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STATE POLLUTION CONTROL BOARD, ODISHA

[FOREST, ENVIRONMENT AND CLIMATE CHANGE DEPARTMENT, GOVERNMENT OF ODISHA]

Paribesh Bhawan, A/118, Nilakantha Nagar, Unit - VIII

Bhubaneswar - 751 012, India

No. 20341 /IND-IV-HW-MISC-64

Date. 26-12-2023

OFFICE ORDER

A decision on issuance of Consent to Establish (CTE) and Authorization for Hazardous Wastes Recycling Industries/ Actual Users under Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 was taken in the 119th Board meeting held on dtd. 29.06.2019 and guidelines were issued thereof vide office order No. 8091 dtd. 13-08-2019.

M/s Regen Materials, being aggrieved with the refusal of their CTE application on the strength of the aforesaid policy decision, preferred appeal before the Hon'ble Appellate Authority constituted under Water (PCP) Act, 1974 and Air (PCP) Act, 1981 in Appeal No. 3W/2019 and Appeal No. 2A/2019. The Hon'ble Appellate Authority vide their judgement order dtd: 23.08.2022 had directed the Board to have a relook into the guidelines citing various lapses.

M/s Green Energy Resources, Sambalpur (an Actual User of Spent Pot Lining-Carbon Part) approached the Hon'ble High Court of Orissa vide WP(C) 29176/2022 against the aforementioned order of the Hon'ble Appellate Authority and Hon'ble High Court stayed the orders of Hon'ble Appellate Authority and subsequently vacated the stay vide order dtd:19.01.2023.

In the 127th Board meeting held on dtd:13.02.2023, it was decided to completely withdraw the aforementioned policy decision of dtd. 13-08-2019 owing to various difficulties faced in its implementation and subsequently an office order No. 2686 dtd:22.02.2023 has been issued in this regard.

M/s Green Energy Resources, Sambalpur again approached the Hon'ble High Court of Odisha vide WP(C) 7562/2023 against the order of the Board dtd:22.02.2023 and Hon'ble High Court stayed the above order of the Board on dtd: 21.03.2023. Both the writ petitions were finally disposed of by a common judgment by the Hon'ble High Court on 10.11.2023 by quashing the orders of Hon'ble Appellate Authority on the ground of violation of principle of natural justice and remitting the matter back to rehear the same by providing opportunity of hearing of the parties. In the said judgment, the Hon'ble High Court of Orissa has not interfered with the decision of the Board and at Para-12 of the Hon'ble High Court judgment observed as follows;


"It is not the responsibility of the Board to ensure smooth operation of petitioner's business and guarantee source of raw material by restricting consents to other units of the state and outside the state. The Board as well as the CPCB having ensured that the patent right of the petitioner is not compromised and the SOP of CPCB being comprehensive regarding utilization of SPL, the petitioner cannot have any grievance as regards the cancellation of the earlier policy decision of the Board."



Henceforth, there shall be no specific restrictions from the Board on issuance of Consent to Establish (CTE) and Authorization for Hazardous Wastes Recycling Industries/ Actual Users under Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016. The Board is to only ensure that the patent right of the petitioner unit i.e. M/s Green Energy Resources, Sambalpur is not compromised, and utilization of Spent Pot Lining (Carbon Part) generated from Primary Aluminium Smelting Industries will be regulated by Standard Operating Procedures (SOPs) of CPCB under Rule-9 of the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016.

This order comes with immediate effect and is issued with the approval of the Competent Authority.

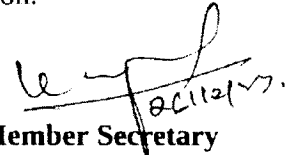
By the Order of the Chairman



Member Secretary

Memo No. 20342 Dtd. 26-12-2023 By E-mail: env1992@gmail.com

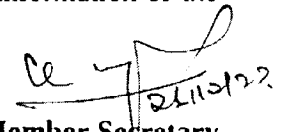
Copy forwarded to the Director (Env.)-cum-special Secretary, Forest & Env. Department., Govt. of Odisha for kind information and necessary action.



Member Secretary

Memo No. 20343 Dtd. 26-12-2023

Copy forwarded to the P.S (Grade A) to the Chairman/ the P.S (Grade B) to the Member Secretary, State Pollution Control Board, Odisha for kind information of the Chairman and the Member Secretary respectively.



Member Secretary

Memo No. 20344 Dtd. 26-12-2023

Copy forwarded to all Branch Officers/ Regional Officers, State Pollution Control Board, Odisha for kind information and necessary action.



Member Secretary

Memo No. 20345 Dtd. 26-12-2023 By E-mail

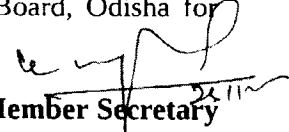
Copy forwarded to CEE (IT Cell), SPCB, Odisha, Bhubaneswar for information and necessary action. with a request to display in the website of the Board for the information of all stake holders.



Member Secretary

Memo No. 20346 Dtd. 26-12-2023

Copy forwarded to the Guard File, State Pollution Control Board, Odisha for kind information and necessary action.



Member Secretary