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According to the Supreme Court, a polluting company's turnover may be a relevant factor in determining compensation for environmental damage.



The Supreme Court ruled that the turnover of polluting companies may be a significant factor in determining compensation for environmental damages.

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The Supreme Court said on Friday, January 30, that a company's operational scale (such as turnover, production volume, or income generation) might have a significant impact on how much compensation is awarded for environmental damages.

"A company's sheer size of operations is reflected in its enormous turnover. If it is discovered that such a business significantly contributes to environmental harm, there may be a direct correlation between its turnover and the severity of the harm. A bench of Justices Dipankar Datta and Vijay Bishnoi upheld the National Green Tribunal's (NGT) decision to impose severe penalties on real estate developers for the environmental harm caused by their illegal and unauthorized construction, saying, "Therefore, in our considered opinion, to contend that turnover can never form a relevant factor in quantifying compensation to match the magnitude of harm is fallacious."

The appeals stemmed from separate NGT rulings that imposed compensation of about ₹4.47 crore on Key Stone Properties and ₹5 crore on Rhythm County for environmental law violations during the construction of major residential complexes in Pune. When determining the compensation, the NGT considered the developer's size of business.

The developers argued before the Supreme Court that the NGT could not arbitrarily depend on project cost or turnover and lacked a statutory mechanism to determine environmental compensation. They said that residential real estate developments were not covered by the Central Pollution Control Board's compensation formula, which was primarily created for industrial polluters. Additionally, it was claimed that the NGT had abdicated its judicial role by adopting Joint Committee reports in a mechanical manner.

The ruling written by Justice Datta said that it agreed with the NGT's choice to base compensation on the developer's project cost:

When it comes to environmental protection, a company's operational scale (such as turnover, production volume, or income generation) can be a significant determinant of compensation. A larger footprint is indicated by larger enterprises. Greater scale frequently results in increased waste, pollution, and resource use, all of which exacerbate environmental stress. It seems sense that a business would be more accountable for environmental expenses if it made more money due to its size. Making the connection between impact and scale conveys the idea that larger players must follow more environmentally friendly guidelines.

The court stated that "the NGT consciously adopted the project cost as the relevant yardstick for quantification of environmental compensation" and that "the adoption of the CPCB framework by the NGT, in the facts of the present case does not stand ousted merely because project cost could also have been taken into account."

The Court cited its previous ruling in *Goel Ganga Developers India Pvt. Ltd. v. Union of India* (2018), which authorized compensation for egregious infractions in the range of 5–10% of project cost. The court determined that the fines levied on Rhythm County and Key Stone Properties were neither disproportionate nor exorbitant, and they were well within this standard.

"With regard to RHYTHM, the NGT documented unambiguous findings of construction without the necessary statutory permissions, continuation of work despite a stop-work directive, and deviations from the sanctioned plan. Finding the Joint Committee's recommended compensation to be woefully inadequate, the NGT deliberately adopted the project cost as the relevant yardstick in line with Goel Ganga Developers (above) to enhance the environmental compensation to Rs. 5,00,00,000/-, ensuring a logical relationship between the project's size and the goals of environmental restitution and deterrence. The court noted, "The NGT cannot be held to have lost its statutory authority to use project turnover as a pertinent yardstick for the determination of environmental compensation."

The Court also came to the following conclusions:1. This Court has repeatedly emphasized that rationality, proportionality, and reasoned evaluation must be the cornerstones of environmental compensation. Project turnover or cost is nevertheless a meaningful and acceptable consideration when the factual matrix so justifies, even though it cannot be used mechanically as a blunt instrument. The determination of compensation must be sustained as falling within the permissible zone of judicially recognized discretion because it does not attract the infirmities observed in *Benzo Chem Industrial (P) Ltd.* (supra) and *C.L. Gupta Export Ltd.* (supra) when conducted within this calibrated framework and guided by the parameters outlined in *Deepak Nitrite Ltd.* (supra), *Goel Ganga Developers* (supra), and *Vellore District Environment Monitoring Committee* (supra).

2. With regard to KEYSTONE, the NGT distinguished clearly between violations that were already covered by the one-time violation window and distinct statutory infractions pertaining to prolonged construction without CTE, continuation of activities despite closure 36 directions, and occupation without CTO. The Joint Committee's computation based on the CPCB methodology was accepted as an appropriate measure of environmental compensation after independent consideration of the nature, duration, and gravity of such violations.

3. A joint reading of Clauses 1.5.1, 1.5.2, and 1.5.4 in the CPCB framework makes it very

evident that the formula-based methodology is limited to specific categories of violations resulting from directives issued under the Environment (Protection) Act, 1986. In other classes of cases, the determination of environmental compensation must be preceded by a thorough, site-specific, expert-driven assessment with an emphasis on remediation and restitution. However, the recommendations clearly acknowledge that independent statutory action under the Air Act, Water Act, or Environment Act cannot be replaced by such compensation. Therefore, rather of functioning as a strict or comprehensive regulation, the CPCB framework serves as a suggestive and facilitative instrument.

4. With regard to both appellants, the NGT exercised its authority under Sections 15 and 20 of the NGT Act in a way that is reasonable, proportionate, and in line with the polluter pays principle. It also proceeded based on contemporaneous material and expert input, provided due opportunity for hearing, and applied its independent mind to the issues of liability and quantum."

As a result, the penalty was appropriate and the appeal was denied.

Related: The Supreme Court rejects NGT's strategy because there is no connection between the company's revenue and the penalty amount for environmental damages.

Title of Cause: M/S. RHYTHM COUNTY VERSUS SATISH SANJAY HEGDE & ORS. (with related matter)