NOTICE

The Ministry of Mines has prepared the Minerals (Other than Atomic and Hydro Carbons Energy Minerals) Concession (Amendment) Rules, 2021seeking to amend Minerals (Other than Atomic and Hydro Carbons Energy Minerals) Concession Rules, 2016.

As part of the Pre-Legislative Consultation Policy, the draft Amendment Rules is made available below. Comments/suggestions are invited from the general public, Governments of States and Union Territories, Mining Industry, Stake Holders, Industry Associations, and other persons and entities concerned, on the draft Amendment Rules. The last date for receipt of the comments/suggestions is **24th January, 2021**.

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

ak.mallik@gov.in

The subject of the e-mail should be "**Comments/suggestions on** the draft Minerals (Other than Atomic and Hydro Carbons Energy Minerals) Concession (Amendment) Rules, 2021.

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

Adhir Kumar Mallik, Under Secretary
Ministry of Mines
Room No 314, D-
Wing Shastri
Bhawan
Dr Rajendra Prasad
Road New Delhi -110
001

The envelope may kindly be super scribed on the top with: "**Comments/suggestions on the draft Minerals (Other than Atomic and Hydro Carbons Energy Minerals) Concession Second (Amendment) Rules, 2021"**.

Draft for Comments

[To be published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i)]

GOVERNMENT OF INDIA
MINISTRY OF MINES

NOTIFICATION

New Delhi, the January, 2021

G.S.R. ….—In exercise of the powers conferred by section 13 of the Mines and Minerals (Development and Regulation) Act, 1957 (67 of 1957), the Central Government hereby makes the following rules to amend the Minerals (Other than Atomic and Hydro Carbons Energy Minerals) Concession Rules, 2016, namely:-

1. (1) These rules may be called the Minerals (Other than Atomic and Hydro Carbons Energy Minerals) Concession (Amendment) Rules, 2021.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Minerals (Other than Atomic and Hydro Carbons Energy Minerals) Concession Rules, 2016 (hereinafter referred to as the said rules), in the sub-rule (1) of rule 12A, the words ",failing which appropriate actions in accordance with the Mine Development and Production Agreement shall be initiated" shall be omitted.

3. In the said rules, after the sub-rule (1) of rule 12A, the following rules shall be inserted:-

(1A) In case the lessee dispatches less than the minimum dispatch required under sub-rule (1) on a quarterly basis, the lessee shall pay at least the amounts payable under rule 13 of the Mineral (Auction) Rules, 2015 for the quantity equal to the minimum dispatch required under sub-rule (1) on a quarterly basis.

(1B) In case the lessee does not maintain minimum dispatch prescribed in sub-rule (1) for three consecutive quarters, the State Government may terminate such lease after giving a reasonable opportunity of being heard.

F. No. 16/98/2020-M.VI]

(Dr. Veena Kumari Dermal)
Jt. Secy.

Note: The Minerals (Other than Atomic and Hydro Carbons Energy Minerals) Concession Rules, 2016 were published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), dated the 4th March, 2016.

BACKGROUND NOTE

The MMDR Act, 1957 was amended in 2015, *inter alia*, to mandate grant of mineral concessions through non-discriminatory and transparent method of auction. Further, in view of the impending expiry of large number of mining leases between 2015 to 2020 and in order to ensure uninterrupted supply of mineral in the country, sub-section (6) of section 8A was also inserted in the MMDR Act through the said amendment to provide the extension of those mining leases where mineral is used for other than captive purpose (non-captive mines), up to 31st March, 2020 or a period of fifty years from the date of grant of such lease, whichever is later.

2. Consequent to sub-section (6) of section 8A in the MMDR Act, 334 non-captive mining leases expired on 31st March, 2020, out of which 46 were working mines. Such operating mines produced about 60 million metric tonne (MMT) iron ore in 2018-2019 out of total production of 206 MMT from all the mines in the country in the said year.

3. In view of the fact that the restart of mining operations in such mines after fresh auction may take a long period as the new lessees have to obtain about 20 statutory clearances, approvals, etc. from various Central and State Government authorities and in order to prevent the impact of the expiry of the leases on the supply of iron ore in the country, further amendment was made in the MMDR Act in 2020, *inter alia*, to insert section 8B in the Act. Section 8B provides that notwithstanding anything contained in the MMDR Act or any other law for the time being in force, the successful bidder of mining leases expiring under the provisions of sub-sections (5) and (6) of Section 8A and selected through auction, shall be deemed to have acquired all valid rights, approvals, clearances, licences and the like vested with the previous lessee for a period of two years.

4. It is stated that out of the total 46 operating and working mines in the country whose leases expired on 31st March 2020, 24 mines are in Odisha, 7 in Karnataka, 6 in Jharkhand, 4 in Andhra Pradesh, 2 in Rajasthan, 2 in Gujarat and 1 in Himachal Pradesh. All 24 mines in Odisha and 4 mines in Karnataka were auctioned. Further, as per the provisions of section 8B, vesting orders were issued for vesting of all valid rights, clearances, approval and the like in favour of the successful bidders for 19 mines in Odisha and 4 mines in Karnataka.

5. In exercise of powers granted under the section 4B of the MMDR Act, the Central Government had also prescribed conditions for ensuring production and minimum level of dispatch by such new lessees under Rule 12A of the Minerals Other than Atomic and Hydro Carbons Energy Minerals) Concession Rules, 2016 (hereinafter the “MCR, 2016”) in the interest

of maintaining sustained production of minerals in the country. Rule 12A(1) of the MCR, 2016 provides that during the first two years from the date of execution of new lease, the holder of mining lease, to whom the order of vesting of rights, approvals, clearances, licences and the like have been issued under section 8B of the Act, shall maintain such level of production so as to ensure minimum dispatch of eighty percent of the average of the annual production of two immediately preceding years on pro-rata basis failing which appropriate actions in accordance with the Mine Development and Production Agreement shall be initiated.

6. Several successful bidders of the such working mines (whose previous mining leases have expired on 31stMarch 2020) have not started production even after lapse of 7-8 months of auction and execution of mining leases in their favour. Further, many of the successful bidders who have started production, have not maintained the production and dispatch quantity up to the level required under Rule 12A of the MCR. This is despite the situation that all valid permits, approvals, clearances and the like required for undertaking mining operations have been transferred to such successful bidders under provision of Sec. 8B of the Act. Also, the permits, approvals, clearances and the like that have been transferred to successful bidders under provision of Sec. 8B of the Act are valid for only 2 years from the date of grant of mining lease. Non commencement of production or not maintenance of stipulated production level for a long time by such successful bidders is defeating the purpose of the provision of Sec. 8B.

7. Non-operationalisation of these mines has created an acute shortage of iron ore in the country. During the year 2019-20 the production of iron ore in the country as on September, 2019 was 110.95 MMT, whereas during the current financial year (i.e., 2020-21), the cumulative production of iron ore up to September, 2020 was only 76.01 MMT thereby registering a decline in production by 31.5 per cent. In case of State of Odisha, the production and dispatch of iron ore for the period from April, 2019 to November, 2019 was 90.28 MMT and 102.81 MMT, respectively, which has declined to 60.46 MMT and 91.58 MMT, respectively in the period from April, 2020 to November 2020. Decline in production and dispatch of important mineral such as iron ore not only leads to spike in its market prices but also affects the manufacturing of iron and steel in the country which is one of the core sectors of the economy.

8. Shortfall in supply of iron ore in the country on account of discontinuance of production from large number of mines whose leases had expired on 31st March 2020 became a matter of grave concern and several discussions have taken place between the State Government of Odisha and the Central Government on the issue.

9. Accordingly, it is proposed to strengthen the norms of minimum production / dispatch through amendment of Rule 12A of the MCR Rules, 1960 in order to ensure sustained supply of mineral in the market in future. Rule 12A is proposed to be amended to mandate the successful bidder to

make payment equivalent to the revenue share and other statutory levies that would have been payable at the prescribed level of minimum production/ dispatch targets on quarterly basis to ensure smooth availability of minerals. It is proposed to mandate quarterly target to avoid of excessive environmental load by staggering production and better fiscal management of States. It is also proposed to provide in the Rules that failure to maintain prescribed production level for three consecutive quarters may lead to termination of the leases.

10. In view of the above the amendment in Rule 12A of the MCR is proposed.

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