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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 12186/2024, CM APPL. 50691-50692/2024

M/S R. R. TRENDS PVT. LTD.

.....Petitioner

Through: Mr. N. Hariharan, Senior Advocate
with Mr. Gaurav Gupta, Mr. Prateek
Bhalla, Ms. Mallika Chadha,
Mr. Rupal, Gupta, Ms. Sana Singh
and Mr. Arjan, Advocates.

versus

COMMISSION FOR AIR QUALITY MANAGEMENT IN
NATIONAL CAPITAL REGION AND ADJOINING AREAS AND
ORS.Respondents

Through: Mr. Amit Tiwari, CGSC with Mr.
Himanshu, GP with Mr. Rahul
Bhaskar, Advocate for R-3.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER
02.09.2024

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1. The present petition assails order dated 29th August, 2024,¹ passed by Respondent No. 1/ Commission for Air Quality Management in National Capital Region and Adjoining Areas, ordering closure of the Petitioner's operations and directing Respondent No. 4/ Pashchimanchal Vidyut Vitran Nigam Limited to disconnect power supply to the Petitioner's unit. By virtue of this order, the Petitioner has been called upon to adopt certain corrective and preventive measures.

¹ "the impugned decision"



2. The brief background asserted by the Petitioner for filing of the present petition is as follows:

2.1. The Petitioner, engaged in the business of manufacturing and exporting garments, operates its business using machinery such as generators and boilers. By way of a Consent Order dated 23rd July, 2020, Respondent No. 2/ the U.P. Pollution Control Board, granted permission to the Petitioner to use a boiler with a capacity of 300 Kg/hr.

2.2 In April, 2024, the Petitioner purchased an additional PNG boiler with a capacity of 400 Kg/hr. Since this new boiler was not being used, the Petitioner did not seek a consent order for its operation.

2.3 On 27th July, 2024, a flying squad conducted an inspection at the Petitioner's unit. Based on their report, a closure direction dated 29th August, 2024, was issued under Section 12(2)(xi) of the Commission for Air Quality Management in National Capital Region and Adjoining Areas Act, 2021. The closure was ordered on the grounds that the Petitioner's unit lacked the necessary consent for the second boiler. Consequently, the Petitioner was directed to cease all industrial operations.

3. In this context, Mr. N. Hariharan, Senior Counsel for the Petitioner, argues that the impugned decision was made without issuing a prior show cause notice or providing the Petitioner with a copy of the flying squad's inspection report, thereby violating the principles of natural justice. He submits that the decision has severely impacted the Petitioner's livelihood and that of 500 employees, as it has brought the Petitioner's business operations to a standstill. Furthermore, he contends, on instructions, that the second boiler has already been dismantled and will be removed from the premises by the end of the day. He urges that the Respondents can conduct a



fresh inspection to verify the removal to allow resumption of their activities.

4. *Per contra*, counsel for Respondent No. 3, at the outset, objects to the maintainability of the present petition, arguing that the impugned decision is appealable under Section 18 of the Commission for Air Quality Management in National Capital Region and Adjoining Areas Act, 2021 before the National Green Tribunal. He further points out the Petitioner's admission in paragraph No. 7 of the petition, where it is stated:

"Although it was meant for the new unit which is currently being set up, the Petitioner also thought that it would be able to use the new boiler even at the current manufacturing unit if the first boiler again breaks down, thereby serving both purposes."

Based on this admission, the counsel submits that the Petitioner must adhere to the requirements of the Act and contends that the impugned order has no infirmity.

5. The Court has heard the counsel for both parties. It is observed that the impugned direction arises from an inspection conducted by the Enforcement Task Force, constituted by the Commission for Air Quality Management in the National Capital Region and Adjoining Areas, based on a report submitted by the flying squad. Apparently, when the flying squad visited the Petitioner's premises they found two boilers with capacities of 300 Kg/hr and 400 Kg/hr. Notably, the 400 Kg/hr boiler is not listed in the Consent Order dated 23rd July, 2020. Nonetheless, in light of the statement made by Mr. Hariharan, and considering the Petitioner's conciliatory approach, the Court finds it appropriate, while keeping the question of maintainability open and without delving into the merits of the case, to issue the following directions:

a. The U.P. Pollution Control Board, Gautam Budh Nagar, is directed to



inspect the Petitioner's premises tomorrow, i.e., on 03rd September, 2024, to verify whether the PNG boiler with a capacity of 400 Kg/hr has been dismantled and removed by the Petitioner.

b. If it is found that the boiler has been removed, appropriate directions for the resumption of the Petitioner's unit shall be issued, along with any consequential directions to Respondent No. 4.

c. In the event that any Environmental Compensation (EC) charges are leviable, Respondent No. 2 shall communicate the same to the Petitioner, who shall then be at liberty to seek appropriate recourse against such charges.

6. The Court has not commented on the merits of the case. All rights and contentions of the parties are left open.

7. With the above directions, the present petition along with pending applications, if any, is disposed of.

8. This order be given *dasti* under the signatures of Court Master.

SANJEEV NARULA, J

SEPTEMBER 2, 2024

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