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ARTICLE 3

Lack of Uniformity among States in Collection of Royalty on Minor Minerals

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Abstract

The Mines and Minerals (Development and Regulation) Act, 1957 (MMDR Act, 1957) is the key act for regulating the mineral sector in the country. Under the MMDR Act, 1957, minerals of the country are broadly classified into two groups: the major and minor minerals. Under the federal structure, States have the power to levy royalties on minor minerals. Using these powers, some States abysmally reduced the royalty rates of some of the important minerals, which were relisted from major to minor minerals in 2015. This, while enabling the lessees in these States windfall gains, also led to distortion in the royalty rates/resultant sale values of minerals as they reach the industries and also disturbed the level playing field amongst the lessees of minerals and suppliers in mineral-rich states. Most crucially, these defeated the overall notion of moving towards - one nation – one market - uniform tax and pricing.

Keywords

MMDR Act, 1957; Major Minerals; Minor Minerals; Goods and Services Tax (GST): Monthly reports under The Mines and Minerals (Regulation and Development) Act (1957); National mineral inventory and Indian Bureau of Mines (IBM).

3.1 Introduction

The Mines and Minerals (Development and Regulation) Act, 1957, as amended from time to time, is an umbrella Act for the regulation of the mineral sector in the country. All subsequent Rules enacted by the Central Government or States are governed by the MMDR Act. The Act gives enormous powers to the Union Government to control, monitor and manage mineral resources across the country, including classifying minerals as major and minor and also the scope for deciding the royalty rates. Again, under the federal structure, the Constitution of India empowers the States to tax mineral rights as enumerated in the State List and the Union Government has regulatory power to oversee it. Besides, the State are empower-

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-ed to collect royalties on the dispatch of all minerals, both major and minor, from mines within their territory. These complex Centre-State relationships, when it comes to managing the most vital backbone of economic progress, needs to be streamlined to ensure continuous dialogue and decisions in the national interest. The Ministry of Mines, having overall jurisdiction on the mineral management in the country, could consider a coordination system similar to the lines of GST wherein the GST Council represents the States. More so, because minerals are the backbone of our industries and thus, like GST, there is a need that the value of minerals, including royalties, is kept within a range. On the other hand, it shall also be ensured that a fixed range of pricing of minerals is there when it reaches the industries.

The Goods and Services Tax system in the country with overall control with the CBIC and GST council representing the States is a unique arrangement ensuring Centre-State coordination in GST related affairs.

3.2 Examples of Contention

Some examples of fragmented coordination between the Centre and States, and also States acting as disparate silo when deciding on the royalty of nationally important minerals – thus highlighting the need for more effective coordination and closer collaborations between the Centre and the States are discussed below:

The Ministry of Mines notified (10 February 2015) 31 minerals as minor minerals which were hitherto under the category of major minerals [1]. Prior to their re-classification as minor minerals from major minerals, the above 31 minerals attracted royalty collections at ad-valorem rates ranging between 4 and 20 per cent of the average sale price. Ad-valorem pricing is a system of collecting royalties at a prescribed percentage of the prevailing value of minerals. But for some instances of suppression of sale prices by the lessees, this mechanism ensures that the States continue to get their fair share of royalties at the prescribed percentage of the dynamic value, which increases or decreases as per the market demand and supply. This system largely does away with the need for periodic review of royalty rates to match them with the prevalent market rates.

However, an analysis of four major mineral-rich States vis-à-vis a sample of minerals out of the 31 minerals re-listed as minor minerals by the Central Government in 2015 would indicate that using the powers conferred under the Constitution of India and the MMDR Act, which enabled the States to decide on the rates of royalties for the minor minerals, two sampled States abysmally reduced the rates of royalties, converting them into flat rates instead of dynamic ad-valorem rates prevalent hitherto, as shown

[1] (i) Agate; (ii) Ball Clay; (iii) Barytes; (iv) Calcareous Sand; (v) Calcite; (vi) Chalk; (vii) China Clay; (viii) Clay (Others); (ix) Corundum; (x) Diaspore; (xi) Dolomite; (xii) Dunite or pyroxenite; (xiii) Felsite; (xiv) Feldspar; (xv) Fireclay; (xvi) Fuchsite Quartzite; (xvii) Gypsum; (xviii) Jasper; (xix) Kaolin; (xx) Laterite; (xxi) Limekankar; (xxii) Mica; (xxiii) Ochre; (xxiv) Pyrophyllite; (xxv) Quartz; (xxvi) Quartzite; (xxvii) Sand (Others); (xxviii) Shale; (xxix) Silica Sand; (xxx) Slate; and (xxxi) Steatite or Talc or Soapstone.

Table 3.1 Variations between States in fixing royalties on Minor Minerals

Name of mineral	Royalty before February 2015	Royalty fixed after classification as Minor Mineral			
		Odisha	Karnataka	Gujarat	Jharkhand
Agate	10% of sale price	12% of sale price	₹300/ton	₹100/ton	12% of sale price
Ball Clay	10% of sale price	8/12% of sale price	₹80-600/ton	₹60/ton	
Barytes	5.5% of sale price	6.5% of sale price	₹200-400/ton	₹45/ton	6.5% of sale price
Calcite	15% of sale price	15% of sale price	₹80/ton	₹60/ton	15% of sale price
Felspar	12% of sale price	15% of sale price	₹100/ton	₹40/ton	15% of sale price
Fire clay	12% of sale price	12% of sale price	₹80-600/ton	₹45/ton	12% of sale price
Gypsum	20% of sale price	12% of sale price	₹150/ton	₹45/ton	20% of sale price

in Table 3.1. Thus, Odisha and Jharkhand continued with the ad-valorem system (levied on these minerals by the Central Government when these were major minerals) even after the minerals were notified as minor minerals. However, States like Karnataka and Gujarat changed the mechanism for the levy of royalties from the erstwhile ad-valorem system to a flat rate basis. The result is as follows:

Considering the market prices of one of the sampled minerals, namely barytes, during 2022, as available on the website, i.e. ₹5,225 to ₹6,691 per ton, averaging ₹5,958 per ton, the rates of royalties at ad-valorem rates levied in Odisha and Jharkhand would be ₹387 per ton @ 6.5 per cent. Against this, while Karnataka has fixed the flat rate of royalty ranging between ₹200 and ₹400, Gujarat has further lowered it and fixed it at ₹45 per ton. Thus, the miners/resellers of the minerals in the States of Gujarat and Karnataka will have an edge in getting windfall gains as well as pricing it differently for sale to industries when compared to the miners/resellers of States like Jharkhand and Odisha and other States where royalties are charged on ad-valorem rates on similar minerals. This will amount to a distortion in prices of the minerals and defeat the purpose of uniform floor rates across the country on which the GST mechanism hinges. Also, Gujarat and Karnataka will be losing on revenues due to the change to fixed rates instead of ad-valorem pricing, which would be dynamic and ensure that a share of the prevalent market prices is shared with the State Governments by the miners, which is the basic premise of the royalty mechanism.

More importantly, owing to the reduced prices being offered by the lessees/suppliers of the minerals from these States on the said minerals, the industries may tilt towards the suppliers from these States, thus, disadvantaging the suppliers of other States using ad-valorem system of levy on one hand and putting additional ecological pressure on the former States due to possible excessive mining to meet the hiked demand.

Another important area needing attention is the collection and collation of data regarding the availability, extraction, production, dispatch and use/export of minor minerals. The Indian Bureau of Mines (IBM) under the Ministry of Mines obtains monthly and annual reports from the lessees of major minerals across the country. The reports provide information about the lease and lessee details, extraction/production/dispatch of minerals with their grades, volume and invoice values, along with the recipient. Similarly, the stockists, traders, end-users and exporters are also required to mandatorily submit monthly and annual reports to the IBM showing the receipt and further sale/use/export of major minerals with details of minerals, their grades, volume, value and the recipients/sellers. This is a fool-proof mechanism provided under the MMDR Act, which enables a scope for end-to-end mapping of the major minerals from the mine head till the end-use/export out of the territory. The Figure 3.1 attempts to bring out the system more emphatically:

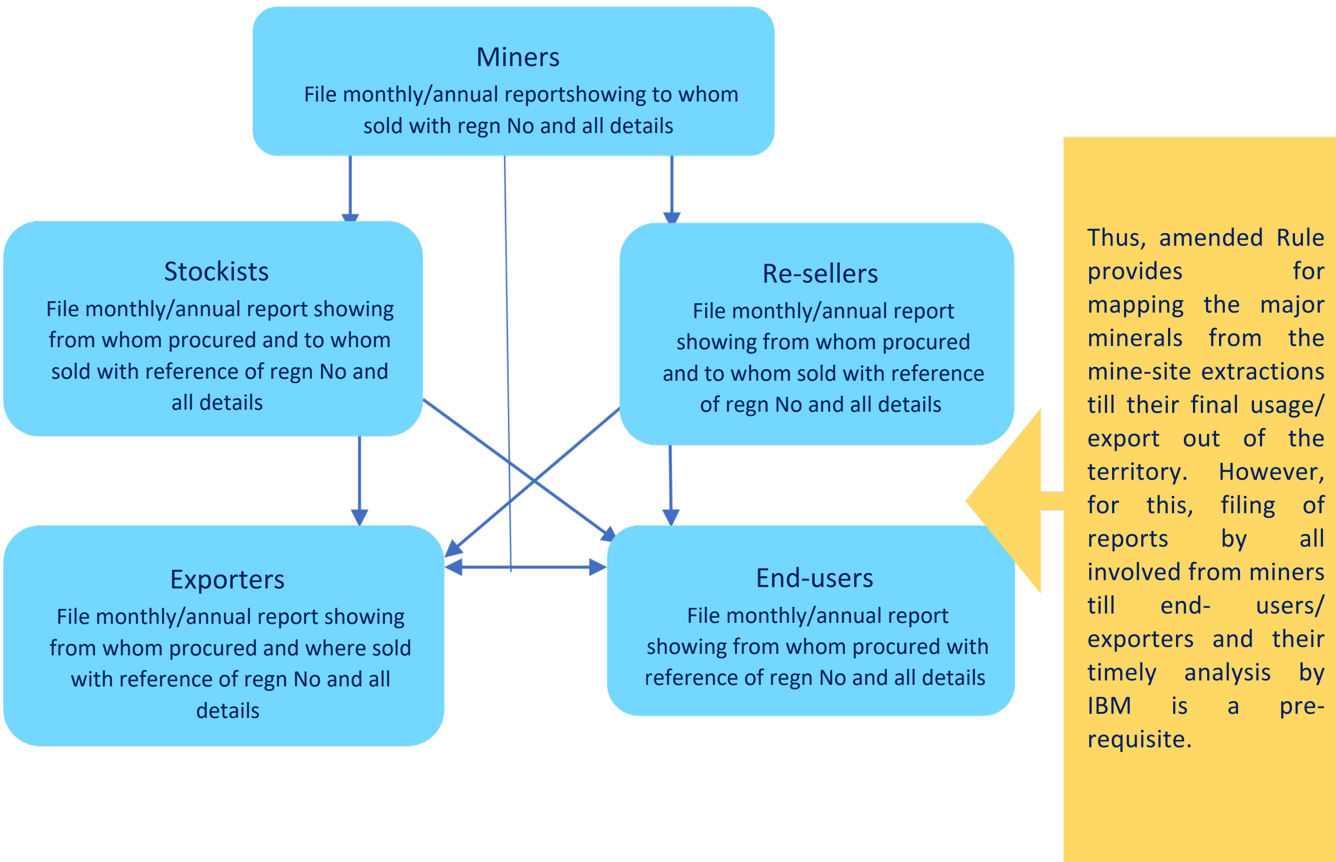

Figure 3.1 Mapping of Major Minerals from Mine-Head till the End-use

However, though the minor minerals are equally strategic for the nation, a similar system of collection and collation of data regarding their availability, extraction, production, dispatch with volume, grades, value, etc, is largely missing, though some of the States are claiming to have a system of collecting and collating the data. Since the commencement of implementation of National Resource Accounting (NRA) initiatives, the Government Accounting Standards Advisory Board (GASAB) has been impressing upon the States to implement a similar reporting methodology like that available for the major minerals under the MMDR Act as discussed above, and though there are States which have agreed to do so in principle, the situation is still not very encouraging on the ground. Even though the States have started collecting and collating the data, these are largely scattered, consolidated in different formats and platforms, thus defeating any endeavour of compiling a national database on a real-time basis.

Status of implementation of NRA in States is available on the website of GASAB (www.gasab.gov.in).

3.3 Conclusion

As the major as well as minor minerals are all national wealth and are placed under different categories only to provide States more say on the mineral management within their territory, the overall mandate and responsibility for control and management of these resources rests with the Central Government. There is a need for mandating a uniform method of setting royalties and reporting mechanism for minor minerals similar to those available for major minerals. A collation at the national level to provide a real-time dataset for major as well as minor minerals in the country in the shape of a national mineral Asset Accounts, as endeavoured by the GASAB, for helping policy decisions by the Legislatures and Executives and information to the public at large, would be useful.

Data Availability

No new data has been introduced.

Ethics Statement

This document meets the ethical guidelines and legal requirements of the country.

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Conflict of Interest

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