

No. 202/1/2015/NA  
Government of India  
Ministry of Coal  
O/o Nominated Authority

.....  
Shastri Bhawan, New Delhi  
Dated: the 31<sup>st</sup> January' 2018

To

Managing Director  
Mandakini Exploration and Mining Limited  
Plot No. 12, LSC, Sector B  
Pocket 1, Vasant Kunj  
New Delhi-110070

Subject: - Termination of Coal Mine Development and Production Agreement (CMDPA) and return of Bank Guarantee constituting Bid Security in respect of Mandakini Coal Mine.

I am to invite your attention to auction of Mandakini Coal Mine for which bidding was closed on 05.03.2015 and to state that pursuant to Order No. 13016/29/2015-CA-III dated 13.03.2015 issued by Ministry of Coal, Government of India under Rule 10 (10) of the Coal Mines (Special Provisions) Rules, 2014, M/s. Mandakini Exploration and Mining Limited (MEML) was declared as the Successful Bidder for the said Coal Mine vide letter dated 104/22/2015/NA dated 13.03.2015. Accordingly, the Coal Mine Development and Production Agreement (CMDPA) was executed between Nominated Authority and M/s. MEML on 16.03.2015. As per Clause 3.2 of the CMDPA, the Successful Bidder was required to comply with the Vesting Conditions within 15 days of the Agreement failing which the Nominated Authority may terminate the Agreement without incurring any liability whatsoever.

2. However, M/s. MEML had not complied with vesting conditions and subsequently filed W.P. (C) No. 3787/2015 before High Court of Delhi, praying for setting aside order dated 15.04.2015 issued by Ministry of Power restraining them from capping fixed charges for the purpose of power purchase bidding process and alternatively had also prayed that it should be allowed to surrender the coal mine along with return of Bid Security.

3. Hon'ble High Court of Delhi passed judgment dated 09.03.2017 in the matter, Para 33 of which is reproduced as under:-

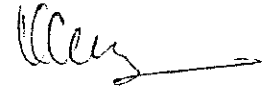
*" For these reasons, we are of the view that we need not deal with the first proposition as to whether the respondents could at all put a cap on the fixed charges/ capacity charges under the Section 63 regime of the Electricity Act,*

2003. However, since the decision to put a cap on fixed charges / capacity charges would have had an impact on the bidding process and this, in our view, was not known to the petitioners, the petitioners would be entitled to the alternative prayer of withdrawing from the bids and for refund of the bid security without any penalty. The writ petitions are allowed in part as above."

4. Subsequently, a SLP bearing Diary No. 18678/2017 was filed before the Hon'ble Supreme Court of India by Ministry of Coal against common judgement dated 09.03.2017 passed in WP(C) 3786/2015 (Monnet Power Company Ltd. reg. Utkal C coal mine) and WP (C) no. 3787/2015 (Mandakini Exploration & Mining Ltd. reg. Mandakini coal mine) which was dismissed by the Hon'ble Apex Court vide Order dated 09.10.2017.

5. In pursuance, M/s. MEML, vide letter dated 10.10.2017 has requested for the return of Bank Guarantee submitted as Bid Security in respect of Mandakini Coal Mine, in view of the judgment dated 09.03.2017 of Hon'ble Delhi High Court of Delhi in W.P. (C) No. 3787/2015 & CM No. 6773/2015 and subsequent order dated 09.10.2017 passed by Hon'ble Supreme Court of India in SLP Dy. No. 18678/2017.

6. In view of the above, the CMDPA dated 16.03.2015 in respect of Mandakini Coal Mine stands terminated and M/s. MEML is requested to collect the Bank Guarantee No. 2164ILG002815 dated 13.02.2015 (validity expired) constituting Bid Security from this office on any working day by 09.02.2018 between 3.00 P.M. to 4.00 P.M. through authorized representative. The representative deputed for collecting the Bank Guarantee must carry authorization letter and Photo Identity Card from the Company.



(N.K. Singh)

Deputy Secretary to the Government of India

**Copy to:**

1. PSO to Secretary (Coal).
2. Chief Secretary, State Government of Odisha.
3. JS (RKS), Ministry of Coal.
4. CMD, CMPDIL, Kanke Road, Gondwana Place, Ranchi.
5. Coal Controller, Coal Controller Organization, Kolkata, West Bengal.
6. US (CLD)/US (CPAM)/US (CBA-I)/US (CBA-II).
7. TD (NIC), Ministry of Coal- for uploading on the website of Ministry of Coal.