

Room No. 120, "F" Wing,
Shastri Bhawan, New Delhi
Dated: March 16, 2022

Subject: Order of the Nominated Authority in regarding disbursal of compensation in respect of Tokisud North Coal Mine

Rule 14 of the Coal Mines (Special Provisions) Rules, 2014 (hereinafter, 'Rules') mandates that the compensation shall be determined by the Nominated Authority in accordance with the provisions of section 16 of the Coal Mines (Special Provisions) Act, 2015 (hereinafter, 'Act'). Further, the said determination shall be in compliance of the judgment dated 09.03.2017 in WP (C) 973/2015; M/s. GVK Power (Goindwal Sahib) Limited &Ors. v. UOI &Ors.

Cancellation of Allotment of 204 coal mines by Hon'ble Supreme Court of India

2. Vide order dated 24.09.2014 in WP (Crl.) No. 120/2012; Manohar Lal Sharma &Ors. v. The Principle Secretary &Ors., Hon'ble Supreme Court quashed the allotments of 204 coal mines. However, for 42 such mines the cancellation was to be effective from 31.03.2015. Tokisud North Coal Mine is one such mine whose earlier allotment to M/s. GVK Power (Goindwal Sahib) Limited was cancelled by the Hon'ble Supreme Court effective from 31.03.2015.

Coal Mines (Special Provisions) Act, 2015 and provisions for compensation and disbursal thereof

3. Thereafter, Coal Mines (Special Provisions) Ordinance 2014 was brought in by Union of India which was later substituted by Coal Mines (Special Provisions) Act, 2015. The Act and the Rules made thereunder provide for allocation of the 204 coal mines, provision of compensation to the prior allottees (whose allocation was cancelled) and other ancillary and incidental matters.

4. As per section 6 of the Act the Central Government acts through the Nominated Authority. The valuation of compensation payable to the prior allottees of the coal mines is undertaken by the Nominated Authority as per section 16 of the Act read with Rule 14 of Rules. Further, the said determination shall be in compliance of the judgment dated 09.03.2017 in WP (C) 973/2015; M/s. GVK Power (Goindwal Sahib) Limited &Ors. v. UOI &Ors.

5. Apart from the compensation for land and mine infrastructure in accordance with Section 16 of the Act, cost of Geological Report and Cost of Consents obtained by the prior allottee is also provided to the prior allottees. Section 9 of the Act mandates that compensation so determined by the Nominated Authority is to be deposited by the successful allocattee of the mine. Further, the successful bidder is also under a contractual obligation, through tender document, to deposit the compensation amount and any upward revision in the same to the Nominated Authority. The Nominated Authority, thereafter, disburses the compensation in accordance with section 9 of the Act r/w. rule 15 of the Rules. The order of priority of disbursal shall be secured creditors, thereafter dues to Government and local authority and then the prior allottee.

6. As per clause (n) of sub-section (1) of section 3 of the Act M/s. GVK Power (Goindwal Sahib) Limited qualified as 'Prior Allottee' and, hereinafter referred as 'Prior Allottee-1'.

Allocation of the Mine to M/s. Essar Power MP Limited

7. Post enactment of the Coal Mines (Special Provisions) Act, 2015, the Mine was allocated by way of public auction conducted by the Nominated Authority under the provisions of CMSP Act and CMSP Rules to M/s. Essar Power MP Limited. Coal Mine Development and Production Agreement was executed by the Nominated Authority and by M/s. Essar Power MP Limited on 02.03.2015. Vesting order in favour of M/s. Essar Power MP Limited was issued by the Nominated Authority on 23.03.2015 (w.e.f. 01.04.2015). Since cancellation of mine was effective from 31.03.2015, the effective date of vesting of mine for all purposes is 01.04.2015. Thereafter, allocation of the Mine was terminated on 03.05.2019. By virtue of sub-section (15) of section 8 of the Act, the successful bidder of the coal mine whose vesting order has been terminated shall be deemed to be the prior allottee for the purposes of immediate next auction or allotment of the coal mine. Thus, M/s. Essar Power MP Limited shall be deemed as prior allottee for the purposes of immediate next auction/allotment of the Mine and hereafter, referred as 'Prior Allottee-2'.

Fresh Allotment of the Mine to National Mineral Development Corporation Limited (NMDC)

8. After termination of vesting order of Mine to Prior Allottee-2, the Mine was allotted to NMDC (hereinafter, 'Successful Allottee'). In case of mine allocation by way of allotment to government companies 'Allotment Order' is issued and the same is equivalent to Vesting Order (issued in cases of auction of mines). In case of allotment of the Mine to NMDC (successful allottee) the Allotment Order was issued on 17.08.2020.

Determination of Compensation by Nominated Authority

9. The compensation was initially determined by the Nominated Authority vide a tentative order dated 25.10.2021. In compliance of the principles of natural justice, Prior Allottee-1, Prior Allottee-2 and the Successful Allottee were heard in the meeting dated 17.11.2021.

10. The claims of both the prior allottees and the Successful Allottee were decided and a Final Order for determining the compensation was issued on 22.12.2021. As per the Final Order, the total compensation was determined to be Rs.301,90,06,063/-. Gist of the compensation so determined is as below in Table-A below.

Cost of Geological Report (Rs.)	Cost of Consent (Rs.)	Value of Mining Infrastructure	Value of Land (Rs.)	Total (Rs.)
(A)	(B)	(C)	(D)	(E)=[A+B+C+D]
1,10,47,471	34,42,19,901	151,25,35,843	115,12,02,848	301,90,06,063

Table-A

Determination of Final Compensation as per order dated 22.12.2021.

11. An amount of Rs.146,82,55,595/- was deposited by Prior Allottee-2 as per the heads mentioned in Table-B below.

Cost of Geological Report (Rs.)	Cost of Consent (Rs.)	Value of Mining Infrastructure	Value of Land (Rs.)	Total (Rs.)
(A)	(B)	(C)	(D)	(E)=[A+B+C+D]
1,10,47,471	34,42,19,901	57,61,16,943	53,68,71,280	146,82,55,595

Table-B

Amount deposited by Prior Allottee-2 (M/s. Essar Power MP Limited).

12. An amount of Rs.224,74,92,860/- has been deposited by the Successful Allottee as Fixed Cost prior to execution of Allotment Agreement. The said amount was deposited by the Successful Allottee under the heads described in Table-C below.

Cost of Geological Report (Rs.)	Cost of Consent (Rs.)	Value of Mining Infrastructure	Value of Land (Rs.)	Total (Rs.)
(A)	(B)	(C)	(D)	(E)=[A+B+C+D]
1,10,47,471	NIL	151,25,35,843	72,39,09,546	224,74,92,860

Table-C

Amount deposited by Successful Allottee [M/s. NMDC].

13. Vide the said Final Order dated 22.12.2021 the Successful Allottee was also directed to deposit the differential amount of Rs.77,15,13,203/- The said differential amount consists of the unpaid cost of Consent and the balance payment towards compensation of land. The same is mentioned in Table-D below:

Cost of Consent (Rs.)	Value of Land (Rs.)	Total (Rs.)
(A)	(B)	(C)=[A+B]
34,42,19,901	42,72,93,302	77,15,13,203

Table-D

Balance amount to be deposited by Successful Allottee [M/s. NMDC].

14. As per the final order of compensation, share of Prior Allottee-1 and Prior Allottee-2 is reproduced in Table-E below. Share of Prior Allottee-1 to the tune of Rs.1,11,29,88,223/- towards settlement of claim against proceeds arising out of Land [Rs. 53,68,71,280] and Mine Infrastructure[Rs.57,61,16,943/-] was released vide sanction order dated 11.08.2017. Additionally, vide sanction order dated 24.05.2016, the share of Prior Allottee-1 to the tune or Rs.35,52,67,372/- was released for cost of geological report [Rs.1,10,47,471/-] and cost of consent [Rs.34,42,19,901/-]. Thus, the share of Prior Allottee-1 has already been released to the tune of Rs.146,82,55,595/-. However, the said amount has been released in favour of the secured creditor to the Prior Allottee-1. The following paragraphs details the process of disbursal to the secured creditor.

Particulars	Share of M/s GVK - Prior Allottee-1			Share of M/s EPMP - Prior Allottee-2		
	Share Amount (1)	Already released to M/s GVK* (2)	To be released [3=(1-2)]	Share Amount (4)	Already released to M/s EPMP (5)	To be released [6=(4-5)]
Cost of Geological Report (A)	1,10,47,471	1,10,47,471	NIL	1,10,47,471	NIL	1,10,47,471
Cost of Consents (B)	34,42,19,901	34,42,19,901	NIL	34,42,19,901	NIL	34,42,19,901
Value of Mine Infrastructure (C)	151,25,35,843	57,61,16,943	93,64,18,900	57,61,16,943	NIL	57,61,16,943
Value of Land (D)	98,71,14,393	53,68,71,280	45,02,43,113	70,09,59,735	NIL	70,09,59,735
Total [E=(A+B+C+D)]	285,49,17,608	146,82,55,595	138,66,62,013	163,23,44,050	NIL	163,23,44,050

Table-E
Share of Prior Allottee-1 and Prior Allottee-2.
**to the secured creditor*

15. The total amount of compensation deposited by the Successful Allottee and Prior Allottee-2 is Rs.3,71,57,48,455/- [Rs.146,82,55,595/- by Prior Allottee-2 and Rs.224,74,92,860/- by Successful Allottee][Ref. Table-B and C above]. Out of the said amount, an amount of Rs.146,82,55,595/- has already been released as the share of Prior Allottee-1 to its secured creditors. Now, the balance amount i.e., Rs.224,74,92,860/- is to be disbursed.

Determination of claims by persons other than prior allottee

16. In accordance with sub-section (2) of section 15, the Nominated Authority invited claims vide advertisement published in Times of India (English) and DainikJagran (Hindi) on 29.12.2021. The said advertisement was published on the website of Ministry of Coal as well.

17. As per section 9 of the Act the payment to secured creditors shall be made on priority, from the compensation for land and mine deposited by the successful bidder, for any portion of the secured debt in relation to a Schedule I coal mine which is unpaid as on the date of the vesting order.

Order dated 28.01.2022 in WP(C) No. 1184/2022 before High Court of Delhi

18. Meanwhile, Prior Allottee-1 i.e., M/s. GVK Power (Goindwal Sahib) Limited preferred W.P(C) No. 1184 of 2022 before Hon'ble High Court of Delhi claiming that its share of compensation be disbursed in the account specified by it in its letter dated 12.01.2022 instead of 'Trust and Retention Account'.

19. Nominated Authority submitted before the Hon'ble Court that in consideration of the claims, opportunity of hearing shall be provided by the Nominated Authority to the prior allottee, the secured creditors as well as the successful bidder and that a final adjudication shall be undertaken and appropriate orders framed after taking into consideration the submissions that may be placed before the Nominated Authority. The submissions were accepted by the Hon'ble Court and the same are recorded in order dated 28.01.2022.

Meeting dated 17.02.2022

20. In compliance of the order dated 28.01.2022 of Hon'ble High Court of Delhi, Nominated Authority held a meeting on 17.02.2022. The said meeting was attended by Prior Allottee-1 (M/s. GVK Power (Goindwal Sahib) Limited, IDBI Bank leading a consortium of seven banks namely IDBI Bank Ltd, Union Bank of India, Axis Bank Ltd, Punjab National Bank, Bank of Baroda, Punjab & Sindh Bank and Karnataka Bank; Prior Allottee-2 (M/s. Essar Power MP Limited) and the Successful Allottee (NMDC). The list of attendees is given at Annexure 1.

21. Submissions made in the meeting dated 17.02.2022 are as below:

(1) Submissions of Prior Allottee-1 (M/s. GVK Power (Goindwal Sahib))
Representatives of Prior Allottee-1 submitted that the cost of Rehabilitation and Resettlement ('R&R') was not taken into account in the final order of compensation dated 22.12.2021. It was also submitted that the quantum of cost of Consent determined by the Nominated Authority in the final order for compensation. Moreover, claims regarding capital advances, green belt cost and quantum of compensation in lieu of mine infrastructure were also raised by Prior Allottee-1.

It is pertinent to mention here that all these claims were raised by the Prior Allottee-1 in its letter dated 10.11.2021. All these objections were based on the tentative order for compensation dated 25.10.2021.

These objections were duly considered by the Nominated Authority before issuing the final order for compensation on 22.12.2021. No relevant and new submissions was made by the Prior Allottee-1 in regard to the disbursal of the already determined final compensation.

In this regard, it is to be noted that the quantum of compensation is already fixed by the Final Order dated 22.12.2021. It is only regarding the disbursal of compensation amount qua the secured creditors and the prior allottee which has been agitated by the Prior Allottee-1 before High Court of Delhi in WP No. 1184/2022 that have to be clarified in this order. There is no quarrel against the quantum of compensation in the said writ petition. Hence, the limited issue, in respect of Nominated Authority, is regarding disbursal of the amount of compensation in the bank account specified by Prior Allottee-1. Accordingly, the Nominated Authority had submitted before the Court that prior to a decision is taken for disbursal of amount, in all fairness, opportunity of hearing would be granted to all stakeholders. The said submission has been duly recorded by the Hon'ble Court in its order dated 28.01.2022. The meeting dated 17.02.2022 was convened in compliance of the order of Hon'ble High Court for taking objections/views, if any, regarding disbursal of the compensation amount and not to re-agitate the quantum of compensation which has already been crystalized in the final order for compensation.

(2) Submissions of Secured Creditors to Prior Allottee-1 (Consortium of Banks led by IDBI Bank)

Secured Creditors to Prior Allottee-1 contends that the payments to be made to the secured creditors shall be computed as on 31.12.2021. The Prior Allottee-1 objected to the same and contended that the payment of debt shall correspond to the debt which remained unpaid as on the date of vesting order, which in case of Prior Allottee-1 is 01.04.2015. The objection of the Prior Allottee-1 is accepted in terms of section 9 of the Act which states that:

“ 9. Priority of disbursal of proceeds.

....

Payment to secured creditors for any portion of the secured debt in relation to a Schedule-1, coal mine which is unpaid as on the date of the vesting order.

”

(3) Submission of Prior Allottee-2 (M/s. Essar Power MP Limited)

There is no secured creditor for Prior Allottee-2 and the entire share for Prior Allottee-2 is to be disbursed to Prior Allottee-2 itself in the bank account specified by it. Prior Allottee-2 accepts the decision and raised no contention in this regard.

(4) Submissions of Successful Allottee (M/s. NMDC)

Successful Allottee agitates the disbursal of compensation amount. The Successful Allottee raised contentions which were earlier raised by it during determination of compensation, and the contentions were duly addressed by Nominated Authority in the final order for compensation. At the cost of re-iteration it must be stated that the meeting dated 17.02.2022 was convened in compliance of the order of Hon'ble High Court for taking objections, if any, regarding disbursal of the compensation amount and not to re-agitate the quantum of compensation which has already been crystalized in the final order for compensation.

22. The written claims of secured creditors of Prior Allottee-1 were received from IDBI Bank on 19.01.2022. A total of Rs.235,26,89,350/- has been claimed by the IDBI Bank in the capacity of secured creditor to Prior Allottee-1. The claims were examined and found admissible as on date of vesting order i.e., 01.04.2015. However, Rs.32,62,39,264/- has been already paid by Prior Allottee-1 till July 2016 and the same has been accepted by Secured Creditors. Hence, the balance to be paid to the Secured Creditors is Rs.202,64,50,086/- [Rs.235,26,89,350/- minus Rs.32,62,39,264/-]. Secured Creditors accepted this position and the same was recorded in sanction order dated 11.08.2017. Thus, there is no quarrel regarding the balance claim which remains unpaid to the Secured Creditors which is Rs. Rs.202,64,50,086/-. Thereafter, the Secured Creditors further accepted that the Prior Allottee-1 has also paid Rs.5,98,21,814/-. Additionally, an amount of Rs.1,10,47,471/-[Cost of Geological Report] and Rs.34,42,19,901/-[Cost of Consent] was disbursed to the Secured Creditor vide sanction order dated 24.05.2016. Thereafter, Rs.111,29,88,223/- [Rs. 53,68,71,280 towards land and Rs.57,61,16,943/- towards mine infrastructure) was also disbursed to the Secured Creditors vide sanction order 11.08.2017. The said position is reiterated in the Table-F below:-

Amount Claimed by the Secured Creditors to Prior Allottee-1 (A)	Amount paid to Secured Creditors till July 2016 by the Prior Allottee-1 (B)	Amount paid to Secured Creditors till April 2017 by the Prior Allottee-1 (C)	Amount disbursed to Secured Creditors by Nominated Authority during June 2016 to August 2017 (D)	Balance (F)=A-(B+C+D)
235,26,89,350 and found acceptable u/s.9.	32,62,39,264	5,98,21,814	146,82,55,605	49,83,72,667

Table-F

Payments made to the Secured Creditors to Prior Allottee-1 by the Prior Allottee-1 and Nominated Authority. (Amounts in Rs.)

23. Now, the amount deposited by the Successful Allottee is as in Table-G below:

Cost of Geological Report (A)	Cost of Consent (B)	Value of Mine Infrastructure (C)	Value of Land (D)	Total of Mine and Land (E)=(C+D)
1,10,47,471	NIL	151,25,35,843	72,39,09,546	223,64,45,389

Table-G

Amount deposited by Successful Allottee

The said amount for land and mine is now to be disbursed amongst the Secured Creditors to Prior Allottee-1, Prior Allottee-1 and Prior Allottee-2 in the priority specified under section 9 of the Act. Cost of Geological Report shall be payable to the Prior Allottee-2.

24. The cost of Geological Report i.e., Rs. 1,10,47,471/- is payable to the Prior Allottee-2 as per the Final Order dated 22.12.2021.

25. Cost of Consent i.e., Rs.34,42,19,901/- is to be deposited by the Successful Allottee and then the same shall be payable to the Prior Allottee-2. Further, the differential amount towards compensation in lieu land which remains unpaid by Successful Allottee is Rs.42,72,93,302/- Thus, it is directed that the total unpaid amount i.e., Rs.77,15,13,203/- shall be deposited by Successful Allottee i.e., M/s. NMDC within seven days from the receipt of this order. Non-compliance of this direction of Nominated Authority shall attract penal provisions as per CMSP Act, 2015 which includes penalty of Rs. One Lakh or Rs. Two Lakhs per day in case of continued failure.

26. Total compensation for land and mine infrastructure i.e., Rs. 223,64,45,389/- shall be payable to the Secured Creditors of Prior Allottee-1, Prior Allottee-1 and Prior Allottee 2 in accordance with section 9 of Act read with rule 15 of Rules. Hence, the amount payable shall be as:

- a. Rs.49,83,72,667/- [Ref. Table-F above] to Consortium of Bank being led by IDBI Bank in the capacity of secured creditors to Prior Allottee-1 in the Bank Account specified by their letter dated 19.01.2022 as in Table-H below-

Account Name	GVK Coal (Tokisud) Company Private Ltd-Trust & Retention Account
Account Number	133103000002547
IFSC Code	IBKL0000133
MICR Code	500259004
Branch Code	133

Table-H

Bank Account details of Secured Creditors to Prior Allottee-1.

(b). Share of Prior Allottee-1 is Rs.138,66,62,013/-[Ref. Table-E above]. Out of which Rs.49,83,72,667/- shall be disbursed to the secured creditors. Hence, the balance Rs. Rs.88,82,89,346/- shall be disbursed to Prior Allottee-1, i.e., GVK Power (Goindwal Sahib) Limited in their bank account specified in their letter dated 17.02.2022 as in Table-I below:

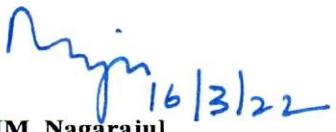
Account Name	GVK Energy Limited
Bank	HDFC Bank Ltd.
Account Number	06213320001116
IFSC Code	HDFC0000621
Branch	Hyderabad
Address	1-10-60/3, Begumpet-500016, Telangana

Table-I

Bank Account details of Prior Allottee-1.

(c). Balance amount of compensation (land and mine) available with Nominated Authority shall be Rs.84,97,83,376/- [Rs.223,64,45,389/- minus Rs.138,66,62,013/-]. Hence, the amount of Rs. 84,97,83,376/- shall be payable to Prior Allottee-2 towards compensation in lieu of land and mine infrastructure. Additionally, an amount of Rs.1,10,47,471/- shall be payable to the Prior Allottee-2 towards cost of Geological Report. Additionally, cost of consent and the differential amount towards compensation in lieu of land shall also be payable to Prior Allottee-2 once the same is deposited by Successful Allottee as directed in paragraph 25 above. However, it is learnt that Corporate Insolvency Resolution Process has been initiated against the Prior Allottee-2 on 29.09.2020, hence the said amounts shall be disbursed in the bank account specified by the relevant Resolution Professional.

27. A sanction order in terms of paragraphs 24 and 26 above shall follow.

 16/3/22

[M. Nagaraju]

Additional Secretary & Nominated Authority

To

Prior Allottees:-

1.1 The Managing Director, GVK Power (Goindwal 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.

Successful allottee:-

2. The Managing Director, M/s NMDC, NMDC Ltd. KhanijBhawan 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. DD,P&S-II.
3. Sr.T.D, NIC, MOC with request to upload this on the website of MOC.

Annexure-I

SL NO	Participant	Organisation /Company /MoC
1	Shri M. Nagaraju (chairperson)	AS&NA
2	Shri Ajitesh Kumar	Director ,NA
3	Shri Manish Uniyal	US & NA
4	Shri Harishchand	Manager,NA
5	Shri Manish Bhardwaj	AM (Legal),NA
6	Shri Pranshu Dhingra	YP & NA
7	Shri A K Prajapati	ED Coal, NMDC
8	Dr AnuragChoubey	GM Coal ,NMDC
9	Shri B P Mahuwale	DGM,NMDC
10	Shri Swaminathan S	Sr. Manager,NMDC
11	Shri Atul Singh	Sr. Manager,NMDC
12	Shri M .Rama Murty	GVK
13	Shri P Ramamohan Rao	GVK
14	Shri ThottempudiSudhakar	GVK
15	Shri Kartik Nayar	GVK
16	Shri T.V Bhaskar	GVK
17	Shri Mannava RKM Sodekar	GVK
18	Shri Madhu B Malreddy	GVK
19	Shri A Aditya Krishna Reddy	GVK
20	Shri Lav Kumar	President ,Essar Group
21	Shri DharmendraDubey	JGM, EPMP
22	Shri KapilSingla	CFO, EPMP