



TAMILNADU POLLUTION CONTROL BOARD



TNPCB – DIVERSIFIED CONSENT FEES AS PER THE GROSS FIXED ASSETS, CATEGORY AND CLASSIFICATION OF THE EXISTING BUT NOT APPLIED UNITS FOR ISSUING CTO-DIRECT AND UNDER SECTION 25 OF THE WATER(P&CP) ACT, 1974 AND UNDER SECTION 21 OF THE AIR(P&CP)ACT, 1981.

B.P.No.15

Dated 07.05.2021

Read : Board Resolution No.284-2-1, dated 29.04.2021

- Ref:
1. Ambattur Industrial Estate Manufacturers' Association (AIEMA) letter dated 28.6.2019
 2. IMA representation to the Hon'ble Minister for Environment on 26.6.2019 in the meeting held at TNPCB.
 3. Senior Officers meeting held on 16.7.2019 in the Conference hall, TNPCB.
 4. Circular Memo No. TSI/16488/MISC/90, dated 28.5.1991.
 5. RC No.F/289/TRY/90, dt 07.09.1991
 6. B.P. Ms. No. 13 dated 22.11.2011
 7. Board Resolution No. 278-1-18, dated 30.07.2019
 8. Board Resolution No. 281-2-6, dated 04.08.2020
 9. Board Resolution No. 282-2-25, dated 05.12.2020

As per the TNPCB circular memo No.TSI/16488/MISC/90 dated 28.05.1991, levying of consent fees is prescribed as below:

(1). Assessment of Capita investment for the existing Industry:

Investments made on fixed assets as per the audited report inclusive of both movable and immovable assets not reckoning the depreciation.

(2) Industries to be established:

Assessment can be made based on the investments including movable and immovable assets as detailed in the project report.

(3). **Investment of lease basis:**

Twenty times of the Annual lease is to be taken as equivalent to capital investment.

The Ambattur Industrial Estate Manufacturers' Association (AIEMA) have made representations during Oct-2018 & Jan-2020 to the Board to reconsider the calculation of Gross Fixed Assets for the industries which are operating on lease land enumerated vide (item 3) above wherein it has been emphasized that the present procedure of considering 20 times of the Annual lease value as equivalent to the capital investment may be altered to 3 times of annual lease value.

The said proposal was placed before the Board in its 278th meeting held on 22.7.2019. The Board vide resolution No. 278-1-18 noted that re-examining the norms for arriving GFA for the units established on lease basis may lead to huge loss to the consent fee revenue of the Board and hence the proposal cannot be agreed in the present form. At the same time the Board needed to encourage the entrepreneurs in the Micro and Small sector to enable them to become viable and competitive. Considering the above the Board instructed to revise the proposal and bring to the Board after getting legal opinion and also examining the procedures followed in other States.

As per the above Board's resolution, procedure followed in other States & legal opinion was obtained from the Board Standing Council. It has been opined by the Board Standing Council in his letter dated 24.02.2020 that "It is up to the Board to follow any method in its sole discretion in computing the consent fee for the industry/units which are operating on lease basis, **without affecting the revenue of the Board** with consultation with the State Government."

With the above details, a revised proposal was placed before the Board in its 281st meeting held on 30.07.2020. The Board vide resolution No. 281-2-6 dated 04.08.2020 resolved that, if the GFA is calculated by considering three year annual lease value, plus gross value of plant & machineries and other fixed assets to arrive



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consent fee, there will be a loss of revenue to the tune of Rs. 25.53 crores from the existing all categories and all scales of units. If it is considered for only small scale units, the loss will be Rs. 13.9 crores. The Board also noted that, if the practice of considering the rental value for the validity period of consent, this may result in small scale industries opting for one year only and will ultimately result in further loss of consent fee revenue to the Board.

The Board has further observed that the concept of polluter pays principle should be applied in consent fee payments and for that effect, variable lease periods shall be adopted based on the category and scale of the industries for the GFA calculations as follows:

For the purpose of small –scale industries (GFA upto Rs.5 Crore) the lease period can be modified as:

Category	Existing lease period	Proposed Lease period for GFA calculation
Red – Small	20 Years	12 Years
Orange - Small	20 Years	6 years
Green - Small	20 Years	3 years

For large & medium industries the lease period can be modified as:

Category	Existing lease period	Proposed Lease period for GFA calculation
Red Large & Medium	20 Years	15 Years
Orange Large & Medium	20 Years	10 years
Green Large & Medium	20 Years	5 years

The Board has also noted that the rationale for adopting the revised lease period for large & medium industries (i). The framework follows polluter pays concept in estimating the consent fee (ii) Revenues of TNPCB will not be drastically impacted. (iii). Smaller industries benefit with lower consent fees. Considering the above, the Board instructed to re-work the proposal along with the details of loss of revenue and bring the subject to the next Board meeting to take a decision.

In this regard, the Estimation of revenue loss in consent fee collection considering lease value as 15 years for Red Large and Medium units, 12 years for Red Small units, 10 years for orange Large and Medium, 6 years for Orange Small scale units and 3 years for Green Small scale units were worked out and the subject was placed before the Board's 282nd meeting held on 30.11.2020. The Board vide resolution no 282-2-25 Dated 05.12.2020 decided to have detailed deliberation on the proposal in the next Board meeting.

In this regard, the detailed working was carried out and the following are furnished:

- a) The estimated revenue in consent fee per year is Rs.206.16 Crores (Considering last three years revenue).
- b) Maximum annual expenditure during the last three years is Rs.193.31 Crores.
- c) The estimated loss of revenue in consent fee per year while considering small scale units of Red, Orange and Green categories is Rs.9.16 Crores.
- d) The expenditure on pay and establishment is further to increase for the new recruiters (viz) Assistant Engineer -89, Scientist -72, Junior Assistant- 52, and Typist-56.
- e) Emerging of fraudulent practices by way of declaring assets as lease values in the name of other directors and partners etc.,



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In view of the above, the following points may be considered.

- a) The rationality behind the AIEEMA letter dated 01.12.2020 is to regularize small scale units operating for several years without the consents of the Board under Water and Air Acts.
- b) In the 273rd Consent Clearance Committee and HoD meeting held on 08.01.2021, it was discussed and finally decided that to regularize the not applied existing industries by collecting consent fees as below:
 - Small category Industries, 6 times (5 arrear +1 Current) the consent fee as applicable on the date of filing of application.
 - Medium category Industries, 5 times (4 arrear +1 Current) the consent fee as applicable on the date of filing of application.
 - Large category Industries, 4 times (3 arrear +1 Current) the consent fee as applicable on the date of filing of application.

Recommendations

In view of the above, without comprising much the Revenue of the Board the following are recommended,

- (1). The components for the calculation of the consents fees under Water Act & Air Acts shall continue to be Gross Fixed Assets value as in practice without any change.
- (2). All the not applied industries shall apply for consents under Water Act & Air Act and remit the consent fees as below:
 - Small category Industries, 6 times (5 arrear +1 Current) the consent fee as applicable on the date of filing of application.
 - Medium category Industries, 5 times(4 arrear +1 Current) the consent fee as applicable on the date of filing of application.
 - Large category Industries, 4 times (3 arrear +1 Current) the consent fee as applicable on the date of filing of application.

Hence, the subject was placed before the Board at its 284th Board meeting held on 29.04.2021 and the Board has gone through the proposal and after detailed deliberations, resolved vide item no.284-2-1 that

1). The components for the calculation of the consent fees under the Water (P&CP) Act, 1974 and the Air (P&CP) Act, 1981 shall continue to be the Gross Fixed Assets value as in practice without any change.

2). All the units that have not applied so far but are operating without Consent to Operate (CTO) shall apply for consents under the Water (P&CP) Act, 1974 and the Air (P&CP) Act, 1981 and remit the consent fee as follows:

Lower of, 6 times the consent fee (5 arrear + 1 current) as per the GFA on the date of application (**OR**) the consent fee applicable from the date of commissioning (as ascertained by EB Connection or VAT registration or GST registration date or Building Plan approval date). If no evidence for the date of commissioning is produced then a flat rate of 6 times fee (5 arrear + 1 current) shall be payable.


7/5/21

Dr.S.Selvan,
Member Secretary


7/5/21

To
JCEE-III

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