

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH
NEW DELHI**

**ORIGINAL APPLICATION NO. 612/2023
(IA NO.758/2023)**

IN THE MATTER OF:

**SOCIETY FOR PROTECTION OF CULTURE,
HERITAGE, ENVIRONMENT, TRADITIONS AND
PROMOTION OF NATIONAL AWARENESS**

Through its President
A-414-415, Somdutt Chambers,
5 Bhikaji Cama Place,
New Delhi-110066
Also known as (SP-CHETNA)

...Applicant(s)

Versus

- 1. UNION OF INDIA**
Through its Secretary,
Ministry of Environment, Forest & Climate Change,
Indira Bhawan, Jor Bagh,
New Delhi-110003

- 2. CENTRAL POLLUTION CONTROL BOARD**
Through its Chairman,
Parivesh Bhawan,
CBD-cum-Office Complex,
East Arjun Nagar,
Delhi-110032

- 3. MINISTRY OF CIVIL AVIATION,**
Through its Secretary,
Rajiv Gandhi Bhawan,
Safdarjung Airport,
New Delhi-110003

- 4. AIRPORT AUTHORITY OF INDIA**
Through its Chairman,
Rajiv Gandhi Bhawan,
Safdarjung Airport,
New Delhi-110003

5. DIRECTOR GENERAL OF CIVIL AVIATION

Through Director General,
Opposite Safdarjung Airport,
New Delhi-110003

6. DELHI POLLUTION CONTROL COMMITTEE

Through its Chairman,
4th Floor, ISBT Building,
Kashmere Gate,
Delhi-110006

7. DELHI DEVELOPMENT AUTHORITY,

Through its Vice Chairman,
Vikas Sadan, INA,
New Delhi-110003

8. LT. GOVERNOR OF DELHI,

Raj Niwas, Rajpur Road,
Delhi-110054

9. DELHI INTERNATIONAL AIRPORT LTD.,

New Udaan Bhawan, IGI Airport,
Opposite T3,
New Delhi-110037

...Respondent(s)

COUNSELS FOR APPLICANT(S):

Mr. Sanjeev Anand, Senior Advocate with Ms. Madhumita Singh, Advocate

COUNSELS FOR RESPONDENT(S):

Mr. Atma Ram Nadkarni, Senior Advocate with Mr. Milanka Chaudhury, Ms. Ashley Cherian, Mr. S.S. Rebello, Ms. Deepti Arya, Ms. Arzu Paul, Ms. Manisha Gupta, Mr. Siddhant Gupta and Mr. Rishikesh Haridas, Advocates for Delhi International Airport Ltd. (R-9)

Mr. Vivek Kumar Tandon and Ms. Prerna Tandon, Advocates for R-1 (Through VC)

Ms. Anjana Gosain and Ms. Nippun Sharma, Advocates for AAI and DGCA (R - 4 and 5)

Mr. Narender Pal Singh, Advocate for DPCC (R - 6)

Ms. Vidhi Gupta and Ms. Latika Malhotra, Advocates for DDA (Through VC)

CORAM:

**HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE DR. A. SENTHIL VEL, EXPERT MEMBER**

**RESERVED ON: JANUARY 31, 2024
PRONOUNCED ON: MARCH 21, 2024**

JUDGMENT

BY HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER

1. This Original Application (hereinafter referred to as '**OA**') has been filed by Society for Protection of Culture, Heritage, Environment, Traditions and Promotion of National Awareness through its President (hereinafter referred to as '**applicant**') under Sections 14 and 15 read with Section 18(1) of National Green Tribunal Act, 2010 (hereinafter referred to as '**NGT Act 2010**'), raising the grievance of noise pollution at Indira Gandhi International Airport (hereinafter referred to as '**IGI Airport**') and all other airports, similarly located, within the city limit caused due to landing and taking off aircrafts on all the runways during night time i.e., from 10:00 pm to 06:00 am, except for international airports. Applicant has also sought enforcement of noise limits at IGI Airport and other airports by implementing Notification No. GSR.568(E) dated 18.06.2018 issued by Ministry of Environment, Forest and Climate Change (hereinafter referred to as '**MoEF&CC**') and to publish high noise impacted areas around airports and stop further development around airport.

2. Applicant is a society registered under Societies Registration Act, 1860 and is accredited and enrolled with Ministry of Home Affairs. It is an association of individuals joining together with the objective of serving the

mankind and maintaining, preserving cultural heritage of motherland i.e., Bharat.

3. Applicant filed a Public Interest Litigation i.e., **WP(C) No.9337/2009, Society for Protection of Culture Heritage Environment Traditions and Promotions of National Awareness and others v Union of India** in Delhi High Court, challenging Environmental Clearance (hereinafter referred to as '**EC**') dated 17.01.2007 by MoEF&CC i.e., respondent 1 for construction of 3rd runway no. 11/29 at IGI Airport, New Delhi and also prayed for other reliefs including prohibitory orders against respondents to stop flying aircrafts over the areas of Vasant Kunj, Masoodpur and Rangpuri as take-off and landing of aircrafts at 3rd runway was causing serious noise pollution and disturbing life and sleep of public residing in that area causing serious health problems.

4. Writ Petition was transferred by Delhi High Court vide order dated 16.04.2013 to this Tribunal in terms of Supreme Court's judgment dated 09.08.2012 passed in **Bhopal Gas Peedith Mahila Udyog Sangathan & Others vs. Union of India & Others 2012 (8) SCC 326** and registered hereat as **Appeal No. 60/2013 (THC), Society for Protection of Culture Heritage Environment, Traditions and Promotion of National Awareness vs. UoI & Others.**

5. There were two more **Writ Petitions Nos. 13675/2009, Bijwasan Gram Vikas Samiti & Others vs. Union of India & Others** and **12719/2009, Indian Spinal Injuries Hospital Sector-C, Vasant Kunj vs. Union of India & Others**, which also involved similar issue of noise pollution due to landing and taking-off aircrafts at 3rd runway no. 11/29 which were filed before Delhi High Court. The said writ petitions were also

transferred vide order dated 16.04.2013 and registered hereat as **OA 115/2013 (THC)**, and **OA 117/2013 (THC)** respectively.

6. Fourth matter i.e., **OA 90/2014, Neelam Sanjeev vs. Directorate General Civil Aviation and Others** was filed before Tribunal itself under Sections 14 and 15 of NGT Act 2010 wherein also, similar issue was raised.

7. All these matters were considered and decided by Tribunal vide judgment dated 24.11.2017. In para 8 of the judgment, Tribunal noticed that the controversy has narrowed down to the following issues:

- “(a) Taking **mitigation measures for controlling noise pollution** at the IGI Airport, New Delhi;*
- (b) Expert Body be appointed to suggest **erection of appropriate barriers for control of noise pollution and for taking other remedial measures**;*
- (c) The **aircrafts should be restricted from applying reverse thrust upon landing** as it results the maximum noise level;*
- (d) There should be **night curfew** on flight operations atleast **between 10:00 pm to 05:00 am** and/or the same should be regulated.”*

8. Tribunal observed that the matter has to be examined in the light of principle of ‘sustainable development’ and ‘precautionary principle’. In para 13, Tribunal observed that nearly 80 to 82 flights take-off or land every hour at Delhi domestic/international airport and this shows the extent of air traffic that IGI airport is handling. To put a prohibition or a night curfew would not be rational and would not be in line with the doctrine of ‘sustainable development’. Tribunal also observed that it was not established before it that stakeholders particularly the official respondents were not taking adequate steps to mitigate the noise levels at

the airport and its surrounding areas. Thereafter, Tribunal disposed of the matters with the following directions:

1. We **decline the prayer of the Appellant/Applicants in all these cases for imposition or night curfew on landing or taking off of aircrafts at the airport** and more particularly on run way no. 11/29.
2. We also **decline the prayers of the Appellant/Applicants for issuances of directions to the Central Government and other official respondents for providing sound proofing of the houses in the colonies, falling on the flight pathway of aircrafts while landing and taking off.**
3. We **direct all the official respondents to take all mitigating measures for reducing noise pollution in terms of the report submitted by MoEF** and as even proposed by these very respondents themselves, expeditiously.
4. The **official respondents shall act in furtherance to the report of IIT in relation to construction of sound barriers, which report of IIT is accepted by the Tribunal.**

However, if any, variations are suggested and the official respondents consider it proper to carry out such variations on the ground of safety, security and height of the sound barrier walls, the same may be implemented after discussion with the team of IIT, The sound barriers should be constructed at the earliest and in accordance with report.

5. The **official respondents shall ensure providing of a green belt around the boundary wall of the airport, while keeping the safety and security both in mind.** The plantations shall be of the species which would only grow to the permissible height or would be maintained at the permissible height only.
6. The official respondents may **issue an advisory to all the airlines whose aircrafts land at the runway of the IGI and domestic Airport, New Delhi to ensure 'Judgment based' use of reverse thrust keeping in view weather, length of run way, wind, and other attendant circumstances to reduce the noise level particularly at the time of landing of aircrafts.**

7. *All the **coaches/buses and other vehicles plying at the airport should be CNG** and must comply with the prescribed emission standards. Non-CNG buses/coaches or other vehicles plying at the airport, should be converted to CNG within six months from today.*”

9. It appears that the above directions resulted in amendment in Environment (Protection) Rules, 1986 (hereinafter referred to as '**EP Rules 1986**').

10. Section 3 of EP Rules 1986 provides that for the purpose of protecting and improving the quality of environment and preventing, controlling and abating environmental pollution, standards for emission or discharge of environmental pollutants from the industries, operations or processes shall be specified in Schedule I to IV. In order to put the record straight, we may point that EP Rules 1986 initially contained Schedules I to VII where to, Schedules I to IV referred to Rule 3(1). However, Schedule II was omitted by G.S.R. 801(E) dated 31.12.1993 w.e.f. the said date. A perusal of Schedule I, II and III shows that Schedule I contained list of various industries, operations, and processes in respect whereof, standards for emissions or discharge of environmental pollutants were prescribed and prior to 22.03.2018, there were total 111 industries/processors/operations mentioned therein. Schedule III dealt with ambient air quality standards in respect of noise in different areas like industrial area, commercial area, residential area and silence zone and Schedule IV contained standards for emission of smoke, vapor etc. from motor vehicles.

11. MoEF&CC amended Schedule I of EP Rules 1986 by inserting entry 112, adding '**airports**' industry in respect whereof, standards of emissions and discharge of environmental pollutants were prescribed. The said

amendment came into force on the date of publication in the Official Gazette and it was published in Gazette of India (Extraordinary) dated 18.06.2018. The amendment made by clause 2 of the notification dated 18.06.2018 read as under:

Sl. No.	Industry	Parameters	Standards	
1	2	3	4	
		<i>Ambient Air Quality Standards with respect to Noise in Airport Noise Zone</i>		
112	Airports	Type of Airports	Limits in dB (A) Leq*	
			Day Time	Night Time
		Busy Airports	70	65
		All other Airports excluding proposed airports	65	60

Definitions:

- (a) ***dB(A) Leq denotes the time weighted average of the level of sound in decibels on scale A which is relatable to human hearing.** A day time from 6.00 a.m. to 10.00 p.m. and night time from 10.00 p.m. to 6.00 a.m. are considered for time weighted average.
- (b) "A", in dB(A) Leq, denotes the frequency weighting in the measurement of noise and corresponds to frequency response characteristics of the human ear (The range of human hearing is 20 Hz to 20 kHz)
- (c) A "decibel" is a unit in which noise is measured.
- (d) Leq: It is energy mean of the noise level over a specified period.
- (e) **Busy Airport-For the purpose of noise management at airports, a busy airport shall be defined as "a civil airport which has more than 50,000 aircraft movements per year (a movement being a take-off or landing)" excluding those purely for training purposes on light aircraft.**

- (f) *Take-off - A phase of flight from the application of takeoff power to an altitude of final take-off.*
- (g) *Landing - A phase of flight from the beginning of the landing flare until aircraft exits the landing runway comes to a stop on the runway, or when power is applied for takeoff in the case of a touch-and-go landing.*
- (h) *L_{max} is unit for aircraft maximum noise level in units dB(A) which is maximum or peak noise value for aircrafts at the monitoring location in accordance with the noise standards notified by the Director General of Civil Aviation for respective airports.*
- (i) ***Other Airports-an airport having more than 15000 but less than 50000 aircraft movement annually.***
- (j) *Proposed Airports-airport that is not functional yet and is under development.”*

12. Applicant has stated in para 14 of OA that compliance of Notification dated 18.06.2018 has not been made by respondents authorities and instead they are proceeding ahead with construction of further new runways and a fourth runway is in the process of construction for which EC has been granted on 30.06.2018. It is said that Delhi Airport is a 'busy airport' and prescribed noise limit is 70 decibels for day time and 65 decibels for night. Further, two years' period was allowed to place a suitable mechanism by the industry to control noise pollution so that neither the industry nor the citizen should suffer. However, respondents have failed to maintain noise limits prescribed vide Notification dated 18.06.2018 at and around Delhi airport. Applicant has been monitoring noise level caused by aircrafts landing and taking-off at IGI Airport since 2020. During COVID-19 period, number of flights were very few and for part of the period, all the operations were banned, therefore, applicant did not lodge any complaint about noise pollution. From newspaper reports,

later, applicant came to know about setting up of a Noise Monitoring Cell by respondent 9 i.e., Delhi International Airport Limited, hence first complaint was lodged by applicant on 27.03.2022 through e-mail followed by some further complaints.

13. It is said that respondent 9 is a joint venture formed as a consortium between GMR Group having 54% share, Airport Authority of India (hereinafter referred to as '**AAI**') having 26% share and Fraport AG. Incidentally, Fraport AG manages most airports in Germany and is aware as to how should control huge noise pollution caused by aviation particularly and also aware of the fact of night curfew at airports in Germany.

14. Copies of the above complaints were also sent to other respondents. Respondent 2 i.e., Central Pollution Control Board (hereinafter referred to as '**CPCB**') vide letter dated 03.01.2023 asked Director General of Directorate General of Civil Aviation i.e., respondent 5 and Delhi Pollution Control Committee (hereinafter referred to as '**DPCC**') i.e., respondent 6 to ensure compliance with the noise limits as prescribed under Notification dated 18.06.2018 and control noise pollution. DPCC also sent a letter dated 06.02.2023 asking Director General of Directorate General of Civil Aviation to ensure compliance of noise pollution limits and control noise pollution.

15. Applicant sought to collect information for noise level due to landing and taking off aircrafts at various airports located at Delhi, Madras, Bombay, Bengaluru, Kolkata and Hyderabad from Ministry of Civil Aviation i.e., respondent 3 but except Madras airport, information in regard of other airports was denied on the ground that the said airports

are being operated by private operators. With regard to Madras Airport, noise level recorded by AAI shows that at the time of landing, noise level used to be very high from the prescribed limit.

16. It is further said that AAI was constituted by an Act of Parliament and came into being on 01.04.1995 by merging erstwhile National Airport Authority and International Airport Authority of India. AAI manages total 137 airports which include 24 international airports (3 civil enclaves), airports operating under public private partnership, 10 custom airports (4 civil enclaves) and 103 domestic airports (23 civil enclaves).

17. Directorate General of Civil Aviation (hereinafter referred to as '**DGCI**') is an attached office of Ministry of Civil Aviation and a regulatory body in the field of civil aviation primarily dealing with safety issue. It is responsible for regulation of air transport services to/from/within India and for enforcement of Civil Air Regulations including but not limited to air and noise pollution control measures, air safety and air worthiness standards, investigation of serious incidents, accidents etc. It also coordinates all regulatory functions with intentional civil aviation organizations and collect various information regarding environmental issues as mandatory by international civil aviation.

18. The Statutory Authorities are not taking due care, precaution and remedial steps for prevention of noise pollution though in the minutes of public hearing held by DPCC, while considering expansion of IGI Airport, it is mentioned that there was high noise pollution at airports and factum of this pollution was considered. Noise level recorded at the time of landing at airports at Delhi, Mumbai and Kolkata is bound to be very high in view

of number of flights landing and taking off thereat. In support of this assertion, applicant has relied on EC dated 30.05.2018 granted by MoEF&CC for expansion of IGI Airport by M/s. Delhi International Airport Pvt. Ltd. but therefrom, we do not find anything to show that noise pollution level at IGI Airport at Delhi is very high or is not complying with the prescribed norms.

19. It is however, complained that despite knowledge that immense pollution is caused by aircrafts at airports, no steps whatsoever have been taken by respondents though they are under an obligation by virtue of Article 51(A)(g) of Constitution of India. Lacs of citizens living under landing are impacted and deprived of their environmental rights to have peaceful sleep due to actual noise pollution which is seriously impacting health of citizens. Respondents are not controlling huge pollution caused by aircrafts and permitting damage to health of the entire population living under landing funnel, hence all the Statutory Authorities are guilty of breach of their fundamental duties cast upon them in the Constitution. This Tribunal declined to accede the request of applicant in the earlier proceedings for imposing night curfew of landing or taking off by aircrafts at night time and also for providing sound proofing of the houses in the colonies, falling on the flight pathway of aircrafts while landing and taking off, in view of fact that it had already directed respondents' authorities to take all mitigating measures for reducing noise pollution expeditiously. However, respondents have failed in their duty of taking such measures as directed. On the one hand, respondent 2 i.e., CPCB; respondent 6 i.e., DPCC and respondent 8 i.e., Lt. Governor of Delhi are enforcing ban on crackers, loudspeakers after 10:30 pm, pressure horns etc. in the light of directions of Supreme Court but when question of controlling noise

pollution caused by aircrafts arises, they go silent and do not take any action in the matter.

20. Applicant has placed reliance on this Tribunal's judgment in **OA 181/2013, Omesh Saigal vs. Govt. of NCT of Delhi, 2017 SCC OnLine NGT 744** decided on 04.10.2017 by Principal Bench, wherein the question of noise pollution caused by traffic passing on both sides of outer ring road dividing the area into two, affecting health of residents of Panchsheela Park area was considered.

21. **OA 181/2013 (supra)** was disposed of with certain directions which are contained in para 30 of the judgment and read as under:

“30. We, therefore, dispose of this petition with the following directions:

*i. We direct that this portion of the Outer Ring Road passing through Panchsheel Park to be the first patch where the **road surface be made of smooth asphalt** which will basically be a low noise causing material. **Planting of trees and shrubs along both sides of the road** should be done more vigorously to prevent noise pollution. **The existing ban on pressure horns and prevention of overloading or goods carriers shall be strictly implemented** by the Delhi Police.*

*ii. Further, we direct that **the installation of speed cameras has be to completed** within December 2017 and immediately thereafter the violators should be challaned. We further direct that DDA, Delhi Government and PWD to report to the NGT every three months about the progress on the directions issued by this Tribunal.”*

22. MoEF&CC has issued “Environmental Impact Assessment of Guidance Manual for Airports” in February 2010, wherein it is stated in para 4.4 of chapter 4 that emission from aircrafts below 1000 feet, above the ground (typically around 3 km from departure or, for arrivals, around 6 km from touchdown) are chiefly involved in influencing local air quality.

An extract of the Manual has been placed on record as annexure 12 which shows that para 4.4 deals with air environment i.e., Ambient Air Quality for airport projects. It is alleged that respondents are complying and enforcing law made for regulating noise pollution in a selective manner and while stringent actions are being taken against the common people, the others having high status are not being touched. Respondents are trustees of environment for common citizens and must act for the benefit of public in relation to natural resources like air, water and climate. When aircraft is operated, two types of noise are generated. One side-line noise is generated when aircraft is preparing for landing at or taking off from the airport. It is noise caused by engine at the time of landing or taking off. Higher the speed at the time of landing and/or higher engine force at the time of taking off, higher is the noise. Second is the noise generated immediately after landing as the aircrafts apply reverse thrust to quickly bring aircraft to halt without using brakes so that the brake drums and brake pads are not heated. Almost all domestic aircrafts by landing at airport generate higher side-line noise before landing due to speed. Noise generated at the time of landing is much more than the prescribed limit. The use of reverse thrust has been left with the discretion of pilots under the instructions of respondent 5 but the same pilots when on international flights do not use 'reverse thrust' and follow all the laws due to stringent conditions at some international air ports but do not adopt same practice at the airports in India. Very lesser number of noise monitoring sensors have been installed so the recording of noise level generated by aircrafts is not regular and available at all airports. Exposure to huge noise pollution caused various health hazards like high blood pressure, sleep disturbance, insomnia, stress and depression, diabetes etc. Despite knowing serious

impact and consequences of high noise pollution and also amendment of Rules of EP Rules 1986 and 2018, appropriate steps for meeting law have not been taken so far. It is in this backdrop, applicant has filed present OA seeking following reliefs:

- “1. *Prohibit/Ban landing and taking off aircrafts on all the runways at Indira Gandhi International Airport and all other airports similarly located within City limits during Night-time i.e., 10.00 PM to 6.00 AM except for international flights.*
2. *Grants stay on landing and taking off aircrafts on all the runways at Indira Gandhi International Airport and all other airports similarly located within City limits during Night-time i.e., 10.00 PM to 6.00 AM except for international flights.*
3. *Issue a command in the nature of order/direction, to respondent No. (s) 1,2,3,4,5,6,7,8 and 9 to comply with the noise limits prescribed under Notification No. G.S.R.568(E) dated 18th June 2018 prescribing the noise limits notified at IGI Airport and other airports similarly situated within city limits.*
4. *Issue a command in the nature of order/direction, to respondent No. (s) 1,2,3,4,5,6,7,8 and 9 to enforce and implement the notification No. G.S.R.568(E) dated 18th June 2018, prescribing noise limits prescribed at the IGI Airport and other airports.*
5. *Issue a command in the nature of /order/direction directing respondent No.2,4,5,6,8 and 9 to publish details noise pollution generated by aircraft on its website live, which are recorded with.”*

Preliminary Reply dated 07.11.2023 filed on 09.11.2023 by Delhi International Airport Ltd. i.e., respondent 9:

23. The above reply has been filed in order to raise the issue of maintainability of OA. Giving background of the dispute, it is pointed out the applicant filed **Writ Petition No. 9337/2009 (supra)** wherein Environmental Clearance (hereinafter referred to as ‘**EC**’) dated 17.01.2007 issued by MoEF&CC for construction of 3rd runway 11/29 at

Delhi Airport was challenged. Applicant had also prayed for issue of a prohibitory order against respondents to stop flying of aircrafts over the areas of Vasant Kunj, Masoodpur and Rangpuri with immediate effect as also to prohibit landing of the aircrafts at runway 11/29. The said petition was transferred by High Court vide order dated 16.04.2013 to this Tribunal where it was registered as **Appeal No. 60/2013 (supra)**. Vide judgment dated 24.11.2017, Tribunal decided the Appeal holding that it is not established by applicant that stakeholders i.e., the official respondents are not taking adequate steps to mitigate noise levels at airport and its surrounding areas. Tribunal also issued certain directions which we have already reproduced in para 8, therefore, not repeating. **Civil Appeal Nos. 4958-4961 of 2018** were filed before Supreme Court by certain aggrieved parties i.e., Narang International Hotels Pvt. Ltd. Appeals were decided vide judgment dated 06.08.2018. Noticing the contention of appellant before Supreme Court that Tribunals had directed that even other vehicles plying at the airports should be CNG though there are several kinds of specialized vehicles which cannot be CNG mode at all, Supreme Court found grievance of appellants genuine and, therefore, direction no. 7 was modified by removing the words “other vehicles” and it was clarified that the direction shall be confined to coaches and buses.

24. MoEF&CC, in the meantime, had issued Notification dated 18.06.2018 amending EP Rules 1986. Applicant filed **Execution Application 24/2019 in Appeal 60/2013, Society for Protection of Culture, Heritage, Environment, Traditions and Promotions of National Awareness vs. Union of India & Others** before Tribunal for compliance of the directions given in the judgment dated 24.11.2017. Tribunal sought Action Taken Report/Compliance Report vide order dated

21.05.2019 pursuant where to, respondent 9 filed Action taken Report/affidavit dated 21.06.2019, giving details of the compliance made by it in respect of the directions given by Tribunal. The said Action taken Report is at page 544 and directions wise compliance mentioned therein reads as under:

“...The status of compliance with the said directions are as under:

DIRECTION NO.1 (CONTAINED IN PARA 15, SUB-PARA 3)

*“We direct all the official respondents to **take all mitigating measures for reducing noise pollution** in terms of the report submitted by MoEF and as even proposed by these very respondents themselves, expeditiously.”*

The status of Direction No.1 is as follows:

1. DIAL has undertaken aircraft noise mitigation measures at IGI Airport. These mitigation measures are in line with the International Civil Aviation Organization (“ICAO”) guidelines and the report submitted by MoEF&CC. Following are the aircraft noise mitigation measure adopted at IGI Airport by DIAL and Airport Authority of India (“AAI”):

i) Continuous Descent Approach:

Continuous Descent Approach (“CDA”) is an aircraft operating procedure in which an arriving aircraft descends with minimum thrust and avoids step down flight to the extent permitted by the safe operation of the aircraft and compliance with published procedures and ATC. It results in to reduced noise and fuel consumption as compared to other conventional descents.

AAI has adopted CDA for aircraft landing at IGI Airport and has communicated this through Aeronautical Information Publication (“AIP”) which has initially made effective from 21st October 2010. Further, AAI has issued eAIP dated 19th July 2018 which specifies the CDA as part of the Noise Abatement Procedures. It is followed by pilots while landing at IGI Airport for smooth landing with comparatively less engine thrust. Therefore, the noise levels are less than the conventional stepped down approach in the close vicinity of airport.

Copy of the eAIP dated 19th July 2018 is annexed as Annexure A.

ii) Mixed Mode Operations:

Mixed Mode Runway Use Plan is adopted as one the noise abatement operational procedures at IGI Airport. The **purpose of this measure is to ensure that the effect of noise is equitably distributed to all the developed places and residential locations located below the flight path of the aircraft and consequently the impact of noise is not localized to a particular settlement.** This helps in reducing the effect of noise levels generated by aircrafts during landing and taking-off in the vicinity of IGI airport. The last AIP was issued on 08th November 2018 for runway use plan by AAI. **The supplement provides the segregated mode of operations on the rotation basis as per prevailing wind direction, in which one runway is used exclusively for landings for a specified period while the other runway is used for departures thus providing reduced noise exposure to the communities under the respective approach funnel.**

Copy of AIP dated 08th November 2018 is annexed herewith as Annexure B.

iii) Operation of Chapter 2 Aircraft

As a mitigation measure, DGCA had initially issued A Notice to Airmen (“NOTAM”) on operation of Chapter 2 Aircraft i.e. aircrafts with old noisy engines, restricting their landings during the period 2200 IST - 0600 IST at IGI airport. All operators have been advised to make necessary actions to comply with this requirement which finds mention in the eAIP issued on 19th July 2018. However, **Ministry of Defense, Chapter 2 aircrafts are allowed to operate during this period, since IGI Airport runways are also used by Air Force on National Defence purpose.**

iv) Restricted use of Thrust Reversal

Thrust reversal, also known as reverse thrust, is **a momentary process for safe landing of aircraft after it touch downs from its very high speed on air, wherein the direction of the exhaust from aircraft engine is directed forward after landing to slow down the aircraft movement and control stability and safe breaking.** Reverse thrust is

typically applied immediately after the aircraft touchdown in conjunction with spoilers, to improve deceleration during landing. This usually results in momentary increase in noise level adjacent to runway. Since May 2009, NOTAM is in place wherein airlines have been asked to avoid the use of thrust reversal while landing at IGI Airport unless it is deemed necessary for safety reasons. Since **use of thrust reversal is pilot's decision and a safety issue, it cannot be insisted upon in all cases.** Further, this instruction has also been added in the AIP issued on 19th July 2018. by AAI for pilot's to be "consistent with safety of aircraft operations and in consideration of high intensity runway operations, pilots should minimize the use of, reverse thrust after landing to reduce disturbance in areas adjacent to the aerodrome."

v) **Noise Standard for Airports**

MoEF&CC has published Airport Noise Standard as Leq on 06.07.2018 for busy and other upcoming airports with the requirements and responsibilities, and the same shall be complied within the stipulated timelines by all airports in India. As per notification, **all airports in India including IGIA has to comply with the notification by 17th June 2020.** DIAL has initiated the process of defining the Airport Noise Zone along with Air Navigation Service Provider (AAI). The requirements of airport noise mapping, mapping of Standard Terminal Arrival Route / Standard Departure Route and GSR 751 (e) have been communicated to Air navigation Service provider (AAI). **Post the approval of DGCA basis these inputs, airport noise zone will be notified within the stipulated time period.** As a part of mitigation measures in the report submitted, the interim noise limits for aircrafts set by DGCA 105 dB(A) in L_{max} for day and 95 dB(A) in L_{max} for night is being monitored. **Noisy aircrafts are being identified and communicated to airlines for creating awareness and to adopt effective noise mitigation measure while landing and take-off at IGI airport and to comply with the standard.**

Copy of the Notification dated 06.07.2018 is annexed herewith as **Annexure C**

vi) **Aircraft Noise Monitoring**

Continuous Aircraft noise monitoring terminals (NMT's) have been installed under the approach and departure funnels of the IGI airport to measure and monitor the

aircraft noise level. The NMT's are recording the sound levels on real time basis. Noisy aircrafts are being identified and communicated to airlines for creating awareness.

vii) Aircraft Noise Complaint Redressal System

Aircraft Noise Complaint Redressal System has been established by DIAL to collect and address the community noise complaints due to aircraft operations with an active telephone number 011-47198600. Complaint communicating channels are published in website and in prominent local newspapers.

Copy of the announcements in the newspaper is annexed as Annexure D.

viii) Restricted usage of Ground Engine Run-ups

Ground engine run-ups of aircraft engine are a source of noise at the airport and is a part of engine testing after mandatory maintenance procedure. At IGI airport, designated locations have been earmarked to perform ground engine run-ups. These locations are away from residential locality.

ix) Restriction on use of GPU/APU

DIAL has provided Fixed Electrical Ground Power (FEGP) at aerobridge and continuously monitors the FEGP usage. **Fixed Electrical Ground Power units help in reducing ground noise at airport also reduces the carbon emission.** Airlines are advised to switch off APU while parking at aerobridge where FEGP facility is available.

x) Sound Barrier

Sound barrier has been constructed as per IIT Delhi recommendation, which will assist in attenuation of the noise generated by the aircraft during landing and application of reverse thrust.

DIRECTION NO.2 (CONTAINED IN PARA 15, SUB-PARA 4)

“The official respondents shall act in furtherance to the report of IIT in relation to construction of sound barriers, which report of IIT is accepted by the Tribunal. However, if any, variations are suggested and the official respondents consider it proper to carry out such variations on the ground of safety, security and height of the sound barrier walls, the same may be implemented after discussion with the

team of IIT. The sound barriers should be constructed at the earliest and in accordance with report.”

The status of Direction No.2 is as follows:

1. This Hon’ble Tribunal vide its order dated 24.11.2017, directed DIAL to construct sound barriers in accordance with IIT Delhi report, whereby, it was recommended to develop the sound barrier of 1.05 Km length along the boundary wall in the south of runway 29-11. In compliance of the direction, **DIAL has constructed a sound barrier along the boundary wall in the south of runway 29-11**, which will help in reducing the noise levels once the aircraft has touched down or is about to take off on the runway 29/11. Copy of the IIT recommended design is annexed as **Annexure E**.

The aircraft noise at the IGI Airport are generated typically during braking process shortly after the touchdown. The sound generated after touchdown may also depend on pilot action during landing process, size of the aircraft, type of aircraft, and its overall design (newer aircrafts are quieter). DIAL has completed the construction of sound barrier as per the design recommended by IIT Delhi along the boundary wall in the south of runway 29-11. Construction of sound barrier took place in a phased manner in a bid to ensure aviation safety and security in not compromised. The sound barrier helps in reduced noise exposure of area adjacent to Runway 29/11 on the south side.

Photograph omitted

DIRECTION NO.3 (CONTAINED IN PARA 15, SUB-PARA 5) “The official respondents shall ensure providing of a green belt around the boundary wall of the airport, while keeping the safety and security both in mind. The plantations shall be of the species which would only grow to the permissible height or would be maintained at the permissible height only.”

The status of Direction No.3 is as follows:

1. Further to the newly developed sound barrier along the boundary wall in the south of runway 29-11, **a dense coverage of four rows of trees on the four lane Dwarka Link Road and its service roads is already existing in the southern boundary wall of the IGI Airport parallel to the runway 29/11 throughout its length and beyond**. It supports in sound attenuations of aircrafts operating on runway 29/11 to its nearby commercial farms and residents adjacent to runway.

2. *To comply with the directions of this Hon'ble Tribunal, **DIAL has further enhanced the greenbelt by planting shrubs at the airside at the possible location in intervals after taking account of bird and wildlife attraction and other operational risk and airport security and aviation safety. The shrubs will be maintained at a height of 2 meter.** However, in future if any security concern is envisaged by Authority, the planted shrubs will be replanted to other locations of IGI Airport to ensure proper airport security and safety. Since the IGI Airport falls in the Hypersensitive Airport as per Bureau of Civil Aviation Security (“BCAS”), various authorities enable the safety and security needs time to time as per priority. BCAS, laying down Aviation Security Standards in accordance with Annex 17 to Chicago Convention of ICAO for airport operators, airlines operators, and their security agencies responsible for implementing AVSEC measures.*

DIRECTION NO.4 (CONTAINED IN PARA 15, SUB-PARA 6) *“The official respondents may issue an advisory to all the airlines whose aircrafts land at the runway of the IGI and domestic Airport, New Delhi to ensure 'judgment based' use of reverse thrust keeping in view weather, length of run way, wind, and other attendant circumstances to reduce the noise level particularly at the time of landing of aircrafts.”*

The status of Direction No.4 is as follows:

1. *In compliance of this Hon'ble Tribunal's order, **DGCA through AAI has issued an eAIP dated 19th July 2018 whereby it has been incorporated that “Consistent with safety of aircraft operations and in consideration of high intensity runway operations, pilots should minimize the use of, reverse thrust after landing to reduce disturbance in areas adjacent to the aerodrome.” It is mandatory to all airlines to follow the information published in AIP.**”*

DIRECTION NO.5 (CONTAINED IN PARA 15, SUB-PARA 7) *“All the coaches/buses and other vehicles plying at the airport should be CNG and must comply with the prescribed emission standards. Non-CNG buses/coaches or other vehicles plying at the airport, should be converted to CNG within six months from today.”*

The status of Direction No.5 is as follows:

All stakeholders including Airlines, In Flight Kitchen Operators, Airlines, Federation of Indian Airlines, Ground Handlers and DIAL

being aggrieved by this direction of Hon'ble Tribunal, had approached to the Hon'ble Supreme Court for modification of the order dated 24.11.2017. The Hon'ble Supreme court vide its order dated 06-08-2018, modified this direction and held that:

“In our view, the grievance raised by the appellants seems to be justified. We, therefore, modify Direction No. 7 by removing the words “other vehicles” therefrom, meaning thereby, the direction shall be confined to coaches and buses.”

*In compliance of the order passed by the Hon'ble Supreme Court and this Hon'ble Tribunal order, it is stated that **all coaches and buses at IGI Airport are CNQ operated vehicles.**”*

25. Tribunal after considering Action Taken Report of respondent 9, disposed of **Execution Application No. 24/2019 (supra)** vide judgment dated 18.09.2019. The relevant extract of the order dated 18.09.2019 reads as under:

“5. The main question for consideration is the compliance of direction number 6 as far as AAI is concerned. According to the action taken report, NOTAM was issued by AAI which has been incorporated in the Aeronautical Information Publication on 11.10.2018. Information regarding use of reverse thrust by pilots is applicable to Delhi, Mumbai, Bengaluru, Chennai, Hyderabad and Kolkata.

6. As regards direction numbers 3, 4, 5 and 9, the said publication applies to all airlines fly to Delhi. DIAL has pointed out that order for use of CNG cover by direction number 7 was partly modified by the Hon'ble Supreme Court vide order dated 06.08.2018. As regards noise pollution, steps have been taken in terms of MOEF&CC Notification dated 06.07.2018 laying down certain requirements which have to be complied by 17.06.2020.

7. We suggest that DIAL should not only measure and maintain the prescribed noise levels but also display the same in public domain.”

26. In compliance of the directions given in para 7 of the order dated 18.09.2019, respondent 9 is displaying noise level on its website. Copy of

noise levels recorded from January 2023 to September 2023, published on the website, has been placed on record as annexure R-8 (collectively).

27. With the above backdrop, respondent 9 has pleaded that the present OA is barred by the principle of 'Res-judicata' in as much as issues have already been adjudicated and concluded vide judgments dated 24.11.2017 passed in ***Appeal No. 60/2013 (supra)***, and 18.09.2019 passed in ***Execution Application No. 24/2019 (supra)***; applicant has concealed the above facts and not disclosed the factum about Execution Application filed by it and order passed therein; no new cause of action has arisen; there are false pleadings in OA and application has tried to mislead Tribunal.

Rejoinder dated 05.01.2024 filed on 06.01.2024 by applicant in reply to the response of respondent 9 raising Preliminary Objections:

28. It is said that present OA has been filed on a fresh cause of action arising out of non-compliance of Notification dated 18.06.2018 issued by MoEF&CC. It is also said that respondent 9 has wrongly mentioned in para 5(x) of its reply that it is displaying noise levels on its website, though the fact is that neither details of such official website have been given nor there is any airport noise zone area posted on the website of respondent 9 nor it is being displayed as claimed by respondent 9. However, contents of reply of respondent 9 in para 5(i) to (ix) have not been denied on the ground that the same are matters of record and do not call for any reply.

Preliminary Reply dated 21.11.2023 filed by DPCC i.e., respondent 6:

29. Here also plea of Res-judicata has been raised. It is alleged that prayer of the applicant for imposition of night curfew on landing and taking-off at airports has already been declined by this Tribunal vide

judgment dated 24.11.2017 passed in **Appeal No. 60/2013 (supra)** filed by applicant itself. For compliance of other directions of Tribunal, MoEF&CC has already notified standards in respect of noise at airport zones vide notification dated 18.06.2018, hence application is not maintainable.

Rejoinder dated 05.01.2024 filed on 06.01.2024 filed by applicant in reply to the preliminary objections raised by respondent 6 i.e., DPCC:

30. Here also the stand taken by applicant is similar that the cause on action has arisen afresh due to non-compliance of the Notification dated 18.06.2018.

Preliminary Objections dated 02.01.2024 filed by DGCA i.e., respondent 5:

31. It is said that in terms of para 5 of Notification dated 18.06.2018 amending EP Rules 1986, airport noise mapping was to be carried out at all the airports as per the specifications prescribed by respondent 5. This has been complied by respondent 9 i.e., Delhi International Airport Limited for IGI Airport and other applicable airports. Respondent 5, in compliance with the requirement of para 4 of the Notification dated 18.06.2018, has issued letter dated 07.04.2022 (annexure R1 at page 1010 of paper book) granting approval of 'Airport Noise Zone' developed by respondent 9. Respondent 5 had already issued Aviation Environment Protection Series 'A' (hereinafter referred to as **AEPS 'A'**), Part I, Issue I, dated 18.12.2014, requiring all busy airports to install 'noise monitoring stations' and perform 'noise mapping' etc. All Civil Aviation Requirements have been fulfilled by respondent 9 and other applicable airports have complied. Presently, the documented noise level at airports is complying with specifications delineated in Notification dated 18.06.2018. AAI has

released periodic Aeronautical Information Publications detailing prescribed noise levels for aircrafts and the most recent publication dated 11.08.2022 for IGI Airport, specify noise level for aircrafts (as Lmax) at 105 dB(A) during the day time (6am to 10pm) and 95 dB(A) during the night time (10pm to 6am). Thus, there is no violation of notification dated 18.06.2018 at IGI airport and this fact was communicated by respondent 5 to applicant vide letter dated 18.08.2022, copy whereof has been placed on record as annexure R2 at page 1011 of paper book.

32. It is also said that the prayer with regard to imposition of night curfew imposing prohibition of landing and taking-off flights at Delhi airports from 10:00 pm to 6:00 am has already been declined by this Tribunal vide judgment dated 24.11.2017 in ***Appeal no. 60/2013 (supra)***, and the same issue and relief cannot be pressed again in the present OA since the earlier judgment has become final. It is reiterated that there is no violation of provisions made in EP Rules 1986 vide amendment Notification dated 18.06.2018.

Rejoinder affidavit dated 05.01.2024 filed by applicant in reply to preliminary objections filed by respondent 5 i.e., DGCA:

33. Rejoinder affidavit dated 05.01.2024 has been filed by applicant in reply to the preliminary objections of respondent 5. It is said that principle of '*res-judicata*' is not applicable in as much as the cause of action is different; Notification dated 18.06.2018 requires respondent 9 to delineate 'Airport Noise Zone Area' which has to be approved by respondent 9 and displayed on the website of respondent 9 but no such information has been placed on the website of respondent 9; in the letter dated 07.04.2022 (annexure R1 at page 1010) said to have been issued by respondent 5 granting approval to Airport Noise Zone prescribed by respondent 9, there

is a reference to a document no. DIAL/ANZ/2021-22/Verl. but this document is neither on the official website of respondent 9 nor has been placed before Tribunal; reference made to Civil Aviation Requirements is misconceived and circular dated 18.12.2014 referred to in para 2(iii) of the objections filed by respondent 5 is irrelevant for the issue raised in the present OA as the same relates to noise management of aircrafts operations at airports; respondent 5 has wrongly claimed compliance of Notification dated 18.06.2018 though it has not been complied till date.

Preliminary Objections dated 23.01.2024 filed on 29.01.2024 by MoEF&CC i.e., respondent 1:

34. Here also, objections with regard to maintainability of the present OA has been raised on the ground of *res-judicata* that earlier also the issues raised in the present OA were considered by this Tribunal in ***Appeal No. 60/2013 (supra)*** and declined vide judgment dated 24.11.2017, hence for seeking same relief, another OA is not maintainable. It is also said that applicant has also concealed the factum of ***Execution Application No.24/2019 (supra)*** which was also decided vide order dated 18.09.2019. Noise levels recorded at IGI Airport are being displayed on the website of the airport operator and applicant has failed to disclose this fact in OA. EC dated 30.05.2019 has been granted to respondent 9 i.e., Delhi International Airport Ltd. after thorough verification and ensuring compliance with all stipulation delineated in EP Act 1986 and relevant regulations as also Environmental Impact Assessment Notification dated 14.09.2006 (hereinafter referred to as '**EIA 2006**'). Respondent 9 has installed 'Dedicated Online Air Craft Noise Monitoring System' in all the runway approach and consistently monitors noise level at IGI airport and regularly publishing recorded levels on its website. Noise level documents

by respondent 9 adhere to the levels stipulated in Notification dated 18.06.2018. Allegations made by applicant are incorrect.

Short Affidavit dated 25.01.2024 filed on 30.01.2024 by AAI i.e., respondent 4:

35. This short affidavit also raised preliminary objections with regard to maintainability of OA on the ground that issue has already been decided by this Tribunal vide judgment dated 24.11.2017 in ***Appeal No.60/2013 (supra)*** and 18.09.2019 passed in ***Execution Application No.24/2019 (supra)***. It is said that OA is barred by principle of 'res-judicata' and reliance is placed on Supreme Court's judgment in ***S. Ramachandra Rao vs S. Nagabhushana Rao and others, 2022 SCC OnLine SC 1460***. Besides the preliminary objections, respondent 4 has further stated in para 10 to 15 of its reply that applicability of Notification dated 18.06.2018 issued by MoEF&CC on noise pollution level is according to aircraft movements undertaken at a given airport; prescribed mechanism for assessing noise pollution is pertinent to airports having aircrafts movements more than 15,000 per annum; AAI is managing number of airports in the above category; MoEF&CC's Notification dated 18.06.2018 is not applicable to remaining AAI civil airports having aircraft movements less than 15,000 annually; the term "busy airports" has been defined in Notification dated 18.06.2018 which says that busy airport means civil airport which has more than 50,000 aircraft movement per year (a movement being a takeoff or a landing) excluding those purely for training purposes on light aircraft; and the term 'other airports' is also defined by stating that it means an airport having more than 15,000 but less than 50,000 aircrafts movement annually.

36. Respondent 4 has given list of AAI airports with the details of aircraft movements in the context of calendar year 2022, in the form of a chart, as under:

Details of AAI Airports

<i>Airport Category as per GSR 568 (E)</i>	<i>Name of the Airport</i>	<i>Aircraft movements for the calendar year-2022</i>	<i>Requirements as per DGCA CAR 2014 & MoEF & CC Notification- 2018</i>
<i>BUSY Airport (Airport having Aircraft movements more than 50,000 Annually)</i>	<i>1. CHENNAI</i>	<i>126856</i>	<i>1) Airport Noise Mapping & Declaration of Airport Noise Zones 2) Continuous Noise Monitoring</i>
	<i>2 KOLKATA</i>	<i>130209</i>	
<i>Other Airport (Airport having Aircraft movements more than 15,000 & Less than 50,000 Annually)</i>	<i>1. AMRITSAR</i>	<i>18405</i>	<i>Airport Noise Mapping & Declaration of Airport Noise zones</i>
	<i>2.VARANASI</i>	<i>19079</i>	
	<i>3.DEHRADUN</i>	<i>17490</i>	
	<i>4.INDORE</i>	<i>38891</i>	
	<i>5.JUHU</i>	<i>28788</i>	
	<i>6. SURAT</i>	<i>15638</i>	
	<i>7.BHOPAL</i>	<i>26276</i>	
	<i>8.VADODARA</i>	<i>17330</i>	
	<i>9.BHUNESHWAR</i>	<i>28159</i>	
	<i>10.RANCHI</i>	<i>18331</i>	
	<i>11.RAIPUR</i>	<i>20332</i>	
	<i>12.PATNA</i>	<i>29595</i>	
	<i>13.CALICUT</i>	<i>22009</i>	
	<i>14.COIMBTORE</i>	<i>16751</i>	
	<i>15.MYSURU</i>	<i>19738</i>	
<i>Remaining Airports (Aircraft movements less than 15000 annually)</i>			<i>GSR 568 (E) MoEF & CC Notification is not applicable</i>

37. The details given in the above chart shows that except airports at Chennai and Kolkata, at other places, movement of aircrafts is less than 50,000 per annum.

38. AAI has said that at Chennai airport, noise mapping has been completed and continuous noise monitoring is being done; declaration of Airport Noise Zones and Lmax value are under process for approval of DGCA and would be completed by 31.03.2024; so far as Kolkata airport is concerned, tender has already been invited and work of airport noise mapping and declaration of Airport Noise Zones as well as installation of Continuous Noise Monitoring System would be completed by 31.07.2024.

39. For the remaining 15 airports maintained by AAI, falling under 'other airports' category, it is said that the tenders have already been invited and work of airport noise mapping and declaration of Airport Noise Zone would be completed by 31.07.2024.

ARGUMENTS:

40. We have heard Learned Counsel appearing for the parties and perused the record.

41. Shri Sanjeev Anand, Learned Senior Counsel appearing for applicant, when questioned as to how the prayer made in respect of imposition of night curfew and prohibition of landing and taking-off aircrafts on all the runway at IGI airport during night time can be pressed since the issue has already been adjudicated by this Tribunal and the said relief has been declined vide judgment dated 24.11.2017 and, therefore, will the present OA be not barred by principle of '*res-judicata*', he, at the

outset, stated that he is confining the scope of present OA only to the extent of the prayer made with respect of the compliance of the provisions of Notification dated 18.06.2018, regarding noise limit to be notified at IGI airport and other airports and publishing details of noise pollution generated by aircrafts on live website of the concerned respondent. He submitted that he has checked the website of respondent 9 but did not find any publication of the details of noise pollution level thereon. He also submitted that noise limits have not been prescribed at the concerned airports till date and hence, the mandate of Notification dated 18.06.2018 has not been complied with.

42. Per-contra, Mr. Atma Ram Nadkarni, Learned Senior Advocate advancing his submission on behalf of respondent 9 stated that requirement of Notification dated 18.06.2018 has already been complied with so far as IGI airport at Delhi is concerned.

43. In respect of 'Busy Airports' at Chennai and Kolkata and 'Other Airports', Learned Counsel appearing for AAI and DGCA have submitted that in respect of Chennai, steps have already been taken and it shall be completed by 31.03.2024 and in respect of airport at Kolkata and 15 other airports maintained by AAI, steps have been taken and shall be completed by 31.07.2024.

44. During the course of arguments, our attention is drawn to DGCA's letter dated 07.04.2022 which is annexure R1 to preliminary objections dated 02.01.2024 of DGCA, addressed to respondent 9 and deals on the subject of "Approval of Airport Noise Zone developed by Delhi International Airport Limited, New Delhi" which shows that respondent 9 has carried study and developed Airport Noise Zone document no. DIAL/ANZ/2021-

22/Ver1. The said document has been examined in the light of the provisions of MoEF&CC's Notification dated 18.06.2018 by DGCA and it has found the said document to be satisfactory. The letter dated 07.04.2022 further says that DGCA shall review Noise Contour and Lmax of DIAL, New Delhi airport after two years and based on the satisfactory evaluation, approvals will be renewed further for another two years. The last paragraph of the letter shows that approval was granted for a period of two years from the date of issue of letter until revoke suspended or revoke earlier. The last paragraph of the letter dated 07.04.2022, which has been pressed by learned senior counsel, read as under:

“This approval shall remain valid for a period two years from the date of issue unless suspended/revoked/cancelled. The airport operator shall display the approved noise zone on their official website.”

45. Learned Senior Counsel Shri A. Nadkarni submitted that this is the approval granted by DGCA to 'Airport Noise Zone' developed by respondent 9 and that is how, the requirement of Notification dated 18.06.2018 with respect of prescription of 'Airport Noise Zone' has been complied with.

46. Our attention is also drawn to the letter dated 18.08.2022 sent by DGCA to applicant's society in respect of its complaint dated 25.05.2022. The said letter says that MoEF&CC has issued Notification dated 18.06.2018 on 'Airport Noise Zone Area' to define 'Noise Contour' for day and night period, considering all approach and departure funnels and instrument Flight Procedures in consultation with Airports' Air Navigation Service Provider as per the master Plan of the airport. Respondent 9 in compliance thereof has developed 'Airport Noise Zone' using noise model in accordance with noise limit prescribed vide Notification dated 18.06.2018. DGCA's letter dated 18.08.2022 further says that no

substantial complaint has been received regarding violation of limits prescribed in the 'Noise Zone' defined vide Notification dated 18.06.2018 and as per the information submitted by respondent 9, the noise limit as prescribed by MoEF&CC's Notification dated 18.06.2018 has not been found violated.

47. With regard to mitigation measures taken in respect of noise pollution, it has been pointed out that respondent 9 has already issued circulars dated 24.08.2021, 28.04.2022 and 29.05.2023 to all the airlines operating at IGI airport and ATC Palam requesting to follow the best practices on noise mitigation measures and adopt latest new fleets, technologies and procedures to make aircraft operations quieter while ensuring a safe and efficient operational environment. The active noise mitigation measures jointly implemented at IGI airport by all associated stakeholders and to be followed by airlines operating at the IGI airport and ATC Palam, are detailed as under:

“

- ✓ *Adoption of Continuous Descent Approach (CDA) & Low Power, Low Drag procedure for quieter landings (CAR, Section 10-A-1)*
- ✓ *Minimum climb gradient for all SIDs as per AIP Supplement 53/2017*
- ✓ *SID/STAR published for Delhi Airport as per AIP Supplement 53/2017*
- ✓ *Restricted usage of ground engine run-ups (CAR, Section 10-A-1)*
- ✓ *Minimum use of thrust reversal (CAR, Section 10-A-1)*
- ✓ *Restricted use of APU at airport (CAR, Section 10-A-1)*
- ✓ *Mixed Mode Operation & Runway Use Plan for noise abatement (AIP, AD2 - VIDP-1)*
- ✓ *Noise infringements and grievance response by all stakeholders*
- ✓ *Restriction on operation of Chapter- 2 aircraft from 2200-0600 Hrs. IST (AIP, AD2 - VIDP-1)*
- ✓ *Continuous Aircraft Noise Monitoring (CAR, Section 10-A-1)”*

48. Other Learned Counsels appearing for other respondents have adopted the arguments advanced by Shri Nadkarni, Learned Senior Counsel.

49. Learned Counsels appearing for the parties after conclusion of arguments also sought permission to file their written submissions which was granted.

50. Pursuant thereto, written submissions, additional written submissions and reply to such submissions under the title 'rejoinder to the written submissions' have been filed.

Written Submissions dated 05.02.2024 filed on 16.02.2024 by applicant:

51. It is submitted that **applicant is confining present OA to the extent of non-compliance by respondents with the noise limits prescribed under Notification dated 18.06.2018 for Airport Noise Zone and seeking a direction against respondent to comply with the prescribed noise limits.**

52. It is submitted that in terms of Notification dated 18.06.2018, Ambient Air Quality Standards prescribed with respect of noise in Airport Noise Zone limits is 70 dB(A) Leq in day time and 65 dB(A) Leq in night time at busy airports. Respondent 9 has admitted that Vasant Kunj is in landing funnel and thus falls within Airport Zone. However, noise level in Airport Noise Zone in which Vasant Kunj also falls as its neighboring area is not within limits prescribed vide Notification dated 18.06.2018. This is sought to be demonstrated by stating as under:

“(i) Noise levels recorded by the applicant from 19.09.2023 to 19.10.2023 at different timings [Annexure-11 (Pg. 393 to 414) of

the additional documents filed by the applicant]. Barring stray incident, the **maximum noise generated exceeds beyond prescribed limit even after including tolerance limit of 10%.**

- (ii) The PDF reports downloaded by the applicant of all the ten monitoring stations, from 02.01.2024, 03.01.2024 and 04.01.2024 available on the Online Noise Monitoring link provided by respondent no.2, from its website and filed as Annexure-3 (Colly) with the rejoinder to the preliminary reply of respondent no.9.
- (iii) The Applicant is attaching Online Noise level recorded by respondent no.2 on 2nd February 2024 and 3rd February 2024, as downloaded from its website (annexed herewith as Annexure-A Colly). A perusal of the same indicates that the **noise level on 2nd February 2024 ranges above 70dBA and goes up to 123.9 dBA to 137.4 dBA and on 3rd February 2024 ranges above 70 dBA and goes up from 128.5 dBA to 142 dBA, which are abnormally high and way above notified limits.”**

53. Reference is made to EC file no. 10-72/2016-1A-III dated 30.05.2018, “Part A Specific Condition” no. xxii, at page no. 67 of OA, and Part B condition no. iii at page no. 68 of OA which provides as under:

“Part A Specific Condition -- page 67

(xxii) During airport operation period, noise should be controlled to ensure that it does not exceed the prescribed standards. During night time the noise levels measured at the boundary of the building shall be restricted to the permissible levels to comply with prevalent regulations. A monitoring station for ambient air and noise levels shall be provided in the village nearest to the airport.

Part B condition no. iii at page 68

(iii) The **overall noise levels in and around the airport shall be kept well within the standards by providing noise control measures including acoustic hoods, silencers, enclosures etc., on all the sources of noise generation.** The ambient noise levels shall conform to standards prescribed under the EPA Rules, 1989 viz 78 dBA (daytime) and 70 dBA (Night time).”

4. *The Regional Office of this Ministry/Central Pollution Control Board will monitor the stipulated conditions. A six monthly compliance report and the monitored data along with the statistical interpretation shall be submitted to them regularly.”*

54. The applicant submits that respondent 4 while providing aeronautical services and airport services, record noise level at the boundary of airport. Reports provided by Regional Office, Madras (copy of fortnightly reports for the period 01.08.2022 to 15.08.2022 and 15.09.2022 to 30.09.2022) show that noise level exceed the prescribed limits.

55. It is also said that applicant has been trying its best but could not find the website of respondent 9, wherein noise level data has been displayed.

Written Submissions dated 09.02.2024 filed on 11.02.2024 by respondent 9:

56. Written submission is in two parts. In the first part, respondent 9 has placed its own stand to show compliance of the Notification dated 18.06.2018 and in para 3, it has said:

*“3. At the outset, it is reiterated that DIAL is compliant with its obligations under Notification No. G.S.R.568(E) dated 18.06.2018, issued by the Ministry of Environment, Forest, and Climate Change (**MoEF Notification**) which is evident from the following:*

A. Compliance for Airport Noise Zone

- i. **Noise levels to be maintained at the airport noise zone** are governed by the MoEF Notification which states that the noise levels for busy airports are **70 dB(A) Leq for daytime (from 6 AM to 10 PM)** and **65 dB(A) Leq for nighttime (10 PM to 6 AM)**. The unit of **Leq** is well defined in the MoEF Notification as “energy mean of the noise level over a specified period.”

- ii. Further, as **per para 4** of the MoEF Notification, **the Airport Noise Zone** area for each Airport shall be defined by the respective Airport Operator on the basis of existing GSR 751 (E), issued by the Ministry of Civil Aviation (Height Restrictions for Safeguarding of Aircraft Operations) Rules, 2015 published on 30.09.2015 in consultation with airports Air Navigation Service Provider as per the Master Plan of the Airport. It further states that the same shall be approved by the DGCA and displayed on the website of respective Airport Operators which shall be completed within two years from the date of issuance of the final notification.
- iii. In the Reply by DIAL, the answering Respondent has clarified that they are in compliance with the MoEF Notification regarding the '**Airport Noise Zone**' which has also been approved by the DGCA. The approval of the DGCA is also attached as **Annexure R-16 to the Reply by DIAL at Page 451**.

Further, DIAL has also installed **five Noise Monitoring Terminals** which have been installed under the approach and departure funnels of the Delhi Airport to measure and monitor the aircraft noise level. The NMT's are recording the sound levels on real time basis at IIT Delhi - Hauz Khas, R.K Puram, Vasant Kunj, Dwarka Sec- 19 and Dwarka Sec- 24. The **Noise Monitoring Terminals** installed at the funnel areas of the Delhi Airport is supplied by M/s Topsonic Systemhaus GmbH, an internationally recognized agency which is operating globally in 13 countries and at 32 airports with more than 300 NMT installations and operating under a wide range of climatic conditions. They are designed for unattended continuous outdoor use. Measurement of level, calculation of noise events and reporting are fulfilling ISO 20906 "Unattended monitoring of aircraft sound in the vicinity of airports" and DGCA Civil Aviation Requirements. A map showing the locations of the five Noise Monitoring Terminals installed by DIAL at the Delhi Airport has already been annexed at **Annexure R-12 to the Reply by DIAL at Page 406**. Technical information of the Noise Monitoring Terminals installed by DIAL are already annexed at **Annexure R-13 at Page 407 to the Reply by DIAL**.

Colour copy of the map showing the location of the Noise Monitoring Terminals is annexed herewith as **Annexure 1 of the present Written Submissions**

iv. In compliance of the MoEF Notification, DIAL has uploaded on its website- <https://www.newdelhiairport.in/corporate/our-company/sustainability> :

(a) the monthly noise levels recorded at the Airport Noise Zone; and

(b) the Airport noise zone area

Respondent No.9 has already filed the noise levels recorded at the Delhi Airport alongwith its Reply (**Annexure R-8 AT Page 247**)

Screenshots of the relevant pages of the Delhi Airport website and Airport Noise zone area are annexed herewith as **Annexure 2 (Colly) of the present Written Submissions.**

v. In addition to the above, DIAL approached IIT Delhi for an independent assessment of the Noise Monitoring Terminal units, calibration, and validation of aircraft noise data collected at the terminals installed by DIAL at all runway approach funnels. This assessment aimed to ensure compliance with DGCA's Civil Aviation Requirements (CAR) dated 18.12.2014 and CPCB's Requirements and Procedure for monitoring ambient noise level due to Aircraft, dated June 2008.

As per the said independent report of IIT, Delhi dated January 2024 gave its key findings observing:

"It may be noted that the difference in the values reported by both IITD and DIAUs NMT systems is less than 1 dB. Considering over-prediction of 0.3 dB by IITD system, the noise metrics evaluated by DIAL. NMTs can be considered quite accurate with less than 0.5 dB difference in most metric values."

Whereby, it was concluded that:

"Overall, the NMTs installed and Aircraft Noise metric evaluation and reporting by DIAL are in compliance to DGCA Civil Aviation Requirements (CAR) dated 18.12.2014 and CPCB requirements and procedure for monitoring ambient noise level due to Aircraft, dated June, 2008."

The findings of the report of IIT Delhi are of independent academic observations which confirms and authenticates the

*genuineness of the aircraft noise levels obtained from the NMTs and thus confirms the compliances of the aircraft noise data. The report of IIT, Delhi dated January 2024 is annexed herewith as **Annexure 3**.*

B. Compliance of Aircraft Noise levels

- vi. **Aircraft Noise** on the other hand is governed in terms of **para iv of the Note read with para 1(1)** of the MoEF Notification in terms of which the limit for aircraft noise as **Lmax** will be notified by the airport operator with approval of the Directorate General of Civil Aviation (“**DGCA**”).

Lmax as defined in the MoEF Notification is “unit for aircraft maximum noise level in units dB(A) which is maximum or peak noise value for aircrafts at the monitoring location in accordance with the noise standards notified by the Directorate General of Civil Aviation for respective airports.”

*DIAL has notified the Lmax levels with the approval of the DGCA at the aircraft noise monitoring locations and the same is also being communicated to all the Airline operators and is further also published in the Aeronautical Information Publication (AIP) dated 11.08.2022 (**annexed as Annexure R-10 of Reply by DIAL at Page 276, relevant page 335 and 336**) which sets out the noise levels for aircrafts (as Lmax) as **105 dB(A) for daytime (6 AM to 10 PM) and 95 dB(A) for night-time (10 PM to 6 AM)**.*

- vii. *Compliance with noise levels in the Airport Noise Zone must be overseen by the DGCA, as per the MoEF Notification. The DGCA has confirmed in its reply to the present application before this Hon’ble Tribunal, that DIAL is compliant with its obligations under the MoEF Notification.*

57. The second part deals with reply to written submissions filed by applicant. It is not denied in para 6 of the written submission of respondent 9 that Vasant Kunj is in landing funnel and falls within Airport Noise Zone.

58. Replying the submission of the applicant with regard to violation of noise limits in Vasant Kunj and neighboring areas raised in para 4 of

written submissions, respondent 9 in para 7 of written submissions has said as under:

“i. *The noise levels referred to in Para 4(i) by the Applicant **are noise metrics of Lmax (unit) i.e. maximum noise level for an event and not the Leq (unit) which is the noise metrics used for noise limits prescribed in Airport Noise Zone** as set out in the MoEF Notification. As per the MoEF Notification, the standard for aircraft noise limits is defined with a unit called Leq dBA for day and night period.*

- ****dB(A) Leq denotes the time weighted average of the level of sound in decibels on scale A which is relatable to human hearing. A day time from 6.00 a.m. to 10.00 p.m. and night time from 10.00 p.m. to 6.00 a.m. are considered for time weighted average.***
- *Leq: It is energy mean of the noise level over a specified period.*
- *Lmax is unit for aircraft maximum noise level in units dB(A) which is maximum or peak noise value for aircrafts at the monitoring location in accordance with the noise standards notified by the Directorate General of Civil Aviation for respective airports.*

It is also pertinent to mention that DGCA and CPCB have outlined monitoring protocols for aircraft noise as Civil Aviation Requirements (CAR) dated 18.12.2014 and Requirements and Procedure for monitoring ambient noise level due to Aircraft dated June 2008, respectively.

It is submitted that in order to achieve accurate measurements, it is important that the Noise Monitoring Terminals consists of high-quality components, including a Class 1 outdoor microphone, which is essential for precise and accurate sound level measurement. It ensures accurate and standard-compliant recording of aircraft noise and ensures that the measurements are correct. The installed Noise Monitoring Terminals by Delhi Airport at different locations are highly credible, accurate, and world-wide recognized and have been installed under the approach and departure funnels of Delhi Airport to measure and monitor the aircraft noise level. The Noise Monitoring Terminals are recording the sound levels on a

real-time basis and are installed at all Approach and Departure funnels of Delhi Airport.

On the other hand, the noise data provided by the Applicant is generated from random software apps downloaded on a mobile phone from the App Store, which lacks genuineness, authenticity, and accuracy, and thus cannot be relied upon. The Applicant has submitted noise events (**Annexure 11 of additional documents filed by the Applicant**) indicating values as minimum, maximum, and average. This data is not in line with the MoEF Notification requirement, as the notification defines standard limits as Leq dBA, a time-weighted average for daytime (6 am to 10 pm) and nighttime (10 pm to 6 am).

Further, as stated above, the aircraft noise limit as Lmax has been approved by DGCA for Delhi Airport, and the same has been prescribed in AIP dated 11.08.2022, issued by AAI as Lmax (maximum sound level for aircraft) in dB(A) at the NMTs, which is to be complied with by airlines.

Considering the above, it is evident that the **data generated by the Applicant is not in line with the notification requirement and the requirements outlined by CPCB and DGCA**, the data does not hold any authenticity on noise levels monitored and its reference to compliances. The aircraft noise data for six months, which complies with DGCA's Civil Aviation Requirements (CAR) dated 18.12.2014 and CPCB's Requirements and Procedure for monitoring ambient noise level due to Aircraft dated June 2008, has been provided by the answering Respondent in Annexure R-8 at Page 247-252 of the Reply by DIAL, demonstrating compliance with the noise levels as per the MoEF Notification.

- ii. In response to Para 4 (ii) and (iii), it is submitted that the Applicant's data recorded in the PDF (**Annexure 3 of the written submissions**) on noise level recordings indicating the ten monitoring stations, allegedly downloaded from CPCB's website, is of no relevance with respect to compliances under the MoEF Notification. The data provided by the Applicant is not in line with the MoEF notification requirement, as the notification defines standard limits as Leq dBA, a time-weighted average for daytime (6 am to 10 pm) and nighttime (10 pm to 6 am). **Instead, the Applicant has presented data showing minimum, maximum and instantaneous values of some random events.** It is pertinent to mention that **nine (9) out of the ten (10) locations mentioned by the**

Applicant in Annexure 3 of its written submissions are not even part of the Airport Noise Zone. Only one (1) location, i.e., R.K Puram, is in the approach area, and the noise levels recorded by the Airport NMTs there are in compliance with the MoEF Notification.

The Applicant is misleading the Hon'ble Tribunal by choosing irrelevant data like LAF #1 Noise levels (Ins.), LAS #1 Noise levels (Ins.) etc. from the CPCBs website and misrepresenting the facts whereas the Applicant should have referred the Noise levels in CPCBs website given as Leq A for Day and Night.”

59. On the question of display of the website, respondent 9 has given details of the link i.e., <https://www.newdelhiairport.in/corporate/our-company/sustainability>. It is said that in compliance of Tribunal's direction, noise level recorded at the Noise Monitoring Terminals on all runways of Delhi Airport is being published on the website and data can be accessed by public. It is lastly submitted that airports are held accountable and liable to comply with high standards under Civil Aviation Requirements (hereinafter referred to as '**CAR**') issued by DGCA. All the airports and airlines activities are being regulated by DGCA under the governance of International Civil Aviation Organization requirements through the Standard and Recommended Practice. Furthermore, it is submitted that applicant, without even knowing or considering the basic elementary requirements under MoEF&CC's Notification, is alleging non-compliance in a most casual manner. In the present matter, Regulatory bodies such as MoEF&CC, DGCA and other relevant authorities have stated that DIAL is compliant with MoEF&CC's Notification; no grounds are raised, substantiated or even made out by applicant to show non-compliance by DIAL in any manner; a Court/Tribunal especially NGT cannot be approached again and again as no Tribunal draws its own conclusion so as to substitute conclusion especially the one arrived at by

Expert bodies until and unless there is gross miscarriage of justice, which is pointed out and made out, which strikes at the root of the case; in the present matter, DGCA and MoEF&CC's have arrived at a conclusion that the MoEF&CC's Notification has duly been complied with and such a decision from expert bodies is not amenable to judicial scrutiny until and unless there is proven arbitrariness and/or unreasonableness.

Rejoinder dated 13.02.2024 filed on 24.02.2024 by applicant, replying written submissions of respondent 9:

60. Applicant has virtually reiterated what it has stated in written submissions but on the question of display on the website, we do not find that details given by respondent 9 and the website link have been disputed in the rejoinder.

Additional Written Submissions dated 18.02.2024 filed on 20.02.2024 by respondent 9:

61. Referring to various clauses of MoEF&CC's Notification dated 18.06.2018, it is said that the same has been complied with by respondent 9 and details given are as under:

- "i. As per **clause 1(1)** of the MoEF Notification, aircraft noise monitoring is conducted at all runway funnel areas, and the levels are in compliance with the standards specified for a busy airport. These levels are being published on Respondent No.9's website.*
- ii. Pursuant to **clauses 2 and 3** of the MoEF Notification, the Noise Management Plan has been established, and approval from the Directorate General of Civil Aviation (DGCA) has been secured.*
- iii. In accordance with **clauses 4 and 5** of the MoEF Notification, airport noise mapping and the delineation of airport noise zones have been implemented for IGI Airport, with DGCA approval obtained in alignment with the MoEF Notification. This information has been duly disseminated on Respondent No.9's website and was also presented before the Tribunal during the hearing on January 31, 2024.*

- iv. Pursuant to **clause 6** of the MoEF Notification, the Monitoring Protocol and Measurement Procedures for airport noise zones outlined on the websites of the Ministry of Environment, Forest, and Climate Change and the Central Pollution Control Board are being adhered to. Compliance has been ensured, with all Noise Monitoring Terminals (NMTs) installation and operational locations in accordance with CPCB monitoring protocol, a fact corroborated by verification from IIT Delhi, as detailed in the written submissions filed by the Respondent No.9 on 09.02.2024.”

62. It is reiterated that noise level recorded at Delhi airport are within the notified levels; EIA Report is prior to the Notification dated 18.06.2018 and, therefore, the facts mentioned therein would be of no relevance since compliance has been made in respect of the provisions of Notification dated 18.06.2018; after issue of the said Notification, nobody can expect compliance of the said Notification for a period prior to its issue; regarding recording of noise level, it is said in para 8 of additional written submissions that respondent 9 has installed a Noise Monitoring Terminal at RK Puram funnel area of runway and noise level at RK Puram shows compliance of MoEF&CC's Notification dated 18.06.2018 and the said compliance has been verified by IIT Delhi regarding fulfillment of DGCA and CPCB requirement.

Written Submissions dated 27.02.2024 filed on 28.02.2024 by DGCA i.e., respondent 5:

63. Specific stand taken by DGCA is that it has granted approval to Airport Noise Zone and Lmax for aircraft at IGI airport vide letter dated 07.04.2022. Pursuant to CAR, Section 10 - AEPS 'A' Part I Issue I dated 18.12.2014, issued by DGCA, all major airports are required to install noise monitoring stations and conduct noise mapping among other obligations. Respondent 9 and other relevant airports have duly fulfilled

all CAR requirements. It is also said that recorded noise levels at Delhi airport and other applicable airports adhere to the specifications outlined in MoEF&CC's Notification dated 18.06.2018. With respect to the compliance of the noise level, respondent 5 in para 3 has said as under:

“3. Moreover, the Airport Authority of India has issued periodic Aeronautical Information Publications (AIP), delineating the stipulated noise thresholds for aircraft. The latest publication, dated 11.08.2022 for the Indira Gandhi International (IGI) Airport, specifies the noise levels for aircraft (as Lmax) at 105 dB(A) during daytime hours (6AM to 10PM) and 95 dB(A) during night time hours (10PM to 6AM). Given the aforementioned, it is evident that there has been no contravention of the MoEF&CC Notification dated 18.06.2018 at the IGI Airport. This information was conveyed by the responding party to the Applicant through its letter dated 18.08.2022. Consequently, the contention put forth by the Applicant lacks merit.”

64. It is said that since there is no violation of MoEF&CC's Notification dated 18.06.2018, the request of applicant to issue directions for its implementation and compliance is unwarranted and infructuous. It is also said that various compliance aspects have already been examined by Tribunal and it was satisfied therewith while disposing of **Execution Application No. 24/2019 (supra)**, hence the said issue cannot be raised again.

65. Respondent 5 has also referred to **Execution Application No. 24/2019 (supra)** filed by applicant seeking compliance and execution of the judgment dated 24.11.2017 passed in **Appeal No. 60/2013 (supra)** and other connected matters, which was disposed of on 18.09.2019 with the following directions:

“5. The main question for consideration is the compliance of direction number 6 as far as AAI is concerned. According to the action taken report, NOTAM was issued by AAI which has been incorporated in the Aeronautical Information Publication on 11.10.2018. Information

regarding use of reverse thrust by pilots is applicable to Delhi, Mumbai, Bengaluru, Chennai, Hyderabad and Kolkata.

6. *As regards direction numbers 3, 4, 5 and 9, the said publication applies to all airlines fly to Delhi. DIAL has pointed out that order for use of CNG cover by direction number 7 was partly modified by the Hon'ble Supreme Court vide order dated 06.08.2018. As regards noise pollution, steps have been taken in terms of MOEF&CC Notification dated 06.07.2018 laying down certain requirements which have to be complied by 17.06.2020.*

7. *We suggest that DIAL should not only measure and maintain the prescribed noise levels but also display the same in public domain.”*

66. It is submitted by respondent 5 that applicant has neither disclosed the above factum of the filing of above Execution Application nor the order passed therein, but again, has prayed similar relief for which, this OA is not maintainable.

Rejoinder dated 01.03.2024 filed on 04.03.2024 by applicant to the Written Submissions of respondent 5 i.e., DGCA:

67. Applicant has said that record with respect to noise level is lying with the respondents but they are not making the same available to applicant. He, however, reiterated that noise level in the funnel zone is higher than the prescribed Ambient Noise Standards. In the rejoinder, applicant has said that in the light of the claims set up by respondent 9 and 5, directions be issued to place on record the statutory record which are being maintained on time basis by respondents 2, 4 and 6 regarding noise level in landing funnel. He has placed again reliance on EIA Report filed by respondent 9 to say that noise level was higher than the prescribed Ambient Noise Standards. It is also said that **on the website, monthly average noise level has been disclosed** though people are affected by the actual noise caused by aircrafts during landing and taking-off under

landing funnel area. It has also sought certain information from respondents, which may support its contention and submitted that non-submission of statutory record which in possession of respondents 1, 2, 4 and 6 demonstrates a lack of credibility on the part of respondents who are custodian of environment and thus, such attitude is deprecable. In support of this submission, applicant has relied on the observations made by Supreme Court in para 33 and 34 of the judgment dated 03.06.2022 in ***T.N. Godavarman Thirumulpad vs. Union of India & Others, (2022) 10 SCC 544.***

Written Submissions dated 21.02.2024 filed on 28.02.2024 by AAI i.e., respondent 4:

68. It is said that the applicant has not raised any new issue except the level of noise pollution. With respect to the details of Delhi Airport, it is said that the same is not under the monitoring authority of AAI and, therefore, no information for this airport can be required to be supplied by respondent 4. Applicant is making issue of noise pollution level without substantiating any fact and, therefore, the application deserves to be rejected.

Rejoinder dated 01.03.2024 filed on 04.03.2024 filed by applicant to the written submissions of respondent 4:

69. Here also, applicant has virtually reiterated what is already said but has further said that respondent 4 should be directed to place the following record which is in its possession:

“(a) Allotment of slots and turnaround time for the last winter and now received for approval at Delhi International Airport and other airports, which is essential to assess the correctness of the statements made by both Respondent No.5 and Respondent No.9.

(b) *the noise levels recorded at the boundary of the Airport for the period July 2022, October 2022, January 2023, April 2023, July 2023, October 2023 and January 2024 which are being recorded by it on real time basis. This request finds support from the Notice Inviting Tenders issued and placed on record by Respondent No.4, through affidavit dated 25th January 2024, and copy of similar report that was provided by Regional Office, Madras (Copy of Fortnightly reports for the period 01-08-2022 to 15-08-2022 and 15-09-2022 to 30-09-2022 submitted as additional documents at page no.(s) 433 to 462.”*

ISSUES:

70. The rival submissions, in the light of the above discussion, give rise to the following issues:

- (I) Whether the provisions of Notification dated 18.06.2018 in respect of Airport Noise Zone and noise limit are being complied with or not?
- (II) Whether in respect to the issue of the compliance also, the matter is covered by judgment dated 18.09.2019 passed in **Execution Application No. 24/2019 (supra)** and is it open to applicant to raise this issue in the fresh OA?

71. We proceed to consider and decide both the issues together.

72. Notification dated 18.06.2018 prescribe noise limits by dividing airports in two types i.e., ‘busy airports’ and ‘other airports’ excluding ‘proposed airports’ in the context of ‘Airport Noise Zone’, therefore, to apply the noise limit prescribed by Notification dated 18.06.2018, one of the first conditions which has to be complied by respondents is delineation of “Airport Noise Zone”.

73. So far as IGI airport and ATC Palam is concerned, we find that Airport Noise Zone has been provided and it has been duly approved by DGCA.

74. Letter dated 07.04.2022 sent by DGCA (annexure R1 to Preliminary Objections dated 02.01.2024 of DGCA), we have already referred to above. This letter is addressed to respondent 9 i.e., Delhi International Airport Ltd. (DIAL) and deals with the subject of approval of Airport Noise Zone developed by DIAL in respect of airports at Delhi. Initially, Learned Counsel appearing for applicant sought to submit that letter dated 07.04.2022 specifically does not say that Airport Noise Zone delineated by DIAL has been approved by DGCA but when we pointed out that a wholesome reading of the letter clearly shows that the document prepared by DIAL in respect of Airport Noise Zone at Delhi stands approved by DGCA and it is also mentioned that the said approval is valid for a period of 2 years from the date of issue of the letter unless suspended/revoked/cancelled earlier, he could not make any further submission to pursue us to take a different view. We are, therefore, satisfied that Airport Noise Zone in respect of airport at Delhi has been delineated by DIAL and it is approved by DGCA and has become operative on and after issue of the letter dated 07.04.2022.

75. Learned Counsel appearing for applicant, however, submitted that document no. DIAL/ANZ/2021-22/Verl., which is said to contain the details of Airport Noise Zone developed by DIAL, is neither appended to the letter dated 07.04.2022 nor is available on the concerned website, therefore, applicant is not in a position to make any comments thereon but in our view, this fact cannot be construed as if the requirement of

Notification dated 18.06.2018 in respect of delineation of Airport Noise Zone has not been complied by DIAL for airports at Delhi. Therefore, once substantial compliance has been shown by respondents, we do not find any necessity to go into this aspect further at this stage.

76. In fact, we are fortified in taking the above view from further letter dated 18.08.2022 sent by DGCA to applicant's society placed on record as annexure R2 at page 1011, wherein DGCA has communicated to applicant, referring to its complaint dated 25.05.2022 that DIAL has developed Airport Noise Zone, using Noise Model in accordance in noise limit prescribed vide Notification dated 18.06.2018. This letter also shows a clear stand of DGCA that Airport Noise Zone has already been provided by DIAL and since it was approved by DGCA itself, therefore, it has taken the said stand that Airport Noise Zone has been defined by DIAL and accordingly, communicated this information to applicant.

77. DIAL has also provided 05 Noise Monitoring Terminals at Delhi airport as is evident from annexure R-12 to the reply of DIAL at page 877.

78. It is also evident from record that besides IGI Airport at Delhi, the other two airports which answers the definition of "busy airports" are at Chennai and Kolkata. These airports are being maintained by AAI. In its reply, AAI has clearly stated that at Airport Kolkata, declaration of Airport Noise Zone and Lmax value are under process for approval to DGCA and would be completed by 31.03.2024. In respect of Chennai airport, the work of Airport Noise Mapping, declaration of Airport Noise Zone and installation of continuous noise monitoring systems would be completed by 31.07.2024.

79. It is true that AAI has taken longer time than what was required to be done by Notification dated 18.06.2018 and no reason for such delay has been explained but since the timeline given by AAI for completion of the work at Kolkata and Chennai Airports from this day is not very far, we do not find any reason to take any stern view of the matter except of reminding AAI that it shall adhere to its time line and complete the work at Chennai and Kolkata airport within the time as mentioned in its Short Affidavit dated 25.01.2024 filed before Tribunal on 30.01.2024.

80. There are 15 more airports which satisfy the definition of “other airports” maintained by AAI and in respect to the said airports also, AAI has taken a clear stand that the work of Airport Noise Mapping and declaration of Airport Noise Zone would be completed by 31.07.2024. We hope and trust that this timeline shall also be adhered to and abided by AAI in words and spirit.

81. So far as placing noise level on website is concerned, details of the website has been given by respondent 9 in its reply and aircraft noise level and monitoring at different points with monthly average has been given as collectively as annexure R-8 but the factum that the information has been placed on the website has been seriously disputed by applicant. We also tried to open the website mentioned by respondent 9 but could not find it convenient to open the required information with regard to aircraft noise level and monitoring as claimed by respondent 9. Hence, we direct respondent 9 to display aircraft noise level on monthly basis as required by Notification dated 18.06.2018 and given in **direction no. 7 of Tribunal’s order** dated 18.06.2019 on the website in such a manner that it may conveniently be available to everyone who is interested to find out

the said information and this shall be done within 30 days from today. A compliance report on this respect shall also be submitted with Registrar General of this Tribunal within 15 days after expiry of 30 days as directed above.

82. Learned Counsel appearing for applicant in its Written Submissions has raised objections that the information given is not a daily and hourly information but the monthly average taken by respondent 9. In this regard, we find that direction contained in para 7 of the order dated 18.09.2019 says that noise level should not only be measured and maintained but be displayed on the public domain. Therefore, the monthly average given by respondent 9, in our view, is not sufficient and instead, it should be given every month but the record should be on daily basis. The average of the day may be maintained to avoid functional difficulty in the matter. **Issue I is answered accordingly.**

83. So far as **Issue II** is concerned, we find that the judgment in ***Appeal No. 60/2013 (supra)*** was rendered on 24.11.2017 i.e., prior to issue of Notification dated 18.06.2018. ***Execution Application No. 24/2019 (supra)*** was considered in the context of the directions issued in the judgment dated 24.11.2017 and when it was disposed of on 18.09.2019, Tribunal recorded its satisfaction with regard to compliance of the directions given in the judgment dated 24.11.2017. So far as compliance of the Notification dated 18.06.2018 is concerned, that was not an issue in the earlier proceedings and, therefore, it cannot be said that disposal of ***Appeal No. 60/2013 (supra)*** vide judgment dated 24.11.2017 or ***Execution Application No. 24/2019 (supra)*** vide judgment dated 18.09.2019 shall stand in the way to maintain this OA only to the extent

of compliance with Notification dated 18.06.2018. **Question II is answered accordingly.**

84. However, before concluding the matter, we find it appropriate to observe that it is the admitted case of respondents also that effective measures for mitigating noise during landing and taking off of aircrafts at airports should be taken and observed in words and spirit. After Notification dated 18.06.2018, the noise level prescribed therein has to be observed by the various operators of airports in the country as also by the operators of aircrafts of concerned air lines. Though, it is the stand of DGCA that it has outlined monitoring protocol for aircraft noise as CAR dated 24.11.2014 and requirement and procedures for monitoring ambient noise level due to aircrafts dated June 2018 respectively and the same have been communicated to all concerned airports and airlines, but after Tribunal's judgment dated 24.11.2017 in ***Appeal No. 60/2013 (supra)*** and 18.09.2019 in ***Execution Application no. 24/2019 (supra)*** as also publication of Notification dated 18.06.2018, we do not find from record that appropriate directions have been issued to all the concerned airlines and airports to ensure all possible mitigation measures for controlling noise pollution in Airport Noise Zone.

85. Respondent 9, however, has said that it has issued circulars dated 24.08.2021, 28.04.2022 and 29.05.2023 to all the airlines operating at IGI airport and ATC Palam requesting them to follow the best practices on noise mitigation measures and adopt latest new fleets, technologies and procedures to make aircraft operations quieter while ensuring a safe and efficient operational environment but this is applicable to airports under management of respondent 9 but no similar circulars and directions have

been issued by AAI in respect of the airports which are being maintained by it and the airlines operating at such airports. In our view, AAI should also issue similar directions to all airports maintained by it and also the concerned airlines which are operating at such airports. This exercise shall be undertaken by AAI within two months from this judgment.

86. DGCA is also directed to issue similar circulars, requesting all the concerned airports as also airlines operating thereat to take effective steps for mitigating noise level so as to comply with the Notification dated 18.06.2018 by issuing requisite circulars and also by appending a copy of this judgment to all the concerned airports and also airlines operating at such airports, within three months.

87. We may also notice at this stage that initially airports were established at distant places, away from city or urban areas, mostly where there was no abadi or population or habitation. Since there was no restriction in developmental activities of creating infrastructural improvements, with the passage of time localities in the vicinity of airports developed with residential and commercial buildings as a result whereof number of people started residing thereat. These people obviously would have come within the noise area/zone of the airports and would have to undergo problems of air pollution. However, for this situation, it is difficult to hold the airports responsible since development of airport is a major infrastructure activity and any subsequent improvement in the vicinity or locality resulting in growth of abadi or habitation cannot be a ground to seek any disturbance in the operation of airports activities. The local bodies or concerned Ministries in Central Government or airport authority in the consultation with the State Government and concerned

departments should have taken care of making provision so that the area in the vicinity of airport or the buffer area should have remain construction free to avoid this situation. For the existing airports at present, whatever has already happened in past, it is difficult to rectify but whatever is possible without disturbing airport's operations and also without compromising with safety and security aspects, can be done, and that includes steps for mitigating measures to reduce noise pollution. Further, in respect of new airports which are now coming mostly in distant places, appropriate provisions may be made by ensuring "no construction zone" in and around the new airports or in the buffer area outside the boundary of airports so that similar problem may not be faced due to subsequent construction activities in those areas. In our view, MoEF&CC in consultation with concerned Ministry of Urban Development and Aviation and also in consultation with the respective State Governments, and concerned departments should look into this aspect of the matter and make provisions so as to protect future development of airports as also people from involuntary facing noise pollution due to raising construction of residential and/or commercial buildings near the new airports which are under construction/development.

88. In the light of the above observations and subject to the directions stated above, we dispose of the present OA with the direction that Compliance Report by the concerned respondents in respect to the directions given in the judgment shall be filed with Registrar General of this Tribunal within 15 days after expiry of the period given for compliance of the directions. Registrar General, if finds necessary, may place the matter before Tribunal for further orders.

89. OA is disposed of with the above directions.

90. Pending IA also stands disposed of.

91. Copy of this judgment be forwarded to MoEF&CC, CPCB, Ministry of Civil Aviation, AAI, DGCA, DPCC, Lt. Governor of Delhi and Delhi International Airport Ltd., by e-mail for compliance.

SUDHIR AGARWAL,
JUDICIAL MEMBER

DR. A. SENTHIL VEL,
EXPERT MEMBER

March 21, 2024
Original Application No. 612/2023
R