATMENT PLANT			
	Sample collected during inspection	(Yes) From final recirculation tank -01	
15	Type of Sampling	Grab	
	Names of all treatment units	The influent has given a retention time to settle the solids through 03 settling tanks and supernatant water is being recycled in the process through recirculation tank during inspection.	
AIR POLLUTION — EMISSION SOURCES & CONTROL			
	Sources of air pollution	Chimney Details	APC Equipment Emission Quality Provided
	Fly ash feeding section	12 meters	Cyclone type dust collector Analysis provided by unit is enclosed
16	Cement feeding section	15 meters	Cyclone type dust collector Analysis provided by unit is enclosed
	Details of D.G Set	Capacity	Exhaust pipe (in m) Emission Std.
		625 KVA	
	Fuel Consumption	Type of fuel	
		LDO	Analysis provided by unit is enclosed
SOLID WASTE & SLUDGE MANAGEMENT			

17	Solid/Hazardous waste generated in the unit:	Production Process waste — 2.0 MT/MONTH ETP Chemical Sludge — 10 MT/annum Raw material/ asbestos containing residues- 50 MT/annum Used oil — 50 lit./month Discarded containers- 48 no. /year Others (if any) — Nil				
	ETP Sludge Dewatering system	Settling tank provided for gravity separation of solid and liquid. Treated effluent is being recycled in process through recirculation tank.				
	Total Solid/ Hazardous waste generated (in	Form 3 & logbook not maintained by the unit				
	Whether Logbook for Solid /Hazardous Waste	(No)				
	Average Quantity of Solid/ Hazardous generated (in Kg/day) (based on logbook)	Around 50 to 60 bags (each of 25 Kgs approx.) of sludge found stored near settling tank in the open at the time of inspection.				
	Mode of Hazardous waste disposal	TSDF (As per submitted manifests of August 2022) Copy of membership with TSDF is attached as annexure- 5				
	If Disposal through TSDF site: (Last four Form- 10 to be attached)	(Yes)				
18						
		Ground Water	Waste Water	Possible Contaminated water in drain	Sludge/Solid Waste	ETP Sludge
	Sample collected during inspection (mention location details)	From Gaushala Near the unit (Lat. 28.574392, Long. 77.568608)	From recirculation tank after settling tanks in unit premises (Lat. 28.573264, Long. 77.565107)	From Upstream & Downstream of Bishada drain near discharge point of unit (Lat.28.5572042, Long. 77.568401)	Dumpsite near Raghav Welding Works (Lat. 28.580538, Long.77.569652)	Settling Tank of unit

Specific Observations of the inspection team:-

1. Unit has provided Display board at the entry gate of the unit.
2. As per specific condition no. 2 of CTO under Water Act, 1974 granted by UPPCB, unit must strictly maintain zero liquid discharge of effluent and the effluent shall be discharged via single discharge point and should have arrangement for flow meter/V Notch for measuring effluent disposal along with its log book. However, inspection team observed a discharge point from the unit to Bishada drain without Flowmeter/ V Notch.
3. As per specific condition no. 5 of CTO under Water Act, 1974 granted by UPPCB, industry

shall maintain sedimentation tanks properly and the treated effluent shall be totally reused after treatment. Unit has provided settling tanks, where influent has given a retention time to settle the solids and supernatant water is being recycled in the process. Unit has not installed flow meter for recycled water in process.

*4. As per CTO the unit has permitted for 160 MT/day of Asbestos Sheet and Non-Asbestos Sheet. However, as per the records provided, the unit has been manufacturing more than 200 MT/day of product which is a violation of CTO condition. Some records of production reports provided unit is annexed as **Annexure 6**.*

5. Authorization granted by UPPCB under HOWM Rules, 2016 has authorized only two hazardous wastes [i.e., Asbestos containing residues (15.1) and ETP Sludge (35.3)]. However, during inspection, additional hazardous wastes such as used oil, contaminated drums & broken/ discarded asbestos sheets which fall under category of 5.1, 33.1 & 15.2 of Schedule-I of HOWM Rules, 2016 were lying in the premises.

6. The unit is involved in manufacturing of Asbestos as well as non-asbestos sheets.

7. Raw materials [Cement (40-45%) + Fly ash (25-30%) + Cotton raw pulp (1-2%) + Fibre (3-5%) + Water (18-31%)] used in manufacturing of asbestos sheet.

8. All raw materials are stored in separate storage shed and provided different feeding section followed by mixing in a common agitator and formation of wet sheet. The sheets are sent to heating chamber for moisture removal maintained at approximately 40°C for 12 hours.

9. The unit has not provided Personal Protective Equipment (PPE) for the workers except safety shoes & helmet.

10. Sludge from settling tank stored in a haphazard manner without proper/designated storage shed.

11. Unit has not been maintaining Form 3 (Daily generation) and Form 4 (Annual Returns) for hazardous wastes as per HOWM Rules, 2016.

12. The petitioner was also accompanied with team during the inspection at nearby areas where discarded asbestos sheet/ sludge was dumped. Also, the petitioner was accompanied with the team for the inspection of Bishada drain.

13. Team has observed the dumping of discarded asbestos sheets and sludge at multiple locations in and around the village Bishada.

14. The unit has provided manifest documents (Form-10 under HOWM Rules, 2016) only for August, 2022. As per manifest, the unit has disposed 60.29 MT and 9.93 MT of fibre cemented sheet (discarded asbestos) & sludge to TSDF (M/s Bharat Oil & Waste Management, Kanpur Dehat).

15. The unit representative was unable to locate the point of ground water extraction.

16. The unit has provided the No Objection Certificate (NOC) from Central Ground Water Authority (CGWA) and found expired on 29.11.2020.

17. The inspection team has found a tractor with sludge/Asbestos sheet near the company premises heading to dump in nearby area.

18. As per information, UPPCB has carried out inspection of the unit on 08.08.2022 and issued a notice to the unit for compliance

Specific Recommendations/Suggestions of the Committee
<p>1. The unit shall provide flow meter/V Notch for measurement of effluent at final discharge point. The unit shall also install flow meter on effluent recirculation pipeline and maintain daily records of effluent recycled in process.</p> <p>2. The unit shall renew/revise the Authorization clearly mentioning all the hazardous wastes generated during the process of manufacturing asbestos sheet as well as non-asbestos sheets, along with the disposal method.</p> <p>3. The unit shall provide adequate PPEs for all the workers.</p> <p>4. The unit shall store all the hazardous waste into the shed and earmark them and provide with caution sign.</p> <p>5. The unit shall maintain Form 3 (Daily generation) and file Annual Returns to SPCB as per HOWM Rules, 2016.</p> <p>6. The unit shall dispose hazardous wastes such as sludge & broken/ discarded asbestos sheets to TSDF only.</p> <p>7. The unit shall extract ground water with valid NOC from UPGWD/concerned authority.</p> <p>8. UPPCB shall review/revise Hazardous Waste Authorization granted to the unit.</p>
<p><i>In view of above shortcomings observed by the Joint Committee, action against the unit has been initiated under Water (Prevention and Control of Pollution), 1974 and Environment (Protection), 1986 by UPPCB. Copy of show cause notice issued by UPPCB against unit is annexed as Annexure-7.</i></p> <p><i>This interim report is being submitted for kind consideration and grant us permission of two months for filing final report, please.</i></p>

”

4. Vide order dated 13.12.2022 this Tribunal impleaded CPCB, UPSPCB, State of Uttar Pradesh through Chief Secretary, Government of Uttar Pradesh, the District Magistrate, Gautam Budh Nagar and the Project Proponent as respondents no. 1 to 5. The respondent no. 2- the UPSPCB was directed to look into the all relevant aspects including the requirement of the environmental clearance for the Project Proponent from the MoEF & CC and to take appropriate remedial measures for abatement of the environmental pollution in view of the observations made in the report of the Joint Committee and file its reply/response within one month.

5. In compliance thereof report has been filed by Mr. Radhe Shyam, Regional Officer, UPPCB vide email dated 20.01.2023. The

relevant part of the report filed by Mr. Radhe Shyam, Regional Officer,

UPSPCB is reproduced below:-

**“Compliance Report in O.A No. 649/2022 Narendra
Pratap Singh Vs. CPCB & Anr.**

X X X X
2. Action taken by U.P. Pollution Control Board:

- *The show cause notices have been issued by U.P. Pollution Control Board under section 33-A of Water (Prevention and Control of Pollution), 1974 and under section 5 of Environment (Protection), 1986, against the unit M/s U.P. Asbestos Ltd., village — bishada, NTPC road, Tehsil- Dadri, Greater Noida, District — Gautambuddhnagar vide its letter dated 10.12.2022. The Copy of show cause notices issued by U.P. Pollution Control Board are annexed as Annexure-1 & 2.*
- *In response to the Show Cause Notices, the industry M/s U.P. Asbestos Ltd., village — bishada, NTPC road, Tehsil- Dadri, Greater Noida, District — Gautambuddhnagar has submitted its reply on dated 26.12.2022, copy of same is attached as Annexure-3.*
- *In response to the reply submitted by the Unit, latest inspection of the industry M/s U.P. Asbestos Ltd., village — bishada, NTPC road, Tehsil- Dadri, Greater Noida, District — Gautambuddhnagar was carried out by the officials of UPPCB on dated 15.01.2023. During inspection it was observed that unit has removed shortcomings found by the Joint Committee during visit on dated 16.11.2022. The Unit has lifted all discarded sheets/ broken sheet material from sites identified by the Joint Committee. As per the production record of the unit, it was found that unit has increased its daily production in time span from 01.09.2022 to 30.11.2022, which is a violation of the condition of consent to operate issued by the Board vide letter dated 23.02.2022, Detailed report is annexed as Annexure-4.*
- *Main highlights of report dated 16.01.2023 are as follows-*
 - a. *During inspection it was found that the unit has permanently closed its discharge point from unit to bishada drain by constructing boundary wall. Hence, flowmeter/ V Notch is not required as there is no provision of industrial discharge outside the factory premises in present scenario.*

- b. During inspection it was found that unit has installed water flow meter at treated effluent recycle pipeline from settling tank to process.*
- c. The Unit has informed vide his letter dated 26-12-2022 that the increased production against consented production capacity (asbestos sheet and non-asbestos sheet- 160 MT/day) from month of September to November 2022 was due to pending supply orders and at present the production capacity of the unit is as per the consented production capacity (asbestos sheet and non-asbestos sheet- 160 MT/day).*
- d. The Unit has applied for revised hazardous waste authorization under the Hazardous and other Wastes (Management & Transboundary Movement) Rules, 2016 from Board on dated 03.01.2023, the application is under process.*
- e. The Unit has provided Personal Protective Equipment (PPE) for the workers engaged in feeding of asbestos fiber and waste asbestos sheet in pulveriser section.*
- f. The Unit has stored dry sludge in dedicated covered shed in premises and during inspection no sludge was found stored in a haphazard manner within the factory premises.*
- g. The Unit has submitted copy of Form 3 (hazardous waste daily generation) as defined in the Hazardous and other Wastes (Management & Transboundary Movement) Rules, 2016 with reply of show cause notice. It was also informed by the unit representative that as per the provision of the Act, the annual return for the current financial year in Form 4 will be submitted by the end of June 2023.*
- h. All the discarded material and sludge have been transferred to dedicated hazardous waste covered shed within the premises and same will be provided to authorized TSDF for disposal.*
- i. The Unit has applied on dated 24.12.2022 for NOC from U.P. Ground Water Department for abstraction of ground water.*
- *U.P. Pollution Control Board vide letter no H- 87510/C-1/water/NGT-164/2023, dated 19.01.2023 has imposed environmental compensation of Rs. 7,03,125 /- (Seven lakh three thousand one hundred twenty-five only) against M/s U.P. Asbestos Ltd., village — bishada, NTPC road, Tehsil- Dadri, Greater Noida, District — Gautambuddhnagar for the violation of the consent*

conditions. The copy of the letter is annexed as Annexure-5.

- *As per information provided by the unit, the environmental clearance was obtained by the industry from MOEF & CC vide its letter dated 30.12.1999 in the name of M/s Triage Industries Pvt. Ltd. for manufacturing of asbestos cement sheet plant (36,000 TPA) at Dadri, Gautambudh Nagar, which was later on transferred in the name of M/s U.P. Asbestos Ltd., by MOEF vide letter dated 21.07.2005, copy of same is attached as annexure-6. ”*
6. A perusal of the report UPSPCB shows that environmental clearance was obtained from MoEF&CC vide its letter dated 30.12.1999 in the name of M/s Triage Industries Pvt. Ltd. for manufacturing of asbestos cement sheets (36,000 TPA) at Dadri, Gautam Budh Nagar, which was later on transferred in the name of M/s U.P. Asbestos Ltd., by MoEF&CC vide letter dated 21.07.2005.
7. Response has been filed by the respondent no. 1-CPCB vide email dated 24.01.2023. The relevant part of the response filed by Respondent No. 1-CPCB is reproduced below:-

“Response on behalf of Respondent No. 1, Central Pollution Control Board (CPCB).

X X X X X

5. That the response of this Respondent on the averments of the complainant and report of Joint committee submitted below:

i. M/s U. P. Asbestos Ltd., Dadri, District Gautam Buddh Nagar, U.P has dumped sludge and discarded asbestos sheets in the surrounding areas of the industry on 16/11/2022. The material disposed was a hazardous waste as per the Schedule I of Hazardous Waste management rules. Further, committee has observed that heaps of ETP sludge containing asbestos was stored in open inside the premises, as there was no designated place for temporary storage of hazardous waste. Further the industry has not maintained records of hazardous waste generated and not filed annual reports. In this regard, it is submitted that the industry has violated the provisions under Hazardous and Other Waste Management Rules, 2016. The unit may therefore be

directed to lift all the waste from the scattered dumpsites in and around the industry premises and send the same to TSDF. Further, the unit may be directed to test the soil samples for possible contamination with Asbestos, and such soils shall also be treated and sent to TSDF for final disposal.

ii. As per the report of Joint Committee the industry failed to comply with conditions of CTO issued by UPPCB with respect to providing flow meter/V Notch for measurement of effluent. The committee has recommended that the industry may ensure installation of flow meter at final discharge point and maintain daily records of effluent treated and recycled in the process. Joint committee has also collected samples of wastewater during the visit. In this regard it is submitted that appropriate directions may be issued against the industry to install flow measuring device. Further, compliance report of wastewater samples collected shall be submitted by UPPCB so as to issue further directions to industry if required to comply.

iii. Joint Committee has observed that the industry was operated beyond the consented production capacity. In this regard, it is submitted that production of asbestos sheets more than the consented capacity, may result in increase in generation of waste and wastewater, thereby possibility failure of wastewater treatment system as well as inadequate management of hazardous waste.

iv. That the joint committee has reported that the petitioner has helped in identifying waste dumpsites and wastewater discharge outside the premises, where the samples of waste as well as wastewater were collected from open ground and drains near village Bishada. In this regard, it is submitted that the report of waste and wastewater samples collected shall be reported by UPPCB so as to issue further directions to industry to comply.

v. Joint Committee observed that the some of the hazardous wastes such as used oils, contaminated drums and broken/discarded asbestos were not listed in authorization granted by UPPCB under Hazardous Waste Management Rules, 2016. In this regard, the UPPCB may be directed to review the authorization granted to the unit, till such time, the unit shall be directed to dispose asbestos containing material through common TSDF.

vi. As per the report of Joint Committee, the workers in the industry were not wearing Personal Protective Equipment (PPEs). In this regard, it is submitted that asbestos is one of the toxic material and known carcinogen, Hence the industry may be directed to provide adequate Personal Protective Equipment and clothing to its workers and implement occupational safety practices pertaining to handling of asbestos material. The industry may also be directed to comply with recommendations of the report of CPCB "Human Health Risk Assessment Studies in Asbestos Based Industries In India" issued in 2008-2009

6. That the report of Joint Committee indicates that the unit has violated the provisions under Hazardous and Other Waste Management Rules, 2016 including dumping of hazardous waste in open. Further, the industry has also violated provisions of Consent granted under water (P&CP) Act, 1974 issued by UPPCB with respect to operational capacity and installation of flow measurement device. Therefore, the industry may be directed to take appropriate corrective measures urgently and environmental compensation charges may be imposed for abatement of pollution control measures and potential damages."

8. Vide order dated 27.01.2023 this Tribunal directed respondent no. 5 to file its reply/response within two months and also constituted a Joint Committee comprising of the representatives of the MoEF&CC, the CPCB and the UPSPCB to undertake visits to the site in question, arrange taking of the soil and water samples by identifying the affected places by involving the applicant or other residents of the area and get the same analyzed from any recognized laboratory for both Physical and Chemical properties including heavy metals like iron, nickel, copper, lead, chromium, arsenic silica etc., verify the factual position regarding compliance with EC and consent conditions stipulated by MoEF&CC and UPPCB respectively by the Project Proponent and submit its report **within two months.**

9. In compliance thereof reply has been filed by respondent No. 5 vide email dated 25.03.2023. The relevant part of the reply filed by respondent no. 5 is reproduced below:-

“REPLY ON BEHALF OF RESPONDENT NO. 5 – U. P ASBESTOS LTD. IN COMPLIANCE OF THE ORDER DT. 27.01.2023 ALONG-WITH AFFIDAVIT

X

X

X

X

3. Pursuant to the above, the Joint Committee formed by this Hon'ble Tribunal undertook the site visit and thereafter, the State PCB submitted the report vide letter dt. 10.12.2022. It is most respectfully submitted that the specific recommendations / suggestions of the Joint Committee for the answering Respondents, as per the letter dt. 10.12.2022 of the State PCB, are as follows:

A. Project proponent / answering Respondent to provide for flow meter/ V Notch for measurement of effluent at final discharge point and also to install flow meter on effluent recirculation pipeline and to maintain daily records of the effluent recycled in the process.

B. Project proponent / answering Respondent to renew/revise the authorization issued under the provisions of Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 mentioning the details of all the hazardous waste generated during the manufacturing process.

C. To provide for adequate PPE kits for all the workers.

D. The project proponent to store all the hazardous waste into the earmarked shed.

E. To maintain Form 3 and file the Annual return to the State PCB as per the Hazardous Waste Management Rules, 2016.

F. The Project proponent / answering Respondent to dispose of wastes such as sludge & broken/ discarded asbestos sheets to the treatment, storage, and disposal facility (TSDF) only.

G. The Project proponent / answering Respondent to extract ground water only with a valid NOC issued by the concerned authority.

4. It is most respectfully submitted that, in light of the shortcomings observed by the Joint Committee, the State

PCB has issued show cause notice dt. 10.12.2022 to the answering respondents under Section 5 of the Environment (Protection) Act, 1986 and show cause notice of the same date under Section 33A read with Section 27 (2) of the Water (Prevention and Control of Pollution) Act, 1974.

A copy of the show cause notice dt. 10.12.2022 issued under Section 5 of the Environment (Protection) Act, 1986 and show cause notice dt. 10.12.2022 issued under Section 33A read with Section 27 (2) of the Water (Prevention and Control of Pollution) Act, 1974 is annexed and marked as Annexure R5/1 [pg. 14 to 15] and Annexure R5/2 [pg. 16 to 17] respectively.

5. It is most humbly submitted that the answering Respondent submitted its Reply dt. 26.12.2022 to the show cause notice dt. 10.12.2022 sent by the State PCB. A copy of the Reply dt. 26.12.2022 sent by the answering Respondent to the show cause notice dt. 10.12.2022 sent by the State PCB is annexed and marked as and Annexure R5/3 [pg. 18 to 21].

6. It is respectfully submitted that the present matter was thereafter listed on 13.12.2022 when this Hon'ble Tribunal passed the following order:

"4. In view of the averments made in the application and observations made in the report of the Joint Committee, we consider it appropriate to have response of respondent no. 1 Central Pollution Control Board and respondent no.2 Uttar Pradesh SPCB as well as State of Uttar Pradesh through Chief Secretary, Government of Uttar Pradesh; the District Magistrate, Gautam Buddh Nagar and the Project Proponent- M/s UPS Asbestos Ltd., who stand impleaded as respondents No. 3 to 5. The Registry is directed to amend memo of parties to the application. Respondent no. 2 is already appearing before this Tribunal through counsel. Notices be issued to respondents No. 1, 3 to 5.

6. Respondent no. 2- the UPPCB is directed to look into the all relevant aspects including the requirement of the environmental clearance for the Project Proponent from the MoEF & CC and to take appropriate remedial measures for abatement of the environmental pollution in view of the observations made in the report of the Joint Committee and file its reply/response within one month by email at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF."

7. It is most respectfully submitted that pursuant to the above-quoted order dt. 13.12.2022, the answering Respondent stood added as a party in the present matter. It is submitted that the State PCB submitted its report dt. 19.01.2023 for the hearing scheduled on 27.01.2023. It is most pertinent to highlight the findings of the Joint Committee as submitted in the report dt. 19.01.2023.

A. State PCB conducted the inspection on 15.01.2023.

B. The project proponent has implemented the suggestions of the State PCB and cured the shortcomings as suggested in the report submitted vide letter dt. 10.12.2022 before this Hon'ble Tribunal.

C. The project proponent has removed all the discarded sheets/ broken sheet material as identified by the Joint Committee in the last visit.

D. The discharge point from the manufacturing unit to the bishada drain has been permanently closed by constructing boundary wall. Therefore, there is no provision of industrial discharge outside the manufacturing facility.

E. The project proponent has installed water flow meter at the treated effluent recycle pipeline.

F. The reason for the increased production [i.e. more than 160 MT/day] for the month September to November, 2022 was for the reason of fulfilling pending supply orders. The unit could not operate in the months of July and August, 2022 due to various labour issues, hence, the increase in production beyond 160 MT/day in September to November, 2022. The committee was pleased to observe that presently, the manufacturing facility was operating within the prescribed limit of 160 MT/day.

G. The answering Respondent had applied for the revised authorization under the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 vide application dt. 03.01.2023.

It is pertinent to highlight that the State PCB has issued the authorization under the provisions of Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 vide 27.01.2023.

A copy of the authorization dt. 27.01.2023 issued under the provisions of Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 is annexed and marked as Annexure R5/4 [pg. 22 to 25].

H. PPE kit had been provided to all the workers engaged in the feeding of asbestos fiber and waste asbestos sheet in pulveriser section.

I. As suggested earlier, the project proponent has stored hazardous waste into the earmarked shed and no sludge was found stored in an unmarked or undesignated area.

J. As suggested, the project proponent submitted copy of Form – 3 along-with the Reply dt. 26.12.2022 to the show cause notice.

K. The discarded material and sludge were transferred to the dedicated hazardous waste shed located within the premises and same to be provided to the authorized TSDF for disposal.

L. The project proponent had applied on 24.12.2022 for NOC from the Uttar Pradesh Ground Water Authority and awaiting grant of the same.

8. It is most respectfully submitted that the State PCB vide letter dt. 19.01.2023 was pleased to impose Rs. 7,03,125/- as environment compensation against the answering Respondents for non-compliance brought out in the visits and or inspection by the joint committee. As per the inquiry report of the State PCB, the basis for the computation of the environment compensation is as follows:

$$\begin{aligned} EC &= PI \times N \times R \times S \times LF \\ &= 75 \times 75 \times 250 \times 0.5 \times 1.0 \\ &= \text{Rs. } 7,03,125/- \end{aligned}$$

Where, EC is Environmental Compensation in (₹)

PI = Pollution Index of industrial sector

N = Number of days of violation

R = Factor in Rupees (₹) for deriving the EC

S = Factor for scale of operation

LF = Location factor

A copy of the letter dt. 19.01.2023 vide which the State PCB was pleased

to impose the EC is annexed and marked as Annexure R5/5 [pg. 26]

9. It is most pertinent to highlight that the answering Respondent has duly paid the EC on 20.01.2023 imposed by the State PCB and informed about the details of the same to the State PCB vide letter dt. 20.01.2023.

A copy of the letter dt. 20.01.2023 vide which the answering Respondent has informed the State PCB about payment of the EC is annexed and marked as Annexure R5/6 [pg. 27].

10. It is most respectfully submitted that the present matter was thereafter listed before this Hon'ble Tribunal on 27.01.2023, whereby the following order was passed:

“..5. In view of the averments made in the application and observations made in the report of the Joint Committee and also the replies/responses filed by the CPCB and the UPPCB, we consider it appropriate to constitute and accordingly constitute a Joint Committee comprising of the representatives of the MoEF&CC, the CPCB and the UPPCB to undertake visits to the site in question, arrange

taking of the soil and water samples by identifying the affected places by involving the applicant or other residents of the area and get the same analyzed from any recognized laboratory for both Physical and Chemical properties including heavy metals like iron, nickel, copper, lead, chromium, arsenic silica etc., verify the factual position regarding compliance with EC and consent conditions stipulated by MoEF&CC and UPPCB respectively by the Project Proponent and submit its report within two months by email at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR supported PDF and not in the form of Image PDF. The UPPCB shall be nodal agency for coordination and compliance.

6. List the matter for further consideration on 28.03.2023.”

11. It is most respectfully submitted that pursuant to the order dt. 27.01.2023, the Joint Committee constituted by this Hon'ble Tribunal visited and/or inspected the facility of the answering Respondent on 17.03.2023. It is submitted that the Joint Committee has duly collected the desired samples as per the mandate of the order dt. 27.01.2023.

12. It is further most respectfully submitted that the Joint Committee during the visit and/or inspection had requested for documents from the answering Respondent, which has been duly supplied along-with a covering letter dt. 21.03.2023.

A copy of the letter dt. 21.03.2023 along-with the documents is annexed and marked as Annexure R5/7 [pg. 28 to 159].

13. It is also most pertinent to highlight that the Applicant – Narender Pratap Singh vide letter dt. 10.03.2023 addressed to the answering Respondent has conveyed his appreciation for the remedial measures undertaken by the answering Respondent with utmost sincerity and responsibility. The Applicant has stated in his letter that the deficiencies/suggestions pointed out by the State PCB in its inspections have been complied with by the answering Respondent.

A copy of the letter dt. 10.03.2023 issued by the Applicant is annexed and marked as Annexure R5/8 [pg. 160].

14. Therefore, considering the submissions made hereinabove and the findings in the report dt. 19.01.2023 submitted by the State PCB before this Hon'ble Tribunal, it is most humbly submitted that the answering Respondent / manufacturing facility is compliant with the applicable

laws and is duty bound to comply with the same in future.”

10. Interim report has been filed by UPSPCB vide email dated 24.03.2023. The relevant part of the report is reproduced below:-

“In Re: Compliance of order dated 27.01.2023 passed by Hon'ble NGT, New Delhi in O. A. NO.649/2022

X X X X
B. In compliance of the aforesaid order, a Joint inspection comprising the following members in accordance with the mandate of order of Hon'ble Tribunal, conducted on 17/03/2023 in presence of applicant Mr. Narendra Pratap Singh:

a. Dr. (Ms). Satya, Additional Director/ Scientist 'E', Ministry of Environment, Forest & Climate Change, Integrated Regional Office, Lucknow.

b. Ms Deepti Kapil, Scientist 'D', Central Pollution Control Board, Delhi.

c. Mr. Deo Kumar Gupta, Environmental Engineer, U.P. Pollution Control Board., Regional Office, Greater Noida.

d. Mr. Anshul Sharma, Assistant Environmental Engineer, U.P. Pollution Control Board, Regional Office, Greater Noida.

C. During inspection, unit was found operational and. no industrial waste water was found discharging into nearby drain. (Bishada drain). The unit has applied for NOC from U.P. Ground Water Department for abstraction of 10 KL/day of ground water on dated 24.12.2022(Copy of application is annexed as Annexure-1). Unit has obtained amended authorization under Hazardous and Other Wastes (Management and Transboundary Rules), 2016 from UPPCB vide letter dated 27.01.2023, which is valid up to 26.01.2028 (Copy of same is attached as annexure-2).

The Joint Committee visited the affected areas with regard to the alleged dumping of the hazardous waste and following are the visual observations:

i. The dumped waste has been lifted by the unit and transferred to the TSDF.

ii. There were some residual traces of the waste at the site from where the bulk quantity of the waste has been lifted.

iii. There is no fresh dumping of the waste at the sites.

iv. The sites from where the waste is lifted may have traces of contaminants, hence sample were taken to ascertain the same.

Further, the applicant informed to the Committee that the unit has lifted the waste which was earlier dumped at various places in village Bishada. Unit representative also provided a copy of the letter received from the applicant stating that the waste has been lifted from the dump sites (copy of same is annexed as Annexure-3).

D. In compliance of Hon'ble NGT order dated 27.01.2023, the Joint Committee collected following water and soil samples (in the presence of the applicant) :

- i. Waste water Samples - Inlet and outlet of the ETP*
- ii. Groundwater Samples from the unit & near the Gaushala, Vill. — Bishada*
- iii. Samples from Bishada drain (upstream and downstream).*
- iv. Samples of ETP Sludge & Sludge mixed with broken asbestos sheet from HW Storage area of the unit*
- v. Soil samples from the following 04 identified affected areas (reported by the applicant):*

a) Open Ground-1, Vill. - Bisanda, Greater Noida. (Lat.- 28.575158, Long.- 77.569166)

b) Near Gaushala, and warehouse M/s Safe Express Pvt Ltd., Vill. - Bisanda, Greater Noida. (Lat.- 28.5741574, Long.- 77.569166)

c) Near Maharana restaurant, Vill. -Bishada, NTPC road, Greater Noida. (Lat.- 28.582426, Long.- 77.57071)

d) Near Raghav welding works, Vill. -Bishada, NTPC road, Greater Noida. (Lat.- 28.580512, Long.- 77.569513)

The above water and soil samples are under analysis and the results will be available within 05-06 weeks....”

11. Since the water and soil samples taken were under analysis, UPSPCB sought eight weeks' time for submitting the report which request was declined and UPSPCB was directed to file its report on soil and water quality and also permissibility of Asbestos based industries/units within two weeks.

12. Report has been filed by Mr. Vivek Roy, chief Environmental Officer, (Circle-1), UPPCB vide email dated 11.04.2023. The relevant part of the report is reproduced below:-

“In Re: Report in compliance of order dated 28.03.2023 passed by Hon'ble NGT, New Delhi in O.A. NO.649/2022

X X X X X

B. Action taken by the Joint Committee

I. In compliance of Hon'ble Tribunal's orders dated 27.01.2023, Joint inspection of M/s U.P. Asbestos Ltd., Vill. - Bishada, Dadri, Greater Noida was carried out on dated 17.03.2023 in presence of applicant Mr. Narender Pratap Singh by the Joint Committee comprising of following officials:

- a. Dr. (Ms). Satya, Additional Director/ Scientist 'E', Ministry of Environment, Forest & Climate Change, Integrated Regional Office, Lucknow.*
- b. Ms Deepti Kapil, Scientist 'D', Central Pollution Control Board, Delhi.*
- c. Mr. Deo Kumar Gupta, Environmental Engineer, U.P. Pollution Control Board, Regional Office, Greater Noida.*
- d. Mr. Anshul Sharma, Assistant Environmental Engineer, U.P. Pollution Control Board, Regional Office, Greater Noida.*

II. The above Joint Committee collected following water and soil samples in the presence of the applicant:

- i. Waste water Samples - Inlet and outlet of the ETP*

The samples analyzed for physical and chemical properties including heavy metals (i.e., Iron, Nickel, copper, lead, chromium, arsenic, silica, asbestos etc). As per analysis report of ETP outlet, all parameters are found within prescribed limit except Selenium which resulted for 0.1 mg/ L (beyond the limit of 0.05 mg/ L under the General Standards For Discharge Of Environmental Pollutants Part-A : Effluents in The Environment (Protection) Rules, 1986). Copy of same are annexed as Annexure- 01. As per analysis report of ETP outlet general parameters are as follows:

Parameter	ETP Inlet	ETP outlet
pH	7.29	7.51
Oil & Grease (mg/l)	9.8	2.5
Suspended solids (mg/l)	205	58
BOD (mg/l)	74	25
COD (mg/l)	312	168

As per analysis report chemical parameters are as follows:

S. No.	Sample details Parameters (mg/L)	ETP Inlet	ETP Outlet
1	As	0.01	BDL
2	Cd	BDL*	BDL
3	Co	BDL	BDL
4	Cr	0.02	2.00
5	Cu	0.05	0.18
6	Fe	11.71	0.77
7	Mn	0.42	0.04
8	Ni	0.01	0.02
9	Pb	BDL	0.02
10	Sb	BDL	BDL
11	Se	BDL	0.10
12	V	0.02	BDL
13	Zn	0.16	0.02

(BDL Below Detectable Limit)

ii. Groundwater samples from the unit & near the Gaushala, Vill. —Bishada

The samples analyzed for physical and chemical properties including heavy metals (i.e., Iron, Nickel, copper, lead, chromium, arsenic, silica, asbestos etc). As per analysis reports, all parameters are found within prescribed limit as per drinking water standards (IS 10500: 2012), Copy of same is annexed as Annexure- 02.

As per analysis report general parameters are as follows:

Parameter	Ground water sample from unit	Ground water sample from gaushala
pH	7.24	7.31
Turbidity (NTU)	15	18
Suspended solids (mg/l)	12	9
Colour	No Detected	No Detected
BOD (mg/l)	No Detected	No Detected
COD (mg/l)	No Detected	No Detected

As per analysis report chemical parameters are as follows:

S. No.	Sample details Parameters (mg/L)	Ground Water in the Unit	Ground Water in the Gaushala
1	As	BDL	BDL
2	Cd	BDL	BDL
3	Co	BDL	BDL
4	Cr	BDL	BDL
5	Cu	BDL	BDL
6	Fe	0.01	0.03
7	Mn	0.02	0.05
8	Ni	BDL	BDL
9	Pb	BDL	BDL
10	Sb	BDL	BDL
11	Se	BDL	BDL
12	V	BDL	BDL
13	Zn	BDL	BDL

(BDL Below Detectable Limit)

iii Samples from Bishada drain (upstream and downstream)

The samples analysed for physical and chemical properties including heavy metals (i.e., Iron, Nickel, copper, lead, chromium, arsenic, silica, asbestos etc). As per

analysis report received, no adverse impact was observed in effluent quality of nearby drain. However, the drain sample collected upstream from the unit, indicated Selenium as 0.08 mg/ L (beyond the limit 0.05 mg/ L) Copy of same is annexed as Annexure- 03.

As per analysis report general parameters are as follows:

Parameter	Drain upstream	Drain downstream
pH	7.62	7.54
Turbidity (NTU)	32	30
Suspended solids (mg/l)	128	144
Colour	Turbid	Sl-Blackish
BOD (mg/l)	42.26	38.18
COD (mg/l)	306.15	288.42

As per analysis report chemical parameters are as follows:

S. No.	Sample details Parameters (mg/L)	Drain Up stream	Drain Down Stream
1	As	BDL	BDL
2	Cd	BDL	BDL
3	Co	BDL	BDL
4	Cr	1.61	BDL
5	Cu	0.15	BDL
6	Fe	0.47	1.22
7	Mn	0.02	0.34
8	Ni	0.01	BDL
9	Pb	0.01	BDL
10	Sb	BDL	BDL
11	Se	0.08	BDL
12	V	BDL	BDL
13	Zn	0.09	0.04

iv. Samples of ETP Sludge & Sludge mixed with broken asbestos sheet from industrial premises -

a. Sludge mixed with broken asbestos sheet from HW storage area of the unit.

b. ETP sludge

For analysis of solid samples CSIR- IITR (Indian Institute of Toxicology Research), Lucknow was engaged. As per information received from IITR email dated 10.04.2023, analysis of samples will take around 6 weeks. Copy of email dated 10.04.2023 is annexed as Annexure- 04.

v. Soil samples from the following 04 identified affected areas (reported by the applicant):

a. Open Ground-1, Bisanda, Greater Noida. (Lat. 28.575158, Long.- 77.569166)

b. Near Gaushala, and warehouse M/s Safe Express Pvt Lid., Vill. - Bisanda, Greater Noida. (Lat.- 28.5741574, Long.- 77.569166)

c. Near Maharana restaurant, Vill. -Bishada, NTPC road, GreaterNoida. (Lat.- 28.582426, Long.- 77.57071)

d. Near Raghav welding works, Vill. -Bishada, NTPC road, Greater Noida. (Lat.- 28.580512, Long.- 77.569513)

The analysis of samples are being performed by CSIR-IITR (Indian Institute of Toxicology Research), Lucknow. IITR vide email dated 10.04.2023 informed that results will be submitted within 6 weeks.

III. During inspection, unit was found operational and no industrial waste water was found discharging into nearby drain (Bishada drain). It was informed by unit representative that 100% of industrial effluent is treated through ETP (settling tanks) and recycled back in process. Unit has installed flow meter on treated effluent recycle pipeline.

IV. The Joint Committee visited the affected areas with regard to the alleged dumping of the hazardous waste and following are the visual observations:

➤ The dumped waste has been lifted by the unit and transferred to the TSDF.

➤ There were some residual traces of the waste at the site from where the bulk quantity of the waste has been lifted.

➤ There is no fresh dumping of the waste at the sites.

➤ The sites from where the waste is lifted may have traces of contaminants, hence sample were taken to ascertain the same.

Further, the applicant informed to the Committee that the unit has lifted the waste which was earlier dumped at various places in village Bishada. Unit representative also provided a copy of the letter received from the applicant stating that the waste has been lifted from the dump sites copy of same is annexed as Annexure-5.

C. Status of compliance of conditions stipulated in Environmental Clearance issued by MOEF & CC to Project

Environmental clearance was obtained by industry before establishment from MOEF & CC vide letter dated 30.12.1999 in the name of M/s Triage Industries Pvt. Ltd. for manufacturing of asbestos cement sheet plant (36,000 TPA) at Dadri, Gautambudh Nagar, which is later on transferred in the name of M/s U.P. Asbestos Ltd., by MOEF vide letter dated 21.07.2005.

Unit has submitted copy of compliance report of conditions stipulated in environmental clearance through its letter dated 28.02.2023; copy of same is annexed as Annexure-06.

The status of compliance are as follows:

i. As per specific condition no. 7 of EC dated 20.12.1999, it was directed that company will ensure that the entire solid waste generated including process rejects, dust from bag filters and empty asbestos bag will be reused in manufacturing process, but in view of the shortcoming observed during earlier Joint inspection dated 16.11.2022 by the Joint Committee in this matter, it was observed that discarded asbestos sheet/ sludge was dumped by the unit. At present, unit has lifted the waste which was earlier dumped at various places in village Bishada and there were some residual traces of the waste at the site from where the bulk quantity of the waste has been lifted.

ii. As per condition no. 4 of EC dated 21.07.2005, it was directed that green belt shall be raised in 33% of plant area, however the same has not been complied. Unit is complying the other conditions stipulated in EC.

D. Status of compliance of conditions stipulated in Consent to Operate issued by U.P. Pollution Control Board

Unit has valid CTO from UPPCB vide letter dated 23.02.2022, which is valid up to 31.12.2026. Unit has

submitted copy of compliance report of conditions stipulated in consent to operate, copy of same is annexed as Annexure-07.

The status of compliance are as follows:

i. As per CTO issued by UPPCB, the unit has permitted for manufacturing of Asbestos Sheet and Non-Asbestos Sheet with production capacity- 160 MT/day (Asbestos Sheet- 120 MT/day and Non-Asbestos Sheet- 40 MT/day). As per month wise average production details provided by unit, it was found that unit had accelerated production against consented capacity (160 MT/day) from month of September 2022 to November 2022 (for total 75 days), which is violation of specific condition no. 1 of CTO dated 23.02.2022.

ii. In view of shortcomings observed during earlier Joint inspection dated 16.11.2022 by the Joint Committee in this matter, show cause has been issued on dated 10.12.2022 against unit by UPPCB under section-5 of Environment Protection Act, 1986 and under section 33A of Water (Prevention & Control of Pollution), 1974. Unit has submitted reply of both show cause through its letter dated 26.12.2022, Copy of same is annexed as Annexure-08. Environmental compensation of Rs. 7,03,125 /- (Rs. Seven lakh three thousand one hundred twenty-five only) has been imposed for above default period against industry by UPPCB vide letter no H- 87510/C-1/water/NGT- 164/2023, dated 19.01.2023 as per CPCB guideline issued by CPCB, copy of same is annexed as Annexure-09. Unit has deposited environmental compensation of Rs. 7,03,125/- through its letter dated 20.01.2023, copy of same is annexed as Annexure-10.

iii. In compliance of specific condition no. 7 of CTO, the unit has submitted ambient and work area monitoring reports as well as DG set stack monitoring report conducted by M/s Ecomen Laboratories Pvt Ltd., Lucknow. (NBAL approved) in the month of March 2023, according to which all parameters were found within prescribed limits, copy of same is annexed as Annexure-11.

iv. As per specific condition no. 15, it was directed that minimum 33% of the land on which industry is established will be covered by the plantation of tall trees of suitable species. According to unit representative, total land area of unit is approx 8.5 acres, while unit has not developed green belt against 33% of total area however, several trees

planted along boundary wall. Satellite image dated 01.12.2022 is annexed as Annexure-12.

v. As per the Specific condition no. 11 in the CTO (Under Water act, 1974) the unit needs to obtain permission from CGWA for ground water extraction, however the unit has applied for NOC from U.P. Ground Water Department. Copy of application is annexed as Annexure-13.

vi. As per the Specific Condition no. 13 of Authorization, the unit needs to display online data outside the main factory gate with regards to quantity and nature of hazardous chemicals being handled in the plant including waste water and air emissions and solid hazardous waste generated within the factory premises. However, no such facility is available at outside gate of the unit.

vii. The unit has stored hazardous waste i.e., ETP sludge and broken asbestos sheets/ waste material in dedicated covered shed within premises. However, the wastes were stored in haphazard manner and not segregated. Also the labelling was not done as per Form 8 (under HOWM Rules, 2016).

viii. As per the submitted manifest (Form-10 under HOWM Rules, 2016), the unit has disposed of the hazardous wastes beyond the authorized quantity.

ix. The unit has not filed Annual (Form-4 under HOWM Rules, 2016) returns to UPPCB on management of hazardous waste.

x. The CTO (under Water act 1974) has mentioned conditions for both ZLD and discharge conditions simultaneously regarding the disposal of effluent. Therefore, the same has to be revised in line with EC conditions.

E. Permissibility of asbestos based industry/ units

As per C.P.C.B classification of industries vide letter no B29012/ESS(CPA)/2015-16 dated 07.03.2016 unit is covered in red category mentioned at serial no 24 on page no 22. Copy of same is annexed as Annexure-14.

However, the occupational exposure and pollution emanating from industries/ activities engaged in use asbestos is regulated from the perspective of safety and environmental pollution. The safety related issues are implemented by the Chief inspector of factories of States under the provisions of factories Act, 1948, whereas the environmental standards are enforced through the Uttar Pradesh Pollution Control Boards. No restrictions have been imposed on import of Chrysotile (White) Asbestos in India.

As per information received from unit, Chrysotile (White) Asbestos as raw material is imported from Russia, Brazil & Kazakhstan, Copy of same is annexed as Annexure-15....”

13. Additional affidavit has been filed by respondent no. 5 vide email dated 11.04.2023. The relevant part of the additional reply filed by respondent no. 5 is reproduced below:-

**“ADDITIONAL AFFIDAVIT ON BEHALF OF
RESPONDENT NO. 5 – U. P ASBESTOS LTD. IN
COMPLIANCE OF ORDER DT. 28.03.2023 WITH
SUPPORTING AFFIDAVIT**

X X X X X
3. *It is respectfully submitted that on the last date of hearing i.e., 28.03.2023, a specific query was raised by the Hon’ble Tribunal with respect to the permissibility and use of Asbestos in the manufacturing facility of the answering Respondent and also in general the scheme and/or framework governing the use of Asbestos in the country. The relevant portion of the order dt. 28.03.2023 is quoted hereinbelow:*

“..7. The request for grant of eight weeks’ time for submission of the report is declined and UPPCB is directed to file its report on soil and water quality and also permissibility of Asbestos based industries/units within two weeks by email at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR supported PDF and not in the form of image PDF.

8. List the matter for further consideration on 13.04.2023. ”

4. *It is most respectfully submitted that for the purpose of assisting this Hon’ble Tribunal and in light of the fact*

that the answering Respondent will be directly impacted by any order passed by this Hon'ble Tribunal, the answering Respondent craves leave to bring on record pertinent facts and documents to explain the permissibility with regard to the use of Chrysotile asbestos, which is permitted to be imported into India and can be used by the answering Respondent and other similar manufacturing units in the country.

TYPES OF ASBESTOS AND ITS USE IN INDIA AND WORLDWIDE

5. *At the outset, it is most respectfully submitted the answering Respondent only uses the Chrysotile Asbestos as a raw material in its manufacturing facility out of the total six [06] varieties of Asbestos viz. Crocidolite, Actinolite, Anthophylite, Amostile, Tremolite and Chrysotile.*

6. *Even though, the Government of India has preferred not to ban the use of all the six varieties of Asbestos in the country, however, it is pertinent to highlight that with the exception of the Chrysotile variety, the other five varieties of Asbestos i.e. Crocidolite, Actinolite, Anthophylite, Amostile and Tremolite, are listed in Annexure III of the Rotterdam Convention, as chemicals subject to the prior informed consent procedure. Therefore, it is most respectfully reiterated that Chrysotile is the only variety of Asbestos which is not even included in Annexure III of the Rotterdam convention.*

7. *It is most humbly submitted that the Rotterdam Convention, w.e.f. 24th February, 2004, is an international treaty designed to facilitate informed decision-making by countries with regard to trade in chemicals. It establishes a list of covered chemicals and requires parties seeking to export a chemical on that list to first establish that the intended importing country has consented to the import. It is submitted that India acceded to be a member of the Rotterdam Convention on 24th May, 2005.*

A copy of the booklet on the Rotterdam Convention on the prior informed consent procedure for certain hazardous chemicals and pesticides in international trade is annexed as Annexure R5/1 [pg. 14 to 67].

A copy of the list containing the details of the parties and signatories of the Rotterdam Convention is annexed as Annexure R5/2 [pg. 68 to 74].

8. *As submitted hereinabove, the answering Respondent most humbly submits that the Chrysotile Asbestos is not included in Annexure-III of the Rotterdam Convention and hence, can be imported freely into the country under the Indian Trade Classification -*

Harmonized System of Nomenclature [ITC-HS] code 25249011, 25249021 and 25249031.

A copy of the export-import policy & statistics pertaining to asbestos ITC-HS code 25249011, 25249021 and 25249031 is annexed as Annexure R5/3 [pg.- 75 to 84]

Questions asked in the Indian Parliament on the use of Asbestos

9. *It is most humbly submitted that questions on the issue of asbestos including whether Chrysotile asbestos should be banned has been raised in the Parliament of India. A perusal of all the questions asked in the Parliament with regard to the issue of asbestos in the Rajya Sabha [1996 - 2022] and the Lok Sabha [2000 - 2022], reveals the following:*

a) *There is no proposal under consideration of the Ministry of Environment and Forest and Climate Change [MoEFCC], Govt. of India to prohibit the use of asbestos in the country [Unstarred Question No. 5165 - Lok Sabha - 04.04.2022].*

b) *There is no proposal with the MoEFCC, Govt. of India to stop granting the environmental clearance to the asbestos-based factories across the country [Unstarred Question No. 1274 - Lok Sabha - 22.12.2017].*

c) *There are six known varieties of Asbestos, namely, Chrysotile, Crocidolite, Actinolite, Anthophyllite, Amostile and Tremolite. Only five out of the six varieties [excluding Chrysotile] being listed in Annexure-III of the Rotterdam Convention are subject to Prior Information Consent (PIC) procedure by the exporting country for the imports to India. However, since the Chrysotile asbestos is not included in Annexure-III of the Rotterdam Convention, therefore, the same can be freely imported without any prior consent. Further, Government of India has not advocated listing of Chrysotile asbestos in Annexure III of the Rotterdam Convention in the meeting of Conference of Parties (CoPs) to the Basel, Rotterdam and Stockholm conventions [Starred Question No. 428 - Lok Sabha - 01.04.2022].*

d) *No authorization/license has been granted during 2011 - 2015 to import any of the 5 'Restricted' varieties of asbestos [Unstarred Question No. 257 - Lok Sabha - 27.04.2015].*

e) *Therefore, it is abundantly clear that the Govt. of India has only restricted the import of the other five varieties of asbestos excluding Chrysotile.*

A copy of the compilation of questions on asbestos asked in the Lok Sabha [2000 - 2022] is annexed as Annexure R5/4 [pg. 85 to 161] and in Rajya Sabha [1996 - 2022] is annexed as Annexure R5/5 [pg. 162 to 214].

10. It is most respectfully submitted that a study was undertaken by National Institute of Occupational Health [NIOH], Indian Council of Medical Research at the behest of Department of Chemicals and Petrochemicals, Ministry of Chemicals and Fertilizers, Govt. of India. Thereafter, the said study conducted by the NIOH was assessed by an Inter-Ministerial Committee which concluded that the above-mentioned NIOH report does not indicate any significant health/environment hazards resulting from the use of Chrysotile asbestos under normal conditions. It is most pertinent to highlight that the said NIOH report was relied upon and referred to by the Minister of State, Ministry of Environment, Forest and Climate Change in the unstarred question no. 1274 answered on 22.12.2017 before the Lok Sabha. The same is quoted hereinbelow for ready reference:

“ANSWER

MINISTER OF STATE IN THE MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE (DR. MAHESH SHARMA)

(a)&(b) White Asbestos is used for various purposes viz. asbestos cement pipes, roofing of households, asbestos based manufacturing products like brake linings etc. The Ministry of Environment, Forest and Climate Change has notified the revised emission standards for asbestos based products manufacturing industries in March, 2006. These standards are being enforced through respective State Pollution Control Boards / Pollution Control Committees.

In order to assess the environmental and health hazards, arising from the use of Chrysotile asbestos in the country, the Ministry of Chemicals and Fertilizers had commissioned a study titled “Study of Health hazards/ Environmental hazards resulting from use of Chrysotile variety of Asbestos in the Country” through National Institute of Occupational Health (ICMR- NIOH), Ahmedabad. The report submitted by NIOH was assessed by an Inter Ministerial Committee constituted under the Chairmanship of the Secretary, Department of Chemicals and Petrochemicals to consider the findings of the NIOH study report. The NIOH report does not indicate any significant health/environment hazards resulting from the use of Chrysotile asbestos under normal conditions, coupled with the fact that wet process being followed by most of the asbestos products manufacturing units in the country apart from its cost effectiveness and extensive use by the masses.

.....”

UP ASBESTOS LTD. IS COMPLIANT WITH THE REQUISITE CLEARANCES REQUIERED AS PER LAW

11. It is most humbly submitted that the environmental clearance [EC] for running the manufacturing facility of the answering Respondent was initially obtained vide letter dated 30.12.1999, in the name of M/s Triage Industries Pvt. Ltd. from MoEF & CC, Govt. of India. It is submitted that the same was later transferred in the name of M/s U.P. Asbestos Ltd., by the MoEF & CC, Govt. of India vide letter dated 21.07.2005.

A copy of the EC dated 30.12.1999 and transfer letter dated 21.07.2005 issued by the MoEF & CC, Govt. of India is annexed as Annexure R5/6 [pg. 215 to 218].

12. It is further submitted that as per the specific conditions of the EC granted to the answering Respondent, it is mandatory to file quarterly environment monitoring reports to the State PCB and six-monthly compliance status report to the MoEF & CC, Govt. of India. It is submitted that the answering respondents have been filing the same in due compliance of the EC condition. The last quarterly environment monitoring reports to the State PCB have been filed vide letter dt. 28.02.2023 and the six-monthly compliance status report to the MoEF & CC, Govt. of India have been filed vide letter dt. 28.02.2023 as well.

A copy of the quarterly environment monitoring reports to the State PCB dt. 28.02.2023 is annexed as Annexure R5/7 [pg. 219 to 230].

A copy of the six-monthly compliance status report to the MoEF & CC, Govt. of India dt. 28.02.2023 is annexed as Annexure R5/8 [pg. 231 to 235].

13. It is respectfully submitted that as per Section 21 & 22 of the Air Act, 1981, every person is required to obtain previous consent of the State PCB to establish or operate any industrial plant in an air pollution control area. In compliance of the same, it is submitted that the answering Respondent has obtained consent order dt. 23.02.2022 from the State PCB, which is valid till 31.12.2026.

A copy of the consent order dt. 23.02.2022 under the Air Act, 1981 is annexed as Annexure R5/9 [pg.236 to 238].

14. Similarly, every person is required to obtain previous consent of the State PCB as required under Section 25 & 26 of the Water Act, 1974. It is submitted that the answering Respondent has obtained the consent order dt. 23.02.2022 from the State PCB under the Water Act, which is valid till 31.12.2026.

A copy of the consent order dt. 23.02.2022 under the Water Act, 1974 is annexed as Annexure R5/10 [pg. 239 to 241].

15. It is most respectfully submitted that the Hazardous Waste (Management, Handling and Transboundary

Movement) Rules, 2016 is a regulatory framework in India that governs the management, handling, and disposal of hazardous waste. Under these rules, any person or entity that generates, collects, stores, transports, or handles hazardous waste is required to obtain an authorization from the State Pollution Control Board (SPCB) or Pollution Control Committee (PCC) of the Union Territory concerned.

16. *It is submitted that the Hazardous Waste (Management, Handling and Transboundary Movement) Rules, 2016 classify hazardous waste into different categories based on their characteristics and composition. It is submitted that the answering Respondent had earlier obtained authorization under Category 15.1 and 35.3 of Schedule I of the 2016 Rules which was valid upto 08.09.2027.*

17. *However, during the inspection conducted by the committees constituted by this Hon'ble Tribunal, it was suggested that additional hazardous wastes are being generated falling under Category 5.1, 33.1 and 15.2 of Schedule I of the 2016. Based on such observation, the answering Respondent applied for revised authorization on 03.01.2023 under Categories 15.1, 5.1, 35.3, 33.1 and 15.2 of Schedule I of the 2016 Rules. The State PCB on 27.01.2023 was pleased to granted revised authorization under the above-mentioned categories which is valid upto 26.01.2028.*

A copy of the revised authorization dt. 27.01.2023 issued to the answering Respondent under the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 is Annexure R5/11 [pg. 242 to 245].

18. *Therefore, in light of the submissions made hereinabove, it is submitted as follows:*

a. *Chrysotile Asbestos [white] used by the answering Respondent as a raw material in its manufacturing facility is a permissible raw material that can be freely imported into the country and there is no ban on its use;*

b. *Chrysotile Asbestos is the only variety of asbestos that is not included in Annexure-III of the Rotterdam Convention;*

c. *The answering Respondent is fully compliant with all requirements and its manufacturing facility is functioning with due adherence to all the permissions/clearance/authorization mandated by the law;"*

14. In its report the UPSPCB made a request for grant of four weeks time for submission of final report alongwith awaited soil samples analysis report and the recommendations with the scope of further improvement by the unit which request was declined vide order dated 27.04.2023 and UPSPCB was directed to file its report within one week.

15. This Tribunal also noticed that the project proponent was required to develop 33% green belt and in its report the Joint Committee had mentioned that the compliance with conditions for development of 33% green belt has not been made. Learned Counsel for respondent no. 5 submitted that the project proponent has deposited the requisite amount with the Divisional Forest Officer, District, Gautam Budh Nagar for carrying out the requisite plantation. This Tribunal also noticed that in the present case environmental compensation of Rs. 7,03,125/- was imposed by UPSPCB vide order dated 19.01.2023 on the Project Proponent which was deposited by the project proponent. The amount of environmental compensation realized from the Project Proponent was also ordered to be transferred to the Divisional Forest Officer, Gautam Budh Nagar for utilization for carrying out plantation for protection and improvement of environment in the area. This Tribunal directed the Divisional Forest Officer District, Gautam Budh Nagar to undertake visit to the premises of the respondent no. 5 and adjoining area and to submit detailed action plan regarding plantation required to be carried out with specific timeline, budgetary allocation, species to be planted for ensuring compliance with EC condition of 33% green cover and taking of remedial measures for remediation of the affected area by way of plantation, cleaning of the drain and reclamation of soil including development of a nursery in the

premises or nearby area of the factory. Respondent No. 5-the Project Proponent was also directed to file an additional affidavit giving details of the CSR activities already undertaken/to be undertaken and steps taken for ensuring use of PPE by its workers and their regular medical checkup.

16. In compliance of order dated 27.04.2023 report has been filed by the Mr. Radhey Shyam, Regional Officer, UPPCB vide email dated 06.05.2023. The relevant part of the report is reproduced below:-

“In Re: Status report in compliance of order dated 27.04.2023 passed by Hon'ble NGT, New Delhi in O. A. NO.649/2022.

X X X X
B. Action taken by UPPCB (Nodal Agency)

I. Analysis reports received from IITR, Lucknow is annexed as Annexure-

1. This is to clarify that test reports received from IITR, Lucknow are not based on leachable concentration limits [Toxicity Characteristic Leaching Procedure (TCLP) or Soluble Threshold Limit Concentration (STLC)] and Total Threshold Limit Concentration (TTLC) method as required in Class A and Class B of Schedule II of Hazardous & Other Waste (Management and Transboundary Movement) Rules, 2016.

II. In compliance of Hon'ble Tribunal's orders dated 27.04.2023, Regional Officer, UPPCB, Greater Noida has made a request vide letter dated 27.04.2023 and 01.05.2023 to Chief Environmental Officer (Central Laboratory), Lucknow for making payment against invoice dated 26.04.2023 of IITR, Lucknow for testing of samples based on leachable concentration limits [Toxicity Characteristic Leaching Procedure (TCLP) or Soluble Threshold Limit Concentration (STLC)] and Total Threshold Limit Concentration (TTLC) method as required in Class A and Class B of Schedule II of Hazardous & Other Waste (Management and Transboundary Movement) Rules, 2016, copy of same is attached as Annexure-2.

III. IITR, Lucknow vide its e-mail dated 02.05.2023 informed that the submission of the analysis report based on TCLP/ STLC/ TTLC would take 06 weeks from the date

of receipt of payment and it would not be possible for CSIR-IITR to submit the analysis report by 09.05.2023, Copy of same is annexed as Annexure-3.

IV. Chief Environmental Officer (Central Laboratory), Lucknow vide email dated 03.05.2023 informed to IITR, Lucknow that payment of invoice dated 26.04.2023 has been sent to IITR on dated 02.05.2023, copy of same is annexed as Annexure-4.

V. As per communication with IITR, Lucknow, it would take 06 weeks for submitting analysis report.

VI. In compliance of Hon'ble NGT order dated 27.04.2023, Regional Officer, Greater Noida has made request letter vide letter dated 01.05.2023 to Chief Environmental Officer (Circle-1), UPPCB, Lucknow for taking necessary action to transfer the amount of environmental compensation to the Divisional Forest Officer, Gautam Buddha Nagar, which is realized from the project proponent, copy of same is annexed as Annexure-5.

VII. The process of transfer of the EC amount to the Divisional Forest Officer, Gautam Buddha Nagar has been initiated by UPPCB, Headquarter, Lucknow.”

17. In compliance of order dated 27.04.2023 amended report has also been filed by DFO, Gautam Budh Nagar vide email dated 08.05.2023. The relevant part of the report of the DFO, Gautam Budh Nagar is reproduced below:-

“In compliance to the above said order dated 27-04-2023 passed by Hon'ble NGT in O.A. 649/2022 Narender Pratap Singh Vs CPCB & Anr., Detail of action taken by Forest Department is as follows:

1. District Forest Officer, Gautambudhnagar vide letter no. 6582/35-3/Gautambudhnagar, dated 04-05-2023 issued letter to M/s U. P. Asbestos Ltd., Dadri, Regional officer, UPPCB, Greater Noida and concerning Range Forest Officer, NTPC Range to be present at site in question for joint inspection on dated 05.05.2023. Copy of same is annexed as Annexure-I.

2. Intimation of same is also sent to S.D.M. Dadri by Disrict Forest Officer, Gautambudhnagar vide letter no. letter no. 6657/35-3 dated 04-052 - 023 to direct the concerned revenue officer to be present at the time of joint

visit on dated 05.05.2023. Copy of same is annexed as Annexure-II.

3. Accordingly, Site inspection was carried out by undersign along with Mr. D.K. Gupta, Environment Engineer, UPPCB, Greater Noida, Mr. Mohsin Khan, Forest Range Officer, Gautambudh nagar and Mr. Jagdish, Lekhpal of Vill.- Bishara. During inspection, Mr. Rohit Goel, Factory Manager and Mr. Sunil Mehta, Consultant for Environment & Pollution on behalf of M/s U. P. Asbestos Ltd., Dadri was present. Photograph of joint visit is annexed as Annexure-III.

4. During inspection, it was found that there are around 915 plants of various species [Kadam-55 no's, Ashok-24 no's, Nimbu-11 no's, Gudhal-10 no's, Champa- 45 no's, Ficus-577 no's, Arjun- 42 no's, kanji- 74 no's, Jamun- 45 no's, Kaner- 15 no's, bougainvillea- 17 no's.], which is very less against 33% of total area approx. 8.5 acres.

5. This is to clear that total area of the company is about 8.50 acres, and unit should have plantation in 33% of total area, which is about 3.44 acres or 1.13 hectare, but required space is not available in unit premises for further plantation.

6. During physical survey of nearby area, it is found that there is vacant land of about 1.9 Hactare, which is adjoining to the company and available for proper plantation, Google satellite image of same is being annexed as Annexure-IV(a). Subject land for plantation is having saline soil, sample of same has been sent to the laboratory for further testing, test is report awaited. After getting report, the species suitable for plantation at site will be decided accordingly.

7. The subject land is situate (at khasra no. 1982/0.0630 hac., 1985/0.0380 hac, 1986/0.9310 hac, 1990/0.3410 hac, 1992/0.5690 hac. The land is provided by SDM, Dadri to Forest Department for 03 years. copy of same is attached as Annexure-IV(b).

8. A letter is also sent by this office vide letter no. 6681/ 29-1, dated 08.05.2023 to SDM, Dadri to increase the duration for 05 years, copy of same is attached as Annexure-V.

9. 01 Nursery of Forest Department is already established in village Patadi (Dadri), which is situated approx. 3 KM away from M/s U. P. Asbestos Ltd. ,google location of same is being attached.

10. M/s U.P. Asbestos ltd. vide letter dated 13.04.2023 requested to deposit required amount for plantation in nearby area. Forest department vide letter no. 6440/ 5-3, dated 24.04.2023 has sent estimate for plantation in 2.0Ha. (5000 Plant) in land under Forest department with three years maintenance. Copy of same is being annexed as Annexure-VI.

11. In compliance of above, M/s U.P. Asbestos Ltd has deposited total Rs. 8,05,000 for the following work

i- Rs. 2,20,000.00 For soil reclamation work

ii- Rs. 5,85,000.00 For Plantation for one year and maintenance for rest years

12. Further, Unit has submitted undertaking on dated 08.05.2023 that unit would bear the cost of plantation as well as annual maintenance for development of green belt to be maintained. Copy of same is annexed as Annexure-VII.

13. As per information provided by Regional Officer, UPPCB, Greater Noida, Process has been initiated to transfer the amount of EC of Rs. 7,03,125/- to Forest Department, which was deposited by project proponent to UPPCB.”

18. In his report the DFO, Gautam Budh Nagar has mentioned that there are around 915 plants of various species (Kadam-55, Ashok-24, Nimbu-11, Gudhal-10, Champa-45, Ficus-577, Arjun-42, Lamko-74, Jamun, Kaner, bougainvillea-17 and that total area of the unit is about 8.50 acres and unit should have plantation in 33 % of total area measuring about 3.44 acres but required space is not available in the unit premises for further plantation. In his report the DFO, Gautam Budh Nagar has further mentioned that SDM, Dadri has allotted Gram Sabha land measuring 1.9 hectare for plantation for a period of three years on the basis of resolution of Gram Sabha. Mr. Pramod Kumar, DFO, Gautam Budh Nagar Forest Division, Gautam Budh Nagar vide email dated 09.05.2023 sent the report that he obtained soil testing report of the land according to which PH value of soil is 8.75 and, therefore neem, amla, arjn, kanji, jangal jalabi, Dhank, and siris are the species recommended for plantation.

19. Additional Affidavit has been filed by respondent no. 5-Project Proponent vide email dated 06.05.2022. The relevant part of the reply filed by respondent no. 5-Project Proponent is reproduced below:-

**“ADDITIONAL AFFIDAVIT ON BEHALF OF
RESPONDENT NO. 5 U. P ASBESTOS LTD. IN**

**COMPLIANCE OF ORDER DT. 27.04.2023 WITH
SUPPORTING AFFIDAVIT**

X X X X

CSR Activities undertaken by the Project Proponent

3. It is most humbly submitted that vide letter dt. 24.04.2023, the Divisional Forest Officer, Gautambudh Nagar Forest Department, Gautambudh Nagar has asked the answering Respondent to participate in the plantation drive to be carried out in the NTPC Dadri Range for the plantation and maintenance of 5000 trees during the years 2023-24 to 2025-26.

4. It is respectfully submitted that the proposal contains detailed break up of tasks required to be undertaken and the costs involved for the said plantation drive. It is submitted that the total costs involved for the said purposes during the years 2023-24 to 2025-26 to be paid by the answering Respondent is Rs. 15,55,000/- and for the present year i.e., 2023-24 is Rs. 8,05,000/- [Rs. 220,000 + Rs. 585,000].

A copy of the letter dt. 24.04.2023 issued by the Divisional Forest Officer, Gautambudh Nagar Forest Department, Gautambudh Nagar is annexed herewith and marked as Annexure R5/1 [pg10 to16].

5. In response to the said letter dt. 24.04.2023, the answering Respondent vide letter dt. 24.04.2023 has made the requisite payment of Rs. 8,05,000/-[Rs. 220,000 + Rs. 585,000] vide cheques dt. 24.04.2023.

A copy of the response dt. 24.04.2023 of the answering Respondent along-with the copies of cheques submitted to the DFO is annexed herewith and marked as Annexure R5/2 [pg. 17 to 18].

6. Therefore, it is most humbly submitted that the answering Respondent has already made a payment of a) Rs. 8,05,000/- [Rs. 220,000 + Rs. 585,000] on account of plantation and maintenance of 5000 trees and b) an amount of Rs. 7,03,125 as an environmental compensation imposed by UPPCB on 19.01.2023 and paid on 20.01.2023. Therefore, a total amount of Rs. 15,08,125/- has already been paid by the answering Respondents towards compensation, plantation etc.

7. It is further most respectfully submitted that as vide order dt. 27.04.2023, this Hon'ble Tribunal had given certain specific directions to the DFO, Gautambudh Nagar, the answering Respondent vide letter 02.05.2023, has informed the DFO regarding the pendency of the present matter and the specific directions passed on 27.04.2023.

A copy of the letter dt. 02.05.2023 issued by the answering Respondent and received by the DFO, Gautambudh Nagar on 03.05.2023 is annexed herewith and marked as Annexure R5/3 [pg. 19]

8. *It is most respectfully submitted that during the second wave of COVID in April 2021, the answering Respondent had assisted in setting up of an oxygen plant inside its premises having capacity to produce 15 to 20 tons of oxygen every day - upto 500 cylinders on a daily basis. When the entire DELHI-NCR region was in dire need of oxygen cylinders, the oxygen plant set up in the premises of the answering Respondent used to cater to the 70% demand of oxygen in Gautam Budh Nagar.*

9. *It is most humbly submitted that the said oxygen plant was functional until 2022 till the demand for the same continued. It is pertinent to highlight that even at present, the maintenance of the oxygen plant is being done by the answering Respondent which can be restarted, if required, within 24 hours. A copy of the newspaper articles published online in Navbharat Times (Hindi) and News18 (English) is annexed herewith and marked as Annexure R5/4 [pg. 20 to 25].*

10. *It is respectfully submitted that the answering Respondent has been regularly providing roofing sheets free of cost in the neighboring areas to the needy people for building their hutments, schools, gaushalas etc.*

11. *For the CSR activities to be undertaken in future, it is submitted that the answering Respondent has received a proposal from an NGO named as Madhayam Samajik Sanstha for the purpose of plantation work and distribution of blankets to be carried out during winters.*

12. *It is most humbly submitted that Madhayam Samajik Sanstha is an NGO registered under the relevant provisions of the Income Tax Act and the Foreign Contribution Regulation Act. It is submitted that as per the proposal, the project is valid for a period of 5 years with a yearly contribution of Rs. 6,00,000/- totaling Rs. 30,00,000/- over a period of 5 years.*

13. *The answering Respondent has accepted the said proposal and the necessary approvals and payments will be made in due course.*

A copy of the project proposal submitted by the Madhayam Samajik Sanstha is annexed herewith and marked as Annexure R5/5 [pg. 26 to 34]

USE OF PPE KITS AND MASKS BY THE EMPLOYEES

14. *It is most respectfully submitted that the employees of the answering Respondent have been using PPE kits, masks, safety shoes, helmets etc. It is submitted that all mandatory precautions concerning the health and safety of the employees have been taken and will continue to be taken in future.*

Pictures showing the workers using the PPE kits, masks, safety shoes, helmets etc. is annexed herewith and marked as Annexure R5/6 [pg.35 to 37].

15. *It is humbly submitted that the workers of the answering Respondent are using the PPE kits, masks etc. is also evident from the Report dt. 19.01.2023 submitted by the Joint Committee wherein @pg. 70 & 98 the committee has submitted pictures and observed that the answering Respondent has provided PPE kits etc. to its workers.*

16. *Furthermore, the answering Respondent has also placed orders for purchasing more PPE kits and face masks to be used in the factory by the workers.*

A copy of purchase order dt. 18.04.2023 for purchasing PPE kits and purchase order dt. 15.04.2023 for purchasing masks is annexed herewith and marked as Annexure R5/7 [pg. 38 to 39].

MEDICAL CHECK UP OF WORKERS

17. *It is most respectfully submitted that the answering Respondent got conducted the medical checkup of its workers on 02.03.2023 with tests such as X-Ray, ECG, LFT, Hematology and Urine wherein the reports for almost all the workers is normal. The next round of medical check up of the workers will be conducted after a period of 6 months.*

A summary/chart containing the details of the tests of the workers is annexed herewith and marked as Annexure R5/8 [pg. 40 to 41].”

20. When the case was taken up for hearing on 09.05.2023, learned Counsel for respondent no. 5 submitted that respondent no. 5 will explore the possibility of providing requisite land for 33 % plantation within its premises and in case the same is not feasible then respondent no. 5 will provide alternative land in the vicinity for such plantation and sought time to file additional reply in this regard. The

DFO, Gautam Budh Nagar also sought time for filing action plan with all requisite details regarding species to be planted, budgetary estimates, specific timelines for plantation and monitoring mechanism for ensuring survival of the plants. Vide order dated 09.05.2023 respondent no. 5 was directed to file additional reply and DFO, Gautam Budh Nagar was directed to file action plan within one week.

21. In compliance thereof Additional affidavit has been filed by respondent no. 5 vide email dated 18.05.2023. The relevant part of the additional affidavit filed by respondent no. 5 is reproduced below:-

**“ADDITIONAL AFFIDAVIT ON BEHALF OF
RESPONDENT NO. 5 – U. P ASBESTOS LTD. IN
COMPLIANCE OF ORDER DT. 09.05.2023 WITH
SUPPORTING AFFIDAVIT**

X X X X

1. *It is most humbly submitted that vide the present Affidavit, the answering Respondent seeks to bring on record the requisite steps taken for providing land for maintaining the 33% plantation area within the factory premises.*

2. *Further, apart from the 33% plantation within the factory premises, the answering Respondent reiterates that it shall participate in the plantation drive to be carried out in the NTPC Dadri Range for the plantation and maintenance of 5000 trees during the years 2023-24 to 2025-26, for which an amount of Rs. 8,05,000/- has already been deposited on 24.04.2023.*

PLANTATION WITHIN THE FACTORY PREMISES

3. *It is most respectfully submitted that the factory premises of the answering Respondent is situated in 8.50 acres. It is submitted that the answering Respondent is obligated to maintain 33% of the total area as a green belt, which is 2.805 acres [DFO report dt. 08.05.2023 inadvertently mentions as 3.44 acres]. However, in the report dt. 08.05.2023 filed by the DFO, Gautam Budh Nagar, it has been observed that there are 915 plants of various species planted within the*

factory premises, which may be less than the required 33% of the planted area.

4. *It is the most humble submission of the answering Respondent that pursuant to the order dt. 09.05.2023 passed by this Hon'ble Tribunal, the answering Respondent engaged the services of Shoqeen & Associates, Architects to survey the factory premises and prepare a map of the factory and to demarcate the 33% areas which can be developed into a green belt as directed by this Hon'ble Tribunal on 09.05.2023.*

5. *It is respectfully submitted that the architects surveyed the factory premises on 15.05.2023 and has prepared a map which shows the manner in which 33% area of the factory can be developed into a green belt. As per the map, the total factory area is 34,398 sq. m [8.5 acres] out of which the 33% green belt area can be developed in 11,405 sq. m [2.818 acre].*

A copy of the map prepared by Shoqeen & Associates based on the survey dt. 15.05.2023 is annexed herewith and marked as Annexure R5/1 [pg. 9].

6. *Therefore, it is most respectfully submitted that the answering Respondent can develop the 33% green area within its factory premises and hence, is not required to make any alternative arrangements for developing the 33% green belt. It is most pertinent to highlight that in order to develop the 33% green belt, the answering Respondent will have to dismantle the oxygen plant established within the factory premises during COVID pandemic alongwith the passage used by the vehicles for transporting cylinders and the storage area constructed for the oxygen cylinders. It is submitted that the total area covered by the oxygen plant, passage and the storage area is 1.7 acre.*

7. *It is most humbly submitted that the species of the plants which is suitable for plantation in the 33% green belt within the factory premises, quantum and nature of fertilizers etc. to be used can be decided on the basis of the soil testing reports to be conducted as advised by the DFO, Gautam Budh Nagar.*

PLANTATION OF 5000 TREES IN THE NTPC DADRI RANGE

8. *It is most humbly reiterated that the answering Respondent will also participate in the plantation drive to*

be carried out in the NTPC Dadri Range for the plantation and maintenance of 5000 trees during the years 2023-24 to 2025-26.

9. *As recorded in the order dt. 09.05.2023, out of the total cost of Rs. 15,55,000/- to be paid by the answering Respondent for the said plantation drive, the answering Respondent has already paid Rs. 8,05,000/- to the DFO, Gautam Budh Nagar and undertakes to make the balance payment as and when required.*

10. *Apart from the above, the answering Respondent has also paid an amount of Rs. 7,03,125 as an environmental compensation imposed by UPPCB on 19.01.2023 and paid on 20.01.2023. It is respectfully submitted that as per the order dt. 27.04.2023 passed by this Hon'ble Tribunal, it has been directed that the UPPCB shall transfer the said EC paid by the answering Respondent to the DFO, Gautam Buddha Nagar and the same be utilized for carrying out plantation for protection and improvement of environment in the area.*

11. *In addition to the above, it is respectfully reiterated that in furtherance of its CSR activities, the answering Respondent has accepted a proposal received from Madhayam Samajik Sanstha, an NGO registered under the relevant provisions of the Income Tax Act and the Foreign Contribution Regulation Act, for the purpose of carrying out plantation work and distribution of blankets to be carried out during winters. The said project is valid for a period of 5 years with a yearly contribution of Rs. 6,00,000/- totaling Rs. 30,00,000/-."*

22. Status Report has been filed by UPPCB vide email dated 18.05.2023. The relevant part of the status report filed by UPPCB is reproduced below:-

"In Re: Status report in compliance of order passed by Hon'ble NGT, New Delhi in O. A. NO.649/2022

A. Action taken by UPPCB (Nodal Agency)

I. In compliance of Hon'ble NGT order dated 27.04.2023, the amount of environmental compensation of Rs. 7,03,125/- is being transferred through cheque no. 660575, dated 17.05.2023 sent by UPPCB vide letter dated 17.05.2023 to the Divisional Forest Officer, Gautam Buddha Nagar, copy of same is annexed as Annexure-1.

In reference to the payment done by UPPCB on dated 02.05.2023 against invoice dated 26.04.2023 sent by IITR to obtain analysis report of 08 soil samples based on TCLP/ STLC/ TTLC, analysis report is received from IITR, Lucknow vide e-mail dated 11.05.2023, copy of same is annexed as Annexure-2.

Ill. As per analysis report, quantity of various parameters in samples are shown as below:

CSIR-IITR Code	Parameters							
	Iron (mg/l)	Nickel (mg/l)	Copper (mg/l)	Lead (mg/l)	Chromium (mg/l)	Arsenic (mg/l)	Cadmium (mg/l)	Asbestos (No. of fibre/g m)
		0.066	0.112	0.019	1.057			
TS-4132 (I)	17.045					0.024	0.001	600
TS-4132 (II)	16.308	0.342	0.042	0.014	1.205	0.328	0.001	600
TS-4132 (III)	5.104	0.104	0.098	0.001	0.252	0.060	BDL	600
TS-4132 (IV)	7.004	0.174	0.057	0.003	0.767	0.159	0.001	600
TS-4132 (v)	24.170	0.547	0.491	0.005	0.471	0.136	0.003	ND
TS-4132 (VI)	4.952	0.134	0.037	BDL	0.070	0.200	0.001	400
TS-4132 (VII)	0.726	0.031	0.016	BDL	0.051	0.055	BDL	400
TS-4132 (viii)	24.523	0.476	0.342	0.012	0.639	0.110	0.005	1000
Standard	Not defined	20.0 mg/l	25.0 mg/l	5.0 mg/l	5.0 mg/l	5.0 mg/l	1.0 mg/l	10000 mg/Kg
Test method defined	Not defined	STLC	STLC	TCLP	TCLP	TCLP	TCLP	TTLC

CSIR-IITR Code	Description of work
TS-4132 (I)	ETP sludge in M/s U.P. Asbestos Ltd, Dadri, Greater Noida
TS-4132 (II)	Asbestos broken sheet/ residues in premises M/s U.P.

TS-4132 (III)	Soil sample Ground 1 vill. — Bishada, Gr. Noida
TS-4132 (IV)	Soil sample near gaushala, vill. — Bishada, Gr. Noida
TS-4132 (V)	Soil sample near safe express Pvt ltd warehouse, vill. — Bishada, Gr. Noida
TS-4132 (VI)	Soil sample near Maharana restaurant, vill. — Bishada, Gr. Noida
TS-4132 (VII)	Soil sample near Maharana restaurant, vill. — Bishada, Noida
TS-4132 (VIII)	Soil sample near Raghav welding works, vill. — Bishada, Gr. Noida

IV. In view of above report, this is to clarify that analysis of quantity of all heavy metals are based on leachable concentration limits [Toxicity Characteristic Leaching Procedure (TCLP)] only, but it is pertinent to mention that analysis of copper and nickel are not based on Soluble Threshold Limit Concentration (STLC) method as defined in Class A and quantity of asbestos is not given in mg/Kg as defined in Class B of Schedule II of Hazardous & Other Waste (Management and Transboundary Movement) Rules, 2016.

V. As per analysis report, heavy metals (Lead, chromium, arsenic and cadmium) are within prescribed threshold limit in all 08 samples.”

23. Report has also been filed by DFO, Gautam Budh Nagar vide email dated 18.05.2023. The relevant part of the report filed by DFO, Gautam Budh Nagar is reproduced below:-

“1:- A copy of action plan for plantation on Gram sabha land adjacent to U.P. Asbestos Pvt. Ltd. is herewith attached. (annexure —I).

2:- The PH value of soil is 8.45, it is a saline soil so on the basis of soil type we recommend species for plantation on the given land are arjun, kanji, jangal jalabi, dhank and siris etc. Soil testing report is attached for your kind information. (annexure —II).

3:- It is also submitted that an Evaluation and Monitoring wing is already existing at departmental level which monitors all plantation activities during entire year . (annexure-III)

4:- It is also submitted that the letter(vide No. 493760/c-1/jal/NGT/2023 dated 17.05.2023) of UPPCB of amount of environmental compensation of Rs. 7,03,125.00 is recived from UPPCB. (annexure —IV).

Total area of company premise is 8.5 acres and its 33% is 2.8 acres for plantation. 2.8 acres area will be planted by company as per direction by Hon'ble NGT and its report will be submitted by concerned company separately.

It is also recommended that company M/s U.P. Asbestos ltd. should submit maintenance upto five years and after five years company should take care of plantation with land management committee for the concern of environment.

S.No	Item of Work	Time line
1	Clening bush uprooting and leveling of area	16.05.2023 to 17.05.2023
2	Aligmnment for 5000 pits digging (0.45X0.45X0.45)	17.05.2023 to 22.05.2023
	Pits soil exposure	23.05.2023 to 06 06 2023
4	5000 pits filling mixture of manure/mineral/nutrients/gypsum etc	07.06.2023 to 10.06.2023
	5000 pit filling	10.06.2023 to 15.06.2023
6	Fencing for protection of plantation	Done Before plantation work
7	Plantation work	month of july 2023
8	Plantation Maintenance work	Weeding, Irrigation, Thavla bandi, clening of grass, beatingup etc. 01.10.2023 to 31.03.2024
9	Plantation Maintenance work	Weeding, Irrigation, Thavla bandi, clening of grass, beatingup etc. 01.04.2024 to 31.03.2025
10	Plantation Maintenance work	Weeding, Irrigation, Thavla bandi, clening of grass, beatingup etc. 01.04.2025 to 31.03.2026

”

24. We appreciate the Project Proponent for the initiatives taken to comply with the suggestions made from time to time during the course of hearing and also action taken in identifying and allocating 33 % land for raising plantation programme.

25. In the course of hearing the applicant also expressed his complete satisfaction with the remedial measures taken by the respondent no. 5- the Project Proponent.

26. However, we consider it necessary to observe the exposure to Asbestos is risk factor for developing disabling & deadly lung diseases years after the exposure. Inhaling asbestos fibers can lead to scarring of the lung tissues, which can result in the loss of lung function, disability & death. Asbestos exposure can also cause cancer in the lungs & cancer (known as Mesothelioma) in the lining of the lungs or stomach. There is no safe level of asbestos exposure. Keeping in view the hazards of exposure associated with the handling of asbestos, following measures for protecting workers, their family members/persons coming in contact with them and residents of the locality are required to be implemented by the Project Proponent in letter and spirits:-

(i) Protecting Workers:

The employers are required to protect workers by assessing asbestos levels, marking of regulated areas, posting hazard signs, engineering controls (ventilation systems with appropriate filters) and appropriate green belt and other technological measures to reduce level of asbestos in the air. The proper use of Personal Protective Equipment (PPE), need to be made mandatory for the workers.

(ii) Measures for Controlling Exposure:

- Smoking, eating or drinking in areas where asbestos exposure is possible should be prohibited.

- Dry sweeping, shoveling or other dry cleanup of dust & debris containing asbestos should be avoided.
- Wearing protective outer clothing that can be removed & cleaned or discarded should be made mandatory.
- Washing exposed parts of the body with soap and water should be mandatory.
- All precautions need to be taken to avoid carrying asbestos fibres out of worksite where they can later be inhaled by others (Viz. family members at home).

(iii) Medical Monitoring:

Periodical exposure monitoring & medical surveillance of workers should be made mandatory.

(iv) Training:

- The workers, who may be exposed to airborne concentration of asbestos at or above Permissible Exposure Limit (PEL), need to be trained prior to initial assignment and at least annually thereafter.
- The training programme must include information on the following:-
 - The Health Effects associated with asbestos exposure
 - The relationship between smoking and asbestos exposure in producing lung cancer.
 - The quality, location, manner of use, release, and storage of asbestos, and the specific nature of operations which could result in exposure to asbestos.

- The engineering controls and work practices associated with the worker's job assignment.

27. We also consider it appropriate to direct CPCB to issue appropriate guidelines covering similar asbestos based industries operating in the Country to strictly ensure compliance with EC and consent conditions as well as to follow the measures suggested in para 26 above for mitigating adversarial impacts of asbestos exposure on human health and environment.

28. In view of the above, the application is disposed of with the above mentioned directions.

29. A copy of this order be sent to the Member Secretaries, CPCB and UPPCB respectively and respondent no. 5- the Project Proponent for requisite compliance.

Arun Kumar Tyagi, JM

Dr. Afroz Ahmad, EM

July 17, 2023
AG