

File No 110/1/2014/NA (Part)
Government of India
Ministry of Coal
Office of the Nominated Authority

120-F, Shastri Bhawan, New Delhi
Dated: December 22, 2021.

FINAL ORDER

Subject: The Coal Mines (Special Provisions) Act, 2015 and Hon'ble High Court of Delhi, Judgment dated March 09, 2017– Valuation of Compensation for payment to prior allottee, M/s GVK Power (Govindwal Sahib) Limited (GVK) and M/s. Essar Power M.P. Ltd. (EPMPL) for Tokisud North coal mine.

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Vide order dated October 25, 2021 (Copy enclosed) was issued communicating the determined amount of compensation to be paid to Prior Allottees of Tokisud North coal mine. In the said order, following directions were issued to Present Allottee and Prior Allottees:-

- i. **Present Allottee (M/s NMDC):** - was directed to deposit **Rs. 77, 15,13,203/-** in respect of compensation of Cost of Consent and Land in relation to Tokisud North coal mine to O/o Nominated Authority for disbursement to Prior Allottees.
- ii. **Prior Allottee (M/s. GVK):-** to be disbursed **Rs. 138,66,62,013/-** for land and mine infrastructure.
- iii. **Prior Allottee (M/s EPMPL):-** to be disbursed **Rs. 163,23,44,050/-** for cost of GR, cost of consent, Land and Mine Infrastructure.

2. Further, in the aforementioned order, both Prior Allottees, M/s. GVK & M/s. EPMPL and Present Allottee, M/s. National Mineral Development Corporation Limited (NMDC) were called upon 12.11.2021 at 11:00 A.M which was later rescheduled to 17.11.2021 at 15:30 to present their comments/objection, if any, on the determination made by the Nominated Authority. Accordingly, Present Allottee and Prior Allottees attended the meeting on 17.11.2021 and submitted their objections/comments as under

I. M/s GVK:-

Mine Infrastructure:- M/s GVK submitted their objections vide letter dated 10.11.2021 (copy enclosed) which is summarized as below:

- i. Computed amount of Mine Infrastructure : It was stated that the total amount for mine infrastructure should be Rs.1,52,13,46,973/- instead of Rs. 151,25,35,843/- thereby increasing the amount by Rs. 88,11,130/-. The claim was found to be incorrect and no change was required.
- ii. Omission of some items under Mine Infrastructure Head: It was stated that there are omission of some immovable items under the head "Mine Infrastructure". The claim was found to be incorrect and no change was required.
- iii. Typographical error in the mentioned amount: It was stated that there is typographical error in the mentioned amount of Mine Infrastructure which should be Rs.93,64,18,900/- instead of Rs. 93,24,18,900/- as mentioned in order dated October 25, 2021. Upon examination, this claim is found to be correct and same has been rectified in this order.

- iv. Non- Consideration of Capital Advances: it was stated that amount of Rs. 5,20,27,823/- has not been considered under the head Mine Infrastructure. However, determination of compensation in all cases are done based on the guidelines framed by the assets valuation committee and asset classification by CMPDIL.
- v. Enquiry regarding GST: M/s GVK enquired whether GST is applicable on the receipt of compensation. In this regard, prior allottee is instructed to pay all the applicable taxes to the government.

II. **M/s EPMPL: -**

Land: - M/s EPMPL did not submit any objection against the order dated 25.10.2021 during the meeting. However, a written submission has been received by O/o Nominated Authority, vide email dated December 07, 2021 (copy of letter enclosed) in relation to objection raised by NMDC during the meeting. M/s EPMPL stated that entire private land was purchased by M/s GVK and all the related compliances i.e. agreement with land owners, permission under CNT act, sale deed, mutations etc. were undertaken by M/s GVK only. M/s EPMPL also stated that during it's the tenure of holding the Tokisud North block they have not procured any type of land and for any anomaly/procedural gap in land procurement or any related matter, M/s EPMPL is not responsible for the same. M/s EPMPL has further stated that certain important documents like original land deeds R&R details, railway siding land documents, forest right proceeding etc were not shared by the first allottee i.e M/s GVK.

III. **M/s NMDC:-**

Land and Mine Infrastructure: - M/s NMDC submitted their objections vide letter dated November 16, 2021 (copy of letter enclosed) in respect of Land and Mine Infrastructure as below:

a. **Land: -**

Para 1 Leasehold land (48.97 ha) for mining: - M/s NMDC did not raise any objection for Leasehold land for the purpose of mining.

Para II Freehold land (253.06 ha and 10.83 ha) for mining and resettlement and rehabilitation (R&R) respectively:- In this regard, they intimated that M/s GVK has not taken permission under Chota Nagpur Tenancy Act 1908, for acquisition of Raiyati (Private) land. M/s NMDC also submitted the letter of State Government of Jharkhand dated 13.11.2021 regarding permission of CNT Act, as a proof that M/s GVK had not taken any permission under CNT Act.

However, M/s NMDC did not specify the details of area of land for which no permission was taken by M/s GVK.

Further, M/s NMDC stated that it is facing problems in mutation of private land and raised the concern whether all the original sales deeds are mortgaged by M/s GVK with their lead bankers.

Para III Freehold land (372.93 ha) for compensatory afforestation: - NMDC stated that Compensatory Afforestation (372.93 Ha), Land acquired by M/s GVK for obtaining the stage II Forest Clearance has been transferred to forest department. Since, GVK is technically not the present owner of the land and it is part of Forest Clearance activity. M/s NMDC claimed that the same is required to be considered as part of cost of consent rather than cost of land.

However, the said land was acquired by M/s GVK and the same land has been vested to M/s NMDC vide vesting order dated 17.08.2020. Further, M/s NMDC has taken Forest Clearance I and Forest Clearance II vide letter dated November 02,2020 on the basis of compensatory afforestation land. Therefore, it is has to be part of cost of land.

Para IV Freehold land and Leasehold land (16.43 ha and 0.51 ha) for resettlement and rehabilitation: - M/s NMDC stated that no freehold and leasehold Railway siding land has been vested to them. However, O/o Nominated Authority has already sent land documents in this respect to M/s NMDC vide mail dated November 16, 2021 and the same will be vested to M/s NMDC with corrigendum.

b) Mine Infrastructure :-It was communicated to the prior allottees & successful allottee that Central Mine Planning and Design Institute Ltd. [CMPDIL] classified the list of assets provided by M/s GVK & M/s EPMPL as per the guidelines framed by the asset valuation committee and provided list of admissible mine infrastructure to the Office of Chief Advisor (Cost) [CAC]. Thereafter, O/o CAC undertook valuation of admissible mine infrastructure and has submitted its reports no 8822, dated 13.10.2021 and 8715, dated 16.08.2019. Determination of compensation in all cases are done based on the guidelines framed by the assets valuation committee and it may not be possible to deviate from the said guideline for any particular allottee.

3. In view of above, it is confirmed that the amount of compensation determined vide earlier order dated October 25, 2021 stands final and M/s NMDC is hereby directed to deposit the amount of Rs.77,15,13,203/-. Further, compensation for cost of GR, Cost of Consent and Mine Infrastructure will be released to M/s GVK and M/s EPMPL or their Resolution Professionals which are as under:-

Table 'A' "fig in Rs"

Name of allottees	NMDC (Fixed Cost (FC))			M/s GVK (Compensation)			M/s EPMPL (Compensation)		
Particulars	Total (1)	Already submitted (2)	To be submitted [3=(1-2)]	Total (4)	Already released to M/s GVK (5)	To be released [6=(4-5)]	Total (7)	Already released to M/s EPMPL (8)	Compensation to be released [9=(7-8)]
Cost of Geological Report (A)	1,10,47,471	1,10,47,471	-	1,10,47,471	1,10,47,471	-	1,10,47,471	-	1,10,47,471
Cost of Consents (B)	34,42,19,901	-	3,44,21,9901	34,42,19,901	34,42,19,901	-	34,42,19,901	-	34,42,19,901
Value of Mine Infrastructure (C)	151,25,35,843	151,25,35,843	-	151,25,35,843	57,61,16,943	93,64,18,900	57,61,16,943	-	57,61,16,943
Value of Land (D)	115,12,02,848	72,39,09,546	4,27,29,3302	98,71,14,393	53,68,71,280	45,02,43,113	70,09,59,735	-	70,09,59,735
Total [E=(A+B+C+D)]	301,90,06,063	224,74,92,860	77,15,13,203	285,49,17,608	146,82,55,595	138,66,62,013	163,23,44,050	-	163,23,44,050

Further in view of issue raised by NMDC regarding difficulty in taking possession of free hold land and non-receipt of desired land documents, the compensation of land will not be released at this stage.

4. O/o Nominated Authority has been issued several letters/mail i.e 14.09.2020, 15.02.2021, 21.05.2021, 03.06.2021 and 24.09.2021 to handover the original documents to NMDC. In this regard, M/s EPMPL & M/s GVK is once again directed to submit the same to NMDC for early operationalization of Tokisud North coal mine. The amount of compensation may be released after submission of all original documents to M/s NMDC.

5. In accordance with Section 27 of the Act and the judgment dated 09.03.2017, it is open to M/s. GVK & M/s. EPMPL and M/s NMDC to raise disputes with regard to the quantum of compensation before the Tribunal constituted under the Coal Bearing Areas (Acquisition and Development) Act, 1957.

Enclosure as above:-

1. Order dated October 25, 2021
2. Copy of letter dated December 07, 2021
3. Copy of letter dated November 10, 2021
4. Copy of letter dated November 16, 2021


(M. Nagaraju)

Additional Secretary & Nominated Authority

To

1. Prior Allottees:-

- 1.1 The Managing Director, GVK Power (Govindwal Sahib) Limited, 156-159, Paigah House, Sardar Patel Road, Secunderabad-500003.
- 1.2 The Managing Director, M/s Essar Power M.P. Ltd, Prakash Deep Building, 10th floor, 7 Tolstoy Marg, New Delhi- 110001.

2. Successful allottee:-

The Managing Director, M/s NMDC, NMDC Ltd. Khanij Bhawan 10-3-311/A, Castle hills, Masab Tank, Hyderabad-500028.

3. Resolution Professional of Essar Power M.P.Ltd. Shri Ashish Chhawchharia, Grant Thornton, 11th floor, Tower II, One International Centre, S B Marg, Elphinstone (W), Mumbai 400013. Email: - RP.EPMPL@IN.GT.COM

Copy to:-

1. The Coal Controller, Coal Controllers' Organisation, 1, Council House Street, Kolkata.
2. U.S, CBA-II (For Kind information).
3. Sr.T.D, NIC, MOC with request to upload this on the website of MOC.