



केन्द्रीय प्रदूषण नियंत्रण बोर्ड
CENTRAL POLLUTION CONTROL BOARD
पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय भारत सरकार
MINISTRY OF ENVIRONMENT FOREST & CLIMATE CHANGE GOVT OF INDIA

F.No.CP-20/80/2021-UPC-II-HO-CPCB-HO Part(1)

26.10.2023

To,

The Chairman
Karnataka State Pollution Control Board
Parisara Bhavana, No.49,
Church Street, Bengaluru - 560001

Sub: Directions under Section 5 of the EPA, 1986, regarding compliance of various provisions under Schedule – II of Plastic Waste Management Rules, 2016, i.e., Guidelines on Extended Producer Responsibility (EPR)

WHEREAS, the Ministry of Environment, Forest & Climate Change (MoEF&CC) has notified Plastic Waste Management Rules, 2016, in exercise of the powers conferred under sections 3, 6 & 25 of the Environment (Protection) Act, 1986 vide Notification No. G.S.R 320 (E) dated March 18, 2016; and

WHEREAS, Plastic Waste Management Rules, 2016 was amended and notified by Ministry of Environment, Forest & Climate Change (MoEF&CC) on 16 February, 2022 to insert Schedule – II, i.e., Guidelines on Extended Producer Responsibility for Plastic Packaging (hereinafter referred as “EPR Guidelines”); and

WHEREAS, as per Section 6.1(a) of the EPR Guidelines, “The following entities shall register on the centralized portal developed by Central Pollution Control Board namely: - (i) Producer (P); (ii) Importer (I); (iii) Brand owner (BO), (iv) Plastic Waste Processor engaged in (a) recycling, (b) waste to energy, (c) waste to oil, and (iv) industrial composting”; and

WHEREAS, as per Section 11.1 of the EPR Guidelines, “All plastic waste processors shall have to register with concerned State Pollution Control Board or Pollution Control Committee in accordance with provisions of 13(3) of Plastic Waste Management Rules, 2016 on the centralized portal developed by Central Pollution Control Board. Central Pollution Control Board shall lay down uniform procedure for registration within three months of the publication of these guidelines”; and

WHEREAS, CPCB developed the Standard Operating Procedure (SOP) for registration of PWP on March 15, 2023 and uploaded the same on CPCB website in accordance with EPR guidelines; and

WHEREAS, as per Section 11.2 of EPR Guidelines, “The Plastic waste processors shall submit annual returns after end of every financial year by 30th April of the next financial year on the quantity of plastic waste processed category-wise as per prescribed pro forma on the centralized portal developed by Central Pollution Control Board”; and

WHEREAS, as per Section 11.5 of the EPR Guidelines, “Only plastic waste processors registered under Plastic Waste Management Rules, 2016, as amended, shall provide certificates for plastic waste processing, except in case of use of plastic waste in road

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construction. In case where plastic waste is used in road construction the Producers, Importers & Brand-Owners shall provide a self-declaration certificate in pro forma developed by Central Pollution Control Board. The certificate provided by only registered plastic waste processors shall be considered for fulfilment of Extended Producer Responsibility obligations by Producers, Importers & Brand-Owners”; and

WHEREAS, as per Section 11.7 of the EPR Guidelines, *"The certificate for plastic packaging waste provided by registered plastic waste processors shall be in the name of registered Producers, Importers & Brand-Owners or Local authorities, as applicable, based upon agreed modalities. Central Pollution Control Board will develop mechanism for issuance of such certificate on the centralized portal "; and*

WHEREAS, as per the EPR Guidelines, CPCB has developed the Centralized portal for registration of Producers, Importers and Brand-owners (PIBOs) & Plastic Waste Processors (PWPs) that has been formally launched on April 05, 2022; and

WHEREAS, CPCB has developed the mechanism for Generation & Transfer of EPR Certificates (as given in the Guidance Manual developed by CPCB) by PWPs on the EPR Portal and the corresponding online module of the EPR Portal was launched on November 19, 2022; and

WHEREAS, Registration of PWPs by SPCBs/PCCs is on the basis of information provided online by PWPs on the EPR Portal which includes details of plant and machinery (processing capacity, production capacity, power rating, etc.), geotagged photograph of the plant & machinery, raw material, production and sales section of the Units, short video of the Unit etc.; and

WHEREAS, as per clause 4(iv) of SOP *"Physical Audit of the PWP to be completed by SPCB/PCC within 30 days of grant of Registration. The PWP shall be able to issue certificates to PIBOs post conduction of Audit and validation of its facilities by the SPCB/PCC"; and*

WHEREAS, in accordance with aforesaid clause of SOP, upon grant of registration to PWP, SPCB/PCC are required to physically verify details of plant and machinery (processing capacity, production capacity, power rating etc.), geotagged photograph of the plant & machinery, raw material, production and sales section of the Units, short video of the Unit etc. as per the checklist provided on EPR portal for the purpose; and

WHEREAS, CPCB has developed the Guidance manual for operating Centralized EPR Portal which includes details of procedure for Registration of PIBOs/PWPs, Generation & Transfer of EPR certificates etc., which was made available on EPR portal. Several training sessions/meetings were also conducted with SPCBs/PCCs/Industrial Associations/PWPs and other stakeholders in which inspection requirements/procedures for grant of approval of physical verification of PWPs to be followed by SPCBs/PCCs were covered. SPCBs/PCCs were required to upload approval status of Physical verification of PWPs on the EPR portal following these procedures; and

WHEREAS, CPCB vide directions dated 10.03.2023 and 04.07.2023 reiterated that all SPCBs/PCCs to complete physical verification of all registered PWPs in their jurisdiction within the stipulated time frame to enable the PWPs to generate EPR certificates within the timelines stipulated in EPR guidelines; and

WHEREAS, CPCB vide directions dated 21.12.2022 had directed all PWP to upload GST E-invoice of all transactions (sales/ purchase) related to processing of plastic packaging & plastic waste on the EPR Portal; and

WHEREAS, viewing rights of the PWP dashboard have been provided to the officials of SPCBs/PCCs to monitor the PWP operations including procurement, production, sale and Certificate generation & transfer by PWP Units registered in their jurisdiction and the same was communicated during the training sessions for SPCBs/PCCs conducted by CPCB for the purpose; and

WHEREAS, Section 12.4 of the EPR Guidelines provides that "*Central Pollution Control Board by itself or through a designated agency shall verify compliance of Producers, Importers & Brand-Owners through inspection and periodic audit, as deemed appropriate. Central Pollution Control Board, as required, can also verify compliance of Plastic Waste Processors through inspection and periodic audit. In case of plastic waste processors and Producers, Importers & Brand-Owners operating in a State or Union Territory, Central Pollution Control Board may, if required, direct State Pollution Control Board or Pollution Control Committee to take action*"; and

WHEREAS, random sample audit of M/s Enviro Recycle Pvt Ltd., Ram Nagar, Karnataka (plastic waste recycler) was conducted by CPCB on August 30, 2023 in accordance with Clause 12.4 of the EPR Guidelines; and

WHEREAS, M/s Enviro Recycle Pvt Ltd, was registered with Karnataka State Pollution Control Board (KSPCB) on 25.04.2023 followed by physical verification of the Unit and uploading approval thereto by KSPCB on 29.03.2023 on the EPR portal; and

WHEREAS, the following observations were made by the CPCB officials during the aforesaid audit:

- a. The plastic waste processing capacity of the Unit is 350000 Tonnes per Annum (TPA), as registered by Karnataka State Pollution Control Board (KSPCB) and Consent to Establish and Consent to Operate had been issued to the Unit. As per the Audit team observations, one double shredder machine (manual feeding to shredder), four washers (two washers in series), two driers, one agglomerator and one extruder machine were installed in the plant but the same were not in operation as Electricity and water connection had not been provided to the plant machinery; electrical and civil works were in progress during the Audit .The Unit could not perform/demonstrate trial run to assess the processing capacity, as per the CPCB Audit team directions. Further, the machinery placed in the plant is not in conformity with the plant machinery declared in the application form. The plant machinery corresponding to the registered capacity of 350000 TPA was not found to be installed/commissioned in the Unit by the Audit team.
- b. The Unit has generated EPR Certificates of the order of 350000 Tonnes and transferred EPR Certificates of 348500 Tonnes value to Producers/Importers/Brand Owners (PIBOs). Quantities mentioned in the invoices uploaded on EPR Portal by the Unit are fallacious & very high as compared to the declared production capacity since the plant operations had not yet commenced. As per the information on the EPR Portal, all invoices have been generated for Services provided towards collection and recycling and not for the requisite actual sales of recycled plastic.

- c. No relevant information as stated below were made available to verify processing of 350000 tonnes of plastic waste and sale of corresponding quantity of finished product, by the Unit to the audit team:
 - i. Procurement of Plastic waste (Procurement invoices, Supplier details, etc.)
 - ii. Procurement of additives required for processing plastic waste
 - iii. Sale of recycled plastic (GST Statement, Sales invoices, etc.)
- d. The geotagged photographs /video of the plant uploaded with the application are not in conformity with the actual observations during the Audit, indicating that fabricated photographs had been uploaded with the application. It is observed that the same was also not checked & verified during the Physical verification by SPCB.
- e. The Consent to Establish (27.2.23) and Consent to Operate (7.3.23) have been granted in quick succession within a gap of seven days. It is not clear as to how the Unit, which is a large-scale Unit, was established within seven days' time. It was also observed that rental agreement of the Unit was signed only on 01.2.2023.
- f. ETP of the plant was found to be under construction during the Audit, despite the fact that CTO has been granted to the Unit by KSPCB.
- g. Only four workers were available in the Unit as against 74 reported in the application form

In view of the above, it is observed that EPR Certificates of the value of 3,50,000 Tonnes have been generated by the Unit whereas the Unit neither has processing capacity for the said quantity nor relevant prescribed supporting documents/information for the same. The Unit has obtained registration and generated the said EPR certificates of 3,50,000 Tonnes without any actual processing of plastic waste at the Unit and by submitting false documents/information, which is in gross violation of provisions of EPR Guidelines as notified under Schedule II of the PWM Rules by MoEFCC, CPCB's Guidance manual for operating Centralized EPR Portal and other directions/communications issued by CPCB from time to time in this regard. The process of generation of EPR Certificates by the Unit was also not monitored by KSPCB, despite being the enforcing agency notified under the PWM Rules and having provision of viewing the PWP dashboard on the EPR portal; and

WHEREAS, as per Section 11.4 of the EPR Guidelines "*In case, at any stage it is found that the information provided by the plastic waste processor is false, the plastic waste processor shall be debarred by State Pollution Control Board, as per procedure laid down by Central Pollution Control Board, from operating under the Extended Producer Responsibility framework for a period of one year*"; and

WHEREAS, as per Section 11.6 of the EPR Guidelines "*The pro forma for the certificate shall be developed by Central Pollution Control Board. In no case, the amount of plastic packaging waste recycled by the enterprise shall be more than installed capacity of the enterprise. The certificates will be for plastic packaging category-wise and shall include GST data of the enterprise*"; and

WHEREAS, as per Section 13.1 of the EPR Guidelines "*The concerned State Pollution Control Board or Pollution Control Committee shall register Producers, Importers & Brand-Owners (operating in one or two states) and plastic waste processors, through the online portal developed by Central Pollution Control Board. Provision for registration shall be made on the Extended Producer Responsibility portal. State Pollution Control Board or Pollution Control Committee by itself or through a designated agency shall verify compliance of Producers, Importers & Brand-Owners through inspection and periodic*

audit, as deemed appropriate, of Producers, Importers & Brand-Owners as well as plastic waste processors in their jurisdiction as per the Plastic Waste Management Rule, 2016";
and

WHEREAS, as per Rule 18 of PWM Rules " *The Environmental Compensation shall be levied based upon polluter pays principle, on persons who are not complying with the provisions of these rules, as per guidelines notified by the Central Pollution Control Board";*
and

WHEREAS, as per the EC Regime framed by CPCB in 2022, Environmental Compensation is to be levied on PWP @ Rs. 5000/- per ton of plastic waste misreported for quantity of plastic procured and EPR certificate generated after following due legal procedure"; and

NOW, THEREFORE, in view of above and in exercise of the powers vested to Chairman, Central Pollution Control Board (CPCB) vide Notification No. S.O.730 (E) dated July 10, 2002 notified as per provisions of Section 5 of the Environment (Protection) Act, 1986, following directions are issued for compliance:

1. To conduct detailed enquiry into the issue of CTE and CTO and also as to how physical verification of the Unit M/s Enviro Recycle Pvt Ltd was approved by KSPCB on the EPR portal, in view of the gross violations observed by the Audit team, as above, and also as to why the process of generation of EPR Certificates was not monitored by KSPCB.
2. To fix the liability on erring official/s and take disciplinary action against erring officials, if any, as per the findings of the enquiry set up, as at (1) above.
3. To immediately take the following actions against the afore-mentioned PWP Unit namely M/s Enviro Recycle Pvt Ltd (Reg. No.: PR-25-KAR-04-AAFCE9612E-23):
 - i. To suspend the consent/authorization/registration issued to the Unit with immediate effect and issue show cause notice for debarring the Unit from operating under the Extended Producer Responsibility framework for a period of one year as per Clause 11.4 of the EPR Guidelines or/ and for revocation of the consent/authorization/registration issued to the Unit;
 - ii. To levy Environmental Compensation (EC), corresponding to the quantum of EPR certificates generated not in conformity with requirement prescribed in CPCB Guidance manual for operating Centralized EPR Portal. The EC is to be levied as per "Guidelines for Assessment of Environmental Compensation to be levied for violation of PWP Rules" (https://cpcb.nic.in/uploads/plasticwaste/EC_Regime_PWM.pdf) and Unit be directed to deposit the same in the designated Escrow Account, created by the KSPCB for the purpose.
 - iii. To take necessary action against every Unit as per applicable law as the Units have submitted false documents for obtaining registration as well as for generating EPR certificates. It may further be ensured that action taken by KSPCB regarding these units should act as a deterrent for other Units in committing such violations.

4. To take immediate necessary actions to improve upon the system of grant of registration within KSPCB, monitoring and enforcement thereto ensuring compliance of the Plastic Waste Management Rules, EPR guidelines and directions/guidelines issued by CPCB, including the following:
 - i. Inspection of all processing facilities of Registered PWPs in your jurisdiction within a fortnight from the issue of these Directions and to confirm that the Processing capacity as per the Registration granted to units is in conformity with the actual facilities provided in each Unit. All other information provided in the online application form are also to be revalidated by KSPCB.
 - ii. Regular monitoring of EPR Certificate generation process of the Registered PWPs to ensure that EPR Certificates generated by PWPs are in accordance with requirements prescribed in the CPCB guidance manual including uploading of GST E-invoice corresponding to the sales of finished products on the EPR Portal.

5. To take all necessary steps to ensure that every Unit henceforth complies with all conditions including generating GST E-invoice for all sales of finished products and uploads the same on the EPR Portal, failing which necessary action be immediately taken including levying of EC against each non-complying Unit.

You are, hereby, directed to take necessary action immediately for ensuring compliance of the aforesaid directions and submit action taken report to this office within 10 days from the date of issuance of this direction.

M.K.C.
26/10/23
(Tanmay Kumar)
Chairman