NON-REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). 9202-9203/2022

BENZO CHEM INDUSTRIAL PRIVATE LIMITED **APPELLANT(S)**

VERSUS

ARVIND MANOHAR MAHAJAN & ORS. **RESPONDENT(S)**

J U D G M E N T

B.R. GAVAI, J.

1. These appeals challenge the orders passed by the National Green Tribunal (NGT) dated 29.08.2022 and 22.11.2022.

2. Vide the first order dated 29.08.2022 penalty is imposed on the appellant for non-compliance with the environment requirement. By the second order dated 22.11.2022, the review application has been rejected.

3. Heard Shri A.N.S. Nadkarni, learned senior counsel for the appellant, Shri Feroze Ahmad, learned counsel for Respondents No.1 to 13 and Shri Mukesh Verma, learned counsel for the Maharashtra Pollution Control Board.

4. Shri Nadkarni, learned senior counsel, submits that the order passed by the learned NGT depicts total non-application of mind. It is submitted that though the reports of the Maharashtra Pollution Control Board (MPCB) as well as National Environmental Engineering Research Institute (NEERI) found that there are no non-compliances,

the learned NGT records to the contrary. It is further submitted that the methodology of imposing penalty of Rs.25 Crores on the ground that the operative revenue of the appellant ranges from 100 Crores to 500 Crores is totally unknown to the canons of law.

5. This is the third matter today in which we are considering the orders passed by the learned NGT, which depicts total violation of principles of natural justice and lack of due consideration.

6. Learned NGT in its order in para 13 observed thus:-

> **"13. It is patent that from 2010 till atleast 2.10.2020, the unit remained non-compliant. We have already referred to first violation seen in the year 2010 and subsequent reports of 2017, February 2018 and NEERI report of June 2019 show that the violations continued. Even in August 2020, the State PCB recorded violations and the PP filed undertaking on 2.10.2020 to take further remedial action. Thus, there could be no question of matter being beyond limitation. Relief can be confined to five years before filing of the application. Though status after 2020 is not on record, the PP has to take remedial action as well a" be held accountable for past violations of ten years. There are rival oral versions about current status - version of the applicants that violations are still continuing and version of the PP that violations have now been remedied."**

7. The appellant has placed on record reports of the inspections conducted by the MPCB for the period between 2011 to 2020. Not only that but under the orders of the NEERI, which is a premier institution insofar as environment sciences is concerned, has also found that the unit of the

appellant was compliant with environment requirements and there was not a single non-compliance.

8. In the light of these findings in the report, the observations of the learned NGT that the unit has been non-compliant right from the year 2010 is totally untenable. The further observations of the learned NGT that the report of the NEERI of June 2019 also shows that the violations continues, is also contrary to the records. The report of the MPCB, which is placed at page No.349 of the paperbook would reveal otherwise.

9. Shri Verma, learned counsel appearing for the MPCB, also submits that in view of the inspection reports of the MPCB, he was not in a position to counter the claim of the appellant that there were no violation.

10. We could have allowed the appeal on this short ground, however, the further part of the order i.e. paragraph 15 makes an interesting reading. The learned NGT held that the appellant is liable to pay environmental damages. However, while computing the said damages, the only methodology that has been adopted by the learned NGT is that as per the information which is available in the public domain the revenue range of the appellant is between 100 Crores to 500 Crores. It is therefore found that the penalty of Rs.25 Crores would be commensurated with the revenue. Firstly, there is a vast difference between 100 Crores and 500 Crores. Secondly, if the learned NGT had relied on the information available in the public domain, then it would

not be difficult for it to come out with the exact figure. In any case, the generation of revenue would have no nexus with the amount of penalty to be ascertained for environmental damages. It is further to be noted that the learned NGT found the appellant to be guilty of violations, the least that was expected from the NGT is to give a notice to the appellant before imposing such a heavy penalty.

11. With deep anguish we have to say that the methodology adopted by the learned NGT for imposing penalty is totally unknown to the principles of law.

12. We are, therefore, inclined to quash and set aside the impugned judgments and orders and allow these appeals. Ordered accordingly.

13. Needless to state that in the event any person feels that the appellant is engaged in any of the environmental non-compliances, such a person would always be at liberty to approach the appropriate forum and if such an issue comes before it, the forum would consider and decide the same after following the principles of natural justice.

14. It is reported that Respondent No.13 is dead and an application for substitution has been filed, which is lying in defect for want of death certificate. Considering the view that we have taken and since Respondent No.13 was one of the applicants along with the 12 other applicants who have been duly noticed, we close the said application as no orders are warranted.

15. Any other pending application(s) shall also stand disposed of.

.....J
(B.R. GAVAI)

.....J
(K.V. VISWANATHAN)

NEW DELHI;
NOVEMBER 27, 2024

ITEM NO.18 COURT NO.2 SECTION XVII

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

CIVIL APPEAL NO(S). 9202-9203/2022

BENZO CHEM INDUSTRIAL PRIVATE LIMITED APPELLANT(S)
VERSUS
ARVIND MANOHAR MAHAJAN & ORS. RESPONDENT(S)

(IA No. 192800/2022 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT, IA No. 192798/2022 - STAY APPLICATION)

Date : 27-11-2024 These matters were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE B.R. GAVAI
HON'BLE MR. JUSTICE K.V. VISWANATHAN

For Appellant(s) Mr. Atmaram Nadkarni,Sr.Adv.
Mr. Vivek Jain, AOR
Mr. Zulfiqur Menon,Adv.
Mr. Waseem Pangarkar,Adv.
Ms. Nadiya Sarguroh,Adv.
Mr. Swapnil Srivastava,Adv.
Mr. Jayesh Srivastava,Adv.
Mr. Allan David,Adv.
Mr. S.S. Rebello,Adv.

For Respondent(s) Mr. Feroze Ahmad, Adv.
Mr. Rajiv Ranjan Dwivedi, AOR

Mr. Mukesh Verma, Adv.
Mr. Pankaj Kumar Singh, Adv.
Mr. Pawan Kumar Shukla, Adv.
Mrs. Vatsala Tripathi, Adv.
Ms. Rubi Kumari, Adv.
Mr. Shashank Singh, AOR

Ms. Shyamali Gadre, Adv.
Mr. Soumik Ghosal, AOR
Mr. G. Pal, Adv.
Mr. Gaurav Singh, Adv.

UPON hearing the counsel the Court made the following
O R D E R
The appeals are allowed, in terms of the signed judgment.

(NARENDRA PRASAD) (ANJU KAPOOR)
DEPUTY REGISTRAR COURT MASTER
(Signed “Non-Reportable” judgment is placed on the file)