

High Court struck out China Concrete Co. Limited's civil claim against EPD

The Court of First Instance of the High Court today (December 13) handed down a decision, pointing out that on whether the concrete batching plant (CBP) at 22 Tung Yuen Street, Yau Tong is required to have a Specified Process Licence (SPL) to operate, China Concrete Co. Limited (China Concrete) had disclosed no reasonable causes of action and abused the legal process on filing a civil claim against the Environmental Protection Department (EPD). Therefore, the Court allowed the Department of Justice (DoJ)'s application on striking out China Concrete's claims and ordered the costs of the proceedings be paid by China Concrete. The spokesperson of the EPD welcomes the decision of the Court of First Instance.

China Concrete filed in their claims to the High Court on August 8, 2022, stating that according to the Air Pollution Control Ordinance, its CBP at 22 Tung Yuen Street, Yau Tong does not require to obtain a SPL to operate. China Concrete believes that the EPD has misinterpreted the definition on silo capacity set out in the Ordinance, and requested the Court to declare that the plant does not require to obtain a SPL to operate, and requested the EPD to compensate for the losses caused by the alleged illegal operation of the plant without a license.

The DoJ applied to the High Court on October 28, 2022 on behalf of the EPD to strike out the relevant claims. The High Court conducted a hearing on the striking-out application on June 6, 2023, and handed down the judgment on December 13, 2023, striking out China Concrete's relevant claims.

The spokesman of the EPD said that the department will continue to closely monitor the CBPs at Tung Yuen Street, Yau Tong. If violations and/or operations are found to cause air pollution nuisance, enforcement actions will be taken and the evidence collected will be passed onto the DoJ for consideration and appropriate follow-up.

In addition, the department is working on the legislative amendments of the Air Pollution Control Ordinance to enhance enforcement power for closing illegal premises, so as to allow the department to handle similar cases more efficiently and effectively in the future. The amendments of the Ordinance are set to be introduced into the Legislative Council in the first quarter of next year.