

**BEFORE THE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH AT NEW DELHI,  
NEW DELHI**

**APPEAL NO. 46 of 2015 &  
M.A. No. 570/2015 IN APPEAL NO. 46 of 2015**

**AND**

**APPEAL NO. 47 of 2015 &  
M.A. No. 571/2015 IN APPEAL NO. 47 of 2015**

**AND**

**APPEAL NO. 48 of 2015 &  
M.A. No. 572/2015 IN APPEAL NO. 48 of 2015**

**AND**

**APPEAL NO. 49 of 2015 &  
M.A. No. 573/2015 IN APPEAL NO. 49 of 2015**

**AND**

**APPEAL NO. 50 of 2015 &  
M.A. No. 574/2015 IN APPEAL NO. 50 of 2015**

**AND**

**APPEAL NO. 51 of 2015 &  
M.A. No. 575/2015 IN APPEAL NO. 51 of 2015**

**AND**

**APPEAL NO. 52 of 2015 &  
M.A. No. 576/2015 IN APPEAL NO. 52 of 2015**

**AND**

**APPEAL NO. 53 of 2015 &  
M.A. No. 577/2015 IN APPEAL NO. 53 of 2015**

**AND**

**APPEAL NO. 54 of 2015 &  
M.A. No. 578/2015 IN APPEAL NO. 54 of 2015**

**AND**

**APPEAL NO. 55 of 2015 &  
M.A. No. 579/2015 IN APPEAL NO. 55 of 2015**

**AND**

**APPEAL NO. 56 of 2015 &  
M.A. No. 580/2015 IN APPEAL NO. 56 of 2015**

**In the matter of:**

**APPEAL NO. 46 of 2015**

1. Shri Rakesh Jain  
S/o Shri Firoti Lal Jain  
Proprietor M/s Mitul Industries  
At A-124, Wazirpur Industrial Area  
Delhi- 110052

.....Appellant

Vs.

1. Delhi Pollution Control Committee  
Department of Environment  
(Govt. of NCT of Delhi)  
4<sup>th</sup> and 5<sup>th</sup> Floor,  
ISBT Building  
Kashmere Gate  
Delhi- 110006

.....Respondent

**AND**

**APPEAL NO. 47 of 2015**

1. M/s S.V. Industries  
A Partnership concern of  
Mr. Adit Singhal and  
Mr. Vinod Manocha  
At A-59, Group, Wazirpur Industrial Area  
Delhi-110052

.....Appellant

Vs.

1. Delhi Pollution Control Committee  
Department of Environment  
(Govt. of NCT of Delhi)  
4<sup>th</sup> and 5<sup>th</sup> Floor,  
ISBT Building  
Kashmere Gate  
Delhi- 110006

.....Respondent

**AND**

**APPEAL NO. 48 of 2015**

1. Shri Pardeep Goel  
S/o Late Shri Pameshwar Goel  
Proprietor M/s Pardeep Industries  
At A-31, Wazirpur Industrial Area  
Delhi-110052

.....Appellant

Vs.

1. Delhi Pollution Control Committee  
Department of Environment  
(Govt. of NCT of Delhi)  
4<sup>th</sup> and 5<sup>th</sup> Floor,  
ISBT Building  
Kashmere Gate  
Delhi- 110006

.....Respondent

**AND**

**APPEAL NO. 49 of 2015**

1. Shri Sajjan Goel  
S/o Shri Sohan Lal Goel  
Proprietor M/s Jagdish Kumar  
At A-133, Wazirpur Industrial Area  
Delhi-110052

.....Appellant

Vs.

1. Delhi Pollution Control Committee  
Department of Environment  
(Govt. of NCT of Delhi)  
4<sup>th</sup> and 5<sup>th</sup> Floor,  
ISBT Building  
Kashmere Gate  
Delhi- 110006

.....Respondent

**AND**

**APPEAL NO. 50 of 2015**

1. Shri Subhash Goel  
S/o Shri I.C. Goel  
Proprietor M/s Ganpati Rolling Mill  
At A-98/6, Wazirpur Industrial Area  
Delhi-110052

.....Appellant

Vs.

1. Delhi Pollution Control Committee  
Department of Environment  
(Govt. of NCT of Delhi)  
4<sup>th</sup> and 5<sup>th</sup> Floor,  
ISBT Building  
Kashmere Gate  
Delhi- 110006

.....Respondent

**AND**

**APPEAL NO. 51 of 2015**

1. Shri Amit Jain  
S/o Shri Mahender Jain  
Proprietor M/s Hari Ram  
At C-40/3, Wazirpur Industrial Area  
Delhi-110052

.....Appellant

Vs.

1. Delhi Pollution Control Committee  
Department of Environment  
(Govt. of NCT of Delhi)  
4<sup>th</sup> and 5<sup>th</sup> Floor,  
ISBT Building  
Kashmere Gate  
Delhi- 110006

.....Respondent

**AND**

**APPEAL NO. 52 of 2015**

1. Shri Dinesh Goel  
S/o Shri Premchand Goel  
Proprietor, Ganpati Steel  
At A-47, Wazirpur Industrial Area  
Delhi-110052

.....Appellant

Vs.

1. Delhi Pollution Control Committee  
Department of Environment  
(Govt. of NCT of Delhi)  
4<sup>th</sup> and 5<sup>th</sup> Floor,  
ISBT Building  
Kashmere Gate  
Delhi- 110006

.....Respondent

**AND**

**APPEAL NO. 53 of 2015**

1. Shri Sunil Jain  
S/o Shri Lal Chand Jain  
M/s Jai Paras Steel  
At A-16, Wazirpur Industrial Area  
Delhi-110052

.....Appellant

Vs.

1. Delhi Pollution Control Committee  
Department of Environment  
(Govt. of NCT of Delhi)  
4<sup>th</sup> and 5<sup>th</sup> Floor,  
ISBT Building  
Kashmere Gate  
Delhi- 110006

.....Respondent

**AND**

**APPEAL NO. 54 of 2015**

1. Shri Rakesh Goyal  
S/o Late Shri Rameshwar Goyal  
M/s Goyal Enterprises  
At B-7, (Group) Wazirpur Industrial Area  
Delhi-110052

.....Appellant

Vs.

1. Delhi Pollution Control Committee  
Department of Environment  
(Govt. of NCT of Delhi)  
4<sup>th</sup> and 5<sup>th</sup> Floor,  
ISBT Building  
Kashmere Gate  
Delhi- 110006

.....Respondent

**AND**

**APPEAL NO. 55 of 2015**

1. Shri Umesh Jain  
S/o Shri Prem Chand Jain  
M/s Shiv Industries  
At B-7 (Group), Wazirpur Industrial Area  
Delhi-110052

.....Appellant

Vs.

1. Delhi Pollution Control Committee  
Department of Environment  
(Govt. of NCT of Delhi)  
4<sup>th</sup> and 5<sup>th</sup> Floor,  
ISBT Building

Kashmere Gate  
Delhi- 110006

.....Respondent

**AND**

**APPEAL NO. 56 of 2015**

1. Shri Rakesh Goel  
S/o Shri Raghunath Shaye  
Proprietor M/s G.S. Enterprises  
At A-74/2, Wazirpur Industrial Area  
Delhi-110052

.....Appellant

Vs.

1. Delhi Pollution Control Committee  
Department of Environment  
(Govt. of NCT of Delhi)  
4<sup>th</sup> and 5<sup>th</sup> Floor,  
ISBT Building  
Kashmere Gate  
Delhi- 110006

.....Respondent

**Counsel for appellant:**

Mr. S.K. Bhattacharya and Mr. N.B. Paonam,  
Advocates for appellants

**Counsel for Respondents:**

Mr. Sanjiv Ralli, Mr. Dipankar Wadhwa and  
Mr. Samir Tondon, Advs. for respondent No.  
With Mr. Dinesh Jindal, LO

**Present:**

**Hon'ble Mr. Justice Swatanter Kumar (Chairperson)**

**Hon'ble Mr. Justice U.D. Salvi (Judicial Member)**

**Hon'ble Mr. Ranjan Chatterjee (Expert Member)**

**JUDGMENT**

**Per U.D. Salvi J.(Judicial Member)**

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**Reserved on: 28<sup>th</sup> September, 2015**

**Pronounced on: 6<sup>th</sup> November, 2015**

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- 1. Whether the judgment is allowed to be published on the net?**
- 2. Whether the judgment is allowed to be published in the NGT Reporter?**

1. These are the appeals challenging the directions passed by the Delhi Pollution Control Committee (for short DPCC), to revoke “deemed consent” under Section 27(2) of Water (Prevention and Control of Pollution) Act, 1974 (for short Water Act) and under Section 21(4) of Air (Prevention and Control of Pollution) Act, 1981 (for short Air Act) and further to refuse the authorisation granted under Hazardous Waste (Management, Handling and Trans boundary Movement) Rules, 2008 (for short HW Rules) as well as for closing the operations of the appellant units, disconnecting of water and electricity supplies and for cancellation of permissions and licences issued by North Delhi Municipal Corporation to operate the units, issued in exercise of powers conferred under Section 33(A) of the Water Act, 1974 read with Rule 34(6) of Water (Prevention and Control of Pollution) Rules 1975 and under Section 5 of Environment (Protection) Act, 1986 (for short Act of 1986) read with Rule 4(5) of the Environment (Protection) Rules, 1986 vide respective Notices/communications dated 14<sup>th</sup> May, 2015.
2. All the appellants are Steel Pickling units situated at Wazirpur Industrial Estate within the limits of North Delhi Municipal Corporation, Delhi. Pickling activity in the said area initially appeared in the Negative list of Master Plan for Development, 2021, herein after referred to as MPD-2021 published in February, 2007 and as such this activity was expected to be discontinued within 3 years period i.e. by

February, 2010. Flaws in following the proper procedure as laid down under the Statute for publishing the said list resulted in quashing of the said list by the Hon'ble Delhi High Court vide order dated 27<sup>th</sup> August, 2012. However, the Hon'ble High Court had further clarified that the “ *Order shall not come in the way of the Respondents (One of them being the respondent DPCC herein) taking any other action under any other law including for violation of prescribed pollution norms, if any, against the petitioners*”. After adopting the laid down procedure as required under the Statute, the Ministry of Urban Development, Government of India placed the activity of Stainless Steel Pickling in the Prohibited/Negative list of industries in MPD-2021 vide notification, S.O. 2890 (E) dated 23<sup>rd</sup> September, 2013. Subsequent, thereto the DPCC issued letter dated 10<sup>th</sup> October, 2013 to Deputy Commissioners of Revenue Department of Government of National Capital Territory of India (for short GNCTD) for effective closure of the units engaged in the activity of Stainless Steel Pickling in NCT, Delhi. This letter was challenged by the Apex Chamber of Commerce and NCT, Delhi before Hon'ble Delhi High Court in W.P (C) 6904/13. The Hon'ble Delhi High Court after hearing the parties and considering the merits of the said petitions passed a judgment dated 11<sup>th</sup> November, 2013 giving 3 years time to the units engaged in the activity of

Stainless Steel Pickling to discontinue their operations with effect from 23-09-2013.

3. On this backdrop, the DPCC had issued closure directions to several Stainless Steel Pickling units operating in Wazirpur Industrial Area. Steel Pickling units came together, formed Wazirpur Industrial Welfare Society (Retd) and assailed the closure directions dated 7<sup>th</sup> May, 2014 issued by the DPCC in Appeal No. 33 of 2014 preferred before the Tribunal. The appellant units contended that each of them had dedicated Effluent Treatment Plant (for short ETP) with secure arrangement to carry effluent discharged from the ETPs to Common Effluent Treatment Plant (CETP) and as such they cannot be held responsible for increase acidic or lower PH levels in open drains outside the industrial premises occupied by the said units. The applicant units in the said appeal including the present applicants further made a claim of “deemed consent to operate” following the respondent DPCCs in-action to consider their applications for grant of consent within a period stipulated by law. Considering the facts and circumstances this Tribunal vide order dated 26<sup>th</sup> May, 2014 passed in Appeal No. 33/2014 allowed the units which had earned “deemed consent to operate” with the clarification that the DPCC shall be at liberty to take action if the units were found non compliant with pollution norms or their ETPs were found non-functional or not up to the

standards prescribed by law. During the pendency of this appeal we had directed the DPCC to dispose of the applications for consent and deal with the replies to show cause notice and replies thereto in accordance with law. We also directed the DPCC to use its discretion while dealing with the replies which apparently bore signatures which were not tallying with the signatures on record and made observation that signature of the concerned party on the appeal memo can be considered as authentic representation of the signature of the concerned party. We further directed vide order dated 10<sup>th</sup> September, 2014 the DPCC to take appropriate legal action against such industries which had earned “deemed consent” but were not complying with the standards prescribed by law. While reiterating our earlier directions vide order dated 17<sup>th</sup> October, 2014. Ultimately, this appeal was disposed of on 17<sup>th</sup> October, 2014 with the direction to pass orders on merits after inspection preferably within a period of 10 days.

4. Commonly, the appellants state that their units were inspected by the DPCC and the effluent discharged from their units was found to be within the prescribed limits and the only deficiency that was pointed out by the DPCC vide notice dated 25<sup>th</sup> March, 2015 was lack of registration of the bore-well and permission to extract ground water from Central Ground Water Authority (for short CGWA). Some of the appellants submit that they have registration of the

bore-well with the CGWA, however, commonly they submit that they have been reusing the water made available to them by CETP Society plant through tankers and have discontinued the use of ground water. The appellants further submit, that this fact has been duly communicated to the DPCC by replying to the notice issued by them. However, the appellants submit, that they were shocked to receive the impugned notice/directions which referred to the so called inspection of their units held on 25<sup>th</sup> June, 2014. Commonly, the appellants submit that the impugned direction suffers from flaws of non-adherence the Principles of Natural Justice and unreasonableness as envisaged in Wednesbury Principle. According to the appellants the impugned directions have been arbitrarily issued in haste at the instance of All India Lokadhikar Sagathan, a body which has moved a M.A. No. 33 of 2015 in O.A. No. 139/2015 alleging running of the units without valid consent.

5. The respondent DPCC filed its response in each appeal. The DPCC categorically asserted that the Principles of Natural Justice were adhered to while issuing closure directions in as much as the applicants were served with the show cause notice on 24<sup>th</sup> July, 2014 and the replies received from the applicant thereto were duly considered. Quoting extracts from the replies to the show cause notice (replies dated 6<sup>th</sup> - 7<sup>th</sup> August, 2014), which alluded to

neutralisation and treatment of spent acid residue and pickling bath sludge in ETP as combined effluent along with the rinsed water. The respondent DPCC submitted that such practice of neutralisation and treatment of spent acid/ acid residue and pickling bath sludge in ETP and its consequent non-storage for disposal makes out a case of gross and serious violation of HW Rules, 2008 as well as the Water Act, 1974 as both spent acid and pickling bath sludge are hazardous substances, being listed in Schedule 1 of the HW Rules; and these violations disentitled the applicants to operate the said units. According to the DPCC the impugned directions were not passed on any effluent test report, but are the result of the clear admission of the appellants regarding the violations of Hazardous Waste (Management, Handling and Trans boundary Movement) Rules, 2008 which are to here after referred to as HW Rules.

6. According to the Respondent (DPCC) the ETPs catering to each appellant units are meant for treating waste water i.e. rinse water only, and diversion of spent acid residue is detrimental to functioning; and as such the reservations made by the appellants vide their replies dated 6<sup>th</sup> -7<sup>th</sup> August, 2014 to the show cause notice dated 24<sup>th</sup> July, 2014 prompted the DPCC to reject the applications for authorisation and to take action of closure against the appellant units. referring letter dated 25<sup>th</sup> June, 2012 addressed to Delhi Development Authority (for short DDA)

by the Central Pollution Control Board (for short CPCB) to DDA expressing its view to stop the pickling activity in Delhi, Learned Counsel appearing for the DPCC submitted that the pickling process involves use of H<sub>2</sub>SO<sub>4</sub>, HNO<sub>3</sub> and HF for cleaning of Metal Oxides formed on metal sheet during the furnace heating and as a result of this the spent acid, pickling bath sludge generated from the process contains high level of toxic metals of Nickel and Chromium and therefore, its treatment in ETP meant for treating the waste water only is in violation of the provision of the HW Rules. The reply of the DPCC further points out that the pickling activity is included in the Prohibited activity list in MPD 2021 and the period granted by the Hon'ble Delhi High Court while Judgment dated 11<sup>th</sup> November, 2013 in the case of *Apex Chamber of Commerce and Industry vs. DDA & Ors. WP(C) No. 6904 of 2013* to continue such activities in accordance with law would be expiring in September, 2016; and the activities as contended by the appellants i.e. treatment of spent acid and pickling bath sludge in the ETP meant for waste water has caused serious damage to the environment and the Polluter Pays Principle needs to be invoked to compensate the damage caused. The reply DPCC referred to following the representation made by the industrial association of Steel pickling units namely Pickling Re-Rolling Association to the DPCC vide letter dated 29<sup>th</sup> May, 2015 annexure R-5 to the reply:

*“With respect to above it is categorically submitted that, from today onwards (subject to approval of DPCC) the above named Industrial Association (working for the benefit of environment as well as industrial growth) is going to propose as under:*

- (i) The spent acid and residue generated from the pickling process shall be stored in specifically demarcated room(s) in CETP complex.*
- (ii) The CETP society shall send acid residue to the acid recovery units authorized to be handle the same.*
- (iii) There was no acid recovery unit in Delhi, so units of other States are being contacted to pick the same.*
- (iv) The spent acid and residue generated from the pickling process will be stored in CETP Complex till TSDF of Delhi is in operation.*
- (v) For the above said work for collection of spent acid we requires only one week’s time and for doing other formalities (except licensing) we requires 15 days time. The cost of treatment and collection will be borne by all the members.”*

The reply further made reference to the outcome of the meeting between the industrial association and the Committee constituted by the DPCC vide minutes dated 6<sup>th</sup> -07<sup>th</sup> August, 2015 which evolved commonly agreed arrangements for collection of acid residue of spent acid by the CETP society of the industrial units formed by the industrial units for its final disposal in accordance with law.

7. Charging the DPCC of misconduct and unholy alliance with the President of CETP society in matter of grant of Consent to Operate their similar stainless steel, re-rolling and manufacturing units, the appellants filed their counter affidavit dated 3<sup>rd</sup> August, 2015. With reference to ETP Diagram and treated water test reports as well as the Present System Diagram the appellant contented that the spent acid is reused up to the maximum extend and finally

rinsed waste water is neutralised effectively with lime in order to reduce the environmental concerns and the ETPs are modified under the expert advice of National Productivity Council (NPC) so as to treat all waste water generated by the unit up to the primary level.

8. Parties were heard at length on several occasions, pros and cons of submission made by the rival parties with reference to material placed on record were duly considered. Learned Counsel appearing for the DPCC submitted that all the industrial units at Wazirpur industrial society would be meted out with equal terms and there would not be policy as contended by the appellants. According to him the following steps addressing environmental concerns at present would justified the operations of the appellant's units:

1. *All units shall ensure the regular operation of the ETP.*
2. *No unit shall handle acid residue (12.1), spent bath sludge (12.3) and ETP sludge (34.3) in any other manner except storing the hazardous wastes and maintaining the records of such storage by them.*
3. *ETP shall be used only for the purpose of treating the effluent discharged from the rinsed water tank and rinsing washing area used by the units. Neither acid residue (12.1) nor spent bath sludge (12.3) resulted from the acid dip tank shall be diverted to ETP.*
4. *Units shall discharge only treated effluent from the outlet of ETP into the conveyance system attached to CETP.*
5. *Unit to reuse the acid(s) to the maximum extent to reduce the quantity of waste acid by modifying in-house practice.*
6. *Units shall store the acid residue for maximum 15 days after which the same shall be transported to CETP*

*Society for storage and disposal by them as per HWM Rules. While storing the acid residue and spent bath sludge being the hazardous waste in liquid/semi liquid form units shall follow the norms given below:-*

- (i) The container in containment system should be secure enough to prevent leaks and spills and corrosion (having capacity less than 200 litres) with proper labelling in vernacular language and specifically mentioning the name of the unit date of storage of hazardous waste with waste category and quantity.*
  - (ii) It should have an underlying base free from cracks and sufficiently impervious to contain leachate, and leaks, spill etc.*
  - (iii) The containment system to be able to drain and remove liquids which may result from leak, spill or precipitation.*
  - (iv) The containment system should have sufficient capacity to contain 10% of the volume of containers or the largest container, whichever is higher.*
  - (v) Run-on into the containment system should be prevented.*
  - (vi) The containment system should have sump or collection area to collect any leak, spill or precipitation. Spill or leaked waste and accumulated precipitation should be removed from the sump or collection area in as timely a manner as is necessary to prevent over flow of the collection system.*
- 7. Units to file undertaking/agreement to the following effect.*
- (i) Units to enter into an agreement with CETP Society for periodical collection of spent acid/acid residue.*
  - (ii) Unit will install Online pH Meters at reaction tank and outlet of ETP to ensure proper operation of ETPs within 15 days of issuance of provisional consent.*
  - (iii) Units shall continue to store the ETP sludge generated after ETP treatment of rinsed water effluent in the manner as provided under HWM Rules.*
  - (iv) Units to use treated water from CETP for industrial purpose and for this arrangement to into an agreement with CETP Society.*
- 8. Units to submit a Surety Bond of Rs. 5 to 10 Lakhs (Rs. 5 Lakh if total investment is less than Rs. 50 Lakhs and Rs. 10 Lakhs if total investment is Rs. 50 Lakhs & above) as per office order dated 18-06-2015 in the prescribed format.*

9. *The vehicles utilized for collection and carrying of hazardous wastes should be designed to prevent leachate, spillage and accident.*
  10. *The CETP Society will also maintain the records of acid residue based on actual receipt of from units and it will file the data to DPCC monthly.*
  11. *Transportation and storage cost will be borne by constituent units as per their mutual agreement with CETP society.*
  12. *The individual unit will submit fresh application for consent under Water Act/Air Act and for Authorisation under HWM Rules with aforesaid agreements, surety bond, undertaking(s) and requisite consent/authorisation fees in terms of minutes of meeting dated 06-07-2015.*
  13. *The provisional consent and authorization shall be granted by the DPCC for a period of two months initially and final consent and authorization shall be granted after satisfactory inspection for the remaining period not beyond 22.09.2016 being the date of expiry of 3 years period allowed to the pickling industry under MDP - 2021 as per judgment dated 11.11.2013 passed by Delhi High Court in writ petition (civil) No. 6904/2013.*
9. He further made reference to the status report dated 27<sup>th</sup> August, 2015 filed in compliance of order dated 14<sup>th</sup> August, 2015 directing inspection of the appellant units. He points that acid residue and spent bath sludge was not found stored in the said units and except ETPs there was no device found in the premises for treating the acid residue or the spent bath sludge. He reiterated all the conditions of the DPCC with reference to the entire process of pickling and generation of hazardous waste in the appellants units. Learned Counsel appearing on behalf of the DPCC also placed before us the inspection report dated 21<sup>st</sup> September, 2015 for the inspection carried out of the CETP in

pursuance to the order dated 21<sup>st</sup> September, 2015 passed by us. Learned Counsel appearing on behalf of the appellants units referred to the publication in International Journal of Environmental Science “A review on the spent pickling liquor” to reiterate its conditions and to point out that the neutralization with lime or alkaline agent is the most economical method for treatment of spent pickling liquor and the DPCC is unreasonable in closing the units.

10. A fact hardly be disputed that the appellants units were served with show cause notice dated 24<sup>th</sup> July, 2014 and the appellants units and respondents to the said notice with their respective replies dated 6<sup>th</sup> -7<sup>th</sup> August, 2014, which revealed that the show cause notice was issued in pursuance of the inspection of the appellants units carried out by the DPCC in the month of June, 2014. This fact is also not disputed by the appellants in their replies. It appears that the DPCC had detected discharge of spent acid generated from the process of pickling into the ETP and composite amount of sludge was generated by the ETP as well as the spent acid both being Hazardous waste were not found stored in the unit; and one bore-well having no permission of CGWA/DJB was found. In response to such notice, which particularly made reference to the spent acid and pickling bath sludge, the appellant units made assertions that spent acid generated from the process being weak in acidic strength and low in quantity is neutralized

and treated in ETPs and combined effluent along with rinsed water and therefore there is no storage of the acid done. According to the DPCC such admission formed the basis of the closure directions in question.

11. Only question therefore, survives for our consideration is whether it was unreasonable for the DPCC to have issued such directions for the reason of spent acid generated in the acid pickling bath being treated in ETPs and was not stored separately and accounted for hazardous waste.

12. We need to answer the aforestated question based on a peculiar background of the provisions made in the MPD-2021 and the life available for these units at the given location i.e. Wazirpur Industrial Unit Society vide Judgment dated 11<sup>th</sup> November, 2013 in the case of *Apex Chamber of Commerce and Industry vs. DDA & Ors.* WP(C) No. 6904 of 2013. It cannot be disputed that the industrial process undertaken by the appellant units of stainless steel, re-rolling and metal surface treatment generation hazardous waste namely spent acid/acid residue and spent bath sludge as listed at Entry 12/1 and 12/3 in Schedule 1 to the Hazardous waste Rules, 2008. Treating the spent acid in the ETP adversely amounts to processing of hazardous waste. If one looks at the annexure A-3 of the MPD-2021 one would find that hazardous waste processing is listed at Item no. 46 in Prohibited/Negative list of industries and therefore, such processing of hazardous waste is not

permissible under MPD-2021 at the location where the appellant units are situated in NCT, Delhi. The Hon'ble Delhi High Court in *Apex Chamber of Commerce and Industry vs. DDA & Ors. WP(C) No. 6904 of 2013* held that the prohibition of running such industries in Delhi shall be deemed to have come into force only on 23<sup>rd</sup> September, 2015 and can continue in Delhi for a period of three years commencing from 23<sup>rd</sup> September, 2015 in accordance with various legal provisions including the provisions of Act of 1986, Water Act and Air Pollution Acts and the Rules framed there under such Acts.

13. Section 8 of the Act of 1986 requires the persons handling hazardous substances to comply with the procedural safeguards as may be prescribed and in clear terms prohibited handling of hazardous waste contrary thereto. A procedure for handling hazardous waste is laid down in the chapter II of the HW Rules, 2008. Rule 4 there under coins the responsibility of the occupier of the establishment generating hazardous waste and makes him responsible for safe and environmentally sound handling of the hazardous waste generated in such establishment. Rule 5 deals with the grant of authorization of handling hazardous waste in following terms:

**5. Grant of authorization for handling hazardous wastes.-** (1) *Every person who is engaged in generation, processing, treatment, package, storage, transportation, use, collection, destruction, conversion, offering for sale, transfer or the like of the hazardous waste shall require to obtain an authorization from the*

*State Pollution Control Board. Information on this page is provided by Shakun & Company (Services) Private Limited, New Delhi, India to its subscribers against the annual subscription. Non-subscribers may visit [www.shakun.com](http://www.shakun.com) for more details. -4- Shakun & Company (Services) Private Limited*

*(2) The hazardous waste shall be collected, treated, recycled, re-processed, stored or disposed of only in such facilities as may be authorized by the State Pollution Control Board for the purpose.*

*(3) Every person engaged in generation, processing, treatment, package, storage, transportation, use, collection, destruction, conversion, offering for sale, transfer or the like of the hazardous waste or occupier of the facility shall make an application in Form 1 to the State Pollution Control Board for authorization within a period of sixty days from the date of commencement of these rules:*

*Provided that any person authorized under the provisions of the Hazardous Waste (Management and Handling) Rules, 1989, prior to the date of coming into force of these rules, shall not require to make an application for authorization till the period of expiry of such authorization.*

*(4) On receipt of the application complete in all respects for the authorization, the State Pollution Control Board may, after such inquiry as it considers necessary and on being satisfied that the applicant possesses appropriate facilities, technical capabilities and equipment to handle hazardous waste safely, grant within a period of one hundred and twenty days an authorization in Form 2 to the applicant which shall be valid for a period of five years and shall be subject to such conditions as may be laid down therein.*

*(5) The State Pollution Control Board may after giving reasonable opportunity of being heard to the applicant refuse to grant any authorization.*

*(6) Every person authorized under these rules shall maintain the record of hazardous wastes handled by him in Form 3 and prepare and submit to the State Pollution Control Board, an annual return containing the details specified in Form 4 on or before the 30th day of June following to the financial year to which that return relates.*

*(7) An application for the renewal of an authorization shall be made in Form 1, before its expiry and the*

*State Pollution Control Board may renew the authorization after examining each case on merit subject to the condition that there has been no report of violation of the provisions of the Act or the rules made thereunder or conditions specified in the authorization.*

*(8) The occupier or operator of the facility shall take all the steps, wherever required, for reduction and prevention of the waste generated or for recycling or reuse and comply the conditions specified in the authorization.*

*(9) The State Pollution Control Board shall maintain a register containing particulars of the conditions imposed under these rules for management of hazardous waste, and it shall be open for inspection during office hours to any person interested or affected or a person authorized by him on his behalf.*

14. Thus it can be seen that the State Pollution Control Board which in the present case DPCC constituted under Section 1 (iv) of the Water (Prevention) Act, 1974 as per Rule 3(y) has to record its satisfaction in respect of the facilities and equipments to handle hazardous waste safely by the person engaged in generation process and treatment of such hazardous waste i.e. in the present case the appellants.

15. In the present case we have before us merely diagrammatic ETP sketch-FIG 1 (not to scale) at annexure A-3 to the reply to the counter affidavit dated 4<sup>th</sup> August, 2015 filed on behalf of the appellant units. It only points out the mechanism by which waste water, not spent acid/acid residue, is taken to the waste water equalisation tank and there from to reaction room tank wherein lime dosing is done and treated water and sludge are separated and the separated sludge from the collection tank is taken

to filter press having 36 plates. Sketch at annexure A-7 to this reply to the counter affidavit of the respondent merely shows a graphic representation of circulation of acid in dipping de-scaling chamber and fails to show any collection between ETP and the de-scaling chamber or the acid bath storage tank. ETP shown therein is found connected to SS sheet washing area from where the waste water comes to the ETP and thereafter leaves it for outlet to the CETP drain. It is pertinent revelation of the fact that ETP cater only to the SS sheet washing area. No different story of the process is visible from the sketch annexed to the reply.

16. To the information query under Right to Information Act, 2005 dated 22<sup>nd</sup> July, 2015 in respect of M/s Ganpati Rolling Mill no where we find that acid residue is transferred to the collection tank for being treated in the ETP. In context that this factual graphic representation of the process it is a categorical case of the DPCC that the ETPs catering to the appellant units are not meant for treatment of spent acid/acid residue/spent bath sludge and the plea of neutralisation of spent acid and spent bath sludge is not tenable more particularly, when such ETPs did not have any separate neutralisation tank for neutralisation of hazardous waste before the collection tank of ETP. Graphic representations made by the appellant units support the categorical assertions made by the DPCC, more particularly, in absence of any technical data on the

adequacy of the ETP to handle hazardous waste like spent acid/acid residue. Report on Effluent Treatment Plant adequacy and efficacious at annexure A-6 to the reply to the counter affidavit filed by the respondent talks about the ETP adequacy as well as its efficaciousness to treat 1800 litre per date/day waste water generated under 12 hours operations. It does not speak about treatment of spent acid/acid residue in the ETPs. Moreover, a reference to scientific article “A review on the spent pickling liquor” published in International Journal of Environment Science vol.4, No.3, 2013 does not in any way speak about capacity addition to the ETP in question. This article talks about neutralisation with lime or some alkaline agent of spent pickling liquor as being a most economical method for its treatment. However, it also concludes with remarks that it produces large voluminous of sludge. A reference made by the appellants to the article published on the net (*Patents EP 1733061A1- method in collection with steel production “google patents*) (page-242) is also suggestive of the method of neutralization of acid pickling liquor. In this context a reference to the Indian Standard Guide For Treatment and Disposal of Steel Plant Effluent, November 1976 published by Bureau of Indian Standard makes a pertinent disclosure as under:

*4.5.1 One of the most troublesome wastes from the steel plant is the pickle liquor. The most common method of treating pickle liquor is to add lime to neutralize the acid. Extensive lagoons are required to*

*dispose of the voluminous watery sludge. It is usually impractical to dewater this sludge in a vacuum filter.*

It is clearly revealed that pickling liquor i.e. acid residue though neutralised with lime requires extensive lagoons for disposing of the voluminous water sludge. Nothing is shown by the appellants before us as to how the watery sludge generated by the treatment of pickling liquor i.e. spent acid can be handled with the ETPs in question. The DPCC was therefore not unreasonable in refusing the authorization for handling hazardous waste to the appellant units and directing the consequent closure of the said units.

17. In the reply to the show cause notice the appellant units referred to generation of very little quantity of spent acid/acid residue. However, before us contrary submissions were made that there is no individual space to store the spent acid due to generation of about 500 ltrs. of discarded pickling liquor every day. We, therefore, cannot countenance such submission in view of what is stated herein above. Moreover, a mechanism was duly evolved for handling of the hazardous waste in the meeting of the industrial unit association and the Committee appointed by the DPCC on 6<sup>th</sup> July, 2015 whereby the CETP society was to collect acid residue/spent acid from the individual units for being ultimately disposed of at Treatment, Storage and Disposal Facility to be developed by DSIIDC or such facility

existing in nearby States, and even CETP society is expected to store such hazardous waste (spent liquor/spent acid/acid residue) and not to treat it at CETP premises.

18. Pertinently, the authorisation to the CETP under the HW

Rules has been granted on following conditions:

1. *The Temporary Authorization is granted for collection and storage of spent liquor/spent acid/acid residue of individual constituent stainless steel pickling units with the conditions to provide appropriate containment system centrally at CETP premises, in view of common cause of stainless steel pickling cluster located in Wazirpur Industrial Area.*
2. *The Authorization shall be valid for the period upto 30.09.2016.*
3. *The CETP Society shall take permission from Department of Industries, Govt. of NCT of Delhi for storing the spent liquor/spent acid/acid residue of individual constituent stainless steel pickling units of Wazirpur Industrial Area in the premises of CETP Wazirpur.*
4. *The CETP Society shall make an agreement with DSIIDC for final disposal of hazardous waste (spent liquor/spent acid/acid residue) collected from Industrial Units of Wazirpur Industrial Area at TSDF site being developed by DSIIDC and the CETP Society shall transfer the collected waste in an environmentally acceptable manner for its treatment and final disposal with the TSDF being developed by DSIIDC or with TSDF existing in nearby States as the case may be. All the expenses till final disposal shall be borne by CETP Society.*
5. *The quantity of spent liquor/spent acid/acid residue of individual constituent stainless steel pickling units shall not exceed 76.5 Metric Tonnes per Annum as mentioned in the application submitted by CETP Society.*
6. *The CETP Society shall not accept the Sludge of the Effluent Treatment Plant (ETP) of the pickling units.*
7. *The CETP Society shall inform the date of commissioning of Temporary Storage to DPCC.*
8. *The CETP Society shall ensure proper lining at the walls and base of waste storage/handling area with impermeable material as per the Hazardous Waste Rules in order to avoid*

contamination of ground water through seepage. The ground water quality shall be periodically monitored to ensure that the ground water is not contaminated.

9. The CETP Society shall provide proper fencing/hedging with a gate and shall provide proper preventing and protective measures for the entry of stray animals and unauthorized person.
10. The wastes must be safely collected in leak proof container and shall be duly marked in a manner suitable for handling, storage and transport and the packaging shall be easily visible and be able to withstand physical conditions and climatic factors. All hazardous waste containers shall be provided with a label and then stored under the covered shed.
11. There shall be no discharge of trade effluent and leachate from the temporary storage area.
12. The CETP Society must inspect and if necessary analyse each hazardous waste consignment received to determine whether it matches with the identity of the waste specified on the accompanying manifest.
13. Separate area should be earmarked for storing the spent liquor/spent acid/acid residue of individual constituent stainless steel pickling units.
14. The CETP Society shall provide duly filled display boards (two nos. of 6 feet x 4 feet each) and shall update the same on daily basis.
15. The CETP Society shall put in place a system for inspection of the storage area to check the conditions of the containers, spillage and leakages and maintain proper records.
16. The stored waste shall not be taken out of the storage area except with the written permission of the DPCC in this regard.
17. The CETP Society shall be responsible to maintain the manifest system and shall maintain record of the operations in the specified Form-3 and send quarterly return to the DPCC in Form-4 prescribed under Hazardous Waste Rules.
18. The CETP Society shall store such waste solely for the purpose of the temporary storage and waste shall be transferred to the authorized TSDF for its final treatment and disposal.
19. Transportation of hazardous wastes shall be done in compliance with the Hazardous Waste (Management, Handling & Transboundary Movement) Rules. Transportation shall be as per the Motor Vehicle Act, 1988 and suitable transport

*vehicle shall be provided commensurate with the nature/characteristics of wastes.*

- 20. Wherever and whenever hazardous material is being handled, all personnel involved in the transportation must have immediate access to an emergency communication device, such as mobile or any other communication system capable of external assistance.*
- 21. All the personnel including drivers must be well informed about the hazardous management procedure relevant to the positions in which they are employed. All the personnel of CETP Society must be trained to ensure that they are able to respond effectively to emergency.*
- 22. The CETP Society shall ensure that no adverse impact on the air, soil and water including groundwater, takes place due to activities for which authorization has been granted. Comprehensive safety measures must be followed in handling or wastes and the staff must be properly trained.*
- 23. In case of occurrence of an accident, complete details must be sent to DPCC at the earliest along with details of imitative and remedial measures taken.*
- 24. In no case any hazardous wastes shall be disposed off on land, in any drain or stream. There should not be any spillages of hazardous chemicals used containers of hazardous chemicals such as flammable corrosive, explosive must be safely collected and stacked.*
- 25. The CETP Society shall do the monitoring of the ground water at least in different periods- pre monsoon (May), Monsoon (July-August) and post Monsoon (November & January) periods. The monitoring data shall be submitted to Delhi Pollution Control Committee.*
- 26. The CETP Society shall be liable for all damages caused to the environment or third party due to improper handling of the hazardous waste.*
- 27. The CETP Society shall be responsible for cleanup responsible, in case of spillage, leakage or any other accidental discharge hazardous wastes and keep the DPCC suitably informed.*
- 28. The CETP Society shall provide the transporter with the relevant information Form 11, regarding the hazardous nature of waste and measures to be taken in case of an emergency and shall mark the hazardous waste container as per Form 12.*
- 29. The CETP Society shall be liable to pay financial penalties as levied for any violation of*

*the provisions under these rules by the Delhi Pollution Control Committee.*

30. *The CETP Society shall comply with the provisions of the Environment (Protection) Act, 1986, and the rules made there under.*

31. *The authorization is valid subjected to the fulfilment of all other statutory requirements in other Laws/Acts Rules as applicable.*

32. *Any other conditions for compliance shall be applicable as per the guidelines issued by MoEF/CPCB/DPCC from time to time.*

Thus, it can be clearly seen that the entire idea of handling and treating the spent acid/acid residue/spent liquor/acid bath sludge- Hazardous waste in ETPs is not compatible with the scheme of running CETP in as much as it is firstly negation of the accountability viz. a viz. Hazardous waste spent acid/acid residue/spent liquor/acid bath sludge and secondly the CETP is not designed and expected to handle watery sludge generated upon treatment of spent acid/acid residue/spent liquor/acid bath sludge and discharged through the conduit pipeline taking effluent from ETPs to CETP.

19. In view of the aforesaid we do not see any reason in the plea of the appellant units to allow the Appeals. Considering the Principle of Sustainable Development and the need of the appellants units, we dispose of these Appeals with the following order:

A.The impugned notice and the closure notice dated 14-05-2015 and consequent closure orders shall remain suspended subject to the appellants complying with the terms and conditions as stipulated by the DPCC,

particularly, as noticed herein above at para 7 for running their units.

B. Suspension of the respective impugned closure orders shall not come into effect till the respective appellants submit fresh application for consent under HWM Rules with agreements, surety bond, undertaking(s) and requisite consent/authorisation fees as applicable to the respective units in terms of the minutes of meeting dated 06-07-2015. In the event of such application being made the DPCC shall expeditiously dispose of such application preferably within one month in accordance with law.

C. The Appeal Nos. 46/15, 47/15, 48/15, 49/15, 50/15, 51/15, 52/15, 53/15, 54/15, 55/15 and 56 of 2015 are disposed of accordingly with no order as to costs. M.A. No. 570/15, 571/15, 572/15, 573/15, 574/15, 575/15, 576/15, 577/15, 578/15, 579/15, 580/15 also stands disposed of accordingly.

....., CP  
(Swatanter Kumar)

....., JM  
(U.D. Salvi)

....., EM  
(Ranjan Chatterjee)