

Item No. 1

**BEFORE THE NATIONAL GREEN TRIBUNAL
CENTRAL ZONE BENCH, BHOPAL**

(Through Video Conferencing)

Appeal No. 05/2022 (CZ)

Som Distilleries Ltd.

Appellant(s)

Versus

Madhya Pradesh Pollution Control Board

Respondent(s)

Date of hearing: **31.03.2022**

**CORAM : HON'BLE MR. JUSTICE SHEO KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. ARUN KUMAR VERMA, EXPERT MEMBER**

For Appellant (s):

Mr. Sanjay Upadhyay, Adv.
Ms. Gunjan Chowksey, Adv.

For Respondent(s):

None

ORDER

1. Challenge in this appeal is the order dated 21.10.2021 and 31.12.2021 on the ground that the orders impugned are against the settled provisions of law, arbitrary and were passed without giving an opportunity of hearing to the appellant and against the Principle of Natural Justice. It is further contended that while calculating the environmental compensation the number of days, process of assessment and encashment of Bank Guarantee were not properly considered and the closure of industries vide order of Excise Commissioner was also not considered and the days were not deducted from the total number of days of violation.
2. Learned Counsel appearing for the State Pollution Control Board has submitted that proper opportunity of hearing was given to the appellant and encashment of Bank Guarantee was in terms of the agreement

entered between the parties. It is further contended that for past violations the State Pollution Control Board initiated proceedings and after giving due opportunity the matter has been finalised. So far as the compliance of the conditions are concerned, they are under consideration and if the conditions have been complied the matter can be resolved and considered and decided according to law.

3. Learned Counsel appearing for the appellant has submitted that the appellant approached to the Hon'ble High Court of Madhya Pradesh at Jabalpur by filing Writ Petition No. 2338/2022 and vide order dated 09.02.2022 Hon'ble High Court directed the petitioner to avail alternate remedy and thus this appeal has been filed. Learned Counsel for the respondent has relied on the discussion and consideration made by the Hon'ble High Court while passing the order on para 8 and rest of the paras and submitted that *"As a sequel to the above discussion, this Court holds that there is no jurisdictional error in the impugned show cause notice and the order passed by the respondent/Board and thus, no cause arises for invoking the power of judicial review...."*
4. In light of the above facts both the Counsels are at agreement that the contentions as raised by the Learned Counsel for the appellant while filing the appeal may be taken as representation by the State Pollution Control Board and shall dispose of this application in accordance with law within a reasonable time. Accordingly, we direct the petitioner to approach with the document before the authorities i.e. State Pollution Control Board and the Board is expected to dispose of application within reasonable time.
5. Learned Counsel for the respondent sought a short time to file the para-wise reply. The reply may be filed within four weeks. The appellant is directed to provide the copy of appeal and relevant documents to the respondents within a week by both ways and available email.

6. Appellant is directed to supply the required documents and copy of the appeal to the respondent within a week and after compliance of service, the appellant has to submit an affidavit that the copy of the appeal has been served on the respondent.

List it on **5th July, 2022**.

Sheo Kumar Singh, JM

Dr. Arun Kumar Verma, EM

31st March, 2022
Appeal No.05/2022 (CZ)
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