

Through Email/Speed Post/Website of Ministry of Coal

File No NA-203/6/2021-NA
Government of India
Ministry of Coal
Nominated Authority

Room No. 120, "F" Wing, Shastri Bhawan,
New Delhi – 110001, Date: 11.11.2024

**REVISION OF THE FINAL COMPENSATION ORDER DATED 11.08.2021 & PROVISIONAL
DETERMINATION OF COMPENSATION FOR MANDAKINI COAL MINE**

Subject: Revision of the Final Compensation Order dated 11.08.2021 and Provisional determination of compensation towards Cost of Geological Report (GR), Cost of Consents (CC), Land & Mine Infrastructure payable to M/s IFCI Limited (Secured Creditor) / M/s Mandakini Coal Company Limited (Prior Allottee) in respect of Mandakini coal mine.

This Provisional determination of compensation is in continuation to the Final Compensation Order dated August 11, 2021 in respect of Mandakini coal mine.

As per Rule 14 of the Coal Mines (Special Provisions) Rules, 2014, and in compliance with the provisions of section 16 of the Coal Mines (Special Provisions) Act, 2015, the compensation has been assessed by the Nominated Authority. This determination is in accordance with the judgment dated 09.03.2017 of the Hon'ble High Court of Delhi.

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

2. The allotment of the Mandakini coal mine to M/s Mandakini Coal Company Limited was cancelled by the Hon'ble Supreme Court of India along with other 203 coal mines by order dated 24.09.2014 passed in WP (Crl.) No. 120/2012 Manohar Lal Sharma & Ors. v. The Principal Secretary & Ors. Following this, the Coal Mines (Special Provisions) Act, 2015 was enacted by the Union of India, which provided for the allocation of 204 coal mines, provision of compensation to the prior allottees and other ancillary and incidental matters.

Before the cancellation of coal mines by Hon'ble Supreme court, Mandakini coal block was allotted to M/s Monnet Ispat & Energy Limited, M/s Jindal Photo Limited and M/s Tata Power and Company Limited vide Allotment order dated 09.01.2008. Further, as per the conditions of Allotment Agreement a Joint venture was formed as M/s Mandakini Coal Company Limited (MCCL) between M/s Monnet Ispat Energy Limited, M/s Jindal Photo Limited and M/s Tata Power Company Limited. M/s MCCL obtained certain clearances in its name for development of the coal block.

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

3. 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.

4. It is pertained to mention that the compensation for land and mine infrastructure is settled in accordance with Section 16 of the Act. The section 9 of the Act mandates that compensation so determined by the Nominated Authority is to be deposited by the successful allottee of the mine.

5. 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 pertaining to Land

and Mine infrastructure in accordance with section 9 of the Act r/w. rule 15 of the Rules. The order of priority of disbursal shall be as follows: Secured Creditors, thereafter dues to Government and local authority and then to the prior allottee.

6. Since, Cost of Geological Report (GR), Cost of Consents (CC), are in addition to and is separate from compensation of land and mine infrastructure, as provided under section 16 of the Act, The compensation determined for Gr & CC will be disbursed directly to the prior allottee without considering dues towards secured creditors, or central and state governments, unlike that of Land and Mine infrastructure.

7. Post enactment of the Coal Mines (Special Provisions) Act, 2015, the Mandakini coal mine was allocated by the Nominated Authority under the provisions of CMSP Act and CMSP Rules to M/s Karnataka Power Corporation Limited (KPCL). Allotment Agreement was executed between Nominated Authority and M/s KPCL on 31.12.2019. The said mine was also allotted to the M/s KPCL vide Allotment Order dated 02.03.2020. Details of Fixed amount deposited by M/s KPCL is annexed in below Table A:

Table 'A' Fig in "INR"

Details of fixed amount deposited by M/s KPCL							
GR	CC	Land			Mine Infrastructure	CMPDIL Expenses	Grand total
		As a part of allotment agreement	Incremental fixed cost for land deposited on 18.05.2022	Incremental fixed cost for land deposited on 30.12.2023			
6,39,15,192.00	33,88,40,391.00	8,96,61,662.14	86,77,56,916.00	86,77,56,916.00	-	2,50,000.00	222,81,81,077.14

Determination of Compensation by Nominated Authority

8. Earlier, writ petition was filed by prior allottees before Hon'ble High Court of Delhi challenging the constitutional validity of section 16 of the CMSP Act and Rule 14 on the grounds that the Act/ Ordinance does not provide for a fair and responsible compensation. The said writ petition was disposed by Hon'ble High Court Vide judgment dated March 09, 2017, wherein Hon'ble Court held as under: -

"Section 16 of the said ordinance and Rule 14 of the said Rules are to be interpreted and worked in the manner indicated above. As such, they cannot be held to be violate of Articles 14, 19(1) (g) or 300-A of the Constitution. It is open to the individual petitioners to raise disputes with regard to the quantum compensation, if the same has not been done in the manner indicated above, before the tribunal which has been specifically indicated for this purpose under Section 27."

9. In view of the above-mentioned judgment dated March 09, 2017, the Central Government referred the matter of determination of compensation of land and mine Infrastructure to the Inter-Ministerial valuation committee constituted under chairmanship of Mr. Pratyush Sinha, former Chief Vigilance Commissioner, for determination of methodology in accordance with judgment dated March 09, 2017.

10. As recommended by Inter Ministerial Valuation, the Office of Nominated Authority requested Prior Allottee, M/s MCCL to submit information regarding Cost of Geological Report (GR), Cost of Consents (CC), Land & Mine Infrastructure. Based on the information provided by M/s MCCL, the compensation for GR, CC, Land and Mine Infrastructure was assessed.

I. Valuation of Cost of Geological Report (GR) and Cost of Consents (CC):

The compensation pertaining to cost of Geological Report and Consents was determined vide Sanction Letter dated 13.04.2020 for INR 6,39,15,192/- and INR 33,88,40,391/-. Even though, no objections were raised by either of the allottees, the amount was not released to M/s MCCL, as clarity lacks in the definition of prior allottee. However the determination of compensation towards GR & CC stands same and final. GR and CC are in addition to and is separate from compensation of land and mine infrastructure as provided under section 16 of the Act.

II. Valuation of mine Infrastructure:

Vide Final Order dated August 11, 2021, the compensation pertaining to Mine infrastructure was determined as Nil. Further, no objections were raised by either of the allottees. Hence the same stands final.

III. Valuation of Land:

a. Earlier vide Final Order dated August 11, 2021, the compensation pertaining to land was finalized amounting to **INR 182,51,75,494/-** payable to prior allottee, M/s Mandakini Coal Company Limited (JV of M/s Monnet Ispat Energy Limited, M/s Jindal Photo Limited and M/s Tata Power Company Limited) for Mandakini coal mine.

b. Therefore, Nominated Authority vide letter dated 17.08.2021 directed M/s KPCL (Successful Allottee) to deposit the incremental Fixed cost amounting to INR 173,55,13,831.86/- into the designated account of Nominated Authority. However, M/s KPCL made partial payment of INR 86,77,56,916.00/- on 18.05.2022 and stated that upon receipt of communication from IDCO for processing the application for the land mutation of Mandakini coal block, they would deposit the remaining amount as second installment.

c. Thereafter, M/s KPCL, deposited the balance incremental cost of INR 86,77,56,916.00/- on 30.12.2023 to the designated account of MoC. Following, vide letter dated 13.02.2024, M/s KPCL requested Nominated Authority for reconsideration of the compensation determined in the Final Order dated 11.08.2021. M/s KPCL contends that the Nominated Authority erroneously calculated the Final Compensation Order by including Ex-Gratia payments along with 12% interest paid by M/s MCCL (the prior allottee), and considering land owned by Xeta Properties & Monnet Power Co Ltd, neither of which are prior allottees of the Mandakini coal mine.

d. Further, the matter regarding the disbursal of compensation to secured creditor and the revision of Final Order dated 11.08.2021 was referred to the Department of Legal Affairs (DoLA) for an opinion to which DoLA has given their consent.

e. It is imperative to note that, upon examination of M/s KPCL's request, office of the Nominated Authority has observed that the KPCL's concerns regarding the land owners are valid, the sale deeds pertaining to R & R land is not registered with M/s MCCL. Additionally, Ex-Gratia payments paid by M/s MCCL may be excluded from the Final Order dated 11.08.2021 and Prior allottee may claim the same from the respective State Govt. as the CM (SP) Act 2015 does not encompass the claim of ex-gratia.

Re-determination of compensation pertaining to land: -

The assessment of compensation for all 204 coal mines under the CM(SP) Act is conducted in alignment with the interpretations of the CM(SP) Act and its associated rules, as per the Hon'ble Delhi High Court order dated 09.03.2017 (W.P 973 of 2015). Additionally, the recommendations set forth in the "Report of the Committee for Valuation and Assessment of 204 Coal Mines," dated 16.11.2018, will be duly considered in the process.

- According to Section 16(1) of the CMSP Act, 2015, the compensation for the coal mine is to be determined based on the registered sale deed lodged with the Nominated Authority, along with 12% simple interest from the date of purchase or acquisition until the execution of the Vesting Order or Allotment Order, as applicable.
- The Hon'ble Delhi High Court's judgment dated March 09, 2017, further clarified that if the Prior Allottee can present tangible evidence to the Nominated Authority showing that the fair market value of the land on the date of execution of the vesting order exceeds the benchmark figure mentioned in Section 16(1), then the Prior Allottee is entitled to receive the higher value as compensation.
- In compliance of judgment dated March 09, 2017, passed by Hon'ble Delhi High Court, it has been decided that the determination of the value of land for compensation purposes can be either as per Section 16(1) of the CMSP Act or based on the prevailing circle rates of such land on the date of vesting. The Prior Allottee will receive compensation based on the higher value determined through either method.
- In respect to land pertaining Mandakini coal mine, vide Final Order dated August 11, 2021, the compensation pertaining to land was finalized amounting to INR 182,51,75,494/- payable to prior allottee, M/s Mandakini Coal Company Limited (JV of M/s Monnet Ispat Energy Limited, M/s Jindal Photo Limited and M/s Tata Power Company Limited) for Mandakini coal mine. The bifurcation of the compensation of land determined by in the said Final Order is annexed in the below Table 'B'.

Table 'B' Fig in "INR"

Particulars	Land Area in Acre	Cost of Land as per CMSP Act along with 12% interest
Part A (Leasehold IDCO land)	804.4	₹ 52,49,88,963.00
Part B (Ex-Gratia Assessment)		₹ 1,20,95,39,725.00
Part C (R & R Valuation)	76.83	₹ 9,06,46,806.00
Grand Total		₹ 1,82,51,75,494.00

- Further based on the request of M/s KPCL the Nominated Authority has decided to re-determine the compensation pertaining to land of Mandakini coal mine, the same is detailed below:

Part A: Assessment of 804.40 Ac of leasehold land

For determination of leasehold IDCO land, Nominated Authority requested IDCO to provide details of 804.40 Ac of land. Following IDCO, vide letter dated 26.07.2024, submitted calculation sheet for 804.40 Ac. of leasehold amounting to INR 276,21,61,443/-.

Additionally IDCO stated that they normally transfer land to a new entity for coal mining projects up to 30 years as per MMDR Act, 1957, which would be subject to renewal after approval of the Competent Authority. However, in this case only 22 years can be considered/transferred for new allottee, M/s KPCL.

It is pertinent to mention that the said calculation sheet submitted by IDCO includes 31.21 Ac of land under permissive possession for which lease deed has not been executed. Therefore, as per Section 16(1) of the CMSP Act, 2015, the said portion of land has to be excluded from the compensation

In the case of leasehold land for coal mines located in Odisha, IDCO acquires and subsequently subleases the land to the allottee. Therefore, the compensation entitlement for M/s MCCL is to be deducted for the specific duration during which they actively utilized the land ie, from date of registration of the Lease Deed to the date of the Vesting Order for Mandakini coal mine to the successful allottee. Consequently, M/s MCCL is entitled to compensation along with 12% simple interest for the remaining lease period of the land.

Part B: Assessment of Ex-Gratia

The calculation sheet submitted by IDCO also contains Ex-gratia paid by M/s MCCL. However, it is worth highlighting that the provisions related to the valuation of Ex-Gratia is not explicitly mentioned in either the CM(SP) Act 2015 or the AVC report. Consequently, the same is not taken into account for the valuation of compensation w.r.t Mandakini coal mine.

Part C: Assessment of R & R land of 76.86 Ac

In case of R & R land of 76.83 Ac, sale deeds were not registered with M/s MCCL. Hence, the same cannot be considered for the valuation of compensation of Mandakini coal mine.

Therefore, the compensation pertaining to land has been determined as annexed in below Table "C".

Table 'C' Fig in "INR"

Valuation of land in respect of Mandakini coal mine							
Sl no	Category of land	Area in Acre	Transaction cost Land (INR)	Deduction for elapsed period of lease period (INR)	Cost of Land as per CMSP Act		
					Land cost after deduction for elapsed period of lease period (INR) (A)	12% interest (INR) (B)	Total (INR) (C=A+B)
1.	Leasehold Private Land	669.44	78,81,95,238.00	17,75,32,858.96	61,06,62,379.04	49,53,48,703.75	110,60,11,082.79
2.	Leasehold Govt. Land	103.75	3,00,66,267.00	78,69,483.44	2,21,96,783.56	2,09,21,721.86	4,31,18,505.42
3.	Permissive Possession Land	31.21	-	-	-	-	-

4.	R&R Land	76.8 3	-	-	-	-	-
5	Ex Gratia		-	-	-	-	-
	Total	881.23	81,82,61,505.00	18,54,02,342.41	63,28,59,162.59	51,62,70,425.62	114,91,29,588.21

Hence, the M/s IFCI Limited)/ prior allottee (M/s MCCL), is entitled for higher amount of ₹ 114,91,29,588.21 as per CMSP Act pertaining to compensation of leasehold land of 804.40 Ac and R & R land of 76.83 Ac.

11. In view of the above, the compensation payable to Secured Creditor (M/s IFCI Limited)/ prior allottee (M/s MCCL), pertaining to Cost of Geological Report (GR), Cost of Consents (CC), Land & Mine Infrastructure w.r.t Mandakini coal mine is determined as Table 'D' mentioned below:

Table 'D' Fig in "INR"

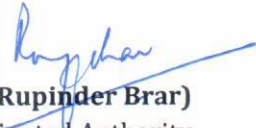
GR (A)	CC (B)	Land (C)	Mine Infrastructure (D)	Grand Total (E = A+B+C+D)
6,39,15,192.00	33,88,40,391.00	114,91,29,588.21	Nil	155,18,85,171.21

12. Meanwhile, in compliance with Section 9 of the CMSP Act, 2015, which prioritizes the disbursal of proceeds to persons other than the prior allottee, the Nominated Authority invited claims from secured creditors, the Government of India, state governments, and local authorities for the Schedule I coal mines, including the Mandakini coal mine, vide notice dated February 28, 2022, for land and mine infrastructure. In response, M/s IFCI Limited vide letter dated 13.02.2024 submitted the revised claim of Rs. 102,47,84,995/- as on vesting date i.e., 02.03.2020 as a Secured Creditor of MCCL concerning the Mandakini coal mine. Therefore, as per the priority for disbursal, the compensation towards land determined will be first payable to the secured creditor, M/s IFCI Limited and the remaining amount will be payable to the prior allottee, M/s MCCL.

13. The above final determination of compensation for GR, CC, Land & Mine Infrastructure are being made. However, in case of any objections raised by Allottees, M/s IFCI Limited, M/s MCCL and M/s KPCL an opportunity of hearing is given as per OM dated November 16, 2018. The same would be examined and further determination would be made. M/s IFCI Limited, M/s MCCL and M/s KPCL are hereby called upon to present their comments/objections if any on the above determination on **29.11.2024 at 03:00 P.M.**

Enclosure as above: -

1. Provisional Compensation Order dated 10.02.2020
2. Final Order dated 11.08.2021.
3. M/s KPCL letter dated 13.02.2024.
4. IDCO Letter dated 26.07.2024


(Rupinder Brar)
 Nominated Authority

To,

1. **(Prior Allottees)**, The Managing Director, Mandakini Coal company Limited, Regd. Off. Plot No 12, Local shopping complex, Sector B1, Vasant Kunj, New Delhi Email: mccl.angul@gmail.com, punit_gupta@jindalgroup.com, Ajay.Kapoor@tatapower.com.
2. **(Successful Allottee)**, The Managing Director, Karnataka Power Corporation Limited (KPCL) Shakti Bhavan, No. 82, Racecourse Road, Bengaluru -560001, Email: kpclre@gmail.com
3. (Secured Creditor), The Chief General Manger, IFCI Limited, IFCI Tower, 61 Nehru Place, New Delhi, 110019 Email: emmanuel.joseph@ifcilt.com; sachikanta.mishra@ifcilt.com, vs.nair@ifcilt.com, bb.sahu@ifcilt.com, chirag.sapra@ifcilt.com, sapna.jain@ifcilt.com
4. Coal Controller's Organisation, Ministry of Coal, Scope Minar ,5th Floor, Core – II Laxmi Nagar, Delhi – 110092
5. Under Secretary (CBA-II Section), Ministry of Coal.
6. Sr. TD, NIC: for uploading on the Website of Ministry of Coal.