



2025:DHC:10459



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IN THE HIGH COURT OF DELHI AT NEW DELHI

Reserved on: 22nd August, 2025

Pronounced on: 26th November, 2025

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W.P.(C) 2157/2019 & CM APPL. 10138/2019(stay)

TATA POWER DELHI DISTRIBUTION LTD.Petitioner

**Through: Mr. Meet Malhotra, Sr. Adv., Ms.
Ranjana Roy Gawai, Ms. Vasudha
Sen, Mr. Vineet Wadhwa, Ms.
Saumya Pandey, Mr. Ravi S.S.
Chauhan and Mr. R. Singh, advs.**

versus

DELHI STATE INDUSTRIAL & INFRASTRUCTURE

DEVELOPMENT CORPORATION LTD. & ORS.....Respondents

**Through: Dr. Vikrant Narayan Vasudeva, Mr.
Rohit Lochav, Mr. Shah Mohd. Advs.
for R-1 (DSIIDC)
Mr. Abhimanyu Mahajan, Mr. Dheeraj
P. Deo, Ms. Anubha Goel, Mr.
Mayank Joshi, Advs. For R-2.**

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

JUDGMENT

AMIT SHARMA, J.

1. The present petition under Articles 226 and 227 of the Constitution of India, 1950 has been filed seeking the following prayers: -



“In the light of facts and circumstances of the present case, the Petitioner most humbly pray that this Hon’ble Court may be pleased to:

(a) Issue a writ of Certiorari or any other writ or direction in nature thereof quashing the Impugned notices dated 19.02.2019 and 25.12.2018 being notices nos. DSIIDC/EE (CD-12 IA)/BIA/2018-19/5034-5038 as issued by Respondent No. 1;

In the alternative

(b) Direct the Respondent Nos.1 and 2 to determine the nature and extent of maintenance charges, CETP charges on concessional basis based on principles of fairness, reasonableness, proportionality and not on commercial rates as levied to other Industrial allottees, industrial buildings;

(c) Pass any such or further order(s) which this Hon'ble Court may deem fit and proper.”

FACTUAL BACKGROUND

2. The facts necessary for the disposal of the present petition are as follows:-

i) The petitioner i.e. TATA Power Delhi Distribution Ltd. is a distribution licensee engaged in the business of distribution and retail supply of electricity within North and North-West of the National Capital Territory of Delhi (for short ‘**NCT of Delhi**’). The license is granted to the petitioner, by the Delhi Electricity Regulatory Commission (for short ‘**DERC**’) under Section 20 of the Delhi Electricity Reforms Act, 2000 (for short ‘**Reforms Act**’) read with the Electricity Act, 2003.

ii) The respondent no. 1 i.e. Delhi State Industrial and Infrastructure Development Corporation Ltd. is a registered company, empowered by the



Delhi Industrial Development, Operation and Maintenance Act, 2010 (for short '**DIDOM Act**') to secure orderly establishment of industrial areas, industrial estate and flatted factories complexes in the NCT of Delhi.

iii) The respondent no. 2 i.e. Bawana Infra Developers Pvt. Ltd. is the concessionaire for re-development and management of Bawana Industrial Area. Further, respondent no. 3 is the Government of NCT of Delhi through its Secretary, Department of power, Government of NCT of Delhi.

iv) In terms of Regulation 30 of the erstwhile DERC Supply Code and Performance Standards Regulations, 2007 (for short '**DERC, 2007**'), the petitioner was granted a piece of land, free of charge by the respondent no. 1. The said land was granted for erection and installation of grid substations, transformers, switch gear etc. within the industrial area operated by the respondent no. 1 and 2, for supplying electricity to the North and North-West of the NCT of Delhi.

v) The respondent no. 1 empowered under the DIDOM Act, had invited bids *vide* Request for Proposal dated 10.03.2011 (for short '**RFP**'), for a Public Private Partnership, for the redevelopment and management of the Bawana Industrial Area. After evaluating the bids, the respondent no. 1 *vide* a letter of award dated 20.06.2011, awarded the contract to one Abhyudai Housing and Construction Ltd. Thereafter, in terms of the RFP, Abhyudai Housing and Construction Ltd. incorporated the respondent no. 2 as a special purpose company and a Concessionaire Agreement dated 20.07.2011 was



executed between the respondent no. 1, respondent no. 2 and Abhyudai Housing and Construction Ltd.

vi) The respondent no. 2 on behalf of the respondent no. 1, for the first time demanded the payment from the petitioner for Common Effluent Treatment Plant (for short 'CETP') charges from April 2012, water supply charges from January 2012 and maintenance charges from March 2014 under the DIDOM Act *vide* demand letter dated 05.02.2015. The petitioner issued a response letter dated 04.03.2015, stating that the petitioner is only a distributor of electricity and do not produce, release or disseminate any pollutant or discharge, therefore, they are not liable to pay any CETP or maintenance charges. Further, with respect to the water charges, the petitioner through its response letter stated that there were no water connections in any of their plots and thus, they are not liable to pay any water charges as well.

vii) However, respondent no. 2 again raised the demand for the aforementioned charges *vide* its demand letter dated 04.04.2015 and the same, was replied by the petitioner *vide* its letter dated 28.09.2015. The petitioner by way of the said response letter requested the respondent no. 2 to withdraw/keep in abeyance their demand of Rs. 1,32,85,319/- till they provide the petitioner, a copy of the concessionaire agreement and other document in relation to their demand of the aforementioned charges.

viii) On 01.12.2015, respondent no. 1 issued a letter to the petitioner, stating that by way of concessionaire agreement dated 20.07.2011, respondent no. 2



has been engaged by them for 15 years, for the redevelopment and maintenance work of the Bawana industrial area since 01.01.2012. Further, the respondent no. 1 requested the petitioner being a commercial organisation, to deposit the aforementioned charges as per the DIDOM Act, for services used at the Bawana Industrial Area, being provided by the respondent no. 2 on behalf of the respondent no. 1.

ix) The petitioner *vide* its letter dated 11.01.2016 replied to the abovementioned letter, stating that there is no statutory obligation referred by the respondent no. 1 by way of which the concessionaire agreement can be made binding upon them. The petitioner further stated that majority of the substations mentioned in the letter dated 01.12.2015 were unmanned, there was no possibility of discharge of any effluent/ pollutant and thus, they are not availing any services to that extent.

x) However, the respondent no. 2 again raised the bills dated 02.09.2016 and 02.12.2016. Thereafter, petitioner *vide* letter dated 30.11.2016, requested for an amendment in the Common Effluent Treatment Plants Act, 2000 (for short '**CETP Act**'), from the Principal Commissioner of Industries, Department of Industries, Government of NCT of Delhi. The petitioner in the said letter stated that since they were incorporated after the CETP Act came into force, their peculiar circumstances could not have been accounted for by the CETP Act and its Rules.

xi) On 28.12.2017, respondent no. 2 issued a letter to the petitioner, stating



that the respondent no. 2 has been providing all the maintenance services under the DIDOM Act, on a daily basis namely road maintenance, security, door to door garbage collection, street lighting, parking facility etc. and therefore, the petitioner cannot seek exemption from paying such charges on the ground that the petitioner is not availing the services, as their sub-stations are not manned. Later, the respondent no. 2 again sent a letter dated 25.05.2018 and 29.06.2018, regarding outstanding dues of CETP, water and maintenance charges as on 30.04.2018.

xii) On 25.12.2018, the respondent no. 1 issued the impugned notice to the petitioner, with respect to the petitioner's five premises in the Bawana Industrial Estate. By way of the said impugned notice, the respondent no. 1 directed the petitioner to pay Rs. 7,86,29,891/- towards non-payment of the CETP, water and maintenance charges within 15 days, failing which appropriate action including sealing of the petitioner's premises, discontinuance of services provided or cancellation of lease will be undertaken without any further notice.

xiii) Thereafter, on 19.02.2019, respondent no. 1 again sent the impugned notice to the petitioner, requesting to clear the dues with respect to the aforesaid charges by 28.02.2019, failing which appropriate action as per the DIDOM Act will be undertaken.

xiv) Hence, the present petition has been preferred assailing the impugned notices dated 25.12.2018 and 19.02.2019.



xv) The learned Single Judge of this Court *vide* order dated 26.03.2019 directed that no coercive steps shall be undertaken against the petitioner, subject to the petitioner depositing the aforesaid charges as demanded with respect to its one out of the five premises i.e. for sector-3, pocket-N, Bawana Industrial Area, within one week.

xvi) In compliance to the aforesaid direction, the petitioner deposited a total sum of Rs. 1,39,73,166/- *vide* two demand drafts dated 28.03.2019, with respect one of its premise at Bawana Industrial Estate,

SUBMISSIONS ON BEHALF OF THE PETITIONER

3. Learned Senior Counsel for the petitioner has made the following submissions in support of the present petition: -

i) Out of five premises, the petitioner has only one premise in the Bawana Industrial Estate which discharges and that too domestic sewage only, owing to the human occupation thereof. The remaining premises are either vacant or unmanned and having no discharge of 'effluents' of any nature.

ii) The petitioner is neither an allottee of industrial plot nor does the operations of the petitioner fall under the 'Industrial operations' or 'Process' as per the Section 2(7) of the CETP Act, 2000. Therefore, the petitioner does not fall under the category of 'occupier' as mentioned under Section 2(10) of



the CETP Act, 2000.

iii) The petitioner was granted land free of charge by the respondent no. 1 for erection and installation of grid, substations, transformers, switch gear etc. and supplying electricity in terms of Regulation 30 of the erstwhile DERC, 2007. Moreover, a similar clause exists in the present supply code i.e. DERC (Supply Code and Performance Standards) Regulations, 2017 (for short '**DERC, 2017**') under Regulation 22. Thus, it is evident that provision of land, free of any charges to the Distribution Company (for short '**DISCOM**') like the petitioner is the subject matter of the Electricity Act and the petitioner is not liable to pay any charges thereof.

iv) According to the Schedule II to the Delhi Common Effluent Treatment Plants Rules, 2001 (for short '**CETP Rules**'), the petitioner doesn't fall under any of the three categories of the polluting industries mentioned therein. Moreover, the petitioner does not even qualify as an 'Industrial Estate'. Thus, the petitioner cannot be categorised as a 'Low Polluting Industry' in the bills issued by the respondent no. 2 and made liable to pay the CETP, maintenance and water charges under the DIDOM Act.

v) Section 6 of the DIDOM Act, permits the respondent no. 1 to levy fees or service charges on plot holders or other persons receiving benefits of the services or amenities. Further, Rule 8 of the Delhi Industrial Development, Operation and Maintenance Rules, 2011 (for short '**DIDOM Rules**') provides for 'levy of fees and charges for providing services under Section 6 of the



Act’ and the said Rule mentions that ‘Each industrial area/ industrial estate/ flatted factories complex shall be considered as a separate cost centre for the purposes of service charges’. The petitioner is neither a plot holder as per Section 6 of the DIDOM Act, nor a ‘industrial building’, ‘industrial estate’ or ‘flatted factories complex’ under the DIDOM Act. Moreover, the petitioner is not even connected with any commercial activity such as inherent to a factory or an industry. Therefore, the petitioner does not fall within the ambit of Section 6 of the DIDOM Act read with Rule 8 of the DIDOM Rules, 2011.

vi) The CETP and maintenance charges under the DIDOM Act, is applicable only on the entities carrying out an industrial activity. The petitioner being involved in the business of supplying electricity, cannot be categorised as being conducting an ‘Industrial Activity’. In this regard, the petitioner has placed reliance on the judgment passed by the Hon’ble High Court of Gujarat in ***Gujarat Electricity Board v. State of Gujarat and Ors.***¹ and judgment passed by the Hon’ble High Court of Andhra Pradesh in ***Power Grid Corporation of India Ltd. Secunderabad v. State of A.P. and Ors.***²

vii) The maintenance charges levied by the respondents are disproportionate, exorbitant and onerous because the rates are not in compliance with the basis of calculation provided under the Rule 8 of the DIDOM Rules, 2011.

¹ (1984)IILLJ370Guj

² 1996 SCC OnLine AP 975



viii) The petitioner has a universal supply obligation to provide electricity connections and supply under Section 43 of the Electricity Act, 2003. Further, it has been a constant practice of all state instrumentalities to keep the electricity tariff at the lowest. For the same, the petitioner has placed reliance on the following:

- a) Statutory Advice dated 11.09.2012 issued to the Delhi Government by the learned Delhi Commission.
- b) Communication dated 16.11.2015 to the Delhi Government on the issue of “Policy/ Guidelines for imposition of way leave charges/ usage charges from the DISCOMS i.e. TPDDL, BRPL, BYPL on account of using land and property of North DMC”.
- c) Meeting held on 11.07.2017 in the chamber of the Secretary (Power), Delhi Government, the Secretary (Power).
- d) Delhi Government adopted a policy, wherein, the cost of the shifting of HI/ LT Transmission lines posing threat to human lives is borne by the concerned State instrumentalities and burden is not cast on the DISCOMs.

Moreover, the finances, functions and operations of the petitioner are regulated by the DERC by its various orders and regulations. Therefore, in case the petitioner is made to bear such CETP, water and maintenance charges, the burden of payment of such demand will directly fall on the electricity consumers, due to the petitioner’s impact in calculations of the electricity tariff.



ix) The respondents have failed to establish any statutory obligation on the petitioner to be bound by the concessionaire agreement dated 20.07.2011, on the basis of which the respondent contend that the petitioner is liable to pay the maintenance charges under the DIDOM Act and no exemption from the said charges can be granted to them. Further, the respondents are not even providing any maintenance services to the area. Thus, the petitioner is not liable to pay any such charges.

x) Petitioner is providing public utility services and functioning as a joint venture between the TATA Power Company Ltd. (TPCL) and Delhi Power Company Ltd., with majority stake i.e. 51% shareholding by the TPCL. Therefore, the petitioner is to be entitled to the concessions provided by the Government of NCT of Delhi, since the petitioner is also performing a public function and deserves to be treated like a PSU, Govt. Offices etc.

xi) The respondent no. 1 being an instrumentality of State, is bound by the Article 14 of the Constitution of India, which mandates that in any action taken by the State, fairness and non-arbitrariness are the basic requirement. With regard to the same, the petitioner has placed reliance on **Bannari Amman Sugars Ltd. v. Commercial Tax Officer & Ors.**³; **Kumari Shrilekha Vidyarthi etc. v. State of U.P. and Ors**⁴ and **LIC of India and**

³ (2005) 1 SCC 625

⁴ AIR 1991 SC 536



Ors. v. Consumer Education and Research Centre and Ors.⁵. The respondent no. 1, while imposing the maintenance charges under the DIDOM Act on the petitioner, failed to appreciate that the burden of the unjust levy of such charges would have to be borne by the consumers of electricity.

xii) Since the CETP Act was notified on 05.01.2001 and the petitioner came into existence on 01.07.2002, the peculiar circumstances under which the petitioner was incorporated and carries out its operations could not have been envisaged in the CETP Act.

SUBMISSIONS ON BEHALF OF THE RESPONDENTS

4. Refuting the submissions made on behalf of the petitioner, learned counsel for the respondent has made the following submissions: -

i) The Petitioner was allotted land in the Bawana Industrial Estate without charging anything. However, an industrial estate requires maintenance and upkeep of the basic infrastructure and facilities. As per the DIDOM Act, the task of such maintenance and upkeep has been entrusted with the respondent no. 1 and the said Act further empowers the respondent no. 1 to collect charges for such maintenance from the owners/ occupants of the industrial estate. Therefore, the said charges are collected from the said owners/ occupants of the industrial estate and the same cannot be termed as illegal or

⁵ (1995) 5 SCC 482



arbitrary as alleged by the petitioner.

ii) The CETP and maintenance charges under the DIDOM Act are fees and not taxes. Reliance was placed on the following judgments to explain the concept of '*quid pro quo*' in a fee:

a) In **City Corporation of Calicut v. The Chambalath Sadasivan**⁶, the Hon'ble Supreme Court held that:

"7. It is thus well-settled by numerous recent decisions of this Court that the traditional concept in a fee of *quid pro quo* is undergoing a transformation and that though the fee must have relation to the services rendered, or the advantages conferred, such relation need not be direct, a mere casual relation may be enough. It is not necessary to establish that those who pay the fee must receive direct benefit of the services rendered for which the fee is being paid. If one who is liable to pay receives general benefit from the authority levying the fee the element of service required for collecting fee is satisfied. It is not necessary that the person liable to pay must receive some special benefit or advantage for payment of the fee."

b) In **Kishan Lal Lakhmi Chand v. State of Haryana**⁷, the Hon'ble Supreme Court held that:

"6. ...The broad correlationship between the imposition of fee and the nature of the service rendered to the entire textiles industry satisfied the test of *quid pro quo*, though no specific service was rendered to the payer of the fee. The administrative expenditure incurred by the Committee from the fund was held to be integral component of the fund"

⁶ (1985) 2 SCC 112

⁷ 1993 Supp (4) SCC 461



c) In **B.S.E. Brokers' Forum, Bombay v. Securities and Exchange Board of India**⁸, the Hon'ble Supreme Court held that:

“38. ...it is also not necessary that the services to be rendered by collecting authority should be confined to the contributories alone. As held in *Sirsilk Ltd.* If the levy is for the benefit of the entire industry, there is sufficient ‘quid pro quo’ between the levy recovered and services rendered to the industry as a whole”

Therefore, the petitioner's contention that the levy of CETP charges is invalid, because there is no element of ‘*quid pro quo*’ is untenable in view of the aforementioned judgments.

iii) The petitioner through the present writ petition has prayed to quash the impugned notices and in alternative sought for directions to determine the nature and extent of the maintenance/ CETP charges on a concessional basis. However, the petitioner has not challenged the competence of the respondent no. 1 to demand and levy maintenance/ CETP charges, as per Section 6 of the DIDOM Act and Section 7 of the CETP Act. Thus, the present writ petition is not maintainable.

iv) Respondent no. 1 has been levying CETP and maintenance charges under the DIDOM Act, from all the unit holder at the Bawana Industrial Area and most of them are paying the same. Notably, Indraprastha Gas Limited (IGL) and Mahanagar Telephone Nigam Limited (MTNL), who are not carrying out any industrial activity, are also paying the CETP and maintenance charges. Therefore, there is nothing arbitrary or illegal in levying

⁸ (2001) 3 SCC 482



the CETP and maintenance charges from the petitioner also. Moreover, it was the petitioner's own understanding that it was liable to pay the above said charges as the petitioner sought for an amendment in the CETP Act *vide* its letter dated 30.11.2016.

v) The petitioner has control over the affairs of the five establishments in the Bawana Industrial Area, which have been allotted to it and therefore, the petitioner is very much covered under the definition of "occupier" as provided in the Section 2(10) of the CETP Act. Further, Section 7(1) and Section 7(3) of the CETP Act, makes it abundantly clear that the CETP cost shall be collected from each of the occupier. Thus, the petitioner being covered under the definition of 'occupier' is liable to pay CETP and maintenance charges under the DIDOM Act, so that the industrial area is well maintained.

vi) According to Section 6 of the DIDOM Act, the respondent no. 1 can levy fees/ service charges to cover its expenses on maintenance of roads, drainage, water supply, construction, CETPs and such other services/ amenities provided by it and such fees/ charge is to be levied on plot holders or other persons receiving benefits of the provided services/ amenities. The petitioner being a plot holder in Bawana Industrial Estate, which is governed by the DIDOM Act, is therefore liable to pay service charges in terms of the Section 6 of the DIDOM Act.

vii) A conjoint reading of the Rule 8 and Rule 2(g) of the DIDOM Rules, makes it clear that the term "industrial area/ industrial estate/ flatted factories



complex” do not define a particular unit, instead it depicts a complete area, inside which the petitioner’s units are situated. The same is corroborated from the serial no. 12, Schedule-I of the DIDOM Act, showcasing the Bawana Industrial Area under the definition of “industrial area, industrial estate or flatted factories complex”. Thus, the petitioner’s contention that it does not qualify as an industrial area, industrial estate or flatted factories complex is undoubtedly true, since it is a subset of these definitions and falls within the definition of ‘user’.

viii) In the Bawana Industrial Area there are currently more than 15,000 industrial units running and the electricity is being provided to them by the petitioner at a commercial/ industrial rate. The respondent no. 2 is itself paying electricity charges to the petitioner, amounting to Rs. 8,00,00,000 annually, for running the CETP and street lights in the Bawana Industrial Area. However, the respondent no. 2 has never been entitled to any discount or a concessional rate from the petitioner, for conducting such important public work i.e. running CETP and street lights.

ix) The services provided by the respondent no. 2 are essential to keep the air/ water pollution in check in Delhi and for the continuance of such services, the action taken by the respondent no. 1 by way of impugned notices are necessary.



REJOINDER ON BEHALF OF THE PETITIONER

5. Learned Senior Counsel on behalf of the petitioner reiterated that the petitioner is providing public utility services, on account of which the land was allotted to it free of charge. It was submitted that the petitioner cannot be equated with other service providers like MTNL, as has been argued on behalf of the respondents. It is submitted that 'free of charge' is not only applicable to the cost of initial allotment but it also includes running cost of the establishment without charge.

6. It was submitted by the learned Senior Counsel on behalf of the petitioner that the provisions of DIDOM Act has to be seen in the context of it's objectives. Attention of this Court has been drawn to the definitions of 'industrial area', 'industrial building' and 'industrial estate' under the DIDOM Act, to submit that the petitioner does not fall within the meaning of the aforesaid definitions. It was similarly argued that the definition of 'occupier' under DIDOM Rules, also has to be seen in the context for the purposes of the DIDOM Act. Similarly, Rule 8 of the DIDOM Rules, provides for the manner of calculating the share of fee and charges among the users of services and the same are also to be seen for the purposes of the DIDOM Act.

7. Learned Senior Counsel for the petitioner further draws attention of this Court to the CETP Rules and in particular Rule 4(1)(A), which prescribes the manner of calculating the apportioned CETP cost from each occupier.



Attention is also drawn to the preamble of the DIDOM Act (reproduced hereinafter), to show that the DIDOM Act is applicable to the CETP set up in the industrial estates and the petitioner cannot come within the meaning of the same.

8. Learned Senior Counsel further drew the attention of this Court to the Regulation 22 of the DERC, 2017, which provides as under:-

“22. Space for installation of grid substation, transformers, service line, meter and other equipment :-

(1) The developer or the applicant applying for supply of electricity from the Licensee shall provide free of charge, the applicable space of requisite dimensions as notified in the Commission's Orders, at a convenient location, as may be mutually agreed between the consumer and the Licensee, for erection and installation of grid substations, transformers, switch gear, meter, equipment, etc.: Provided that if there is no specific developer in an area and the augmentation of the existing distribution system requires the space for installation of grid substations, transformers, switch gears, etc. to meet out the load demand, the distribution licensee shall approach the Government of National Capital Territory of Delhi, within fifteen days of such requirement, for allotment of space, indicating the probable space available in such areas:

(2) Except for HT or EHT networks, the Licensee shall have no right to utilize the sub-station in the consumer's premises, without his consent, for the supply of electrical energy to other consumers:

Provided that the utilization of such assets for providing electricity to other consumers shall not in any manner affect the supply to the consumers for which such assets were originally



installed.”

ANALYSIS AND FINDINGS

9. Heard learned Senior Counsel for the petitioner as well as learned counsel for the respondents and perused the records.

10. The issue before this Court is “*Whether the petitioner is liable to pay the CETP and maintenance charges raised by the respondent no. 2 under the DIDOM Act on behalf of the respondent no. 1?*”. The main thrust of the challenge *qua* demands by the respondent no. 2 is that the petitioner is providing a public utility service of supplying electricity and has been granted land free of charge by the respondent no. 1 for erection and installation of grid substations, transformers, switch gear etc. for provision of power in the North and North-West Circles of NCT of Delhi and the industrial area operated by the respondent no. 2 on behalf of the respondent no. 1. The contention on behalf of the petitioner is that in view of the same it cannot be made liable to pay the charges demanded by the respondents. It is further urged that the petitioner premises are not users of services of “Common Effluent Treatment Plant” and therefore, exempted from paying CETP charges.

THE LIABILITY OF MAINTENANCE CHARGES UNDER THE DIDOM ACT

11. At the very outset, it is important to refer to the relevant provisions of the DIDOM Act, which are as follows: -



“Preamble: An Act to make special provision for securing the orderly establishment of industrial areas, industrial estates and flatted factories complexes in the National Capital Territory of Delhi, and to assist generally in the organisation, including operation and maintenance thereof, and for the purpose to reconstitute and empower Delhi State Industrial and Infrastructure Development Corporation Ltd., a company incorporated under the Companies Act, 1956 (1 of 1956), and for purposes connected therewith or incidental thereto.

Section 2: Definitions

(a) **"amenity"** includes road, supply of water or electricity, street lighting, drainage, sewerage, green cover including plantation of trees and development of parks, conservancy and such other convenience as the Government may, by notification in the official Gazette specify to be an amenity for the purposes of this Act;

(c) **"building"** means any structure for whatsoever purpose and of whatsoever materials constructed and every part thereof whether used as human habitation or not and includes foundation, plinth, walls, floors, roofs, chimneys, plumbing and building services, fixed platforms, verandah, balcony, cornice or projection, part of a building or anything affixed thereon or any wall enclosing or intended to enclose any land or space and signs and outdoor display structures. Tents, shamianahs, tarpaulin shelter etc. erected for temporary and experimental measures with the permission of the Authority shall not be considered as building;

(h) **"engineering operations"** include the formation or laying out of means of access to a road or the laying out of means of water supply, drainage and sewerage, construction, operation and maintenance of common Effluent Treatment Plants, or laying out of means of supply of electricity, street lighting, plantation of trees and development of parks,



conservancy and such other operation as the Government may, by notification in the official Gazette specify to be an engineering operation for the purpose of this Act;

(i) "**flatted factories complex**" means any site selected and notified by the Government, where the Corporation builds flatted factories and other buildings and makes them available for any industries or class of industries or any existing flatted factories complex included in Part-B of the Schedule;

(k) "**industrial area**" means any area declared to be an industrial area by the Government by notification in the official Gazette, whether already developed or is to be developed for the purpose of accommodating industrial units;

(l) "**industrial building**" include any building or part of building or structure, in which products or materials of all kinds and properties are fabricated, assembled or processed, refineries, mills, dairies, factories, etc;

(m) "**industrial estate**" means any site selected and notified by the Government, where the Corporation builds factories and other buildings and makes them available for any industries or class of industries or any existing industrial estate or area included in Part A of the Schedule;

(r) "**premises**" means any land or building or part of a building and includes-

(i) the garden, grounds and out-houses, if any, appertaining to such building or part of a building; and

(ii) any fitting affixed to such building or part of a building for the more beneficial enjoyment thereof;



Section 6: Power to levy Service Charges: Notwithstanding anything contained in any contract or in any law for the time being in force, it shall be lawful for the Corporation to levy fees or service charges to cover its expenses on maintenance of roads, drainage, water-supply, construction, operation and maintenance of Common Effluent Treatment Plants (CETPs) and such other services and amenities as may be provided by it, including provision of street lighting, at such rates as may be prescribed by the Government, from time to time. Such fees or charges may be levied on the plot holders or other persons receiving benefit of the services or amenities.”

12. Further, some of the relevant Rules under the DIDOM Rules are as follows: -

“Rule 2: Definitions

(1) In these rules, unless the context otherwise requires, -

(f) "**occupier**" in relation to any establishment, factory or premises, means the person who has control over the affairs of the establishment, factory or premises, as the case may be and includes, in relation to any sub-stance, the person in possession of the substance;

(g) "**user**" means any establishment, factory or premises located within the industrial area using services such as construction or maintenance or roads, drainage, operation and maintenance of Common Effluent Treatment Plants (CETPs) and such other services and amenities as may be provided by the Corporation.

Rule 8. Levy of fees and charges for providing services under Section 6 of the Act:

(1) The users of the services such as construction, maintenance of roads,



drainage, operation and maintenance of Common Effluent Treatment Plants (CETPs) and such other services and amenities as may be provided by the Corporation, shall be required to pay part of the expenditure incurred on the operation and maintenance as may be fixed by the Corporation. Each industrial area/industrial estate/flatted factories complex shall be considered as a separate cost centre for the purposes of service charges. The Corporation shall levy and collect from each user the apportioned share of fee and charges payable by him. The manner of calculation of the share of fee and charges among the users shall be in accordance with the formula given in Schedule-I.

(2) The users of Common Effluent Treatment Plants (CETPs) shall have to pay proportionate share of their respective contribution worked out as per the formula given in Common Effluent Treatment Plant Act, 2000 and the Common Effluent Treatment Plant Rules, 2001 made thereunder.

(3) The users of any future Common Effluent Treatment Plant built by the Corporation in any industrial area, industrial estate, flatted factories complex or any area operated and maintained by the Corporation under the Act shall have to pay proportionate share of their respective contribution worked out as per formula given in Rule 8(2) above.

(4) Users of only those industrial areas, shall have to pay for operation and maintenance of Common Effluent Treatment Plant (s) where operation and maintenance of Common Effluent Treatment Plants is entrusted to the Corporation.

(5) Users of industrial areas where operation and maintenance of Common Effluent Treatment Plant is with the Common Effluent Treatment Plant Society, shall continue to pay to the respective Society towards the cost of operation and maintenance of Common Effluent Treatment Plant.

(6) The manner of collection of the share of fee and charges: The collection of the share of fee and charges shall be made in the following manner:-

(i) The Corporation shall issue demand letter to the users directly and/or through any agency/association of industrial plot holders



nominated by the Corporation.

(ii) The users to whom the demand letter has been served shall deposit the dues with the Corporation and/or the agency/association of industrial plot holders nominated by the Corporation within the specified period.

(iii) In the event of failure or refusal to pay the apportioned fee by the user, the Corporation may initiate recovery proceedings against such users for recovery of fee and charges alongwith interest at such rate as the Government may fix from time to time as arrears of land revenue under Section 22 of the Act.”

13. So far as the liability of paying the maintenance charges under the aforesaid provisions is concerned, it was contended on behalf of the petitioner that since the latter is not covered under the definition of ‘industrial area’, ‘industrial building’ and ‘industrial estate’, the charges would not be applicable to the petitioner. However, the case of the respondents on the contrary is that the petitioner would fall under the category of ‘user’ in terms of Rule 2(g) of the DIDOM Rules. It is the case of the petitioner that it is an occupier of five industrial plots in the Bawana Industrial Area and out of the said five plots, four of them occupied by the petitioner are unmanned, however, the remaining plot i.e. Sector-3, Pocket N, Bawana Industrial Area is an office premises occupied by the petitioner’s employees. However, as per the respondents, there are about 16,312 industrial units in the Bawana Industrial Area, out of which there are currently more than 15,000 industrial units running, to whom the petitioner is providing electricity and charging commercial/industrial rates.

14. It is no doubt true that as per Regulation 30 of the DERC, 2007, the



land was allotted to the petitioner free of charge, however, the regulations thereafter, do not provide for any exemption to the petitioner from any further charges for other purposes like the charges for amenities being provided under the DIDOM Act.

15. As per Section 2(a) of the DIDOM Act, ‘amenity’ includes road, supply of water or electricity, street lighting, drainage, sewerage, plantation of trees, development of parks, conservancy, and such other convenience as the government may by notification specify to be an ‘amenity’ under the said act. Similarly, ‘premises’ under Section 2(r) of the DIDOM Act, means any land or building or part of building and ‘building’ under Section 2(c) of the DIDOM Act, means any structure for whatsoever purpose and of whatsoever material constructed and every part thereof whether used for human habitation or not. Thus, the petitioner is covered under Section 2(r) and 2(c) of the DIDOM Act having establishment in Bawana Industrial Area.

16. Section 6 of the DIDOM Act, gives power to the respondent no. 1 to levy service charges to cover its expenses on maintenance of roads, drainage, water supply, construction, operation, and maintenance of CETPs and such other services/ amenities as may be provided by it, which would be levied on the plot holders or other persons receiving the benefit of such services/ amenities. Further, as per DIDOM Rules, ‘occupier’ under Rule 2(f) in relation to any establishment or premises means to be a person who has control over the affairs of the establishment or the premises and ‘user’ under Rule 2(g) means any establishment or premises located within the industrial



area using services such as construction or maintenance of roads, drainage, operation and maintenance of CETPs and such other services and amenities as may be provided by the respondent no. 1. As already noted hereinbefore the 'premises' of the petitioner is part of the Bawana Industrial Area and consequently it becomes 'occupier' and 'user' in terms of Rule 2(f) and 2(g) of the DIDOM Rules.

17. It is the case of the petitioner that out of the five plots under its control, only one of them is being utilized as an office and the other four are being used as a substation, where there is no apparatus running which would require any amenities provided by the respondents. In the present writ petition itself, details of the five premises 'occupied' by the petitioner has been mentioned which are as under: -

"4. The details of the 5 premises which are occupied by the Petitioner to demonstrate the nature of occupation by the Petitioner, are as under:

- a. There are 2 vacant plots, one plot situated at 66 KV, Grid No.4 in Sector-3 MP-7 DSIIDC Bawana (Store) has 11510 sq mtrs area and other at 66 KV Grid No.3 Sector-1 MP Road-4 DSIIDC Bawana (Store) has 10500 sq mtrs area. No operations are being held at these sites. These are vacant land/plots being held by the erstwhile Delhi Vidyut Board, having no operations at all.
- b. There are 2 grid sub-stations at 66 KV, Grid No.1 in Sector- 1 MP-2 DSIIDC Bawana and 66KVGridNo.7 Sector-5 MP- 1 DSIIDC Bawana, buildings which are unmanned grids. These are the grids which dedicatedly cater and provide electricity to the entire industrial area.
- c. That there is 1 grid cum zonal office situated at 66 KV Grid No.6 in



Sector-3 MP Road-6 near Lal Quarter DSIIDC Bawana. Only domestic sewage is being discharged from these premises and no industrial effluent is generated.

5. It is the case of the Petitioner that it has **only one premise in the estate which discharges only domestic sewage owing to the human occupation thereof. The remaining premises are either vacant or unmanned and having no 'discharge of 'effluents' of any nature whatsoever. However, the Petitioner has arbitrarily, unreasonably and incorrectly been categorized as a 'Low Polluting Industry' in the bills issued by the Concessionaire/Respondent No. 2, which have culminated into issuance of the impugned notices by Respondent No. 1.**"

(emphasis supplied)

18. However, reliance was placed on Rule 8 of the DIDOM Rules by the respondents to the effect that the same provides that the respondent no. 1 can levy and collect from each 'user' the apportioned share of fee and charges payable by him. Thus, it was contended that the petitioner would be liable to pay the charges for all the plots.

19. In the considered opinion of this Court, Section 6 of the DIDOM Act gives the power to the respondent no. 1 to levy service charges and the same includes services such as maintenance of roads, drainage, water supply, construction etc. These service charges as per the DIDOM Act and DIDOM Rules, would be payable by any 'occupier' and 'user' of the premises in the industrial area. The petitioner, therefore, cannot claim an immunity for non-payment of the service charges as levied by respondent no. 2 on behalf of the respondent no. 1. Stand of the petitioner that out of the five premises occupied by it only one is functional and therefore it ought not to be made liable for



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charges in the respect to the other four premises is not tenable. A perusal of the notice of demand raised by the respondent no. 1 demonstrate that fees or service charges were being levied to cover expenses incurred on roads, drainage, water supply, operation, and maintenance of CETPs, street lights from time to time on the plot holders receiving benefits of the same as occupier. In the impugned notice dated 19.02.2019, demand with respect to the premises occupied by the petitioner has been detailed as under: -



DELHI STATE INDUSTRIAL & INFRASTRUCTURE DEVELOPMENT CORPN. LTD.
SITE OFFICE, AUCHANDI ROAD, BAWANA, DELHI-110039
OFFICE OF THE EXECUTIVE ENGINEER (CD)-12(IA)
(Tel. No. 011-27752955)

No: DSIIDC/EE(CD)-12(IA)/BAWANA/2019/D-1195

Dated: 19.02.2019

To,
Chief Executive Officer
Tata Power Delhi Distribution Ltd.
NDPL House, Hudson Lines
Kingsway Camp,
New Delhi-110009

Subject:- Regarding outstanding dues towards Maintenance/CETP & Water Charges of TPDDL facilities in Bawana Industrial Area.

Reference: Our Notice No. (1) DSIIDC/EE(CD-12 1A)/BIA/2018-19/5034 Dt. 25.12.2018.
(2) DSIIDC/EE(CD-12 1A)/BIA/2018-19/5035 Dt. 25.12.2018.
(3) DSIIDC/EE(CD-12 1A)/BIA/2018-19/5036 Dt. 25.12.2018.
(4) DSIIDC/EE(CD-12 1A)/BIA/2018-19/5037 Dt. 25.12.2018.
(5) DSIIDC/EE(CD-12 1A)/BIA/2018-19/5038 Dt. 25.12.2018.

Dear Sir,

We had sent the above mentioned notices for due charges to your site office, Zonal office Bawana, Commercial office, Keshavpuram and Head office.

The payment details of the notices are as under and copies of notices are attached for your reference:-

Sec-1, Pocket- C, TPDDL

Sl. No.	Description	Total Amount
1.	CETP Charges	4982482.00
2.	Maintenance Charges	11777722.00
3.	Water Charges	NA

Sec-1, Pocket- P, TPDDL

Sl. No.	Description	Total Amount
1.	CETP Charges	5144561.00
2.	Maintenance Charges	12160851.00
3.	Water Charges	NA

Sec-3, Pocket- P, TPDDL

Sl. No.	Description	Total Amount
1.	CETP Charges	4336527.00
2.	Maintenance Charges	10250775.00
3.	Water Charges	105,371.00



Sec-3, Pocket- N, TPDDL

Sl. No.	Description	Total Amount
1.	CETP Charges	4238406.00
2.	Maintenance Charges	10018855.00
3.	Water Charges	NA

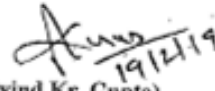
Sec-5, Pocket- B, TPDDL

Sl. No.	Description	Total Amount
1.	CETP Charges	4641841.00
2.	Maintenance Charges	10972500.00
3.	Water Charges	NA

A meeting in my office also took place on 25th January 2019 in which Mr. Satyaveer Singh, SE and Mr., Anurag Bansal, DGM- Corporate Legal of TPDDL were present. Mr. Vishal Chopra, CEO, Bawana Infra Development Pvt. Ltd. was also there in the meeting. DSIIIC conveyed to your officials to clear the dues immediately. Still, the dues have not been cleared by TPDDL.

We request you to kindly clear the dues before 28th Feb, 2019. If the dues are not cleared by the 28th, then we will be constrained to take further action as per DIDOM Act 2010 for recovery of dues.

Encl.: As above.


(Arvind Kr. Gupta)
E.E.(CD)-12 (IA)

A perusal of the above shows that out of the five premises only one premise is being charged for water supply and not the other premises, which are presumably vacant. However, the other charges for roads, drainage and street lights would be common to plot holders whether vacant or not. Those charges are for general maintenance of the Industrial Area, which is for common benefit to all and thus, cannot be waived. However, for the purposes of levy of fees for users of CETPs, the requirements would be distinct.

20. Reference at this stage may be made to the relevant Sections of the CETP Act, which are as follows:

“Preamble: An ACT to provide for the recovery of the dues as arrears of land revenue in respect of the capital and recurring costs of common effluent treatment plants set up in the Industrial Estates in



the National Capital Territory of Delhi and matters connected therewith or incidental thereto.

Section 2: Definitions

In this Act, unless the context otherwise requires:

(7) “**effluent**” includes any liquid, gaseous or solid substance which is discharged from any premises used for carrying on any industry operation or process, or treatment and disposal system including domestic sewage;

(10) “**occupier**” in relation to any establishment, factory or premises, means the person who has control over the affairs of the establishment, factory or the premises, as the case may be, and includes, in relation to any substance, the person in possession of the substance;

Section 6: Functions of the appropriate authority

(1) Subject to the provisions of this Act, the main function of the appropriate authority shall be to recover any unpaid dues from the occupiers in order to ensure the proper setting up operation and maintenance of the CETP within Delhi;

(2) In particular and without prejudice to the generality of the foregoing function, the appropriate authority may perform all or any of the following functions, namely:—

(a) To carry out the apportionment of the cost among the occupiers of the CETP in respect of initial capital cost, recurring cost, operation and maintenance cost.



(b) To recover any due from any occupier in the manner as laid down in this Act:

(c) To take such other steps as may be necessary for the fulfillment of the objects of this Act.

Provided that the society managing the CETP shall be responsible for upgradation and technology of the installed CETP as per future requirements

Section 7: Levy and collection of apportioned costs

(1) The appropriate authority shall levy and collect from each occupier the apportioned cost in respect of the capital and recurring costs of the CETP.

(2) The apportioned cost shall be payable by each occupier to the person/ agency specified by the appropriate authority. The manner of calculation of the apportioned cost as well as collection from each occupier may be as prescribed by rules in this regard.

(3) Every occupier liable to pay the appropriated cost under sub-clause (2) shall furnish to the appropriate authority such returns, in such form, at such intervals and containing such particulars as may be prescribed.

(4) If an occupier liable to pay the apportioned cost under sub-clause(2) fails to furnish any return under Sub-clause (3), the appropriate authority shall give a notice requiring such occupier to furnish such return before such date as may be specified in the notice.

Section 8: Power to obtain information

(1) For the purpose of enabling the appropriate authority to perform the functions conferred on it by or under this Act the appropriate authority or any officer empowered by it in that behalf may permit in writing a specific officer or officers in each case to make survey of any area and gauge and keep record of the flow or volume and other characteristics of any effluent and may take steps for the installation and measurement of apparatus and works connected therewith including such other steps as may be necessary in order to obtain any information required for the



purposes aforesaid.

(2) The appropriate authority may give directions requiring any person, who, in its opinion is discharging effluent to give such information and in such form as may be specified in the directions.

(3) Without prejudice to the provisions of sub-clause (2), the appropriate authority may give directions to any person in charge of any establishment where any industry, operation or process or treatment and disposal system is carried on to furnish to it information regarding the construction, installation or operation of such establishment or of any disposal system or of any extension or addition thereto, in such establishment and such other particulars as may be prescribed.

Section 13: Appeals

(1) Any person aggrieved by an order made by the appropriate authority may within thirty days from the date on which such order is communicated to him, prefer an appeal to such authority (hereinafter referred to as the appellate authority) as the Government may think fit to constitute.

Provided that the appellate authority may entertain the appeal after the expiry of the said period of thirty days if such authority is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) An appellate authority may consist of Financial Commissioner of the Govt. of NCT of Delhi or any other officer of equivalent rank as Chairperson and one expert in the field of public health engineering and one person in the field of Finance or Taxation as members.

(3) The form and manner in which an appeal may be preferred under sub-clause (1) the fees payable for such appeal and the procedure to be followed by the appellate authority shall be such as may be prescribed.

(4) On receipt of an appeal preferred under sub-clause (1) the appellate authority shall after giving the appellant and the appropriate authority an



opportunity of being heard, dispose of the appeal within ninety days after first hearing of the appeal.”

21. The contention on behalf of the respondents is that the petitioner, who is a plot holder in the industrial area has to contribute towards the maintenance of CETPs. For the purposes of the aforesaid, reliance has been placed on Section 2(10) of the CETP Act, to argue that the ‘occupier’ in relation to any establishment or premises means a person, who has control over the affairs of the establishment or premises. At this stage, it would be apposite to refer to Rule 8(2) of the DIDOM Rules, which provides for proportionate share of users of CETP in the following manner: -

“8. Levy of fees and charges for providing services under section 6 of the Act-

(2) The users of Common Effluent Treatment Plants (CETPs) shall have to pay proportionate share of their respective contribution worked out as per the formula given in Common Effluent Treatment Plant Act 2000 and the Common Effluent Treatment Plant Rules 2001 made thereunder.”

(emphasis supplied)

22. The calculation for apportioned share of the CETP cost has been prescribed under Rule 4(1)(A) and (B) of the CETP Rules read with Section 6(2) of the CETP Act. Section 6(2) of the CETP Act provides as under: -

“Section 6: Functions of the appropriate authority



(2) In particular and without prejudice to the generality of the foregoing function, the appropriate authority may perform all or any of the following functions, namely :-

(a) To carry out the apportionment of the cost among the occupiers of the CETP in respect of initial capital cost, recurring cost, operation and maintenance cost.

(b) To recover any due from any occupier in the manner as laid down in this Act:

(c) To take such other steps as may be necessary for the fulfillment of the objects of this Act.

Provided that the society managing the CETP shall be responsible for upgradation and technology of the installed CETP as per future requirements.”

22.1. Rule 4(1)(A) and (B) of CETP Rules reads as under:

“4. Manner of apportionment of the CETP cost

The apportionment of the CETP cost under clause (a) of sub-section (2) of section 6 shall be as under :-

1. Apportionment of capital cost of CETP :

(A) The capital cost of CETP includes cost of land, electricity installation, conveyance system in an estate and cost of construction of the CETP which shall be apportioned as under :-

(i)	Cost to be paid by the Government of National Capital Territory of Delhi	25 per cent
(ii)	Cost to be paid by the Government of India	25 per cent
(iii)	Cost to be paid by the industrialists of the estate	50 per cent

”



(B) The capital cost among the occupiers shall be apportioned in accordance with the formula given in Schedule-ii

II. Apportionment of recurring cost :

A. The recurring cost of the CETP shall be completely..... by the occupiers in the estate.

B. The recurring cost among the occupiers shall be apportioned in accordance with the formula given in Schedule —II.”

22.2. Schedule-II for Rule 4(1)(B) of the CETP Rules provides as under:

SCHEDULE –II

(See rule 4)

Formula for cost apportionment to all units existing in industrial estates:

$$\begin{aligned} \text{Cp(i)} = & \frac{\text{Pop(i)}}{\text{E Pop}} \times 0.4 + \frac{\text{Ws p(i)}}{\text{Eswp}} \times 0.3 + \frac{\text{Labp (i)}}{\text{Elabp}} \times 0.2 \\ & + \frac{\text{Lap (i)}}{\text{Elap}} \times 0.1 \times \text{Cs} + \text{Cfl (i)} \end{aligned}$$

Where,

- Cp(i) = Cost to be shared by units located on plot (i)
Cs = Total cost to be raised by the industrial estate
Pop(i) = Total Horse power of pumps installed on tubewells in plot (i)
EPop = Total Horse power of pumps installed on tubewells in the Estate



- Wsp(i) = MCD water supply to plot (i) Kilolitres /month
- EWsp = Total MCD water supply to the Estate, Kiloliter /month
- Lap(i) = Area of the plot (i) Sq. mt.
- ELap = Total area of the plots in the Estate Sq. mt.
- Labp(i) = No. of labours working in plot (i)
- ELab p= Total no. of labours working in the Indl. Estate
- Cf (i) = Additional fixed cost to be paid by plot owner (i) depending on the nature of activity carried out in the plot such as :
- | | | | |
|-------|-----------------------------|---|--------------|
| (i) | Highly polluting activities | = | Rs. 10,000/- |
| (ii) | Medium polluting activities | = | Rs. 5,000/- |
| (iii) | Low polluting activities | = | Rs. 2,000/- |
- A. Highly polluting activities pickling = 10,000**
 Pickling
 Electroplating / anodizing
 Chemical manufacturing
 Pharmaceutical manufacturing
 Soap and detergent manufacturing
 Paint / varnish / dye manufacturing
 Rubber / Plastic reprocessing
 Similar industries as per DPCC classification
- B. Medium polluting activities 5000**
 Cloth Dyeing & printing
 Food processing
 Meat processing
 Foam manufacturing
 Automobile service stations
 Laundry and dry-cleaning
 Similar industries as per DPCC classification
- C. Low polluting activities**
 Wire drawing

Activities resulting in only cooling water generation
 e.g. Cold & hot rolling
 Printing press
 Similar industries as per DPCC classification

Industries, where a functional ETP exists meeting prescribed standards, will be treated at par with dry industries and in such cases, only land and labour coefficients of above equation will be operative.



23. On perusal of the aforesaid provision, it can be observed that Rule 4(1)(A) of the CETP Rules provides that the initial apportioned cost of the CETP was to be paid in the manner as provided herein-before. Further, Rule 4(1)(B) of the CETP Rules provides that the capital cost shall be apportioned among the occupiers in accordance with the formula given in Schedule-II of the CETP Rules.

24. A perusal of the Schedule-II of the CETP Rules, would further reflect that the calculation outlined in the said Schedule is based on certain factors which are to be taken into consideration before determining the apportioned costs of the units existing in industrial estates. The factors for instance, total horse power of pumps installed on tubewells in plot, MCD water supply to plot (Kilolitres/month), area of the plot, number of labours working in the plot and in addition to the said factors, an additional fixed cost has to be paid by the plot owner depending on the nature of the activity carried out in the plot such as: (1) Highly polluting activities, (2) Medium polluting activities and (3) Low polluting activities.

25. For the purposes of arriving at the apportioned cost to be paid by the plot holder on the basis of the aforesaid calculation, requisite information has to be with the appropriate authority. Therefore, Rule 3(i), Rule 6(1) and Form-I of the CETP Rules, has been prescribed for providing information to the appropriate authority under Section 8 of the CETP Act. Form-I of the CETP Rules is reproduced as under:



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**FORM –I**

[See rules 3 (i) and 6 (1)]

Information / returns to be furnished to the CETP Society / appropriate authority under section 8 of the Delhi Common Effluent Treatment Plants Act, 2000.

Return for the period from to

1. Owner / Lessee of the industrial plot:
 2. Name & Address of the occupier(s):
 3. Area of the plot:
 4. Number of occupiers / tenants on the plot:
 5. Area occupied by occupier / tenant
 6. Horse Power of pumps installed on tubewells of an occupier:
 7. Number of workers:
 8. MCD water supply on the plot per month in Kiloliters:
 9. Item of Manufacturing.
 10. Brief manufacturing / assembling process :
 11. Type of industrial effluent discharged
1. Volume in Kilolitre per day:
 2. Solid waste in Kg. Per day:

The above statements are true to the best of my knowledge and belief.

Date.....

Signature

Name of applicant / occupier
Status in the unit

Note: Every occupier has to submit Separate Performa.

26. Similarly, Form-II under Rule 3(ii) and 5(i), CETP Rules also provides for a demand letter from the concerned appropriate authority for payment of apportioned cost of CETP, which is reproduced as under:



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FORM-II
[See rules 3 (ii) and 5 (i)]

DEMAND LETTER

To

M/s Sh./ Smt.....
.....
.....

Subject: Payment of apportioned cost of the CETP.

Sir,

M/s..... is an occupier of the premises no.in..... Industrial Estate. In your industry, operation or/ process , pump load isH.P. Plot area isSq. mt. Average water supply iskilo liters / month, No. of labour isand nature of activity falls under highly polluting / medium polluting / low polluting activity.

Considering the above inputs / requirements, the cost of CETP has been apportioned by the appropriate authority in accordance with formula given in Schedule II of the Common Effluent Treatment Plants Rules, 2001. Accordingly, you are required to pay a sum of Rs.....(rupees) only for the period fromtoon account of your share / contribution towards capital cost / recurring cost of the CETP on or before The above dues may please be deposited in this CETP Society account no.....at.....branch or directly in the office of this society on any working day. The acknowledgement of this Demand letter may please be confirmed.

Yours faithfully

(.....)
General Secretary
CETP Society / Authority

27. A perusal of the aforesaid forms indicate that the plot holders would have to necessarily give the aforesaid information to the appropriate authority to enable the latter to determine the apportioned cost to be paid by the plot holders for CETP charges. It is pertinent to note that the respondent no. 1 has demanded CETP charges under Rule 8(2) of the DIDOM Rules. However, as pointed out herein-before that Rule 8(2) of the DIDOM Rules, clearly states that proportionate share of the respective contribution has to be worked out as per the formula given in CETP Act and CETP Rules. Pertinently, that the aforesaid Rule also uses the words **“The users of Common Effluent**



Treatment Plants (CETPs)”. It is the case of the petitioner that it does not ‘use’ the services of CETP and therefore it has no liability to pay the charges for the same.

28. The aforesaid contention of the petitioner finds merit in view of the nature of information/ returns to be furnished to the appropriate authority under Form-I of the CETP Rules in order to determine the apportioned cost. At serial no. 9, 10 and 11 of the aforesaid Form information regarding, ‘Item of Manufacturing’, ‘Brief manufacturing/ assembling process’ and ‘Type of industrial effluent discharged (volume in kilolitre per day and Solid waste in Kg. Per day)’ respectively, have to be provided.

29. It is not the case of the respondents that the petitioner is engaged in business of manufacturing or any assembling process. Neither, it is the case of the respondents that any type of industrial effluent is discharged from the premises or establishment of the petitioner. Reliance by the learned counsel for the respondents on Section 7(1) and 7(3) of the CETP Act is misplaced. The said provisions provides that the appropriate authority shall levy and collect from each occupier the apportioned cost in respect of the capital and recurring costs of the CETP, which as pointed out herein-before, is provided for in Rule 4(1)(A) and (B) of the CETP Rules. Section 7 of the CETP Act only provides for the power to collect from each occupier the apportioned cost of CETP, however, the same has to be read in context with the formula on the basis of which the apportioned cost is calculated. In terms of the aforesaid formula, the requisite information relates to the nature of manufacturing or



other activity carried out by the plot holder including discharge of industrial effluent.

30. Considering the nature of information that is sought for calculating the respective apportioned cost from the plot holders for CETP services, it is apparent that the same would be applicable to those who are utilising the service of the CETP plant. In these circumstances, the petitioner cannot be made liable for payment of the CETP charges levied by the respondent no. 2 on behalf of the respondent no. 1. In view of above discussion, the present petition is disposed of with the following directions: -

- a) Impugned demand notices dated 19.02.2019 and 25.12.2018 being notices nos. DSIIDC/EE(CD)-12(IA)/BAWANA/2019/D-1195 and DSIIDC/EE(CD-12 IA)/BIA/2018-19/5034-5038 respectively, with respect to the demand of CETP charges are set aside.
- b) The petitioner will pay for the maintenance charges levied with respect to all the five premises in terms of the aforesaid demand notices dated 19.02.2019 and 25.12.2018.
- c) Payment made by the petitioner towards CETP charges for the period in pursuance of the order dated 26.03.2019 may be adjusted by respondent nos. 1 and 2 in its final calculation.



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d) No interest for the period i.e. from the date of filing of the petition till the date judgment is delivered, may be charged from the petitioner with respect to the payment of maintenance charges by the respondent no. 1 and 2.

31. The present petition stands disposed of in the aforesaid terms.
32. Pending application(s), if any, also stand disposed of.
33. Judgment be uploaded on the website of this Court *forthwith*.

**AMIT SHARMA
(JUDGE)**

NOVEMBER 26, 2025/nk/sn/sg