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20061

November 29, 2016

To

M/s Fair Deal Cars Pvt. Ltd.,
12/67, Site-4, Industrial Area,
Sahibabad, Ghaziabad (Uttar Pradesh).

DIRECTIONS UNDER SECTION 5 OF THE ENVIRONMENT (PROTECTION) ACT, 1986, IN CASE OF VIOLATIONS OF PROVISIONS OF HAZARDOUS AND OTHER WASTES (MANAGEMENT AND TRANSBOUNDARY MOVEMENT) RULES, 2016

WHEREAS, the Central Government has notified the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 (herein referred to as HOWM Rules), under the Environment (Protection) Act, 1986, in supersession of the Hazardous Waste (Management, Handling and Transboundary Movement) Rules, 2008, for safe and environmentally sound management hazardous and other wastes;

WHEREAS, as per Rule 6 of the HOWM Rules, the occupier engaged in handling, generation, collection, storage, packaging, transportation, use, treatment, processing, recycling, recovery, pre-processing, co-processing, utilisation, offering for sale, transfer or disposal of hazardous and other waste shall obtain authorisation from State Pollution Control Board/Pollution Control Committee (herein referred to as SPCB/PCC);

WHEREAS, as per Rule 4(2) of the HOWM Rules, the occupier shall be responsible for safe and environmentally sound management of hazardous and other wastes;

WHEREAS, as per Rule 4(3) of the HOWM Rules, the hazardous and other wastes generated in the establishment of an occupier shall be sent or sold to an authorized actual user or shall be disposed of in an authorized disposal facility;

WHEREAS, as per Rule 8 of the HOWM Rules, hazardous and other wastes shall not be stored for a period exceeding ninety days;

WHEREAS, as per Rule 9 of the HOWM Rules, utilisation of hazardous and other wastes shall be carried in accordance with the provisions laid down under the said Rules;

WHEREAS, as per Rule 17 of the HOWM Rules, the occupier handling hazardous or other wastes shall ensure that hazardous and other wastes are packaged and labeled as per Form 8 of the HOWM Rules;

WHEREAS, as per Rule 19 of the HOWM Rules, the sender of the waste are required to maintain manifest system (movement document) for sending the hazardous waste and other wastes for disposal to disposal facility or actual user or recyclers/utilisers;

WHEREAS, as per Rule 20 of the HOWM Rules, the occupier handling hazardous or other waste shall maintain records in Form 3 and also submit annual returns to SPCB/PCC in Form 4;

WHEREAS, as per Rule 23 (1) of the HOWM Rules, the occupier, importer or exporter and operator of the disposal facility shall be liable for all damages caused to the environment or third party due to improper handling and management of the hazardous and other waste;

WHEREAS, as per Rule 23 (2) of the HOWM Rules, the occupier and the operator of the disposal facility shall be liable to pay financial penalties as levied for any violation of the provisions under these rules by SPCB with the prior approval of the Central Pollution Control Board;

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WHEREAS, Central Pollution Control Board has prepared and published "Guidelines on Implementing Liabilities for Environmental Damages due to Handling & Disposal of Hazardous Waste and Penalty";

WHEREAS, the Hon'ble National Green Tribunal, Principal Bench, Delhi in the matter of Application No. 32 of 2012: Rajiv Narayan & Ors Vs. Union of India & Ors, has passed orders dated 07/10/2016 to carry out surprise inspection of polluting in Ghaziabad/Sahibabad by joint inspection team of Central Pollution Control Board (CPCB), Uttar Pradesh Pollution Control Board (UP PCB) along with representative from Ministry of Environment, Forest & Climate Change (MoEF&CC);

WHEREAS, M/s Fair Deal Cars Pvt. Ltd., 12/67, Site-4, Industrial Area, Sahibabad, Ghaziabad (Uttar Pradesh) (herein after referred as unit) is engaged in servicing, washing and denting & painting of cars in the said premise;

WHEREAS, in compliance to the said orders of the Hon'ble Tribunal, the joint inspection team of officials representing CPCB, UP PCB and MoEF&CC inspected the said unit on 8th November, 2016, and made the following observations :

- (i). The unit generates hazardous wastes such as ETP sludge (hazardous waste category no. 35.3 of Schedule I of the HOWM Rules); Used or Spent oil (hazardous waste category number 5.1 of the said Schedule I); Empty Barrels/containers/Liners contaminated with thinner, paint etc. (hazardous waste category number 33.1 of the said Schedule I) and Contaminated cotton rags (hazardous waste category number 33.2 of the said Schedule I).
- (ii). The unit does not possess authorization for handling, generation, storage, disposal, etc. as required under provisions of the HOWM Rules.
- (iii). The unit has no records for daily generation and management of hazardous waste in Form 3 as required under Rule 20(1) of the HOWM Rules, 2016.
- (iv). The unit possesses membership of Common Treatment, Storage and Disposal Facility (herein referred to as TSDF)- M/s Bharat Oil & Waste Management Ltd., Kanpur Dehat, for disposal of hazardous waste. However, there was no manifest indicating that no wastes have not been handed over to the said common TSDF operator or to authorised actual user. Thus, hazardous wastes may have been disposed in open areas outside the industry premise or utilized in un-scientific manner posing environmental impacts besides health risks to waste handlers.;
- (v). The unit has not provided any dedicated covered hazardous waste storage area except for Used /spent oil;
- (vi). There was no labelling on drums containing used oil whereas as per the Rule 17(1) of the HOWM Rules, the unit is required to label the bags/containers with requisite details in the prescribed format (Form 8).
- (vii). The unit has no record of annual returns submitted to UP PCB with regard to generation and management of hazardous wastes in Form 4 as required under Rule 20(2) of the HOWM Rules 2016;
- (viii). The unit does not maintain manifest for transportation of hazardous waste being transported as required under Rule 19 of the HOWM Rules 2016; and

WHEREAS, the Central Government vide Notifications No. S.O. 157(E) of February 27, 1996 and S.O. 730 (E) dated July 10, 2002, has delegated the powers under Section 5 of the Environment (Protection) Act, 1986 (29 of 1986) to the Chairman, CPCB, to issue directions to any industry or any local or any other authority for the violation of the standards and rules, notified under the Environment (Protection) Act, 1986 and amendments thereof;

NOW, THEREFORE, in exercise of the powers vested under Section 5 of the Environment (Protection) Act, 1986, directions are hereby issued to immediately close all industrial operations including production of the unit unless compliance with the following are submitted to CPCB:

- (i) The unit shall obtain authorisation from UP PCB for handling, generation, collection, storage, packaging, transportation, use, treatment, recycling, utilisation, offering for sale, transfer or disposal, etc. of hazardous and other waste, for all the categories of hazardous waste being generated;
- (ii) The unit shall make arrangement for handling, storage and disposal/recycling/utilization of all the categories of hazardous wastes being generated in accordance with provisions of the HOWM Rules, and;
- (iii) The unit shall pay financial penalty to UP PCB in compliance with provisions stipulated under Rule 23(2) of the HOWM Rules in accordance with CPCB's published "Guidelines on Implementing Liabilities for Environmental Damages due to Handling & Disposal of Hazardous Waste and Penalty".

The action taken report (ATR) shall be submitted to the Central Pollution Control Board within 15 days from the date of issue of these directions.

In the event of failure to comply with the above directions, appropriate actions, as deemed fit under the Environment (Protection) Act, 1986 and amendments thereof, would be initiated against your unit without any further notice.

(S. P. Singh Parihar)
Chairman

Copy to:

- 1) The Joint Secretary, HSM Division, Ministry of Environment, Forests & Climate Change, Indira Paryavaran Bhawan, Jor Bagh Road, New Delhi -110 003 - for kind information, please.
- 2) The Chairman, Uttar Pradesh Pollution Control Board, 111rd floor, PICUP Bhawan, Vibhuti Khand, Gomti Nagar, Lucknow - 226 020, Uttar Pradesh.--- **For kind information and with a request to (i) ensure enforcement of the above directions, and (ii) impose and collect financial penalty in compliance with provisions stipulated under Rule 23(2) of the HOWM Rules in accordance with CPCB's published "Guidelines on Implementing Liabilities for Environmental Damages due to Handling & Disposal of Hazardous Waste and Penalty", please.**
- 3) The District Magistrate, Ghaziabad, Raj Nagar, Distt. Ghaziabad (UP) - 201002 - **To ensure enforcement of the above closure directions and send action taken to this office, please.**
- 4) The Incharge (Zonal Office-North) , Central Pollution Control Board, Ground Floor, PICUP Bhawan, Vibhuti Khand, Gomti Nagar, Lucknow - 226 010 - **To ensure enforcement of the above directions, please.**
- 5) MS, CPCB, Delhi.
- 6) I/c IT Division, CPCB, Delhi .


(A. B. Akolkar)
Member Secretary