

CHAPTER II
Grant/ Extension of
Mining Leases

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Grant/ Extension of Mining Leases (Major and specified Minor Minerals)

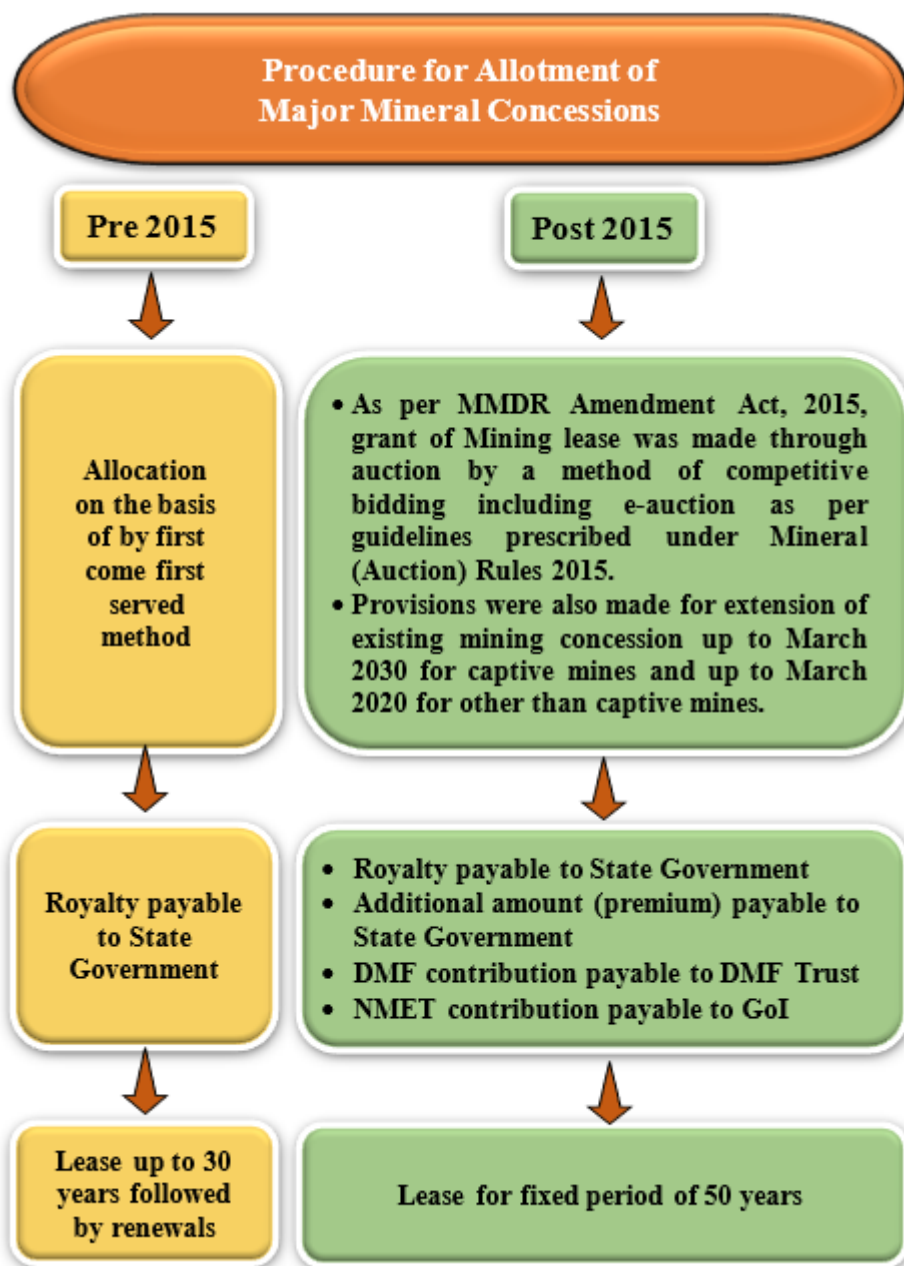
This chapter contains audit findings relating to the grant of mining leases. The audit observations include: irregular grants of leases for quartz, gemstone and / semi-precious stone mines; irregular extensions of leases for major minerals, like iron and manganese ores; irregular extensions of leases for specified minor minerals, like decorative stone; lack of due diligence in regard to e-auction of mineral blocks; non-initiation of auction process for cancelled leases; and delays in auction of specified minor mineral blocks.

2.1 Introduction

The Mines and Minerals (Development & Regulation) Act, (MMDR) 1957, is the principal legislation that governs the minerals and mining sector in India. Judicial pronouncements for allocation of natural resources and recommendations of high-level committees led to a paradigm shift in the allocation of mineral blocks through an auction system. The MMDR Amendment Act, 2015, which came into force on 12 January 2015, has replaced the erstwhile first-come-first-served/ application mechanism, for grant of mineral resources, with a competitive auction process. The e-auction process for grant of mineral blocks has been laid down in the Mineral (Auction) Rules, 2015. The auction regime allows States to obtain an enhanced share of the value of mineral resources in the form of additional amount (or premium), charges towards District Mineral Foundation (DMF) at the rate of 10 *per cent* of royalty and National Mineral Exploration Trust (NMET) at the rate of two *per cent* of royalty, in addition to the royalty receivable.

A schematic diagram showing the pre and post 2015 regime for allotment / extension of mining leases is shown in **Chart 2.1**:

Chart 2.1: Flow chart showing allotment procedure of major mineral concessions



Source: MMDR Act, 1957 and MMDR Amendment Act, 2015

As per the provisions of the MMDR Amendment Act, 2015, a mining lease can be granted only through the mechanism of auction. The lessee is required to pay additional amount (premium) equal to the product of *percentage* quoted during auction and the value of the mineral despatched, as well as contributions towards the District Mineral Fund (DMF) and National Mineral Exploration Trust (NMET), in addition to Royalty or Dead Rent and Surface Rent, at the prescribed rates. However, in cases where leases were already granted prior to the 2015 amendment, the lessees are to pay Royalty or Dead Rent, Surface Rent and contribution towards DMF and NMET. There was no provision for payment of any additional amount till March 2021; however, thereafter, vide amendment to MMDR Act in 2021, an additional amount is

also payable at a prescribed percentage of the royalty. A comparison of mining revenue realisable in respect of prior and post 2015 are shown in the **Table 2.1**.

Table 2.1: Comparison of levies on the mining activities prior and post 2015

Nature of levies	Prior to Amendment of MMDR Act in 2015	Subsequent to Amendment of MMDR Act in 2015
Royalty	15 per cent of the ASP	15 per cent of ASP
Premium/Additional Amount	--	Bid percentage of ASP*
DMFT contribution	--	10 per cent of Royalty
NMET contribution	--	2 per cent of Royalty

*In the auctions for lease of mines during 2015 to 2022 the *percentage* of the ASP settled as payable additional amount for the eight test checked iron ore mines ranged between 90 to 150 per cent.

From the above table, it can be seen that prior to implementation of MMDR (Amendment) Act, 2015, the lessees were liable to pay royalty only, which explains the vast variations in realisable revenue between pre and post auction period.

Audit observations, relating to grant of mining leases, are discussed in the following paragraphs.

2.2 Irregular grant of leases

As per Section 10A (1) of the MMDR Amendment Act, 2015 (Act), all applications for grant of prospecting licence and mining lease, received prior to the date of commencement of the Act, shall become ineligible with some exceptions. Section 8A (2) provides that on and from the date of the commencement of the Act, all mining leases shall be granted for the period of fifty years.

Under Section 10A(2)(c) of the Act, in cases where, before the commencement of the Act;

- (i) the Central Government had communicated approvals for grant of a mining lease for Hydrocarbons/ Energy Minerals and Atomic minerals; or
- (ii) if a letter of intent (LoI)⁵ had been issued by the State Government to grant a mining lease,

the mining lease is to be granted, subject to fulfilment of the conditions stipulated in the previous approval / LoI, within a period of two years from the date of commencement of this Act (12 January 2015). In case of failure on the part of the applicant to comply with the terms and conditions stipulated, the Approval/LoI can be cancelled.

⁵ LoI is a letter issued by the State Government to the applicant who had applied for grant of a mining lease. It specifies the willingness of State Government to grant the lease subject to fulfilment of certain terms and conditions by the applicant

Further, under Rule 31(1) of the Mineral Concession Rules (MCR), 2016, every lease deed is to be executed within six months from the date of grant of the lease, or within such period as the State Government may allow in this regard, and if no such lease deed is executed within the said period due to any default on the part of the applicant, the State Government may revoke the order granting the lease.

Scrutiny of records revealed that, out of the 16 test checked cases of grant of mining leases, during 2015-22, there were three specified minor minerals mining leases which had been granted in contravention of the above provisions of the law and rules, as mentioned in the succeeding paragraphs. This also resulted in non-settlement of these mines through auction and deprived the State Government of the additional revenue in the form of premium/additional amount during this period.

2.2.1 Mining lease for Quartz and Gemstone mine under the Balangir mining circle

Sub-section 10 of Section 11 of MMDR Act, 1957 provides that the holder of a prospecting licence, who completes the prospecting operation as laid down in sub-section (9) and establishes the existence of mineral contents in the area, shall be required to apply for a mining lease for such area and shall have the right to get the mining lease and thereafter undertake mining operations in accordance with the provisions of this Act.

LoI for the quartz and gemstone⁶ mine over 21.092 ha, in village Bankia was issued by the State Government, in September 2003. Subsequently, the State Government cancelled (December 2006) the LoI, due to non-submission of documents like Geological Prospecting Report (GPR), by the applicant⁷. The applicant filed (February 2007) a revision application⁸ against the cancellation order, with the Revisional Authority⁹ (RA) (Joint Secretary, Ministry of Mines, GoI), who set aside (January 2011) the cancellation order and directed the State Government to decide the matter afresh, within six months. The State Government examined the matter afresh and informed (July 2011) the applicant about the objections, like non-submission of authenticated GPR, inclusion of impermissible lands of *gochar*¹⁰ and *jalasaya*¹¹ *kissam* within the lease area, *etc.* The applicant submitted (July 2011) a compliance letter, with an undertaking for exchange of *gochar* land, but did not submit the required GPR. No decision was taken by the State Government on this compliance letter. Subsequently, after four years, the mining lease was granted (January 2017) for a period of 50 years, on the basis of LoI issued in 2003 and cancelled in 2006. The lease deed was executed in January 2017 (the last month of the stipulated period of two years for grant of lease). However, the

⁶ Major minerals

⁷ M/s Manikeswari Minerals

⁸ Any person aggrieved by any order made by the State Government or other authority may, within three months of the date of communication of the order to him, apply to the Central Government, for revision of the order

⁹ Authority of the Central Government authorised to pass orders against any order made by the State Government on submission of revision application by any aggrieved party (lessee/licensee) under Rule 54 of the MCR, 1960.

¹⁰ Grazing land

¹¹ Water body

deficiency of documents, due to which the LoI had been cancelled, remained unresolved.

Grant of mining lease, against LoI cancelled earlier due to non-fulfilment of the conditions stipulated therein was against the provisions of the law and rules.

In reply, the State Government stated (September 2023) that the applicant had produced deficient documents to DoM, but in compliance to the order dated 12 January 2011 of the RA, the matter was placed before the screening committee constituted by the Government on 28 November 2016 to examine the case wherein it was opined by the members that there is no necessity for insisting on the authenticated Geological Prospecting Report (GPR) at this stage when the mining plan has been approved by the IBM which reflects geological information therein, Committee recommended Government for issue of grant order. Accordingly, the lease had been granted to the lessee.

The Government reply admits that the documents, which included the GPR, submitted by the applicant were deficient. Government reply that GPR was not required as the mining plan was approved, is not correct, as Rule 22 (4) of MCR 1960, mining plan is prepared after grant of the lease and as per Section 11(10) of MMDR Act, 1957, completion of prospecting operations was a pre-condition for grant of mining lease, results of which are contained in the GPR. Hence, the grant of lease was not against the applicable provisions.

2.2.2 Mining lease for semi-precious stone (Cat's eye) mine under Koraput mining circle

The terms and conditions for grant of lease for semi-precious stone (Cat's eye) mine, over 41.485 ha in villages Paikadaku and Kandhadaku were issued to the applicant¹² alongwith the LoI, in 2001. After receipt of the approved mining plan, the lease was granted (November 2007), with the stipulation that the applicant should furnish a surveyed map and description of land, to the Collector, Rayagada, within three months from the date of the order. The lease execution order¹³, however, could not be issued, due to litigation in High Court of Odisha involving the lessee, with a third party. Although the court case was disposed of in favour of the lessee in 2011, neither the lease execution order was issued nor was the lease executed. The lease order was not cancelled even after a lapse of eight years from date of its issue, upto introduction of MMDR Amendment Act, in violation of the provisions of Rule 31 of MCR, 1960. After notification of the MMDR Amendment Act, 2015, the applicant requested (July 2015 and September 2016) for execution of lease and the lease was re-granted for a period of 50 years and executed in January 2017, over an area of 41.485 ha.

However, in view of the provisions of MCR, 1960, the grant order should have been revoked on account of non-execution of the lease deed, within the stipulated period of six months.

In reply, the Government stated (September 2023) that the execution of the

¹² M/s Bajrang Lal Gupta

¹³ The lease execution order is issued by the Collector of the District for registration of the lease deed after grant of lease by Government

lease deed could not be taken up after 2011 as the Collector, Rayagada had not submitted the survey and demarcation status of the mining lease area. So, there was no fault on the part of the grantee and accordingly, after examining the genuineness of the matter, the Government allowed further period for execution of mining lease as per Rule 31 of MC Rules, 1960.

The reply is not acceptable as it is not only failure of Collector, Rayagada in timely submission of survey and demarcation status of the mining lease area, but also the department's monitoring failure to ensure timely submission of the above report. Whether the lessee had deposited the amount for survey and demarcation and had submitted a surveyed map and description within three months from the date of issue of grant of lease as per terms and the conditions issued in 2001 and grant order issued in 2007 was not on record and also not furnished to Audit. In this scenario, Audit could not draw an assurance that the delay was not due to the default on the part of the lessee. Any Government order, allowing further period beyond six months for grant of lease, was also not on record. Hence, the grant order was liable for revocation under Rule 31 of MCR, 1960.

2.2.3 Mining lease for Gem Stone (Cat's eye) mine under Kalahandi mining circle

The terms and conditions for grant of lease for gem stone (cat's eye) mine, over 17.122 ha in villages Pipalpadar and Sirjapali were issued in July 2005 and the lease was granted by the State Government, in November 2007, for a period of 20 years. The Mining Officer, Kalahandi, asked (April 2008) the applicant to submit the lease deed, with stamp duty worth ₹14,40,952, for execution of the mining lease by the Collector, Kalahandi. The lessee, however, did not submit the lease deed document within the prescribed period of six months. The department did not revoke the grant order under provisions of MCR, 1960. After lapse of eight years, the applicant submitted a representation (September 2016) (after amendment of the MMDR Act in 2015) that the lease deed could not be executed due to non-finalisation of royalty, based on which the stamp duty was to be calculated. In January 2017, the State Government granted the mining lease to the applicant for 50 years, by irregular implementation of the provisions of the MMDR Amendment Act 2015, following which the lease deed was executed.

Audit observed that the grant of lease was not in consonance with the rules, as the lease deed had not been executed by the lessee, even within 10 years, against the stipulated period of six months.

In reply, the Government stated (September 2023) that the delay in execution of the lease deed is attributable to the inability of the authority to arrive at the proper and accurate rate of mineral. Repeated correspondence among various Government offices failed to resolve the issue. So here the lessee is not at fault and hence the grant order was not revoked.

The reply is not acceptable as it was silent on the issue of grant of lease in contravention to the rules and the department has not furnished the compliance regarding when the rate of the mineral was finalised by the proper authority. Also, the Government order allowing further period beyond six months for

grant of lease was not on record. Hence, the grant order was liable for revocation under Rule 31 of MCR, 1960.

2.3 Irregular extension of leases for major minerals

As per Section 8A (3) of the MMDR Amendment Act, 2015, all mining leases, granted before the commencement of the MMDR Amendment Act, 2015, shall be deemed to have been granted for a period of fifty years. As per Rules 28 and 28(A) of MCR, 1960, where mining operations are not commenced within a period of two years from the date of execution of the lease, or discontinued for a continuous period of two years after commencement of such operations, the State Government shall, by an order, declare the mining lease as lapsed and communicate the declaration to the lessee. In such cases, the lessee may submit an application to the State Government, explaining the reasons beyond his control, at least three months before the expiry of such period or within six months from the date of its lapse.

Scrutiny of records of the DoM revealed that, out of 38 test-checked cases of extension of mining leases, there were three mining leases which had been extended in contravention of the above provisions of the law and rules, as mentioned in the succeeding paragraphs.

2.3.1 Mining lease for Manganese ore mine under Korput mining circle

The mining lease for manganese ore mine over 501.67 ha in village Nishikhal was granted for 20 years, from 28 June 1964, and the first Renewal of Mining Lease (RML) was granted for another 20 years, from 28 June 1984 to 27 June 2004. The second RML application, submitted on 26 June 2003, remained pending up to January 2013 with DDM, Koraput. While forwarding (January 2013) the RML application to DoM, the Collector, Rayagada, stated that the mine had been suspended, due to want of statutory clearances, such as approved mining plan, Environment Clearance (EC) and Consent to Operate (CTO). DoM forwarded (June 2013) the same to the State Government, with the remarks that the mine had been non-working since January 1997, and the lessee had not submitted any application justifying the reasons for the delay in commencement of mining operations to save the lease from lapsing; and, thus, the mining lease was liable for being declared as having 'lapsed' under Rule 28 of MCR, 1960. However, the Government did not take any action on the matter, and, instead of declaring the lease as lapsed, extended (September 2018) the validity of the lease period for another 50 years, from June 1984 (*i.e.* up to 27 June 2034) on the basis of Rule 3 of Mineral (Mining by Government Company) Rules, 2015. No reasons/ justification for ignoring the recommendation of the DoM Odisha was found on record.

In reply, the Government stated (September 2023) that the Manganese Mining lease over 501.67 ha in village Nishikhal under Koraput Mining Circle of OMC Ltd. is a non-working mine which finds place in list of 102 non-working mining leases submitted before Hon'ble Supreme Court by the Central Empowered Committee (CEC). The Hon'ble Supreme Court vide order dated 16.05.2014 in W.P(C) No. 114/2014 have directed that mining operations in these 102 mining leases listed in Annexure - R-2 of the report of the CEC shall remain suspended, but it will be open to such lessees to move the concerned

authorities to obtain all the clearances/ approval/ consent, and they may move this Court for modification of this interim order in relation to their cases. The said lease is considered as subsisting as per order dated 04.04.2016 of Hon'ble Supreme Court passed in W.P.(C) No. 114/2014. The lessee has paid the entire compensation for unlawful production as per order dated 02 August 2017 of the Hon'ble Supreme Court. The validity of the lease has been extended following the provisions of the erstwhile Mineral (Mining by Government Company) (MMGC) Rules, 2015.

The reply of the Government is not acceptable as the mine remained non-working beyond two years from 1997 and no application justifying the reasons for not working the mines was submitted by the lessee, for which the mine should have been declared as lapsed by the State Government much earlier to the Supreme Court judgement in 2016. Accordingly, the provisions of MMGC Rules, 2015 were also not applicable as the mine was non-working for more than two years and liable to be lapsed under MC Rules, 1960. Further, the department has not furnished the compliance whether the lessee had obtained all the statutory clearances from the concerned authorities and moved the Hon'ble Supreme Court for modification of the interim order, as required vide order of Hon'ble Supreme Court dated 16 May 2014.

2.3.2 Mining lease for Iron and Manganese ore mine under Koira mining circle

The lease¹⁴ for iron and manganese ore mine over 70.917 ha in village Sanindpur had been granted for 20 years, from 10 September 1980 to 9 September 2000, and the first RML was granted for another 20 years, up to 9 September 2020. Mining operations were stopped by the DDM, Koira from 26 August 2010, for want of EC, and the lessee could not resume mining operations. Therefore, State Government declared (June 2015) the lease as 'lapsed'. However, the lessee filed a revision application, against the State Government order before the Revisional Authority (RA), who rejected (February 2016) the revision application as being devoid of merits. The lessee filed a petition before the Hon'ble High Court of Odisha, which quashed (2017) both the orders, leaving it open to the State Government to pass necessary orders, after giving opportunity of hearing to the petitioner. The State Government, accordingly, conducted (August 2017) a personal hearing and again declared the lease to be 'lapsed', in October 2017, on the grounds that the discontinuance of mining operation beyond two years was due to lapses on part of the lessee, and ordered that possession of the lease area be taken over.

The lessee, however, submitted (November 2017) a revival application to the State Government under Rule 20 (7) of MCR, 1960 against the lapse order. Contrary to its previous decisions on the matter, the State Government approved (June 2018) the revival of lease, on the grounds that the EC had been duly applied for by the lessee in June 2007, but had been granted by MoEF in June 2013, and, therefore, the lessee had no role in the delay and was not responsible for discontinuance of mining operations. The tenure of the lease was also extended (April 2021) up to 9 September 2030.

¹⁴ M/s National Enterprises

Scrutiny of records, however, showed that neither the revision or revival applications nor the court petition of the lessee had any mention of submission of application for EC in 2007. Further, no records supporting the government's view regarding submission of application for EC in 2007 was made available. Audit observed that the EC approval letter of 2013 of MoEF made a reference to the application of the lessee for EC submitted in 2010. Thus, after rejecting the application of the lessee on three occasions (2015, 2016 and 2017), the revival of the lease (2018) on the ground that the lessee was not liable for delay in obtaining EC was contrary to the previous viewpoint and hence appears to be an afterthought to favour the lessee, which requires investigation at appropriate levels.

Moreover, after review of the case upon the directions of the Hon'ble High Court of Odisha, the State Government order of 2017, declaring the lease as lapsed, should have been considered as the final order, and, accordingly, there was no scope for further revival in 2018.

In reply, the Government stated (September 2023) that the Iron and Manganese mining lease over 70.917 ha in village Sanindpur under Koira Mining Circle was a non-working mine which finds place in the list of 102 non-working mining leases submitted before Hon'ble Supreme Court by the CEC. The Hon'ble Supreme Court vide order dated 16.05.2014 in W.P(C) No.114/2014 have directed that mining operations in these 102 mining leases shall remain suspended, but it will be open to such lessees to move the concerned authorities to obtain all the clearances/ approval/ consent, and after that they may move this Court for modification of this interim order in relation to their cases. The said lease was considered as subsisting as per order dated 04.04.2016 of Hon'ble Supreme Court passed in W.P(C) No.114/2014. The lessee has paid the entire compensation for unlawful production as per order dated 02.08.2017 of the Hon'ble Supreme Court. The validity of the lease has been extended following the provisions of the MMDR (Amendment) Act and allowed mining operation after obtaining all clearances.

The reply is not acceptable as the lease was again declared lapsed in October 2017 i.e. after the Hon'ble Supreme Court order dated 04.04.2016, hence, the argument of the Government that the lease was considered as subsisting as per Hon'ble Supreme Court order does not stand. After rejecting the applications of the lessee on three occasions (2015, 2016 and 2017), the revival of the lease (2018) on the ground that the lessee was not liable for delay in obtaining EC was contrary to the previous viewpoint and hence appears to be an afterthought to favour the lessee.

2.3.3 Mining lease for Iron ore under Joda mining circle

The mining lease¹⁵ for iron ore in Guali village over 365.026 ha was granted for 20 years, from 27 June 1953 to 26 June 1973, and first renewal was granted for another 20 years, up to 26 June 1993. The second renewal, applied for on 10 February 1992 and the third renewal applied for on 25 April 2012, were pending, without approval.

In the meantime, the following events occurred:

¹⁵ In favour of M/s R.P. Sao

- a. Government issued (September 2011) a show-cause notice to the lessee, for violation of Rule 37 of MCR, 1960, in which it was stated that mining activities had been undertaken by another entity and not by the lessee, without prior approval of Government.
- b. Another show-cause notice was issued in November 2011, on the basis of a report furnished by the Divisional Forest Officer (DFO), Keonjhar, which stated that a sponge iron plant had been established by another entity, over 28.84 ha inside the lease area, which was partly in the forest area, and recommended cancellation of the lease.
- c. The Indian Bureau of Mines (IBM), Bhubaneswar, in its letter (October 2012), stated that the lessee had been issued show-cause notice for violation of the Mineral Conservation and Development Rules (MCDR) provisions, including the erection of a plant, in the name of another entity, within the mine lease area, on mineralized ground, without having specific approval in the mining plan.
- d. DDM, Joda, also highlighted (July 2013) that a sponge and power plant was in operation, by another entity, in the lease hold area.
- e. DoM also pointed out (April 2015) that the user agency had allowed another entity to establish a sponge iron plant, without approval from the competent authority.

Despite multiple objections / observations as highlighted above, the State Government extended (April 2015) the lease up to March 2020, on the basis of Rule 8(A)(6) of MMDR Amendment Act, 2015, without examining the irregularities committed by the lessee. Government did not initiate any effective action against the lessee except for issuing show-cause notices, which remained unresponded and the reasons for the same were not on record. Extension of the lease, despite unauthorised activities by the lessee inside the lease area (including part of the forest area), was irregular.

In reply, the Government stated (September 2023) that the Iron mining lease over 365.026 ha in Guali of Keonjhar District of M/s. R. P Sao was a non-working mine which finds place in the list of 102 non-working mining leases submitted before Hon'ble Supreme Court by the CEC. The Hon'ble Supreme Court vide order dated 16.05.2014 in W.P(C) No.114/2014 have directed that mining operations in these 102 mining leases listed in Annexure R-2 of the report of the CEC shall remain suspended, but it will be open to such lessees to move the concerned authorities to obtain all the clearances/ approval/ consent, and after that they may move this Court for modification of this interim order in relation to their cases. The said lease is considered as subsisting as per order dated 04.04.2016 of Hon'ble Supreme Court passed in W.P(C) No.114/2014. The lessee has paid the entire compensation for unlawful production as per order dated 02.08.2017 of the Hon'ble Supreme Court. The two judges committee appointed by Hon'ble Supreme Court has opined that the lessee has not acted in violation of rule 37 of MC Rules, 1960. The validity of the lease has been extended following the provisions of the MMDR (Amendment) Act and allowed mining operation as per orders of the Hon'ble Supreme Court after obtaining all statutory clearances.

The reply of the Government is not acceptable as it is silent about the main

issue of erection of a plant, as reported by the Divisional Forest Officer, Keonjhar and IBM, Bhubaneswar, in the name of another entity, within the mine lease area, without having specific approval in the mining plan and in violation of provisions of the Mineral Conservation and Development Rules (MCDR). With regard to two judges committee as referred in the reply, no document relating to this committee including its report was made available by the Department to Audit.

2.4 Irregular extension of leases for specified minor minerals¹⁶

Under Rule 8 (7) of the Odisha Minor Mineral Concession (OMMC) Rules, 2004, an application for renewal of mining/quarry lease is to be made at least ninety days before the expiry of lease. Under Rule 25 (5) of the above Rules, if the lessee does not work upon the lease for a continuous period of two years, the lease is liable to be cancelled, unless prior permission has been granted for such stoppage, by the competent authority, on reasonable grounds.

Scrutiny of records of DoM revealed that 12 mining leases of specified minor minerals were extended during 2016-22. Out of these, two leases were extended in contravention of the above provisions of the law and rules, as mentioned in the succeeding paragraphs.

2.4.1 Mining lease for decorative stone under Koraput mining circle

The lease for decorative stone quarry over an area of 11.083 ha under village Tediliguda was granted for a term of 10 years, from 23 October 2002 to 22 October 2012. The application for renewal of mining lease (RML) was received on 1 August 2012. As per the report (December 2015) of DDM, Koraput, the lessee had not commenced mining operations during the tenure of the lease. DoM forwarded (April 2016) the case to the S&M Department, with the remarks that: (i) no Despatch of mineral had been made during the entire period of lease, (ii) the RML application had not been filed within the prescribed time period and (iii) no representation for condonation of delay had been submitted by the lessee.

The State Government, however, approved (April 2020) the extension of lease for 20 years, from 23 October 2012 to 22 October 2032, despite the fact that the lease had not been operationalised during the entire term, and ignored the delay in submission of the RML application by the lessee.

After this was pointed out by Audit, the State Government stated (September 2023) that: (i) the lease agreement had been registered on 1 November 2002, and accordingly, the term would be 10 years from date of registration, (ii) hence the application for renewal submitted on 1 August 2012, was in due time of three months prior to the date of expiry, and (iii) the mining operations had been stopped from 2 July 2010, for want of statutory clearances, and (iv) non-operationalisation of the lease was not attributable to the lessee, as he had taken adequate steps to obtain statutory clearances. Further, the Government stated that later, with the amendment of OMMC Rules, 2016 as OMMC

¹⁶ All minor minerals including decorative stones other than the minor minerals listed at Serial No. 1 (ii) of Schedule-III of OMMC Rules, 2016 are administered by the Steel & Mines Department

(Amendment) Rules, 2018, provision for extension of validity of lease period was inserted. Under this clause, extension of validity of lease period can only be considered when the lessee has complied with all terms and conditions issued and has set up an industry in the State for consumption of the decorative stone extracted from the said lease hold area. In this case, the lessee has set up the Granite Cutting and Polishing Unit at Titilagarh Industrial area and commenced production from 15.10.2001. Accordingly, the mining lease period was extended up to 22.10.2032 as per the provisions stated under rule 8A of the said rules as the lessee had set up industry during the lease period and not violated any of the terms and conditions.

The reply is not acceptable, as the Government claim in the reply, that the operations of the mine stopped from 2 July 2010, was in contradiction to the report/ recommendation of the DDM, Koraput, and DoM, that the lessee had not operationalised the mine for the entire tenure of lease. Further, no records were produced to Audit, in support of the claim that the lessee had taken adequate steps to obtain statutory clearances. Moreover, there was no record of any prior permission on stoppage of the mining operations granted by the competent authority on reasonable grounds, in terms of the Rule 25(5) of OMMC Rules. Also, the term of the initial lease was from 23 October 2002 to 22 October 2012, hence, the renewal application should have been submitted 90 days prior to 22 October 2012 i.e. before 24 July 2012. The Department's claim that the term of the lease was from the date of the registration deed, is not supported by the facts available on record. Thus, the extension of lease was irregular.

2.4.2 Mining lease for decorative stone under Balangir mining circle

A quarry lease¹⁷ for the decorative stone mine over 17.676 ha in village Kurlubhata was granted for 10 years, from 20 July 2000 to 19 July 2010. The same was declared to be a mining lease¹⁸ in 2005 due to notification of OMMC Rules, 2004, which provided that the quarry leases already granted shall be treated as mining leases. As the RML application was filed within due date, the lessee continued mining operations under deemed extension provision under Rule 57 of OMMC Rules, 2004. In April 2012, the Mining Officer (MO) directed the lessee not to undertake mining operations until submission of statutory clearances, including Environmental Clearance from MoEF, as required under the Environment Impact Assessment (EIA) notification of 2009. The mine remained non-operational, for want of statutory clearances beyond two years, from April 2012 to May 2020. Also, no prior permission was obtained by the lessee for stoppage of mining operations due to non-submission of statutory clearance, from the competent authority (State Government), in terms of the OMMC Rules. In May 2020, the State Government extended the lease for 30 years, up to 19 July 2030, even though the mine had remained non-operational, without due permission, for a period of more than two years.

¹⁷ The Lease granted for minor minerals is termed as Quarry Lease with tenure extending up to 10 years in pre-auction regime

¹⁸ The Lease granted for major minerals and specified minor minerals are termed as Mining Lease with tenure extending up to 30 years during pre-auction regime

Audit noticed that the lessee was required to submit EC from 2009, however, no records showing that the lessee had applied for EC was available. It was also noticed that the lessee had appointed a consultant for obtaining EC, only in November 2015, thus confirming that discontinuance of the mining operations for over two years was due to inaction on part of the lessee in submission of EC and therefore, the lease was liable for cancellation. Thus, the extension of validity of the lease, by the State Government, was irregular.

In reply, the Government stated (September 2023) that the validity of the lease had been extended under the special provision of Rule 8A of the, OMMC (Amendment) Rules, 2018, as the lessee had set up an industry in the State, based on decorative stones.

The reply was not acceptable as it remained silent regarding non-operation of the mine for more than two years, on account of which it was liable for cancellation in April 2014 as the amended Rule 8A of May 2018 was not applicable.

2.5 Non-initiation of auction process for cancelled leases

As per the provisions of the MMDR Act, for the purpose of granting a mining lease, in respect of any notified mineral¹⁹, in a notified area²⁰, the State Government is to select, through auction, by a method of competitive bidding, including e-auction, an applicant who fulfils the eligibility conditions, as specified in this Act. Further, Rule 5 of the Mineral (Auction) Rules, 2015, mandates the State Government to initiate an auction process for grant of a mining lease, with respect to an area within the State, if the mineral content in such area has been established in accordance with the provisions of the Minerals (Evidence of Mineral Contents) Rules, 2015.

Scrutiny of records and information, furnished by the DoM, revealed that 203 mining leases, of minerals like iron ore, china clay, quartzite, gem stone quartz, graphite, fireclay, manganese, pyrophyllite, soapstone, limestone and dolomite, had been cancelled (rejected/ declared lapsed by the State Government /expired without renewal or surrendered by the lessee) during the last 10 years. These cancelled leases had been previously granted on the basis of exploration/ prospecting reports and, after confirming evidence of the presence of minerals. In view of the above, for these cancelled leases, the department should have either initiated the process of auction, in terms of Mineral (Auction) Rules, 2015, or taken steps for further prospecting / exploration, to ascertain the availability of mineral content, in terms of the Minerals (Evidence of Mineral Contents) Rules, 2015. However, no steps had been taken by DoM, for auction or prospecting of these cancelled leases. Non-auction of these mines resulted in deferment/loss of revenue to the Government exchequer.

In reply, the Government stated (September 2023) that leases in question are very old leases and there is no statutory document available to access the mineral content in the leases. Existence of mineral content is a pre-requisite

¹⁹ Minerals classified as such in Fourth Schedule of MMDR Amendment Act, 2015 (Bauxite, Iron Ore, Limestone and Manganese)

²⁰ As defined under Section 10(B) (4) of MMDR Amendment Act, 2015

for putting any area into auction. Steps have, therefore, been taken for allotment of these blocks to different exploring agencies in phased manner for carrying out exploration. On receipt of the outcome of prospecting operations, the decision for putting these blocks to auction can be taken. The fact, however, remained that the department had not initiated the work of prospecting/ exploration or auction, for several years after cancellation of these leases, which indicates lack of proactive planning and department also lost the opportunity to earn additional revenue from these cancelled mines.

2.6 Delay in auction of Specified Minor Mineral blocks

Rule 10, read with Rule 16 of the OMMC Rules, 2016, provides that the State Government shall grant prospecting-cum-mining lease, through auction, by a method of competitive bidding, including e-auction, to an applicant who fulfils the prescribed conditions, for an area where general exploration²¹ has been carried out.

Scrutiny of records of DoM, pertaining to auction of specified minor minerals, revealed the following:

- i. Delay in formulation of rules* – Despite the fact that detailed procedures for auction had already been prescribed in the Mineral (Auction) Rules, 2015, the department chose to frame dedicated rules for auction of Specified Minor Minerals. These dedicated rules, viz. Odisha Specified Minor Minerals (Auction) Rules (OSMMAR), detailing the procedures for auction, were approved by the competent authority in June 2019, with a delay of two and half years since the notification of the OMMC Rules. This consequently delayed the auction of specified minor mineral blocks and resulted in deferment of realisation of revenue to State exchequer.
- ii. Non-initiation of auction* – After notification of OSMMAR, 2019, the State Government directed (August 2019) DoM to furnish the list of specified minor mineral blocks that were ready for auction, along with their geological report status. This was reiterated in the High-Level Committee (HLC) meeting, held (September 2019) to finalise the auction of 14 specified minor mineral blocks by the end of November 2019. Accordingly, DoM forwarded boundary maps of the 14 specified minor mineral blocks, to the Odisha Remote Sensing Application Centre (ORSAC), Bhubaneswar, for conducting a Differential Global Positioning System (DGPS) survey. In December 2019, DoM received the block summary reports for 12 out of 14 specified minor mineral blocks, for which DGPS survey had been completed by ORSAC. It was observed, however, that DoM submitted the details of the 12 blocks, to the State Government, only in April 2021, after a delay of 16 months. Further, even after submission of the details, the 12 blocks were yet to be notified for auction (as of September 2022).

Thus, even after three years of publication of OSMMAR, 2019, the auction process of 12 ready-to-auction specified minor mineral blocks could not be initiated, resulting in deferment of realisation of revenue to the Government exchequer.

²¹ Up to G4 level, as per United Nations Framework Classification guidelines

In reply, the Government stated (September 2023) that the Department had prioritised the auction of major mineral blocks in view of their higher value. The auction rule was revisited and certain amendments were made during March 2022. After amendment of this Rule, steps were taken by the Government for auction of specified minor mineral blocks. On 22 August 2022, the State Government had published notice inviting tender (NIT) for auction of five specified minor mineral blocks. Out of which, two blocks were successfully auctioned and auction of other three blocks were annulled due to receipt of inadequate bids. Similarly, on 18 May 2023, NIT for auction of 12 Specified minor mineral blocks was published. Again, the auction of all 12 blocks was annulled due to non-participation of any bidder. However, the Government needs to put in concerted efforts for the auction of 12 specified minor mineral blocks to prevent further deferment of revenue collection and to ensure optimal utilisation of the mineral resources therein.

Recommendation:

- 1. Government should fix responsibility on the concerned officers who recommended extension of the lease period despite objections were raised by multiple departments on irregularities committed by the lessee.**