F. No. 5-3/2007-FC
Government of India
Ministry of Environment and Forests
(FC Division)

Paryavaran Bhawan,
CGO Complex, Lodhi Road,
New Delhi – 110 510.
Dated : 05.02.2009.

To

The Principal Secretary / Secretary (Forests),
All State / UT Governments.


Sir,

The Ministry of Environment and Forests, Government of India has been receiving representations from different States seeking detailed clarification and guidelines on the above mentioned subject in the light of the Supreme Court Judgment dated 28.03.2008 revising the general rates of NPV and various other orders defining differential rates for various categories of projects.

After careful examination of the issue, I am directed to inform that the Hon’ble Supreme Court of India vide its judgement dated 28.03.2008, has re-fixed the rates of Net Present Value (NPV) on the basis of scientific data taking in view the ecological role and value of the forests. The 16 major forest types have been re-grouped into 6 ecological classes depending upon their ecological functions.

Eco-Class I Consisting of Tropical Wet Evergreen Forests, Tropical Semi Evergreen Forests and Tropical Moist Deciduous Forests

Eco-Class II Consisting of Littoral and Swamp Forests

Eco-Class III Consisting of Tropical Dry Deciduous Forests

Eco-Class IV Consisting of Tropical Thorn Forests and Tropical Dry Evergreen Forests

Eco-Class V Consisting of Sub-tropical Broad Leaved Hill Forests, Sub-Tropical Pine Forests and Sub Tropical Dry Evergreen Forests

Eco-Class VI Consisting of Montane Wet Temperate Forests, Himalayan Moist Temperate Forests, Himalayan Dry Temperate Forests, Sub Alpine Forest, Moist Alpine Scrub and Dry Alpine Scrub

Based on the ecological importance of forest falling in different eco-value and canopy density classes, relative weight age factors have also been taken into consideration. By using these relative weight age factors, the equalized forest area in eco-value Class-I and very dense forest corresponding to forest falling in different eco-value and density classes have been compiled. The net present value per hectare of forest has been fixed based on this data. For calculating the average net percent value per hectare of forest in India, the following monetary value of goods and services provided by the forest have been considered:-
<table>
<thead>
<tr>
<th></th>
<th>Over-head tanks</th>
<th>Full exemption provided:</th>
</tr>
</thead>
<tbody>
<tr>
<td>(v)</td>
<td>Village tanks</td>
<td>(a) area is outside National Park/Sanctuary;</td>
</tr>
<tr>
<td>(vi)</td>
<td>Laying of underground drinking water pipeline up to 4” diameter and</td>
<td>(b) no mining lease is approved/signed in respect of this area;</td>
</tr>
<tr>
<td>(vii)</td>
<td></td>
<td>(c) the works including the sale of boulders/silt are carried out departmentally or through Government undertaking or through the Economic Development Committee or Joint Forest Management Committee;</td>
</tr>
<tr>
<td>(viii)</td>
<td>Electricity distribution line upto 22 KV in rural areas.</td>
<td>(d) the activity is necessary for conservation and protection of forests; and</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(e) the sale proceeds are used for protection/conservation of forests</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Full exemption provided:</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(a) no felling of trees is involved; and</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(b) area falls outside National Park/Sanctuary</td>
</tr>
<tr>
<td>2.</td>
<td>Relocation of Villages from the National Parks / Sanctuaries to alternate forest land</td>
<td>Full exemption</td>
</tr>
<tr>
<td>3.</td>
<td>Collection of boulders / silts from the river belts in the forest area</td>
<td>Full exemption provided:</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(a) area is outside National Park/Sanctuary;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(b) no mining lease is approved/signed in respect of this area;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(c) the works including the sale of boulders/silt are carried out departmentally or through Government undertaking or through the Economic Development Committee or Joint Forest Management Committee;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(d) the activity is necessary for conservation and protection of forests; and</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(e) the sale proceeds are used for protection/conservation of forests</td>
</tr>
<tr>
<td>4.</td>
<td>Laying of underground optical fibre cable</td>
<td>Full exemption provided:</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(a) no felling of trees is involved; and</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(b) area falls outside National Park/Sanctuary</td>
</tr>
<tr>
<td>5.</td>
<td>Pre-1980 regularisation of encroachments and conversion of forest villages into revenue villages</td>
<td>Full Exemption provided these are strictly in accordance with MOEF’s Guidelines dated 18.09.1990.</td>
</tr>
</tbody>
</table>
CENTRAL EMPOWERED COMMITTEE
(CONSTITUTED BY THE HON'BLE SUPREME COURT OF INDIA
IN WRIT PETITION (CIVIL) No. 202/95 & 171/96)

File No. 1-26/CEC/SC/2008-Pl.XXIX Dated 22nd December, 2006

To

The DGF & SS
Ministry of Environment & Forests
Paryavaran Bhawan
CGO Complex, Lodhi Road
New Delhi 110003

Sub: Clarification on NPV for the minimum rate in case of Wind Energy as per the Hon'ble Supreme Court's order dated 24.4.2008.

Sir,

Please refer to FC Division letter No. 7-17/2008-FC(Pl.) dated 16.12.2008 on the above subject. Pursuant to the order of the Hon'ble Supreme Court, for the Wind Energy Projects NPV is payable at the rate of the 50% of the minimum rate of the NPV, irrespective of the eco-class in which the project lies.

Yours faithfully,

(M.K. Jiwrajka)
Member Secretary

22/12/08
23/12/08
From: Assistant Registrar (P.I.L. CELL)

Central Empowered Committee,
Through Member Secretary,
Ministry of Environment & Forests,
2nd Floor, Chanakya Bhawan,
Chanakya Puri,
New Delhi 110021

Ministry of Environment & Forests,
Through The Secretary,
Piyushvan Bhawan, C.G.O. Complex,
Lodi Road, New Delhi.

Dated: 28th April 2008

[Signature]

Please read it with the order dated 28.3.08.

May Kindly see at once.

[Signature]

Yours faithfully,

[Signature]
SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

PETITIONER(S):
T.N. GODAVARMAN THIRUMULAPAD

RESPONDENT(S):
UNION OF INDIA & ORS

DATE: 24/04/2008

CERTIFIED TO BE TRUE COPY

ASSISTANT REGISTRAR (R.I.)
A.Hos.1707
Mr. Mukul Rohlapri, Sr. Adv.
Ms. Taeem Ahmed, Adv.
Mr. Ajay Shalma, Adv.
Ms. Surbana Srivastava, Adv.
Mr. Rajesh Srivastava, Adv.

A.826:
Mr. Manoj Singh, Adv.
Mr. T.V. George, Adv.

S/C Detences
Mr. Vikas Singh, ASC
Mr. Wasiim A. Qadri, Adv
Mr. B.K. Prasad, Adv.

A.1233
Mr. V.N. Gaikwad, Sr. Adv.
Mr. Santakray Warg, Adv.
Mr. Chirag M. Shrioti, Adv.

A.1244-49
Mr. V.A. Mohla, Mr. Adv.
Mr. Jugalkishore Gilda, Adv.
Mr. Manish Pratap, Adv., Mr. Hriday Pratap, Adv.
For Mr. C.S. Ashri, Adv.

State of UP:
Mr. Vikas Upadhyay, Adv.
Mr. B.S. Bithilia, Adv.
Mrs. Asha G. Hair, Adv.
Ms. Sangeeta Kumar, Adv.

Mr. Sanjeev Kumar, Adv.
Ms. Sarita Chandra, Adv.

A.1229
Mr. Arvind Sawant, Sr. Adv.
Mr. Jugalkishore Gilda, Adv.
Mr. A.P. Nayee, Adv.
Mr. Mukesh K. Gill, Adv.
Mr. Raj Kumar Menta, Adv.
Mr. Gopal Singh, Adv.

A.1135-36
Mr. Rajiv Datta, Sr. Adv.
For Mr. Himinder Bali, Adv.
Ms. Anil Katiyar, Adv., (H.P.)
Mr. V.B. Joshi, Adv.
Mr. J.K. Das, Adv.

A.1137
Mr. G. Parkash, Adv.
A. NO. 1137

Taken on Board.

List on 9.5.2008.

A. NO. 1019

State of Uttarakhand has filed application for exemption for certain projects such as drinking water supply, hospitals, dispensaries, schools, transmission lines, small hydro-electric projects etc. Most of these projects are exempted as per our order dated 28.3.2008. If there are any specific prayer for exemption from requirement of paying NPV, then the state to seek exemption regarding that project and file a separate application. A. A. is disposed of accordingly.

A. MON. 1135 & 1136, 1224 & 1225, 1233, 1385-1386 and 1438 with 1638, 1671, 20298

These applications have been filed by Indian Wind Turbine Manufacturers' Association and other applicants who are engaged in the production of wind energy by developing of wind farms on forest land. Mr. Kanth Committee Report recommended that these sort of wind projects be given exemption from payment of Net Present Value (NPV) to the extent of 90% and they may be allowed to start these projects on payment of 10%. CWC has examined the matter and suggested that these wind energy projects be given exemption to the extent of 50% of the Net Present Value at the minimum rate, provided no tree-felling is involved. Learned counsel appearing for the applicants contended that these wind energy projects should have been completely exempted as they are producing electricity by non-conventional energy sources and they are not causing damage to the forest. It is also argued that for similar projects CWC has recommended exemption and this Court ha:
Learned Solicitor General and also learned amicus curiae supported recommendation of CWC that there should be payment of 50% of the NEV at the minimum rate provided no tree felling is involved. All these wind farming projects producing electricity are profit motive projects. In order to have these projects, they have to erect various components namely turbine, corridors, transmission lines and stations and erection platforms in the forest land. All these activities have to be carried out in the forest, so naturally forest land is being used for non-forest purposes. It is also be submitted that the use of wind farming for generation of electricity, the said forest cannot be restored to its original form and therefore will be forest activities in these areas. Of course, for producing of electricity, the wind energy projects should be encouraged as they are using non-renewable energy sources like fossil fuels for production of energy.

Nevertheless, these forest areas are being used; they shall be given exemption for 50% NEV. We accept the recommendations of CWC that these projects should pay 50% of the NEV at the minimum rate charged, provided minimal tree felling is involved.

1. As are disposed of accordingly.
2. A.R. NO. 1222-1223.

The question raised in these applications are covered by order of this Court dated 28.3.2008. 1.A.s are disposed of as having become infructuous.


List the applications on 9.5.2008.

1. A.R. NO. 1394

Learned counsel for the Northern Railway is not present.

Adjourned.
I.A.NO.1317

State of Uttarakhand has filed application for exemption for use of forest land for construction of rural roads in the State of Uttarakhand particularly 'khatra' roads in hilly area. Most of these projects are exempted as per our order dated 28.1.2008. If there is any specific prayer for exemption from payment of NPV, then the State to seek exemption regarding that project and file a separate application. I.A. is disposed of accordingly.

I.A.No.1318 & 1316

State of Bihar has filed applications for exemption for certain projects regarding the construction of schools, dispensaries, hospitals, electric and telecommunication lines, drinking water, minor irrigation canals etc. Most of these projects are exempted as per our order dated 28.1.2008. If there is any specific prayer for exemption from payment of NPV, then the State seek exemption regarding that project and file a separate application. I.A. are disposed of accordingly.

I.A.No.1347, 1434 & 1435

These are applications filed by Ministry of Defence through Director Military Training. The Ministry states to make use of some hilly area for the purpose of field firing ranges for training their members and submitted that, no killing of trees are involved and there is no likelihood of destruction of forest. An exemption may be granted from payment of NPV. Exemption is granted. I.A.s are allowed.

[Signature]
(R.K. Bhawat)
Court Master
25/4/08
On 28th March, 2008, we had passed an order regarding payment of Net Present Value (NPV) accepting the recommendations made by CEC which were more or less acceptable to MoEF. In that order we had also indicated that exemptions from payment of NPV have to be granted in respect of certain categories. However, it is brought to our notice that certain typographical mistakes had crept in that order as to categories to which such exemptions are to be granted. Therefore, we direct that as regards exemptions from
payment of NPV, the last part of that order reading "We are of the view... (x) construction of the transmission lines" on pages 10 to 11 shall stand substituted with the following:

<table>
<thead>
<tr>
<th>Category</th>
<th>CEC</th>
</tr>
</thead>
<tbody>
<tr>
<td>i) Schools</td>
<td>Full exemption up to 1 ha. of forest land provided: (a) no felling of trees is involved;</td>
</tr>
<tr>
<td>ii) Hospitals</td>
<td>(b) alternate forest land is not available;</td>
</tr>
<tr>
<td>iii) Children’s play ground of non commercial nature</td>
<td>(c) the project is of non-commercial nature and is part of the Plan/Non-Plan Scheme of Government; and</td>
</tr>
<tr>
<td>iv) Community centres in rural areas</td>
<td>(d) the area is outside National Park/Sanctuary</td>
</tr>
<tr>
<td>v) Over-head tanks</td>
<td></td>
</tr>
<tr>
<td>vi) Village tanks,</td>
<td></td>
</tr>
<tr>
<td>vii) Laying of underground drinking water pipeline upto 4 diameter and</td>
<td></td>
</tr>
<tr>
<td>vili) Electricity distribution line upto 22 KV in rural areas.</td>
<td></td>
</tr>
</tbody>
</table>

Relocation of villages from National Parks/Sanctuary to alternate forest land

Full Exemption

Collection of boulders/silts from the river belts in the forest area

Full exemption provided:
(a) area is outside National Park/Sanctuary;
(b) no mining lease is approved/signed in respect of this area;
<table>
<thead>
<tr>
<th>Activity</th>
<th>Full exemption provided</th>
</tr>
</thead>
<tbody>
<tr>
<td>Laying of underground optical fibre cable</td>
<td>(a) no felling of trees is involved; and</td>
</tr>
<tr>
<td></td>
<td>(b) areas fall outside National Park/Sanctuary</td>
</tr>
<tr>
<td>Pre-1980 regularisation of encroachments and conversion of forest villages into revenue villages</td>
<td>Full exemption provided these are strictly in accordance with MoEF’s Guidelines dated 18.9.1990.</td>
</tr>
<tr>
<td>Underground mining</td>
<td>50% of the NPV of the entire area</td>
</tr>
</tbody>
</table>
The above recommendations for exemptions are accepted. If, in any case, exemption is required by nature of the peculiar circumstances of the case, the same would be decided as and when necessary on a case to case basis.

.................................. CJI
(K.G. BALAKRISHNAN)

..................................
(DR. ARJIT PASAYAT)

..................................
(S.H. KAPADIA)

New Delhi;
May 9, 2008.
IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION


T.N. Godavarman Thirumulpad

Versus

Union of India & Ors.

...Petitioners

...Respondents

ORDER

It is an undisputed fact that the forest in this country is an important and vital component to sustain the life support system on this planet. For various reasons, our forest is being slowly depleted.
A committee comprising of three experts including Mrs. Kanchan Chopra was appointed and this Court gave the following directions:

(i) to identify and define parameters (scientific, biometric and social) on the basis of which each of the categories of values of forest land should be estimated.

(ii) To formulate a practical methodology applicable to different biogeographical zones of India for estimation of the values in monetary terms in respect of each of the above categories of forest values.

(iii) To illustratively apply this methodology to obtain actual numerical values for different forest types for each biogeographical zone in the country.

(iv) To determine on the basis of established principles of public finance, who should pay the costs of restoration and/or compensation with respect to each category of values of forests.

(v) Which projects deserve to be exempted from payment of NPV
further grouped into 6 ecological classes depending upon their ecological functions.

Eco-Class I - Consisting of Tropical Wet Evergreen Forests, Tropical Semi Evergreen Forests and Tropical Moist Deciduous Forests

Eco-Class II - Consisting of Littoral and Swamp Forests

Eco-Class III - Consisting of Tropical Dry Deciduous Forests

Eco-Class IV - Consisting of Tropical Thorn Forests and Tropical Dry Evergreen Forests

Eco-Class V - Consisting of Sub-tropical Broad Leaved, Hill Forests, Sub-Tropical Pine Forests and Sub Tropical Dry Evergreen Forests

Eco-Class VI - Consisting of Montane Wet Temperate Forests, Himalayan Moist Temperate Forests, Himalayan Dry Temperate Forests, Sub Alpine Forest, Moist Alpine Scrub and Dry Alpine Scrub
(iv) Value of Eco-tourism
(v) Value of bio-prospecting
(vi) Value of Ecological services of forest
(vii) Value of Flagship Species
(viii) Carbon Sequestration Value

Based on this, the NPV was fixed and the following recommendations have been made:-

(i) for non-forestry use/diversion of forest land, the NPV may be directed to be deposited in the Compensatory Afforestation Fund as per the rates given below:-

<table>
<thead>
<tr>
<th>Eco-Value class</th>
<th>Very Forest</th>
<th>Dense Forest</th>
<th>Dense Forest</th>
<th>Open Forest</th>
</tr>
</thead>
<tbody>
<tr>
<td>Class I</td>
<td>10,43,000</td>
<td>9,39,000</td>
<td></td>
<td>7,30,000</td>
</tr>
<tr>
<td>Class II</td>
<td>10,43,000</td>
<td>9,39,000</td>
<td></td>
<td>7,30,000</td>
</tr>
<tr>
<td>Class III</td>
<td>8,87,000</td>
<td>8,03,000</td>
<td></td>
<td>6,26,000</td>
</tr>
<tr>
<td>Class IV</td>
<td>6,26,000</td>
<td>5,63,000</td>
<td></td>
<td>4,38,000</td>
</tr>
<tr>
<td>Class V</td>
<td>9,39,000</td>
<td>8,45,000</td>
<td></td>
<td>6,57,000</td>
</tr>
<tr>
<td>Class VI</td>
<td>9,91,000</td>
<td>8,97,000</td>
<td></td>
<td>6,99,000</td>
</tr>
</tbody>
</table>

(in Rs.)

(ii) the use of forest land falling in National Parks / Wildlife Sanctuaries will be permissible only in totally unavoidable circumstances for public interest projects and after obtaining
may be asked to provide an amount of Rs.1.0 crore to the
Forest Survey of India out of the interest received by it.

Ministry of Environment and Forests also has filed its response
and has accepted the recommendations made by CEC. Various user
agencies have filed its objections. We heard the learned senior
Counsel Mr. Nariman and other learned senior Counsel who
appeared before us. The main contention raised is that the NPV
value was fixed on the basis of the net flow accruing over 20 years at
a 5% social discount rate. This, according to the applicants, is too
low. It has been contended that the Economic and Research
Department of the Asian Development Bank is of the view that a
survey of the social discount rate policies of individual countries show
significant variations and the developing countries apply higher social
discount rate. The paper published by Asian Development Bank
shows that India should have a social discount rate of 12%. It may
be noted that the Expert Committee under the leadership of
Mrs. Kanchan Chopra recommended 5% social discount rate but the
CEC has reduced further and accepted 4% social discount rate. It
may be noted that the CEC had made consultation with eminent
projects such as community centres in rural areas which require forest land upto 2 ha;

(ii) rural infrastructure and basic services such as the construction of the overhead tanks, village roads, etc.

(iii) the minor irrigation projects upto 10 ha. of storage area, municipal water supply projects, drinking water supply pipelines;

(iv) activities necessary for the ecological management, relocation of the villages from the sanctuaries and the national parks, regularization of pre-1980 eligible encroachers;

(v) housing for the rehabilitation of tribals; laying of the underground optical fibre cables;

(vi) laying of the pipelines for the underground gas transportation;

(vii) the district and rural roads;

(viii) shifting cultivation;

(ix) roads constructed by Defence in border areas;

(x) construction of the transmission lines.
The above recommendations for exemptions are accepted. If, in any case, exemption is required by nature of the peculiar circumstances of the case, the same would be decided as and when necessary on a case to case basis.

..............................CJI
(K.G. BALAKRISHNAN)

..............................J.
(DR. ARIJIT PASAYAT)

..............................J.
(S.H. KAPADIA)

New Delhi;