



SPEED POST

F. No. B-190019-NGRBA/CPCB/2018-19 4548

06 Aug, 2021

To

M/s Vadilal Industries Ltd.,
D-24, Persakhera Industrial Area,
Bareilly-243502, Uttar Pradesh

DIRECTIONS UNDER SECTION 5 OF THE ENVIRONMENT (PROTECTION) ACT, 1986

WHEREAS, the Ministry of Environment, Forest and Climate Change, Govt. of India, vide its notification S.O.157(E) dated 27.02.1996, has delegated the powers vested under Section 5 of the Environment (Protection) Act, 1986 (29 of 1986) to the Chairman, Central Pollution Control Board (CPCB), to issue directions to any industry, Municipal Corporation, Municipal Council, Cantonment Board, any local or other Authority for the violation of emission and effluent standards notified under the Environment (Protection) Rules, 1986 and other standards and norms; and

WHEREAS, there is need to inculcate habit of self-monitoring within the industries for complying with the prescribed standards and this can be achieved by methods like installing online effluent and emission monitoring devices; and

WHEREAS, for strengthening the monitoring and compliance through self-regulatory mechanism, online source emission and effluent monitoring systems need to be installed and operated by the industries on 'polluter pays principle'; and

WHEREAS, Hon'ble National Green Tribunal in its order dated 15th December, 2014 in the matter of Krishan Kant Singh vs. M/s Hindustan Coca Cola Beverages Pvt. Ltd., Mehendiganj, Rajatalab, Varanasi stated that "*It seems appropriate introduction of online monitoring system for the industries needs to be explored and if it is possible to provide for joint online monitoring system*"; and

WHEREAS, CPCB issued direction under Section 18 (1) (b) of Water (Prevention & Control of Pollution) Act, 1974 in February, 2014 to Ganga Basin State Pollution Control Boards (SPCBs)/Pollution Control Committee (PCC) for installation of online effluent monitoring systems w.r.t. pH, BOD, TSS, COD and flow parameters in Grossly Polluting Industries; and

WHEREAS, UPPCB identified 14 out of the 255 industrial units which were generating more than 100 KLD effluent in phase I segment B (Haridwar to d/s of Unnao) and these 14 units were subsequently inspected in compliance of NGT judgement dated 13th July, 2017 in the matter of O.A. No. 200/2014 which were found to be falling under the GPI category; and

WHEREAS, M/s Vadilal Industries Ltd., D-24, Persakhera Industrial Area, Bareilly-243502, Uttar Pradesh (hereafter referred to as the 'Unit') was also identified as one of the industry found to be falling under the GPI category which is engaged in manufacturing of flavoured milk, ice cream, ghee, milk powder, butter/cream etc; and

WHEREAS, CPCB issued directions dated **18.12.2018** under section 5 of the Environment (Protection) Act, 1986 to the unit to install the OCEMS and connect with CPCB server within 3 months; and

WHEREAS, the unit has not submitted any reply in respect to the directions issued; and

WHEREAS, IT division, CPCB, Delhi verified on 11.04.2019 that the unit has not connected their OCEMS system with CPCB server; and

WHEREAS, The Hon'ble National Green Tribunal (NGT), Principal Bench in the matter of O.A. No. 593/2017 (WP (CIVIL) No. 375/2012), Paryavaran Suraksha Samiti & Anr. Vs. Union of India & Ors. directed Central Pollution Control Board (CPCB) that "*CPCB may take penal action for failure, if any, against those accountable for setting up and maintaining STPs, CETPs and ETPs. CPCB may also assess and recover compensation for damage to the environment and said fund may be kept in a separate account and utilized in terms of an action plan for protection of the environment*"; and

WHEREAS, in compliance of above quoted Hon'ble NGT order, cases to be considered for levying penalty are discharges in violation of consent conditions/ non-compliance with the directions, such as direction for closure due to non-installation of OCEMS/ non-adherence to the action plans submitted/ intentional avoidance of data submission or data manipulation by tampering OCEMS; and

WHEREAS, CPCB issued directions dated **14.06.2019** under section 5 of the Environment (Protection) Act, 1986 to the unit to comply with the following directions:

1. The unit shall close down all its manufacturing operations.
2. The unit shall deposit the environmental compensation of Rs. 5,00,000/- only within 15 days in CPCB.
3. The unit shall inform CPCB regarding the closure of manufacturing operations and shall not resume operation without the permission from CPCB.

AND WHEREAS, the unit's replies dated 26.06.2019, 01.07.2019 and 05.09.2019 were examined and following observations were made:

1. The unit has requested for waving of environmental compensation of Rs. 5,00,000/-.
2. The unit has installed the Online Continuous Monitoring System at ETP outlet and provided data connectivity with CPCB server on 05.07.2019, which was verified by IT division CPCB.
3. The unit vide letter dated 05.09.2019 submitted a self-certificate informing that the unit has stopped all manufacturing operations and enclosed letter dated 30.08.2019 wherein it is stated that they have informed RO Bareilly, UPPCB regarding closure of operations.

AND WHEREAS, The Hon'ble NGT vide orders dated 22nd May, 2019 in Appeal No. 27/2019 with Appeal No. 35/2019 and order dated 29/07/2019 in Appeal no. 22/2019 (Shri Vitthalsai SSK Ltd) directed that, "*CPCB may treat the impugned order as tentative and pass further appropriate order after permitting the affected parties to furnish their viewpoint for personal hearing of related Unit.*"; and

WHEREAS, CPCB issued order dated 04.09.2019 regarding policy for levying of environmental compensation for industries, which prescribes as under;

1. Prior to imposition of EC, a Show Cause Notice (SCN) for imposing EC along with an opportunity to reply/ hearing be given.
2. Methodology adopted for calculation of EC may be shared with the concerned industry/ agency if asked during hearing or through reply.
3. Unless there is substantial evidence, date of non-complying days would start w.e.f. date of non-compliance observed during inspection.
4. EC for non-compliance to CPCB's closure direction regarding installation & connectivity of OCEMS shall apply till establishment of initial uninterrupted data connectivity for all the specified parameters in all the permitted outlets /stacks, as verified by the IT division.
5. EC for the closure direction issued on the ground of non – compliance of prescribed discharge/ emission norms shall apply for the period between date of inspection & monitoring to date of closing of manufacturing operation.
6. Direction for closure or revocation and direction for imposition of EC to be dealt separately.

AND WHEREAS, considering policy dated 04.09.2019, CPCB issued revocation directions under section 5 of the Environment (Protection) Act, 1986 to the unit on 15.10.2019 to comply with the following directions:

1. The unit shall resume operation only after receiving valid Consent to Operate from UPPCB.
2. The unit shall ensure uninterrupted connectivity of OCEMS to the CPCB & SPCB servers for treated effluent monitoring.
3. The unit shall immediately inform to CPCB regarding the date of resumption of operations.

AND WHEREAS, CPCB vide letter dated 11.12.2019 asked the unit to deposit environmental compensation of Rs. 5,00,000 (Rupees Five Lakh only) along with interest at rate of 12% (simple interest) and to inform date of resumption of operations; and

WHEREAS, CPCB constituted a 4-Member Committee vide office order no. MSCB/03/2017/930 dated 24.11.2020 to examine the representations against environmental compensation and to further strengthen the mechanism; and

WHEREAS, as per policy dated 04.09.2019 and as per unit's request vide letter dated 26.06.2019 to waive off the EC, the matter was examined by the 4-member committee on 23.02.2021 and following observations were made by the committee:

1. The unit failed to comply with directions of CPCB dated 18.12.2018 to install OCEMS system and to provide connectivity with CPCB & SPCB server within 3 months.
2. Subsequently, CPCB issued closure direction dated 14.06.2019 along with environmental compensation (EC) of amount Rs.5,00,000/- (Rupees Five Lakh only) for the non-compliance period starting from 18.03.2019 (target time given) till 06.06.2019 (the date on which closure and EC decision was approved on file).
3. Connectivity of OCEMS with CPCB was established on 05.07.2019, therefore, the non-compliance period for calculation of EC will be applicable between 18.03.2019 (target time given) till 04.07.2019.

AND WHEREAS, CPCB issued a show cause notice under section 5 of the Environment (Protection) Act, 1986 on 22.03.2021 as to why environmental compensation of **Rs. 6,81,250/-** should not be levied on the unit for the non-compliance period of 18.03.2019 to 04.07.2019; and

WHEREAS, as per the methodology for assessing penalty and environmental compensation, the environmental compensation levied to the unit **M/s Vadilal Industries Ltd., D-24, Persakhera Industrial Area, Bareilly-243502, Uttar Pradesh** is re-calculated as **Rs. 6,81,250/-** for the non-compliance period (18.03.2019 - 04.07.2019). The details of calculation are as under:

EC Calculation details	From	To	N	PI	R	S	LF	Total Amount
	18.03.2019	04.07.2019	109	50	250	0.5	1	$EC = N \times PI \times R \times S \times L.F$ $EC = 109 \times 50 \times 250 \times 0.5 \times 1$ = Rs. 6,81,250/-

AND WHEREAS, the unit vide letter dated 06.04.2021 informed that they did not receive CPCB directions dated 18.12.2018 and requested to waive the EC of Rs. 6,81,250/- levied on the unit as there was no time where the unit was in fault and did not comply with CPCB directions; and

WHEREAS, in compliance of policy dated 04.09.2019 and as per unit's request vide letter dated 06.04.2021 personal hearing was granted to the unit by the 4-member committee on 22.06.2021. Minutes of the personal hearing were issued to the unit vide letter dated 20.07.2021 and following observations were made by the committee in the minutes:

1. The unit failed to comply with directions of CPCB dated 18.12.2018 to install OCEMS system and to provide connectivity with CPCB & SPCB server within 3 months.
2. OCEMS connectivity established with effect from 05.07.2019.
3. Number of non-complying days shall be **108** days with reference to the target date for OCEMS installation (18.03.2019) and actual date of connectivity established (05.07.2019).

AND WHEREAS, as per the methodology for assessing penalty and environmental compensation, the environmental compensation has been re-calculated as **Rs. 6,75,000/- (Rupees Six-lacs and seventy-five thousand only)** for the the non-compliance period from **19.03.2019** (i.e. a day after the date of deadline {i.e. 18.03.2019} of directions dated 18.12.2018) to **04.07.2019** (i.e. a day before OCEMS connectivity of the unit with CPCB server). The details of calculation are as under:

EC Calculation details*	From	To	N	PI	R	S	LF	Total Amount
	19.03.2019	04.07.2019	108	50	250	0.5	1	$EC = N \times PI \times R \times S \times L.F$ $EC = 108 \times 50 \times 250 \times 0.5 \times 1$

								= Rs. 6,75,000/-
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*EC calculations details: N= No. of days of violation; PI= Pollution Index of Industrial Sector; R= A factor in Rupees for EC; S= Scale of operation; LF= Location factor

NOW, THEREFORE, in view of the above and in exercise of powers delegated to the Chairman, Central Pollution Control Board (CPCB) under section 5 of the Environment (Protection) Act, 1986, the unit **M/s Vadilal Industries Ltd., D-24, Persakhera Industrial Area, Bareilly-243502, Uttar Pradesh** is hereby directed to comply with the following directions:

1. The unit shall deposit the revised environmental compensation of **Rs. 6,75,000/- (Rupees Six lacs and seventy-five thousand only)** in CPCB A/c No. 532702050000164 (Bank name: Union Bank of India, IP Extension Branch, Vikas Marg Extn., Delhi; IFSC: UBIN0553271). In case of delay, simple interest @ 12% shall be levied for the delay period (the delay period shall be calculated after 15 days of issue of this direction *till* the date of EC deposited by the unit).
2. The Unit shall provide detail of the EC amount deposited to CPCB within 15 days from date of receipt of the direction. EC deposited in the CPCB account will be spent by CPCB as per the EC utilization policy as approved by Hon'ble NGT.

In case of default in compliance with the above directions, CPCB will be constrained to initiate action without any further notice, in accordance with the provisions of the Environment (Protection) Act, 1986.


(Naresh Pal Gangwar)
CHAIRMAN

Copy to:

- 1) **Member Secretary,** : for kind information please.
Uttar Pradesh Pollution Control Board,
Building No. TC-12V, Vibhuti Khand, Gomti
Nagar, Lucknow-226 010, Uttar Pradesh
- 2) **Joint Secretary (CP division)** : for kind information please.
Ministry of Environment, Forests and Climate
Change, Prithvi Wing, 2nd Floor, Room No.
216, Indira Paryavaran Bhawan,
Aliganj, Jor Bagh Road, New delhi-110003
- 3) **District Magistrate,** : for kind information please.
Station Road, Civil Lines,
Bareilly, Uttar Pradesh 243001

4) **Regional Director (North),**
Central Pollution Control Board
Regional Directorate, PICUP Bhawan Vibhuti
Khand, Gomti Nagar, Lucknow - 226 010

: for kind information please.

5) I/c IT division, CPCB, Delhi

: for uploading the direction at CPCB website.

6) Master copy (Dairy), WQM-II Division.

: for record


(Prashant Gargava)
MEMBER SECRETARY