

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

Appeal No. 33/2019
(I.A. No. 534/2019)

WITH

Appeal No. 34/2019
(I.A. No. 535/2019)

WITH

Appeal No. 35/2019
(I.A. No. 536/2019)

WITH

Appeal No. 36/2019
(I.A. No. 537/2019)

WITH

Appeal No. 37/2019
(I.A. No. 538/2019)

WITH

Appeal No. 38/2019
(I.A. No. 539/2019)

WITH

Appeal No. 39/2019
(I.A. No. 540/2019)

WITH

Appeal No. 40/2019
(I.A. No. 541/2019)

WITH

Appeal No. 41/2019
(I.A. No. 542/2019)

WITH

Appeal No. 42/2019
(I.A. No. 543/2019)

WITH

Appeal No. 43/2019
(I.A. No. 544/2019)

WITH

Appeal No. 44/2019
(I.A. No. 545/2019)

WITH

Appeal No. 45/2019
(I.A. No. 546/2019)

WITH

Appeal No. 46/2019
(I.A. No. 547/2019)

WITH

Appeal No. 47/2019
(I.A. No. 548/2019)

WITH

Appeal No. 48/2019
(I.A. No. 549/2019)



WITH
Appeal No. 49/2019
(I.A. No. 550/2019)

Haryana State Pollution Control Board & Anr. Appellant(s)

Versus

M/s Salasar Udyog Respondent(s)

WITH
Haryana State Pollution Control Board & Anr. Appellant(s)

Versus

M/s Shri Ram Udhyog Respondent(s)

WITH
Haryana State Pollution Control Board & Anr. Appellant(s)

Versus

M/s Balaji Agro System Pvt. Ltd. Respondent(s)

WITH
Haryana State Pollution Control Board & Anr. Appellant(s)

Versus

M/s Metro Plastic Respondent(s)

WITH
Haryana State Pollution Control Board & Anr. Appellant(s)

Versus

M/s Shiv Plastic Udyog Respondent(s)

WITH
Haryana State Pollution Control Board & Anr. Appellant(s)

Versus

M/s Baba Industries Respondent(s)

WITH
Haryana State Pollution Control Board & Anr. Appellant(s)

Versus

M/s Bee Aar. Dee Plastic Udyog Respondent(s)

WITH
Haryana State Pollution Control Board & Anr. Appellant(s)

Versus

M/s Sharma Industries Respondent(s)

WITH

Haryana State Pollution Control Board & Anr. Appellant(s)

Versus

M/s R. K. Industries Respondent(s)

WITH

Haryana State Pollution Control Board & Anr. Appellant(s)

Versus

M/s R. K. Plastic Respondent(s)

WITH

Haryana State Pollution Control Board & Anr. Appellant(s)

Versus

M/s Bansal Pipes Industries Respondent(s)

WITH

Haryana State Pollution Control Board & Anr. Appellant(s)

Versus

M/s Shri Shyam Plastic Respondent(s)

WITH

Haryana State Pollution Control Board & Anr. Appellant(s)

Versus

M/s S. R. Polytex Respondent(s)

WITH

Haryana State Pollution Control Board & Anr. Appellant(s)

Versus

M/s Shivam Filament Respondent(s)

WITH

Haryana State Pollution Control Board & Anr. Appellant(s)

Versus

M/s Annu Synthetics Respondent(s)

WITH

Haryana State Pollution Control Board & Anr. Appellant(s)

Versus

M/s Karan Plastic Respondent(s)

WITH

Haryana State Pollution Control Board & Anr. Appellant(s)

Versus

M/s Archana Textile Respondent(s)



Date of hearing: 02.09.2019

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE S.P. WANGDI, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

For Appellant(s): Mr. Anil Grover, AAG, Haryana with Mr. Rahul Khurana, Advocate

ORDER

1. This set of appeals has been preferred against the order dated 11.07.2019 passed by the Appellate Authority under the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981.
2. The respondent units were directed to be closed by appellant Board for operating without conditions of 'Consent to Operate' and provisions of the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981. On that account prosecution was also proposed and 'sanctioned' by concerned officer which has been quashed by the Appellate Authority *inter-alia* on the objection that the use of words "grant of permission to prosecute" was not proper, as against use of the words "authorizing filing of prosecution". It was further observed that the principle of 'double jeopardy' will apply in initiating prosecution as the unit has been required to pay compensation also on 'Polluter Pays' principle.
3. Learned Counsel for the appellants submits that the recovery of compensation is under regime of civil law. It does not absolve an alleged offender from being prosecuted. Principle of 'Double Jeopardy' under Article 20(2) of the Constitution applies only to double

punishment. Compensation is not punishment. There is no legal basis for invoking the principle of double jeopardy. Finding fault with 'sanction of prosecution' which is an expression used in generic sense for initiating the process of prosecution as per law is uncalled for. We find *prima-facie* merit in the submission.

4. The appeal is admitted. The impugned order is stayed till next date.
5. The appellant may serve the respondents and file an affidavit of service within one week from today.

List for final hearing on 06.11.2019.

Adarsh Kumar Goel, CP

S.P. Wangdi, JM

Dr. Nagin Nanda, EM

September 02, 2019
Appeal No. 33/2019
(I.A. No. 534/2019) and connected matters
DV

