

**BEFORE THE NATIONAL GREEN TRIBUNAL
(WESTERN ZONE) BENCH, PUNE
APPEAL NO.28/2015(WZ)**

**WITH
(M.A.No. 189/2015 (WZ))**

CORAM:

**Hon'ble Shri Justice V.R. Kingaonkar,
(Judicial Member)**

**Hon'ble Dr. Ajay A. Deshpande
(Expert Member)**

B E T W E E N:

**M/s. Atra Pharmaceutical Ltd.,
H-19, MIDC, Waluj,
Aurangabad-431 133**

.....Applicant

A N D

**1. The Member Secretary,
Maharashtra Pollution Control Board,
Kalpataru Point, 3rd Floor,
Opp. CPlanet, Sion East,
Mumbai 400 022.**

**2. The Regional Officer, Aurangabad,
Maharashtra Pollution Control Board,
Kalpataru Point, 3rd Floor,
Opp. CPlanet, Sion East,
Mumbai 400 022.**

.....Respondents

**Counsel for Applicant
Mr. R.B. Mahabal, Adv.**

Counsel for Respondent No.1 :

Mr. Rajendra Raghuvanshi, Sr. Adv.

P.C.

Date: November 23rd, 2015

JUDGMENT

- 1.** We have heard the learned Advocate Shri R.B. Mahabal for the Appellant and Shri Raghuvanshi for the Respondent-Maharashtra Pollution Control Board (MPCB).
- 2.** By filing this Appeal, the Appellant has challenged the order passed by the Respondents dated July 22nd, 2015 directing Industrial unit of the Appellant to be closed and to stop manufacturing and the operation thereof.
- 3.** The impugned order passed by the Respondent shows that the Appellant is found non-complying as industry which failed to comply directives of CGWB, as per the report of February 2014. The reasons recorded in the show-cause notice, are as following :

“AND WHEREAS, before commissioning of CETP, you were disposed treated effluent on land for gardening. After reviewing the earlier analysis reports of the treated effluent of your industry dated 22-12-2010, 26-6-2011 and 17-10-2011 it is concluded you had disposed substandard quality of treated effluent on land resultant in contamination of ground water.

AND WHEREAS, analysis results of samples collected by the Board officials dated 23-3-2009, 22-12-

2010, 26-06-2011, 17-10-2011, 10-4-2012, 23-04-2012 and 05-02-2013 exceeding the consented parameter like BOD, COD, SS, TDS Chloride and Oil & Grease which shows poor operation and maintenance of pollution control system.

AND WHEREAS, the Board officials were visited your unit on 20-07-2015 and observed that the smell nuisance near ETP due to accumulation of excessive solid waste in sludge drying beds and drainage which shows inadequate operation and maintenance of ETP.

AND WHEREAS, the same was brought to the notice of Consent Appraisal Committee on 21-07-2015 and after going through the performance of pollution control system, Board has come to the conclusion that the non compliances which were observed are of very serious nature and threat to the Environment. And it was decided to issue direction to your unit for stoppage of manufacturing activity.”

3. The Appellant has come out with a case that all the alleged deficiencies have been complied with. According to Shri R.B. Mahabal, learned Advocate for Appellant is singled out by taking such action of drastic nature. According to Shri Mahabal, the Appellant is not only financial suffer due to the closing of the unit but also the goodwill of the Appellant is at the peril. He contended that the MPCB is trying to punish the Appellant for taking further legal action and going up to the Advocate, with some kind of malafides. There are, however, no substantial reasons mentioned therein.

4. The Appellant's counsel alleges that the MPCB collected samples twice after the impugned order and these samples are exceeding the norms, which is illegal activity. It is not permitted under Section 21 of the Water (Prevention and Control of Pollution) Act 1974. The issue cannot be opened at this juncture as the SCN notice and the reply of industry are under consideration of Authority. In case, any kind of adverse order is passed against the Appellant, the Appellant is at liberty to approach the Tribunal by filing an Appeal or other procedure or may file Writ Petition, if the subject is within the domain of writ jurisdiction. The only assistance, on equitable basis, and to meet the ends of justice, we can provide to the Appellant is that in case, if any closure order is passed against the Appellant, *suo motu*, the Respondent may keep it in abeyance for two (2) weeks so as to give time to the Appellant to approach this Tribunal or the Competent Authority to seek legal remedy. We do not wish to comment any further about any contemplated action which is yet to come in force, because it is still not taken. All the issues are kept open.

5. So far as the impugned order is concern, in view of admitted fact that the doctrine of principle of natural justice has not been complied with, the impugned order becomes

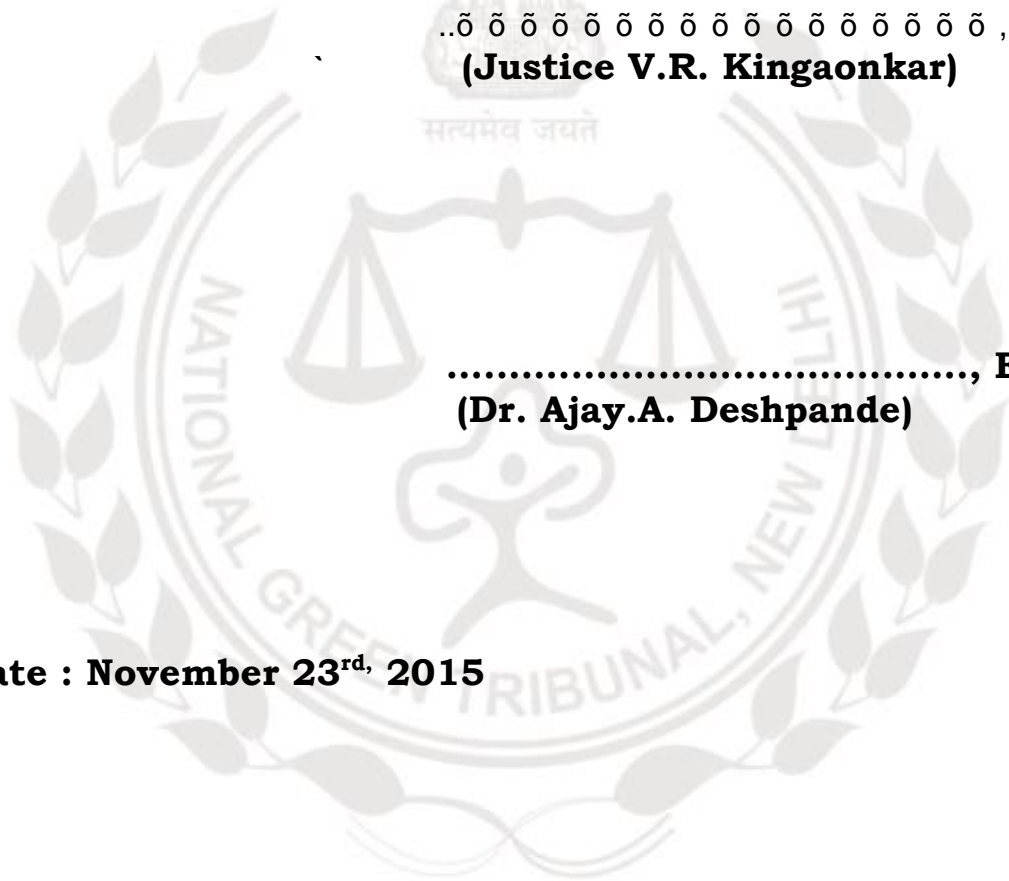
unsustainable it will have to be and is accordingly set aside by allowing the Appeal.

6. The Appeal is accordingly allowed with no order as to costs.



....., **JM**
(Justice V.R. Kingaonkar)

सत्यमेव जयते



....., **EM**
(Dr. Ajay.A. Deshpande)

Date : November 23rd, 2015

ajp.

NGT