

NOTICE

Hon'ble Finance Minister on 16.05.2020 has made announcement under Atma-nirbhar Bharat scheme for enhancing private investments in the Mineral Sector and for bringing reforms in mineral sector. In order to implement the announcement, legislative amendments to the Mines and Minerals (Development and Regulation) Act, 1957 and rules made there under as well as other proposals are being considered by Ministry of Mines. A note on the proposed reforms in the Mining Sector are enclosed.

Comments / suggestions are invited from the general public, Government of States and Union Territories, Mining Industry, Stake Holders, Industry Associations and other persons and entities concerned, on the draft proposed mining reforms. The last date for receipt of the comments / suggestion is **03rd September, 2020.**

The comments / suggestions may be sent by email to the following ID:
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Note on the proposal for Mining Reforms-


Hon'ble Finance Minister on 16.05.2020 has made announcement under Atmanirbhar Bharat scheme for enhancing private investments in the Mineral Sector and for bringing reforms in mineral sector. In order to implement the announcement, following legislative amendments under the Mines and Minerals (Development and Regulation) Act, 1957 and rules made there under as well as other proposals are being considered by Government of India. Mineral sector being one of the highest employment generating sector has deep and wide impact on the upstream and downstream sectors. The objective of the structural reforms proposed herein are to accelerate growth and employment generation in the sector, to stimulate the economic growth to take it to the next level of growth trajectory to overcome the dampening impact of COVID 19 pandemic:

Objects and reasons for the structural reforms:

Mineral sector is one of the highest employment generating sectors. It has deep and wide impact on the upstream and downstream sectors. Sectors like mining machinery, steel, aluminium, commercial vehicles, rail transportation, ports, shipping, power generation, etc are closely linked to mining sector. Therefore, any improvement in mining sector implies employment generation in all the connected sectors.

The biggest need for the country today is employment generation. In **AtmaNirbhar Bharat Abhiyaan**, the biggest focus is on creating employment opportunities. Mining activities are concentrated in the areas that need most employment opportunities. Hence the synergy is natural.

Further, the government has taken a decisive path towards transparent resource allocation regime through auctions only since 2015. These proposals are based on the learnings of the past five years, and for bringing the best practices that can help harmonize employment, technology, growth, and environment. While, the focus is on employment generation, the government is fully conscious of the environmental and social concerns. Hence, these proposals for structural reforms in mining sector are all aimed at a harmonious balance between employment and environment.

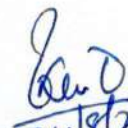

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Proposed Reforms

- 1. Increasing mineral production and employment generation by redefining the norms of exploration for auction of mineral blocks and ensuring seamless transition from exploration to production** : As per the current practice, Government agencies like GSI, MECL, DMGs and other notified agencies explore an area up to G2 level for auction of Mining Lease (ML) and G3 level for Composite Lease (CL). Both G3 and G2 levels are classification levels defining availability of mineral resources. The time required to reach the prescribed level of exploration before putting a block to auction is not only long but is ridden with uncertainties. Based on the inputs from industries and experience post the amendment to MMDR Act in 2015, it is proposed to increase the participation of private sector in exploration activities. The approval is being sought to redefine the standard of exploration required for auctioning of blocks for Prospecting Licence-cum-Mining Lease from the existing G3 level to partially explored blocks of G-4 level having potential for mineral development. This proposal aims to bring in private investment for exploration of mineral blocks (regional exploration) to bring them up to G-4 level along with Government agencies such as GSI, DMG, MECL etc. Exploration activities of private entities will also be funded from NMET fund. The proposal provides for seamless transition from exploration to production so that the transition from PL to ML is hassle free. Once enough regional exploration data is available for the country, Mineral sector can also adopt open acreage licensing policy for allocation of mining rights. This will give major boost to production of minerals in the country by allowing all year round award of blocks through transparent basis.

Proposals as per the discussion above are listed below :-

- (a) Mineral potential areas will be put to auction in a transparent manner for seamless prospecting license cum mining lease (PL cum ML) regime by auctioning of partially explored mineral blocks of G4 (UNFC) or equivalent classification.
- (b) Private entities to be engaged in the exploration work.(Regional Exploration)
- (c) Exploration work of private entities to be funded from NMET


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2. **Resolving legacy issues to move towards an auction only regime for allocation of mineral resources:** At present large number of potential leases are blocked in legacy cases. These cases can neither be granted because the time period to grant them is already over, nor can they be brought to auction because of legal impasse. The cases coming under section 10A (2) (c) of the Act which stood extinguished on 12th Jan 2017 as per law, but are still litigated or pursued unnecessarily at various levels, need to be brought to a closure to end the policy stalemate. The cases coming under section 10A (2)(b) of the Act are still disputed in the absence of a specific sun set clause in the Act, and they have not reached closure till date. Section 7 of MMDR Act provides for maximum period of five years for completing the prospecting operations. These amendments came in effect on 12th January 2015 and the maximum period of five year for prospecting has also lapsed on 12th January 2020. In both the cases, large number of potential mineral bearing areas are blocked and are not contributing towards mineral production and employment generation. Since continuing with the existing provisions of 10A (2)(b) and 10A(2)(c), will also cause huge financial loss to the State exchequer, the Amendment Bill seeks to amend the existing provision of Section 10A (2)(b) & 10A (2)(c) and reallocation of such mineral blocks through transparent method of auction. It is also proposed for appointment of an authority to decide the value of expenditure incurred for exploration in such legacy cases whose rights will be terminated and to reimburse the exploration expenditure from funds under NMET.

Proposals as per the discussion above are listed below:-

- (a) Amendment in the section 10 A (2) (b)
- (b) Amendment in the section 10 A(2) (c)

3. **Removing the distinction between captive and non captive mines :** The captive mines are catering exclusively to their captive plants and the mining activity is restricted in terms of quantity and grade of mineral required by the captive plant. This results in sub-optimal mining. It also creates environment hazard on account of heavy stock of un-usable extracted minerals lying at the mine head that cannot be sold due to the restriction in law. On the lines of commercial coal mining, all mineral blocks may also be auctioned for commercial mining without distinction of captive or merchant mines. The proposal seeks to remove distinction between captive and merchant mines by ensuring that in future all mines

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will be auctioned without any end use restriction. Further the right of the first refusal available to existing captive mines will also be removed. The existing limit of allowing sale of 25% of total mineral excavated in the previous financial year, for which end use was specified is proposed to be increased to 50% for the auctioned captive mines beyond their captive use volumes. These changes are also in line with the recommendations given by High Level Committee on Mineral Sector constituted at the level of NITI Aayog for removing the artificial distinction between Captive and Non captive mines.

Proposals as per discussion above are listed below:-

- (a) To remove the provision to earmark any mine for captive purpose during auction, henceforth all the blocks will be auctioned without any end use restriction.
- (b) Remove the first right of refusal for captive miners.
- (c) The existing limit of allowing 25% of the total mineral excavated in the previous financial year , for which end use was specified , is proposed to be increased to 50% for the auctioned captive mines beyond their specified captive use volumes.

4. **Developing a transparent National Mineral Index:**At present royalty, DMF, and NMET are all calculated on the basis of Average Sale Price (ASP) of minerals published by Indian Bureau of Mines (IBM). ASP is computed based on the returns filed by the lessee of the merchant mines. There is a proposal to develop a comprehensive and broad-based Mineral Index for determination of levies and taxes on the lines of recently launched national coal index. A committee will be set up to develop the National Mineral index in which representatives of the State Government will be included. The National Mineral Index will determine the value of the mineral that will form the basis for calculation of royalty and other such levies of selected minerals. Proposal as per discussion above are listed below:-

- (a) Adoption of a market determined national mineral index for determination of different levies payable to government.

5. **Clarify the definition of illegal mining:** At present, there is no differentiation between illegal mining done outside leasehold area and mining in violation of various clearances and approvals inside a mining lease area. The Amendment Bill seek to clarify that the mining done inside legally granted mining leasehold area in contravention of any regulation or law will be treated as per the extant regulation or law. The illegal mining committed outside the

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leasehold area has to be treated distinct and separate from the unauthorized mining within the leased area. The amendment will be prospective in nature.

Proposal as per discussion above are listed below:-

- (a) Amendment in section 21(4)
- (b) Amendment in section 21(5)
- (c) These amendments shall be prospective in nature


6. **Rationalise Stamp Duty** :Stamp duty is computed in different ways in different States. Some States compute stamp duty using the highest grade of mineral and for the entire lease period of 50 years. Even if the mineral may be of lower grade and value, and even if it may be exhausted in less than 50 years life of lease, stamp duty is being computed and paid for entire 50 years period by some States. Since the auctioned mines are leased on revenue sharing basis, which in essence makes the government financial partner in the mine, so stamp duty should be computed on the extent of area, not on the value of mineral. The proposal is to standardize the norms of computation of the stamp duty on mining lease based on the value of land under mining lease without any reference to the value of mineral.

7. **Amendments to DMF Rules and guidelines to increase the focus of DMF fund towards creating tangible assets in mining affected areas**: District Mineral Fund was introduced to earmark funds for benefit of the persons affected by mining as also for the rebuilding of infrastructure in mining affected areas, The Parliamentary Standing Committee on Mines has proposed to give greater focus for the use of DMF funds in directly affected areas for creating tangible assets. The Amendment Bill seeks to amend the DMF provisions in line with recommendation of Parliamentary Standing Committee.

Proposals as per discussion above are listed below:-

- (a) Amendment to section 9 B

8. **Bringing unused mineral blocks into production to generate employment**: Large mining blocks with very high quality of resources are not brought into production for many

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years resulting in sub-optimal utilisation of valuable national mineral resources. The Amendment Bill seeks to amend the relevant provision of the Act for vesting back of such allocated non working mines of private companies, which are not made operational within three years to the concerned States for re-allocation through auction. Similarly, the virgin areas allocated to PSUs and are not brought into production are also proposed to be reviewed and vested back to State Government. These changes are also in line with the NITI Aayog strategy for New India @ 75 as well as the High Level Committee (HLC) on mineral sector of NITI Aayog that the huge mineral bearing areas reserved for state agencies that have not been utilized for more than 2/3 years should be de-reserved and allocated to the end user industry/ or auctioned

9. **Review of the functioning of NMET:** The Central Government vide Gazette Notification dated 14th August 2015 established the National Mineral Exploration Trust. NMET Rules were also notified on 14th August, 2015. NMET receives its Fund as per provisions of subsection 4 of Section 9C of the Act which is equivalent to two percent of the royalty. Even though NMET is created as a Trust with its own source of fund and autonomy in operation, the amendment to the NMET rules in 2018 has diluted the autonomy of the Trust. The Amendment Bill seeks to amend the relevant provision of the Act and rules to make NMET functioning fully as an autonomous body.

(a) NMET will be made autonomous.

(b) All the entities notified under the subsection (1) of section 4 shall be eligible for funding under NMET

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