

Government of India
Ministry of Environment, Forest and Climate Change
(Forest Conservation Division)

Indira Paryavaran Bhawan,
Jorbagh Road, Aliganj,
New Delhi - 110003.

Dated: 15th March, 2022

To,

The Addl. Chief Secretary (Forests),
Government of Odisha,
Bhubaneswar.

Sub: Request for refund of amount of Rs. 14,67,73,800/- deposited towards Net Present Value (NPV) in respect of 201.06 Ha of forest land involved in Gaudi Iron Ore Mines situated in the village-Gaudi, Panduliposi, Topadih, Loidapada, Rajidih & Sidhamatha R.F under Barbil Tehsil in Champua Sub-Division of Keonjhar District of State of Odisha.-reg.

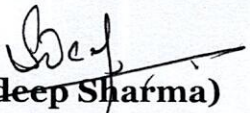
Sir,

I am directed to enclose herewith a copy of representation dated 02.02.2022 as received from the user Agency i.e. M/s Shri Ramesh Prasad Rao on above subject requesting to refund an amount of Rs. 14,67,73,800/- deposited by user agency towards Compensatory levies in account of CAMPA against the proposal.

In this regard, the State Government is requested to furnish their comments on above said representation along with bifurcation of funds and a confirmation that no non-forestry activity has been carried out by the user agency on the proposed diverted forest land. Further, it may also be confirmed that no amount from the funds deposited towards instant proposal has so far been spent.

Yours faithfully,

Encl: As above


(Sandeep Sharma)

Assistant Inspector General of Forest(FC)

Copy to:

1. The PCCF (HoFF), State Forest Department, Government of Odisha, Bhubaneswar
2. The PCCF & Nodal Officer (FCA), O/o PCCF, State Forest Department, Government of Odisha, Bhubaneswar
3. The Regional Officer (Central), Integrated Regional Office of MoEF&CC at Bhubaneswar
4. User Agency

5. Monitoring Cell, FC Division, MoEF&CC, New Delhi
6. Guard File

Ramesh Prasad Sao

MINE OWNERS

Date: 02.02.2022

To,

(1) **The Secretary,**

Ministry of Environment, Forest & Climate Change
(FC Division), Government of India,
Jorbagh, Lodhi Colony, New Delhi, Delhi 110003

(2) **The Divisional Forest Officer,**

Keonjhar Division, District Keonjhar,
State of Odisha.

Sub: Refund of amount of Rs. 14,67,73,800/- deposited towards Net Present Value (hereinafter referred as "NPV") in respect of 201.06 Ha of forest land involved in Guali Iron Ore Mines situated in the village- Guali, Panduliposi, Topadih, Loidapada, Rajidih & Sidhamatha R.F under Barbil Tehsil in Champua Sub-Division of Keonjhar District of State of Odisha.

Respected Sir,

The undersigned is ex-lessee of the Guali Iron Ore Mines over an area of 365.026 Ha. situated in the village- Guali, Panduliposi, Topadih, Loidapada, Rajidih & Sidhamatha R.F under Barbil Tehsil in Champua Sub-Division of Keonjhar District of State of Odisha (hereinafter referred as "**Subject Mines**"). The mining lease for the subject mines has expired on 31.03.2020 in terms of the provisions contained under sub-section (6) of Section 8A of the Mines and Minerals (Development and Regulation) Act 1957 (hereinafter referred as "**MMDR Act**").

It is stated that till the expiry of the mining lease i.e. 31.03.2020, the undersigned has made payment of Rs. 24,70,88,210/- (Rupees Twenty-Four Crore Seventy Lakh Eighty-Eight Thousand Two Hundred Ten Only) towards NPV for entire forest land i.e. 338.477 Ha, however the undersigned ex-lessee

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during the currency of his mining lease, was accorded Stage-II Forest Clearance for and in fact used only 137.417 Ha. ($42.417+95=137.417$) of Forest Land. It is submitted remaining area of 201.06 Ha. ($338.477-137.417=201.06$) of Forest Land has never been diverted or used for mining purpose by the undersigned ex-lessee.

In view of such facts and circumstances, the undersigned is writing this letter seeking refund of amount of Rs. 14,67,73,800 deposited towards NPV for diversion of 201.06 Ha of forest land which has never been diverted or in fact used for mining purposes. It is, in this reference, submitted as infra;

- (1) That on 27.06.1953, a mining lease for subject mines was executed in favor of one Md. Habibur Rahman (hereinafter referred as "Lessee") for a period of 20 years. Upon expiry of the mining lease, first renewal of mining lease for a period of 20 years i.e., from 27.06.1973 to 26.06.1993 was granted in favor of the lessee. During the first renewal period, the mining lease for the subject mines was transferred to undersigned after obtaining prior approval of the State Government under Rule 37 of the Mineral Concession Rules 1960 (hereinafter referred as "MCR 1960"). A deed of transfer of mining lease was executed and registered on 15.11.1986.
- (2) That on 10.02.1992 undersigned filed an application before the State Government seeking second renewal of mining lease for subject mines for a further period of 20 years i.e. from 27.06.1993 to 26.06.2013. However, the State Government failed to dispose of the Application for second renewal, therefore the mining operations were continued under deemed renewal of mining lease under Rule 24A of the MCR 1960.

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(3) That during second renewal of the mining lease period, the Ministry of Environment and Forest (FC Division), Government of India [hereinafter referred as "**MOEF (FC Division)**"], vide its letter dated 25.09.2003 addressed to the Secretary (Forest), Government of Orissa, Bhubaneswar agreed to accord in-principal approval for diversion of 42.417 ha. of already broken up forest land for renewal of Guali Iron Ore Mines in favor of the undersigned. The temporary working permission were issued in favor of the undersigned for a period of one year over already broken up area which was further extended by three months vide letter dated 07.10.2004 issued by the Ministry of Environment & Forest, Government of India.

A copy of the letter dated 25.09.2003 issued by MoEF (FC Division) is annexed herewith and marked as **Annexure-1**.

A copy of letter dated 07.10.2004 is annexed herewith and marked as **Annexure-2**.

(4) That pursuant to letter dated 01.10.2003 of MoEF, the Divisional Forest Officer, Keonjhar Division, State of Odisha (hereinafter referred as "**DFO**") vide its letter dated 24.09.2004 directed the undersigned to make payment of Rs. 2,46,01,860/- (Rupees Two Crore Forty-Six Lakh One Thousand Eight Hundred Sixty Only) towards NPV for already broken up area of 42.417 Ha of Forest Land. Pursuant to aforesaid letter dated 24.09.2004, the undersigned vide its payee cheque dated 15.09.2004 bearing No. 466544 made payment of Rs. 2,46,01,860/- (Rupees Two Crore Forty-Six Lakh One Thousand Eight Hundred Sixty Only) towards NPV for already broken up area of 42.417 Ha of Forest Land. The undersigned wrote a letter dated 25.09.2004 to the DFO, Keonjhar

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Division, State of Odisha thereby intimating him about payment towards NPV and further requesting principal approval over the entire area.

A copy of the letter dated 24.09.2004 issued by Divisional Forest Officer, Keonjhar Division, State of Odisha is annexed herewith and marked as **Annexure-3**.

A copy of the payee cheque dated 15.09.2004 along with a copy of letter dated 25.09.2004 written by undersigned is annexed herewith and marked as **Annexure-4(series)**.

- (5) The MoEF(FC Division) vide its letter dated 14.01.2005 accorded approval under section 2 of the Forest (Conservation) Act, 1980 for diversion of 42.417 ha. of already broken up forest land for renewal of Guali Iron Ore Mines in favour of the undersigned. However, the aforesaid approval was made subject to payment of NPV in respect of 268.117 Ha of forest land.

A copy of the letter dated 14.01.2005 of MoEF (FC Division) is annexed herewith and marked as **Annexure-5**.

- (6) That the undersigned further submitted a proposal for diversion of 209.54 Ha. of forest land in addition to the already broken up area of 42.417 Ha of Forest Land. The DFO, Keonjhar Divisions (Odisha) vide its letter dated 01.02.2010 bearing No. 687/Mining directed the undersigned to make payment of Rs. 13,11,72,040/- (Rupees Thirteen Crore Eleven Lakh Seventy-Two Thousand Forty Only) towards NPV for diversion of 209.54 Ha area of Forest Land. It was informed that the MoEF has agreed with proposal for diversion of 209.54 Ha. of forest land in addition to 42.417 Ha. already broken up area, out of proposed 251.957 Ha. (209.54 + 42.41 Ha.) of Forest Land subject to fulfillment of 18 No. of conditions. It was further stated that as per condition No. 3, the undersigned was required to

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make payment towards NPV for the forest area proposed for diversion i.e. 209.54 Ha.

A copy of the letter dated 01.02.2010 issued by DFO, Keonjhar Division (Odisha) is annexed herewith and marked as **Annexure-6**.

- (7) That pursuant to letter dated 01.02.2010 of DFO, Keonjhar Division (Odisha), the undersigned vide bank draft dated 03.03.2010 bearing No. 023888 made payment of Rs. 13,11,72,040/- (Rupees Thirteen Crore Eleven Lakh Seventy-Two Thousand Forty Only) towards NPV for diversion of 209.54 Ha area of Forest Land. The undersigned vide its letter dated 05.03.2010 intimated the Division Forest Officer, Keonjhar (Odisha) about payment towards NPV.

A copy of the payee bank draft dated 03.03.2010 along with a copy of the letter dated 05.03.2010 written by undersigned is annexed herewith and marked as **Annexure-7(series)**.

- (8) That the Divisional Forest Officer vide its letter dated 05.06.2010 directed the undersigned to make payment of NPV amounting to Rs. 3,99,51,510/- (Rupees Three Crore Ninety-Nine Lakh Fifty-One Thousand Five Hundred Ten Only) towards remaining area of Forest Land along with differential NPV. The undersigned vide its Demand Draft dated 14.06.2010 bearing No. 011038 deposited a sum of Rs. 3,99,51,510/- (Rupees Three Crore Ninety-Nine Lakh Fifty-One Thousand Five Hundred Ten Only) towards differential NPV as directed vide letter dated 05.06.2010. The undersigned vide its letter dated 14.06.2010 intimated the Divisional Forest Officer, Keonjhar about the payment made towards NPV.

A copy of the letter dated 05.06.2010 issued by DFO, Keonjhar Division (Odisha) is annexed herewith and marked as **Annexure-8**.

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A copy of the Demand Draft dated 14.06.2010 making payment towards NPV along with a copy of the letter dated 14.06.2010 written by the undersigned is annexed herewith and marked as **Annexure-9(series)**.

- (9) That thereafter, the Divisional Forest Officer vide its letter dated 01.06.2018 bearing No. 3705/6F-Mining-258/2018 raised demand of Rs. 5,13,62,800/- (Rupees Five Crore Thirteen Lakh Sixty-Two Thousand Eight Hundred Only) towards NPV in respect of 70.36 Ha of non-forest land falling in the mining leasehold area recorded as forest as on 25.10.1980. The undersigned vide its e-challan application bearing No. 5865300183 and UTR No. UTIBR5201860400358995 dated 04.06.2018 made payment of Rs. 5,13,62,800/- (Rupees Five Crore Thirteen Lakh Sixty-Two Thousand Eight Hundred Only) towards NPV in respect of 70.36 Ha of non-forest land falling in the mining leasehold area recorded as forest as on 25.10.1980. The undersigned ex-lessee vide its letter dated 07.06.2018 while intimating the Divisional Forest Officer, Keonjhar about payment of NPV, made request to allow transportation of mineral utilizing the road shown in the broken up land prior to 25.10.1980 as established in joint verification map of 1996 duly authenticated by concerned authorities. A copy of the letter dated 01.06.2018 written by Divisional Forest Officer, Keonjhar (Odisha) is annexed herewith and marked as **Annexure-10**.

A copy of the e-challan application dated 04.06.2018 along with a copy of the letter dated 07.06.2018 written by the undersigned is annexed herewith and marked as **Annexure-11(series)**.

- (10) It is submitted that the undersigned ex-lessee has made payment of a sum of Rs. 24,70,88,210/- (Rupees Twenty-Four Crore Seventy Lakh Eighty-Eight Thousand Two Hundred Ten Only) towards NPV for an area of

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338.477 Ha of Forest Land involved in the mining lease of the undersigned ex-lessee. A table summarizing the payment of NPV along with details of amount, date, area of forest etc. is filed herewith and marked as **Annexure-12**.

- (11) That on 31.03.2020, the mining lease of the undersigned ex-lessee had expired in view of the provisions contained under section 8A(6) of the MMDR Act 1957. It is stated that till the expiry of the mining lease i.e. 31.03.2020, the undersigned ex-lessee has made payment of NPV amounting to Rs. 24,70,88,210/- (Rupees Twenty-Four Crore Seventy Lakh Eighty-Eight Thousand Two Hundred Ten Only) towards entire forest land i.e. 338.477 Ha, however the undersigned ex-lessee during the currency of his mining lease, was accorded Stage-II Forest Clearance for and in fact used only 137.417 Ha. ($42.417+95=137.417$) of Forest Land for mining purposes. It is an undisputed fact that remaining area of 201.06 Ha. ($338.477-137.417=201.06$) of Forest Land has never been diverted or used by the undersigned ex-lessee for any mining activities.
- (12) In view of the aforesaid facts and circumstances, the undersigned lessee has approached your goodself to seek refund of NPV deposited by undersigned lessee in respect of forest land, which has not been diverted and infact not used for any mining activities by the undersigned ex-lessee.
- (13) It is submitted that recently the Hon'ble High Court of Odisha vide its order dated 02.11.2021 in *Prabodh Mohanty vs State of Odisha and Ors. {W.P.(C). No. 12660 of 2014}*, while dealing with similar facts and circumstances, held that in case where no diversion of forest land for non-forest purposes has been made, there is no justification for demanding NPV and therefore payment if already made is also liable to be refunded.

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The observation of the Hon'ble Court is as under;

*"18. The fact remains that, in the present case, the earlier Stage-I forest clearance granted to the Petitioner stood revoked by the MOEF on 27th September, 2013. Secondly, the Petitioner on realizing the difficulty in obtaining forest clearance, withdrew his application for renewal of the mining lease by the letter dated 26th March, 2014. The Petitioner in fact had not worked the mine at all during all these years in the absence of any forest clearance. Consequently, the very rationale of the NPV ceased to exist. **In other words, if the Petitioner was not going to work the mine and there was to be no diversion of forest land for non-forest purposes, then there would be no justification for demanding NPV from the Petitioner.***

*19. The Court is therefore not able to accept the stand of the Opposite Parties that irrespective of the petitioner not working the mine, it was still required to deposit the NPV only because of the orders of the Supreme Court of India. In the considered view of the Court, this is based on equal understanding of the rationale, in the purpose of the orders of the Supreme Court of India. **The requirement of paying NPV in terms thereof is right only wherethere is going to be a diversion of persona for wrong purposes. This Court, in Banwarilal Newatia v. State of Odisha 2017 (Supp.-I) OLR-71, in similar circumstances, quashed the demand raised by the State of Orissa demanding NPV.***

"20. The Court therefore finds that the impugned demand on NPV is not justified and accordingly quashes the notice dated 5th February, 2014. This will entail refund of the said sum of Rs.1,12,25,940/- to the present Petitioner by the Opposite Party No.3. This refund should be made within a period of eight weeks from today, failing which the said amount will carry simple interest @ 6% per annum for the period of delay."

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A copy of the judgment in dated 02.11.2021 in *Prabodh Mohanty vs State of Odisha and Ors. {W.P.(C). No. 12660 of 2014}* is annexed herewith and marked as **Annexure-13**.

- (14) That the Hon'ble High Court of Odisha on another occasion, in its judgment in *Banwarilal Newatia vs. State of Odisha and Ors. {124 (2017) CLT 138}* held that in case forest area is not diverted for non-forest purposes, the question of recovery/collection of NPV does not arise and when forest land is not utilized for non-forest activities, a person is not liable to pay NPV. Relevant extract of the judgment in *Banwarilal Newatia case* is as under;

"23. In the meantime, even though steps for lapsing were taken, but it was held that mining lease was not liable to be lapsed and the petitioner was directed to deposit NPV dues in respect of 45.3480 hectares of virgin/unbroken area, which had been surrendered to the Government. As the surrendered area was not diverted for non-forest purpose under the FC Act, 1980 and it remained intact and virgin as it was, the question of recovery/collection of NPV for using forest land for being diverted for non-forest purpose under the FC Act, 1980 does not arise. Laudable consideration for recovery/collection of NPV has been well discussed above. Therefore, the area of 45.3486 hectares, which has been surrendered by the petitioner, as per the report of the Range Officer and other competent authority, having been remained intact and virgin and having not diverted to non-forest purpose under the FC Act, 1980, the petitioner is not liable to pay NPV, as demanded pursuant to letter in Annexure-10 dated 01.02.2014 and consequent revised demand made on 22.02.2014 in Annexure-12.

24. By the impugned order dated 02.06.2015 Annexure-14, though the petitioner has been communicated that the mining lease is not

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liable to be lapsed since the lessee has operated the mines from January, 2013 to April, 2014, as intimated by the Mining Officer, Keonjhar vide memo No. 749 dated 12.05.2015 in respect of 67.1390 hectares in respect of which surface right was granted, and accepted the surrender proposal over an area of 45.3480 hectares, resumption of mining operation has been allowed only after deposit of the pending NPV dues by the lessee. The petitioner is aggrieved to the extent of direction given therein with regard to payment of NPV dues demanded against the surrendered area of 45.3480 hectares, as the said forest land has not been diverted for any non-forest purpose under the FC Act, 1980. In view of such position, since the petitioner has not utilized the surrendered 45.3480 hectares of forest land by diverting the same to any non-forest purpose under the FC Act, 1980, he is not liable to pay the NPV dues, as demanded vide letter dated 01.02.2014 in Annexure-10 and revised amount vide letter dated 22.02.2014 in Annexure-12, thereby the direction No. (iii) contained in impugned letter under Annexure-14 dated 02.06.2015 to the extent, that the mining operation may be allowed to resume after the lessee deposited the pending NPV amount, is hereby quashed."

A copy of the judgment in ***Banwarilal Newatia vs. State of Odisha and Ors. {124 (2017) CLT 138*** is annexed herewith and marked as **Annexure-14**.

- (15) It is submitted that the purpose of the NPV, as explained by the Hon'ble Supreme Court in ***M.C. Mehta v. Union of India AIR 2004 SC 4016*** and ***T.N. Godavarman Thirumulpad v. Union of India AIR 2005 SC 4256***, is to have restorative and preventive measure as a result of diversion of forest land for non-forest purposes, in particular, for mining operations. The relevant extract of judgment in ***T.N. Godavarman Thirumulpad case*** explaining the rationale behind the recovery of NPV is as under;

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"26. First, we may consider the meaning of NPV and determine what is NPV.

27. The NPV is the present value (PV) of net cash flow from a project, discounted by the cost of capital.

28. Forestry is a public project. It is important to bear in mind that a benefit received today is worth more than that received later. The benefit received today is in fact 'cost incurred' today. Time value of the cash inflow/outflow is important in investment appraisal. NPV is a method by which future expenditures (costs) and benefit are levelised in order to account for the time value of money. The object behind NPV is to levelise costs. What is the value of Rupee today would not be the value of Rupee say 50 years later. For example, let us have the starting point of value of Rupee in India in the year 2005 and analyse it with the value of Rupee that may be in the year 2050. Cost incurred or to be incurred in 2050 have to be discounted by using appropriate parameters like rate of discount, gestation period, ratio of deflators to GDP. Therefore, expenses incurred in each year between say 2005 and 2050 have to be brought down to their present values by using appropriate discount rate in the NPV."

- (16) As evident from the discussion made in the abovementioned paragraphs, the rationale behind recovering NPV is to recover the cost of Forest which has been diverted for non-forest activities. In case of non-diversion or non-utilization of the forest land, the uses agency is entitled to receive the refund of amount deposited towards NPV.
- (17) It is submitted that in the present case undisputedly, till the expiry of the mining lease i.e. 31.03.2020, the undersigned ex-lessee has made payment of NPV amounting to Rs. 24,70,88,210/- (Rupees Twenty-Four Crore Seventy Lakh Eighty-Eight Thousand Two Hundred Ten Only) towards

Office : Kolkata ; Avani Signature, 2nd Floor, 91A/1, Park Street, Kolkata (W.B.) Pin - 700 016
Phone : (+91) 33-4007 1632 / 1784 / 1785, 2226 7090 / 7091, Fax : (033) 4007-1638

Corp. Office : Chaibasa ; European Quarters, Opposite Gandhi Maidan, Singhbhum West, Jharkhand, Pin - 833201
Phone : (+91) 6582-256268, Fax : (+91) 6582-257700

Administrative Office : Odisha ; 334, Kumar Joda, Near T.V. Tower, Joda, Dist. : Keonjhar, Pin-758 034
Phone : (+91) 6767 272446, 272881, Fax : 06767-272363

E-mail : commercial@tpsigroup.in, commercial@rpsmines.in, rameshprasad@yahoo.co.in

Ramesh Prasad Sao

MINE OWNERS

entire forest land i.e. 338.477 Ha, however the undersigned ex-lessee during the currency of his mining lease, was accorded Stage-II Forest Clearance for and in fact used only 137.417 Ha. (42.417+95=137.417) of Forest Land.

- (18) It is a matter of record that the remaining area of 201.06 Ha. (338.477-137.417=201.06) of Forest Land has never been diverted or used by the undersigned ex-lessee for any mining activities. The aforesaid forest area has not been used by the undersigned ex-lessee.

In view of such facts & circumstances, discussion made in foregoing paragraphs, legal position explained and case laws cited, the undersigned ex-lessee humbly request you to refund an amount of Rs. 14,67,73,800/- deposited towards NPV for diversion of 201.06 Ha of forest land which has never been diverted or used for non-forest purposes.

Thanking you.

Ramesh Prasad Sao

[Ramesh Prasad Sao]

[Ex-lessee of Guali Iron Ore Mines]

CC to:

- (1) **The Principal Secretary**, Department of Steel & Mines, Government of Odisha, Bhubaneshwar.
- (2) **The Additional Chief Secretary**, Forest & Environment Department, Government of Odisha, Bhubaneshwar.

Office : Kolkata : Avani Signature, 2nd Floor, 91A/1, Park Street, Kolkata (W.B.) Pin - 700 016
Phone : (+91) 33-4007 1632 / 1784 / 1785, 2226 7090 / 7091, Fax : (033) 4007-1638

Corp. Office : Chaibasa : European Quarters, Opposite Gandhi Maidan, Singhbhum West, Jharkhand, Pin - 833201
Phone : (+91) 6582-256268, Fax : (+91) 6582-257700

Administrative Office : Odisha : 334, Kumar Joda, Near T.V. Tower, Joda, Dist. : Keonjhar, Pin-758 034
Phone : (+91) 6767 272446, 272881, Fax : 06767-272363

E-mail : commercial@tpslgroup.in, commercial@rpsmines.in, rameshprasad@yahoo.co.in

F.No.8-96/96-FC
Government of India
Ministry of Environment & Forests
(FC Division)

Paryavaran Bhawan, CGO Complex,
Lodi Road, New Delhi-110003

Dated the 25th September, 2003

1st October

To
The Secretary (Forests),
Government of Orissa,
Bhubaneswar.

Sub: Diversion of 42.417 ha. of already broken up forest land for renewal of Guali Iron Ore Mines in respect in favour of M/s Shri R.P. Sao in Keonjhar Forest Division, Orissa.

Sr,

I am directed to refer to your letter No. 101 (Cons)-111/96.22495/F&E dated: 4-10-1996 on the above mentioned subject, seeking prior approval of the Central Govt. in accordance with Section-2 of Forest (Conservation) Act, 1980 and to say that the proposal has been examined by the Advisory Committee constituted by the Central Government under Section 3 of the aforesaid Act.

After careful consideration of the proposal of the State Government and on the basis of the recommendation of the above mentioned Advisory Committee, the Central Government hereby agrees in-principle for diversion of 42.417 ha. of already broken up forest land for renewal of Guali Iron Ore Mines in respect in favour of M/s Shri R.P. Sao in Keonjhar Forest Division, Orissa, subject to fulfilment of following conditions:-

1. The User Agency shall transfer the cost of raising and maintaining penal compensatory afforestation over double the degraded forest land for the area used in violation ($2 \times 42.417 = 84.834$ ha.) to the State Forest Department.
2. User Agency shall deposit the cost with the State Forest Department for raising and maintaining a Safety Zone over equivalent degraded forest land and for raising and maintaining the plantation over an area one and half times in extent of the safety zone.
3. Electric fencing will be raised around mining trenches to avoid felling of elephants at the project cost.
4. The State Forest Department shall charge the Net Present Value (NPV) of the forest land as per the orders of the Hon'ble Supreme Court dated 30-10-2002 & 1-8-2003 in I.A No.566 in WP (C) No.202/1995 and the guidelines issued by this Ministry vide letter No.5-1/98-FC(Pt-II) dated 18-9-2003 and 22-9-2003 in this regard.

After receipt of compliance report on fulfilment of the above-mentioned conditions from the State Govt., formal approval will be issued by Central Govt. under Section-2 of

617752/2022/FC

Forest (Conservation) Act, 1980. Transfer of forest land to user agency should not be effected by the State Govt. till the formal orders are issued by the Central Government. Further, temporary working permission for a period of one year over already broken up area has been granted to allow the mining operation to continue and to comply with the conditions.


Yours faithfully,

Sd/ —

(ANURAG BAJPAI)
Asstt. Inspector General of Forests

Copy to:

1. The Principal Chief Conservator of Forests, Government of Orissa, Bhubaneswar.
2. The Chief Conservator of Forests (Central), Regional Office (EZ), Bhubaneswar.
3. The Nodal Officer, Forest Department, Government of Orissa, Bhubaneswar.
4. RO (Hqs), New Delhi.
5. User Agency.
6. PS to IGF.
7. Guard file.


(ANURAG BAJPAI)
Asstt. Inspector General of Forests

F. No. 8-96/96-FC
Government of India
Ministry of Environment & Forests
(FC Division)

Paryavaran Bhawan
CGO Complex, Lodhi Road
New Delhi-110 003

Dated: 7th October 2004

To
The Secretary (Forests),
Government of Orissa,
Bhubaneswar.

Sub: Diversion of 42.417 ha of already broken up forest land for renewal of Guali iron-ore mine in favour of M/s Shri R.P. Sao in Keonjhar Forest Division, Orissa-Temporary Working Permission.

Sir,

With reference to the letters of the user agency dated 23rd September 2004 and 28th September 2004, I am directed to convey the approval of the Central Government for extension of Temporary Working Permission for a further period of three months for continuing mining over already broken up area of 42.417 ha in respect of renewal of Guali iron-ore mine in favour of M/s R.P. Sao in Keonjhar Forest Division, Orissa.

The State Government is requested to forward, within this period, the compliance of various conditions stipulated in this office letter of even no. dated 1st October 2003, communicating the principles approved for the above project.

Yours faithfully,

(Pankaj Asthana)
Assistant Inspector General of Forests

Copy to -

1. The Principal Chief Conservator of Forests, Government of Orissa, Bhubaneswar.
2. The Nodal Officer, O/o PCCF, Bhubaneswar.
3. The Chief Conservator of Forests, Regional Office, Bhubaneswar.
4. The User Agency.
5. RO (HQ), New Delhi
6. Guard File.

(Pankaj Asthana)
Assistant Inspector General of Forests

Ramesh Prasad Sao

MINES OWNER

Date: 28.09.2004

To,

The Divisional Forest Officer
Keonjhar Division
Keonjhar

Sub: De-reservation proposal for diversion of 251.96 Ha, forest land of Sidbamath R.F. under Keonjhar Division for renewal of Mines of R.P.Sao in respect of Guali Iron Ore Mines.

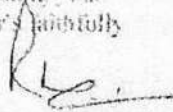
Ref: MOEF letter No. F. No. 8-96/96-FC dt. 01.10.03 and your letter No. 4938 dt. 24.09.04

Sir

Apropos to our letter dt. 15.09.04 (Xerox copy enclosed for kind perusal), in compliance to MOEF direction on the subject mentioned here in above and in furtherance to your above cited letter, enclosed please find A/c Payee cheque No. 466544 dt. 15.09.04 for Rs. 2,46,01,860/- (Rupees two crores forty six lacs one thousand eight hundred sixty only) drawn in your favour towards payment of NPV over broken area as desired. We are awaiting your demand for cost of penal compensatory afforestation for which cheque has already been drawn and is lying ready which shall be delivered at your end immediately on receipt of demand.

It is humbly requested that necessary report of compliance from our end, be kindly forwarded to the concerned authorities at MOEF to enable them to release further extension of working permission & principal approval over the entire area of DRP for which we shall remain grateful.

Thanking you,
Yours faithfully


(Ramesh Prasad Sao)
Mine Lessee

for 27/9/04
D.F. (Keonjhar)
Divisional Forest Officer
Keonjhar Division

Encl: (1) Copy of letter dt. 15.09.04
(2) A/c Payee Cheque No. 466544 dt 15.09.04

0

भारतीय स्टेट बैंक
STATE BANK OF INDIA

व्यापारिक शाखा, जोडा-6889
Commercial Branch, Joda-7149

CAB 040 466544

दिनांक / DATE 15.09.2004

PAY TO The Divisional Forest Officer, Keonjhar.

पाके / पेपर पे
OR BEARER

रुपये Two crore forty six lacs one thousand and eight hundred
sixty only.

₹ 2,46,01,860/-

अक्षर

बिना प्रकाशना के प्रयोज्य नहीं है।

[Signature]
Director

चैक नं० ACCOUNT NO. 01000050226

[Handwritten mark]

भारतीय स्टेट बैंक

बिना प्रकाशना के प्रयोज्य नहीं है।

F.No.8-96/96-FC
Government of India
Ministry of Environment & Forests
(F.C. Division)

Paryavaran Bhawan, C.G.O. Complex,
Lodi Road, New Delhi-110003.
Dated: 14th January 2005

To

The Principal Secretary (Forests),
Government of Orissa,
Bhubaneswar.

Sub: Diversion of 42.417 ha. of already broken up forest land for renewal of Guali Iron Ore Mines in favour of M/s Shri R.P. Sao in Keonjhar Forest Division, Orissa.

Sfr.

I am directed to refer to your letter No. 10F (Cons)-111/96:22495/F&E dated: 4-10-1996 on the above mentioned subject, seeking prior approval of the Central Govt. in accordance with Section-2 of Forest (Conservation) Act, 1980 and to say that the proposal has been examined by the Advisory Committee constituted by the Central Government under Section 3 of the aforesaid Act.

After careful consideration of the proposal of the State Government and on the basis of the recommendations of the above mentioned Advisory Committee, the Central Government hereby conveys its approval under Section 2 of Forest (Conservation) Act, 1980 for diversion of 42.417 ha. of already broken up forest land for renewal of Guali Iron Ore Mines in favour of M/s Shri R.P. Sao in Keonjhar Forest Division, Orissa, subject to fulfillment of following conditions:-

1. Legal status of forest land shall remain unchanged.
2. Penal compensatory afforestation shall be raised and maintained over degraded forest land double in extent of the diverted forest area ($2 \times 42.417 = 84.834$ ha.) by the State Forest Department.
3. Safety zone shall be regenerated and protected and plantations shall be raised and maintained over degraded forest lands elsewhere, over an area one and half times of the extent of the safety zone, by the State Forest Department, at the project cost.
4. The State Government shall deposit the above-mentioned funds including the funds collected for Net Present Value of diverted forest land, in form of Fixed Deposits in the name of concerned DFO/ Nodal Officer of the State, till such time the Compensatory Afforestation Fund Management and Planning Authority (CAMPA) intimates the Head of Accounts for deposition of funds.
5. Demarcation of the area will be done by 1.5 feet high RCC pillars. The pillars shall indicate serial numbers, forward and back bearings and distance between adjacent pillars.

Serial numbers, forward and back bearings and distance between adjacent pillars	
Sr.	Advice
DIR	
PM	
PORD.	
STR/PUR	
ADM.	
AGGTS.	
GEO.	
MKTS.	

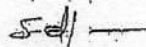
1.5 feet high RCC
pillars and distance

51282 2/2/05

(42)

6. Electric fencing raised by the User Agency around mining trenches shall be maintained by them throughout the life of mine.
7. Trees shall be felled only when it becomes necessary and under strict supervision of State Forest Department.
8. The user agency shall protect the top soil at the project cost.
9. Concurrent Reclamation plan shall be executed by the user agency from the very first year and an annual report shall be sent to the Nodal Officer and the Regional CCF, Bhubaneswar. If it is found from the Annual report that the annual programme mentioned in Concurrent Reclamation Plan is not being adhered to by the user agency, the mining activities shall remain suspended till such time the annual programme is completed for that year.
10. No labour camps shall be established on the forest land.
11. Sufficient firewood shall be provided by the User Agency to the labourers at the project cost after purchase from the State Forest Department/Forest Development Corporation.
12. Mining shall be done as per the approved mining plan.
13. The User Agency shall ensure that there is no damage to the available wildlife.
14. The forest land shall not be used for any purpose other than that specified in the proposal.
15. The lease period shall be co-terminus with the current lease granted under MMRD Act, 1957.
16. Any other condition that the State Government or the Chief Conservator of Forests (Central), Regional Office, Bhubaneswar may impose from time to time in the interest of conservation, protection and development of forests shall also be applicable.

Yours faithfully,



(ANURAG BAJPAI)

Asstt. Inspector General of Forests

Copy to:

1. The Principal Chief Conservator of Forests, Government of Orissa, Bhubaneswar.
2. The Chief Conservator of Forests (Central), Regional Office (EZ), Bhubaneswar.
3. The Nodal Officer, Forest Department, Government of Orissa, Bhubaneswar.
4. RO (Hqs), New Delhi.
5. User Agency.
6. Monitoring Cell of FC Division.
7. Guard file.



(ANURAG BAJPAI)

Asstt. Inspector General of Forests

OFFICE OF THE DIVISIONAL FOREST OFFICER; KEONJHAR DIVISION.

No. 687 Mining

Dated, Keonjhar, the 1st February, 2010

To

Shri Ramesh Prasad Sao, Mine Owner
Guali Iron Mines, At-European Quarters,
Opposite Gandhi Maidan, Chaibasa-833 201,
Dist.- West Singhbhum, Jharkhand.

Sub:- Diversion of 209.54 Ha. of additional in addition to 42.417 Ha. of broken up Reserve Forest land already diverted earlier in Guali Iron Ore Mines in Barbil Tahasil in Keonjhar District, Orissa for Iron Ore mining by Sri Ramesh Prasad Sao during 2nd Renewal of Mining Lease.


Sir,

The Govt. of India, MoEF have agreed to grant 209.54 Ha of forest land in addition to 42.417 Ha. of broken up Revenue Forest land already diverted earlier, out of proposed 251.957 Ha. (209.54 + 42.417 Ha.) of Forest land subject to fulfillment of 18 nos of conditions. In condition No.3 the User Agency has to pay the NPV for the forest area proposed for diversion i.e.209.54 Ha. Hence, you are requested to deposit the following amount of Rs. 13,11,72,040.00 (Rupees Thirteen crore eleven lakhs seventy two thousand forty) only in shape of bank draft drawn in Account No. 344901010070128 of the Union Bank of India, Sundar Nagar, New Delhi-110003.

NPV- Virgin forest land 209.54 Ha @
Rs.6.26 Lakhs.

Rs. 13,11,72,040.00

Yours faithfully,


Divisional Forest Officer,
Keonjhar Division.

Ramesh Prasad Sao

MINES OWNERS

Ref no: RPS/JODA/OUT/09-10/364

Date: 05/03/2010

To,
The Divisional Forest Officer
Keonjhar Division, Keonjhar
Orissa.

Sub: Payment of NPV against diversion of 209.54 Ha. Of additional in addition to 42.417 Ha of broken up forest land already diverted earlier in Guali Iron Ore Mines in Barbil Tahsil in Keonjhar district of Orissa for Iron Ore Mining by Sri R. P. Sao during second renewal of Mining Lease.

Ref: Your Office Letter No. 687 dated 05.02.2010.

Sir,

Enclosed please find herewith an account payee bank draft bearing no. **023888** dated 03.03.2010 of Indusind Bank for **Rs. 13,11,72,040.00** (Rupees - Thirteen Crore Eleven Lakhs Seventy Two Thousand Forty Only) issued in favour of **A/c No. 344901010070128** of the **Union Bank of India, Sundar Nagar, New Delhi - 110003** payable at New Delhi, towards the payment of **NPV against diversion of 209.54 Ha. Of additional in addition to 42.417 Ha. of broken up forest land already diverted earlier in Guali Iron Ore Mines in Barbil Tahsil in Keonjhar district of Orissa for Iron Ore Mining by Sri R. P. Sao during 2nd renewal of Mining Lease.**

Please acknowledge receipt.

Thanking you.

Yours faithfully,



(M. P. Gupta)

For R. P. Sao

Lessee, Guali Iron Ore Mines.

Enclosure: as above bank draft.

*Received
with DD
Lauh
7/3/10
H.C.*

From: IndusInd Bank Limited

IndusInd Bank

INDUSIND BANK BRANCH ATTA

Not over Rs. _____

Date: 07-03-2019

ON DEMAND PAY A/C NO. 344901010070128 OF THE UNION BANK OF INDIA, SUNDAR NAGAR, New DELHI-110 003

RUPEES

THIRTEEN CRORE ELEVEN LAC SEVENTY FORTY ONLY

OF
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₹

B. S. Verma

Rs. 131172049.00

For value received

IndusInd Bank Ltd.
For IndusInd Bank Ltd.

To: IndusInd Bank Ltd.

NEW DELHI

BRANCH

New Bhandari
AS

20/20

AUTHORISED SIGNATORIES

⑆023888⑆ 000234000⑆

15

ANNEXURE - 8

OFFICE OF THE DIVISIONAL FOREST OFFICER, KEONJHAR DIVISION

Ph.No. 06766-254315, FAX 06766-254041; email: ofsdp_kjr@rediffmail.com

Office Order No. 158 /Mining

Dated, Keonjhar the 5th June, 2010.

- R
W
10/6/10
01. Whereas M/s R.P.Sao has applied for RML under Section- 2 of F.C. Act over 365.026 ha. of land for their Guali Iron Ore Mines out of which 268.117 ha. is forest land as per the following classification:

i. Reserve Forest	- 57.579 ha.
ii. Revenue Forest	- 210.538 ha.
iii. DLC	- Nil
Total	- 268.117 Ha.
 02. Whereas GoI, MoEF vide their Letter No. 8-96/96-FC dated 14.01.05 sanctioned approval of ML/RML/TWP over 42.417 ha. of forest land subject to payment of NPV in respect of 268.117 ha. of forest land.
 03. Whereas the Apex Court on the recommendation of Central Empowered Committee have issued order for recovery of NPV for the entire forest area deducting the amount of NPV already paid.
 04. Whereas the Divisional Forest Officer is vested with the authority by the Apex Court to issue Demand by 24th of June, 2010 at the appropriate rate depending on Eco-value class and the canopy density of the forest area in question.
 05. Whereas the forest area in question falls under Class - I of Eco-value class and 0.3 canopy density for which NPV for Rs. 19,57,25,410/- is to be charged at the rate of Rs.7,30,000/- per ha.
 06. Whereas the lessee has already paid an amount of Rs. 15,57,73,900/- towards NPV in respect of 251.957 ha. of forest land.
 07. Now therefore the undersigned by virtue of authority vested by the Apex Court, hereby issue demand notice for payment of differential amount of Rs.3,99,51,510/- towards NPV within 30 days of issue of this order, failing which all mining operations will be closed till the payment along with the interest is deposited. The differential amount be deposited in shape of **Demand Draft drawn in favour of Compensatory Afforestation Fund (CAF) Orissa, Account No. CA-1585 in Corporation Bank Lodhi Road, New Delhi.**
- It is further ordered that in the event of upward revisions of NPV, an undertaking to pay the differential is to be submitted by the lessee.

S.K.
(S.K.Mohanty, IFS)

Divisional Forest Officer,
Keonjhar Division.

Memo No US 12 /Dated. 5.6.10

Copy forwarded to M/s R.P. Sao, Guali Iron Ore Mines, Chainbasa, Jharkhnad for information and necessary action.

5.6.10
Divisional Forest Officer,
Keonjhar Division.

Ramesh Prasad Sao

MINE OWNERS

Ref no: RPS/JODA/10-11/096

Date : 14.06.2010

To
The Divisional Forest Officer,
Keonjhar Division,
Distt. Keonjhar,
Orissa.

Sub: Payment of differential amount of NPV.

Ref: Office Order No. 158/Mining Dated Keonjhar the 5th June, 2010.

Sir,

Please find enclosed herewith D/D No. 011038 dtd. 14.06.2010 drawn on Axis Bank Ltd., New Delhi, in favour of "Compensatory Afforestation Fund (CAF) Orissa, A/c. No.1585 in Corporation Bank, Lodhi Road, New Delhi" amounting to Rs. 3,99,51,510/- (Rupees Three Crores Ninety Nine Lacs Fifty One Thousand Five Hundred Ten only) towards payment of NPV for the entire area deducting the amount of NPV already paid, as per the directions issued from the Apex Court on recommendation of Central Empowered Committee.

Also, please find an undertaking enclosed for payment of differential NPV in the event of any upward revision in future.

Kindly acknowledge the receipt and oblige.

Thanking you,

Yours faithfully,

Ramesh Prasad Sao.

(R.P. Sao)

Lessee

Guali Iron Ore Mine.

Encl: (1) Demand Draft amounting to Rs.3,99,51,510/-
(2) Undertaking as mentioned above

Received
Jab
14/06/10
HEAD OFFICE
DISTRICT FOREST OFFICE
KEONJHAR

CORP. OFFICE : CHAMBASA EUROPEAN QUARTERS, OPPOSITE GANDHI MAIDAN, SINGHBHUM WEST, JHARKHAND

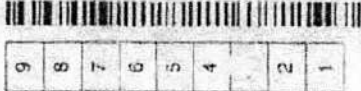
PHONE : (+91) 6582-256268, 257698 FAX: (+91) 6582-257700

ADMINISTRATIVE OFFICE : 334, KAMARJODA, NEAR TV TOWER, P.O. - JODA, DIST. - KEONJHAR, ORISSA - 758 034

E-mail: - rameshprasadsao@yahoo.co.in rameshprasadsao@rediffmail.com

ACCOUNT BANKED Name: Anwar Hussain, Kotkata Rd, Kotkata [D] 255 DATE 14-06-2010

ISSUING BRANCH
ON DEMAND PAY Compensatory Afforestation Fund (CAF) Orissa, Account No. CA-1585 in Corporation Bank, Indira Road, New Delhi
RUPEES Three Crore Ninety Nine Lakh Fifty One Thousand Five Hundred Ten only



9
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1

DD Sr. No. 11038

FOR VALUE RECEIVED Rs. 3, 99, 51, 510.00

RECEIVED

255012100105 New Delhi (D)

Signature

DRAWEE BANK AND BRANCH CODE NO. (Bak)

AUTHORISED SIGNATORY

AUTHORISED SIGNATORY

011038 000210000*

16

VALID FOR SIX MONTHS FROM THE DATE OF ISSUE

ANNEXURE-10



OFFICE OF THE DIVISIONAL FOREST OFFICER, KEONJHAR DIVISION

Ph. No. 06766-254315, E.mail- dfokjr.od@gov.in

No. 3705 /6F-Mining-258/2018
 Dated, Keonjhar the 1st June, 2018

To

Shri Ramesh Prasad Sao, Mine Owner
 Guali Iron Mines,
 At-European Quarters,
 Opp. Gandhi Maidan, Chaibasa-833201.
 Dist.- West Singhbhum, Jharkhand.

Sub:

Guali Iron Ore Mines of Shri R.P. Sao.

X-Sub:

Demand of funds towards Net Present Value (NPV) in respect of non-forest land, involved in the Mining Lease, recorded as forest as on 25.10.1980 over 70.36 ha.

Ref:

Clarification letter No. 10F(Cons) 41/2018- 11858/F&E dated 23.05.2018 of Special Secretary to Govt., F&E Department, Govt. of Odisha, Bhubaneswar.

Sir.

As per clarification issued vide letter No. 10F(Cons) 41/2018- 11858/F&E dated 23.05.2018 of Special Secretary to Govt., F&E Department, Govt. of Odisha, Bhubaneswar, you are requested to deposit the amount of **₹5,13,62,800/- (Rupees five crore thirteen lakh sixty-two thousand eight hundred)** only (Eco Value Class – I based on "Sidhamatha RF" and canopy Density – 0.3 based on prevailing vegetation depicted as "Dense mixed jungle mainly Sal" on concerned Toposheet) towards Net Present Value (NPV) over 70.36 ha (49.03 ha non-forest land recorded as Forest as on 25.10.1980 + 21.33 ha status of non-forest land "not available" on Sabik records as on 25.10.1980 treated as Sabik Forest) as intimated by Tahasildar, Barbil vide his letter No. 2303 dated 10.05.2018 & No. 2315 dated 15.05.2018 and in view of the undertaking furnished on dated 11.05.2018. The NPV amount has to be deposited within 30 days through e-portal of MoEF&CC as provided in the <http://forestsclearance.nic.in/> and the proof/evidence of the deposit of fund be submitted to this office for further necessary action at this end. Nonetheless, it is also mentioned that the funds has to be deposited in Ad-hoc CAMPA in Corporation Bank, Lodhi Complex Branch, Ground Floor, Block No. 11, CGO Complex Phase- I, Lodi Road, New Delhi- 110003.

Yours faithfully,

Santa
 Divisional Forest Officer,
 Keonjhar Division.

Memo No. _____ / Dated.

Copy submitted to the Regional Chief Conservator of Forests, Rourkela Circle, Rourkela/ Principal Chief Conservator of Forests, Odisha, Bhubaneswar for favour of kind information with reference to memo no. 11859/F&E dated 23.05.2018 of Special Secretary to Government, Odisha, Bhubaneswar.

Divisional Forest Officer,
 Keonjhar Division.

Memo No. _____ / Dated.

Copy submitted to the Special Secretary to Government, Forest & Environment Department, Govt. of Odisha, Bhubaneswar for favour of kind information with reference to his letter No. 11858/F&E dated 23.05.2018.

**Divisional Forest Officer,
Keonjhar Division.**

Memo No. _____ / Dated.

Copy forwarded to the Deputy Director Mines, Joda Circle, Joda, Keonjhar for information and necessary action.

**Divisional Forest Officer,
Keonjhar Division.**

ANNEXURE-11

Ramesh Prasad Sao

MINE OWNERS

Ref No: RPS/JODA/OUT/18-19/10

Date: 07-06-2018

To,
The Divisional Forest Officer
Keonjhar Division,
Keonjhar (Odisha)

Ref: 1. Your letter No. 3705/6F-Mining-258/2018 dated 01.06.2018
 And
 2. Your Letter No. 3714/6F-Mining-258/2018 dated 01.06.2018.

Sub: Transportation of Minerals using diverted forest land and Non forest land as per Sabik record as on 25.10.1980

Dear Sir,

Please find enclosed a proof of payment through e-Challan application No. 5865300183 and UTR NO. UTIBR52018060400358995 dated 04.06.2018 towards NPV amounting to ₹ 5,13,62,800/- (Rupees Five Crore Thirteen Lakh Sixty Two Thousand and Eight Hundred only) against your demand letter as referred herein above under reference No 1.

Vide letter No 3714/6F-Mining-258/2018 dated 01.06.2018 you have restricted transportation of minerals only through utilizing the Non Forest land as per Sabik Records as on 25.10.1980 and diverted Forest Land contrary to your earlier letter no. 3127/6F-Mining-252/2018 dated 05.05.2018 wherein you have allowed to carry out transportation of minerals using road broken up prior to 25.10.1980 based on the joint verification map of 1996.

As the lessee would like to request your good self to allow transportation of minerals utilizing the road shown in the broken up land prior to 25.10.1980 as established in joint verification map of 1996 duly authenticated by concerned authorities.

That the guide line issued by MoEF dated 10.03.2015, clarification issued on 09.03.2016 and 30.09.2016 is subjudiced in the Court of Law and the Hon'ble High Court of Odisha, Cuttack has allowed several mining lessees to

Regd. Off: Avani Signature, 2nd Floor, 91 A/I Park Street, Kolkata- 700 016, West Bengal, Ph: 03340071632/ 784/ 785, Fax: 03340071638

Corp. Off: European Qtr., Opt. Gandhi Maidan, P.O.- Chaihasa, West Singhbhum- 833 201, Jharkhand, Ph: 06582- 256268/ 257698 Fax: 257700

Admin. Off: Plot No: 334, Kumar Joda, Near TV Tower, P.O.Joda, Dist: Keonjhar-758034, Orissa, Ph: 06767- 272446/ 881, 273756 Fax: 272363

E-mail: rameshprasadsao@yahoo.co.in rameshprasadsao@rediffmail.com

Received

7.6.18

Divisional Forest Officer
 Keonjhar

Ramesh Prasad Sao

MINE OWNERS

Ref No: RPS/JODA/OUT/18-19/101

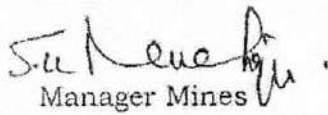
Date: 07.06.2018

continue their mining activities in the non forest land as per Hal settlement which stood as forest land as per the Sabik record as on 25.10.1980.

In view of the above submissions the lessee should be allowed to continue its allied activities including transportation of minerals in the non-forest land as per Hal Settlement Records based on the order passed by the Hon'ble High Court of Odisha, Cuttack allowing several other lessees to continue their mining and allied activities after payment of NPV during pendency of applicability of guidelines issued by the MoEF&CC, New Delhi.

Thanking You

Yours truly,



Manager Mines
For Ramesh Prasad Sao
Lessee, Guali Iron Ore Mines

MANAGER MINES
GUALI IRON ORE MINE OF S. R. S. SAO

- C.c. to : 1. The Principal Chief Conservator of Forest , Odisha, Bhubaneswar for information and necessary action please.
2. The Regional Chief Conservator of Forest, Rourkela for information and necessary action please.

Regd. Off: Avani Signature, 2nd Floor, 91 A/1 Park Street, Kolkata- 700 016, West Bengal. Ph: 03340071632/ 784/ 785. Fax: 03340071638

Corp. Off: European Qtr., Opt. Gandhi Maidan, P.O.- Chaibasa, West Singhbhum- 833 201, Jharkhand, Ph: 06582- 256263/ 257698 Fax: 257700

Admin. Off: Plot No: 334, Kumar Joda, Near TV Tower, P.O.Joda, Dist: Keonjhar-758034, Orissa, Ph: 06767- 272446/ 881, 273756 Fax: 272363

E-mail: rameshprasadsao@yahoo.co.in rameshprasadsao@rediffmail.com

NEFT/RTGS CHALLAN

AGENCY COPY
NEFT / RTGS CHALLAN for Ad-HOC CAMPA
Date : 02-06-2018

Agency Name.	SRI RAMESH PRASAD SAO
Application No.	5865300183
MoEFISG File No.	NA
Location.	ORRISA
Address.	EUROPEAN QUARTERS, OPPOSITE GANDHI MAIDAN, CHAIBAS West Singhbhum
Amount(In Rs)	51362800/-

Amount in Words: Five Crore Thirteen Lakh Sixty-Two Thousand Eight Hundred Rupees Only

NEFT/RTGS to be made as per following details:

Beneficiary Name:	ORRISA CAMPA
IFSC Code:	CORP000371
Pay to Account No.	150825865300183 Valid only for this challan amount.
Bank Name & Address:	Corporation Bank Lodhi Complex Branch, Block 11, CGO Complex, Phase I, Lodhi Road, New Delhi-110003

This Challan is strictly to be used for making payment to CAMPA by NEFT/RTGS only. This Challan is valid only for seven days.

For successful payment, User Agencies may send a line of confirmation through branch@corpbank.co.in

BANK COPY
NEFT / RTGS CHALLAN for Ad-HOC CAMPA
Date : 02-06-2018

Agency Name.	SRI RAMESH PRASAD SAO
Application No.	5865300183
MoEFISG File No.	NA
Location.	ORRISA
Address.	EUROPEAN QUARTERS, OPPOSITE GANDHI MAIDAN, CHAIBAS West Singhbhum
Amount(In Rs)	51362800/-

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- This Challan is strictly to be used for making payment to CAMPA by NEFT/RTGS only
- This Challan is valid only for seven days



S. K. Saha

Outward View Details

Message Details

Message Type	Customer Instruction	Txn Reference No	25:823361147:1
UTR Number	UTIBR52018060400358995	Transaction Reference No	
Currency	INR	Amount	Rs. 51,362,800.00
Transaction Date	04-Jun-2018	Value Date	04-Jun-2018
Sender Reference			

Sender Details

Ordering Customer Name	RAMESH PRASAD SAO	Ordering Institution	
Line 1	910020006682057	Ordering Institution	
Line 2		Line 2	
Line 3		Line 3	
Customer E-mail		Line 4	
Customer Mobile	0000000000	Sender's Correspondent	
Sender's Correspondent		Line 2	
Sender's Correspondent		Line 3	
Customer A/n No	910020006682057	Line 4	

Beneficiary Details

Beneficiary Customer	ORRISA CAMPA	Sender to Receiver Information	
Line 2	Branch Detail	Line 2	
Line 3	CORPORATION BANK	Line 3	
Line 4		Line 4	
Line 5		Line 5	
Account with Institution	150825865300183	Line 6	
Receiver's Correspondent		Account with Institution	CORP0000371
Receiver's Correspondent		Account with Institution	CORP0000371
Line 2		Line 2	
Line 3		Line 3	
Line 4		Line 4	

Status

Request Sent to RBI	0	Current Status	Settled:Ack Received
Return Date	21-May-2018 00:00:00	Error Information	
Reason Code		Rejection Reason	
STT Code Allotted		Charges Calculated	

S. Prasad
 MANAGER MINES
 QUALI IRON ORE MINES OF SA R. P. SAO

ANNEXURE-12

Details of Mining Rights of Guali Iron Ore Mines

Sl. No.	Date	Particulars	NPV Amount
1	25.09.2004	NPV over Brocken up Area 42.417 Ha.	2,46,01,860.00
2	03.03.2010	Paid towards NPV of Forest area Proposed for diversion of 209.54 hectares	13,11,72,040.00
3	14.06.2010	Paid for NPV cost of 16.16 Ha. Along with the differential as per the order of the Apex Court.	3,99,51,510.00
4	04.06.2018	Paid towards demands of funds towards NPV in respect of non forest land involved in Mining Lease Area recorded as forest on 25.10.1980 over 70.36 Ha.	5,13,62,800.00
			24,70,88,210.00

Summary		
Demand date	Area	Amount
21.09.2004	42.417	2,46,01,860.00
01.02.2010	209.540	13,11,72,040.00
05.06.2010	16.160	3,99,51,510.00
01.06.2018	70.360	5,13,62,800.00
	338.477	24,70,88,210.00
Total Area	365.026	Ha
Non Forest	26.549	Ha
Forest Area	338.477	Ha
Forest (Stage-II)	(42.417 + 95)	Ha
	137.417	Ha

@ 7,30,000 per Ha.

IN THE HIGH COURT OF ORISSA AT CUTTACK**W.P. (C) No.12660 of 2014****Prabodh Mohanty**

...

Petitioner

Mr. Sanjit Mohanty, Senior Advocate
 Mr. J.K. Naik, S.P. Panda & R.R. Swain, Advocates

*Versus***State of Odisha and Others**

...

Opposite Parties

Mr. D.K. Mohanty, Addl. Govt. Advocate

CORAM:**THE CHIEF JUSTICE****JUSTICE B.P. ROU TRAY**

ORDER
2.11.2021

Order No.

27.

Dr. S. Muralidhar, CJ.

1. The Petitioner, by this writ petition, seeks refund of a sum of Rs.1,12,25,940/-, which was paid towards Net Present Value (NPV) pursuant to the Demand Notice No.792/Mining dated 5th February, 2014 issued by the Divisional Forest Officer (DFO), Keonjhar Division, Keonjhar (Opposite Party No.3).
2. The Petitioner states that he is a permanent resident of Odisha and a lessee in respect of an area of 15.378 hectares pertaining to Khuntapani Iron Ore Mines under Champua Sub-Division of Keonjhar district. The Petitioner states that he is engaged in the business of mining and related activities in the State of Odisha. The Petitioner states that he has a registered office at PO-Barbil and a Mines Office at PO-Khuntapani, both in the district of Keonjhar.

3. On 4th April, 1982, a mining lease for iron ore over an area of 15.378 hectares (ha) in village Khuntapani of Keonjhar district was executed for a period of 30 years, i.e. from 4th April, 1982 to 3rd April, 2012 in favour of Petitioner's father late Sri S.N. Mohanty. Upon the death of the Petitioner's father, the Government of Odisha in exercise of power under Rule 25 A of the Mineral Concession Rules, 1960 (MC Rules), accorded permission to the Petitioner to inherit and operate the said mining lease.
4. Under Rule 24-A of the MC Rules, the Petitioner applied for first renewal one year before the expiry of the lease. The Petitioner was continuing as a deemed lessee within the meaning of Rule 24-A (6) of the MC Rules.
5. The Supreme Court of India in *M.C. Mehta v. Union of India AIR 2004 SC 4016* and *T.N. Godavarman Thirumulpad v. Union of India AIR 2005 SC 4256*, held that, for the use of forest land for non-forest purpose, i.e. for mining operations, the Net Present Value (NPV) is payable by the lessee/user agency in respect of the entire forest land within the leasehold area. The purpose of NPV was to take remedial/preventive measures for protection of the environment and forests. It was to provide afforestation of lands to make up for diversion of forest lands for non-forest purposes.
6. In terms of the CEC's report dated 26th April, 2010 submitted to the Supreme Court of India in I.A. No.2746-2748 in W.P.(C)

No.202 of 1995, the NPV was to be for the entire forest falling within the mining lease and it had to be deposited in the Compensatory Afforestation Fund as a condition for permitting mining in forest land. This was to be in addition to the permission under Forest Conservation Act, 1980 (FC Act).

7. As far as the Petitioner's leasehold area is concerned, although Stage-1 clearance for diversion of 9.51 ha of forest land was granted in terms of the FC Act, the said clearance was revoked by the Ministry of Environment & Forests (MOEF), Govt. of India by letter dated 27th September, 2013, due to delay in compliance with the conditions for more than five years in accordance with para-4.2(ii) of the guidelines issued under the FC Act. Consequently, Stage-2 forest clearance could not be obtained from the MOEF, Govt. of India.
8. Although the Petitioner submitted an application dated 18th February, 2011 for renewal of the mining lease, by letter dated 26th March, 2014 addressed to the Collector, Keonjhar, the Petitioner state that "we are no more interested to pursue the 1st RML application filed vide Sl. No.1728 dated 18.02.2011 and that it will be treated as withdrawn". The reason cited was that the Petitioner had not been able to work the mine falling within the Baitarani Reserve Forest during subsistence of the lease period due to want of forest clearance under FC Act and since the forest diversion process proposal was "stuck up".

9. The NPV in the sum of Rs.1,12,25,940/- demanded by notice dated 5th February, 2014 was paid by the Petitioner under protest on 15th April, 2014. Thereafter interest on the said sum was demanded by the Opposite Parties by a separate notice dated 30th July, 2014. It is at this stage the Petitioner filed the present writ petition, which was first listed for hearing in this Court on 1st August, 2014. On 20th August, 2014 the operation of the said notice dated 30th July, 2014 was stayed by this Court. That interim order is still continuing.

10. Mr. Sanjit Mohanty, learned Senior Counsel appearing for the Petitioner submits that, once the Petitioner withdrew its application for renewal of the mining lease due to revocation of the first stage of the forest clearance and inability to obtain second stage forest clearance, there was no justification in the demand for NPV. It is claimed that as the Petitioner was not going to work the mine in any event, there would be no diversion of the forest land for non-forest purposes. Therefore, the rationale of the NPV ceased to exist. Accordingly, Mr. Mohanty submitted that the demand of NPV in the sum of Rs.1,12,25,940/- was illegal. Afortiori the demand of interest thereon by the subsequent notice dated 30th July, 2014 was also illegal.

11. Mr. D.K. Mohanty, learned Additional Government Advocate (AGA) first referred to the counter affidavit filed by the Joint Secretary, Steels and Mines Department, Govt. of Odisha. He also referred to the reply filed by the Opposite Parties 2 and 3 to the rejoinder filed by the Petitioner. The sum total of the response

of the Opposite Parties is that it was mandatory for the State Government to realize the NPV from the leaseholder as decided by the Supreme Court and as per the guidelines issued in the MOEF on 18th September and 22nd September, 2003. Therefore, it is denied that there is any illegality committed by the Opposite Parties in demanding NPV and interest thereon from the Petitioner. In particular, the learned AGA referred to the following passage of the said affidavit:

“The contention of the petitioner lessee that, the lessee has never worked the mines nor wants to work in the future has little bearing on the demand for NPV, as demand of NPV was made in compliance to Hon’ble Supreme Court’s direction irrespective of the fact whether the lease is under operation or not.”

12. The short question therefore that arises before this Court for consideration is, whether the impugned demand of NPV and the interest thereon from the Petitioner was justified in the facts and circumstances of the case? सत्यमेव जयते
13. The purpose of the NPV, as explained by the Supreme Court in its aforementioned decisions, is to have restorative and preventive measure as a result of diversion of forest land for non-forest purposes, in particular, for mining operations. Consistent with the concern of the Supreme Court, it was felt necessary to make the deposit of NPV mandatory for granting permission for either grant or renewal of a mining lease in a forest area.
14. In *T.N. Godavarman Thirumulpad v. Union of India* (*supra*), the rationale explained by the Supreme Court is as under:

“26. First, we may consider the meaning of NPV and determine what is NPV.

27. The NPV is the present value (PV) of net cash flow from a project, discounted by the cost of capital.

28. Forestry is a public project. It is important to bear in mind that a benefit received today is worth more than that received later. The benefit received today is in fact ‘cost incurred’ today. Time value of the cash inflow/outflow is important in investment appraisal. NPV is a method by which future expenditures (costs) and benefit are levelised in order to account for the time value of money. The object behind NPV is to levelise costs. What is the value of Rupee today would not be the value of Rupee say 50 years later. For example, let us have the starting point of value of Rupee in India in the year 2005 and analyse it with the value of Rupee that may be in the year 2050. Cost incurred or to be incurred in 2050 have to be discounted by using appropriate parameters like rate of discount, gestation period, ratio of deflators to GDP. Therefore, expenses incurred in each year between say 2005 and 2050 have to be brought down to their present values by using appropriate discount rate in the NPV.”

15. The relevant guidelines of the above MOEF in this regard also are in the same vein. In the guidelines issued by the letter dated 17th/18th October, 2003, the MOEF stated as under:

“In this regard this Ministry has received correspondences from some States/UTs. and Regional Officers requesting to issue the guidelines. Considering the request of the State/UT Government and the Regional Offices, the Ministry of Environment and Forests issues following guidelines for the recover/collection of Net Present Value of the forest land being diverted for non-forest purposes under Forest (Conservation) Act, 1980.

1. NPV shall be charged in all those cases which have been granted in-principle approval after 30.10.2002.
2. NPV shall be realized before State-II (Final) approval.”

16. Likewise, on 19th and 22nd September, 2003, it was clarified by the MOEF as under:

“In continuation of this Ministry’s letter of even number dated 17.09.2003 regarding guarding guidelines for collection of Net Present Value in compliance to the orders of the Hon’ble Supreme Court of India dated 30.10.2002 and 01.08.2003 in I.A. No.566 in Writ Petition (Civil) No.202 of 1995, I am directed to clarify that NPV will be charged in all those cases which have been granted in-principle approval after 30.10.2002. NPV will be realized before State-II (Final) approval.

NPV will also be charged in all those cases, where State-I approval has been granted after 30.10.2002 and final approval has also been granted.

All the States/UTs shall comply with the orders of the Hon’ble Court and complete the collection process of NPV for the cases approved under Forest (Conservation) Act, 1980 after 30.10.2002, within a period of two months and submit a compliance report through their respective Regional Offices of this Ministry, Regional Office shall submit the compliance report to the Ministry after due verification.”

17. On 23rd April, 2004, the MOEF published an order in the Gazette the relevant portion of which reads as under:

“In exercise of the powers conferred by Sub-Section (3) of Section 3 of the Environment (Protection) Act, 1986 (29 to 1986) (hereinafter referred to as the said Act), and in pursuance of the Hon’ble Supreme

Court's order dated the 30th October, 2002 in IA No.566 in Writ Petition (Civil) No.202 of 1995, the Central Government hereby constitutes an authority to be known as Compensatory Afforestation Fund Management and Planning Authority (hereinafter referred to as CAMPA) with effect from the date of publication of this order for the purpose of management of money towards compensatory afforestation. Net Present Value and any other money recoverable in pursuance of the Hon'ble Supreme Court's order in this regard and in compliance of the conditions stipulated by the Central Government while according approval under Forest (Conservation) Act, 1980 (69 of 1980) for non-forestry uses of the forest land."

18. The fact remains that, in the present case, the earlier Stage-1 forest clearance granted to the Petitioner stood revoked by the MOEF on 27th September, 2013. Secondly, the Petitioner on realizing the difficulty in obtaining forest clearance, withdrew his application for renewal of the mining lease by the letter dated 26th March, 2014. The Petitioner in fact had not worked the mine at all during all these years in the absence of any forest clearance. Consequently, the very rationale of the MPV ceased to exist. In other words, if the Petitioner was not going to work the mine and there was to be no diversion of forest land for non-forest purposes, then there would be no justification for demanding NPV from the Petitioner.

19. The Court is therefore not able to accept the stand of the Opposite Parties that irrespective of the petitioner not working the mine, it was still required to deposit the NPV only because of the orders of the Supreme Court of India. In the considered view of the Court, this is based on equal understanding of the rationale

in the purpose of the orders of the Supreme Court of India. The requirement of paying NPV in terms thereof is right only where there is going to be a diversion of persona for wrong purposes. This Court, in *Banwarilal Newatia v. State of Odisha 2017 (Supp.-I) OLR-71*, in similar circumstances, quashed the demand raised by the State of Orissa demanding NPV.

20. The Court therefore finds that the impugned demand on NPV is not justified and accordingly quashes the notice dated 5th February, 2014. This will entail refund of the said sum of Rs.1,12,25,940/- to the present Petitioner by the Opposite Party No.3. This refund should be made within a period of eight weeks from today, failing which the said amount will carry simple interest @ 6% per annum for the period of delay.
21. For the reasons aforementioned, the further notice dated 30th July, 2014 demanding interest on the NPV also hereby stands quashed.
22. The writ petition is allowed on the above terms, but in the circumstances with no order as to costs.
23. An urgent certified copy of the order be issued as per the Rules.

(Dr. S. Muralidhar)
Chief Justice

(B.P. Routray)
Judge

S.K. Parida

MANU/OR/0042/2017

Equivalent Citation: 124(2017)CLT138

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 20918 of 2015

Decided On: 12.01.2017

Appellants: **Banwarilal Newatia****Vs.**Respondent: **State of Odisha and Ors.****Hon'ble Judges/Coram:***Vineet Saran, C.J. and Dr. B.R. Sarangi, J.***Counsels:***For Appellant/Petitioner/Plaintiff: Sudarshan Nanda, I.A. Acharya and A. Dash, Advocates**For Respondents/Defendant: B.P. Pradhan, Addl. Government Advocate***JUDGMENT****Dr. B.R. Sarangi, J.**

1. The petitioner, who is a lessee of mining lease, has filed this writ application seeking for following reliefs;

"It the circumstance stated above, it is humbly prayed that this Hon'ble Court may graciously be pleased to issue a rule NISI to the nature of Writ of Mandamus and/or other appropriate writ/Writ(s) calling upon the Opp. Parties to show cause as to why the directions issued by the Opp. Party No. 4 to deposit Rs. 3,31,04,478/- towards NPV in respect of the surrendered area of 45.3486 Ha. demanded vide Order No. 306 dated 09.07.2010 (Annexure-3), Letter No. 781 dated 01.02.2014 (Annexure-10) and Letter dated 1380 dated 22.02.2014 (Annexure-12), shall not be quashed;

And further be pleased to direct the Opp. Parties to allow the petitioner to commence mining operation over 67.1390 Hectares in village Tikarpada, Ambadahara, Dist: Keonjhar with (sic 'within') a period of one month;

And if the Opp. Parties fail to show cause or show insufficient or false cause, make the Rule NISI absolute;

And pass such other and further order (s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case.

And allow the writ petition;"

2. The factual matrix of the case is that the petitioner was granted mining lease in respect of an area of 112.4876 hectares for Pyrophyllite and Quartzite in village Tikarpada, Ambadahara, Dist-Keonjhar for a period of 20 years w.e.f. 07.11.1998 to 06.11.2018. The entire area was a non-forest land. The Collector, Keonjhar granted

surface right in respect of 67.1390 hectares (over plot No. 1050 and Plot No. 1142 under Khata No. 274) out of the granted mining lease area of 112.4876 hectares. After obtaining necessary statutory clearance and approval, the petitioner carried on mining operation over the said 67.1390 hectares, in respect of which surface right had been granted.

3. Due to lack of market demand, the petitioner discontinued the mining operation w.e.f. 15.12.2004 after informing the statutory authorities regarding temporary discontinuance. He again started mining operation w.e.f. 19.09.2007 after service of notice of reopening to the concerned authorities as required under the provisions of Rule 22(1) read with Rule 25 of the Mineral Conservation and Development Rules, 1998 (hereinafter referred to as "MCD Rules, 1988"). The statutory notification for obtaining environment clearances, namely, Environment Impact Assessment Notification dated 14.09.2006 was issued by the Ministry of Environment and Forest (MOEF), Government of India for which mining operation of the petitioner was kept in abeyance w.e.f. 08.10.2007, as the petitioner sought for environment clearance from the MOEF in respect of 67.1390 hectares, over which surface right had been granted by the competent authority.

4. The Director of Mines, Odisha approved the scheme of mining plan with projected annual production of 6500 M.T. of Pyrophyllite and 4000 M.T. of Quartzite on 08.07.2009. The petitioner also sought for consent to operate from the State Pollution Control Board, Bhubaneswar, Odisha in respect of the above approval. The petitioner also submitted an application on 02.06.2010 for surrender of an area measuring 45.3486 hectares, which formed part of the original mining lease area of 112.4876 hectares. The said surrendered area was virgin/unbroken and intact area and no mining operation was carried out by the petitioner and more particularly the said 45.3486 hectares was not a part of 67.1390 hectares, in respect of which surface right had been granted.

5. At this point of time, the Divisional Forest Officer (DFO), Keonjhar, opposite party No. 4 vide Office Order No. 220 dated 16.06.2010 declared the said 45.3486 hectares as District Level Committee (DLC) land and demanded payment of Rs. 2,83,88,224/- towards Net Present Value (NPV) for the said area of 45.3486 hectares, which had already been surrendered by the petitioner. Thereafter, the DFO, Keonjhar vide Office Order No. 306 dated 09.07.2010 modified the Office Order No. 220 dated 16.06.2010 and issued a revised demand notice claiming payment of Rs. 3,31,04,478/- towards NPV for the said area of 45.3486 hectares, which remained virgin/unbroken and no mining operation was carried out by the petitioner. In response to the same, the petitioner immediately on 13.07.2010 and 09.08.2010 intimated the D.F.O., Keonjhar that the petitioner vide his letter dated 02.06.2010 already submitted an application for surrender of the said virgin/unbroken area, where no mining operation was carried out by him, which is under active consideration by the State Government, and as such he is not liable to pay the NPV in respect of the said area.

6. At this juncture, the Range Officer in the office of the DFO, Keonjhar on 25.10.2010 submitted a report to the DFO, Keonjhar in respect of the surrendered area of 45.3486 hectares stating inter alia that there was no illicit felling of trees and no encroachment. In the meantime, the revised mining scheme in respect of the retained area of 67.1390 hectares out of 112.4876 hectares was approved by the statutory authority vide letter No. 2538 dated 19.08.2011 being valid up to 2015-16. In view of such position, the opposite parties did not take any steps for more than a period of two years, but all on a sudden in 2013, the DFO, Keonjhar vide Letter No.

1956 dated 11.03.2013 intimated the Collector and District Magistrate, Keonjhar stating, inter alia, that surrendered area of 45.3486 hectares had not been broken up/no mining operation had been carried out and that the area was intact. The Collector and District Magistrate, Keonjhar vide letter No. 454 dated 02.04.2013 forwarded the application of the petitioner in respect of the surrendered area of 45.3486 hectares to the Director of Mines, Bhubaneswar, Odisha along with the report of Senior Surveyor in the office of the Mining Officer, Keonjhar, DFO, Keonjhar, Tahasildar, Banspal as well as the Joint Survey Report along with the Map for further action. The Director of Mines, Bhubaneswar, Odisha vide Letter No. 1106 dated 01.11.2013 forwarded the surrender proposal of the petitioner in respect of the 45.3486 hectares to opposite party No. 1 for disposal on merits.

7. In the meantime, MOEF, Government of India vide letter dated 28.06.2013 granted environment clearance to the petitioner in respect of the retained area of 67.1390 hectares. Consequently, the petitioner vide his letter dated 12.08.2013 sought for reopening the mines and to commence the mining operation in Form-C under the provisions of Rule 22(1) read with Rule 25 of the MCD Rules, 1988 over 67.1390 hectares of Plot No. 1050 and Plot No. 1142 under Khata No. 274 in village Tikarpada, Ambadahara, District Keonjhar. Since no response was received, the petitioner reminded on 03.12.2013 for granting permission for commencement of mining operation, as the consent to operate was valid up to 31.03.2014 and the approved mining plan for retention of area of 67.1390 hectares was valid up to the period 2015-16.

8 . When such permission regarding reopening and commencement of mining operation was pending consideration with the Director of Mines, Odisha, the D.F.O., Keonjhar-opposite party No. 4 on 01.02.2014 called upon the petitioner to deposit NPV in respect of surrendered area of 45.3486 hectares. In response to the same, the petitioner communicated on 01.03.2014 stating that he has already surrendered the area and, as such, he was not holding any forest land within the retained area of 67.1390 hectares and, therefore, not liable to pay NPV as demanded. But, the D.F.O. without considering the contention raised by the petitioner directed vide letter dated 22.02.2014 to deposit an amount of Rs. 3,31,04,478/-.

9. In the meantime, the State Pollution Control Board, Bhubaneswar vide Office Order No. 606 dated 22.04.2015 granted consent to operate for a production capacity of 6500 M.T. of Pyrophyllite and 4000 of Quartzite till 31.03.2016. The mining operation of the petitioner was kept in abeyance w.e.f. 17.09.2007 for want of statutory clearance under the Environment Impact Assessment Notification dated 14.09.2006. Instead of allowing the petitioner to reopen and commence the mining operation over 67.1390 hectares, opposite party No. 1 initiated a proceeding for lapsing, as envisaged under Rule 28(2) of the Mineral Concession Rules, 1960 (for short "MC Rules, 1960") and vide notice under Rule 28(1) of the said MC Rules, 1960 called upon the petitioner to show-cause as to why the lease shall not be declared lapsed. In response to the same, the petitioner submitted his reply on 24.11.2014 and on consideration of his reply, opposite party No. 1 vide letter dated 02.06.2015 was pleased to hold that mining lease was not liable to be lapsed and ordered that the surrender proposal over the area of 45.3486 hectares was accepted, but the petitioner was restrained from resuming mining operation pending deposit of the NPV dues in respect of 45.3486 hectares. In compliance of the same, the Tahasildar, Banspal vide Letter dated 07.07.2015 intimated the Collector, Keonjhar regarding taking over the possession in respect of 45.3486 hectares of surrendered area, which has been accepted by the State Government. As the petitioner did not deposit the NPV dues

over the said surrendered area of 45.3486 hectares in compliance of letter dated 02.06.2015, he was not allowed to have the mining operation over the area of 67.1390 hectares. Hence this application.

10. Mr. S. Nanda, learned counsel appearing for the petitioner contended that the petitioner is not liable to pay any NPV amount, as he has not diverted any forest land for non-forest purpose under the Forest (Conservation) Act, 1980 (for short "FC Act, 1980"). He further contended that as per the guidelines for diversion of forest land for non-forestry purpose, the NPV can be levied and such demand can be made only after 30.10.2002 and the same can be realized before Stage-II (final) approval. As the petitioner has surrendered an area of 45.3486 hectares and on the basis of the report of the competent authority the same was intact and was not utilized for any other purpose nor the said forest land was diverted for non-forestry purpose under FC Act, 1980, the demand so made pursuant to letter dated 22.02.2014 for an amount of Rs. 3,31,04,478/- towards NPV cannot sustain in the eye of law. Consequentially, the direction contained in letter dated 02.06.2015 that mining operation would be allowed to resume after the lessee deposited the pending NPV dues, being illegal, arbitrary and contrary to the guidelines, is liable to be quashed.

11. Mr. B.P. Pradhan, learned Addl. Government Advocate for the State justifies the demand raised by the authority and states that unless the petitioner deposits the NPV dues he will not be allowed to resume mining operation over the area of 67.1390 hectares where surface right has been granted by the competent authority. It is stated that NPV amount has been demanded on the basis of the order dated 12.02.1996 passed by the apex Court in W.P.(C) No. 202 of 1995 (T.N. Godavarman Thirumulpad v. Union of India), and that the surrendered area of 45.3486 hectares being the integral part of the mining lease till it was accepted on 02.06.2015, the petitioner is liable to pay the NPV amount demanded by the authority. It is further contended that the petitioner did not challenge the demand to pay Rs. 2,83,88,224/- towards the NPV over 45.3486 hectares DLC forest land vide office order No. 220 dated 16.06.2010 of the opposite party No. 4 as well as the revised demand of Rs. 3,31,04,478/- over the said area which was raised on 09.07.2010, at the relevant time. Only when the resumption of mining operation in respect of the area over which surface right had been granted, i.e., 67.1390 hectares was allowed subject to condition of payment of NPV dues pursuant to letter dated 02.07.2016, the petitioner has approached this Court by filing the present writ application which cannot sustain in the eye of law.

12. We have heard learned counsel for the parties and perused the records. Since pleadings have been exchanged between the parties, with the consent of learned counsel for the parties, the writ petition is disposed of at this stage.

13. Before addressing on the merits of the issue involved in this case, it is apposite to bring on record the object and reasons behind imposition of NPV. The natural resources are the assets of the entire nation. Therefore, it is the obligation of the Union Government as well as the State Governments to conserve and not to waste these resources. As per the provisions contained in Article 48A of the Constitution of India, States shall make all endeavour to protect and improve the environment and to safeguard the forest and wildlife of the country. Similarly, under Article 51A the duty has been cast on every citizen to protect and improve the natural environment including forest, lakes, rivers and wildlife and to have compassion for living creatures. Therefore, for the question with regard to conservation, preservation and protection of forest and the ecology, it is to be considered that if the forest land is

used for non-forest purposes what steps/measures are required to be taken to compensate for loss of forest land and effect on the ecology.

14. No doubt the forests are a vital component to sustain the life support system on the earth. The national development, if any, has to be in consistent with the protection of environment not at the degradation of the same. Therefore, policy or vision for over all development has to evolve a systematic approach so as to balance the economic development and environmental protection. The economic development at the cost of degradation of environment would be ultimately counterproductive. Therefore, it is necessary to take a precautionary measure when forest lands are diverted for non-forest use. Thus, before diversion of forest land for non-forest purposes and consequential loss of benefit occurring from the forest should not be the user-agency and such land be required to compensate for the diversion. In this back-drop, the NPV has to be determined.

15. Being conscious of this position, the legislature to provide for conservation of forest and for matters connected therewith or ancillary or incidental thereto enacted FC Act, 1980, which postulates that no State Government or other authority shall make, except with the prior approval of the Central Government, any order directing that any forest land or any portion thereof may be used for any non-forest purpose. Therefore, the Central Government under the FC Act has been empowered to constitute a committee to advice it with regard to grant of approval. Therefore, contravention of any of the provisions contained in Section 2 of the FC Act, 1980 has been made an offence.

16. Similarly, to protect the environment, the Environment (Protection) Act, 1986 (for short "EP Act, 1986") has been enacted. It has been done with an object and reason that although there are existing laws dealing directly or indirectly with several environmental matters, but it is necessary to have a general legislation for environment protection to prevent decline in environment quality due to increasing population, loss of vegetal cover and biological diversity, excessive concentrations of harmful chemicals in the ambient atmosphere and in food chains, growing risks of environmental accidents and threats to life support system. The Central Government has been given wide powers to take measures to protect and improve the environment as provided under Section 3 including the power to constitute an authority or authorities for the purpose of exercising and performing such of the powers and functions, including the power to issue directions under Section 5 of the Act, and for taking measures, with respect to such of the matters referred to in sub-section (2) of Section 3 as may be mentioned in the order and subject to the prejudice and control of the Central Government. The Parliament has also enacted enactments to prevent and control water pollution and air pollution. {The Water (Prevention and Control of Pollution) Act, 1974, and the Air (Prevention and Control of Pollution) Act, 1981}.

17. To achieve the above objective, the Ministry of Environment and Forests (MOEF) was also directed to formulate a scheme providing that whenever any permission is granted for change of use of forest land for non-forest purposes and one of the conditions of the permission is that there should be compensatory afforestation, then the responsibility of the same should be that of user-agency and it should be required to set apart a sum of money for doing the needful. In such a case, the State Government will have to provide or make available land on which reforestation can take place and this land may have to be made available either at the expenses of user-agency or of the State Government, as the State Government may decide. It was

decided that the scheme shall ensure that afforestation takes place as per the permission which are granted and there should be no shortfall. Consequentially, MOEF had to issue guidelines from time to time under the FC Act, 1980 and the procedure for receipt and utilization of funds for compensatory afforestation, activities permissible under compensatory afforestation, adequate compensation for loss of forest land, recovery of NPV, funds for catchment area, treatment plant and involvement of user-agency for compensatory afforestation. Thus, under the aforesaid premises, the letter dated 17/18.09.2003 in Annexure-17 series was issued by the MOEF, Government of India framing guidelines for diversion of forest land for non-forest purposes under the FC Act, 1980 and also guidelines for collection of NPV. The relevant extract is reproduced hereunder for better appreciation:

"In this regard this Ministry has received correspondences from some States/UTs and Regional Officers requesting to issue the guidelines. Considering the request of the State/UT Government and the Regional Offices, the Ministry of Environment and Forests issues following guidelines for the recovery/collection of Net Present value of the forest land being diverted for non forest purposes under Forest (Conservation) Act, 1980.

1. NPV shall be charged in all those cases which have been granted in-principle approval after 30.10.2002.
2. NPV shall be realized before State-II (Final) approval."

18. Similarly, on 19/22.09.2003, the guidelines for collection of NPV have also been clarified, which are reproduced herein below:

"In continuation of this Ministry's letter of even number dated 17.09.2003 regarding guarding guidelines for collection of Net Present Value in compliance to the orders of the Hon'ble Supreme Court of India dated 30.10.2002 and 01.08.2003 in I.A. No. 566 in Writ Petition (Civil) No. 202 of 1995, I am directed to clarify that NPV will be charged in all those cases which have been granted in-principle approval after 30.10.2002. NPV will be realized before State-II (Final) approval.

NPV will also charged in all those cases, where State-I approval has been granted after 30.10.2002 and final approval has also been granted.

All the States/UTs shall comply with the orders of the Hon'ble Court and complete the collection process of NPV for the cases approved under Forest (Conservation) Act, 1980 after 30.10.2002, within a period of two months and submit a compliance report through their respective Regional Offices of this Ministry. Regional Office shall submit the compliance report to the Ministry after due verification."

19. On 23.04.2004, the MOEF issued an order published in the Gazette of India Extraordinary under Part-II of Section 3, Sub-section (ii). The relevant portion is reproduced below:

"In exercise of the powers conferred by Sub-section (3) of Section 3 of the Environment (Protection) Act, 1986 (29 to 1986) (hereinafter referred to as the said Act), and in pursuance of the Hon'ble Supreme Court's order dated the 30th October 2002 in IA No. 566 in Writ Petition (Civil) No. 202 of 1995, the Central Government hereby constitutes an authority to be known as

Compensatory Afforestation Fund Management and Planning Authority (hereinafter referred to as CAMPA) with effect from the date of publication of this order for the purpose of management of money towards compensatory afforestation, Net Present Value and any other money recoverable in pursuance of the Hon'ble Supreme Court's order in this regard and in compliance of the conditions stipulated by the Central Government while according approval under Forest (Conservation) Act, 1980 (69 of 1980) for non-forestry uses of the forest land."

20. A conjoint reading of the above guidelines and Gazette notification mentioned above clearly indicates recovery/collection of NPV of the various land being diverted for non-forest purposes under the FC Act, 1980 is to be made. The meaning of NPV has been considered by the apex Court in T.N. Godavarman Thirumulpad v. Union of India, MANU/SC/0596/2005 : AIR 2005 SC 4256. The relevant paragraphs 26, 27 and 28 are reproduced herein below:

"26. First, we may consider the meaning of NPV and determine what is NPV.

27. The NPV is the present value (PV) of net cash flow from a project, discounted by the cost of capital.

28. Forestry is a public project. It is important to bear in mind that a benefit received today is worth more than that received later. The benefit received today is in fact 'cost incurred' today. Time value of the cash inflow/outflow is important in investment appraisal. NPV is a method by which future expenditures (costs) and benefit are levelised in order to account for the time value of money. The object behind NPV is to levelise costs. What is the value of Rupee today would not be the value of Rupee say 50 years later. For example, let us have the starting point of value of Rupee in India in the year 2005 and analyse it with the value of Rupee that may be in the year 2050. Cost incurred or to be incurred in 2050 have to be discounted by using appropriate parameters like rate of discount, gestation period, ratio of deflators to GDP. Therefore, expenses incurred in each year between say 2005 and 2050 have to be brought down to their present values by using appropriate discount rate in the NPV."

21. Applying the above meaning of NPV to the present context and considering the guidelines, as discussed above, there is no dispute that mining lease of an area measuring 112.4876 hectares was granted in favour of the petitioner in the year 1998 in respect of plot Nos. 1050 and 1142 under Khata No. 274 in village Tikarpada, Ambadahara in the district of Keonjhar for a period of 20 years from 07.11.1998 to 06.11.2018, but surface right was granted in respect of 67.1390 hectares on 18.05.1999, over which the petitioner has started the mining operation awaiting environment clearance. On 02.06.2010, the petitioner surrendered an area measuring 45.3486 hectares, which forms part of the original mining lease area of 112.4876 hectares. When the surrender application was pending for consideration, the demand of NPV was made over the said surrendered area of 45.3486 hectares by the D.F.O., Keonjhar on 16.06.2010 and subsequently a revised demand was made on 09.07.2010 for Rs. 3,31,04,478/-. But, the petitioner communicated vide letter dated 09.08.2010 that his application dated 02.06.2010 for surrendering of 45.3486 hectares of land is under active consideration of the State Government.

22. At this point of time, Range Officer submitted report to the D.F.O. on 25.10.2010

that there was no illicit felling of trees or any encroachment over the surrendered area of 45.3486 hectares. This fact was communicated to the Collector and District Magistrate after two years, i.e., on 11.03.2013 that the said surrendered area was intact/unbroken. Consequentially, the Collector and District Magistrate on 02.04.2013 forwarded the surrender application to the Director of Mines, Odisha on 02.04.2013. When the matter stood thus, on 28.06.2013 the MOEF granted environment clearance in respect of the retained area of 67.1390 hectares with the finding that DLC forest land of 45.3486 hectares has been surrendered. On 01.11.2013, in compliance of Rule 29 of the MC Rules, the Director of Mines forwarded the surrender application to opposite party No. 1 for final order, which was ultimately accepted on 02.06.2015 vide Annexure-14.

23. In the meantime, even though steps for lapsing were taken, but it was held that mining lease was not liable to be lapsed and the petitioner was directed to deposit NPV dues in respect of 45.3480 hectares of virgin/unbroken area, which had been surrendered to the Government. As the surrendered area was not diverted for non-forest purpose under the FC Act, 1980 and it remained intact and virgin as it was, the question of recovery/collection of NPV for using forest land for being diverted for non-forest purpose under the FC Act, 1980 does not arise. Laudable consideration for recovery/collection of NPV has been well discussed above. Therefore, the area of 45.3486 hectares, which has been surrendered by the petitioner, as per the report of the Range Officer and other competent authority, having been remained intact and virgin and having not diverted to non-forest purpose under the FC Act, 1980, the petitioner is not liable to pay NPV, as demanded pursuant to letter in Annexure-10 dated 01.02.2014 and consequent revised demand made on 22.02.2014 in Annexure-12.

24. By the impugned order dated 02.06.2015 Annexure-14, though the petitioner has been communicated that the mining lease is not liable to be lapsed since the lessee has operated the mines from January, 2013 to April, 2014, as intimated by the Mining Officer, Keonjhar vide memo No. 749 dated 12.05.2015 in respect of 67.1390 hectares in respect of which surface right was granted, and accepted the surrender proposal over an area of 45.3480 hectares, resumption of mining operation has been allowed only after deposit of the pending NPV dues by the lessee. The petitioner is aggrieved to the extent of direction given therein with regard to payment of NPV dues demanded against the surrendered area of 45.3480 hectares, as the said forest land has not been diverted for any non-forest purpose under the FC Act, 1980. In view of such position, since the petitioner has not utilized the surrendered 45.3480 hectares of forest land by diverting the same to any non-forest purpose under the FC Act, 1980, he is not liable to pay the NPV dues, as demanded vide letter dated 01.02.2014 in Annexure-10 and revised amount vide letter dated 22.02.2014 in Annexure-12, thereby the direction No. (iii) contained in impugned letter under Annexure-14 dated 02.06.2015 to the extent, that the mining operation may be allowed to resume after the lessee deposited the pending NPV amount, is hereby quashed.

25. The writ petition is allowed to the extent that the NPV would not be charged for the area which has been surrendered not being used for non-forest activities. No order as to cost.

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