

No. M.VI-1/3/2022-Mines VI
Government of India
Ministry of Mines

Shastri Bhawan, Dr. Rajendra Prasad Road
New Delhi-110 001

Dated:- 25th May, 2022

NOTICE FOR PUBLIC CONSULTATION

Subject: Proposal for amendment of the Mines and Minerals (Development and Regulation) Act, 1957 for bringing reforms in mineral sector - reg.

The Mines and Minerals (Development and Regulation) Act, 1957 (MMDR Act) was amended in 2021 with an objective to fully harness the potential of the mineral sector, increase employment and investment in the mining sector, increase the revenue to the States, increase the pace of exploration and auction of mineral resources, and resolve long pending issues that have slowed the growth of the sector.

2. In order to augment the reforms made in mineral sector, this Ministry is examining the proposals to make further amendments in the MMDR Act based on reports of committees and inputs received from various stakeholders. Accordingly, a brief note on the proposals under consideration for amendment in the MMDR Act is enclosed herewith as **Annexure** for comments/ suggestions from the general public, Governments of States and Union Territories, mining industry stake-holders, industry associations, and other persons and entities concerned.

3. In view of the above, it is requested that comments/ suggestions on the above issues may be sent **on or before 15.06.2022.**

4. The comments/suggestions may be sent by e-mail in MS-Office Word file to the following ID:

jspolicy-mines@gov.in

The subject of the e-mail should be "Comments/ suggestions on the proposed amendments to the MMDR Act, 1957".

5. Alternatively, comments/suggestions may also be sent by post to the following address:

Shri Mustaq Ahmad, Director
Ministry of Mines
Room No 313,
D-Wing Shastri Bhawan,
Dr Rajendra Prasad Road
New Delhi -110 001

The envelope may kindly be superscribed on the top with "Comments/
suggestions on the proposed amendments to the MMDR Act, 1957".

Encl.: As above.

Yours faithfully,



(Mustaq Ahmad)
Director

Annexure

Note for consultation on proposals to make further amendments in the MMDR Act, 1957

1. Calculation of ASP: Removing cascading impact of royalty on royalty

(i) Average Sale Price (ASP) is weighted average of 'sale value' of minerals from each mine in a State. As per the existing rules, royalty, payments to District Mineral Foundation (DMF) and National Mineral Exploration Trust (NMET) are included in the 'sale value'. *Ad valorem* royalty is calculated on the basis of ASP. It is also used in calculation of various auction parameters such as auction premium, upfront payment, reserve price for bidding, performance security and net worth requirement to determine the eligibility for participation in the auction.

(ii) A committee was constituted by the Ministry of Mines under chairmanship by Shri Praveen Kumar, IAS (Retd.) with members from Ministry of Mines, NITI Aayog, Ministry of Steel, Indian Bureau of Mines (IBM) and Indian Statistical Institute to examine the incidence of double calculation of royalty. The committee concluded that since the sale value already includes royalty, DMF and NMET, the lessee pays royalty on royalty, DMF and NMET. Due to this, there is an additional charge on the miners under the current methodology.

(iii) The committee recommended to calculate ASP after deducting royalty, DMF & NMET from sale value. As ASP has become an important factor in auction regime, it was recommended to include it in the Act for future certainty and stability in the fiscal regime in the mineral sector. The committee recommended to apply new method of calculating ASP on the both cases, i.e., (i) mining leases (MLs) to be auctioned/ granted after the amendment to the ASP formula and (ii) the existing MLs including the MLs auctioned till the date of amendment to the ASP formula.

(iv) The MMDR Amendment Act 2015 introduced auction of mineral concessions. All auctions take place by bidding on percentage of ASP payable. Royalty is also payable as a percentage of ASP in many minerals. However, ASP is not defined in the law. It is defined in Rules which mandates non exclusion of royalty, DMF and NMET from the calculation. However, the same Rules mandate exclusion of taxes like GST. Thus, recent changes in GST on ores has not affected ASP and as a result

royalty and premium were also not affected. Charging royalty and premium on the sale value which includes royalty is not appropriate way to collect revenue and leads to cascading effect on both royalty and premium. It also creates complications in changing royalty rates. Ministry of Coal had addressed this issue vide notification in 2012 itself. It is necessary that this issue is addressed for non-coal minerals also soon.

(v) The issue needs to be addressed through amendment in the MMDR Act by defining ASP excluding royalty. Removing the cascading impact of royalty on royalty is expected to increase participation in future auctions, thereby making additional revenue available to the State Governments. This is expected to give fillip to the sector.

(vi) Accordingly, it is proposed to (i) introduce new section in the MMDR Act regarding ASP; (ii) the provision shall specifically provide that ex-mine price for determination of ASP shall exclude GST, export duty, royalty, DMF & NMET & such other levies as may be prescribed; (iii) the change will be applicable for all the MLs, whether auctioned/ granted before or after the commencement of the proposed MMDR Amendment Act, for the minerals removed or consumed from the leased area after the commencement of the said Act; and (iv) adoption of new formula only for the future dues for existing MLs arising after the amendment.

2. Fixing mineral-wise maximum area limit for mineral concessions

(i) Section 6 of the MMDR Act provides maximum area limit for acquiring mineral concessions by a person in respect of any mineral or prescribed group of associated minerals in a State. The limit is 10,000 sq.km. for reconnaissance permit (RP), 25 sq.km. for prospecting licence (PL) and 10 sq.km. for mining lease (ML). The section further empowers the Central Government to increase the area limits in respect of PL or ML for a particular mineral for a particular region. During the course of time, various State Governments requested the Central Government for the increase in area limits, particularly for Government companies. Area limits have been increased keeping in view relaxations previously granted to a particular concession holder (generally, a Government company) and new area limits became applicable to all the PL/ ML holders in a State.

(ii) Allowing acquisition of disproportionately large mineral bearing areas would defeat the present system of auctioning of mineral concessions through fair and transparent mechanism. There is need to fix the area limits rationally to ensure that there is a fair and equitable chance for allocation of natural resources for common good.

(iii) Ministry of Mines constituted a committee chaired by Director General of Geological Survey of India (GSI) with experts from IBM. The committee recommended the mineral-wise area limits for each State, separately for PL and ML. The recommended area limits are aimed at giving impetus to growth of the mining industry where large scale sustainable production is an imperative along with equitable distribution of natural resources.

(iv) The details of area limits proposed based on recommendation are as follows:

S. N.	Mineral	State	Proposed Area limit in sq. km.	
			PL	ML
1	Iron Ore	Odisha	50	20
		Other States	25	10
2	Bauxite	All States	50	20
3	Diamond	All States	400	10
4	Gold & Associated Minerals	All States	50	10
5	Lead & Zinc	All States	75	25
6	Copper	All States	75	25
7	Limestone	All States	50	25
8	Potash	All States	100	25
9	All other minerals (atomic minerals, coal, manganese, chromite, etc.)	All States	25	10

(v) In order to give stability to the proposed area limits and desisting attempt of frequent amendments in it, it is proposed to:-

(a) amend section 6 of the MMDR Act and incorporate the recommended mineral-wise and State-wise area limits in form of a Schedule to the MMDR Act. Central Government to be empowered to revise the limits in such schedule;

(b) Where PL or ML has already been executed or letter of intent upon auction has been issued or reservation has been made for the same in accordance with the present area relaxation but would be in violation of the proposed area limits, such PL or ML shall continue till its expiry or termination with area limit initially allowed. The area limits specified in the Seventh Schedule shall be applicable on grant of any new mineral concession to such licencees or lessees.

3. Dispense with Forest Clearance requirement for exploration (RP&PL)

(i) The High Level Committee (HLC) of NITI Aayog had recommended that "*there should not be any requirement of Forest Clearance for undertaking exploration*". Ministry of Environment, Forest and Climate Change vide letter dated 02.10.2021 had issued a consultation paper on the proposed amendments in the Forest (Conservation) Act, 1980 and invited comments/ suggestions of the State Governments and public on the same. In the said consultation paper, the following was proposed:

"14. Survey and investigation activities are procedures prior to considering or proposing actual non-forestry activity on the forest land. In many of such activities the forest land is used for a very short time and also there is no perceptible change in the forest land or the biodiversity thereon. But since such activities are considered non-forestry activity, prior approval of central Government is sought following formal procedure which in fact takes a lot of time. To address this, particularly in such activities where the impact is not perceptible, the provisions of the Act may not be applicable."

(ii) As stated in said consultation paper, survey and investigation activities such as reconnaissance and prospecting operations (exploration) does not cause any perceptible change in the forest land or the biodiversity thereon. No permanent diversion of forest land for non-forest activities is required for such activities and these activities are for short duration of 3-5 years. Also, the ratio of conversion of exploration activity to mining activity is 100:1. In order to enable auction of more

blocks and to enhance production of minerals, more exploration is required to be conducted. Mining operations can be undertaken in an area only after the existence of mineral is established in the said area. Necessary forest clearance would anyway be taken before start of mining operations.

(iii) Accordingly, a provision may be inserted in the MMDR Act to provide that any reconnaissance or prospecting operations undertaken within the period specified in MMDR Act in a forest land shall not be considered as diversion of forest land for non-forest purpose under the Forest Conservation Act, 1980. Further, State Governments may prescribe the manner of granting permission for carrying out such reconnaissance or prospecting operations.

4. Dispense with Central Government's previous approval before initiating auction for composite licence

(i) Section 10B(2) of the Act mandate that the State Government shall obtain previous approval of the Central Government before initiating auction process for composite licence (CL) in respect of any 'notified mineral', i.e., bauxite, iron ore, limestone and manganese.

(ii) In 2021, several amendments were made in the Act and the rules to boost exploration in the mineral sector and increasing pace of auction of blocks including allowing auction of blocks for CL at G4 level of exploration instead of previously prescribed G3 level. As the level of exploration has been reduced at CL stage, it would be appropriate to remove the redundant process of obtaining previous approval of the Central Government before putting a block for auction of CL. This will enable the State Governments to put blocks in auction for CL at faster pace. Accordingly, section 10B(2) of the Act may be amended.

5. Omit phrase 'after meeting requirement of linked plant' in case of sale of 50% mineral from captive mines

(i) One of the major reforms brought through the MMDR Amendment, 2021 was to allow existing captive mines, including captive coal mines, to sell up to 50% of the minerals produced in a year after meeting the requirement of linked end use plant' (sections 8(5) and 8A(7A)). The miner is mandated to pay an additional amount to the State Government on such sale as specified under the Sixth Schedule of the Act. This amendment was intended to ensure optimal mining of mineral resources,

facilitate increase in production and supply of minerals, ensure economies of scale in mineral production, stabilize prices of ore in the market and bring additional revenue to the States.

(ii) However, the use of phrase 'after meeting the requirement of the end use plant linked with the mine' may be interpreted differently by different stakeholders. It is being interpreted as the sale would be allowed only after of the requirement of the end use plant is fulfilled. Also, in cases where the linked end use plant is not ready or is shut down due to some reasons for a short period, such as maintenance or if there is fall in demand of end product, the miner cannot continue the production and sale of minerals. Thus, the objective of ensuring optimal mining of mineral resources and facilitating increase in production and supply of minerals get defeated.

(iii) Accordingly, it is proposed to omit the phrase 'after meeting the requirement of the end use plant linked with the mine' in sections 8(5) and 8A(7A) of the Act. Hence, the captive miners would be allowed to sell 50% of their annual production without any restriction.

6. Removal of some minerals from list of atomic minerals and empower Central Government to auction concession for critical minerals

(i) Part B of the first Schedule of MMDR Act lists atomic minerals in 12 separate entries. Under provision of the MMDR Act (third proviso to section 5(1)) provides that only Government company can obtain composite licence or ML in respect of atomic minerals. Many such minerals have numerous non-atomic applications. In most cases the non-atomic uses of these minerals far outweigh their atomic use. Many such minerals are not fissile in nature. Some of these mineral commodities are also found associated with many other minerals.

(ii) These minerals are technology and energy critical (elements); have uses in the space industry, electronics, information & technology and communications, energy sector, electric batteries and the nuclear industry and are critical in net zero emission commitment of India. Country is dependent on imports for most of these important commodities. These minerals have high economic importance and considerable supply risk due to geo-political uncertainties.

(iii) Accordingly, the following is proposed:

(a) To omit 8 out of 12 group of minerals from Part B of the first Schedule of MMDR Act, viz: 1. Beryl and other beryllium-bearing minerals; 2. Lithium-bearing minerals. 3. Minerals of the "rare earths" group containing Uranium and Thorium; 4. Niobium-bearing minerals; 5. Titanium bearing minerals and ores (ilmenite, rutile and leucoxene); 6. Tantalum-bearing minerals; 7. Zirconium-bearing minerals and ores including Zircon; 8. Beach sand minerals, that is, economic heavy minerals found in the teri or beach sands, which include ilmenite, rutile, leucoxene, garnet, monazite, zircon and sillimanite.

(b). Create new Part-D in the first Schedule (Critical & Strategic Minerals) and place above mentioned group of 8 minerals in it along with other minerals, viz., molybdenum, rhenium, tungsten, cadmium, indium, gallium, graphite, vanadium, tellurium, selenium, nickel, cobalt, tin, platinum group of elements and fertilizer minerals such as potash and phosphate (without uranium) & glauconite.

(c). Empower Central Government to auction concessions, if required, for the minerals in Part-D of the first Schedule. The power of the Central Government to auction will be in addition to the power of the State Governments.

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