

**MEMORANDUM OF ACTION TAKEN**

**ON**

**SECOND REPORT ON ILLEGAL MINING OF IRON AND  
MANGANESE ORES IN THE STATE OF ODISHA**

**OF**

**JUSTICE M.B. SHAH COMMISSION OF INQUIRY**

**MINISTRY OF MINES**

**‘MEMORANDUM OF ACTION TAKEN’ ON THE ‘SECOND REPORT ON ILLEGAL MINING OF IRON AND MANGANESE ORES IN THE STATE OF ODISHA’ OF JUSTICE M.B. SHAH COMMISSION OF INQUIRY**

1. The Government of India set up Shri Justice M. B. Shah Commission of Inquiry for Illegal Mining of Iron Ore and Manganese (**Commission**) vide Notification No. S.O. 2817(E) dated 22<sup>nd</sup> November, 2010, with the following terms of reference:

- (i) to inquire into and determine the nature and extent of mining and trade and transportation, done illegally or without lawful authority, of iron ore and manganese ore, and the losses therefrom; and to identify, as far as possible, the persons, firms, companies and others that are engaged in such mining, trade and transportation of iron ore and manganese ore, done illegally or without lawful authority;
- (ii) to inquire into and determine the extent to which the management, regulatory and monitoring systems have failed to deter, prevent, detect and punish offences relating to mining, storage, transportation, trade and export of such ore, done illegally or without lawful authority, and the persons responsible for the same;
- (iii) to inquire into the tampering of official records, including records relating to land and boundaries, to facilitate illegal mining and to identify, as far as possible, the persons responsible for such tampering; and
- (iv) to inquire into the overall impact of such mining, trade, transportation and export, done illegally or without lawful authority, in terms of destruction of forest wealth, damage to the environment, prejudice to livelihood and other rights of tribal people, forest dwellers and other persons in the mined areas, and the financial losses caused to the Central Government and State Governments.

The Commission was also required to:

- (i) recommend remedial measures to prevent such mining, trade, transportation and export done illegally or without lawful authority,
- (ii) submit its report to the Central Government as soon as possible but not later than eighteen months from the date of its first sitting, and
- (iii) submit interim reports to the Central Government before the expiry of the said period on any of the matters specified in the notification and recommend specific steps that may be required to be taken urgently to curb the menace of such illegal mining, trade and transportation.

2. The Commission submitted its ‘Second Report on illegal mining of iron and manganese ores in the State of Odisha’ on 14<sup>th</sup> October, 2013.

3. A ‘Memorandum of Action Taken’ on the ‘Second Report on illegal mining of iron and manganese ores in the State of Odisha’ of the Commission has been prepared taking into account the comments received from concerned Central Ministries / Departments and Government of Odisha.

4. The Action Taken Report in respect of the recommendations of the Commission is given below:

**Second Report on illegal mining of iron and manganese ores in the State of Odisha (Volume I)**

<b>Sl.</b>	<b>Gist of Commission’s Observations/ Findings / Recommendations</b>	<b>Action Taken Report</b>
1	<p>It is further stated that in the State of Orissa, there are about 192 mining leases of iron and/or manganese ores. In this Second Report, the Commission has covered individually, leases granted to 14 Groups, consisting of 23 mining leases dealing with illegalities / irregularities, violations, misuse of laws and powers by them in mines, forest, environment, taxes and others. Remaining leases could not be covered due to time constraint.</p> <p>There is need to complete investigation for all other remaining leases in the same manner and style and for that, the concerned Departments have to take action or the Government of India may find other ways to complete the inquiry for the left out leases and others.</p>	<p><b>Government of Odisha</b></p> <p>The State Government will take up investigation of the remaining leases in the same manner as done by the Commission.</p>

**1 (i) M/s. Serajuddin & Co. Balda Iron Ore Mines (PART-I)**

Sl.	Gist of Commission's Observations/ Findings / Recommendations	Action Taken Report
1	<p>M/s. Serajuddin &amp; Co., Kolkata, was having mining lease over 3339.40 Acres in Village: Balada for a period of 20 years w.e.f. 01.11.1946 for manganese ore. Subsequently, the said leased area was reserved for the purpose of industry by the Government vide letter No.308/Mines, dtd. 3.02.1953 and it was made available for re-grant vide Government Notification No.846/Mines, dtd. 05.03.1955. The area of 830 Acres out of the original lease was then granted in favour of M/s. Serajuddin &amp; Co. for a period of 20 years w.e.f. 03.12.1957.</p> <p>From the letter No.15639, dtd. 02.12.1967 of Director of Mines, Orissa, Bhubaneswar; it reveals that the Government had granted M.L. for iron ore vide Order No.8562/MG, dtd. 15.11.1960 over an area of 830 Acres for iron ore and a supplementary agreement was executed on 02.06.1962 in this regard – coterminous with the lease period of Manganese lease i.e. upto 02.12.1977.</p> <p>Later on, the lease of manganese ore was surrendered by the firm w.e.f. 17.08.1974. Hence, the lessee had the lease for iron ore only from 17.08.1994 onwards.</p> <p><b>Observations / Recommendations:</b> M/s. Serajuddin &amp; Co. had filed an application on 25.11.1976 for renewal of mining lease for the whole area for iron ore which was recommended by the Collector, Keonjhar vide letter No.296, dtd.25.03.1977. While recommending for renewal proposal vide letter No.5223, dtd. 12.06.1978, the State Government had allowed working permission upto 04.06.1979 for a period of six months beyond the lease period, illegally. The said permission was not in accordance with law.</p> <p>The Government of India in Ministry of Steel &amp; Mines Department intimated vide its letter No.5/35/78-M5, dtd. 25.05.1979 that the proposal for renewal of lease is not accepted. Accordingly, the State Government rejected the renewal application of lessee vide Government proceeding No.9092/MG, dtd. 05.07.1979 and passed orders to stop mining operation with immediate effect, vide letter No.9097 dtd. 05.07.1979. The same was intimated to lessee.</p> <p>The Collector, Keonjhar was instructed by the State Government to stop mining operation with immediate effect vide Order No.9097, dtd. 05.07.1979. But, surprisingly, the then Dy. Secretary to Government issued letter No.9347, dtd.13.07.1979 to the Collector, Keonjhar with instructions to maintain status-quo in view of the orders of Hon'ble High Court, Kolkata. It is pertinent to note here that by that time, neither any order of the Hon'ble High Court was received nor the party (lessee) had produced the certified copies of the said Judgment. The fact is that on that date, there was no such order of the Hon'ble High Court of Kolkata. Sri K. B. Patnaik, Government Pleader and Public Prosecutor (G.P. &amp; P.P.), Keonjhar had opined on 12.07.1979 that as no authenticated copy of the said Judgment was received, the Government was not required to take action in hasty manner.</p>	<p><b>Government of Odisha</b> The State Government will examine the matter as per law and issue notice to the lessee as to why the mining operation should not be treated to have been raised without lawful authority, and the price of ore so raised recovered under section 21(5) of the Mines and Minerals (Development and Regulation) (MMDR) Act, 1957; and why the mining lease should not be determined.</p> <p>The State Government will take appropriate action as applicable against the erring officials as per provisions of law.</p>

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2	<p>The Hon'ble High Court, Kolkata in its orders dtd. 06.08.1979 and 20.08.1979 had passed orders to maintain status-quo as on 06.08.1979. As discussed above, the State Government issued orders to stop mining operation w.e.f. 05.07.1979. Hence, the status-quo on 06.08.1979 was that the mining was stopped and first renewal of mining lease was rejected. The lease period was also over on 03.12.1977. Even the unauthorized extension given by the State Government for working permission of mining till 04.06.1979 was over. There is no valid mining lease as on 06.08.1979.</p> <p>Instead under Rule 24A of MCR, 1960; the lease ceased to exist under the deemed refusal provisions. No working permission can be given where the lease does not exist under the relevant law. Also, there is no provision of such working permission under the law.</p>	<p><b>Government of Odisha</b></p> <p>The State Government has issued notice to the lessee for raising ore without lawful authority from 3.06.79 to 27.09.94 and to explain why the price of the ore raised should not be recovered and the lease determined; and thereafter, appropriate action will be taken as per provisions of law.</p>
3	<p><b>Status quo order of the Hon'ble High Court could not mean that mining operations which were stopped could be restarted:</b></p> <p>As discussed above, the Government of India, Ministry of Steel and Mines Department intimated the rejection of renewal proposal of the lessee vide letter No.5/35/78-M5, dated 25.05.1979 and following the said directions, the State Government had also rejected the renewal proposal vide its Government proceeding No.9092/MG, dated, 05.07.1979 and also passed orders to stop mining operations with immediate effect vide letter No.9097 dated 05.07.1979. The State Government had also issued instructions to the Collector, Keonjhar and lessee to stop mining operations immediately vide letter No.9097 dated 05.07.1979.</p> <p>Subsequently, the then Deputy Secretary to State Government issued a letter No.9347 dated, 13.07.1979 to the Collector, Keonjhar with instruction to maintain status-quo in view of order of Hon'ble High Court Kolkata. It is not known how he had issued such instructions to the Collector, Keonjhar because the fact remains that the Hon'ble High Court of Kolkata in Civil Rule No.7894 (W) of 1979 has passed order only on 06.08.1979 (much after the letter issued by the Deputy Secretary) for the maintenance of status-quo as on that date for a fortnight and liberty to apply extension. This action of the Deputy Secretary is required to be questioned.</p> <p>Sri S. C. Mishra, A.L.R., who had given the opinion on the orders of the Hon'ble High Court of Kolkata, stated that if there is no valid mining lease and the authorities have already rejected the mining lease application before 06.08.1979, then the status-quo as on 06.08.1979 means the mining lease holder has got no valid license to carry on mining operation as on 06.08.1979. Hence, the status-quo as on 06.08.1979 and 20.08.1979 means that the possession was with the Government and the Collector, Keonjhar should have maintained the status-quo and no mining operation by M/s. Serajuddin &amp; Co. should or could have been allowed.</p>	<p><b>Government of Odisha</b></p> <p>The State Government agrees to take action against those found guilty after following due process of law, including recovery of ore raised from 3.6.1979 onwards from the lessee.</p> <p>The State Government will take appropriate action as applicable against the erring officials as per provisions of law.</p>
4	<p><b>Illegal mining after deemed refusal:</b></p> <p>The concerned authorities and the State Government allowed</p>	<p><b>Government of Odisha</b></p> <p>The State Government is identifying</p>

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	<p>the lessee illegally to operate the mine continuously from 02.12.1977 up to the renewal, 29.11.1997. It is pertinent to note here that there was a provision of deemed refusal under the then Rule 24A(5) of MCR, 1960 during this period till the year 1994. Hence, the lease was allowed to operate without any authority, provisions under the law and completely in illegal manner.</p> <p>During this period, the M.L holder has extracted 7,27,341.044 MT and dispatched 7,23,828.830 MT of iron ore.</p>	<p>the mines which were deemed to have been refused under the then Rule 24A of Mineral Concession Rules, 1960 (<b>MCR 1960</b>) and suspend operations of working mines so identified. Necessary action is being taken in the matter by following due process of law including recovery of the ore raised during the period.</p>
5	<p><b>For extraction and dispatch (in MT) of iron ore, following officers are responsible:</b></p> <p>During this period, the M.L holder has extracted 7,27,341.044 MT and dispatched 7,23,828.830 MT of iron ore for which following eight persons, who were the DDMs (Joda) at the relevant time, were liable for allowing production and dispatch without any mining lease:</p> <ul style="list-style-type: none"> <li>(i) Sri Pankaj Lochan Rout (Rtd.) from 20.07.1978 to 01.07.1979 and from 20.06.1990 to 31.01.1992;</li> <li>(ii) Sri Pratap Ku. Rath (Rtd.) from 02.07.1979 to 19.07.1981;</li> <li>(iii) Satyananda Sahu from 19.07.1981 to 16.07.1982 (now DDM, Jajpur);</li> <li>(iv) Sri Rama Ch. Samal (Rtd.) from 17.07.1982 to 12.06.1985;</li> <li>(v) Sri Purna Ch. Patra from 13.08.1985 to 23.06.1985;</li> <li>(vi) Sri Sudhansu Sekhar Pattanaik, (Rtd.) from 24.06.1985 to 08.06.1990;</li> <li>(vii) Sh. Bijaya Ku. Nandi 08.06.1990 to 19.06.1990 (now DDM, Rourkela); and</li> <li>(viii) Sri Sasadhar Sahoo from 31.01.1992 to 22.08.1997.</li> </ul>	<p><b>Government of Odisha</b></p> <p>The State Government has stated that disciplinary action will be taken against the officers concerned as per provisions of law.</p>
6	<p><b>Renewals granted with retrospective effect:</b></p> <p>M/s. Serajuddin &amp; Co. submitted an application to the Government of India on 13.07.1997 by intimating that after amendment of MM(DR) Act, the State Government is empowered to dispose of the renewal application dated 25.11.1976 and to grant the renewal of the lease from 03.12.1977 to 02.12.1997. Pursuant to the aforesaid Judgment, the Government of India fixed for hearing on 22.08.1997. Sri S. D. Panigrahi, IAS, Joint Secretary to Government, Steel &amp; Mines Department submitted recommendations to the Government of India, vide letter No.10113, dated 06.11.1997 by writing that the possession of the mining leased area was handed over to the mining lease holder as per the order dated 06.08.1979 of the High Court, which is not correct.</p> <p>The first renewal for the period from 03.12.1977 to 02.12.1997 was retrospectively approved by the Government of India vide letter No.5/12/97/M-IV dated 10.11.1997 and accordingly, the State Government granted the first renewal vide letter No.10812, dated 29.11.1997. There is no provision under the law for giving retrospective grant of lease for the period of lease which was under deemed refusal category and did not exist legally.</p>	<p><b>Ministry of Mines</b></p> <p>The Central Government refused the renewal of mining lease on 25.5.1979. The applicant filed a Writ Petition No. 7894 of 1979 in the High Court of Calcutta against the order of the Central Government. The High Court of Calcutta on 27.9.1996 directed the Central Government to hear the parties concerned and pass a speaking order. Accordingly, the Ministry re-examined the application and after taking all factors into consideration, renewed the mining lease, w.e.f. 04.12.1977, for a period of 20 years on 10.11.1997.</p>
7	<p><b>Vigilance Enquiry:</b></p> <p>On the allegations of corruption in the matter of illegal mining</p>	<p><b>Government of Odisha</b></p> <p>Criminal case has been registered and</p>

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	<p>of Balada Block Iron Mines of M/s. Serajuddin &amp; Co. (a partnership firm) over an area of 830 Acres. (335.594 ha.) in the village Balda under Barbil Tahasil and alleged role of different officials of Forest, Mines, Revenue &amp; Pollution Control Board in the illegal mining, the State Government has initiated a Vigilance inquiry.</p> <p>It is found that there is a difference of <b>51,043.173 MT</b> of size iron ore between book balance and physical balance. The mining lease holder has sold the size iron ore of <b>51,043.17 MT</b> without payment of royalty, amounting to <b>Rs.13,78,166/- @ Rs.27/-</b> per MT and the cost of which comes to <b>Rs.14,65,95,984/- @ Rs.2,872.00</b> per MT prevailing during the third quarter of the year 2009 i.e. the relevant period of JPV. The sales tax due to be paid on the difference quantity of <b>51,043.173 MT</b> size iron ore comes to <b>Rs.58,63,839/- @ 4%</b>, which has been evaded by M/s. Serajuddin &amp; Co., by manipulating the records pertaining to production and dispatch.</p>	<p>charge sheet filed in the court of Special Judge, Vigilance, Keonjhar against accused public servants, mining lease holder and others.</p> <p>During investigation, it was found that the mining lease holder in connivance with the accused public servants has evaded sales tax of Rs. 58,63,839/- and royalty of Rs. 27,86,176/- for which charge sheet has been filed against them.</p>
8	<p><b>(i) Illegal mining from DLC forest:</b></p> <p>During JPV on 10/11.11.2009, the Vigilance team found that iron ore has been illegally removed from a newly formed pit from DLC forest. The cost of illegal excavation of 80,262 MT ore from DLC forest land comes to Rs.10,43,40,600.00 @ Rs.1,300/- average per tonne. This quantity of iron ore has been illegally excavated and dispatched by M/s. Serajuddin &amp; Co. in connivance with the mining officials. It is a fact that this pit has been excavated in the recent past who are liable for criminal misconduct.</p> <p>It is established that the lessee has been carrying on mining operation in DLC forest land and permission has been accorded to the mine owner by the officials, DDM, Joda overlooking the forest area. As per Stack Removal files Nos.60XI-22/09, 36/08 (Vol-I, II, III) 60XI-14/06, 60XI-34/05 of O/o. DD (Mines), Joda, it is found that:</p> <ol style="list-style-type: none"> <li>(1) Sh. Madan Mohan Biswal, DDM had issued passing orders for stack removal of 3,19,507.73 MT;</li> <li>(2) Sh. Ramesh Ch. Mohalick, MO had given 15,03,991.77 MT;</li> <li>(3) Sh. Routray Murmu, MO had permitted 23,30,395.059 MT;</li> <li>(4) Sh. M. Hembrum had issued stack removal permission for 12,50,778 MT; and</li> <li>(5) Sh. Aswini Ku. Mahalick had issued permission for 25,04,533.789 MT during the period after 19.08.2007 till the date of JPV i.e. on 10.11.2009.</li> </ol> <p>Hence, it is evident that the illegal excavation has been done in connivance with the aforesaid mining officials who are liable for their criminal misconduct.</p> <p><b>(ii) Excess production without lawful authority by deviation from Mining Plan:</b></p> <p>It is found that during the year 1995-96, there was excess production beyond the permitted quantity of 1,81,100.00 MT. The approximate cost thereof comes to Rs.1,81,10,000/-. Also, during the year 1996-97, there was excess production 2,88,355.00 MT. The approximate cost thereof comes to</p>	<p><b>Government of Odisha</b></p> <p>The Forest Department has taken cognizance of irregularities like dumping beyond the mining lease (ML) area, encroachment in the safety zone, excavation beyond the ML area, illegal working in the DLC area etc. and has booked cases. Prosecution has been filed in the Court of Judicial Magistrate First Class (JMFC), Barbil.</p> <p>Notice has been issued to the lessee for recovery of royalty, cost of seized iron ore, cost of iron ore fines and recovery of excess production under section 21(5) of MMDR Act, 1957. The case will be finalized and disposed of in accordance with provisions of law.</p> <p>The State Vigilance Department has charge sheeted the officers and action is being taken against erring officials of the State Government.</p> <p><b>Ministry of Mines</b></p> <p>The Government of Odisha had sought sanction of Central Government for prosecution of six IBM officers.</p> <p>The Central Government on careful consideration of the Report of the Superintendent of Police, the Chief Vigilance Officer (CVO) of IBM, administrative division and the materials available on records was of the view that it did not reveal commission of any offence under section 13(2) read with section</p>

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	<p>Rs.2,88,35,500/-.</p> <p>Sri Sasadhar Sahoo and Late Srinibas Sethi, DDMs who have issued dispatch passes, are liable for allowing such illegal production and dispatch. So also, Late S.T. Arsan, Dy. Controller of Mines, IBM, Kolkata has conducted inspection on 07.11.1996 but has not pointed out anything about the deviation from the mining plan for huge excess production during the period from the year 1995-96 to 1996-97.</p> <p>The mining plan for the period from the year 2002-03 to 2006-07 was approved on 11.06.2004. The excess production, during the year 2004-05, was 2,72,834 MT and the cost thereof comes to Rs.57,15,87,230/-. The excess production, during the year 2005-06, was 2,94,017.500 MT and the cost thereof comes to Rs.63,69,15,409/-. During the year 2007-08, the excess production was 8,12,380 MT and the cost thereof comes to Rs.253,86,87,500/-. During the year 2008-09, the excess production was 6,21,617 MT and the cost thereof comes to Rs.245,72,52,001/-.</p> <p><b>(iii) Concerned officers failed to take action:—</b> Sri Anupam Nandi, the then Sr. Asst. Controller of Mines, IBM conducted inspections on 07.07.2004 &amp; 20.04.2006 and Sri Chinnappa Parameswaran, A.C.M, Kolkata conducted inspection on 09.08.2003 &amp; 09.05.2005. They have not pointed out the excess production of iron ore as well as the illegal mining operation without mining plan during the period from the year 2004-05. Sri Bijay Kumar Nandi, DDM and Sri Manas Ranjan Mohanty, DDM who have allowed excess production without mining plan during from the year 2001-02 to 2004-05; are liable for showing undue official favour the mining lease holder.</p> <p>The mining plan for the period from 2007-08 to 2011-12 has been approved on 04.02.2009 retrospectively by <b>Sri Ranjan Sahai, Controller of Mines, Central Zone, Nagpur</b> covering the excess production by lessee wherein no such provisions are available under the MCDR, 1988. It is found that there was actual production of 19,35,250 MT during the year 2006-07 against the original approved plan quantity of 7,09,474.500 MT. However, Sri Debasis Gouda, Regd. No.RQP/CAL/231/95/A, has mentioned the production to be 13,73,350 MT which is not correct. So also, he has calculated the reserve to be 7,79,43,173.500 MT as on 08.03.2006 against the original estimated reserve of 60,71,328.000 MT calculated initially, and 92,73,600.000 MT during the year 1992. It is apparent that the reserve mine-able ore quantity has been shown 7,79,43,173.500 MT which is 1284% higher in order to facilitate excess production by the mining lease holder in view of the China boom in the iron ore market during the period from 2006-07 to 2010-11. In fact, the IBM Officials have approved very high estimated production to the tune of 900% (approx.) during the period from 2007-08 to 2009-10.</p> <p>Sri Tapan Kumar Rath, Dy. Controller of Mines, IBM who has conducted inspection on 08.11.2009 just 2 days prior to the JPV by Vigilance team, has not pointed out the excess production,</p>	<p>13(1)(d) of Prevention of Corruption Act, 1988, 420/120-B of Indian Penal Code, section 21 of the MMDR Act, 1957 and section 2 of Forest Conservation Act, 1980. Therefore, the Central Government did not grant sanction for prosecution against officials of IBM. However, the CVO, IBM had been directed to investigate the matter and furnish report whether any Departmental action lies in the matter. The CVO, IBM has submitted the Report in this regard which is under consideration of the Government and appropriate action will be taken on the report.</p> <p>The Ministry has further directed the CVO, IBM to investigate the matter and furnish report whether any Departmental action lies in the matter in respect of IBM officials whose prosecution has not been sought by the Government of Odisha.</p>

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	<p>illegal mining in forest land by the mining lease holder and thereby allowed excess production without taking any legal action under Rules 56 &amp; 58 of MCDR, 1988. Sri Madan Mohan Biswal, DDM, who has allowed excess production from the year 2005–06 to 2009–10 in violation of the IBM mining plan, is also liable for his criminal misconduct. During his review period 2008–09, the mine owner produced 34,53,500 MT against IBM estimation of 28,31,883 MT, which is excess to the tune of 6,21,617 MT. He had neither pointed out in his inspection report nor reported any violation. He had given undue financial advantage to the mine owner by not issuing any notice to him for excess production.</p> <p><b>(iv) Action can be taken against following officers:</b>  From the record, it appears that following persons are liable for criminal misconduct. Action can be taken u/s. 13(2) r/w. S. 13(1)(d) of P.C. Act, 1988; u/s. 201, 379, 420 and 120–B of Indian Penal Code; u/s. 21 of MM(DR) Act, 1957 and u/s. 2 of Forest (Conservation) Act, 1980 for conniving with (i) Intekab Allam, Managing Partner and (ii) Md. Mafazzular Rhaman, Partner in charge of Management at Joda of M/s. Serajuddin &amp; Co., who cheated the Government, committed unauthorized, unlawful extraction of iron ore to the tune of Rs.31,94,14,970/- and also allowed excess production amounting to Rs.625,13,87,640/–, thereby derived pecuniary advantage when there was China Boom and windfall profits:—</p> <ol style="list-style-type: none"> <li>(1) Sri Sasadhar Sahoo, Dy. Directors of Mines;</li> <li>(2) Sri Bijay Kumar Nandi, Dy. Directors of Mines;</li> <li>(3) Sri Manas Ranjan Mohanty, Dy. Directors of Mines;</li> <li>(4) Sri Madan Mohan Biswal, Dy. Directors of Mines;</li> <li>(5) Sri Routray Murmu, Mining Officer;</li> <li>(6) Sri Ramesh Chandra Mahalik, Mining Officer;</li> <li>(7) Sri Ashwin Kumar Mahanta, Sr. Inspector of Mines;</li> <li>(8) Sri Mangala Charan Hembram, Sr. Inspector of Mines;</li> <li>(9) Sri Chinnappa Parameswaran, Asst. Controller of Mines, IBM, Kolkata;</li> <li>(10) Sri Anupam Nandi, Sr. Asst. Controller of Mines, IBM;</li> <li>(11) Sri Tapan Kumar Rath, Dy. Controller of Mines, IBM;</li> <li>(12) Sri Tusharkanti Khatua, CTO, Jajpur Circle; and</li> <li>(13) All other officers of IBM and other Departments who are stated in this Chapter of M/s. Serajuddin &amp; Co.</li> </ol>	
9	<p>(i) The records of the Dy. Director, Mines reveals that large scale illegal extraction and dispatch has been detected with reference to the estimation by IBM. The production dispatch figures from the year 1997 to 2009, as mentioned below, indicates that the production from the year 2006 onwards was proportionately very high indicting illegal extraction and dispatch, as found during JPV as well as from the records of the Dy. Director, Mines, Joda.</p> <p>As per the records, from the year 1997 to September, 2009; a quantity of 1,33,07,714 MT had been excavated and a quantity of 1,15,26,895 MT had been dispatched. Further, by adding the previous balance of 27,154 MT at the end of the year 1997, the total book balance should come to 18,07,973 MT. During JPV, the actual physical stock of ore was found 14,81,374.203 MT. Thus, a quantity of 3,26,598.797 MT iron</p>	<p><b>Government of Odisha</b>  Joint Physical Verification (JPV) was done in 1998. An area of 114.391 hectare was found to be mined which includes plot-606 of Balda Mouza. On 11.12.1998, forest diversion was approved over 24.446 hectare of Revenue Forest which was valid up to 10.12.2008. The validity was extended vide Ministry of Environment and Forests' (MoEF) letter dated 23.5.2009 and was made co-terminus with the lease i.e. upto 2.12.2017. The User Agency was allowed to operate in the broken DLC area in pursuance of the recommendation of Central</p>



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	<p>ore worth Rs.163,29,93,985/- has been illegally dispatched from the lease during the above said period without any permissions.</p> <p>(ii) From the records, it is found that Sri Aswinin Kumar Mahanta, Sr. Inspector Mines, Sri Routray Murmu, Mining Officer and Sri Madan Mohan Biswal, Dy. Director, Mines have been visiting the mine and giving reports on the verification of stock and stack. Hence, it is inferred that they have allowed dispatch of the iron ore so illegally extracted from the DLC forest land. On the contrary, the mining officials have submitted reports during the year 2008 that there are no illegal mining activities beyond the permitted area.</p>	<p>Empowered Committee (CEC) vide MoEF letter dated 12.3.2012. Therefore, the excavation from the virgin forest land in the recent past cannot be treated as illegal. However, a case has been booked for mining beyond the permitted area and prosecution submitted in the Court of JMFC, Barbil.</p>
10	<p>M/s. Serajuddin &amp; Co. had submitted a proposal for diversion of forest land on 26.12.1991 to DDM, Joda. The same has been submitted to DFO, Keonjhar, vide letter No.1652 dated 31.01.1992 with the details of land which is as under:- Total area : 335.594 ha. Forest area : 38.183 ha. Surface right within forest area : 5.908 ha. Broken up area prior to 25.10.1980 : 2.246 ha.</p> <p>During JPV conducted by Forest and Mines Department on 16.12.1998, an area of 116.311 ha. was found as total non-forest land broken and <b>an area of 5.908 ha. was found as total forest land broken</b>. The actual broken up area before 25.10.1998 was 1.618 ha.</p> <p>The new virgin forest land had been broken from 10.05.1992 to 16.05.1998 which was about 4.290 ha. The proportionate dispatch of iron ore from 4.290 ha. comes to 4,283.723 MT and the cost thereof comes to <b>Rs.21,41,861.50 (i.e. @ Rs.500/- per MT)</b>. M/s. Serajuddin &amp; Co. and Sri Sasadhar Sahoo, DDM, who had allowed mining operation beyond the broken forest land after knowing the same since 10.05.1992, are liable for the same.</p> <p>During the year 1996 only, the mining lease holder had been allowed dispatch of 2,58,490 MT against the average dispatch of around 50,000 MT in the previous years for which Sri Sasadhar Sahoo, DDM and the IBM Officials are responsible.</p>	<p><b>Government of Odisha</b> The mining lease was jointly inspected on 22.1.1996 which revealed that 1.618 hectare of forest land had been broken as on the date of verification. During joint verification on 16.12.1998 by Forest &amp; Mining Department, the total broken up forest area was found to be 112.773 hectare w.e.f. August 1998, the non-forest land in the mining lease was treated as deemed forest and hence, there is increase in the broken forest area. The observation of the Commission that the broken up forest area at the time of joint verification was 5.908 ha as per JPV conducted on 16.12.1998 is not supported by the report of the JPV teams and hence, not agreed to.</p> <p>Illegal mining in respect of 4,290 hectare in forest land without De-Reservation Proposal (DRP) clearance has been investigated and Charge Sheet filed by Vigilance against the mining officials and the lessee in the Court of Special Judge Vigilance, Keonjhar.</p> <p><b>Ministry of Mines</b> The Ministry has directed the IBM to inquire and fix responsibility for failure on the part of any officers / officials of IBM in this regard.</p>
11	<p>The DFO, Keonjhar has not submitted the proposal for diversion of 111.965 ha. of DLC forest land till the date of JPV, i.e. 11.11.2009. It is found that on 03.02.2007, the draft proposal was prepared after JPV by mentioning the NPV of Rs.6,49,39,700/- and the cost of value of timber of Rs.11,94,383/-. Sri Pradip Raj Karat, IFS, DFO did not submit the DRP. M/s. Serajuddin &amp; Co. has deposited Rs.17,03,75,780/- on 26.07.2010 towards the NPV for the entire forest land as per the recommendation of CEC. It is to state here that NPV has to be paid after Stage-I approval.</p>	<p><b>Government of Odisha</b> Regarding payment of Net Present Value (NPV) prior to Stage-I for the entire forest land, payment has been made in pursuance of the recommendation made by the Central Empowered Committee (CEC) in its report dated 26.04.2010. Accordingly, the lessee has paid NPV of Rs. 17,03,75,780/-.</p>

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12	<p><b>Violations noted by Vigilance Team:</b> The violations, noted through JPV by Vigilance Team, are as under:—</p> <ol style="list-style-type: none"> <li>(1) The lessee has crossed the lease boundary to an extent of 1.5 mtrs. by dumping over burden in between Pillar Nos.59 to 60.</li> <li>(2) The safety zone was encroached by excavating the land to an extent of 3 mtrs. width and 2 mtrs. length in between Pillar Nos.59 to 60 from Pillar No.59.</li> <li>(3) There was old excavation having dense vegetation from boundary Pillar Nos.46 to 47 and it exceeds 15X6 mtrs. beyond the boundary lease area and the safety zone portion in between ML boundary Pillar Nos.8 to 9, as encroachment.</li> <li>(4) It is found that major portion of Plot No.606 is coming under DLC virgin land. The DLC virgin area of 0.522 ha. at Plot No.606 (Block-B) in Mouza-Balda, was illegally excavated and the volume of excavation was 46,980 CUM with depth of 9 mtrs. The quarry was recently filled in to cover up the illegal mining and destroyed the evidence. It is found that the mining lease holder has started to cover up such illegal excavation by filling the pit with fresh soil which amount to criminal misconduct u/s. 201 of IPC. 46,980 CUM was arrived on the basis of following calculation:— 0.522 ha. comes to 5,220 Sqm. The CUM is derived by multiplying the height of excavation (9 mtrs.) which comes to 46,980 CUM (5220 Sqm. X 9 mtrs).</li> <li>(5) The mine owner had illegally made a dump yard for the area of 0.868 ha. in DLC area in Plot No.606.</li> <li>(6) Illegal excavation was found in DLC virgin Plot No.1 in K. No.240 Parabat-II under Mouza- Nayagarh outside the broken up pillars from 14 to 15. It is found that illegal excavation was carried out in part of DLC virgin Plot No.1 in Mouza-Nayagarh outside the broken up pillars from 14 to 15. On measurement, it is found that an area of 0.207 ha. has been illegally excavated. The volume of excavation is 10,350 CUM approximately with average height of 5 mtrs. 10,350 CUM was arrived on the basis of following calculation:— 0.207 ha. comes to 2,070 Sqm. The CUM is derived by multiplying the height of excavation (5 mtrs.) which comes to 10,350 CUM (2,070 Sqm. X 5 mtrs.)</li> <li>(7) Near quarry No.4, one screening machine, two excavators and one loader were deployed in DLC broken up area. Near quarry No.7, one screening plant and four excavators had also been deployed.</li> </ol>	<p><b>Government of Odisha</b> Regarding irregularities, cognizance has been taken by the State Vigilance. Case has been booked and prosecution submitted in the Court of JMFC, Barbil.</p> <p>Steps are being taken to recover the cost of ore produced in excess of statutory limits.</p>
13	<p><b>Unlawful mining operations in DLC Forest:—</b> It was found that the mine owner was continuing mining activities in the DLC forest area of 219.951 ha. without DRP clearance. The lessee continued mining operation in broken up as well as in virgin DLC land.</p> <p>Because of unlawful mining operations and extraction of</p>	<p><b>Government of Odisha</b> Notice has been issued for the period 3.6.1979 to 3.12.1997 to pay Rs.21,41,861.61 for unauthorised mining / illegal excavation of ore in DLC forest area. For the remaining period from 3.12.1997, notice will be</p>

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	<p>minerals, value thereof is required to be recovered from the lessee. Said amount is worked out on the basis of the record. The total extraction of iron ore from the illegally excavated pits comes around <b>57,330 CUM</b>.</p> <p>Recovery of percentage of iron ore from the total volume of excavation is <b>40%</b> and the conversion factor of weight has been calculated as per the Approved IBM Plan vide No.2008, dated 04.02.2009 for the period from 2007-08 to 2011-2012. Thus, the total recovery from 57,330 CUM has been calculated as below:-  Recovery of ore : 57,330 CUM X 40%  Weight of ore : 22,932 CUM X 3.5% = 80,262 MT</p> <p>The cost of which comes to Rs.11,23,66,800/- (80,262 MT X Rs.1,400/- average). This quantity of iron ore has been illegally excavated and dispatched by M/s. Serajuddin &amp; Co. in connivance with the mining officials. It is a fact that this pit has been excavated in the recent past.</p> <p><b>Summary of the loss to the Government:</b>  All mining operations by M/s. Serajuddin &amp; Co. from 04.06.1979 to 03.12.1997 were abinitio illegal. During this period, the mining lease holder has extracted 15,15,897.00 MT and dispatched 14,88,743.00 MT quantity of iron ore and the value thereof comes to Rs.14,88,74,300/-.</p> <p>Sri Pankaj Lochan Rout, Sri Pratap Kumar Rath and others (during this period) are responsible for allowing mining operation without valid lease. Sri Sasadhar Sahoo, during whose period, the RML was recommended did not stop the illegal mining immediately, though it was stated in record that M/s. Serajuddin &amp; Co. had been carrying on illegal mining operation since 04.06.1979. Therefore, he is also responsible for criminal liability by extending undue official favour to M/s. Serajuddin &amp; Co.</p> <p>The lessee was allowed to enter into virgin forest and was also allowed to do mining without having approval under FC Act, 1980. The proportionate dispatch of ore from 4.290 ha. comes about 4,283.723MT (i.e. 1,22,060.150 MT/122.239 X 4.290). The approximate cost comes to Rs.21,41,862.00 @ Rs.500/- per MT.</p> <p>Sri Sasadhar Sahoo, DDM, who has allowed mining operation beyond the broken forest land after knowing the same since 10.05.1992, is liable for his misconduct and undue favour to lessee.</p> <p>The lessee had carried out unauthorized mining in the DLC forest land without FC approval. The cost of iron ore in the DLC forest land comes to Rs.10,43,40,600.00 (80,262 MT X Rs.1,300/- average).</p> <p>Sri M. M. Biswal, DDM; Sri Routray Murmu, M.O.; Sri Ramesh Chandra Mahalik, M.O.; Sri Ashwini Kumar Mahanta, SIM and Sri M. C. Hembram, SIM are liable for criminal misconduct for conniving and not taking appropriate action.</p>	<p>issued. Action will be taken in accordance with provisions of law.</p> <p>The Commission's observations that mining activity is continuing over 219.951 hectare DLC forest area without DRP clearance is not agreed to. MoEF, Government of India (GOI) vide letter dated 12.03.2012 had allowed the lessee to work in the broken up DLC area over 112.76 hectare.</p> <p>Regarding illegal working, the matter has been investigated and as per the investigation report, the lessee has exceeded 3.287 ha in virgin DLC for which cases have been booked.</p> <p>Excavation of pits in virgin DLC and filling of pits to destroy the evidence, as discovered during JPV on 16.12.1998, was a serious offence and stringent action will be taken against the user agency.</p> <p>Cognizance has been taken of irregularities noticed by the vigilance team. Cases have been booked and prosecution report submitted in the court of JMFC, Barbil.</p> <p>Regarding continuation of mining operation in DLC forest area of 219.951 hect without forest diversion both in the virgin and the broken area by the User Agency, the Forest and Environment Department has investigated and reported that the lessee is well within the approved area of 24.446 hect Revenue Forest and 112.76 hect of broken DLC.</p>

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	<p>The records of DDM reveals that on 19.08.2007, Sri D. K. Mishra, Joint Director Mines–Cum–CVO, O/o. Director (Mines) had conducted a surprise site inspection of Balda Mines of M/s. Serajuddin &amp; Co. Sri Mishra, in his report dated 19.08.2007, stated that the lessee had developed quarries in between the virgin land eastern side of Station Nos.13 &amp; 14 of Block No. D and western side of Station Nos.13 to 16 of Block No. E, leaving a gap of about fifty feet on the western side of Block No. E. The lessee has developed benches almost in north south direction of eastern side of Block No.D. An area of about 0.8733 ha. within virgin DLC forest in Plot Nos.1 &amp; 2 of village Nayagarh has been worked out, after crossing the broken land in Block No.D. The total volume of excavated ore was found to be 92,903.048 CUM from which a quantity to the extent of 55,429.669 MT iron ore has been illegally excavated from the DLC virgin forest land (0.8733 ha.) in addition to the excavation of 80,262 MT detected during JPV. The cost of 55,429.669 MT of iron ore was calculated approximately to be Rs.7,02,20,963.00 by the DDM, Joda.</p> <p>For this, Sri M. M. Biswal, DDM, Sri Routray Murmu, M.O., Sri Ramesh Chandra Mahalik, M.O., Sri Ashwini Kumar Mahanta, SIM, Sri M.C. Hembram, SIM are liable for criminal misconduct for conniving and not taking appropriate action.</p>	
14	<p><b>Sales Tax:—</b> It is found that M/s. Serajuddin &amp; Co. has suppressed payment of sales tax by submitting fabricating statement on quality and value of the iron ore and thereby has caused a heavy loss to the Government Exchequer to the tune of <b>Rs.13,06,50,441/-</b>.</p> <p><b>Non payment of royalty and sales tax:</b> The M.L holder has sold the iron ore fines of <b>1,06,996 MT</b> without payment of royalty amounting to <b>Rs.20,32,923.00 @ Rs.19/-</b> per MT by manipulating records as discussed earlier in the present lease summary.</p> <p>The cost of <b>1,06,996 MT</b> iron ore comes to <b>Rs.6,96,54,396/- @ Rs.651/-</b> per MT prevailing during the 3rd quarter of the year 2009 (i.e. the relevant period of JPV). The sales tax due to be paid for the iron ore comes to <b>Rs.27,86,176.00 @ 4%</b>, which has been evaded by M/s. Serajuddin &amp; Co. by manipulating the records pertaining to production and dispatch.</p> <p>The Mining Officials, namely, Sri Madan Mohan Biswal, DDM; Sri Routray Murmu, M.O. and Sri Aswini Kumar Mahanta, SIM who have issued passing orders in favour of M/s. Serajuddin &amp; Co. are liable for their criminal misconduct for conniving and not taking appropriate action.</p>	<p><b>Government of Odisha</b> The lessee has been issued notice for payment of royalty, cost of deficit ore on account of discrepancy of stock, and sales tax evasion.</p> <p>The case of under-invoicing was specifically enquired by the Enforcement Wing which submitted Reports of suppression of tax for the year 2007-08 and 2008-09. The assessment year 2005-06 is barred by time limitation. Steps for further enquiry on the issue of under-invoicing and fabricating statement of quality of ore have been initiated for the year 2006-07 and remaining period beyond 2008-09.</p>
15	<p><b>Excess Production:</b> It is found that during the year 1995–96, there was excess production of 1,81,100 MT iron ore and the cost of which comes to Rs.1,81,10,000/-. During the year 1996–97, there was excess production of 2,88,355 MT of iron ore and the cost of which comes to Rs.2,88,35,500/-.</p>	<p><b>Government of Odisha</b> Notice dated 22.04.2013 has been issued to the lessee to explain why the excess production should not be treated to have been raised without lawful authority and the cost thereof recovered. Action will be taken in</p>

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	<p>Sri Sasadhar Sahoo and Late Srinibas Sethi, DDMs who have issued order for dispatch passes, are liable for allowing such illegal production and dispatch. So also, Late Sri S. T. Arsan, Dy. Controller of Mines, IBM, Kolkata had conducted inspection on 07.11.1996 but had not brought on record anything about the deviation of mining plan by having huge excess production during the years 1995-96 and 1996-97 by lessee.</p>	<p>accordance with provisions of law. Action will be simultaneously processed against the DDMs.</p> <p><b>Ministry of Mines</b> The Ministry has directed the IBM to inquire and fix responsibility for failure on the part of any officers / officials of IBM in this regard.</p>
16	<p>The mining plan for the period from the year 2002-03 to 2006-07 was approved on 11.06.2004. The excess production during the year 2004-05 was 2,72,834 MT and the cost of which comes to Rs.57,15,87,230/-. The excess production during the year 2005-06, was 2,94,017.500 MT and the cost of which comes to Rs.63,69,15,409/-. During the year 2007-08, the excess production was 8,12,380 MT and the cost of which comes to Rs.253,86,87,500/-. During the year 2008-09, the excess production was 6,21,617 MT and the cost of which comes to Rs.245,72,52,001.00. For the details, the report of Vigilance Department submitted to the Commission may be referred.</p> <p>Sri Anupam Nandi, the then Sr. Asst. Controller of Mines, IBM conducted inspection on 07.07.2004 and 20.04.2006 and Sri Chinnappa Parameswaran, A.C.M, Kolkata conducted inspection on 09.08.2003 and on 09.05.2005. They have not pointed out the excess production of iron ore as well as the illegal mining operation without mining plan during the period 2004-05 at all. Sri Bijay Kumar Nandi, DDM and Sri Manas Ranjan Mohanty, DDM who have allowed excess production without mining plan from the year 2001-02 to 2004-05 are liable for showing undue official favour to the M.L. holder. Therefore, action should be taken against them.</p>	<p><b>Government of Odisha</b> The delinquent officers of State Government have been charge sheeted in Balasore Vigilance PS Case No. 55 dtd. 19.11.2009. Criminal Case has been filed by Collector, Keonjhar in the Court of JMFC, Barbil under the provisions of Environment (Protection) Act for environmental violations.</p> <p>Notice will be issued to the lessee for recovery of the cost of ore produced in excess of the quantity permitted under different statutory clearances (lowest of all clearances) and action will be taken in accordance with law.</p> <p><b>Ministry of Mines</b> Same as replied in S. No. 8 above</p>
17	<p><b>Violation and misuse of Rule 10 of MCDR, 1988 for modification of mining plan:-</b> The mining plan for the period from 2007-08 to 2011-12 have been approved on 04.02.2009 retrospectively by Sri Ranjan Sahai, controller of Mines, Central Zone, Nagpur. It is found that there was actual production of 19,35,250 MT during the year 2006-07 against the original approved plan quantity of 7,09,474.500 MT. However, Sri Debasis Gouda, Regd. No.RQP/CAL/231/95/A, has mentioned the production as 13,73,350 MT which was not correct. Not only this, he has calculated the reserve to be 7,79,43,173.500 MT as on 08.03.2006 against the original estimated reserve of 60,71,328 MT calculated initially, and 92,73,600 MT during 1992. It is apparent that the reserve mine-able ore quantity has been shown 7,79,43,173.500 MT which is 1284% higher in order to facilitate excess production by the M.L. holder in view of the China boom in the iron ore market during the period from 2006-07 to 2010-11. In fact, the IBM Officials have approved very high estimated production to the tune of 900% (approx.) during the period from 2007-08 to 2009-10.</p> <p>Sri Tapan Kumar Rath, Dy. Controller of Mines, IBM who</p>	<p><b>Ministry of Mines</b> Same as replied in S. No. 8 above</p> <p>Mining plan is for the entire lease period. It includes a tentative scheme of mining and annual excavation plan for five years periods. At the end of each five year period, the Mining Scheme is subject to fresh approval. At the start of mining activity a tentative scheme of mining is conceptualized based on preliminary information on geology and reserves. Laying the limits for annual production for the entire life span of a mine, which is generally 20- 30 years, at the time of approval of first mining plan, is not practicable for the following reasons:</p> <ul style="list-style-type: none"> <li>(i) Complete information on geology and reserves is not available;</li> <li>(ii) The mining rights encompass the area from the surface to the core of earth for which advance</li> </ul>

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	<p>has conducted inspection on 08.11.2009 just 2 days prior to the JPV by Vigilance team, has not pointed out the excess production, illegal mining in forest land by the M.L. holder and thereby allowed excess production without taking any legal action under Rules 56 and 58 of MCDR, 1988. Sri Madan Mohan Biswal, DDM who has allowed excess production and issued dispatch passes during the period from 2005-06 to 2009-10 in violation of the IBM plan, is also liable for his criminal misconduct. During the year 2008-09, the mine owner produced 34,53,500 MT against IBM estimation of 28,31,883 MT, which is excess to the tune of 6,21,617 MT. He did not point out in his inspection report for this violation. He had given undue financial advantage to the mine owner by not issuing any notice to the mine owner for excess production.</p> <p>Rather Sri Ranjan Sahai rewarded the lessee by approving mining plan with retrospective effect by covering illegal excess production. There is no such provision in the law. Hence, action should be taken against all the officials for their misconduct, omissions and commissions.</p>	<p>geological information is not available, and anticipated depth of mine changes depending upon many technical factors; and (iii) Change in the method of mining from manual to mechanized;</p> <p>IBM, while communicating the approval for mining plan, including modification in mining plan, mentions that the approval is without pre-judice to any other law applicable to the mine area from time to time whether made by the Central Government, State Government or any other authority. Approval of mining plan does not absolve the lessee from obtaining approvals from and complying with provisions of other Acts and Rules.</p> <p>The Ministry of Mines directed IBM, vide letter no.16/12/2009-M.VI dated 29.10.2010, to ensure that the approvals of modification of mining plans for increase in production shall be with prospective effect only.</p>

**1 (ii) M/s. Serajuddin & Co. Balda Iron Ore Mines (PART-II) - Trading of Iron Ore**

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1	<p>(a) M/s. Serajuddin &amp; Co. had never filed its Annual IT Return till 31.03.2011. It is only on 31.03.2011, it filed an IT Return for the financial year (FY) 2008–09 with the Income Tax Department of Odisha region. This was also because of an income tax search and seizure operation mounted by the IT Department, Bhubaneswar in May, 2008 which brought out rather shocking details about the elaborate methods resorted by this Company and its sister concerns for <b>completely evading payment of income tax</b>. In the wake of the said search operation, the partners of the Company first divulged an undisclosed income of <b>Rs.90 Crores</b> and paid a sum of <b>Rs.23.6 Crores</b> towards evaded income tax. But soon after, the Company retracted its declaration and brazenly defied every attempt of IT Department to realize the evaded tax which the Department finally put at a staggering value of <b>Rs.443 Crores for the FY 2002–03 to 2008–09</b>.</p> <p><b>The sum of these percentage shares, indicated by the Company in its annual Income Tax Return added would come to more than 100%. Hence, this requires further verification.</b></p> <p>(b) <b>Analysis of documents seized by the IT Department during its raid in the year 2008</b> The findings of the IT Department – pieced together from the documents seized, books of accounts, incriminating papers, bank accounts of the group companies, internal letters, memos, computer hard drives, e-mails vouchers – depict a series of irregularities, violation and financial crime that had been committed by this Company in course of the period under consideration, with a view to maximize its wealth by evading its tax liability. <b>If the only amount that the Government gets out of mining, royalty and taxes, are evaded through such devious means then there will be very little justification for private mining.</b></p> <p>(c) <b>Suppression of iron ore grade at the time of sale</b> <b>It may be noted that as per existing Export–Import Policy in the country, iron ore with Fe content exceeding 64% is prohibited from being exported directly by a private company.</b> By deliberately downgrading the Fe content of iron ore from <b>+65% to +63%</b> as has been documented in the report of the IT Department, the lessee could have violated the above Policy and helped in draining high quality ore outside India.  The bills were prepared by the Company simply at a much lesser rate per MT of the iron ore than the prevailing market price of the same grade of iron ore in the same area.  Many of these sales also have been made to group companies where one of the Directors of M/s. Serajuddin &amp; Co. also functions as a Director or owner of the other Company. Transaction between such related entities is bound to raise the question, even in absence of any evidence about the price being at arm's length. The financial dealings between the lessee and the related group Companies merit a detailed investigation by an expert agency, since under-invoicing can be easily done among these inter-related companies through mutually agreed lower price for a given transaction. Evidence of the same are clearly documented at various places in the IT Assessment Orders in the</p>	<p><b>Government of Odisha</b> In the Balasore Vigilance Police Station Cases dated 19.11.2009 relating to offences in respect of Balada iron ore mines of M/s Serajuddin and Co. and No. 54 dated 18.11.2009 relating to Guruda Manganese Mines charge sheet have been issued against Government officials and other persons.</p> <p>Public Interest Litigation (PIL) petitions have been filed in the High Court of Orissa seeking transfer of mines cases to CBI. As the matter is being considered by High Court, Orissa and is sub-judice, therefore, there is no need for investigation by the CBI at this stage.</p> <p>The State Government agrees with the recommendation of the Commission that the society should get maximum share in the transaction of natural resources (public property) and that the National Policy shall make the benefits out of the resource boom accruable to the State and not to private mine owners as windfall profit.</p> <p><b>Department of Revenue, Ministry of Finance</b> The matter is being examined from direct / indirect tax violations and also from the enforcement angle. Appropriate action would be taken after ascertaining the violations of specific Acts/ Regulations by the respective agencies like Central Board of Excise and Customs, Central Board of Direct Taxes, Directorate of Revenue Intelligence etc.</p> <p><b>Ministry of Mines</b> The Government has introduced the MMDR Bill, 2011 in the Lok Sabha on 12<sup>th</sup> December 2011 which, inter-alia, proposes to grant prospecting licences and mining leases by competitive</p>

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	<p>year 2010 which were passed against this Company and its associates and copies of which have been made available to the Commission.</p> <p><b>Related Companies who served as conduit for under-invoicing:—</b></p> <ol style="list-style-type: none"> <li>1. M/s. Serajuddin &amp; Co. (P) Ltd.</li> <li>2. F. Serajuddin Exports</li> <li>3. Yajdani International Pvt. Ltd.</li> <li>4. Sarosh Alizah Mining</li> <li>5. Alizah International Pvt. Ltd.</li> <li>6. Fahmida International Pvt. Limited</li> </ol> <p><b>Companies created by family/relatives/partners and used for sales suppression:—</b></p> <ul style="list-style-type: none"> <li>• Yazdani International</li> <li>• Alizah International Private Limited</li> <li>• Serajuddin &amp; Co. Private Limited</li> </ul> <p>For the other companies, details should be collected during further investigation.</p> <p>(d) <b>Inflated expenditure and evasion of Income Tax</b></p> <p>The records, seized by the IT Department, show that the payment supposed to have been advanced to these mining contractors, were not for any real service. The modus operandi was that these mining contractors would receive the money and withdraw the money immediately afterwards to return back the entire amount <b>minus</b> their commission to the parent Company in cash. Thus, there was an internal circulation of (black) unaccounted money worth crores of rupees through such back-handed cheque-to-cash arrangement.</p> <p>The names of some raising contractors, who first received huge sums in cheque from M/s. Serajuddin &amp; Co. towards raising service and then returned back most of that in cash after keeping a nominal "commission" amount for themselves, are as follows:—</p> <ul style="list-style-type: none"> <li>• Modern Mining Pvt. Limited, Company</li> <li>• Sarosh Aliza Mining, Proprietary Concern</li> <li>• S. M. Enterprises, Firm</li> <li>• Trinity Commercial Pvt. Limited, Company</li> <li>• D. K. Naik, Individual</li> <li>• Zafar Hayat, Individual</li> <li>• Gobardhan Matia, Individual</li> </ul> <p><b>It is indeed surprising that how the entire business of such a big mine operation was being carried out without keeping even the most basic records which are required for any business/ mine operation. Not only that, iron ore production record is required to be maintained for payment of royalty and other taxes.</b></p> <p>One such raising contractor, Zafar Hayat, against which M/s. Serajuddin &amp; Co. has billed considerable raising expense, <b>told to the IT authorities that he never maintained any books of account or any voucher [Page 116 of AO]</b>. But it is seen that this ghost mining contractor, who operated in financial vacuum, was still being paid huge amount by another Company, M/s. Thriveni Earthmovers Pvt. Limited who is supposed to have been engaged</p>	<p>bidding in areas where mineralization is known.</p> <p>The recommendation of the Commission for e-auction of iron and manganese ores will be examined in consultation with State Governments and the concerned Ministries of the Government of India.</p> <p>The Government of Odisha has sought sanction of Central Government for prosecution of six IBM officers.</p> <p>The Central Government on careful consideration of the Report of the Superintendent of Police, the Chief Vigilance Officer (CVO) of IBM, administrative division and the materials available on records was of the view that it did not reveal commission of any offence under section 13(2) read with section 13(1)(d) of Prevention of Corruption Act, 1988, 420/120-B of Indian Penal Code, section 21 of the MMDR Act, 1957 and section 2 of Forest Conservation Act, 1980. Therefore, the Central Government did not grant sanction for prosecution against officials of IBM. However, the CVO, IBM had been directed to investigate the matter and furnish report whether any Departmental action lies in the matter. The CVO, IBM has submitted the Report in this regard which is under consideration of the Government and appropriate action will be taken on the report.</p> <p>The Ministry has further directed the CVO, IBM to investigate the matter and furnish report whether any Departmental action lies in the matter in respect of IBM officials whose prosecution has not been sought by the Government of Odisha.</p>



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	<p>as raising contractor by M/s. Serajuddin &amp; Co. since the year 2010–11.</p> <p>The scale of economic offenses committed can only be gauged, when one considers that it is against these contractors, who did not observe even a modicum of financial accounting, that a total expenditure of <b>Rs.320 Crores</b> had been booked by M/s. Serajuddin &amp; Co. rendering this huge sum tax–deductible expense for the period under IT scrutiny.</p> <p><b>Thus, the expenditure, claimed by Serajuddin &amp; Co. as made towards raising service by various raising contractors, was found by the IT Department to have been inflated by huge margin.</b></p> <p><b>This is a very significant manipulation as the total such raising expenditure booked by Serajuddin &amp; Co. has been stated to be nearly Rs.320 Crores for the period under tax scrutiny.</b></p> <p>The lessee has submitted some “agreements” entered into between <b>M/s. Serajuddin &amp; Co.</b> and <b>contractors</b> without stating any references and dates. <b>All such documents require further investigation by the competent Central Agency.</b></p> <p><b>(e) What the Income Tax Department's Report did not include?</b>  The Income Tax Department, in its Assessment Order for the year 2008–09 (<b>Para 4.1</b>), has taken into consideration the dispatches of <b>18,86,817 MT</b>. The lessee, in its submission to the Commission, submitted that the dispatch and sale for that year (i.e. 2008–09) was actually <b>26,29,292 MT</b>. This indicates a difference of nearly <b>7,42,475 MT</b> between data assumed by the IT Department for calculating tax – evasion and data made available to the Commission by the Company. The difference works out to be <b>40% more than</b> what has been taken into consideration by the IT Department in its assessment for that year. This could be taken into consideration during future investigation/ assessment by the IT Department.</p> <p>As it is noted that the lessee was continuously having the production and dispatch of iron ore since the year 1980 onwards, yet till the search and seizure made by the Income Tax Department in the year 2008, it had not file any IT return for any previous year, as revealed from the submission made by the Income Tax Department to the Commission. It is also noted that even till today, M/s. Serajuddin &amp; Co. has not filed Income Tax returns for the years from 2002–03 to 2007–08.</p> <p><b>(f) Inconsistencies in the Income Tax returns submitted to Income Tax Department</b>  The gross receipt for the year 2009–10 has been shown as <b>Rs.98.56 Crores</b> in the IT return submitted by the Company on 31.03.2012. The data for dispatch of iron ore, as per the Mining Department of Odisha, shows a sale quantity of <b>6.67 Lakh MT of lumps</b> and approximately <b>5 Lakh MT of fines</b>, totaling around <b>11.67 lakh MT</b>. The same dispatch figures are also submitted by the lessee to the Commission. Considering even a modest average of <b>Rs.2,000/-</b> per MT for lumps and <b>Rs.1,000/-</b> per MT for fines, the Sales Turn Over of the Company should have been in the region of at least <b>Rs.180 Crores</b>. <b>Thus, what has been declared to the IT Department seems to be at least half of the figure reflected by the Company in its latest IT return.</b> This aspect</p>	

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	<p>needs a deeper investigation by the appropriate authority, as it has immediate financial repercussion on the public exchequer.</p> <p>After declaring a gross receipt of just <b>Rs.98.56 Crores</b>, the Company shows a huge expense figure of nearly <b>Rs.70 Crores</b> which is tax-deductible. The final <b>Profit before Tax (PBT)</b> declared by the Company for the year is an abysmally low figure of just <b>Rs.3.75 Crores or just around 4% of the Annual Sale</b>. On this, the tax liability of the Company comes to a paltry amount of <b>Rs.1.5 Crores or less than 2% of its gross sales receipt</b>.</p> <p>It is to be noted that the mining activity normally has very high profitability because of the low cost/expense involved in mechanized ore- raising. The PBT, as a percentage of turnover, reaches as high as 75% for even Government Company like NMDC. The IT Department, after analyzing the internal documents, ledgers &amp; books of accounts seized from the very same Company, had arrived at a consistent 5-years average <b>Profit figure as 70% of Annual Sale [See Page 124 of AO for FY 2008-09, Annexure: A]. But what the Company has shown in its latest return, is a figure of 4% profit on sale, yielding almost nothing as Income Tax payable to Government.</b></p> <p>The deductions and expenditures, booked in this Annual return, appear highly suspect. Going by the modus-operandi adopted by the Company to achieve maximum tax-evasion in the past which had been revealed in the IT raid of the year 2008, such maneuvers are hardly surprising. <b>There is a need to have further investigation by taking figures of all years.</b></p> <p><b>IT return of FY 2008-09</b></p> <p>It may be noted that for the year 2008 - 09, the IT Department had estimated a "Turnover" of <b>Rs.402 Crores</b> (which will go up further, if the quantity is 26.54 lakh MT instead of 18.86 lakh MT as has been taken in IT Department assessment). The return for the year 2008-09, filed by the lessee on 31.03.2011, still shows a "turnover" or "gross receipt from business" as <b>Rs.328.35 Crores</b> – which is <b>Rs.80 Crores</b> less than the IT assessment figure. But what immediately catches the attention is again the huge expenditure shown by the Company which has the effect of reducing the PBT and the tax liability of the Company to an abnormally low figure.</p> <p><b>The developments since the year 2010-11 – Analysis of Contract between M/s. Serajuddin &amp; Co. and Thriveni Earthmovers Pvt. Ltd. (M/s. TEMPL)</b></p> <p>From the year 2010-11, it is seen that M/s. Serajuddin &amp; Co. has appointed Thriveni Earthmovers Pvt. Ltd. as its contractor. The contract signed between them has several irregularities and suggests that the mine is controlled by M/s. TEMPL in clear violation of Rule 37 of MCR, 1960.</p> <p><b>The parameters adopted by M/s. TEMPL with different lessees for payment require further investigation by the experts in the field.</b></p> <p>It appears that such arrangements, as expressed in "work order", can be conveniently used as a tool for sale-suppression, under-invoicing and tax evasion of various types. Such arrangements between M/s. Serajuddin &amp; Co. &amp; M/s. TEMPL get further clarified by analyzing the few Income Tax statements of M/s.</p>	

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	<p>TEMPL.</p> <p>(g) <b>The Contractor paying to the Employer</b>  On close scrutiny of the TDS statement of M/s. TEMPL, it appears that considerable payment has been made by it to other mining contractors including to the associated group companies of M/s. Serajuddin &amp; Co.</p> <p><b>If M/s. TEMPL is the raising contractor and M/s. Serajuddin &amp; Co. has been described as its (TEMPL's) Employer in the Contractual Agreement, then why considerable payment has been made by M/s. TEMPL to the group companies of M/s. Serajuddin &amp; Co.?</b></p> <p>The existence of such huge amount of payments being made by the Contractor to the Employer or to the Employer's group companies is indicative of the fact that <b>M/s. TEMPL may not merely be a raising contractor but actually an entity who controls the entire Mine by proxy.</b></p> <p>(h) <b>The working manner of lessee as could be seen from the reports of Vigilance and Income Tax Departments; it reflect on the poor administration of the State Government and disregard with impunity to the law. The implementing and controlling agencies of the State seemed to be either acting in connivance or were helpless and silent spectators.</b></p> <p>There is a large difference between the trading of general goods and the trading of natural resource i.e. iron ore. Iron ore is a public property and is not hereditary property of the lessee. It is the State who is the owner of these natural resources and holds the same as trustee of the people of this country. Mining of ore is a privilege extended to the lease holder out of the public resource owned by the lessor i.e., the State, based on the presumption that he has the necessary technical know-how and capability to develop these resources in a manner beneficial to the public at large. It is proven logic that it is the Society who should get maximum share in the transaction of its own property so that maximum welfare can be ensured to its citizens.</p> <p>The every national policy and the regulatory ecosystem of the country should, therefore, be attuned and strengthened in such a manner that it shall make the benefits out of this once-in-a-half-century resource boom accruable to the State and not the windfall profit to a private mine owners. Shared resources must ensure shared benefits to the Society and skewed in favour of the fortunate few.</p> <p>As seen from the facts and circumstances, in the entire matter, the Commission recommends for inquiry as per law by the Central Bureau of Investigation.</p>	

## 2 M/s. Ram Bahadur Thakur Limited - Kolha Rudukela & Katasahi Manganese Mines

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1	<p>The Commission has also taken into consideration the Vigilance Enquiry Report of the State Government. It is to be stated that the facts, figures and comments which are noted hereinafter, are taken from the Vigilance Enquiry Report.</p> <ol style="list-style-type: none"> <li>1. For the aforesaid mining lease, after enquiry by the State Government, it is found that the M/s. Ram Bahadur Thakur Limited (RBTL) has indulged in illegal mining activities for extraction of manganese ore in the proposed area which is yet not notified for manganese lease.</li> <li>2. Winding up order of RBTL has been passed by the Hon'ble High Court of Patna in Company Petition No.6 of 2006 on 31.07.2008.</li> <li>3. The mining lease was originally held by Late Shri S. N. Sen for a period of 20 years with effect from 15.03.1953. After expiry of lease term, the area was thrown open for re-grant w.e.f. 25.09.1975 vide Government Notification No. 7737, dated, 06.08.1975. As a result of this, the area was granted in favour of Hindustan Steels Limited (Steel Authority of India) by Mining and Geology Department vide Proceeding No.10240/MG, dated 4.08.1979 for manganese ore w.e.f. 16.01.1980 for a period of 20 years. The said area was again thrown open for re-grant by Department of Steel &amp; Mines, vide Notification No.8737/SM, dated 25.07.1991. The reason for throwing open in the mid of the lease period is not known and, therefore, it requires further inquiry.</li> </ol>	<p><b>Government of Odisha</b></p> <p>Notice dated 26.11.2012 was issued to S.N. Das Mohapatra, the lessee adjoining to the applied area of M/s Ram Bahadur Thakur (RBT) why a sum of Rs. 54.12 crore should not be recovered towards cost of illegally mined ore under section 21(5) of MMDR Act, 1957. As the exact pecuniary liability of S.N. Das Mohapatra could not be established with certainty during hearing, it was observed that it would be prudent to carry out further investigation to ascertain the extent of liability. The High Court, Orissa has directed for maintenance of status quo as on date in W.P. (C) No. 13863 of 2012. Further action will be taken in the matter after vacation of stay by the High Court.</p> <p>Regarding allegation of illegal mining in proposed mining lease of M/s Ram Bahadur Thakur Ltd. and in the mining lease area of S. N. Das Mohapatra at Bhuyan Rudukela, Kolharudukela and Katasahi Manganese Ore mines, a criminal case was registered by Odisha Vigilance vide Balasore vig. Case No. 35 dated 10.08.2009 against Sri Madan Mohan Biswal, Ex-DDM, Joda and 8 others for showing undue official favour to Sri S. N. Das Mohapatra and Sri Shakti Ranjan Das for illegal mining in forest land and beyond the mining lease area and illegally extracting manganese ore of 52,376 MT causing loss to the tune of Rs. 54,37,67,632/- to the Government.</p> <p>Charge sheet No. 46 dated 1.12.2010 was filed in the court of Special Judge Vigilance, Keonjhar. Cognizance has been taken by the court on 7.12.2010 and the case is under trial.</p> <p>As to throwing open the area for regrant in the middle of the lease period, the matter will be looked into and action will be taken as per provisions of law.</p>
2	<p>The DFO failed to take note of the encroachment in this lease area with best reasons known to him. The DFO should have taken immediate action to stop the illegal mining in the area and also should have filed criminal case, after investigation, as the area in question is part of protected forest, as defined by Section 81(4) of the Orissa Forest Act, 1972.</p> <p>It is to state here that the area in question where the illegal mining had taken place, is a protected forest under Section 81(4) of the Orissa Forest Act, 1972. The provisions of Sub-sections (2) and (3) of the said Section shall be applicable mutatis mutandis. Hence, by</p>	<p><b>Government of Odisha</b></p> <p>The DFO during inspection observed some irregularities which has been recorded in the inspection report.</p> <p>The concerned field officials have been placed under suspension. Disciplinary proceeding have been drawn against the Range Officer. Prosecution Case has been booked against the lessee. The illegally extracted manganese ore to the tune of 24,491.951 MT has been seized on 04.06.2008.</p>

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	the plain reading of the aforesaid Section 81, it is clear that the forest department have all powers to take action for illegal breaking of area, theft of the mineral in the form of illegal mining from the protected forest. Further, the mineral is defined as forest produce under Section 2 of the Orissa Forest Act, 1972.	Action is being initiated under section 37 of Orissa Forest Act 1972 for illegal removal of minerals from the Protected Forest.
3	<p>It is to be stated that the Principal Chief Conservator of Forest has not taken any action in the matter, even after submission of the detailed report by the DFO vide his Memos dated 15.05.2009, 15.07.2009 and 12.08.2009, as revealed from letter No.86/C/1F (FU&amp;FP) FP-44/2009, dated 24.08.2009 of the Principal Chief Conservator of Forest written to the Commissioner- cum-Secretary to Government, Forest and Environment Department, Bhubaneswar.</p> <p>This should be taken as a part of inquiry to be conducted at any point of time together with flagrant illegal mining wherein the quantity of about 52,376 MT of manganese ore of a market value of Rs.54,37,67,632/- is involved.</p>	<p><b>Government of Odisha</b> In response to DFO's memo 12.08.2009, Principal Chief Conservator of Forests (PCCF) (Protection &amp; Sustainable Management) vide memo dated 08.09.2008 had sought specific clarification in the matter. Therefore, it is not true that PCCF has not taken any action on the reports of the DFO.</p> <p>The mining lease of S.N. Das Mohapatra has been determined by the State Government vide Proceeding dtd. 18.06.2012.</p>
4	<p>The State Government, after giving full opportunity to the M/s. RBTL, has refused to grant the mining lease in favour of M/s. RBTL under the Rule 26(1) of MCR, 1960 vide proceeding No.4630, dated 20.07.2010.</p> <p>Against the proceedings No.4630, dated 20.07.2010 of State Government, M/s. RBTL has filed Revision Application under Rule 54 of MCR, 1960 before Government of India, Ministry of Mines on 24.08.2010. Shri Suresh Kishnani, Director, Ministry of Mines has conducted the proceedings and issued an order under Section 30 of the MM(DR) Act, 1957 on 26.09.2011. Shri Suresh Kishnani has set aside the impugned order dated, 20.07.2010 of the State Government of Orissa and allowed the Revision Application with consequential benefits.</p> <p>The Revisional Order appears to have been passed by ignoring hard facts and legal provisions.</p>	<p><b>Government of Odisha</b> The State Government has challenged the orders of the Revisional Authority before the High Court, Orissa. The matter is sub-judice by the High Court, Orissa.</p>
5	<p><b>Recommendation:</b> Large numbers of complaints have been received by the Commission in this particular case of illegal mining. Based on records, reports, satellite images and others, it is <i>prima-facie</i> established that there had been illegal mining taken place by full involvement of M/s. RBTL, Shri S. N. Dasmahapatra, with the connivance of Mining, Forest, Revenue officials at field level as well as at State level. The political shelter cannot be ruled out in such a large scale illegal mining for a long period. Hence, <b>the Commission recommends to hand over this matter to Central Bureau of Investigation for further investigation as per law. Further, the State Government should initiate action to recover the value of the illegally extracted manganese ore.</b></p>	<p><b>Government of Odisha</b> This matter relates to an application for mining lease which has been refused by the State Government. The matter including recovery of price of the ore illegally raised is sub-judice in the High Court of Orissa. The State Vigilance has filed charge sheet in the case in vigilance Balasore P.S. case No. 35 dated 10.08.2009. The Forest Department has initiated disciplinary action against erring officials and filed prosecutions against the lessee. Therefore, there is no justification for investigation of the case by the CBI at this stage.</p>

### 3 Soumendra Nandan Dasmohapatra Kolha – Rudukela Manganese Mines

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1	The lease area, in question, is the land of the tribals and notified within Schedule V of the Constitution of India. It is not known how the scheduled land has been granted to the lessee for mining purpose, though there are various Supreme Court orders, stating that the transfer of lease from the tribals to any other person in the scheduled area is prohibited and void and of no effect.	<b>Government of Odisha</b> The Odisha Regulation 2 of 1956, which prohibits transfer of land belonging to tribals in Schedule Area, will be invoked to restore land to the original tribal owners. Instructions were issued to all the Collectors of the State that the grant of surface right or giving consent for mining operation by a tribal to a non-tribal would amount to transfer and would be null and void and the lessee, therefore, liable for eviction.
2	<b>Environmental Clearances (EC):</b> Further, there are all possibilities that the extraction could have been done much more from outside the leased area, as alleged in the criminal cases filed against him. Be it as that may be, the lessee has indisputably extracted 32,930 MT of manganese ore without having approval under the E.P. Act, 1986 (EIA Notification dated 27.01.1994) and without approvals under Water and Air Acts. Hence, it is considered as the illegal extraction of ore without lawful authority and attracts Section 21(5) of the MM(DR) Act, 1957. Therefore, action should be taken to recover the market value with penalties along with the other penal punishments.	<b>Government of Odisha</b> The High Court of Orissa has ordered maintenance of status quo in the matter. Further action will be taken on vacation of the interim order by the High Court, Orissa.
3	<b>Forest area:</b> During the hearing, the Forest Department has submitted that out of 36.474 ha., there is an area of 15.01 ha. of forest land. The lessee denies this claim of the Forest Department. Hence, the District Collector with the Forest Department should verify the records and take action accordingly on the outcome of the verification.	<b>Government of Odisha</b> A joint visit by the District Collector and representative of the Forest Department will be conducted to take necessary action in the matter.
4	<b>Encroachments outside the leased area:–</b> The Google Images of the lease area and the surrounding area taken for measurements of encroachments and cross verification are shown at Annexures: 2 and 3 respectively. From the images, the working inside the lease (pits) has been observed at the blocks numbers for 6.714 ha. (Annexure: 1). It is also clear that there is an encroachment by extension of mining pits towards the eastern side against the blocks 237, 338, 339 and 340 in the reserve forest area to an extent of 11.40 ha. which is taken as encroachment.  The encroached area is calculated about 11.4 ha. The working pit, inside the lease area, is very less, while it is more outside the lease boundary. Also, the quality of the manganese ore is found inferior in the leased area than available outside in the forest land.  The encroachment is also confirmed by the inspections of various Committees and officials who visited the lease area from time to time. It is	<b>Government of Odisha</b> Exercise will be undertaken for accurate assessment of the volume/quantity of ore excavated from the pit.  A criminal case was registered against Sri Madan Mohan Biswal, Ex-DDM, Joda and 8 others for showing undue favour to Sri S. N. Das Mohapatra and Sri Shakti Ranjan Das for illegal mining in the forest land and beyond the mining lease area by extracting manganese ore of 52,376 MT causing loss to the Government to the tune of Rs. 54,37,67,632/-. The accused in the case include officers of Forest and Mining Department as well as Sri Shakti Ranjan Das, the power of attorney holder of Ram Bahadur Thakur Ltd. who has been arrested on 12.08.2009.  Charge Sheet has been filed against both the lease holders S. N. Das Mohapatra and M/s Ram Bahadur Thakur (RBT), power of attorney holders of RBT and the mining and forest officials etc.

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	<p>admitted fact regarding the encroachment through extension of continuous working pits from inside of the lease to outside the leased area in the forest land.</p> <p>Only the dispute which remains unresolved is that who has carried out illegal extraction of manganese ore by way of illegal mining in this encroached area which is quite extensive and for large quantum of manganese ore. On comparison of satellite images dated 06.12.2005 and 22.03.2012, it is clear that illegal mining took place mainly from the year 2005 to 2010.</p> <p>The State Government has taken a note on the encroachments and handed over this matter to the Vigilance Wing of the State Government. Accordingly, some FIRs and criminal cases have been filed against the officials of Mines Department and others.</p> <p>It is reported that about 52,376 MT of manganese ore has been illegally extracted from the encroached area. The market value with penalty should be recovered along with other penal action arising out of it.</p> <p>Now, the only disputed matter to be resolved is that — who had carried out such large scale illegal mining of manganese and float iron in the encroached area?</p> <p>From the available records, it seems both Shri S. N. Dasmohapatra and M/s. RBTL have joined hands with the full connivance of Government officials at field, Mines Directorate and State Government to carry out this illegal mining. The political shelter for such a large scale mining cannot be ruled out.</p>	<p>Regarding connivance with officials for illegal mining, the State Vigilance has taken steps and conducted investigation in this case including filling of charge sheet in the court of Special Judge Vigilance, Keonjhar. Cognizance has been taken by the court on 7.12.2010 and the case is under trial.</p> <p>Regarding encroachment on Reserve Forest area to the extent of 11.40 hectare, the Forest &amp; Environment Department is taking up physical verification to ascertain the quantum of encroachment and take action under Orissa Forest Act, 1972.</p> <p>There has been no valid consent to operate under the provisions of the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981 after 31.3.2011 and the mine did not operate during 2011-12 &amp; 2012-13. Prosecution has been initiated for violation of the Environment (Protection) Act 1986 (<b>EP Act</b>) in the Court of JMFC, Barbil.</p> <p>The State Government has also determined the mining lease of S. N. Das Mohapatra.</p> <p>The matter of CBI inquiry into illegal mining in the State is sub-judice in the High Court of Orissa. PIL cases filed in this regard are awaiting decision from the High Court. Therefore, there is no need of investigation by CBI at this stage in the matter.</p> <p><b>Ministry of Environment and Forests</b></p> <p>The case shall be examined in detail and appropriate legal action, as required, under the provisions of the Environment (Protection) Act, 1986; EIA Notification, 2006 as amended; and various guidelines / instructions issued from time to time, shall be taken in a time bound manner.</p>
5	<p><b>Recommendation:</b></p> <p>The Commission recommends that this matter should be referred to Central Bureau of Investigation for further investigation to take action as per the law.</p>	<p><b>Government of Odisha</b></p> <p>The State Government has determined the mining lease of S. N. Das Mohapatra.</p> <p>The matter of CBI inquiry into illegal mining in the State is sub-judice in the High Court of Orissa. PIL cases filed in this regard are awaiting decision from the High Court. Therefore, there is no need of investigation by CBI at this stage in the matter.</p>

#### 4 M/s. Sarada Mines (P) Ltd. Thakurani Block-B Iron Ore Mines

Sl.	Gist of Commission's Observations/ Findings / Recommendations	Action Taken Report
1	<p>It is noted here that under Section 6(1)(b) of the MM(DR) Act, 1957, the claim of Sarada family for Blocks "A" and "B" for total area of 4930.20 acres could not have sustained because of excess area to 10 sq. kms. to be held on 18.03.1998 for a single mineral (much before the Government took final decision) by the lessee. The State Government extended undue favour to the Sarada family. Hence, action should be initiated in this regard.</p> <p>Further, M/s. JSPL filed an application on 18.03.1998 to grant the Block "A" (2590.40 acres) for mining lease. Considering the relationship between lessee and M/s. JSPL as would be reflected in later part of this Chapter, this cannot be a coincidence but a well-planned move by the two claimants and the State Government. It is stated that M/s. JSPL is already having a lease of an area of 296.84 ha. of Tantra &amp; Raikela Iron Mines in Odisha by this time (since 03.01.1990). Further, a lease for iron ore has also been approved in favour of M/s. JSPL for an area of 512.43 ha. in the Saranda Forest of Jharkhand which is a continuous forest track to the Keonjhar and Sundargarh Districts.</p> <p>The State Government, in its Directorate of Mines &amp; Geology Dept.'s letter No.III A-12/93-2335/ DMG, dated 24.08.1998, have conveyed the decision to the Deputy Director of Mines, Joda for acceptance of the mining lease of 2340.20 Acres in Block 'B' in favour of M/s. S.L. Sarda &amp; M.L. Sarda.</p> <p>As a result, a mining lease was renewed over an area of 947.046 ha. (2340.20 acres) in Block B of Thakurani Reserve Forest in favour of Shri S. L. Sarda vide proceedings No.1014, dated 11.02.1999 for a period of 20 years. The lease deed was executed on 14.08.2001 for 20 years. What has happened for the period from 1963 to 1998? There cannot be renewal of a lease having a break between first grant and the renewal.</p>	<p><b>Government of Odisha</b></p> <p>The Supreme Court of India through Central Empowered Committee is inquiring into the issue regarding the relation between Sarada family and M/s. JSPL in I.A. No.3629 in IA No.2747-48/2009 in W.P.(C) No.202/1995. Action will be taken as per the decision of the Apex Court.</p> <p>The legality of the lease during the period from 1963 to 1998 will be inquired into and if found unlawful, necessary action will be initiated to recover the cost of the ore raised during the period as per provisions of law.</p>
2	<p><b>Forest Clearance (FC):</b></p> <p>(a) Hence, the statement of 94.024 ha. identified as broken-up area prior to 25.10.1980 after a gap of 18 years in the year 1998-99 is factually incorrect. Due to long history of legal issues, the lease was not operated before 25.10.1980. In fact, it was closed since the year 1962 and there is no lease under MM(DR) Act, 1957 till the year 1998.</p> <p>(b) Secondly, in the proposal submitted for diversion of forest, it is noted that 1,817 trees were enumerated in the <b>broken-up areas</b> in addition with other <b>well stocked natural vegetations</b>. Such areas having naturally grown up trees similar to surrounding ecosystem could not have been considered as broken-up areas.</p> <p>(c) From the record, it is observed that EC was granted on 22.09.2004 but as noted in the FC condition (iii) quoted above, it is wrongly stated that <b>EC approval was obtained</b> from the competent authority as per EIA Notification.</p> <p>(d) In any case, if the EC approval was obtained only on 22.09.2004, it would mean that wrong information was submitted by the lessee for obtaining FC approval from MoEF. It would also mean that extraction of iron ore prior to 22.09.2004 would be illegal and without lawful</p>	<p><b>Government of Odisha</b></p> <p>The assessment of broken up area of 94.024 hectare is based on joint verification carried out by the officials of Forest &amp; Mines Department in 1999. As the verification of land was carried out after a lapse of about 20 years, there is a possibility of bonafide error. The area's vegetation having profuse regenerating capacity, the broken area is likely to acquire the character of Forest with passage of time. This may be possible reason for existence of 1817 trees in the broken up area. The State Government agrees with the suggestion that the pre-80 broken up area may be treated as "area to be open as fresh" and accordingly all consequential regulations may be applied</p>



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	<p>authority. Therefore, action should be taken under Section 21(5) of MM(DR) Act, 1957 for such illegal production of <b>45,03,241=00 MT and other excess, illegal and unlawful production.</b></p> <p>(e) How was the mining allowed without having EC till 22.09.2004? For such lapses, action should be taken against those who are responsible for this illegal act.</p> <p>(f) It is further noted that as per the Condition (iii) of the FC approval (dated 21.06.2001), an area of 94.024 ha. has been allotted for mining stating that approval under EIA Notification has already been obtained from a competent authority which is found factually incorrect and misleading. There is no record whatsoever, in this regard, either submitted by lessee or Government to support the said Condition (iii). In fact, the first EC approval was accorded on 22.09.2004. Therefore, in real terms, the permission under the FCA would only come into force, as per the Condition (xii) of the FC approval from 22.09.2004 onwards.</p> <p>Hence, entire production from 14.08.2001 to 22.09.2004 of a quantity of 45,03,241=00 MT was without any authority. It appears that this has been approved by MoEF due to wrong information supplied by the lessee for Condition (iii) of FC. Therefore, action should be taken against all concerned responsible for such omissions and commissions.</p>	<p>including compensatory afforestation (CA) and other charges.</p> <p>Notice has been issued for recovery of Rs.2845,58,86,840/- from the lessee towards price of the ore raised without necessary statutory clearances. This case will be decided according to law at the earliest.</p> <p>Central Empowered Committee is enquiring into the matter on orders of the Supreme Court.</p> <p>Action according to law will also be initiated against others who are responsible for this lapse.</p> <p><b>Ministry of Environment and Forests</b></p> <p>The case shall be examined in detail and appropriate legal action, as required, under the provisions of the Forest Conservation Act, 1980; and various guidelines / instructions issued from time to time, shall be taken in a time bound manner. The MoEF will also direct the Government of Odisha to take appropriate legal action, as required, under the provisions of the Orissa Forest Act, 1972.</p>
3	<p><b>Environmental Clearance(EC)</b></p> <p>On what basis, 0.15 MMTPA is taken as a base, since the mine was not in operation from the year 1962 to 04.08.2001, is not known.</p> <p>It is pertinent to note here that the first EC was not obtained as per the Condition (xii) of FC dated 21.06.2001. Further, if the production is seen from 22.09.2004 to 29.10.2008, it is observed that there is no relation between the EC cap (phased) imposed by the MoEF and the production from the lease (<b>Table: 1A</b>). There is no hesitation to note that the lessee had a least respect to the restrictions imposed by the approving authority. There is unlawful production to the extent of <b>1,03,14,163 MT</b> during the year 2004 to 2008.</p> <p>Further, the State Government should also take measurement of the pit to know the exact quantity of ore removed from all the pits in the mine on the lines of the quantification done by CBI for the mines in the States of Karnataka and Andhra Pradesh.</p> <p>For the structure (conveyor) established by JSPL outside the leased area in the Reserved Forest (part) and non-forest land, prosecution proceedings under Sections 3A and 3B of FCA, 1980 and under the Orissa Forest Act, 1972 should be initiated against the JSPL/SMPL and officers responsible for it and also against the officers who have</p>	<p><b>Government of Odisha</b></p> <p>Prosecution under the provisions of the EP Act has been initiated in respect of the lease in the Court of JMFC, Barbil for production in excess of valid EC. Action will be taken for measurement of the pits to know the exact quantity of ore removed.</p> <p>For violation committed under Orissa Forest Act (<b>OFA</b>) 1972, cases have been booked and prosecution sent to JMFC, Barbil for trial.</p> <p>The EC limit has been enhanced from 4 million tonne per year (<b>MTPA</b>) to 15 MTPA w.e.f. 29.10.2008 which is subject to acquisition of additional 337.474 hectare of forest land under FC.</p>

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	<p>illegally recommended the diversion of forest land in favour of the lessee whereas mining activities (conveyer belt &amp; others for transportation of ore) do not belong to it (SMPL), instead belongs to JSPL and used by it for its commercial activities. A wrongful approval has been obtained.</p> <p>Excess production since 29.10.2008 onwards (and even before if any) from the upper limit of 4.00 MMTPA is illegal and without any authority and attracts Section 21 (5) of the MM(DR) Act, 1957. Hence, action should be taken accordingly for recovery of loss of processed iron ore. The quantity so comes out is about <b>1,36,70,570=00 MT</b> (the quantity should be added for the year 2012-13) from the year 2008-09 to 2011-12. All other actions against the jurisdictional DDM, Mining Officer and others arising out of this illegality, should be taken accordingly.</p> <p>No action has been taken so far by MoEF wherein CCF/APCCF (Zonal Office, Bhubaneswar) is empowered to file criminal case in this regard.</p> <p>This should be taken note by the MoEF for taking action against the lessee and officers/officials of various ranks, cadres and Departments responsible for this act of flagrant violations.</p>	<p>Analysis of the production figure furnished by IBM suggests marginal increase in production from 2007-08 onwards. The production is around 5 MTPA and reached 6.7 MTPA during 2011-12, which may be from the already diverted forest area. Hence the observation of the Commission is not agreed to.</p> <p>For excess production beyond 4 MTPA, criminal case has been filed by the Collector, Keonjhar in the Court of JMFC, Barbil.</p> <p><b>Ministry of Environment and Forests</b></p> <p>The case shall be examined in detail and appropriate legal action, as required, under the provisions of the Environment (Protection) Act, 1986; EIA Notification, 2006 as amended; and various guidelines / instructions issued from time to time, shall be taken in a time bound manner.</p>
4	<p><b>Violation of Rule 37 of MCR, 1960</b></p> <p>It is to state that the lessee has transferred the interest of the lease hold area to JSPL by allowing to construct and carry out crushing, screening of the ROM purchased from lessee and other allied activities including the establishment and make use of various infrastructures in the lease hold area without having approval of the competent authority under Rule 37 of the MCR, 1960. <b>How can such a business involving hundreds of crores of rupees take place?</b></p> <p>With these acts of lessee, it is not only the violation of Rule 37 of the MCR, 1960 but clear evasion of VAT, Income Tax, money laundering, service taxes and other applicable taxes which require a thorough investigation and follow of action by an independent agency.</p> <p>It is stated here that Deputy Commissioner of Commercial Taxes, Barbil has raised a demand for evasion of taxes (VAT) (for the period from 01.04.2008 to 31.03.2011) including penalty for Rs.397.12 crores. The VAT evasion before 01.04.2008 is in addition. How the State machinery can ignore such a high rank illegalities?</p> <p>The entire iron ore production except a small quantity of fines and sized ore (as submitted by the lessee to IBM and State Government) were/are sold to M/s. Jindal Steel &amp; Power Ltd. (JSPL), within the lease hold area of M/s. Sarda Mines Pvt. Ltd. (SMPL). The further end use of this ore by JSPL should be further investigated.</p> <p>This unholy arrangement between M/s. SMPL and M/s. JSPL contributed evasion of VAT, Income Tax, service taxes, Money Laundering and other taxes.</p>	<p><b>Government of Odisha</b></p> <p>Show cause notice has been issued and hearing held for violation of Rule 37 of MCR, 1960. This was challenged by the lessee before the Revisionary Authority (RA), Ministry of Mines, GoI. The RA on 22.5.2013 directed the State Government not to pass any final order in the proceedings initiated pursuant to the report of the Committee constituted by the State Government for the purpose.</p> <p>On under-invoicing, a special investigation was made by the Enforcement Wing of the Commercial Tax Department. The authorities have proceeded against Sarada Mines and found that JSPL was a job worker and subsequently entered into an agreement with the dealer and purchased Iron ore calibrated lump ore (CLO) &amp; the Run-of-Mine (ROM) and thereby under-invoicing CLO @ 1/10<sup>th</sup> of the market value. The finding is</p>

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	<p>It is an admitted fact that the entire production of ROM is sold to M/s. JSPL within leasehold area. Once the ROM is sold to a third party, lessee does not have any right over it. It is somebody else's property. Hence, the lessee can not apply for diversion of forest land on proxy with full support from the Government officials. SMPL obtained the approval under FCA illegally.</p> <p>In the light of continuous successive developments and new facts, in the matter as a whole, since the renewal of lease (before and after), prima-facie, it appears that the lessee has committed breach of Rule 37 of MCR, 1960.</p> <p>The contract of extraction of ROM was given to M/s. SMPL even before the transfer of lease to it in violation of Rule 37 of MCR, 1960. Further, all the above said mining activities/operations were in violation of Para 17 of Part VII of lease deed agreement.</p> <p>This Commission has received a complaint from DNA, New Delhi regarding control of M/s. Sarda Mines Pvt. Ltd. by M/s. JSPL through a group of companies. A copy of the said complaint was sent to M/s. Sarda Mines Pvt. Ltd. by this Commission, vide letter dated 16.02.2013 (Annexure: L). Till date, no specific response is received from the lessee, in this regard. As per the allegations, M/s. Sarda Mines Pvt. Ltd. is indirectly financed substantially by M/s. Natma Securities Limited through M/s. Sarda Merchandise Pvt. Ltd. and M/s. Sarda Heights &amp; Dales Pvt. Ltd. It is further alleged that M/s. Sarda Merchandise Pvt. Ltd. and M/s. Sarda Heights and Dales Pvt. Ltd. have substantially controlled over the equity shares of M/s. Sarda Mines Pvt. Ltd. (49.5% each).</p> <p>These two companies are controlled/ financed by M/s. Natma Securities Limited as unsecured loans etc. The Directors of M/s. Natma Securities Limited are/were the Directors of many Associate companies of M/s. JSPL Ltd. having their offices in Delhi, Haryana and others.</p> <p>To know the real control of the mine, this corporate veil is required to be further investigated, layer by layer, to know the exact control/finance of the Thakurni mining lease of SMPL by a Central Agency.</p> <p>It is to be noted here that the mining operations were closed in the leased area from 1962 to 14.08.2001. So, for what purpose and under which circumstances, the consideration money was taken by the lessee to the family members before transfer, are not known. It is also a violation of Rule 37 (2) of the MCR, 1960 in letter and spirit of law.  <b>Is it a sale of the lease to a newly created company i.e. Sarda Mines Pvt. Ltd. or whether a third party is involved for this money transaction, required to be further probed.</b></p>	<p>subject matter of assessment for the years 2008-09 to 2010-11, in which a sum Rs. 497 crore including penalty have been demanded. The dealer filed a WP in High Court, Orissa which directed the party to pay Rs. 13 crore, and the matter is pending in High Court.</p> <p>The assessment year 2005-06 is barred by time limitation. Steps for enquiry of tax suppression have been initiated for the year 2006-07, 2007-08 and remaining years 2011-12 and 2012-13.</p> <p><b>Department of Revenue, Ministry of Finance</b></p> <p>The matter is being examined from direct / indirect tax violations and also from the enforcement angle. Appropriate action would be taken after ascertaining the violations of specific Acts/ Regulations by the respective agencies like Central Board of Excise and Customs, Central Board of Direct Taxes, Directorate of Revenue Intelligence etc.</p>
5	<p>It is to state that the lease was running without the EC approval under EIA Notification from the year 2001 to 21.09.2004 and thereafter excess production has been carried out till date, as explained in this Chapter. The extraction of iron ore about 2,84,87,974=00 MT in this manner has been illegally removed without lawful authority. Hence, action should be taken under Section 21(5) of MM(DR) Act, 1957.</p> <p>It is further stated that two crushers have been illegally established by</p>	<p><b>Government of Odisha</b></p> <p>Same as replied in S. No. (2), (3) and (4) above.</p> <p>Regarding existence of two "land use map" bearing two different signatures of the DFO suggesting the collusion between the DFO</p>

Sl.	Gist of Commission's Observations/ Findings / Recommendations	Action Taken Report
	<p>M/s. JSPL in this lease. There is no approval for the establishment under the F.C. Act, 1980. However, on verification of the records of Forest Department (DFO office), it came to the notice that the map of the proposal under FCA has been changed at the office of the DFO. There are two maps for different signatures. There seems to be collusion between the DFO with the lessee for changing the "land use map" proposals. The State Government should take note of it and initiate action against the concerned DFO.</p> <p>Hence, broken-up forest area, considered for diversion before 25.10.1980, is to be treated as "area to be opened as fresh" and accordingly, all consequential regulations should be applied including compensatory afforestation (CA) and other charges thereof.</p> <p>Further, under the said order of the MoEF dated 21.06.2001, it is stated that for the broken-up area, approval of competent authority has already been obtained, as per the EIA Notification. The said statement is found incorrect and having no backing document either submitted by the Department or by the lessee. Hence, it is considered as a falsely stated condition. (Condition No. 3). Action should be taken accordingly.</p> <p>The MoEF has failed to note about unauthorized establishment of screening plant in the leased area by a different company i.e. JSPL illegally and hence, approval sought by lessee was proxy in nature (the crusher units belong to JSPL and crushed material is transported by JSPL for its own business). <b>Further, the FC approval was obtained much delayed. Therefore, action should be taken as discussed earlier in this Chapter.</b></p>	<p>and the lessee, it is proposed to enquire into the matter for taking suitable action.</p> <p><b>Ministry of Environment and Forests</b></p> <p>Same as replied in S. No. (2) and (3) above.</p>
6	<p><b>Recommendation:</b></p> <p>With the long pending issue of the lease for violation of Rule 37 of MCR, 1960 and other irregularities/illegalities committed at various point of time as discussed in this Chapter, it is found fit to refer this matter for a thorough investigation by Central Bureau of Investigation, as per law. The State Government should also initiate action to recover the losses due to various illegalities</p>	<p><b>Government of Odisha</b></p> <p>Central Empowered Committee is inquiring into the matter on directions of the Supreme Court, therefore, no need for investigation by CBI.</p>

**5 M/s. Mideast Integrated Steels Ltd. (MISL) Roida– I Iron Ore Mines**

Sl .	Gist of Commission's Observations/ Findings / Recommendations	Action Taken Report
1	<p>A mining lease over an area of 104.680 ha. was granted in favour of <b>M/s. K. N. Ram &amp; Company on 23.01.1953 till 22.01.1983</b> for a period of 30 years. It is noted here that the lessee has not submitted lease deed agreement for this period.</p> <p>The lease expired on 22.01.1983 and first RML by indenture dated 03.12.1986 was not permissible in law.</p> <p>The first renewal of mining lease was, therefore, bad in the eyes of law, as deemed extension clause did not exist then.</p> <p>Apparently, since the entire lease area is reserved forest, Forest clearance was required at the time of renewal in the year 1983. However, the same was not obtained. Therefore, there is clear violation of the provisions of FCA, 1980.</p>	<p><b>Government of Odisha</b> The issue of 1<sup>st</sup> renewal in violation of the mining law will be enquired into for taking appropriate action.</p> <p>Regarding the 1<sup>st</sup> renewal of the lease on 23.01.1983 and subsequent transfer of the lease in favour of M/s MESCO on 30.08.1996 without FC approval, the issue has been settled by imposition of Penal Compensatory Afforestation (<b>PCA</b>). PCA for four times the extent of degraded forest over 94.176ha has been stipulated and the User Agency has paid an amount Rs 37,42,200/- towards PCA. As such, the initial irregularities have been reported and subsequently MoEF granted forest clearance.</p> <p><b>Ministry of Environment and Forests</b> The case shall be examined in detail and appropriate legal action, as required, under the provisions of the Forest Conservation Act, 1980; and various guidelines / instructions issued from time to time, shall be taken in a time bound manner. The MoEF will also direct the Government of Odisha to take appropriate legal action, as required, under the provisions of the Orissa Forest Act, 1972.</p>
2	<p><b>Second Renewal by MISL:</b> The lessee has filed delayed second renewal application (Form J) on 25.11.2002. The State Government had condoned the delay, as claimed by MISL under Rule 24(A) (10) of MCR, 1960.</p> <p>The entire area admeasuring 104.680 ha. of lease is the part of reserve forest. The renewal of lease on 23.01.1983 and, thereafter, transfer of lease on 31.10.1996 were done in flagrant violation of the provisions of FCA, 1980.</p>	<p><b>Ministry of Environment and Forests</b> Same as replied in S. No. (1) above</p>
3	<p><b>Illegal Production (in violation of Forest Clearance under FCA, 1980):–</b> The lessee has illegally extracted iron ore from 15.10.2005 to 19.02.2008 to a quantity of more than 40,78,436 MT. The quantity extracted from the years 1983–84 to 1995–96 is required to be added. During this period, there was no authority with the lessee to extract the iron ore from the forest land without prior approval under FCA, 1980. Mining activities are not permitted without having Phase II clearance.</p>	<p><b>Government of Odisha</b> Along with the stage-I approval granted on 04.01.2006, Temporary Working Permission (<b>TWP</b>) was granted from 04.01.2006 to 18.02.2008 in accordance with guidelines under the Forest (Conservation) Act 1980 (<b>FC Act</b>). Therefore the working within the said TWP period cannot be said to be illegal. The production figure during 2005-06 does not suggest illegal raising of iron ore. The allegation of extraction of ores from 15.10.2005 to 19.02.2008 being illegal is not agreed to.</p>
4	<p>It is noted from the note sheet that the EC was granted, despite the lessee having committed serious violations. The then Hon'ble Minister (MoEF) has cleared the project for EC, stating that the clearance is given because, if it is rejected; as it should be, a large number of Coal India Projects /</p>	<p><b>Government of Odisha</b> Notice has been issued under section 21(5) of MMDR Act, 1957 to the lessee for recovery of Rs.2221,21,90,245/- towards cost of excess production beyond different statutory limits.</p>

Sl .	Gist of Commission's Observations/ Findings / Recommendations	Action Taken Report
	<p>Proposals could be adversely effected. From this, it is quite clear that the EC was accorded on the basis of extraneous considerations rather on merits.</p> <p>The quantity of 83,02,177 MT (as per DMG data) has been extracted either without EC or with excess production to the limits prescribed by the MoEF in the EC.</p> <p>Hence, the said production is illegal without lawful authority in the eyes of law and it attracts the provisions of Section 21(5) of the MM(DR) Act, 1957.</p> <p>Therefore, action should be taken to recover the market value of the said illegal production with penalties. Further, action should also be taken against the officials concerned of Mines Department for issuing permits for dispatches / production and also for issuing permits to sell the iron ore in domestic market and for exports in violation of the aforesaid Order of the State Government dated 30.08.1996 and as per the admitted facts stated in Form J submitted by lessee.</p>	<p><b>Ministry of Environment and Forests</b></p> <p>The case shall be examined in detail and appropriate legal action, as required, under the provisions of the Environment (Protection) Act, 1986; EIA Notification, 2006 as amended; and various guidelines / instructions issued from time to time, shall be taken in a time bound manner.</p>
5	<p><b>Violation of Rule 37 of MCR, 1960:—</b></p> <p>The lessee has contracted out all mining operations to M/s. G. S. Atwal &amp; Co. and Suryodaya Minerals in violations of Para: 17 of Part VII of the lease deed agreement. Hence, action should be taken as per the said Para.</p>	<p><b>Government of Odisha</b></p> <p>A case was instituted against the lessee for violation of Rule 37 of MCR, 1960 against which the lessee approached the Revision Authority (<b>RA</b>) of the Ministry of Mines under section 30 of the Act of 1957. The RA has quashed all actions taken by the State Government.</p> <p><b>Ministry of Mines</b></p> <p>The Central Government by virtue of power of revision under section 30 of the MMDR Act, 1957 revises the orders passed by State Governments. Such powers are exercised by the Central Government as a quasi-judicial authority and such orders are subject to judicial review by High Courts under Article 226/227 of the Constitution of India.</p>
6	<p><b>(i) Violation of the provisions of the MM(DR) Act, 1957; FCA, 1980 and MCR, 1960:—</b></p> <p>It is further stated that the lessee claims to have sold the ore at a very low price and, thereby, evaded the various applicable taxes. The Department of Commercial Taxes, Income-Tax Department and Excise Department should take note of it and further inquire into the matter since the year 2005-06 onwards to till date.</p> <p><b>(ii) Evasion of various Taxes:—</b></p> <p>Large quantity of iron ore balances of previous years should be further enquired in the context of yearly Balance Sheet of Company, returns filed for income tax, commercial taxes, royalty, expenditure</p>	<p><b>Government of Odisha</b></p> <p>Action will be taken to recover the price of the mineral extracted without lawful authority in violation of the provisions of Forest (Conservation) Act, 1980. The Departments of Commercial Taxes, Income Tax Department and Central Excise Department will be associated on the issue of evasion of various taxes for taking further necessary action.</p> <p><b>Department of Revenue, Ministry of Finance</b></p> <p>The matter is being examined from direct / indirect tax violations and also from the enforcement angle. Appropriate action would be taken after ascertaining the violations of specific Acts/ Regulations by the</p>

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	for calculation of profits and likewise.	<p>respective agencies like Central Board of Excise and Customs, Central Board of Direct Taxes, Directorate of Revenue Intelligence etc.</p> <p><b>Ministry of Environment and Forests</b> The case shall be examined in detail and appropriate legal action, as required, under the provisions of the Forest Conservation Act, 1980; and various guidelines / instructions issued from time to time, shall be taken in a time bound manner. The MoEF will also direct the Government of Odisha to take appropriate legal action, as required, under the provisions of the Orissa Forest Act, 1972.</p>
7	<p><b>Captive Consumption:—</b> The lease was transferred in favour of MESCO Ltd. (though presently, the lease is owned / controlled by MISL) on the request to use the iron ore for captive consumption, as stated above, vide Memo No.8475, dated 30.08.1996.</p> <p>On perusal of submission made by MISL for the production, dispatches, domestic consumption, export, etc., it is quite clear that the lessee has sold ore in a large quantity in the domestic market as well as exported to the Stemcor Sea Pte. Ltd.</p>	<p><b>Government of Odisha</b> The State Government has issued show cause notice on 03.01.2011 for taking appropriate action for violation of the order of the State Government dated 30.08.1996 for selling iron ore other than for captive use. The lessee preferred a Revisional Application before Revisionary Authority (<b>RA</b>), Ministry of Mines, Government of India. The RA has set aside the impugned order of the State Government on 29.11.2011. The State Government has challenged the order in the High Court of Orissa, which is sub-judice.</p>
8	<p><b>Violation of Rule 10 of MCDR, 1988:</b> The IBM has provided the mining plan for an average extraction for 5,00,000 to 30,00,000 MT per year which is much more than the ore required for captive consumption in the Plant of the lessee. Following the IBM production, the EC had also been accorded twice for 5,00,000 MT on 28.12.2007 and three million tons on 06.09.2010. This increase in production is quite arbitrary and without having application of mind and also in violation of the conditional transfer order of State Government dated 30.08.1996.</p> <p>The approvals/modifications under Rule 10(2) or Rule 12 of MCDR, 1988 for mining plan/scheme dated 28.04.2006, 13.09.2007 and 14.10.2010 (three times in a span of four years) is also against order of the State Government dated 30.08.1996. The details, in this regard, are given in the First Report of the Commission for the State of Odisha. Hence, action should be initiated against all the IBM officials concerned for their omissions, commissions and misconduct.</p>	<p><b>Ministry of Mines</b> Mining plan is for the entire lease period. It includes a tentative scheme of mining and annual excavation plan for five years periods. At the end of each five year period, the Mining Scheme is subject to fresh approval. At the start of mining activity a tentative scheme of mining is conceptualized based on preliminary information on geology and reserves. Laying the limits for annual production for the entire life span of a mine, which is generally 20- 30 years, at the time of approval of first mining plan, is not practicable for the following reasons:</p> <ul style="list-style-type: none"> <li>(i) Complete information on geology and reserves is not available;</li> <li>(ii) The mining rights encompass the area from the surface to the core of earth for which advance geological information is not available, and anticipated depth of mine changes depending upon many technical factors; and</li> <li>(iii) Change in the method of mining from manual to mechanized;</li> </ul> <p>IBM, while communicating the approval for mining plan, including modification in mining plan, mentions that the approval is without pre-judice to any other law applicable to the mine area from time to time whether made by the Central Government, State Government or any other authority. Approval of mining plan does not absolve the lessee from obtaining approvals from and complying with provisions of other Acts and Rules.</p>

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		<p>The Ministry of Mines directed IBM, vide letter no.16/12/2009-M.VI dated 29.10.2010, to ensure that the approvals of modification of mining plans for increase in production shall be with prospective effect only.</p> <p>The Ministry has also directed the IBM to inquire and fix responsibility for failure on any part of any officers / officials of IBM regarding approval for increase in production through modification in mining plan by misusing Rule 10 of MCDR, 1988 including cases mentioned in the Report.</p>
9	<p><b>Action taken by the Authority is sought to be frustrated:</b></p> <p>The Dy. Director of Mines, Joda District has issued show cause notice on 03.01.2011 stating to move to the Government for taking appropriate action for violation of the order of the State Government dated 30.08.1996 for selling iron ore other than captive use. He has also suspended certain permits for removal of iron ore from the lease. The copy of the show cause notice dated 03.01.2011 is enclosed herewith at Annexure: 3.</p> <p>The lessee, instead appealing before the State Government against this show cause notice, preferred a Revisional Application under Section 30 of the MM(DR) Act, 1957 read with Rule 55 of MCR,1960 before the Central Government (Ministry of Mines).</p> <p>On perusal of the show cause notice issued by Dy. Director Mines, Joda and the interim order of Shri A. K. Patni, Dy. Secretary (Mines), Government of India; it is noted that both of them are issued without application of mind and bad in law. It seems to be an intentional well thought move by the lessee, Dy. Director Mines and Dy. Secretary Mines to frustrate the order of the State Government dated 30.08.1996.</p> <p>It requires investigation whether the aforesaid three parties have joined the hands and conspired to come out clean of the illegalities that they have committed. There was no necessity for issuing show cause notice to the lessee. The Dy. Director of Mines should have simply issued the permits limited for the captive use of the iron ore for the Plant only, as per the order of the State Government dated 30.08.1996 and Form "J" filed by the lessee (for second renewal of lease).</p> <p>At the same time, the interim order, issued by the Dy. Secretary, Ministry of Mines, Government of India on irrelevant grounds to direct the State Government not to take any action on its</p>	<p><b>Government of Odisha</b></p> <p>Revisionary Authority disposed of the Revision Application vide order dated 29.11.2011 wherein the impugned order of the DDM dtd. 3.01.2011 has been set aside. Against this order of the Revision Authority, State Government has filed writ in the High Court of Orissa which is sub-judice.</p>



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	order dated 03.01.2011 till the further orders, was without application of mind and is unjustified (Annexure: 4). If at all, any interim order was required to be issued, it could have been for allowing the iron ore to the pig iron plant of the lessee and not otherwise.	
10	<p><b>Recommendation:</b></p> <p>During the inquiry in the State for 192 leases, it has been observed that almost all the orders, issued by the State Government in the mining matters, have been rejected/stayed/set aside by the Ministry of Mines, Government of India. This has created a mind-set indifferent to law and resulted into the large scale illegal mining in the State.</p> <p>In such a situation, it would be advisable that all such orders, which have been issued under Section 30 of the MM(DR) Act, 1957 read with Rule 55 of the MCR, 1960 for Odisha State, should be re-examined by a Committee headed by Secretary (Mines), Government of India so that MM(DR) Act and Rules can be implemented.</p> <p>The State Government and the Government of India should take appropriate actions for recovery of the losses as stated in this Chapter. Besides, to take action under the applicable Rules for the omissions, commissions and misconduct against the officials, the matter may also be referred to the Central Bureau of Investigation as per law as recommended for similar type of other cases.</p>	<p><b>Government of Odisha</b></p> <p>State Government will take necessary steps for recovery of the loss caused to the State Exchequer and will look into omissions and commissions by the erring officials. Therefore, there is no need for separate investigation by the CBI.</p> <p><b>Ministry of Mines</b></p> <p>The Central Government by virtue of power of revision under section 30 of the MMDR Act, 1957 may revise the orders passed by State Governments. Such powers are exercised by the Central Government as a quasi-judicial authority and such orders are subject to judicial review by High Courts under Article 226/227 of the Constitution of India.</p> <p>If the same were not challenged, it cannot be said at this stage that the directions were unlawful which were opened for judicial scrutiny by the concerned High Court.</p> <p>Therefore, the recommendation of the Commission to re-examine orders issued under Section 30 of the MMDR Act, 1957 by a Committee is not agreed to.</p>

**6 Shri M.S. Deb - Inganijharan Iron and Manganese Ore Mine**

<b>Sl .</b>	<b>Gist of Commission's Observations/ Findings / Recommendations</b>	<b>Action Taken Report</b>
1	Without granting any lease, the person who is in possession, has extracted 11,62,253 MT of iron ore and 36,726 MT of manganese ore in violation of MM(DR) Act, 1957 and the Rules therein and also in violation of FCA, 1980 and EP Act, 1986, as follows:	
(i)	The State Government issued working permission for a period of six months with effect from 12.05.1994 and three months with effect from 12.11.1994 vide Department of Steel and Mine's letter No.5388/SM dated 12.05.1994 and No.14006/SM dated 19.11.1994 respectively for transporting already mined minerals and subject to <b>submission of the approved mining plan and proposal of diversion of forest land and not otherwise.</b>	<p><b>Government of Odisha</b> The violation would be reported to the MoEF for taking appropriate action. It is proposed to initiate legal action against the lessee for violation of forest laws.</p> <p><b>Ministry of Environment and Forests</b> The case shall be examined in detail and appropriate legal action, as required, under the provisions of the Forest Conservation Act, 1980; and various guidelines / instructions issued from time to time, shall be taken in a time bound manner. The MoEF will also direct the Government of Odisha to take appropriate legal action, as required, under the provisions of the Orissa Forest Act, 1972.</p>
(ii)	Next temporary permission for a period of one year was allowed with effect from 10.07.1995 by the Government of India, MoEF subject to condition for submission of proposal for diversion of forest land within a period of three months and limiting the working only over the forest land broken prior to 25.10.1980. It is to be highlighted that when this TWP was accorded by MoEF, there was no subsisting lease in favour of Shri B. C. Deb. It could not have been accorded. And those, who have accorded the permission in favour of Shri B. C. Deb, acted in flagrant violation of the provisions of the laws/rules. Action against them should also be taken.	<p><b>Ministry of Environment and Forests</b> Same as replied in S.No. (i) above</p>
(iii)	The Collector, Keonjhar was requested vide letter No.2134/SM, dated 12.04.2010 to complete survey and demarcation and also enquire into allegation of illegal mining in the lease of Late M. S. Deb. He submitted the joint verification report vide his letter No.2055, dated 01.01.2010, showing the unlawful mining operation to an extent of 1,46,755.848 Cubic Meter. The DDM, Joda, vide his memo No.16630, dated 23.03.2011, reported that Shri B. C. Deb has illegally raised iron and manganese ores from outside the leased area and safety zone to an extent of 5803094 MT of iron ore and 355228 MT of manganese ore valued at Rs.158,71,60,491.00 and Rs.67,48,99,832.00 respectively.	<p><b>Government of Odisha</b> The joint verification revealed unlawful extraction of ore to the tune of 146755.848 cubic metre. In addition, the observation on extraction of ore to the tune of 58,03,094 MT (Fe) and 3,55,228 MT (Mn) outside the lease area and safety zone through encroachment towards the north western boundary of the lease is being undertaken for physical verification. Before the joint verification was conducted in the said mine, the lessee had been issued with closure notice by the Divisional Forest Officer on 09.12.2009. Action is being taken under Orissa Forest Act, 1972 against the lessee for the violations.</p>
(iv)	With the submission made by the State Government, the lessee and from all the documents in hand, the following inferences are drawn for further action:–	<p><b>Government of Odisha</b> Same as replied in S. No. (i), (ii) and (iii) above</p>

Sl .	Gist of Commission's Observations/ Findings / Recommendations	Action Taken Report
	<p>(a) The mining lease has a long chequered history of protracted litigation.</p> <p>(b) Till date, there is no lease granted in favour of Shri B. C. Deb under the provisions of MM(DR) Act, 1957 and MCR,1960. The closing of mine by the Mines Department is a proof in hand that the lease was operated illegally. The issue of succession / legal heir of this lease is not yet inquired/investigated and still pending.</p> <p>(c) It is pertinent to note that the lessee was dispossessed from the leased mine after first renewal application which was filed by Late Shri M. S. Deb, was finally rejected by the State Government. Hence, to allow Shri B. C. Deb to carry out mining operation without grant of lease under the provisions of MM(DR) Act and Rules framed therein, is apparently illegal.</p> <p>Despite the fact that no lease is granted in favour of Shri B.C. Deb, the mine has been operated and is allowed to illegally extract 11,85,345MT of iron ore and 36,726MT of manganese ore from the year 2005–06 to 2009–10.</p> <p>(c–1) Further, Environmental Clearance under the EIA Notification is not obtained.</p> <p>(c–2) Not only this, but before operating the mine, prior FC approval is also not obtained which is must. It is to be stated that at no point of time, the Hon'ble High Court has directed that the person should be permitted to operate the mine without obtaining EC, FC and renewal of lease under MM(DR) Act, 1957.</p> <p>Hence, the said extraction has been done without any lawful authority and <u>it</u> attracts the provisions of Section 21(5) of MM(DR)Act, 1957 for recovery of the cost of the minerals equivalent to the market value.</p> <p>(d) The lease has been operated through the raising contractors, namely, M/s. Technoblast Corporation and M/s. Sri Jyoti Resources Pvt. Ltd. in violation of Rule 37 of MCR, 1960.</p> <p>(e) It is stated that Shri B.C. Deb has been allowed to work / worked without having the approval of first and second renewals of mining lease from Government of India, the then prevailing law(during the filling of 1<sup>st</sup> RML and delayed filing of second renewal application in the year 1994). The competent authority has not condoned the delay. Hence, the officers at State Government and the District level officers are responsible for their commissions and omissions for pecuniary loss to the State exchequer due to illegal extraction of ores as stated above. Action should be initiated against them under the relevant laws.</p>	<p>Regarding operationalisation of mine and extraction of minerals without obtaining Forest Clearance, Environmental Clearance &amp; renewal of lease under MMDR Act, criminal case has been filed by the Collector, Keonjhar in the Court of JMFC, Barbil. Action under section 3B of FC Act is not warranted as no authority has allowed permission to work in the mine in the forest area without approval of MoEF. Action under OFA, 1972 will be initiated against the Lessee.</p> <p>Notice has been issued on 8.11.2011 u/s 21(5) of the MMDR Act, 1957 for recovery of Rs.243,48,48,017/- towards cost of iron and manganese ore raised without lawful authority. The lessee has been asked to explain why the application for renewal of mining lease (RML) should not be refused under Rule 26(1) of MC Rules, 1960. The case will be heard and appropriate decision in accordance with law will be taken. There is no failure on the part of the State Government to take action against B.C. Deb, therefore, CBI inquiry is not required at this stage.</p> <p><b>Ministry of Environment and Forests</b> Same as replied in S.No. (i) above</p>

Sl .	Gist of Commission's Observations/ Findings / Recommendations	Action Taken Report
	<p>There is a <i>prima facie</i> encroachment by Shri B. C. Deb in safety zone and outside the leased area.</p> <p>(f) The mining plans are approved subject to approval under the FCA, 1980 and other statutory approval for the entire area including the forestland. It is to state here that no such approval under FCA has been obtained. Hence, the approval of mining plan is of no effect, as it is null and void.</p> <p>(g) It is stated here that the mine has been operated in flagrant violations of MM(DR) Act, 1957, MCR, 1960, FCA, 1980, EP Act, 1986 and EIA Notification, 1994 and the order of the Hon'ble Supreme Court dated 12.12.1995 in W.P. No.202 of 1995.</p> <p>(i) As recommended by the Commission in other likewise cases, this matter should also be handed over to Central Bureau of Investigation as per law.</p>	

**7 M/s. Essel Mining and Industries Ltd.**

<b>Sl .</b>	<b>Gist of Commission's Observations/ Findings / Recommendations</b>	<b>Action Taken Report</b>
<b>1</b>	<b>Jhilling Langolota Mine:</b>	
	<p>(i) The 1st renewal for 20 years has been granted from 01.10.1984 for 20 years for a reduced area of 456.1 ha. The lease was renewed in violation of Section 2 of Forest (Conservation) Act, 1980 (hereinafter referred to as "FCA, 1980") (the lease comprised of revenue forest and reserve forest). It is to state that it was not only a mere renewal of lease but the lessee was operating lease in forest land. The present status of the remaining surrendered land is not known and requires further verification.</p>	<p><b>Government of Odisha</b> At the time of renewal of the mining lease in 1984, the implementation of the provisions of the FC Act 1980 was in the initial stages. There was some confusion on the applicability in the cases of renewal of mining lease which may be the cause of grant of renewal without prior approval.</p> <p><b>Ministry of Environment and Forests</b> The case shall be examined in detail and appropriate legal action, as required, under the provisions of the Forest Conservation Act, 1980; and various guidelines / instructions issued from time to time, shall be taken in a time bound manner. The MoEF will also direct the Government of Odisha to take appropriate legal action, as required, under the provisions of the Orissa Forest Act, 1972.</p>
	<p>(ii) In total, the TWP's were obtained for 3 years and 9 months which are against the guidelines of the MoEF itself. This is a serious matter for which note is to be taken.</p> <p>Further, taking into consideration the TWP's at various points of time and corresponding break up areas, it is clear that the lessee was working in the forest land without obtaining TWP and/or FCA approval.</p>	<p><b>Government of Odisha</b> Two years working permission (Temporary Working Permits) granted in two spells is in accordance with the guidelines of MOEF in this regard. Similarly prior to stage-I, the User Agency (UA) can avail 1 year and 3 months in accordance with the provision of the guidelines of MOEF.</p> <p><b>Ministry of Environment and Forests</b> Same as replied in S. No. 1(i) above</p>
	<p>(iii) It is observed that the TWP granted by MoEF for 186.229 ha. for forest land, vide letter dated <b>02.03.2009</b> for a period of one year, has been reissued by the Divisional Forest Officer, Keonjhar (DFO) on <b>29.08.2009</b> for a period of one year with effect from the date of issue of his letter (dated 29.08.2009). With such illegal delayed act of DFO, the period for TWP has been extended to another six months for which there is no approval of MoEF. This is not within his power and authority under the FCA, 1980. It is observed that many such letters have been issued by the DFO. Hence, action should be initiated against him for his omissions, commissions and misconduct.</p> <p>Further, during the inquiry, it is observed that the DFO, Keonjhar vide his Memo No.7639, dated 28.08.2010, has granted permission for operation in non-forest land and DLC broken up land without any authority under the FCA, 1980. Hence, for that also, action should be initiated against him.</p>	<p><b>Government of Odisha</b> The TWP granted by MOEF for 186.229 hect of already broken up forest area on 02.03.2009 was valid for one year. The TWP was to be operative subject to compliance of ten conditions. It was not explicitly mentioned in the TWP as to the date from which the said TWP would be effective. In the absence of such specification, it was presumed by the DFO that TWP would be effective only after the compliance with the stipulations. When the said stipulations were complied with, order was issued by the DFO on 29.08.2009 with validity for one year from the date of issue of the letter. However, the lessee had not operated the mines from 02.03.2009 to 28.08.2009. DFO's action in this regard is bonafide and does not warrant any action.</p> <p>The Commission has observed that the DFO, Keonjhar has granted permission for operation</p>

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	<p>It is pertinent to note here that the lessee was working during the deemed extension period from 01.10.2004 to 13.01.2012 illegally in violation of the provisions of FCA, 1980, except for the period where TWP was obtained which grant was again not legal as discussed above. The provisions of FCA were violated for mining iron ore at a time, when demand of iron ore was at the peak because of "China boom" in the State (for export of iron ore) and super profit in the domestic market. <b>Hence, all the production during the aforesaid period is illegal and without lawful authority under Section 21(5) of the MM(DR) Act, 1957.</b></p> <p>It is stated here that the mining activities were stopped in the State in forest land after the order of Hon'ble Supreme Court dated 12.12.1996 in <b>Writ Petition No.202/1995</b>. But the lessee has repeated the same in violation under Section 2 of FCA, 1980, after 01.10.2004 (in the Reserved Forest + Revenue Forest + DLC). Hence, it is not only the violation of FCA, 1980 but also the contempt of the aforesaid order of the Hon'ble Supreme Court.</p>	<p>in non-forest land and DLC broken up land without any authority under FC Act, 1980. The recommendation of CEC dated 26.04.2010 relating to working in broken DLC area subject to all statutory clearance was not explicit as to whether such working was applicable to the subsisting lease or the leases working under "Deemed Extension". It was clarified by CEC subsequently on 7.7.2011 that such working permission could be availed only in case of subsisting leases. Immediately thereafter all the working permissions granted by DFO for the leases working under "Deemed Extension" were withdrawn.</p> <p>For the period from 01.10.2004 to 13.01.2012, the UA had been granted TWP by the MOEF on three occasions for a total period of 1 year and 9 months. Therefore the working of the mines during this period excluding the period of TWP in forest land is violative of the provisions of FC Act, 1980. Action is being initiated under OFA 1972 against the lessee for the violations.</p> <p><b>Ministry of Environment and Forests</b> Same as replied in S. No. 1(i) above</p>
	<p>(iv) Further, upon submission of second time proposal under FCA by the State Government, the Government of India (MoEF) has accorded Stage-I approval on 13.01.2012 with a condition amongst others that <i>"State Government shall realize funds for creation and maintenance of penal compensatory afforestation over the degraded forest land double in extent to forest land used in violation (i.e. 2 X 11.0477 = 22.0954 ha.)."</i></p> <p>This is contrary to the law, as there is no provision under FCA &amp; Rules framed thereunder to charge Penal Compensatory Afforestation (PCA) for offence. The lessee was heavily operating the lease with very heavy production since 01.10.2004 in the forest area of 143.623 ha. as per the proposal of Regional Office, MoEF, Bhubaneswar dated 21.11.2011 (broken up area) in flagrant violation of the provisions of the FCA, 1980. This should be considered as undue favour extended to lessee for imposing PCA and also favouring officials without invoking Sections 3A and 3B of FCA, 1980. Hence, action should be initiated for recovery of market value of the iron ore which was produced in violation of FCA and the order of the Hon'ble Supreme Court dated 12.12.1996.</p>	<p><b>Government of Odisha</b> Since no officer has issued any order for working in the forest area without MOEF's approval, action under section 3A &amp; 3B of FC Act, 1980 is not warranted.</p> <p>Prosecution has been initiated for violation of the provision of the EP Act in the court of JMFC, Barbil.</p> <p><b>Ministry of Environment and Forests</b> Same as replied in S. No. 1(i) above</p>
	<p>(v) However, the lessee submits that he has not worked in the forest land after 12.12.1996, but production figures establishes otherwise. The production has increased, after the claim of stopping mining in</p>	<p><b>Government of Odisha</b> A joint verification is proposed to be conducted by the officers of Mining, Forest and Revenue Departments. Action will be taken on the basis</p>

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	<p>forest land after the order dated 12.12.1996. How is it possible the more production from less area? Hence, the production for the said years (before TWP given in, 1998) is taken as violation of FCA.</p>	<p>of such verification.</p> <p><b>Ministry of Environment and Forests</b> Same as replied in S. No. 1(i) above</p>
	<p>(vi) The production of iron ore from 1994-95 to 2011-12 is in violation of FCA, 1980. Figures are not available from 01.10.1984 to 1993-94. They should also be included as violation of FCA, 1980. Hence, action should be initiated under Sections 3A &amp; 3B of FCA, 1980 and also under the provisions of Environment (Protection) Act, 1986 (to initiate action under EPA.</p> <p>Further, action should also be initiated for recovery of mineral value equivalent to market value (domestic and export) under Section 21(5) of the Mines and Mineral (Development and Regulation) Act, 1957. Section 21 (5) of the MM(DR) Act, 1957 provides for penalty for illegal mining. Since there was no approval obtained under the FCA, 1980 which is a condition for approval of the mining plan, mining plan cannot be considered to be approved for the relevant period.</p> <p>The iron ore extracted during this period wherein there was no approval under the FC Act, the price equivalent to market value with rent, royalty and tax, etc. as the case may be, should be recovered from the lessee for the quantity of <b>2,62,29,117 MT</b>, as stated in the aforesaid Table.</p> <p>Further, it is observed that there is an excess unlawful production without EC approvals, which is dealt with in the <b>first report of the Commission for the State of Odisha</b>. What is the base taken for increase of production from 0.75 to 4.2 million ton on 17.03.2006 is not known. As per the guidelines, the production as base line, should have been the production of the year 1993-94 or before, whichever is maximum. Such production was <b>3,90,000 MT</b> as per records submitted by the Department. It is to note here that the lessee is supposed to take EC, if the production is increased from the year 1993-94 or before, which he failed to do so. <b>The illegal production without lawful authority (without EC and excess of EC limit) is approximately 1,86,26,340 MT.</b></p>	<p><b>Government of Odisha</b> Same as replied in S. No. 1(i) to 1(v) above</p> <p><b>Ministry of Environment and Forests</b> Same as replied in S. No. 1(i) above</p>
2	<b>Kasia Iron Ore Mine:</b>	
	<p>(i) 1st RML application was filed by lessee on 25.07.1984 for a reduced area i.e. 194.196 ha. instead of 297.44 ha. for the reason that the total area held by the lessee was in excess of what is prescribed under Section 6(i)(b) of MM(DR) Act, 1957.</p>	<p><b>Government of Odisha</b> State Government has issued instructions to identify leases deemed to have been refused and take over such mines along with seizure of the ore or recovery of the cost thereof, if the said ore has already been disposed.</p>

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	<p><b>The renewal application was not disposed of in stipulated time, hence, the lease ceased to exist under deemed refusal provisions of the then Rule 24A of MCR, 1960.</b></p> <p>M/s. S. Lal &amp; Co. filed a Revision Application to Ministry of Mines, Government of India, on 26.02.1985 against deemed rejection of their application dated 25.07.1984.</p> <p>Revisional Authority, Government of India set aside the deemed rejection provision and issued order directing the State Government to pass final order on merits within a period not exceeding two hundred days from the order dated 30.03.1985, No.185/85. If State Government fails to pass order, then he may seek orders in an appropriate Court of law.</p> <p><b>A grant order to 1st RML was issued by State Government on 09.09.2002 for 134.733 ha. for 20 years with retrospective effect from 14.09.1985.</b></p> <p>The lease has not been executed in favour of Essel Mining &amp; Industries Limited at all and it is in the name of M/s. S. Lal &amp; Co. as on date.</p>	<p>Wherever mining leases have come under deemed refusal provision, notice will be issued to the holder of the lease to explain why the renewal applications should not be treated as refused. The State Government will take necessary action depending upon the merit of each cases as applicable under MMDR Act, 1957.</p>
	<p>(ii) <b>Working Permissions – Violation of FCA</b> All working permissions given by Steel &amp; Mines Department for almost 10 year after 1985 were illegal, as they were given without power and authority under MM(DR) Act, 1957 (Rule 24A of MCR, 1960) &amp; in utter violation of FCA, 1980. In fact, working permission can't be given for a lease where period was expired and deemed refusal under the law.</p>	<p><b>Government of Odisha</b> In accordance with the provisions of the guidelines under the FC Act 1980, Penal Compensatory Afforestation (<b>PCA</b>) over twice the area has been imposed. The UA has accordingly paid the cost of penal compensatory afforestation to the tune of Rs.62,07,994/-.</p> <p>For illegal operation of the mines during the period not covered under FC approval or TWP, show cause notice had been issued and prosecution case has been filed in the court of JMFC Barbil.</p> <p>Prosecution has been initiated for violation of the provisions of EP Act in the court of JMFC ,Barbil. Appropriate action as per law will be taken against the lessee for violation of conditions of FC.</p>
	<p>(iii) <b>Mining beyond granted renewal lease area</b> As 1<sup>st</sup> RML was granted by State Government for 134.733 ha. and the said order has not been amended challenged subsequently. So all working beyond 134.733 ha. is illegal without lawful authority and in violation of MM(DR) Act, 1957 and FCA, 1980. An assessment shall be made and follow up recover the value of the ore as per</p>	<p><b>Government of Odisha</b> The lessee has been asked to demarcate 134.733 ha in the field and get the map of mining lease authenticated by the competent authorities. Till the process of authentication is complied with, all mining activities have been stopped.</p> <p>Since the DFO has acted in good faith without</p>



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	<p>Section 21(5) of MM(DR) Act, 1957. Action should be initiated against the concerned Deputy Directors / Mines Officers for allowing the lessee to work beyond 134.733 ha. Action should also be initiated against the officials of Forest Department to submit proposal for forest land more than granted (i.e. 134.733 ha.) under the MM(DR) Act, 1957 and allowing the mining since the year 1985 onwards including the forest land beyond the extent granted.</p>	<p>any malafide intention, no action is warranted against the officer. In the meantime, State Forest Department has recommended to the MoEF, GoI on 25.01.2014 to revoke the forest clearance and to advise the user agency to apply for clearance for forest land within the reduced lease area of 134.733 hectare.</p> <p>As regards illegal possession of the land beyond the granted area, the lessee will be issued notice under section 21(5) of the MMDR Act, 1957 for recovery of the price of the ore raised from such area.</p>
	<p>(iv) <b>EC/ Mining Plan / FC beyond 134 after the year 2002</b> All approval of EC, Mining Plan, FC, accorded for 194.196 ha. (beyond the 134.733 ha. after grant order issued by State Government (09.09.2002) appear to be malafide and in connivance with lessee. Action should be initiated against all those who are involved in this act of omissions and commissions and their misconduct.</p>	<p><b>Ministry of Environment and Forests</b> The case shall be examined in detail and appropriate legal action, as required, under the provisions of the Environment (Protection) Act, 1986; Forest (Conservation) Act, 1980; EIA Notification, 2006 as amended; and various guidelines / instructions issued from time to time, shall be taken in a time bound manner. The Government of Odisha will be directed to take appropriate legal action, as required, under the provisions of the Orissa Forest Act, 1972.</p> <p><b>Ministry of Mines</b> The Ministry has directed the IBM to inquire and fix responsibility for failure on the part of any officers / officials of IBM in this regard.</p>
	<p>(v) <b>Production is illegal</b> The production is illegal and without lawful authority with respect to FC, EC and IBM plan.</p>	<p><b>Government of Odisha</b> Notice under section 21(5) of MMDR Act, 1957 has been issued for recovery of Rs. 921,39,24,015/-for raising ore beyond the limit specified in various statutory clearances.</p>
	<p>(vi) <b>FCA approval more than renewed lease</b> The State Government has notified 134.733 ha. leased area on 09.09.2002 but approval under FCA dated 18.11.2011 (MoEF) has been given for 173.039 ha. for a area which is not granted under the MMDR Act and Rules. Hence, it is more than the lease grant area. This is a serious flaw. Action should be taken to withdraw this approval and also to initiate action against the officials responsible for their omissions and commissions for submission and recommendation of this proposal.</p>	<p><b>Ministry of Environment and Forests</b> The case shall be examined in detail and appropriate legal action, as required, under the provisions of the Forest Conservation Act, 1980; and various guidelines / instructions issued from time to time, shall be taken in a time bound manner. The MoEF will also direct the Government of Odisha to take appropriate legal action, as required, under the provisions of the Orissa Forest Act, 1972.</p>
	<p>(vii) In the meeting headed by the Chief Secretary, on 05.02.1987, following decisions were taken.</p> <p>A. In case of an application for prospecting licence involving forest areas, prospecting licence can be granted by the State Government, as it does not involve diversification of forest area for non- forest</p>	<p><b>Government of Odisha</b> Approval under FC Act is not necessary for test drilling up to 20-25 boreholes of maximum 4 inches diameter per 10 square km. in case of metallic ores. However, the forest clearance would be necessary if the test drilling exceeds the limit prescribed by the MoEF. Therefore the decision of the State Government is not</p>

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	<p>use. <b>This stand of State Govt., taking during meeting, is contrary to the provisions of FCA and norms fixed by MoEF.</b></p> <p><b>B.</b> In case of an application for mining lease for an area covering part forest and part non-forest, the mining lease can be granted by State Government and necessary clearance from forest conservation angle will have to be obtained before the forest part of the area is taken up for actual mining. This will facilitate the grantee to get surface rights and start mining operations in non-forest land.</p> <p><b>The aforesaid decision was not in conformity with the provisions of Section 2(iii) of FCA, 1980.</b></p>	<p>contrary to FCA guidelines.</p>
	<p>(viii) As submitted by lessee on 23.03.2013, the lease deed has not been executed for want of fixing the lease boundary since no survey and demarcation has been done. If that is the case, then question arises where is the granted lease area of 134.73 ha. located and where is the lessee operating the mine? The entire area is broken as could be observed from the records and satellite images.</p> <p>There was an approval obtained on 22.01.1998 under the F.C. Act for 83.88 ha. for only broken up areas for the period coterminous with the expiry of the "lease period" i.e. 13.09.2005. It is noted that the "broken up" area was having 899 trees along with natural regeneration. It is pointed out that it is wrong to consider such a large area having very good vegetation as broken up area. Further, the area was broken up afresh after 25.10.1980 and then further from 14.09.1985 as per the reports of the DFO and PCCF. The Government of India has again approved diversion of 30.00 ha. fresh forest land on 27.05.2004 upto 13.09.2005 subject to Environmental Clearance.</p>	<p><b>Government of Odisha</b></p> <p>The assessment of broken up area of 83.880 hectare is based on joint verification carried out by the Forest &amp; Mines Department in 1998. As the verification of land was carried out after a lapse of about 20 years, there is a possibility of bonafide error. The area's vegetation having profuse regenerating capacity, the broken area is likely to acquire the character of Forest with the passage of time. This may be the possible reason for existence of 899 trees in the broken up area. The State Government agrees with the suggestion that the pre-80 broken up area may be treated as "area to be open as fresh" and accordingly all consequential regulations may be applied including compensatory afforestation (CA) and other charges.</p>
3	<b>Koira Iron Ore Mine:</b>	
	<p>(i) It is pertinent to note here that this lease for an area of 90.146 ha. has been granted in contravention of Section 6(i)(b) of MM(DR) Act, 1957 because when this lease was granted on 27.08.1971, the lessee was already holding four other leases over an extent of 1339.011 ha. This total lease area is an excess area to a limit of 10 Sq. Kms. provided under the Section 6(i)(b) of MM(DR) Act, 1957. Since, this lease was granted in contravention of Section 6(i)(b) of the MM(DR) Act, 1957, the grant order would be void and no effect as per Section 19 of the said Act.</p>	<p><b>Government of Odisha</b></p> <p>The matter will be examined and necessary action will be taken for recovery of the cost of the ore raised from the area beyond the limit prescribed under section 6(1)(b) of MMDR Act, 1957 by following due process of law.</p>
	<p>(ii) It is inferred that in all purposes, the mining has been carried out in the forest land afresh after</p>	<p><b>Government of Odisha</b></p> <p>Joint verification by the Mining and Forest</p>

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	<p>25.10.1980 and considered as a violation of Section 2(ii) of FCA, 1980. The Satellite Images of the leased area also confirms workings of the lease in the forest land.</p> <p>The DFO, while submitting the proposal to Conservator of Forest for diversion of forest land under Section 2 of FCA, 1980, stated that 37.721 ha. of forest land is broken prior to 25.10.1980 based on the assessment done on 07.10.1988 and 19.02.2000 without stating any basis to assess the broken area. Since the Department and lessee both did not provide any record which could have established the fact that the area was broken before 25.10.1980, the submission of FD is unacceptable. It is also noted in other similar cases, the submission of DFO for broken area is without any data record base. Further, the proposal initiated for diversion of forest land by DFO on 02.03.2001 has been approved Stage-I clearance on 02.02.2011 by MoEF, New Delhi by taking unexpected period of 10 years. During the period, mining activities were allowed in the forest land.</p> <p>Based on the above facts and circumstances, an assessment should be done to find out the illegal production without lawful authority within forest area wherein mining was done, since 25.10.1980 till FC approval accorded.</p>	<p>Department indicate Pre-1980 broken area to be 37.721 hectare which is about 58% of the total forest area in the Lease. The mining lease has been granted on 27.8.1971, valid for 30 years. The lessee was eligible to operate the mines in the broken forest area and non-forest area after 25.10.1980 till expiry of the lease period on 26.8.2001. No fresh (virgin) forest area has been broken after 25.10.1980. Therefore, there has been no violation of Section 2(ii) of FC Act 1980.</p> <p>The broken area has been assessed by the Mining Department and Forest Department on 26.12.2000. The joint verification report assesses the forest area broken prior to 25.10.1980 to be 37.721 hectare. It is not agreed that there was no broken up area prior to 25.10.1980.</p> <p>Regarding working of mines from 2.3.2001 to 2.2.2011, a Show Cause letter was issued to the lessee seeking clarification regarding working of the mines in the forest land during the said period. In response, the lessee has denied any production from the forest area and asserted that the working was confined to the non-forest Plot No.10 of village Kadodiha, and the entire production has been achieved from the non-forest plot after expiry of the mining lease on 26.8.2001. The lessee has also affirmed that there is some more stock of minerals in the above non-forest plot. The satellite imagery confirms extensive and intensive working in Plot No.10. The State Forest Officials have taken up further field verification and appropriate action will be taken under law based on the outcome of the field verification.</p> <p>Regarding illegal production in forest area since 25.10.1980 till grant of FC approval (Stage-I) on 2.2.2011, the mining lease has been granted on 27.8.1971, valid for 30 years, i.e., upto 26.8.2001. Hence, the Lessee was eligible to operate the mines in the broken forest area and non-forest area after 25.10.1980 till expiry of the lease period on 26.8.2001.</p> <p><b>Ministry of Environment and Forests</b> The case shall be examined in detail and appropriate legal action, as required, under the provisions of the Forest Conservation Act, 1980; and various guidelines / instructions issued from time to time, shall be taken in a time bound manner. The MoEF will also direct the Government of Odisha to take appropriate legal action, as required, under the provisions of the Orissa Forest Act, 1972.</p>

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	<p>(iii) The lessee was supposed to obtain the Environmental Clearance from the year 1994–95 under the EIA Notification dated 27.01.1994 because of increased production from the year 1993–94 onwards The lessee has failed to obtain the Environmental Clearance till 24.09.2008. Hence, all the production from the year 1994–95 to 24.09.2008 is illegal and without lawful authority and the same was given in the first report of the Commission for the State of Odisha.</p>	<p><b>Government of Odisha</b> Notice has been issued under section 21(5) of MMDR Act, 1957 to the lessee for recovery of Rs. 60,14,00,306/- on 18.10.2012. The recovery action has been stayed by the Revision Authority on 2.09.2013 till the State Government files its reply to the revision petition. Steps are being taken to file the reply before the Revisional Authority.</p> <p>For violation of the EP Act by enhancing production / continuing to operate without EC, prosecution has been initiated in the Court of SDJM, Bonai.</p> <p><b>Ministry of Environment and Forests</b> The case shall be examined in detail and appropriate legal action, as required, under the provisions of the Environment (Protection) Act, 1986; EIA Notification, 2006 as amended; and various guidelines / instructions issued from time to time, shall be taken in a time bound manner.</p>
	<p>(iv) The State Government has surveyed the area of the lease and based on that, it is found that the lessee has extended the workings of mining outside the leased area as encroachment. The details of encroachment were given in the first report of the Commission for the State of Odisha. The workings, outside the lease area, are un-interrupted continuous extension of working from the mine. Hence, the contention of the lessee that the encroachment is outside the leased area does not belong to him is untenable, unfounded and unacceptable.</p> <p>Further, the contention of the lessee that he has confined the operations in the non-forest land after 26.08.2001 is also found illogical because there is many fold increase in the production since the year 2001 but area is equally reduced. The Satellite Images shows the extension of pit presently located in the non-forest land of 6.02 ha. towards the north-eastern side in the forest land.</p> <p>Action should be taken accordingly as discussed in other leases.</p>	<p><b>Government of Odisha</b> The result of the survey undertaken by a team formed by the Commission reports an area of 9.622 hectare outside the ML area on account of barren land, ditch, dump yard, temple, open ground, road, security barrack, crusher, spill-over dumps, and temporary hutment area but not any mining pit.</p> <p>The observation of the Commission regarding the production after 26.08.2001 not being commensurate with the smallness of the area in the non-forest land is not based on a detailed analysis or evidence. However, a show cause notice was issued to the lessee and further field verification has been taken up after which appropriate action will be taken if any unauthorised mining is established.</p>
4	<p><b>Grant/Renewal of the mining leases in violation of Section 6(i)(b) of the MM(DR) Act, 1957:</b></p> <p><b>(i) Sarkunda Manganese Ore Mines:—</b> The lease had been renewed from 04.12.1962 to 03.12.1982 in contravention of Section 6(i)(b) of MM(DR) Act, 1957.</p> <p><b>(ii) Unchabali Iron &amp;Manganese Mines:—</b> The lease had been renewed in contravention of</p>	<p><b>Government of Odisha</b> 3<sup>rd</sup> RML application dated 19.03.04 for manganese over an area of 160.90 hect. in village Lassi (Sarenda) of Sundargarh district has been rejected vide proceeding dated 18.01.2012. This order has been challenged before the Revisional Authority.</p> <p>In respect of Unchhaballi iron and manganese</p>

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	<p>Section 6(i)(b) of MM(DR) Act, 1957 from 01.08.1963, since the lessee was already holding an area of 1088.00 ha. in three other leases (Table) on that day. Hence, it attracts the provisions of Section 19 of MM(DR) Act, 1957 and be void and of no effect.</p> <p><b>(iii) Koiria Iron Ore Mines:—</b> It is pertinent to note here that this lease for an area of 90.146 ha. has been granted in violation of Section 6(i)(b) of MM(DR) Act, 1957 because when this lease was granted on 27.08.1971, the lessee was already holding four other leases for an extent of 1339.011 ha. This is an excess area to a limit of 10 Sq. Kms. provided under Section 6(i)(b) of MM(DR) Act, 1957. Since, this lease was granted in contravention of Section 6(i)(b) of the MM(DR) Act, 1957, the grant order would be void and no effect as per Section 19 of the said Act.</p> <p>It is further stated that the lessee has of late attempted successfully to delete leased land for lesser areas during the time of renewals with the full co-operation and collaboration of the officials of State Government at all levels. Though three leases were granted or renewed in contravention of Sections 6(i)(b) and Section 19 of MM(DR) Act, 1957, the lessee in connivance with State machinery is presently holding all leases in his possession within 10 Sq. Kms. by successive deleting the leased area in utter disregard of the law of the land. Action may be initiated against all those who are responsible for it, in addition to cancellation of leases which are granted in contravention of the law as suggested above.</p> <p>Subsequent reductions of the areas from the leases in successive renewals will not absolve the lessee from the provisions of Sections 6(i)(b) and 19 of MM(DR) Act, 1957 which he had contravened at a point of time in past, when new lease or renewal was granted in excess of 10 Sq. Kms. The provisions of the above said Sections would be in effect on that date of the grant and / or the renewal of the lease, taking into consideration the possession of the leased land, in total, he was holding in the State for a mineral including the associate minerals. It is to note that iron and manganese ores are the associate minerals as per the mining rules.</p> <p>All the leased land from various leases which had been relinquished by the lessee shall be identified. After identification, a Rehabilitation and Reclamation Plan should be got prepared from ICFRE (Indian Council of Forest Research and Education), Dehradun and the same should be implemented at the cost of lessee in addition to all other accountabilities and penalties which are arisen due to this investigation.</p>	<p>ore mines, notice will be issued why the lease should not be cancelled and necessary action taken in accordance with law, including recovery of the price of the ore extracted without lawful authority under section 21(5) of MMDR Act, 1957.</p> <p>In case of Koiria iron ore mines, demand notice amounting to Rs. 60,14,00,306/- has been issued to the lessee on 18.10.2012 for recovery towards price of excess production from 2003-04 to 2005-06.</p> <p>Action will be taken for cancellation of lease in accordance with law after hearing the lessee.</p> <p>Disciplinary action will be taken against officers responsible for such violation.</p> <p>The cost of the ore raised from the area beyond the limit provided under sec. 6(1)(b) of the Act of 1957 will be recovered from the lessee after following due process of law.</p> <p>The State Government will take necessary action for implementation of Rehabilitation and Reclamation Plans for environmental protection and all round development of mining area. All the dues on account of illegalities will also be realised.</p>
5	<p><b>Recommendation:—</b> Since there is involvement of officials/officers all the</p>	<p><b>Government of Odisha</b> The State Vigilance Department has filed cases</p>

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	<p>concerned Departments of Central and State Governments and serious flagrant violations committed by the lessee under various Statues, it would be appropriate to refer the matter to the Central Agency preferably Central Bureau of Investigation (CBI) for further investigation.</p>	<p>against the alleged miners and officials of the concerned departments. In other cases dealt by the Commission, where the Vigilance Department has not initiated any cases, the State Government will take necessary action as per provisions of law.</p> <p>The actions proposed to be taken in pursuance of Justice Shah Commission's recommendations will be placed before a Committee headed by the Chief Secretary which includes the concerned administrative Departments and State Vigilance Department for effective implementation in a time bound manner. Therefore, there is no need for CBI enquiry.</p>

**Second Report on illegal mining of iron and manganese ores in the State of Odisha (Volume II)**

**8 (i) M/s. Aryan Mining & Trading Corporation Pvt. Ltd. – Narayanposi Iron & Manganese Mines**

Sl.	Gist of Commission's Observations/ Findings / Recommendations	Action Taken Report
1	<p><b>First Renewal</b> (03.02.1965 to 02.02.1985): The first renewal of mining lease was executed by signing an indenture on 04.01.1971 between the Governor of Orissa and M/s. Aryan Mining &amp; Trading Corporation Pvt. Ltd. for manganese ore with retrospective effect from 03.02.1965 for a period of 20 years over an extent of 863.03 acres or 349.262 ha. The first renewal was granted on 04.01.1971 with retrospective effect from 03.02.1965. This was in breach of law providing deemed expiry of lease and deemed rejection of renewal as per the then Rule 24 of MCR, 1960. The lease did not exist on 04.01.1971 and therefore renewal was bad in law. Whatever mining was done after 02.02.1965 was and is illegal, apart from other illegalities.</p> <p>Details of date of tendering Form "F" for renewal are also not given. As such, whatever it was submitted before one year of date of expiry of lease at the time of first renewal, is also not known.</p>	<p><b>Government of Odisha</b> Notice will be issued to the lessee to explain why the mining carried out after 2.02.1965 should not be treated as without lawful authority and the cost of the mineral so raised be recovered. The aspect of details of date of tendering for 'F' for renewal will also be inquired.</p>
2	<p><b>Second Renewal</b> (03.02.1985 to 02.02.2005): The lease was renewed second time and an indenture was made on 15.01.1986 between the Governor of Orissa and the lessee for iron and manganese ores for a period of 20 years w.e.f. 03.02.1985 to 02.02.2005 for 863.03 acres (349.254 ha.).</p> <p>It is not known how the iron ore has been included in the lease. The lessee has not submitted any document/detail, in this regard, which is required to be verified.</p> <p>The total leased area of 349.254 consists of forest (259.194 ha.) and non – forest (90.072 ha.) land. The lease was renewed and the deed was executed for the 2nd renewal without having obtained any prior approval under the F.C. Act, 1980, though the State Government has been properly informed by the MoEF in the year 1982 to take prior approval under the F.C. Act, 1980 during the renewal of mining lease.</p> <p>The MoEF has given Temporary Working Permission (TWP) and also issued order for diversion of forest land by overlooking the flagrant violation of Condition No.5 of the approval dated 29.06.2001 under F.C. Act, 1980.</p> <p>The lessee continued mining operation beyond the TWP period i.e. from 13.08.2005 to</p>	<p><b>Government of Odisha</b> The observation that the lessee has not complied with the Condition No. 5 of Stage-II approval relating to fencing and protection of 184.591 hectare of virgin forest area is not agreed to. During 3<sup>rd</sup> renewal of Narayanposi Iron and Manganese ore mines of M/s. AMTC (P) Ltd., the DFO Bonai had reported regarding compliance to the conditions stipulated by GoI, MoEF, vide their final approval under, bearing letter No.8-34/2000-FC, dated 29.06.2001, including compliance to the condition number 5.</p> <p>Action under the Odisha Forest Act against the Lessee for continuing mining beyond the TWP period from 13.8.2005 will be initiated. Regarding the production carried out from 3.2.1985 to 29.6.2001, forest violations have been reported along with Forest Diversion Proposal to the MoEF which has imposed Penal Compensatory Afforestation (<b>PCA</b>) over 120 hectare of degraded forest land. Accordingly, the User Agency has paid Rs.16,82,000/- towards the cost of PCA.</p> <p>Notice will be issued u/s 21(5) of MMDR Act, 1957 for recovery of the price of the ore raised without forest clearance.</p> <p><b>Ministry of Environment and Forests</b> The case shall be examined in detail and appropriate legal action, as required, under the provisions of the Forest Conservation Act, 1980; and various guidelines</p>

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	<p>15.11.2007. Hence, all the production carried out from 03.02.1985 to 29.06.2001 (FC clearance was obtained first time by order dated 29.06.2001) was patently illegal and without lawful authority, as FC approval was not obtained.</p>	<p>/ instructions issued from time to time, shall be taken in a time bound manner. The MoEF will also direct the Government of Odisha to take appropriate legal action, as required, under the provisions of the Orissa Forest Act, 1972.</p>
3	<p><b>Lease running under Deemed Extension</b> The lease has been running under deemed extension since 03.02.2005 onwards.</p> <p>The production was continued since the year 1994-95 and even before, though the area in question was a forest land where the lease was operated. The lessee has committed serious violations of Rule 24A(6) (running mine without statutory clearance during deemed extension) of the MCR, 1960; the provisions of the F.C. Act, 1980 and the order dated 12.12.1996 of the Hon'ble Supreme Court. An approximate quantity of 2,96,024 MT has been extracted illegally during the period when there was no approval under the F.C. Act, 1980.</p> <p>As per Condition No.2 of the approval dated 29.06.2001 of MoEF, under FCA, a penal compensatory afforestation was levied for 120 ha. of degraded forest land identified in Amrudhi Reserve Forest of Bonai Forest Division (twice in extent to the area worth in violation of F.C. Act, 1980). It is apparent that imposition of penalty, as penal compensatory afforestation, is patently illegal, arbitrary and without any provision under the F.C. Act, 1980.</p> <p>A virgin area of 184.591 ha. was directed as per Condition No.5 of the approval quoted above, for fencing protection at the project cost and remain under the control of Forest Department. The area shall not be leased out to anyone for mining, till the expiry of the lease of this project. But, it is noted here that the same area has been further diverted vide order dated 15.11.2007 of MoEF.</p>	<p><b>Government of Odisha</b> The 1<sup>st</sup> renewal was granted for the period from 3.2.1965 to 2.2.1985, which was prior to commencement of the FC Act 1980. Even though the mining lease was valid as per the MMDR Act 1957, it was incumbent upon the lessee to obtain Forest Clearance in order to make the mining lease operational after 25.10.1980. In the instant case, Stage-II approval was not obtained before the end of the 1<sup>st</sup> renewal of the lease on 2.2.1985. The 2<sup>nd</sup> renewal of the lease was granted / executed during 1985 without prior approval of the FC Act 1980. The forest violation has been reported to the MoEF which has imposed Penal Compensatory Afforestation over 120.0 ha. for working over 59.736 ha. of forest land without FC clearance from 1985 onwards to settle the irregularity.</p> <p>Condition No.5 of the Stage-II approval dated 29.6.2001 has been complied with. Further, the stipulation regarding non-leasing of the mining lease area till expiry of the lease has also been complied with as the virgin area of 184.591 ha. has not been diverted / leased out to anyone during the lease period, i.e. 3.2.1985 to 2.2.2005. This is evident from the Letter No.8-34/2000-FC (vol-i) dt.15.11.2007 and dt.12.12.2007 in which an area of 244.327 ha. including 184.591 ha. of virgin area has been finally diverted.</p> <p><b>Ministry of Environment and Forests</b> Same as replied in S. No. 2 above.</p>
4	<p><b>Environmental Clearance(EC):</b> The first EC was obtained for 6.00 Lakh Ton Per Annum (TPA) for iron ore and 7,800 TPA for manganese ore.</p> <p>A quantity of 33,44,559 MT has been extracted in excess of aforesaid first EC capping limits unlawfully and without any authority. Hence, the extraction of ore, in violation of F.C. Act and in violation of conditions of EC, is illegal, unlawful and without authority and, hence, attracts the provisions of Section 21(5) of the MM(DR) Act, 1957. Therefore, action should be taken accordingly.</p>	<p><b>Government of Odisha</b> The State Government has issued notice u/s 21(5) of MMDR Act, 1957 for recovery of Rs. 459,45,48,856/- towards price of ore raised without lawful authority in violation of different statutes. The lessee has approached Revisionary Authority (RA) of Government of India and the RA vide interim order dated 2.09.2013 has directed not to take any action till the State Government files its reply.</p> <p>For violation of the EP Act by the lessee, Criminal Case has been instituted in the Court of SDJM, Bonai, district - Sundargarh.</p>



Sl.	Gist of Commission's Observations/ Findings / Recommendations	Action Taken Report
		<b>Ministry of Environment and Forests</b> The case shall be examined in detail and appropriate legal action, as required, under the provisions of the Environment (Protection) Act, 1986; EIA Notification, 2006 as amended; and various guidelines / instructions issued from time to time, shall be taken in a time bound manner.
5	<b>Violation of Rule 37 of MCR, 1960:</b> As per enquiry report of the Committee constituted vide Notification by Steel & Mines Department, Government of Orissa made available to the Commission. The Commission observed that the Aryan Mining is acquired by Stemcor Holdings Limited Group, UK.  The aforesaid report reveals that there is apparent violation of Rule 37 of MCR, 1960. The lessee is operating mining through contract in violation of Para 17 of Part VII of lease deed agreement.	<b>Government of Odisha</b> Based on the findings of the Committee, notice under Rule 37 of MCR, 1960 was issued to the lessee as to why the lease should not be determined for violation of the rule. The hearing has been completed. The case will be decided on merit.
6	A slurry pipeline in the forest land for the length up to 200 kilometers has been laid to transport the ore to Brahmin Rivers Pvt. Ltd. Plant, without obtaining statutory clearances under various Acts, including Forest (Conservation) Act, 1980. No substantial action has been taken, in this regard.  The responsibility should be fixed against the District Collector, Deputy Director (Mines), District Forest Officer and Environmental Officer (Odisha State Pollution Control Board – "OSPCB") for not taking actions to stop mining and allowing illegal production and dispatch for their commission, omission and misconduct.	<b>Government of Odisha</b> A slurry pipeline of about 18 kms has been laid from Tonto in Keonjhar District to Duburi in Jajpur District by BRPL which passes through forest area for which forest clearance has been obtained under section 2 of FC Act 1980.  Cases were booked against the User Agency for unauthorised laying of the pipeline in Naibuga Reserve Forest. However, the company has been allowed by the High Court to connect the pipeline, restore and start the operation. The company has applied for forest clearance for this patch of land and the proposal is under consideration of MoEF, GoI.  <b>Ministry of Environment and Forests</b> The case shall be examined in detail and appropriate legal action, as required, under the provisions of the Forest Conservation Act, 1980; and various guidelines / instructions issued from time to time, shall be taken in a time bound manner. The MoEF will also direct the Government of Odisha to take appropriate legal action, as required, under the provisions of the Orissa Forest Act, 1972.
7	The production and mining operations should be considered as illegal in the period where there was no statutory approval (EC/FC and others). The market value should be recovered from the lessee together with applicable exemplary penalty.	<b>Government of Odisha</b> The State Government will examine the matter and action as per the provisions of section 21(5) of MMDR Act, 1957 and other laws will be taken against the lessee.  <b>Ministry of Environment and Forests</b> Same as replied in S. No. 2 and 4 above
8	<b>Violation of Section 5 of MM(DR) Act and Rule 22 of MCR, 1960</b> Acquisition of a mining lease, within the territory of the Union of India by a foreign company, is also a blatant violation of Section 5 of MM(DR) Act, 1957 and Rule 22 of MCR, 1960.	<b>Government of Odisha</b> The State Government will examine the matter and action in accordance with law will be initiated against the lessee for violation of Section 5 of MMDR Act, 1957 and for unlawful raising of ore in violation of the provisions of Forest (Conservation) Act, 1980.

Sl.	Gist of Commission's Observations/ Findings / Recommendations	Action Taken Report
	<p>Acquisition of the Company (AMTC) and consequently, both the leases, by M/s. Stemcor Holdings Ltd., U.K. during the deemed extension period, is a flagrant violation and misuse of Rule 24(A) (6) of MCR, 1960 because this matter has not been brought before the State Government.</p> <p>The majority of the leased area, as stated above, is the forest land in both the leases. The diversion of forest land has been accorded in favour of AMTC as a user agency but by acquisition by the M/s. Stemcor Holdings Ltd., U.K., there is patently violation of the provisions of F.C. Act, 1980. It is not possible to reconcile as to how the forest land was acquired by a foreign national.</p>	
9	<p><b>Further contemplated transfer of lease area</b> Presently, in many National daily papers, it has been reported that M/s. Stemcor Holdings Ltd., U.K. may auction its Indian assets.</p> <p>Does the lessor (State of Orissa) know about what it is happening in its back and if so, why an action has not been initiated till date on a letter 22.08.2011 of Shri Arun Kumar Verma, Chartered Accountant to Commissioner-Cum-Secretary, Steel and Mines Department, Orissa?</p> <p>On the basis of the aforesaid report, action should be taken under Section 19 of the MM(DR) Act, 1957.</p>	<p><b>Government of Odisha</b> This matter will be inquired into and appropriate action will be taken.</p>
10	<p><b>CBI Inquiry</b> It is recommended to hand over the aforesaid case of Narayanposi Iron &amp; Manganese Mines to Central Bureau of Investigation, as per law.</p>	<p><b>Government of Odisha</b> The alleged lapses will be inquired into and appropriate action be taken against the lessee under the relevant laws like EP Act, FC Act, MMDR Act. Disciplinary action under the service conditions will be taken against the erring officials.</p> <p>Six public interest litigation (<b>PIL</b>) petitions were filed in the Hon'ble High Court of Orissa inter-alia seeking transfer of mines cases to CBI. As the matter is subjudice and the cases awaiting decision from the Hon'ble Court, there is no need for investigation by CBI at this stage.</p> <p>Further, the Supreme Court of India is seized of the matter in I.A. No. 2747-48/2009 in W.P. (C) No. 202 of 1995. The Central Empowered Committee has made certain recommendations on this issue in its report dated 26.04.2010. The Supreme Court in their order dated 7.05.2010 directed that the recommendations of the CEC which are acceptable to the State Government can be complied with and granted six weeks' time to response to the recommendations. The State has filed its response on 01.07.2010 and the matter is sub-judice in the apex court.</p> <p>Therefore, at this stage, there is no need for CBI investigation.</p>

**8 (ii) M/s. Aryan Mining & Trading Corporation Pvt. Ltd. - Mahulsukha Manganese Mines**

Sl.	Gist of Commission's Observations/ Findings / Recommendations	Action Taken Report
1	<p><b>First renewal for only 399.838 ha. of land</b>  The mining lease for Block E of Mahalsukha Manganese Mines admeasuring 988.00 acres (395.20 ha.) [399.83 ha. as per Memo dated 16.11.1985] has only been renewed. By observing the area of both the leases of the lessee, it seems that Blocks B and E have been retained by the lessee and continuing as leases.</p> <p>The details of remaining areas (Blocks A, C and D) should be found out by the Government. Also if the areas were disturbed, it should be rehabilitated and reclaimed at the cost of lessee by fully sanctioning the closer plan from a competent authority.</p>	<p><b>Government of Odisha</b>  The State Government will examine the matter and necessary action will be taken in the matter.</p>
2	<p><b>Second renewal</b>  The second renewal was granted vide Memo No.12417 MG.BBSR, dated 16.11.1986 for a period of 20 years, i.e. from 03.02.1985 to 02.02.2005 and the lease deed was executed on 15.01.1986 for 399.838 ha. The total leased area of 399.838 ha. consists of forest (340.332 ha.) and non-forest (59.504 ha.) land.</p> <p>The second renewal and execution of lease deed from 03.02.1985 for a period of 20 years has been done illegally without having prior approval under the Forest (Conservation) Act, 1980. Therefore, action should be taken as per the provisions of the said Act.</p>	<p><b>Government of Odisha</b>  The 2<sup>nd</sup> renewal of the lease was granted / executed during 1985 without prior approval under the F.C. Act 1980. At the time of grant of 2<sup>nd</sup> renewal, the applicability of the provisions of the FC Act'1980 was in the initial stage, and there was confusion regarding its application. The matter will be brought to the notice of MoEF, Government of India for taking necessary action.</p> <p>Appropriate action will also be taken for recovery of the price of the ore raised without obtaining forest clearance invoking the provisions of section 21(5) of MMDR Act, 1957.</p> <p><b>Ministry of Environment and Forests</b>  The case shall be examined in detail and appropriate legal action, as required, under the provisions of the Forest Conservation Act, 1980; and various guidelines / instructions issued from time to time, shall be taken in a time bound manner. The MoEF will also direct the Government of Odisha to take appropriate legal action, as required, under the provisions of the Orissa Forest Act, 1972.</p>
3	<p><b>Since 03.02.2005, the lease has been running under the deemed extension.</b>  It is highlighted that this mining lease has been acquired by M/s. Stemcor Holdings Ltd., U.K. since the year 2007-08 onwards.</p> <p>The leased land is mostly forest land and is in illegal possession of the third party in violation of the provisions of the MM(DR) Act, 1957; the FCA, 1980 and the MCR, 1960, as discussed earlier for the first lease of iron and manganese ores (at Narayanposhi) of the same lessee.</p>	<p><b>Government of Odisha</b>  The State Government will examine the matter and action will be initiated against the mining lessee for violation of section 5 of MMDR Act, 1957 and for recovery of the price of the ore raised in violation of the provisions of the Forest (Conservation) Act, 1980.</p> <p><b>Ministry of Environment and Forests</b>  Same as replied in S. No. 2 above</p>
4	<p><b>Environmental Clearance</b>  The lessee has taken Temporary Working Permission</p>	<p><b>Government of Odisha</b>  Action has been initiated by the Forest &amp;</p>

Sl.	Gist of Commission's Observations/ Findings / Recommendations	Action Taken Report
	<p>(TWP) under the FCA, 1980 twice from 13.07.1998 to 12.07.1999 (one year) and 16.02.2005 to 15.08.2005. But there is no EC during the said period.</p> <p>Production data since 1993-94 till 2012-13 (Table: Page 28) reveals that in the year 1993-94 which is considered to be the base year for obtaining EC, the extracted production was 14,687.223 MT. Upto the year 1995-96, the production was within the limit (i.e. production for the base year). However, from the year 1996-97, the production has been increased beyond the base year. Therefore, the lessee was required to obtain EC under EIA Notification, 1994.</p>	<p>Environment Department for filing prosecution against the lessee for violation of the provisions of the EIA notification under EP Act.</p> <p>Notice will be issued to the lessee under section 21(5) of MMDR Act for recovery of the price of the ore raised without obtaining EC.</p> <p><b>Ministry of Environment and Forests</b> The case shall be examined in detail and appropriate legal action, as required, under the provisions of the Environment (Protection) Act, 1986; EIA Notification, 2006 as amended; and various guidelines / instructions issued from time to time, shall be taken in a time bound manner.</p>
5	<p>Lessee has not submitted factual information to the MoEF and at the same time, Jt. Director had not taken any trouble to collect information and stated above. By issuing such letter in the year 1999, it has sent a wrong signal to the lessees in the State. Because undisputedly, the production has been increased from the year 1996-97 onwards and it amounts to expansion in terms of production capacity.</p> <p>Dr. P. Ahujarai, the Joint Director, MoEF had issued letter No. J-15012/9/99, dated 08.06.1999 without verifying the facts which amounts to undue favour to the lessee for both the aforesaid leases. Therefore, action can also be initiated against her under the conduct Rules.</p>	<p><b>Ministry of Environment and Forests</b> Same as replied in S. No. 4 above</p>
6	<p><b>Lessee was directed to obtain EC, vide order dated 04.04.2000</b> The lessee has obtained approval under the FCA, 1980 vide order dated 04.04.2000 of MoEF for 227.00 ha. subject to Condition XII amongst others. The lessee did not bother to obtain EC till 05.04.2007, despite the aforesaid condition. Hence, the approval under the FCA is void, as it was subject to complying with the aforesaid condition of obtaining EC.</p> <p>Further, lease was renewed in the year 1986. From that date, the lessee was required to obtain Forest Clearance under FCA, 1980. Hence, lessee has extracted manganese ore without obtaining valid FC as well as without obtaining EC, till 05.04.2007. Therefore; 2,05,601.00 MT production of manganese ore for the said period (i.e. 1993-94 to 2006-07) is illegal. Still however, exact production should be calculated accordingly. Such illegal production attracts the provisions of Section 21(5) of the MM(DR) Act, 1957. Hence, action should be taken to recover the amount equivalent to market price with penalty.</p> <p>Action should also be taken against the concerned officials of Mines, Revenue and Forest Departments for their omissions, commissions and misconduct.</p>	<p><b>Government of Odisha</b> Notice has been issued under section 21(5) of the MMDR Act, 1957 for recovery of a sum of Rs. 48,37,03,714/-. In cases where the recovery of the price of the ore raised without lawful authority has not been covered by the above notice, additional notice will be issued.</p> <p>As regards extraction of minerals without FC from 1986 to 3.4.2000, it is submitted that PCA has been imposed over 156.238 ha. for working over 78.119 hectare of forest land without prior approval under the FC Act 1980 by MoEF and the violation regularised.</p> <p>For the production from 4.4.2000 to 5.4.2007 without valid EC, and FC, the User Agency has been issued show cause notice. Action has been initiated for launching prosecution against the user agency for violations of EP Act.</p> <p>Regarding encroachment, fresh field verification will be carried out and further action be taken as per provisions of law.</p> <p>Action will also be initiated against delinquent</p>

Sl.	Gist of Commission's Observations/ Findings / Recommendations	Action Taken Report
	<p>It is to be stated that imposition of penal compensatory afforestation which is not as per the provisions of the FCA, 1980, cannot compensate equally against the illegal act of extraction of huge production without any lawful authority.</p>	<p>officers.</p> <p><b>Ministry of Environment and Forests</b> Same as replied in S. No. 2 and 4 above</p>
7	<p><b>CBI Inquiry</b> It is recommended to hand over the aforesaid case of Mahalsukha Manganese Mines to Central Bureau of Investigation, as per law.</p>	<p><b>Government of Odisha</b> Violation of individual miners under EP, FC and other Acts will be dealt under the relevant statute by registering cases. In case, criminality of lessees/ officials is found, necessary criminal action will be initiated.</p> <p>The Supreme Court of India is now seized of the matter in I.A. No. 2747-48/2009 in W.P. (C) No. 202 of 1995. The CEC has made certain recommendations on this issue in its report dated 26.04.2010. The Supreme Court in their order dated 7.05.2010 directed that the recommendations of the CEC which are acceptable to the State Government can be complied with and granted six weeks' time to response to the recommendations. The State has filed its response on 01.07.2010 and the matter is sub-judice in the apex court.</p> <p>These are subject matter of six public interest litigation (PIL) petitions which were filed in the High Court of Orissa inter-alia seeking transfer of mines cases to CBI. As the matter is subjudice and the cases awaiting decision from the High Court, there is no need for investigation by CBI at this stage.</p>

Sl.	Gist of Commission's Observations/ Findings / Recommendations	Action Taken Report
1	<p>The lessee has transferred the lease to two companies, namely M/s. Arvind Construction Co. Pvt. Ltd. and subsequently to Orwin Engineering Company, which is a sister concern of M/s. Triveni Earthmovers Pvt. Ltd.</p> <p>The transfer of the mining operation is in breach of Rule 37 of the MCR, 1960 and in violation of para 17 of the Lease Deed Agreement of all the leases.</p>	<p><b>Government of Odisha</b> The State Government will examine the matter and necessary action will be taken under Rule 37(3) of MCR, 1960 for determination of lease.</p>
2	<p>Action should also be taken against raising contractors (M/s. Arvind Construction Co. Pvt. Ltd. and subsequently to Orwin Engineering Company, which is a sister concern of M/s. Triveni Earthmovers Pvt. Ltd.) for operating the leases in violation of FC and EC.</p>	<p><b>Government of Odisha</b> The State Government will initiate necessary action in accordance with provisions of law.</p> <p><b>Ministry of Environment and Forests</b> The case shall be examined in detail and appropriate legal action, as required, under the provisions of the Environment (Protection) Act, 1986; Forest (Conservation) Act, 1980; EIA Notification, 2006 as amended; and various guidelines / instructions issued from time to time, shall be taken in a time bound manner. The Government of Odisha will be directed to take appropriate legal action, as required, under the provisions of the Orissa Forest Act, 1972.</p>
3	<p>A parent mining lease of manganese was granted on 22.06.1953 in Jorudi area of Keonjhar District over an area of 225.005 ha. in favour of M/s. Kalinga Mining Corporation Ltd.</p> <p>This parent lease area has now been held by the lessee in the form and style of five leases, namely,</p> <ol style="list-style-type: none"> <li>a mining lease of manganese over an area of 54.754 ha.;</li> <li>a mining lease for manganese over an area of 39.456 ha.;</li> <li>a mining lease of 12.69 ha. for iron ore;</li> <li>a mining lease of 27.17 ha. for iron ore; and</li> <li>a mining lease of 73.228 ha. for iron ore.</li> </ol> <p>The lease period of four of the above mining leases i.e. (a) to (d) expired on 21.06.1993. Further, the grace period of one year lease as per the then Rule 24A (6) of the MCR, 1960 also expired on 21.06.1994. Hence, all the four leases ceased to exist from that date for want of approval under the then Rule 24A (7) of the MCR, 1960 from the Government of India.</p>	<p><b>Government of Odisha</b> The State Government is identifying the leases deemed to have been refused as per rules prevalent at that point of time. Action will be taken for recovery of the price of the ore raised without lawful authority as per provisions of law.</p>
4	<p>The State Government vide its letter dated 16.08.1994 issued working permission for these mining leases i.e. (a) to (d) for three months' period from the date of issue of the letter. However, there is no approval/order or existing law for the interregnum period between 21.06.1994 to 16.08.1994.</p> <p>It is to state that the said letter of the State Government dated "16.08.1994" is without power, authority and competence of the</p>	<p><b>Government of Odisha</b> The State Government is identifying the leases deemed to have been refused as per rules prevalent at the relevant point of time. Necessary action is being taken in the matter after following due process of law.</p>

Sl.	Gist of Commission's Observations/ Findings / Recommendations	Action Taken Report
	<p>State Government. Hence, all four leases i.e. (a) to (d) above ceased to exist from 22.06.1994.</p> <p>The lease period of the mining lease (i.e.) of 73.228 ha. (135.569 ha. first lease) of iron ore expired on 31.03.1997. An undue favour was extended to the lessee during fixing the lease period while inclusion of iron ore and grant of first lease. The lease (73.228 ha.) consists of 30.38 ha. revenue forest and 26.798 ha. DLC land.</p>	
5	<p>There is no FC approval for this lease under FCA, 1980 from 31.03.1997 for the revenue forest and from August, 1998 for DLC forest land till 19.03.2008. In between a Temporary Working Permission was granted for one year from 13.05.2005 to 12.01.2006. Hence, except the period under TWP the production from 31.03.1997 to 19.03.2008 was without authority and illegal and it attracts the provisions of Section 21(5) of the MMDR Act, 1957.</p> <p>Necessary actions should be taken to recover market value of mineral so raised along with other penal actions for the production.</p>	<p><b>Government of Odisha</b> The State Government will examine the matter and necessary action will be initiated against the lessee for recovery of the price of ore raised in forest area without statutory forest clearance as per provisions of law.</p> <p><b>Ministry of Environment and Forests</b> The case shall be examined in detail and appropriate legal action, as required, under the provisions of the Forest Conservation Act, 1980; and various guidelines / instructions issued from time to time, shall be taken in a time bound manner. The MoEF will also direct the Government of Odisha to take appropriate legal action, as required, under the provisions of the Orissa Forest Act, 1972.</p>
6	<p>Similar actions should also be taken for other lessees for illegal production (for remaining (a), (c) and (d) leases). The illegal production for these mines are as under:—</p> <p>(a) Mining lease of iron ore for an area admeasuring 54.754 ha. – 972865 MT;</p> <p>(c) Mining lease of area admeasuring 12.69 ha. – 961176 MT; and</p> <p>(d) Mining lease of area admeasuring 27.17 ha. – 93374 MT.</p>	<p><b>Government of Odisha</b> The State Government will examine the matter and necessary action will be taken as suggested for recovery of the cost and for other penal action as per provisions of law.</p> <p><b>Ministry of Environment and Forests</b> Same as replied in S. No. 2 above</p>
7	<p>There is proxy production shown for the lease of 12.69 ha. of iron ore. Further investigation should be carried out in this regard and action should be taken accordingly.</p>	<p><b>Government of Odisha</b> The State Government will enquire the matter and action will be initiated as per law.</p>
8	<p>There is illegal mining in the form of removal of iron ore from the lease area of 54.756 ha. of manganese. The action should be taken for this illegal removal of iron ore.</p>	<p><b>Government of Odisha</b> The matter will be examined and necessary action will be initiated under provisions of MMDR Act, 1957 and MCR, 1960.</p>
9	<p>A mining plan/scheme has been sanctioned by IBM for iron ore for the lease area of 54.754 ha. In the said lease, mining of iron ore is included. Hence, the sanction of mining plan/ scheme by the IBM is unlawful. Iron ore is removed from the lease.</p> <p>For this omission and sanctioning a mining plan/scheme for a mineral which is not a part of lease, action should be taken against the Regional Controller.</p>	<p><b>Government of Odisha</b> The matter will be examined and necessary action will be initiated against the lessee and the Deputy Director, Mines as per law.</p> <p><b>Ministry of Mines</b> The Ministry has directed the IBM to</p>

Sl.	Gist of Commission's Observations/ Findings / Recommendations	Action Taken Report
	On the other hand, no mining plan/scheme was approved and yet, iron ore was extracted in the lease area of 12.69 ha. Hence, action should be taken against the lessee, IBM and DDM.	inquire and fix responsibility for failure on the part of any officers / officials of IBM in this regard.
10	Action should be taken against the officers and lessee under Sections 3A and 3B of the FC Act, 1980 for violation of the said Act.	<b>Ministry of Environment and Forests</b> Same as replied in S. No. 5 above
11	<p>Prosecution proceedings also should be initiated against the lessee and contractor under Section 19 of the Environment Protection Act, 1986.</p> <p>The MoEF has given EC approval for iron ore for the leased area of 54.754 ha. whereas iron ore is not included in the said lease. Further, there is no mention of 12.69 ha. lease for its inclusion in this EC. Hence, the EC is accorded on incorrect facts. Action should be taken as per the Rules for withdrawal of EC.</p>	<p><b>Government of Odisha</b> Prosecution has been instituted against the lessee for violation of the EP Act in the Court of JMFC, Barbil for Jurudi Manganese Mines (54.754 hectare) and for Jurudi Iron Ore Mines (73.228 hectare). Action has been initiated for prosecution of the lessee in respect of violation of EP Act in respect of Jurudi Iron Ore Mines (27.170 hectare) and Jurudi Iron Ore Mines (12.691 hectare).</p> <p><b>Ministry of Environment and Forests</b> The case shall be examined in detail and appropriate legal action, as required, under the provisions of the Environment (Protection) Act, 1986; EIA Notification, 2006 as amended; and various guidelines / instructions issued from time to time, shall be taken in a time bound manner.</p>
12	<p><b>Violation of Rule 37 of MCR, 1960</b> It would be worthwhile to state that the lessee has transferred the lease area for mining operations to M/s. Arvind Construction Co. Pvt. Ltd. Since 1991 till 2010. These facts are admitted in the Writ Petition which was filed before the Hon'ble High Court of Odisha, as the transferee was not returning the possession of the mined area. This would apparently amount to violation of Rule 37 of MCR, 1960.</p> <p>There cannot be any doubt that KMC has transferred the rights of mining operations in violation of Rule 37 of MCR, 1960.</p>	<p><b>Government of Odisha</b> The matter will be examined and necessary proceedings will be instituted under Rule 37(3) of MCR, 1960 for determination of lease.</p>
13	<p><b>Raising contract with M/s. Orewin Engineering Company</b> On 07.12.2009, M/s. KMC has awarded another contract for excavation/raising of iron ore and associated rejects / spoils / spurious materials, segregation, sizing into iron ore lumps manually or/and by crusher to below 180 mm size, stacking thereof 10 – 180 mm. size ore, crushing of lump ore to 5 – 18 size &amp; cleaning of quarry faces within the lease hold area 54.754 ha. and 73.22 ha., to M/s. Orewin Engineering Company, a sister company of M/s. Triveni Earthmovers Pvt. Ltd. All the mining operations are being operated in the name of M/s. Orewin Engineering Company but done by third party i.e. M/s. Triveni Earthmovers Pvt. Ltd. (TEMPL).</p> <p>Thriveni Earthmovers Pvt. Ltd. has stated that the company has done mining contract work in KMC. The entire work contracted</p>	



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	<p>to OEC was sub-contracted to Thriveni Earth Movers Pvt. Ltd. The contract with M/s. Orewin Engineering Company is entered for raising of 07 Lacs MT which is higher by 1,29,386 MTPA from the EC limit i.e. 5,70,614 tons per annum before obtaining the second EC.</p> <p>The aforesaid facts leave no doubt that excavation and all mining work was carried out previously by M/s. Arvind Construction Pvt. Ltd. from the year 1991 to 2008-09. Thereafter, it was carried out by M/s. Orewin Engineering Company through subcontractor Thriveni Earthmovers Pvt. Ltd. This is apparently in violation of Rule 37 of MCR, 1960 and also in violation of the terms and conditions of the lease deed.</p>	
14	<p><b>Lease should have been made co-terminus</b></p> <p>The lease of iron ore (135.569 ha.) should have been made co-terminus on the expiry of parent lease i.e. on 21.06.1973 since the lease had been carved out and overlap to the parent lease. The reasons for assigning a different period for this lease could not be ascertained from the available records. May be, because of undue favour extended to the lessee. This has resulted consequential benefits to lessee.</p> <p>The lease period has been extended by 04 years and reflected continuously in subsequent renewals. This has also resulted in escaping this lease from the provisions of the then Rule 24A of MCR, 1960. This would not have happened had the lease deed executed co-terminus with the parent lease period.</p>	<p><b>Government of Odisha</b></p> <p>This matter will be inquired into and necessary action will be taken in accordance with the provisions of law.</p>
15	<p><b>Iron ore lease deeds for 13.152 ha. and 27.316 ha.</b></p> <p>The execution of M.L. for iron ore on 24.08.1964, in non-contiguous blocks was in violation of the Section 6(1)(c) of the then prevailing MMDR Act, 1957.</p> <p>It is noted that at that point of time, after carving out 2 (two) leases of 135.569 ha. and 40.468 ha. for iron ore, the remaining area of 48.968 ha. (225.005 ha. – 135.569 ha. – 40.468 ha.= 48.968 ha.) got divided into 2 (two) non-contiguous block areas:—</p> <p>(d) one of 10.119 ha. (in the middle on the North); and</p> <p>(e) 38.849 ha. (on the South-East) for Manganese.</p> <p>This was also in violation of the then Section 6(1)(c) of MM(DR) Act, 1957.</p>	
16	<p><b>1<sup>st</sup> renewal of the leases</b></p> <p>An area of <b>10.119 ha.</b> to the Mid-East of the lease hold over 54.754 ha. was relinquished from parent lease of 225.005 ha. during 1st renewal, <b>though no rehabilitation and reclamation is taken up.</b></p> <p>Therefore, further investigation is required:—</p> <ol style="list-style-type: none"> <li>why such an exceptional methodology was adopted to make the matter so complex?; and</li> <li>What was the motive behind it?</li> </ol> <p>It should be investigated by an independent agency.</p>	
17	<p>Ld. Counsel produced on record a letter No.106F8/SM dated</p>	<p><b>Government of Odisha</b></p>

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	16.08.1994 (the date of the letter is subject to verification from the original records) stating that the State Government allowed working of mine for three months' period in all those leases (04 leases). Assuming that the letter is genuine, then also, it is without authority and jurisdiction because the State Government has no such jurisdiction, as the Central Government's approval was necessary and it would amount to undue favour to lessee by the concerned officers and others.	Same as replied in S. No. 4 above
18	Actions should be taken against officers who are responsible for grant of such working permission. The lessee should have obtained approval of the Central Government under the then sub-rule (7) of Rule 24A of MCR, 1960.	<b>Government of Odisha</b> Disciplinary action as appropriate will be initiated against erring officials.
19	<p>Since the lease period expired for these four leases on 21.06.1993, and also deemed extension period of one year expired on 21.06.1994 all the four leases ceased to exist from 22.06.1994 onwards in letter, spirit and strict compliance of the then Rule 24A of MCR, 1960. It is apparent that from 21.06.1994, lessee was not entitled to continue in possession and operate the mines <b>because the provisions for deemed extension came into force only from 27.09.1994.</b></p> <p>Hence, the leases have been operated without lawful authority and therefore all the production resulted from this date (22.06.1994) onwards is unlawful.</p>	<b>Government of Odisha</b> The matter will be examined and necessary proceedings will be instituted under section 21(5) of MMDR Act, 1957 for recovery of the price of the mineral raised without lawful authority in accordance with provisions of law.
20	<p><b>Forest Clearance</b> It is also stated here that the approval under FC Act, 1980 for 6.008 ha. of forest land on April 29, 2005 is for non-existing lease, if seen in strict compliance of law (the then Rule 24A). Hence, this approval under FCA is also erroneous and non-est under the law.</p> <p>The said approval under FC Act has been claimed by lessee to be applicable for two different mines i.e. <b>54.754 ha. of manganese ore and 12.691 ha. of iron ore, which is found non tenable, unfounded and incorrect.</b></p>	<b>Ministry of Environment and Forests</b> Same as replied in S. No. 5 above
21	<p><b>Jurudi Manganese Ore Mines (54.754 ha.)</b> As per the then provisions of Rule 24A of the MCR, 1960, the lease ceased to exist from 22.06.1994 and all subsequent working and extraction of ore from the lease is without lawful authority and illegal. It attracts Section 21(5) of MM(DR) Act, 1957. The lessee, however, has since then been carrying out mining operations in the leasehold area.</p> <p>Additionally, iron ore was/is also being recovered by the lessee from this leasehold area (other than 12.69 ha.) as submitted by the Joint Committee although the lease is for manganese ore only and iron ore has not been included in the lease deed so far. The mine is in operation, which is evident from the production data as submitted by the lessee.</p> <p>During the course of investigation, it was ascertained that an area of 8.69 ha. in Mouza: Jalahuri, Khata No.35, Plot No.2/P was deemed forest area which was not detected earlier. Thus, the deemed forest area will be 45.167 ha. instead of 36.477 ha.</p>	<p><b>Government of Odisha</b> Necessary proceedings have already been instituted under section 21(5) of MMDR Act, 1957 to recover from the lessee the price of the manganese and iron ores raised without lawful authority.</p> <p>Action will also be taken to recover the price of the ore raised from the forest and DLC area without forest clearance.</p> <p>The Commission has opined that mining over 4.894 hectare of DLC forest since August, 1998 in addition to 6.313 ha. of Revenue forest since 21.06.1993 without FC approval makes the entire production during this period illegal. As per the IBM record, there was no</p>

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	<p>Out of 8.69 ha. of area which became deemed forest in August 1998, mining has been carried out over 4.894 ha. which is a violation under the Forest (Conservation) Act, 1980.</p> <p>The safety zone has been disturbed for the purpose of overburden dump and fines between the pillar No.E to E5 over a length of 440 meters and width of 7.5 meters, and from the pillar No.I to H2 over a length of 14 mtrs. with width of 4 mtrs. In between the pillar No.H2 to H1, the safety zone has been broken in two places:-  (a) over the length of 80 meters and with width of 4 meters; and  (b) over the length of 50 meters and with width of 7.5 meters.</p> <p>Another patch of 10 meters with width of 7.5 meters in between the pillar No.F7 to G has been broken. Total area damaged is 3751 Sq. meters.</p> <p>Presuming that the lessee was entitled to continue yet for 6.313 ha. which is revenue forest, lessee was required to obtain FC approval from 21.06.1993 and for the DLC area admeasuring 45.17 ha., lessee was required to obtain from August, 1998.</p> <p>No such approval is obtained. Therefore, all the production in this period is without any authority and illegal. <b>Hence, it attracts the provisions of Section 21(5) of MM(DR) Act for necessary action accordingly.</b></p> <p>On perusal of the approval granted under F.C. Act, 1980 vide letter dated 29.04.2005 of MoEF for iron and manganese ores mine is factually incorrect, since the leases of manganese for 54.754 ha. and 12.691 ha. iron ore have not been amalgamated as per the copy of letter submitted by the lessee vide No. 60-V-86/05/16544/Mines dated 22.10.2005 (from Deputy Director (Mines) to the Collector, Keonjhar). Both the leases have not been amalgamated till date. Hence, approval under FCA as well as under EIA Notification for iron ore and manganese ore mines together for the said area is factually and legally incorrect. Not only this, those approvals are given for non-existing leases since 02.06.1994 under the Rule 24A of MCR, 1960.</p> <p>It is further noted that the illegal working in DLC forest without FC approval towards the south-east part of this lease is noticed and found extended encroachment by the adjoining lease. Hence, there is violation of FCA, 1980 and also the State Forest/Revenue Acts.</p> <p>The damages including extraction of mineral in this area may be calculated by an independent agency and the loss be recovered from the lessee with applicable penalty together. Further, action can be taken for prosecution under Sections 3A &amp; 3B of FCA, 1980.</p> <p>Further, the joint committee of officials has submitted that about 13.052 ha. leased land has been broken-up for various mining activities in violation of FCA, 1980 <b>after August 1998</b>. The iron ore has been extracted from this leased area though the</p>	<p>production from 1989-90 to 2000-01. However, mining was carried out during 2001-02 to 2002-03, 2005-06 and 2006-07. The lessee was granted TWP from 10.07.1995 to 09.07.1996 and then from 20.05.1997 to 19.02.1998 and Stage-II approval was granted over 6.008 hectare on 02.05.2005. However, in respect of production during the aforementioned period excluding the period covered under TWP and Stage-II approval, action is being taken against the lessee as per law.</p> <p>Regarding illegal working in DLC forest without FC approval towards south-east part the lease vis-à-vis working in 13.052 hectare without FC approval, action is being initiated against the lessee. Action under Sections 3A &amp; 3B of Forest (conservation) Act, 1980 is not warranted as no authority has allowed permission to work in the forest area without prior approval of GoI. The iron ore raised from the mine will be treated as raised without lawful authority and price realised under section 21(5) of the Act of 1957.</p> <p><b>Ministry of Environment and Forests</b> Same as replied in S. No. 2 above</p> <p><b>Ministry of Mines</b> Same as replied in S. No. 9 above</p>

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	<p>ore is not included in this lease.</p> <p>Permission for iron ore is not included in this lease, yet. The mining plan / mining scheme has been approved by the IBM of this leased area for both iron ore and manganese. Hence, it is an erroneous approval under the law.</p> <p>Action should be taken accordingly against those officers who are responsible for their omissions and commissions.</p>	
22	<p><b>Jurudi Iron Ore Mines (12.691 ha.)</b>  Lease period expired on 21.06.1993 and as the renewal application was not decided, extended lease period expired on 21.06.1993. Therefore, the production from a non-existed lease from this date onwards is without any authority and considered as illegal.</p> <p>Hence, the value equivalent to market rate should be recovered from the lessee along with other penal provisions irrespective of any approval obtained in any other Acts and Rules if any.</p> <p>Further, there was no approval under the EIA Notification 1994 till 10.12.2008 and also under FC Act, 1980 for DLC Forest since August 1998. Therefore, also, the production is illegal.</p> <p>The leases which are running under deemed extension provisions of Rule 24A should be considered as illegal mining if they do not have EC and FC approvals.</p> <p>Hence, the production of 9,61,176 MT is illegal and, therefore, action should be taken under Section 21(5) of MM(DR) Act, 1957 and also against the officials for their commissions and omissions. The matter of proxy production, as discussed in the lease of 54.754 ha., should be further investigated by an independent agency as early as possible.</p> <p>The Regional Controller of Mines, Bhubaneswar has requested the Commissioner-cum-Secretary of Department of Steel and Mines for termination of the lease under Rule 27(1)(u) of MCR, 1960 for non-compliance of a rule which is a serious violation, as pointed out by the task force team inspection on 13.08.2010.</p> <p>The termination of the lease has not been done even after lapse of two years. Hence, action should be taken, as requested by Regional Controller of Mines, without further loss of time.</p>	<p><b>Government of Odisha</b>  The lessee had been granted TWP by MoEF over 6.008 ha from 10.07.1995 to 09.07.1996 and therefore the production within this period is not illegal. There is no production from year 1992-93 to 2004-05 as noted by Commission. However, there is production from the years 2005-06 to 2008-09. Action is being taken for prosecuting the lessee under the relevant laws for production without FC/ EC.</p> <p>The lessee has been issued notice under section 21(5) of MMDR Act 1957 for recovery of Rs.460,41,39,066/- for raising ore beyond the quantity specified in various statutory clearances.</p> <p>The State Government will take necessary action to inquire into the matter.</p> <p><b>Ministry of Environment and Forests</b>  Same as replied in S. No. 2 above</p>
23	<p><b>Jurudi Iron Ore Mines (73.228 ha.):</b>  This area is part of 135.569 ha. lease for iron ore and was forming part of the parent ML of 225.005 ha. for manganese.</p> <p>For 225.005 ha. lease, the lease period was from 22.06.1953 to 21.06.1973 but for 135.569 ha. lease, it was effected from 01.04.1957 to 31.03.1977.</p> <p>1st renewal application has been granted over the same area of 135.569 ha. and the deed was executed w.e.f. 01.04.1977 to 31.03.1997. Hence, it is undue favour extended to the lessee, as</p>	<p><b>Government of Odisha</b>  Regarding illegal production from 01.04.1997 to 12.01.2005 and 28.02.2006 to 18.03.2008 without FC approval, action is being taken against the lessee under relevant forest laws.</p> <p>Show cause notice for irregular dumping in virgin forest, unauthorized stock yard over 0.7 hectare, formation of mineral stock yard inside virgin</p>

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	<p>explained earlier. The lease is running under deemed extension under Rule 24A(6) of MCR, 1960.</p> <p>Application for 2<sup>nd</sup> renewal has been reportedly filed on 30.03.1996 over 73.228 ha. for iron ore for 20 years w.e.f. 01.04.1997. The State Government has not yet, after a lapse of 16 years, disposed of the said renewal application and the lease is working under deemed extension under Rule 24A(6) of MCR, 1960.</p> <p>EC was granted on 21.08.2007 for 73.228 ha. for enhancement of production from 84000 MT to 0.57 million tonnes per annum. Again, second EC was granted on 01.06.2012 for further enhanced production from 0.57 million tonnes per annum to 2.1 million tonnes per annum. The lease was under operation without having valid EC from the year 1994 to 21.08.2007. Thus, the operations and production were in violation of Environment (Protection) Act and EIA Notification, 1994. Therefore, the value equivalent to market rate should be recovered under Section 21(5) of MM(DR) Act, 1957.</p> <p>The period from 01.04.1997 to 12.01.2005 and from 28.02.2006 to 18.03.2008 was without Forest Clearance under FCA. The lessee has worked without authority. Hence, action should be taken under Section 21(5) of MM(DR) Act, 1957.</p> <p>Thus, the production between 01.04.1997 and 12.01.2005 was 7,91,783 MT. This was without FC. Thereafter, between year 2006–07 and 2007–08, total production was 8,47,972 MT (i.e. 5,01,872 + 3,46,100 MT) which was also without FC and, therefore, unlawful.</p> <p>Not only this, there is large irregular dumping done in the virgin forest area in violation of FCA.</p> <p>Violation reported by Joint Committee:—</p> <p>(a) Working on the common boundary for Iron ore between ML area over 73.228 ha. and 54.574 ha. was observed. Similar workings are also observed on the common boundary between the ML area over 73.228 ha. &amp; 27.1705 ha.</p> <p>(b) Working of Mine across the common boundary between M.L. area of 73.228 ha. lease and M.L. area of O.M.C. Ltd. on its south was noticed. The lessee has obtained permission from DGMS for such working. The lessee, however, has constructed common boundary wall on the common boundary line by utilizing waste material and undertaken plantation there upon is not a part of permission.</p> <p>(c) As regards working adjacent to the railway track passing on the eastern side of the ML area over 73.228 ha., it was observed that the lessee has utilized an area of about 0.7 ha. on south eastern corner of the lease area near ML pillar Nos. E2 and E3 as stock yard of finished ore. This area comes within the DLC area of the lease in respect of which no diversion of forest-land was availed by the lessee. Plantation over the said area has been undertaken by the lessee. Some workings were also observed in the area of</p>	<p>forest, construction of road, breaking of safety zone, over burden dump and construction of road has been issued, and offence case booked and prosecution sanctioned by the DFO and submitted to the Court of the JMFC, Barbil.</p> <p>Show cause notice has been issued on 30.10.2012 for recovery of Rs. 460,41,39,066/- under section 21(5) of MMDR 1957. Further notice will be issued for the period not covered and the quantity unlawfully raised without forest clearance.</p> <p>A prosecution report has also been filed against the lessee by the Collector, Koenjhar for producing iron ore without environment clearance in the Court.</p> <p>For other violations, the matter will be examined and show cause be issued to take action as per provisions of law.</p> <p>For renewal of mining leases, a high level Committee under the Chairmanship of Development Commissioner-cum-Additional Chief Secretary has been constituted to examine the pending RML applications and take appropriate view. The Committee has already met four times and taken a view on a few applications.</p> <p><b>Ministry of Environment and Forests</b> Same as replied in S. No. 2 above</p>

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	<p>Jaruri Manganese Mines, M/s. Tata steel which is adjacent to the boundary line near ML pillar No.E2.</p> <p>(d) A formation of mineral stock yard inside the virgin village forest over an area – 0.314 ha.</p> <p>(e) Construction of road inside virgin village forest area over 245 mtrs. X 4 mtrs.</p> <p>(f) Safety zone broken in between pillar No.E2 and E3 at a distance of 31 mtrs.</p> <p>(g) Safety zone broken in between pillar No. E3 and G over 110 Mtr length.</p> <p>(h) O.B. dump situated over the safety zone in between ML pillar E2 and E1 over 600 Mtr. length.</p> <p>(i) Constructed one road over the safety zone in between L1 &amp; L2 over 156 Mtr. length.</p> <p>(j) O.B. dump situated over the safety zone in between ML pillar A1 and A2 over 30 Mtr. length.</p>	
24	<p><b>Jurudi Iron Ore Mines (27.17 ha.):</b></p> <p>Non-disposal of the 2nd renewal application of the lease attracted the provisions of the then Rule 24A(6) &amp; (7), as was applicable at the time of expiry of the 1st renewal period and the mining stopped and land surrendered by lessee, but the lease is continued to operate after expiry of the lease period.</p> <p>The lease ceased to exist under the then Rule 24A of MCR, 1960, it has been illegally allowed to operate. All the production i.e. 93,374 MT, after 22.06.1994, is illegal and without authority, since there is no subsisting lease. Hence, action should be taken under Section 21(5) of MMDR Act, 1957 along with other action.</p> <p>The lessee was supposed to take approval under FCA, 1980 after August, 1998. Mining operation and ore production after August, 1998 was in violation of FCA, 1980 and order dated 12.12.1996 of Hon'ble Supreme Court. It is further stated that the Environmental Clearance (EC) has not been obtained, though it is applicable since the year 1996. Hence, the production is in violation of EIA Notification, 1994 under EPA, 1986.</p> <p>After August, 1998, the DFO, Keonjhar Division, in his Memo No.9337, dated 01.09.1998, restricted the user agency to carry out the mining operation within the broken up area i.e. 11.881 ha. This order of DFO is without an authority and the same is erroneous. Hence, action should be taken against him as per the Rules.</p>	<p><b>Government of Odisha</b></p> <p>The State Government has directed to suspend operation of the mines which have been deemed to have been refused under the law as was applicable at the time of expiry of the lease. Action will be taken to determine the leases which are deemed to have been refused after following due process of law.</p> <p>Steps will be taken to recover the price of the ore raised after deemed refusal invoking the provisions of section 21(5) of MMDR Act, 1957.</p> <p>Similar action will be taken for recovery of the price of ore raised in violation of EIA notification, 1994.</p> <p>Regarding the permission given by Divisional Forest Officer to carry out mining in broken up DLC area of 11.881 ha. without any authority, perhaps the permission was granted on the assumption that mining in broken up DLC forest land could be continued without approval under Forest (Conservation) Act, 1980. However, the issue was subsequently clarified by CEC on 26.04.2010 that such permission to work in the broken DLC area could be availed by the lessee only in subsisting mining lease and that too subject to availability of all statutory clearance. On receipt of this clarification, the working of mine has been stopped forthwith.</p> <p>Action is being initiated for filing prosecution against the lessee for violation of the EP Act.</p>

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		<b>Ministry of Environment and Forests</b> Same as replied in S. No. 2 above
25	<b>Jurudi Manganese Ore Mines (39.173 ha.):</b> Mining operations, in this lease, has been discontinued since long, as informed by the lessee. Verification of records, for the period from the year 2000 onwards also, reveals that the lessee has been filing 'NIL' returns in respect of this lease till date. Hence, Rule 28 of MCR, 1960 is violated in this lease (closing of mining more than two years). Therefore, action should be taken accordingly.	<b>Government of Odisha</b> Notice under Rule 28 of MCR 1960 has been issued. The matter will be decided in accordance with law.
26	<b>Forest Issues</b> The involvement of forest land needs to be verified with the revenue records.	<b>Government of Odisha</b> Verification of revenue records for establishing the extent of Forest Land will be carried out.
27	<b>Other Observations of Joint Committee</b> In the 1 <sup>st</sup> renewal of ML for 54.75 ha., lease deed was executed on 11.06.1977 only for the mineral – manganese and w.e.f. 22.06.1973 to 21.06.1993. 2nd renewal application is reportedly filed on 20.06.1992; but not yet disposed off by State Government. The records, available with IBM as well as with the State Government for the mine of 54.75 ha., show production and dispatch of iron ore from this lease during last few years which attract the provision of Rule 27(1)(b) of the MCR, 1960. Hence, action should be taken accordingly.  Production of iron ore, as reported in the annual returns of 54.754 ha. lease and as observed during field inspection by the joint committee, is illegal.  Production figures are furnished in the annual returns submitted to IBM. The same also furnished in the mining scheme/mining plan, as review of production during earlier periods. There is discrepancy in the production figures submitted in different places. Even the production data, as submitted to the State Government, is found different than that is submitted with IBM.	<b>Government of Odisha</b> The State Government will examine the matter and necessary action will be taken against the lessee for violation of Rule 27(1)(b) of MCR, 1960 after following due process of law. Provisions of section 21(5) of MMDR Act, 1957 will be invoked to realise the price of the ore raised illegally. The production figures will also be reconciled to ensure that all the ore produced illegally /without lawful authority is accounted for and action will be taken in the matter.
28	<b>Recommendation</b> It is stated that various violations have been committed in respect of the aforesaid five leases.  It is recommended that action should be taken against all concerned as discussed in detail hereinabove.  It is further recommended to hand over all the aforesaid five cases/leases of the lessee to Central Bureau of Investigation, as per law for further investigation.	<b>Government of Odisha</b> As necessary action has already been taken or is being taken by the State Government, there may not be a necessity for investigation by CBI. Wherever criminality is found, the State Government will initiate necessary penal action.

## 10 Sri Basanta Kumar Das Kasiabeda Iron Ore Mines

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1	<p>On 26.03.2007, Sri Basant Kumar Das has made a Power of Attorney and entered into agreements with <b>M/s. Sidharth Sponge and Power Pvt. Ltd.</b>, Kolkata represented by its Director, Sri Anand Kumar Agrawal for <b>raising of iron ore from the lease</b> and with <b>M/s. Jay Jagannath Movers Pvt. Ltd.</b>, Kolkata represented by its Director, Sri Pratap Kumar Das for <b>selling iron ore</b>. <b>It is to state here that this is a clear violation of Para: 17 of Part: VII of the Lease Deed Agreement entered into by the lessee and the State Government.</b></p> <p>The said power of attorney with various terms and conditions for raising and selling of iron ore has been submitted to the Mining Officer, Bhariapada, Mayurbhanj on 13.04.2007. Sri Bijay Kumar Sahu, the then Mining Officer Bariapada allowed the Power of Attorney Holder, <b>Sri Pratap Kumar Das and Sri Anand Kumar Agrawal to extract and transport of the iron ore in blatant violation of Rule 37 of MCR, 1960 and also Para 17 of Part VII of the lease deed Agreement.</b></p>	<p><b>Government of Odisha</b> The lease has been determined by the State Government on 14.12.2010 for violation of Rule 37(1)(b) of MCR, 1960. This order of State Government was upheld by the Central Government in Revision Application. The lessee has challenged the order in the High Court of Orissa, which is subjudice.</p>
2	<p>Shri Pratap Kumar Das, Power of Attorney Holder has made an agreement with the tenants for the lease hold areas for mining operation and applied for grant of surface right permission over 1.33 ha. and 1.740 ha. and the same was granted by Collector, Keonjhar, on 14.09.2007. Shri Bijay Kumar Sahu had illegally handed over the land to Sri Pratap Kumar Das.</p>	<p><b>Government of Odisha</b> This matter will be inquired and necessary action will be taken as per provisions of law.</p>
3	<p><b>Production and Desptch of iron ore</b> The Sales Tax Returns filed by Sri Pratap Kumar Das, Director of M/s. Jay Jagannath Movers Pvt. Ltd., to ACCT, Mayurbhanj Circle, Baripada from the year 2007–08 to 2009–10, reveals that there is discrepancies in quantity of ore to the tune of:– (i) <b>28,439.110 MT</b> during the year 2007–08; (ii) <b>11,472,831 MT</b> during the year 2008–09; and (iii) <b>8,990.100 MT</b> during the year 2009–10.</p> <p>The loss due to the aforesaid quantity pertaining to discrepancy comes to <b>Rs.11,37,564/-</b> for the year 2007–08, <b>Rs.5,04,805/-</b> for the year 2008–09 and <b>Rs.3,95,564/-</b> for the year 2009–10. Thus, it is evident that Sri Pratap Kumar Das, power of attorney holder has shown less despatch of iron ore causing loss of <b>Rs.20,37,933/-</b> towards VAT/CST for selling iron ores from Kasiabeda Iron Ore Mines.</p>	<p><b>Government of Odisha</b> The State Government is taking necessary action as per the provisions of the Odisha VAT Act, 2004 to recover differential VAT / CST for the period 2007-08 onwards.</p> <p><b>Department of Revenue, Ministry of Finance</b> The matter is being examined from direct / indirect tax violations and also from the enforcement angle. Appropriate action would be taken after ascertaining the violations of specific Acts/ Regulations by the respective agencies like Central Board of Excise and Customs, Central Board of Direct Taxes, Directorate of Revenue Intelligence etc.</p>
4	<p><b>Lease was running without obtaining EC and consent to operate granted on 28.05.2009</b> It is evident that the mining operation in Kasiabeda Iron Ore Mines was done from 2005 to 2009 without consent order of State Pollution Control Board, Orissa, Bhubaneswar and also without Environmental Clearance under EIA Notification dated 27.01.1994. <b>Hence, the lessee has done production without lawful authority</b></p>	<p><b>Government of Odisha</b> Notice under section 21(5) of MMDR Act, 1957 was issued for recovery of Rs.58,28,09,515/-towards the price of ore raised in excess of the quantity specified in different statutory clearances. This case will be decided in accordance with provisions of law.</p>



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	<p>and, therefore, it attracts Section 21(5) of the MM(DR) Act, 1957. Thus, action should be taken to recover the cost of iron ore with applicable penalty and other penal actions.</p>	<p>The State Pollution Control Board (SPCB) has been advised to take action against the Lessee for operating the mine prior to 2009 without obtaining its consent.</p> <p>Prosecution has been instituted against the lessee under the provision of the EP Act for production without EC.</p> <p>The Range Officer, Badampahar had seized 937.76 MT of Iron Ore in 14 undetected cases during 2007-08 and 2008-09 as the offenders could not be immediately identified. The iron ore was seized by Range Officer from Revenue land, Reserve Forest and Revenue Forest land. Subsequently, the lessee was identified as the offender. The lessee had illegally collected iron ore from outside ML area in Revenue Forest land Plot No.643 and Revenue land in Safety Zone and beyond the surface right area. The seized iron ore was handed over by the Range Officer to Mining Department. Action is being taken against the lessee under the Orissa Forest Act, 1972 for dumping of Iron Ore on Reserve Forest land.</p> <p><b>Ministry of Environment and Forests</b> The case shall be examined in detail and appropriate legal action, as required, under the provisions of the Environment (Protection) Act, 1986; EIA Notification, 2006 as amended; and various guidelines / instructions issued from time to time, shall be taken in a time bound manner.</p> <p>The case shall be examined in detail and appropriate legal action, as required, under the provisions of the Forest Conservation Act, 1980; and various guidelines / instructions issued from time to time, shall be taken in a time bound manner. The MoEF will also direct the Government of Odisha to take appropriate legal action, as required, under the provisions of the Orissa Forest Act, 1972.</p>
5	<p>From the records of the DDM, Bariapada, it was found that a total No. of 28 crushers and 13 iron ore storing depots had been granted by Sri Lalmohan Soren, DDM, Bariapada and Sri Bijay Kumar Sahu, Mining Officer, Bariapada, violating the provision of Rule 3 of Orissa Minerals (Prevention of theft, smuggling &amp; illegal mining and Regulation of possession, storage, trading and transportation) Rules, 2007.</p>	<p><b>Government of Odisha</b> The matter will be examined and necessary action will be taken for cancellation of the licences of the crushers, wherever they are operating in violation of the provisions of Rule 3 of Orissa Minerals (Prevention of theft, smuggling &amp; illegal mining and Regulation of possession, storage, trading and transportation) Rules, 2007.</p> <p>After, examination, disciplinary action will also be initiated against erring officers.</p>

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6	<p>From the measurements taken in the field, it was found that <b>iron ore was mined out over an estimated area of 0.267 ha. beyond the surface right area.</b> The iron ore deposit is a transported surface deposit consisting of mostly morrum/soil without any insitu iron ore body. The volume of excavation outside the surface right area calculated to be 20,000 cum approximately which might have given to a production of about 5,200 cum of iron ore (+10 mm.). The recovery of (+10 mm.) iron ore has been calculated to be about 26%. Converting to tones, it will be about <b>10,374 MT.</b> The grade of iron ore (+10 mm.) may be –65% Fe.</p> <p>Similarly, 0.081 ha. and 0.014 ha. had been occupied for dumping and sorting respectively beyond the granted surface right area.</p> <p>It was established that there was procurement of iron ore by encroaching on land outside the lease hold area and despatched in the account of this lease by Sri B. K. Das, the lessee. The total volume of excavation of this mine was calculated to <b>2,08,071.06 cum.</b> As the recovery of iron ore from such excavation had been established at 26% the quantity of iron ore (+10 mm) raised from this lease should have been <b>54,098.475 cum</b> which was <b>1,07,926.450 MT.</b> Thus, the lessee could have despatched a total quantity of <b>1,07,926.450 MT</b> (+10 mm) from this lease till 31.01.2009, whereas it was seen from the record that the lessee had already despatched a total quantity of <b>1,72,262.210 MT</b> (+10 mm) till 31.01.2009. As a result, the lessee was found to have procured excess quantity of <b>64,335.760 MT</b> (+10 mm) (1,72,262.210 MT – 1,07,926.450 MT) of iron ore from outside of the lease hold area and dispatched the same in his account for which the lessee is liable to pay the cost of such quantity of iron ore procured illegally and dispatched.</p>	<p><b>Government of Odisha</b></p> <p>The lessee was issued notice for recovery of Rs. 7.07 crore towards the market price of 64,335 MT of iron ore raised from outside the lease area. The recovery was stayed by the High Court of Orissa on 2.09.2009 and disposed on 16.11.2010 giving liberty to the petitioner to approach the revisional authority of Central Government under section 30 of MM(DR) Act, 1957. Action is being initiated for recovery of the said amount of Rs. 7.07 crores.</p>
7	<p>Stock register was not maintained properly and there were some over writings. The grade of iron ore fines has been wrongly recorded as –65% Fe instead of –60% Fe.</p>	<p><b>Government of Odisha</b></p> <p>The State Government will conduct an enquiry and action will be taken against those concerned as per provisions of law.</p>
8	<p><b>Transfer in violation of Rule 37 of MCR, 1960</b></p> <p>It is observed that the iron ore raising contractor takes 65% the selling agent taken 29% (5+24) and lessee gets a share of only 6% from the sale proceeds. From this, it is clearly established that the lessee has not invested any amount in working of the mine and sublet the mines to the contractors who have invested the total amount for raising and transporting the iron ore from the mining lease area and the lessee's mining operation has been substantially controlled by the raising / selling contractor. This violates the provision of Rule 37(1)(b) of MCR, 1960 as well as Para 17 of Part VII of the Mining Lease Deed and Transfer lease deed agreement.</p>	<p><b>Government of Odisha</b></p> <p>The lease has already been determined by the State Government dated 14.12.2010 for violation of Rule 37(1)(b) of MCR, 1960. This order of State Government was upheld by the Central Government in Revision Application on 14.09.2011. The lessee has approached the High Court of Orissa and the matter is subjudice.</p>
9	<p>The team members held Sri Lalmohan Soren, DDM and Sri Purna Chandra Sahu, Sr. Inspector of Mines,</p>	<p><b>Government of Odisha</b></p> <p>Same as replied in S. No. 6 above</p>

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	Badampahar liable for this illegal mining and suggested to take immediate action to realize the cost of <b>64,335.760 MT</b> of iron ore procured from outside leasehold area and in the account of the lessee, Sri B. K. Das.	
10	<p>To assess the extent of illegal mining in the Kasiabeda Iron Ore Mines, located at Badampahar in Mayurbhanj District, a Joint Physical Verification was conducted on 10.09.2009 by Vigilance officials.</p> <p>It is concluded that the iron ores stacked in the mines near Pillar No.8 (finished good load point), Pillar Nos.11, 12, 13, 14 &amp; 15 near screening site and the ores stocked in 233 boxes in the Mining Lease area are not the excavated ores from the mining lease area and must have been procured from outside the lease hold area. As such, the balance quantity of <b>9,686.250 MT</b> of iron ore found stacked in the mines as on the date of joint physical verification i.e. on 10.09.2009, have been procured from outside the lease hold area and stacked in the mines for transportation in the account of the lessee.</p> <p>The lessee, Sri Basanta Kumar Das &amp; his both the Power of Attorney holders namely Sri Pratap Kumar Das, selling agent and Sri Anand Kumar Agarwal, the raising contractors are responsible for the aforementioned illegal procuring of iron ores beyond the lease hold area and stacked inside the mining lease area for the purpose of transportation in the accounts of Kasiabeda Iron Ore Mines in the name of Sri B. K. Das, the lessee.</p>	<p><b>Government of Odisha</b> During joint verification and investigation by State Vigilance Department, it was found that the lessee indulged in illegal mining, outside mining lease area in connivance with some officials, and produced and transported excess iron ore causing loss of Rs. 21,60,56,217/- to the Government.</p> <p>A criminal case has been registered by Odisha Vigilance on 22.09.2009. After investigation, prosecution was initiated against Government officials and others. Charge sheet was filed in the Court of Special Judge, Vigilance, Baripada on 17.03.2011. Cognizance has been taken by the Court on 10.01.2012 and the case is under trial in the Court of Special Judge, Vigilance, Baripada.</p>
11	<p><b>Recommendation</b> From the facts and circumstance as well as in view of the investigation conducted by the Vigilance Cell, Cuttack of the State Government as stated herein above, it is stated that various violations of the provisions under the MCR, 1960; MM(DR) Act, 1957; P.C. Act, 1988; Indian Penal Code; EIA Notification dated 27.01.1994, encroachment, etc. have been committed by the lessee and connected officials.</p> <p><b>In this view of the matter, it is recommended that like in other cases of this nature, the present matter should also be given to Central Bureau of Investigation as per law and the State Government should initiate action under the appropriate law to recover the losses caused by the lessee to the Government.</b></p>	<p><b>Government of Odisha</b> Same as replied in S. No. 6 and 8 above.</p> <p>The State Vigilance on 22.09.2009 has taken action against the lessee and officials who indulged in criminal conspiracy to illegally raise and transport iron ore for which they have been charge sheeted. Cognizance has been taken by the Court and the case is under trial. Therefore, there is no sufficient justification for entrusting the case for CBI investigation at this stage.</p> <p><b>Ministry of Environment and Forests</b> The case shall be examined in detail and appropriate legal action, as required, under the provisions of the Environment (Protection) Act, 1986; EIA Notification, 2006 as amended; and various guidelines / instructions issued from time to time, shall be taken in a time bound manner.</p>

# 11 Mrs. Indrani Patnaik Unchabali Iron and Manganese Ore Mines

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1	<p><b>Environment Clearance:</b> During the year 2008–09, a quantity of <b>14,34,950 MT</b> has been produced, as per <b>Annexure: C</b> of the Reply to the notice issued by the Commission. However, as per the records of the Mines Department, Government of Orissa, a quantity produced for the said year is <b>16,21,450 MT</b>. A difference of about 2.00 lakhs MT requires explanation.</p> <p>As per the aforesaid EC dated 05.06.2006, the production limit was <b>2,10,000 MT</b>. Therefore, the aforesaid production (for the year 2008–09) is in excess of EC limit to the tune of <b>12,24,950 MT</b> even as per lessee's data and of <b>14,11,450 MT</b> as per Mines Department's data which is illegal. This is in violation of EIA Notification dated 27.01.1994 and the amendments made therein. This is also a clear violation of the provisions of Environment (Protection) Act, 1986 (E.P. Act, 1986).</p>	<p><b>Government of Odisha</b> The lessee was issued notice under rule 27(5) of MCR, 1960 and section 21(5) of MM(DR) Act, 1957 on 25.11.2010 for determination of the lease and recovery of the cost price of the ore raised illegally amounting to Rs. 1131,72,22,470/-.</p> <p>The action of the State Government has been set aside by the Revisional Authority of Central Government on 16.01.2012. The State Government has filed writ petition before the High Court of Orissa along with stay petition, which is sub judice.</p> <p>An inquiry will be conducted to ascertain the reasons for the difference of 2.00 lakhs MT</p> <p>Prosecution has been initiated vide Criminal Case in the Court of JFMC, Barbil under the provisions of the EP Act.</p> <p>Further, notice has been issued for recovery of Rs.604,38,28,900/- for raising ore in violation of the provisions of EP Act, 1986 during the period from 2000-01 to 2009-10. For recovery of the price of the ore raised from the date the EIA notification dated 27.01.1994 came into force, necessary steps as per provisions of law will be initiated.</p> <p><b>Ministry of Environment and Forests</b> The case shall be examined in detail and appropriate legal action, as required, under the provisions of the Environment (Protection) Act, 1986; EIA Notification, 2006 as amended; and various guidelines / instructions issued from time to time, shall be taken in a time bound manner.</p>
2	<p><b>Raising Contractor</b> Since the day of <b>inception of mining operations i.e. 24.02.2008</b>, the mining operations are carried out completely by a raising contractor, namely, M/s. Triveni Earthmovers Pvt. Ltd., Salem (TEMPL).</p> <p><b>The lessee herself has never done mining in the leased area till date, in spite of her claim submitted before grant of lease.</b></p> <p>It is stated that <b>even before the inception of the mining operations</b>, vide Work Order dated 24.02.2008, a "raising</p>	<p><b>Government of Odisha</b> Notice was issued on 22.09.2011 to the lessee why the lease should not be determined for violation of rule 37 of MCR, 1960. The lessee approached the Revision Authority challenging the notice and the constitution of committee which enquired into violation and submitted its report to the Government. The Revisional Authority of the Ministry of Mines on 12.11.2013 set aside the order of the State Government</p>

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	contract" has been given in favour of Triveni Earthmovers Private Limited by the Power of Attorney Holder, Shri Dipti Ranjan Patnaik, the husband of the lessee.	constituting the committee. It also directed that all action of the State Government taken on the basis of the reports of the committee is rendered void ab initio.  Steps are being taken to move the High Court of Orissa challenging the order of the Revisional Authority.
3	<p><b>Remarks</b></p> <p>From the statements submitted by the Mines Manager of the lessee for the years 2010–11, it is pertinent to note that Indrani Patnaik is one of the purchasers for export of a quantity of <b>2,82,354.740 MT</b> in the year 2010–11 and that of <b>1,40,902.9630 MT</b> for the next year. The sale of ore, in favour of Smt. Indrani Patnaik who herself is a lessee, can only be done in the circumstance that the lease is being operated and administered financially by other than the lessee.</p> <p><b>Where is the question of sale of iron ore in favour of Smt. Indrani Patnaik, if she herself is a lessee and to get 64.2% of Net Sale Value of the iron ore sold from the lease area.</b></p>	<p><b>Government of Odisha</b></p> <p>The lessee was issued notice under Rule 27(5) of MCR, 1960 and section 21(5) of MMDR Act, 1957 on 25.11.2010 for determination of the lease and recovery of the cost price of the ore raised illegally amounting to Rs. 1131,72,22,470/-. The action of the State Government has been set aside by the Revisional Authority of Central Government on 16.01.2012. The State Government has filed writ petition before the High Court of Orissa along with stay petition, which is sub-judice.</p>
4	<p>M/s. Indrani Patnaik is one of the companies of Altrade Group of Company. The lease was granted in favour of Mrs. Indrani Patnaik. There is no transfer from <b>Mrs. Indrani Patnaik</b> to the company i.e. <b>M/s. Indrani Patnaik</b>. The Power of Attorney has signed on behalf of M/s. Indrani Patnaik.</p> <p>Therefore, the question which requires further verification is – <b>whether the lease is operated and controlled by a company known as "M/s. Indrani Patnaik"?</b></p> <p>The Mines Manager filed the Additional Affidavit on behalf of the lessee. In <b>Para: 33</b> thereof, the Mines Manager submitted that the lessee has engaged more than 100 employees in mining works. This is contrary to the "work orders" issued by the Power of Attorney Holder on behalf of the lessee to M/s. TEMPL and also contrary to the statement given by the Power of Attorney Holder before the investigating team of State Government that the Assistant Manager (Mines), Assistant Mines Manager (Survey), Foreman, Mining Engineer, Mining Mate and Blaster were appointed by the raising contractor and salary and wages were paid till September, 2010. Hence, the statement made by the Mines Manager is factually incorrect (<b>Annexure: 2</b>)</p> <p>From the above facts, it is inferred that:–</p> <p>(a) The lessee does not have any role to play in the Unchabali Iron and Mn. Ore Mine.</p> <p>(b) It is virtually run by the raising contractor and controlled substantially financially.</p> <p>(c) It is also controlled by Power of Attorney Shri D. R. Patnaik, the husband of lessee (who also owns two more iron ore mines).</p> <p>Hence, it appears that there is a clear violation of Rule 37 of the MCR, 1960 which requires further investigation.</p>	<p><b>Government of Odisha</b></p> <p>Same as replied in S. No. 2 above</p>

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5	It is noted that factually, the PL/lease is/would be operated by applicant's husband (Shri D. R. Patnaik) in proxy. It is also noted that it has completely defeated the selection of Smt. Indrani Patnaik to grant the PL/lease. It is stated here that PL application of Smt. Indrani Patnaik was prepared even over looking the claims of Government owned M/s. Orissa Mining Company (OMC).	<b>Government of Odisha</b> The operation of the mines by the husband of the lessee, as proxy, has been dealt during investigation by State Vigilance and charge sheet has been filed against Sri Dipti Ranjan Pattnaik along with the lessee in Balasore Vigilance PS case No. 59 dated 2.12.2009. The circumstances leading to over-looking the claims of Government owned M/s. Odisha Mining Corporation (OMC) at the PL stage will be inquired into and action as per law will be taken.
6	As per Steel & Mines Deptt. Order No.1427 dtd. 20.03.1998 of the Govt. of Orissa, the Collector, Keonjhar executed the Prospecting License deed on <b>05.03.1998</b> for two years.  Even before completion of PL, Smt. Indrani Pattnaik submitted an application much in advance on <b>08.05.1998</b> for mining lease over 106.472 ha. area for a period of 30 years to Collector, Keonjhar.  <b>No prospecting</b> was completed, when grant of lease application was filed. In his Administrative/ Technical Report vide letter No.8172 dtd. 15.05.1998; the DDM, Joda mentioned that the expected output per month to be 5000 MT of iron ore. But he did not mention the total quantity of reserve or iron ore available in the mining lease area. It seems that the PL was granted to clear the way in favour of the lessee.	<b>Government of Odisha</b> Regarding unusual speed of movement of file for grant of PL to ML, the matter was investigated and no extraneous pressure for such movement was noticed. However, for manipulating the records and recommending for grant of ML, charge-sheet has been filed against the then Joint Secretary of Steel and Mines Department.
7	There was no data available for reserve available in the area. The Collector, Keonjhar forwarded the application of Smt. Indrani Pattnaik to Director Mines vide his letter No.1592 dtd. <b>28.05.1998</b> with recommendation that out of 106.2 ha., 0.72 ha. Debasthali and Danda should be excluded. Sri R. C. Samal, the then Director of Mines, Orissa forwarded the application of Smt. Pattnaik recommending grant of M.L. over 106.1127 ha. of land at Unchabali vide his <b>letter No.41469 dtd. 30.05.1998</b> . In his report, the Director (Mines) has stated that the applicant has not submitted the mining plan as required u/s. 5(2) of MM(DR) Act, 1957.  The above letter of Director, Mines was received in the Steel and Mines Department, Government of Orissa on 05.06.1998 vide letter No.953, dtd. 05.06.1998. Shri Biswanath Das, the dealing Assistant submitted a note on 09.06.1998 stating that the Mining Lease can be granted for 20 years. The applicant has to submit the approved mining plan by IBM. On the same day i.e. on 09.06.1998, Shri Jagadish Prasad Agarwal, Jt. Secretary to Government submitted a note to the Principal Secretary, Steel and Mines by stating that recommendation may be sent to Government of India for grant of M.L. for 20 years in favour of M/s. Indrani Patnaik. Accordingly, Shri S. Notial, Principal Secretary, Steel and Mines Department approved on 10.06.1998. Shri J. B. Patnaik, Hon'ble C.M., Orissa has approved for the grant of lease on 11.06.1998.  The Ministry of Mines, Government of India, in its letter	<b>Government of Odisha</b> Same as replied in S. No.6 above  Regarding illegal mining in Unchbahali Iron Ore Mines, Joda, a criminal case was registered by Odisha Vigilance on 2.12.09 against Government officials, lessees and others for show of undue favour and illegal mining and causing loss of approximately Rs.131,44,08,825/- to Government.  During Joint Physical Verification and investigation, it was found that mining officials had entered into a criminal conspiracy with Mrs. Indrani Pattnaik, power of attorney holder Sri Dipti Ranjan Pattnaik and the raising contractor Sri B. Pravakarn, MD of M/s Triveni Earth Movers Pvt. Ltd. and showed undue favour to the above mining lease holder by allowing them to indulge in illegal mining and excess production of iron ore causing loss of Rs. 1009,69,32,336/- to the Government. Prosecution was initiated against the Government officials, lessees and others. Charge-sheet was filed in the Court of

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	<p>No.5/37/98–M.15, dtd. 02.09.1998, conveyed the approval of Central Government for grant of lease over an area of 106.1127 ha. for a <b>period of 30 years</b>. This letter has been addressed to the Secretary, Government of Orissa, Steel and Mines Department and was received vide D.R. No.276/SMS dtd. <b>08.09.1998</b>. Shri J. P. Agarwal, Jt. Secretary issued the terms and conditions vide letter No.7853 dtd. <b>07.09.1998</b> (even before the letter of GoI received officially) in favour of Smt. Indrani Patnaik with request to intimate acceptance of terms and conditions. It is noted that though the letter was shown received in the Receipt Register on <b>08.09.1998</b>, the letter was issued for terms and conditions on <b>07.09.1998</b> asking to submit the reply by 07.10.1998.</p> <p>Smt. Indrani Patnaik submitted the acceptance of terms and conditions on 12.09.1998 which was received on 14.09.1998 in the Steel &amp; Mines Department. On 15.09.1998, Shri Jagadish Prasad Agarwal issued the proceedings for grant of M.L. in favour of Smt. Indrani patnaik vide memo No.8097 dtd. 15.09.1998 without taking approval of any other higher authority in the file.</p> <p>The IBM has given the approval of the mining plan in its No.574 dtd. 01.01.1999 i.e. after granting of M.L. on 15.09.1998.</p> <p>The letter on consideration of grant of M.L. for 20 years was issued on 12.06.1998 and the letters available in the Government File as well as in the file of Director, Mines, Bhubaneswar. The noting in the file and recommendation letter to the GoI has been manipulated by overwriting 30 years in place of 20 years for which the GoI has communicated approval of grant of M.L. for 30 years. The Hon'ble C.M., Orissa has considered for approval of M.L. for 20 years on 11.06.1998.</p> <p>Shri B. C. Das, IAS, Addl. Secretary to Government, Steel &amp; Mines Department vide letter No.176 dtd. 08.01.1999, communicated to the Collector, Keonjhar that the mining operation to be allowed in non-forest area and the approval on Forest Conservation angle will have to be obtained as per the Supreme Court's judgment dtd. 12.12.1996. The Collector, Keonjhar executed the M.L. deed on <b>05.02.1998</b> with Shri Dipti Ranjan Patnaik, husband of Smt. Indrani Patnaik, though the M.L. is granted in favour of Indrani Patnaik on the plea that Indrani Patnaik executed power of attorney in favour of Sri Dipti Ranjan Patnaik.</p> <p>It is pertinent to note here that the working operation of the lease was initiated since beginning by a raising contractor, M/s. TEMPL through a "work order" by her husband, the Power of Attorney holder of lessee and there is no role of Mrs. Indrani Patnaik whatsoever.</p> <p>From the above, it is observed that the file for grant of mining lease had moved with a speed which is unusual in Government Departments. Authority may inquire what the driving force was and may decide whether there was any undue favour.</p>	<p>Special Judge, Vigilance, Keonjhar on 22.11.2010.</p>

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8	<p>It is observed that the production of iron ore of different grades and sizes comes to <b>29,18,431 MT</b> as on 24.09.2009 i.e. the date of joint verification by the Vigilance team. During the said period, on behalf of the lessee, the raising contractor dispatched <b>24,31,225.13 MT</b>. Thus, there should have been closing balance of <b>4,87,205.87 MT</b> as on <b>24.09.2009</b>.</p> <p>It is found that the physical balance of different grades of iron ore of the mine owner at Unchabali mines, as on 24.09.2009, was <b>1,82,637.695 MT</b>. During such verification, in the O/o. Mrs. Triveni Earth Movers Pvt. Ltd., the raising contractor of the mine owner, it was found that the said raising contractor has prepared the production dispatch of different grade of iron ore at Unchabali iron mines since May, 2008. The book balance of the contractor was <b>3,56,585.17 MT</b>. Thus, from this, it is clearly established that a quantity of <b>1,73,947.475 MT</b> have been found less than the quantity maintained by the raising contractor, Joda during the relevant period. But by taking into account the records of Dy. Director and also the records of the Mining lease holder with that of the joint physical verification, the shortage of stock of iron ore as on 24.09.2009</p> <p>It is evident that the mining lease holder has clandestinely dispatched a quantity of <b>3,04,568.175 MT</b> of iron ore without records for which no payment of royalty and sales tax has been made at the cost of Government exchequer.</p> <p>The cost of <b>3,04,568.175 MT</b> comes to <b>Rs.182,74,09,050/- @ Rs.6,000/-</b> per MT. Thus, the lessee with the help of contractor, has clandestinely disposed of the material of the costs of Rs.182,74,09,050/-. There is the loss of royalty of Rs.82,23,340.59 and that of sales-tax of Rs.7,30,96,360.80. The total loss, on account of non-payment of royalty and sales-tax, comes to <b>Rs.8,13,19,701.39</b>.</p>	<p><b>Government of Odisha</b> Same as replied in S. No. 3 above</p> <p>M/s. Indrani Pattanaik was assessed by the Commercial Tax Department for 2009-10 and 2010-11 under all Acts to pay Rs.80.89 lakhs and Rs.2.80 lakhs respectively on the basis of the report of the Special Investigation Team. The Department is in touch with the State Vigilance and based on the inquiry report of Vigilance, the assessing officer will be directed to take necessary action as per the provision of Odisha VAT Act 2004 and Central Sales Tax Act 1956 for the year 2008-09, 2009-10 onwards.</p>
9	<p>The measurement of the pit from where the quantity of <b>29,18,431 MT</b> of iron ore was excavated was taken up by the team of Technical Experts and it was found that pit would only yield about <b>8,49,589.56 MT</b> with the required ratio applicable to that area.</p> <p>Thus, the lessee with the "raising contractor" had dispatched a quantity of <b>15,81,635.57 MT (i.e. 24,31,225.13 minus 8,49,589.56)</b> excavated from somewhere else outside the leased hold area. This amounts to theft of the minerals and the total cost comes about <b>Rs.948,98,13,420/-</b>. The evidence and other details, in the support of above may be seen from the report of the Vigilance Department of the State Government.</p> <p>As could be seen from the investigation made by the Vigilance Wing of the State Government in P.S. No.59 dated 02.12.2009 for Mrs. Indrani Patnaik Mines in village Unchabali, there is illegality of mining to the tune more than of <b>Rs.1,000/-</b> crores. There is no much progress in this case and it is unlikely that the State Government may be in a position to bring the case to a logical end. There is involvement of the officials of the State Government of</p>	<p><b>Government of Odisha</b> Same as replied in S. No. 3 above</p> <p>The State Vigilance has filed charge sheet against Smt. Indrani Patnaik, the mining lease holder, Sri Dipti Ranjan Patnaik, the power of attorney holder, the so called raising contractor and Government officials for criminal conspiracy in raising ore illegally and for commission of offences under PC Act, 1988, IPC and MMDR Act, 1957.</p>



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	various Departments and the political shelter for the same cannot be ruled out.	
10	<p>In view of the above, following violations have been committed, in respect of the present lease:–</p> <ol style="list-style-type: none"> <li>provisions of Environment (Protection) Act, 1986;</li> <li>EIA Notification, 1994 and amendments therein;</li> <li>Rule 37 of the MCR, 1960;</li> <li>P.C. Act, 1988, Indian Penal Code and MM(DR) Act, 1957 (as stated in the Vigilance P.C Case No.59, dated 02.12.2009); and</li> <li>Others as discussed in this Chapter.</li> </ol>	<p><b>Government of Odisha</b> Prosecution has been initiated vide criminal case in the Court of JFMC, Barbil under the provisions of the EP Act.</p> <p>Action has also been initiated against the lessee for violation of Rule 37 of MCR, 1960.</p> <p>Balasore Vigilance P.S. case has been initiated on 02.12.2009 and charge sheeted for other violations.</p> <p><b>Ministry of Environment and Forests</b> The case shall be examined in detail and appropriate legal action, as required, under the provisions of the Environment (Protection) Act, 1986; EIA Notification, 2006 as amended; and various guidelines / instructions issued from time to time, shall be taken in a time bound manner.</p>
11	<p><b>Recommendation</b> The Commission recommends:–</p> <p>(a) to hand over the entire matter along with other matters as suggested by this Commission, to the Central Bureau of Investigation against the lessee, its agents, contractor and all connected officials as discussed in this Chapter, for further investigation as per the law; and</p> <p>(b) to initiate proceedings, in any case, for recovery of the loss suffered by the State Government, i.e. the loss of royalty of Rs.82,23,340.59 &amp; sales-tax of Rs.7,30,96,360.80, totalling to <b>Rs.8,13,19,701.39</b>, as well as for the theft of the minerals to the tune of <b>Rs.948,98,13,420/-</b>, as stated hereinabove.</p>	<p><b>Government of Odisha</b> Same as replied in S. No. 2, 3 and 9 above</p> <p>The State Government has taken sufficient civil as well as criminal actions against the lessee, her power of attorney holder and the raising contractor. Therefore, there is no need for investigation by CBI at this stage.</p>

**12 M/s. B.D. Patnaik Kalaparbat Iron Ore Mines**

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1	<p><b>Notices dated 26.08.2011 and 12.02.2013 (read with 29.01.2013) issued to the lessee and personal hearing given to the lessee:</b></p> <p>It is to state here that though the Commission has taken into consideration the records submitted by Shri Jitendra Nath Patnaik of M/s. B. D. Patnaik, it should not be taken recognition of Shri Jitendra Nath Patnaik as the successor of Shri B. D. Patnaik.</p>	<p><b>Government of Odisha</b></p> <p>The mining lease is not in operation on account of want of statutory clearances and operation of the deemed refusal provision as it stood at that point of time. Notice has been issued to all the legal heirs of late B.D. Patnaik on 08.05.2013 to state why the pending RML application should not be refused. Decision in accordance with provisions of law will be taken in the matter.</p>
2	<p><b>Mining lease over an area of 260.00 acres:</b></p> <p>Further, the Collector, Keonjhar granted surface rights for an area of 4.04 ha. vide letter dated 29.04.1960 and 18.21 ha. vide letter dated 05.03.1966 with a condition that before entering into reserve forest, the prior permission of Divisional Forest Officer should be taken. However, no such permission was obtained.</p>	<p><b>Government of Odisha</b></p> <p>This matter will be inquired into and action as deemed proper will be taken against those responsible for not obtaining such permission.</p>
3	<p><b>First renewal of mining lease application:</b></p> <p>The lessee submitted renewal application on 30.07.1988 for reduced area of 36.569 ha. It is observed that the lessee had again reduced the area to 25.633 ha. The mining lease had not been renewed so far under the MM(DR) Act, 1957 and the rules thereunder.</p> <p>It is pertinent to note here that the mining lease which expired on 30.07.1989 was not renewed <b>within six months as required under the then Sub-Rule (4) of Rule 24A of MCR, 1960 and came within the deemed refusal provision of Sub-Rule (5) of Rule 24A of MCR, 1960.</b> It is to note that the lease ceased to exist from 31.07.1989 under the then prevailing MCR, 1960.</p> <p>Hence, the present lease has been completely running illegally from 31.07.1989 onwards.</p>	<p><b>Government of Odisha</b></p> <p>The State Government is identifying the details of leases deemed to have been refused during the period from 10.02.1987 to 26.09.1994. Necessary action is being taken in the matter after following due process of law. The mine is presently not operational on account of want of statutory clearances.</p>
4	<p><b>Temporary Working Permissions:</b></p> <p>The lessee was given temporary working permissions upto 26.12.1994 at intervals of six months each from time to time under the MCR, 1960. These temporary working permissions are unlawful, illegal and without authority vested with the State Government at that point of time. Moreover, the lessee has not obtained the approval under Section 2 of the Forest (Conservation) Act, 1980, which was required after 30.07.1989 (when the lease period expired), even for the broken up area.</p> <p>Further, the aforesaid working permissions were given by the State Government in violation of the FCA, 1980, too. There was no approval under the FCA in that period. All the production from</p>	<p><b>Government of Odisha</b></p> <p>Grant of Temporary Working Permission by State Government was provided as per the instructions of the Government of India's letter No. 6/2/88-M.VI dated 3<sup>rd</sup> March, 1988 subject to observance of certain conditions. The mine is presently not operational since 01.08.2009. Action as per provisions of the law will be taken against the lessees for past violations.</p> <p><b>Ministry of Environment and Forests</b></p> <p>The case shall be examined in detail and appropriate legal action, as required, under the provisions of the Forest Conservation Act, 1980; and various guidelines / instructions issued from time to time, shall be taken in a time bound manner. The MoEF will also direct the</p>

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	<p>31.07.1989 to the last working permission in the year 2009, is illegal and without lawful authority. Hence, it attracts the provisions of Section 21(5) of MM(DR) Act, 1957.</p>	<p>Government of Odisha to take appropriate legal action, as required, under the provisions of the Orissa Forest Act, 1972.</p> <p><b>Ministry of Mines</b> The instruction of the Central Government dated 3rd March, 1988 quoted by the Government of Odisha were issued to enable implementation of the amended provisions of the MMDR Act 1957 and rules made thereunder as made in the year 1987 by giving working permission only for the specific purpose of giving lessees sufficient time to submit approved mining plans within six months only.</p>
5	<p><b>Mining in reserved forest in violation of FCA till 03.09.1998 (i.e. the date of FC approval):</b> This lease, where in the leased area is reserved forest, no mining operation could be carried out, including within the broken up forest areas that took place before 25.10.1980 after the date of expiry of lease period i.e. 30.07.1989 onwards.</p> <p>The proposal for diversion of forest land submitted by lessee on 11.03.1993 was not processed timely but the lessee was allowed mining in violation of the provisions of the Forest (Conservation) Act, 1980 (FCA, 1980) till 03.09.1998 (i.e. the date of FC clearance). Therefore, action should be taken against those who are responsible for this act.</p>	<p><b>Government of Odisha</b> The working of the lease from the expiry of the lease period (30.07.1989) up to the grant of TWP by MoEF (10.07.1995) is not as per law. Action would be initiated against the officers responsible for the same after due enquiry.</p> <p><b>Ministry of Environment and Forests</b> Same as replied in S. No. 4 above</p>
6	<p><b>MoEF order dated 03.09.1998 granting approval for a period of 10 years:</b> The MoEF, vide order dated 03.09.1998, has accorded approval under the FCA for a period of 10 years without observing that the lease in question does not exist.</p> <p>Hence, the production and dispatch quantity of iron ore since 31.07.1989 was on the face of it illegal because the same was without the prior approval under Forest (Conservation) Act, 1980.</p> <p>The lease did not exist because renewal application was not decided within stipulated time under the then provisions of Rule 24A of MCR, 1960. Therefore, the production from 03.09.1998 till the stopping of mine in the year 2009, is also illegal, unlawful and without authority in violation of the provisions of the MM(DR) Act, 1957; MCR, 1960 and FCA, 1980.</p> <p>Secondly, it is also observed that the recommendation under the FCA was made for 10 years from 31.07.1989 to 31.07.1999 on 11.03.1993. If this is the case, then the diversion of forest land period expires on 31.07.1999 and not on 02.09.2008. The MoEF has approved diversion of</p>	<p><b>Government of Odisha</b> Same as replied in S. No. 5 above</p> <p>Steps will be taken to recover the cost of the ore raised illegally since 31.07.1989; and recovery of the price of the ore raised from 03.09.1998 to 2009 will be initiated against the lessee after following due process of law.</p> <p><b>Ministry of Environment and Forests</b> Same as replied in S. No. 4 above</p>

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	<p>forest land without specifying the effective date. Condition (vi) of the said approval dated 03.09.1998 (stipulating for the diversion period) reads as under:—</p> <p><i>“Period of permission under the Forest (Cons.) Act, 1980 will be for 10 years co-terminus with the permission granted under the MMRD Act.”</i></p> <p>The said condition is ambiguous and non-specific due to non-renewal under the MM(DR) Act. Hence, the question of co-terminus does not arise.</p>	
7	<p><b>Violation of Rule 37 of MCR, 1960 (No decision, with regard to heirs of Shri B. D. Patnaik, was taken):</b></p> <p>Shri B. D. Patnaik was expired on 05.11.1995. The lease was in favour of B. D. Patnaik and after his death, the working of mine by Shri Jitendra Nath Patnaik @ Shri Jitu Patnaik or J. N. Patnaik was in violation of Rule 37 of MCR, 1960, since there was no legal Will in favour of Shri J. N. Patnaik.</p> <p>As per Form J (records submitted by Sri Jitendra Patnaik to the Commission, claiming as lessee), it is noted that this Form was signed and submitted by Shri Bansidhar Patnaik for renewal of mining lease on 30.07.1988 as a capacity of “private individual”. It is pertinent to note here that the lease has never been transferred in favour of <b>M/s. B. D. Patnaik</b>, the claimed partnership firm or <b>M/s. Patnaik Minerals Pvt. Ltd.</b></p> <p>How the State Government entertained the correspondence of Shri Jitendra Nath Patnaik, aged about 56 years, S/o. late Shri Bansidhar Patnaik, on behalf of <b>M/s. B. D. Patnaik</b> or <b>Patnaik Minerals Pvt. Ltd.</b></p> <p>The claim of Shri Jitendra Nath Patnaik cannot be entertained without deciding the legal heirs of Shri B. D. Patnaik. The State Government has not decided the legal heir of the said lease but allowed Shri Jitendra Nath Patnaik to carry on mining, after the death of lessee (i.e. since 05.11.1995).</p> <p>It is learnt that Shri Jitendra Nath Patnaik submitted the purported Will which was found subsequently forged Will. Hence, to allow to run the mine by Shri Jitendra Nath Patnaik by the State Government and his officials was blatantly illegal.</p> <p>The renewal and allowing the working of lease by Shri Jitendra Nath Patnaik by the State Government was bad in law for yet another reason. The lease was granted to Shri Bansidhar Patnaik on whose demise in the year 1995, the lease ended. And Shri Jitendra Nath Patnaik could not have been permitted to work</p>	<p><b>Government of Odisha</b></p> <p>The mining lease is not in operation since 01.08.2009 for want of statutory clearances and the deemed refusal provision as it stood at the relevant time. Notice has been issued to all the legal heirs of late B.D. Patnaik on 08.05.2013 to state why the pending RML application should not be refused. Decision will be taken in the matter in accordance with provisions of law.</p>

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	the mine as partner of M/s. B. D. Patnaik. It amounts to grant of lease to M/s. B. D. Patnaik without following due prescribed procedures. Hence, it is totally illegal to allow him to misuse the public property.	
8	<b>Encroachment</b> There is an encroachment of 3.39 ha. extending the pit from northern side boundary of lease in the form of pit, dumping and others. The quantity of iron ore extracted from the pit shall be measured and valued based on the market rate and should be recovered from the lessee with applying other penal provisions under the Forest Act, Mines Act and other applicable law.	<b>Government of Odisha</b> The matter will be examined and necessary action will be taken to recover the value of the minerals after following due process of law.
9	<b>Environmental Clearance (not obtained):</b> From the year 1994-95 to 2009-10, the lessee has extracted about <b>2,66,626 MT (Table: 1 at page 233)</b> of iron ore without having environmental clearance. Hence, production during the period was without lawful authority and considered as illegal. This attracts the provisions of Section 21(5) of the MM(DR) Act, 1957. Therefore, actions should be taken to recover the money equivalent to market value along with the applicable penalties and other panel actions.	<b>Government of Odisha</b> Notice under section 21(5) of MMDR Act, 1957 has been issued to the lessee for recovery of Rs. 323,83,38,362/- towards ore raised in excess of the quantities specified in different statutory clearances in respect of Kalaparbat Iron Ore Mines of M/s B D Pattnaik. The case will be disposed in accordance with law at the earliest. Notice will be issued for the period not covered in earlier notices.  Prosecution has been initiated for violation of the EIA notification in the Court of JMFC, Barbil.  <b>Ministry of Environment and Forests</b> The case shall be examined in detail and appropriate legal action, as required, under the provisions of the Environment (Protection) Act, 1986; EIA Notification, 2006 as amended; and various guidelines / instructions issued from time to time, shall be taken in a time bound manner.
10	<b>Investigation / Enquiry carried out by the Vigilance Department of the State Government in P.S. Case No.51 dated 18.11.2009</b> The Dy. Superintendent of Police, Vigilance Cell, Cuttack, after having investigation in the matter, has found substantial evidences on the allegations of corruption on illegal mining, theft and transportation of iron ore from B. D. Patnaik Mines located at Kalaparbat.  It is observed that there are prima-facie involvements of various officials of the Mines, Forest, IBM and other Departments and Shri Jitendra Nath Patnaik / Shri Jitu Patnaik / Shri J. N. Patnaik and others in addition to the list given above. The State and Central Governments had not taken adequate action on this investigation/inquiry. The vigilance wing has estimated the loss to the State Government to the tune of <b>Rs.1,30,39,13,397/-</b> by various unlawful acts and illegalities. (For details, the report of the Vigilance Cell should be taken as part and parcel of this	<b>Government of Odisha</b> After investigation by the State Vigilance in Balasore Vigilance PS Case on 18.11.2009, prosecution was initiated against Government officers and others. Charge sheet was filed in the Court of Special Judge, Vigilance Keonjhar on 26.03.2013. Cognizance has been taken on 11.06.2013 and the case is under trial in the Court of Special Judge, Vigilance, Keonjhar.  Show cause notice has been issued to the lessee on 08.05.2013 to explain why the RML application should not be refused. The case is being heard by the competent authority.  <b>Ministry of Mines</b> The Government of Odisha had sought sanction of Central Government for prosecution of six IBM officers.  The Central Government on careful consideration of the Report of the Superintendent of Police, the

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	Chapter).	<p>Chief Vigilance Officer (CVO) of IBM, administrative division and the materials available on records was of the view that it did not reveal commission of any offence under section 13(2) read with section 13(1)(d) of Prevention of Corruption Act, 1988, 420/120-B of Indian Penal Code, section 21 of the MMDR Act, 1957 and section 2 of Forest Conservation Act, 1980. Therefore, the Central Government did not grant sanction for prosecution against officials of IBM. However, the CVO, IBM had been directed to investigate the matter and furnish report whether any Departmental action lies in the matter. The CVO, IBM has submitted the Report in this regard which is under consideration of the Government and appropriate action will be taken on the report.</p> <p>The Ministry has further directed the CVO, IBM to investigate the matter and furnish report whether any Departmental action lies in the matter in respect of IBM officials whose prosecution has not been sought by the Government of Odisha.</p>
11	<p><b>Recommendations</b> In view of the violations of:– (i) Rule 24A of MCR as it existed; (ii) Rule 37 of MCR, 1960; (iii) the provisions of FCA of not obtaining prior approval under FCA; (iv) the provisions of EPA and EIA Notification dated 27.01.1994 for not obtaining EC; and (v) Others, as discussed in this Chapter and in Vigilance Report,</p> <p>the persons who were in occupation of mines have extracted large quantity of iron ore. For this, proceedings under Section 21(5) of the MM(DR) Act, 1957 should be initiated at the earliest.</p> <p><b>Further, it is recommended that immediate action should be taken in the matter to recover the loss as estimated by the vigilance wing and a fresh inquiry from Central Agency preferably Central Bureau of Investigation (CBI) should be ordered by the competent authority, looking into the seriousness of the matter involving huge loss to the State wherein no action is taken so far by the State and seems to be not serious in the matter.</b></p> <p>Action should be taken against erring personnel of the Central as well as State Governments for their omission, commission and misconduct.</p>	<p><b>Government of Odisha</b> Same as replied in S. No. 9 above.</p> <p>All the legal heirs of late B. D Pattanaik will be heard before decision is taken on the successors to the lease. It would be ensured that there is no violation of Rule 37 of MCR, 1960. The mine is presently not operational.</p> <p>The State Vigilance has taken effective and prompt steps for investigation into the illegal mining in the mine in question. Government officers as well as Jitu Patnaik, of M/S B.D. Patnaik Mines have been charge sheeted. The case is now under trial in the court of the Special Judge, Keonjhar. The State Government has also invoked the provisions of section 21(5) of MMDR Act, 1957 for recovery of the price of the ore raised in excess of the quantities specified under various statutes.</p> <p>As adequate civil action under the provisions of MMDR Act, 1957 and rules made there under and criminal action under PC Act, 1988, IPC, MMDR Act, 1957 and Forest (Conservation) Act, 1980 have been taken by the State Government and the Vigilance case charge-sheeted, there is no need for handing over this matter to CBI.</p> <p><b>Ministry of Environment and Forests</b> Same as replied in S. No. 4 and 9 above</p> <p><b>Ministry of Mines</b> Same as replied in S. No. 10 above</p>

### 13 M/s. Mangilall Rungta Siljora Kalimati Manganese & Iron Ore Mines

Sl.	Gist of Commission's Observations/ Findings / Recommendations	Action Taken Report
1	<p><b>Second renewal of the mining lease</b> The second renewal was granted for a further period of 20 years i.e. up to 01.01.1996. A lease deed was executed on 21.11.1980 for manganese ore with retrospective effect signed by Sri Sita Ram Rungta. At the time of execution of the said lease deed, Sri Sita Ram Rungta was holding four other mining leases of the area of 1,682.074 ha. which was more than 1,000 ha. (10 Sq. Kms.) the limit fixed under Section 6(1)(b) and Section 6(3) of the MM(DR) Act, 1957 from the year 1972 onwards.</p> <p>This lease was renewed in violation of Section 6(1) (b) and Section 6(3) of the MM(DR) Act, 1957 because the area exceeded to 10 sq. kms. Therefore, the lease should be treated as void and of no effect from second renewal onwards under Section 19 of the MM(DR) Act, 1957.</p>	<p><b>Government of Odisha</b> The matter will be examined and necessary action as per law will be taken against the lessee for violation of section 6(1)(b) and 6(3) of MMDR Act, 1957 after following due process of law and for the recovery of the ore raised during the period without lawful authority by invoking the provisions of section 21(5) of the MMDR Act, 1957.</p>
2	<p><b>Observations for First RML</b> 1st RML was granted on 06.10.1970 by a proceeding No.6989 dated 10.10.1970 of State Government (Steel and Mines Department) in favour of M/s. Mangilall Rungta, a registered partnership firm.</p> <p>Shri C. P. Rungta in his letter dated 26.07.1969 had requested to the State Government to grant renewal of M.L. in favour of M/s. Mangilall Rungta which was much latter than the date of renewal application dated 16.05.1955.</p> <p>How the lease was granted in favour of M/s. Mangilall Rungta (a registered partnership firm) without transfer under Rule 37 of MCR, 1960 is not known. On this ground itself, the lease should be treated as void and of no effect under Section 19 of the MM(DR) Act, 1957.</p>	<p><b>Government of Odisha</b> The State Government will examine the matter and necessary action will be taken for violation of Rule 37 of MCR, 1960 after following due process of law.</p>
3	<p><b>First renewal was granted after lapse of 14 Years</b> The 1st RML was granted vide proceedings No.6989 dated 06.10.1970 of Steel &amp; Mines Department and the deed was executed on 29.12.1970 in favour of M/s. Mangilall Rungta, a Joint Hindu Family partnership firm represented by one of the partners, Shri S. R. Rungta with retrospective effect from 01.01.1956. In fact, the lease came under the then deemed refusal provision of Rule 24(3) of MCR, 1960 (as on 06.10.1970) and hence, the lease was granted in violation of the then provisions of this Rule. Lease can not be renewed after such a long time.</p>	<p><b>Government of Odisha</b> The State Government has directed to suspend the operation of working mines which has been deemed to have been refused as per the provisions of MC Rules, 1960 as it stood then.</p> <p>The State Government will examine the matter and necessary action will be initiated to recover the price of the ore raised during such unlawful occupation in accordance with provisions of law.</p> <p>The lessee has been issued notice under Rule 27(5) of MCR, 1960 to explain why the lease should not be determined; and the cost of the ore raised in violation of lease conditions and the provisions of FC Act, 1980 should not be recovered.</p>
4	<p><b>Observations for Second RML</b> The Second RML was granted vide proceeding No.16451</p>	<p><b>Government of Odisha</b> Same as replied in S. No. 1 above</p>

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	<p>dated 13.12.1979.</p> <p>This 2nd RML lease deed was executed on 21.11.1980 in favour of M/s. Mangilall Rungta (a partnership firm registered under Indian Partnership Act, 1932) with retrospective effect from 01.01.1976 and signed by one of the partners, Shri S. R. Rungta who was holding the joint interest with the all other leases of various companies like M/s. Rungta Mines (P) Ltd., M/s. Rungta Sons (P) Ltd., M/s. Feegrade &amp; Co. Ltd. and M/s. Bonai Industries Co. Ltd. in addition to the four leases stated above at various point of time much exceeding to total lease hold area of 10 square kilometers limit. The statement, regarding not having lease-hold rights for more than 10 sq. kms. in the proceedings dated 13.12.1979 and 21.01.1999, is incorrect/false.</p> <p>It is to be highlighted that it was the duty of the concerned officers to verify the facts with regard to total holding as per the law, as renewal was a flagrant violation of Section 6(1)(b) and Section 6(3) of the MM(DR) Act, 1957.</p> <p>On this ground,</p> <ul style="list-style-type: none"> <li>the renewal should be treated as void and of no effect under Section 19 of the MM(DR) Act, 1957; and</li> <li>action should be taken against the officials responsible for their omissions, commission and misconduct.</li> </ul>	
5	<p><b>Observations for Third RML</b></p> <p>The 3rd RML was granted vide proceeding No.490 dated 21.01.1999 in which it was stated that:–</p> <p><i>“(i) Whereas the applicant being a <b>Limited company</b> is incorporated and registered in India;</i></p> <p><i>(ii) Whereas the applicant by them do not in respect of manganese or related group of minerals held such area in the State as with the area over which the R.M.L. has now been asked for, will exceed ten square kilometers in the aggregate.”</i></p> <p>The aforesaid statements are, on the face of it, incorrect/false to the knowledge of the Applicant.</p> <p>Again, at this stage, it is required to state that the S. R. Group / Rungta family were holding the total lease area 3,658.194 ha. in the country (Orissa and Jharkhand States). This matter is discussed separately in this report.</p> <p>For this 3rd RML, lease deed was executed on 02.08.1999 in favour of M/s. Mangilall Rungta, a registered partnership firm under Indian Partnership Act, 1932 which consisting of partners on that day, namely, (i) Shri Nandlal Rungta S/o. late Sitaram Rungta, and (ii) Shri Mukund Rungta S/o. late Sitaram Rungta. Supplementary lease deed was executed for inclusion of iron as 2<sup>nd</sup> mineral on 27.09.2003.</p>	
6	<b>Diversion of forest land</b>	<b>Government of Odisha</b>



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	<p>The area of iron ore deposit should have been marked properly because the land in question was a forest land and, therefore, it attracts the provisions of the FCA, 1980.</p> <p><b>Further, the Fe and Mn. minerals may coexist together separately but do not form the part of mixed veins and same quarry. The Fe and Mn. veins are found separately at different locations. Since this lease was only for manganese (before 25.10.1980), considering the area as broken up before 25.10.1980 for iron ore, is not at all justified.</b></p>	<p>Working permission was accorded on the broken up DLC forest land on the presumption that it was permissible on the same logic of working on pre-80 broken forest area. However, the operation of the mine on broken DLC land was stopped on 03.01.2005.</p> <p><b>Ministry of Environment and Forests</b> The case shall be examined in detail and appropriate legal action, as required, under the provisions of the Forest Conservation Act, 1980; and various guidelines / instructions issued from time to time, shall be taken in a time bound manner. The MoEF will also direct the Government of Odisha to take appropriate legal action, as required, under the provisions of the Orissa Forest Act, 1972.</p>
7	<p><b>Environment Clearance (EC)</b> From the aforesaid Table, it is apparent that a quantity of 2,42,368 MT of iron ore and 9,81,684 MT of manganese ore had been produced without obtaining EC and, therefore, it is unlawful. The said extraction of mineral is to be considered as illegal production.</p> <p>Therefore, action should be taken under Section 21(5) of the MM(DR) Act, 1957 and the cost of mineral at the prevailing market rates together with applicable penalties should be recovered. Further, penal action should also be initiated against the lessee and the officials involved.</p>	<p><b>Government of Odisha</b> Criminal case has been filed by the Collector, Keonjhar in the Court of JMFC, Barbil under the provisions of the EP Act; and the lessee will be required to pay the price of ore raised in violation of the provisions of EP Act, 1986 by invoking the provisions of Section 21(5) of the MMDR Act, 1957 after following due process of law.</p> <p><b>Ministry of Environment and Forests</b> The case shall be examined in detail and appropriate legal action, as required, under the provisions of the Environment (Protection) Act, 1986; EIA Notification, 2006 as amended; and various guidelines / instructions issued from time to time, shall be taken in a time bound manner.</p>
8	<p><b>Joint Physical Verification (JPV):</b> <b>There is a technically serious reservation as regards the broken up area before the year 1980, as shown in the DLC forest land for iron ore quarry, since there was no lease and removal of iron ore at all before 27.09.2002. At the same time, no iron ore was discovered in the quarry pits of manganese but it was at different location. The iron ore was discovered, while prospecting the virgin lease area as reported by lessee.</b></p> <p>Hence, a quantity of 2,61,872.790 MT of iron ore has been extracted and dispatched from the iron pit from the forest (DLC) land illegally by fabricating the records. The approximate cost of iron ore so dispatched illegally comes to Rs.57,61,22,500/- which is considered as a heavy loss to the State Exchequers.</p>	<p><b>Government of Odisha</b> M/s. M.L. Rungta disclosed discovery of iron ore from its lease area by enclosing unauthorized geological report and requested to include iron ore in the lease deed, co-terminus with manganese ore. The mine owners managed to show extraction and dispatch of 2,65,994.14MT iron ore amounting to Rs.53,19,88,280.00. This aspect has already been incorporated in charge sheet submitted by Vigilance Department in the Balasore Vigilance P.S. Case on 18.11.2009.</p> <p>During joint physical verification and investigation by State Vigilance, it was found that M/s. Rungta Mines Ltd. had entered into a criminal conspiracy with</p>

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		<p>some mining officials and indulged in illegal mining and dishonestly made excess production of iron ore over the approved mining plan causing loss of Rs.653,45,14,156/- to the Government.</p> <p>After investigation, prosecution was initiated against Government officers and others. Charge Sheet was filed in the Court of Special Judge, Vigilance, Keonjhar on 26.03.2013.</p> <p>Investigation revealed that Sri Singa Tiu, Regional Controller of Mines, IBM, Bhubaneswar and Sri Debadullav Das, Junior Mining Geologist, IBM, Bhubaneswar were involved in the conspiracy. However, the Ministry of Mines, Government of India did not accord sanction of prosecution against these officers.</p> <p>Cognizance has been taken by the Court on 3.6.2013 and the case is under trial in the Court of Special Judge, Vigilance, Keonjhar.</p> <p>Notice has been issued to the lessee under Rule 27(5) of MC Rules 1960 and section 21(5) and 4A of the MMDR Act, 1957 to explain why the lease should not be determined and cost of the ore illegally extracted should not be recovered.</p> <p><b>Ministry of Mines</b> The Ministry is of the view that no offence was committed under section 13(2) read with Section 13(1)(d) of Prevention of Corruption Act, 1988/420/120-B of Indian Penal Code, Section 21 of MMDR Act, 1957 and Section 2 of Forest Conservation Act, 1980. Therefore, sanction of prosecution against IBM officials was not granted.</p> <p>The Ministry has directed the IBM to inquire and fix responsibility for failure on the part of any officers / officials of IBM in this regard.</p>
9	<p><b>Working permission without authority:</b> The State Government does not have authority and competence to grant working permission in a lease which ceased to exist under the deemed refusal provision of Rule 24A of the MCR, 1960.</p> <p>Moreover, the lessee was holding an area of more than 10 sq.</p>	<p><b>Government of Odisha</b> Notice has been issued under Rule 27(5) of MC Rules 1960 for determination of the lease and under section 21(5) of MMDR Act, 1957; and for recovery of the price of ore raised without lawful authority.</p>

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	kms. at that time. Hence, it was in violation of Section 6 (1)(b) and Section 6(3) r.w. Section 19 of the MM(DR) Act, 1957.	
10	<p><b>Illegality in 2nd RML:</b> The State Government approved 2nd RML for 20 years w.e.f. 01.01.1976 vide Order No.16451, dtd. 13.12.1979, after receipt of the approval of GoI u/s. 8(2) of the MM(DR) Act, 1957. The working permission for mining operation for the period from 01.01.1976 till 30.06.1980 i.e. 4 years and 6 months had been given illegally in violation of the provision of Section 8 of the MM(DR) Act, 1957 and Rule 24A of MCR, 1960 which was effective during the relevant period.</p> <p>In no way, the mining operation should have been allowed to continue after 31.12.1976 (when the first renewal expired). The officials of the Steel &amp; Mines Department, Director of Mines who had allowed such illegal operation, are liable for such lapses.</p> <p>So also, the recommendation of the DFO regarding limiting the area to 5.00 Acres has not been taken into account.</p>	<p><b>Government of Odisha</b> The matter will be examined and steps will be taken to recover the cost of the ore raised during the period of illegal operations after following due process of law. After examination, action will also be initiated against officers responsible for giving working permission from 01.01.1976 to 30.06.1980.</p>
11	<p><b>Discovery of iron ore within DLC</b> M/s. M. L. Rungta, in his letter No.66 dtd.09.04.2001, intimated the Secretary to Government, Steel &amp; Mines Department, Odisha that during prospecting, iron ore had been discovered and requested to include iron ore in the lease deed dtd.02.08.1999 as supplementary deed. Later on, M/s. M. L. Rungta submitted a letter to DDM, Joda by enclosing a geological report on availability of a quantity of 3,28,538 MT iron ore. The said geological report was not submitted by any Technical Expert or not signed by any person. As per the said report, the iron ore occurred in the forest land (DLC forest). Sri P. C. Patra, DDM, Joda recommended for inclusion of iron ore in the M.L. Deed vide his letter No.8080, dtd. 30.04.2001 by writing that iron ore occurrence was found in the broken up DLC forest land and the MoEF, Government of India had accorded approval u/s. 2 of FCA, 1980 for the diversion of the included forest. This statement of DDM is factually incorrect, as the MoEF had only approved for the forest land (P.F.) and not for DLC forest land. Rather, the DLC forest land had not been identified at that point of time, when MoEF approved the diversion proposal. The DRP for DLC was not processed or sent to the MoEF for approval, at all. Thus, Sri P. C. Patra, DDM, Joda had submitted false information in his recommendation to show undue favour to M/s. M.L. Rungta.</p> <p>By pointing out the shortcomings, Sri Ganesh Mohanty, Jt. Director suggested to call for a detail report to clarify on the aforementioned points. But without further examining the matter, without calling for clarification, without verification of the documents, Sri Sasadhar Sahu, the then Director recommended for inclusion of iron ore by endorsing the report of Shri Patra, DDM; in his letter No.10050/DM, dtd. 14.09.2001 to the Steel &amp; Mines Department.</p>	<p><b>Government of Odisha</b> The then Deputy Director, Mines, Joda along with other mining officials have been charge sheeted for their omissions and commissions.</p>

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12	The total reserve of iron ore was reported to be 3,75,273 MT in the IBM plan against the total reserve 3,28,538 MT (which is 46,735 MT less) shown in the geological plan submitted by M/s. M. L. Rungta on 09.04.2001.	<b>Ministry of Mines</b> The Ministry has directed the IBM to inquire and fix responsibility for failure on the part of any officers / officials of IBM in this regard.
13	<b>Forest Clearance for DLC</b> The MoEF approved for Phase-1 approval over an area of 139.736 ha. was communicated in Order No.8-104/96, dtd. 16.12.1996. The 2nd Phase approval, in letter No.8-104/96, dtd. 16.01.1998 for a period of 20 years w.e.f. 01.01.1996, was for the protected forest. The MoEF approval, in respect of 311.396 ha. of DLC land, was received vide letter No.8-104/96-FC, dtd. 22.10.2009 and Stage-2 approval was received vide letter No.8-104/96-FC, dtd. 12.11.2010 for the 3rd RML period for manganese and iron ore. Hence, there is no approval for DLC area wherein iron ore is extracted in this period (2003 to 2010). The land is actually not broken before 27.09.2003.	<b>Government of Odisha</b> The mining lease deed for iron ore was executed on 27.09.2003. Prior to 27.09.2003, the DLC area for iron ore was not broken up. The MoEF clearance for DLC Forest for 3 <sup>rd</sup> RML for the manganese and iron ore was received on 12.11.2010. It is clear that iron ore was excavated illegally without MoEF clearance from 17.11.2003 till 12.11.2010 for which charge sheet has been filed against the officials responsible.  <b>Ministry of Environment and Forests</b> Same as replied in S. No. 6 above
14	<b>Production from DLC Forest land:</b> The production and dispatch of iron ore from the DLC forest land without MoEF approval from 27.09.2003 till 12.11.2010, are 2,67,835MT and 2,65,994.14MT respectively. This production and dispatch are illegal. It is observed that 2,65,994.14 MT of iron ore amounting to Rs.53,19,88,280/- had been produced and sold illegally in violation of the law causing loss to the Government.  In order to quantify the book balance of manganese ore as on the date of JPV, the production and dispatch is calculated, and found to be 12,75,245.66MT and 12,47,837.00MT resp. during the period 01.01.1993 to 16.10.2009. Thus, the book balance as on 16.10.2009 comes to 27,408.66 MT (i.e. 12,75,245.66 MT minus 12,47,837.00 MT). During JPV, a quantity of 25,669.42 MT was found and, hence, there is a shortage of 1,739.24 MT of manganese ore. For the said shortage quantity, the royalty to the tune of Rs.50,437.96 and the sales tax to the tune of Rs.3,47,848.00 had been evaded by dispatching the same (1,739.24 MT) without mentioning the same in the record for which the mining lease holder is liable.	<b>Government of Odisha</b> The production relating to manganese ore from 01.01.1993 to 16.10.2009 has been taken into consideration during the investigation by the State Vigilance. Similarly, the production, dispatch and shortage of iron ore from 27.09.2003 to 15.10.2009 have been dealt in the charge sheet submitted by Vigilance Department.  Show cause notice has been issued under Rule 27 (5) of MC Rules 1960 for determination of the lease under section 21(5) of MMDR Act, 1957; and for recovery of the price of the ore raised without lawful authority.  <b>Ministry of Environment and Forests</b> Same as replied in S. No. 6 above
15	<b>In view of the IBM approved plans and details, it is to be stated that:</b> 1. During the year 1994-95, a quantity of 41,851 MT manganese ore had been allowed to be produced without having approved IBM plan. The DDM, Sri Sasadhar Sahoo who had allowed despatch of 34,237.4 MT of manganese ore, is liable for criminal misconduct.  2. During the year 1999-2000, a quantity of 77,783.540 MT of manganese ore had been allowed to be produced without approved IBM plan. The DDM, Sri Purna Chandra Patra who had allowed despatch of 70,257.600 MT of manganese ore, is liable for criminal misconduct.	<b>Government of Odisha</b> Government officers along with others have been prosecuted in Balasore Vigilance PS Case. Charge sheet has been filed.  For raising of ore without supporting mining plan, show cause notice has been issued under Rule 27(5) of MC Rules 1960 for determination of the lease and under section 21(5) of MMDR Act, 1957 for recovery of the price of ore raised without lawful authority.

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	<p>3. During the year 2008–09, a quantity of 1,08,025 MT of manganese ore had been allowed to be produced and 82,590.100 MT had been despatched without approved IBM plan. The DDM, Sri Madan Mohan Biswal who had allowed such dispatch, is liable for criminal misconduct.</p> <p>4. During the year 2008–09, a quantity of 14,494 MT of iron ore had been allowed to be produced and 18,919.550 MT had been despatched without approved IBM estimation. The DDM, Sri Madan Mohan Biswal who had allowed such despatch, is liable for criminal misconduct.</p> <p>5. The IBM plan dtd. 07.07.2005 had been approved by Sri M. K. Parasher, Regional Controller of Mines (NR) Nagpur by approving a total quantity of 2,98,048 MT production for 2005–06, 2006–07 and 2007–08 i.e. for three years only. The production estimate for the year 2008–09 and 2009–10 has not been given, though the mining plan is for five year i.e. from 2005–06 to 2009–10.</p> <p>It is found that the recoverable reserve of iron ore has been calculated to be 3,67,768 MT in the original IBM plan dtd. 13.08.2003 for iron ore against the iron reserve of 3,28,538 MT calculated by the mining lease holder in his geological plan submitted on 09.04.2001. If at all, the maximum reserve quantity of 3,67,768 MT is taken into account, then by the year 2005–06, a quantity of 77,025 MT of iron ore has already been despatched during the years 2003–04 and 2004–05, then a quantity of 2,90,743 MT of reserve of iron ore can be recoverable.</p> <p>Hence, the estimated production cannot be kept as 2,98,048 MT against the recoverable reserve of 2,90,743 MT. Thus, the IBM plan for iron ore from the year 2005–06 to 2009–10, was prepared with an ulterior motive by allowing the mining lease holder to carry on production and despatch of excess iron ore to meet with the high demand of iron ore which is in excess of the original approved plan dtd. 13.08.2003, knowingly that the total iron reserve is to be exhausted by the year 2007–08. As there is no iron ore available for the years 2008–09 and 2009–10, no production estimate quantity has been kept in the IBM plan dtd. 07.07.2005. The IBM plan is unrealistic and not based on scientific assessment. Hence, action should be taken for sanctioning faulty mining plan.</p> <p>6. Sri Debadurllav Das, Jr. Mining Geologist, IBM, Bhubaneswar conducted inspection on 06.06.2008 and submitted the report on 22.08.2008. He has submitted report by writing that there is no violation of MCDR Rules by accepting in toto the MCDR data base submitted by M/s. M. L. Rungta.</p> <p>As stated earlier, the mining lease holder had produced 14,494 MT of iron ore during the year 2008–09 without approval of IBM Plan. As per records, the lessee had been carrying on extraction of iron ore illegally since 01.04.2008, with production of 3,279 MT during April, 2008 and 2,300</p>	<p><b>Ministry of Mines</b> Same as replied in S. No. 8 above.</p>

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	<p>MT during May, 2008. Without taking any action to stop illegal mining operation, Sri Debadurllay Das, Jr. Mining Geologist, IBM, Bhubaneswar suppressed the facts of illegal mining operation and submitted an incorrect report. Hence, Sri Das is liable to be proceeded in accordance with Rules.</p> <p>7. The IBM plan dtd. 27.01.2010 was approved by Sri Singa Tiu, Regional Controller of Mines, IBM, Bhubaneswar with estimated production of 35,994 MT for the year 2009–10, overlooking the illegal production of 14,494 MT of iron ore during the year 2008–09. This illegal production was pointed out by Sri T. K. Rath, Dy. Controller of Mines, IBM in his report dtd. 27.10.2009 on the basis of the inspection conducted on 06.09.2009. This illegal mining in violation of the mining plan has been reported to Sri Singa Tiu, RCM who submitted his report to the Controller of Mines, Nagpur by report dtd. 04.11.2009. The mining lease holder was asked to explain for punishment under Rule 58 of MCDR, 1988 in the letter No.ORI/MN/Iron/KGR/MCDR–20/BBSR Vol.II dtd. 26.10.2009. The mining leaseholder submitted reply on 03.01.2009 by stating that he has submitted modified scheme for approval. Sri Singa Tiu, RCM approved the mining plan for the year 2009–10 without taking any legal action and without modification of the production of the year 2008–09.</p> <p>Hence, action of RCM, Sri Tiu is unjustified and it may amount to favour to M/s. M. L. Rungta.</p>	
16	<p><b>Trading of ore and Evasion of Income Tax &amp; other taxes:</b> Based on the search &amp; seizure of the Income Tax Department and the findings of the Vigilance Cell Unit, Bhubaneswar in First Information Report No.52 dated 18.11.2009, the I.T. Department has made analysis of assets and documents found/ seized/impounded in Chapter VII of their Appraisal Report.</p> <p>The details mentioned in the appraisal report of IT Department have been obtained by the Commission from the Income Tax Department and the same has been reproduced for perusal and further needful action by the concerned Departments including the Income Tax Department in a time bound manner. The findings for other leases of S. R. Rungta Group by the Income Tax Department which are not discussed herein should also be treated as part and parcel for further needful action. Further, the findings of the Income Tax Department are inconclusive.</p>	<p><b>Government of Odisha</b> The State Government is making inquiry to take necessary action as per the provision of Odisha VAT Act, 2004 and Central Sales Tax Act, 1956 for the year 2006-07 onwards. The State Vigilance has been asked to share the findings of tax evasion with the Commissioner of Commercial Tax.</p> <p><b>Department of Revenue, Ministry of Finance</b> The matter is being examined from direct / indirect tax violations and also from the enforcement angle. Appropriate action would be taken after ascertaining the violations of specific Acts/ Regulations by the respective agencies like Central Board of Excise and Customs, Central Board of Direct Taxes, Directorate of Revenue Intelligence etc.</p>
17	<p><b>Recommendations</b> Various violations of the provisions of the Acts and/or Rules have been committed by various officers of the concerned Departments as well as the lessee, as mentioned hereinabove. Therefore, action should be taken against them in accordance with law. The State Government should initiate action to recover the losses caused to State Exchequer. Action should</p>	<p><b>Government of Odisha</b> The State Vigilance has taken steps to investigate into allegations of illegal mining. Charge sheeted Government officials and the mining lease holder. The court of Special Judge Vigilance has taken cognizance on 03.06.2013. The case is</p>

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	<p>also be initiated under Section 6(1)(b) and (3) of MM(DR) Act, 1957.</p> <p>Further, like in similar other matters, the Commission recommends to hand over this matter also to the Central Bureau of Investigation.</p>	<p>under trial. The lessee has been issued notice under Rule 27(5) of MCR, 1960 for determination of the lease under section 21(5) of MMDR Act, 1957; and for recovery of the price of the ore raised without lawful authority. Therefore, there is no need to hand over investigation to CBI at this stage.</p> <p><b>Ministry of Environment and Forests</b> Same as replied in S. No. 6 and 7 above</p> <p><b>Department of Revenue, Ministry of Finance</b> Same as replied in S. No. 16 above</p> <p><b>Ministry of Mines</b> Same as replied in S. No. 8, 9 and 15 above</p>

**14 M/s. Rungta Mines Private Ltd Kolmang Manganese Mine**

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1	<p><b>First renewal – deemed refusal:</b> First RML was granted by an order dated 14.11.1975 of State Government after much delay and against the then provisions of Rule 24(3) of the MCR, 1960 which provided for deemed refusal. It seems that the renewal was granted after having received the direction from the Government of India under the then Rule 55 of MCR, 1960 vide their letter No.9233/MG dated 17.09.1962. It is further stated that no action was taken from 17.09.1962 to 14.11.1975 and hence attracted the deemed refusal provisions under the then Rule 24(3) of MCR, 1960.</p>	<p><b>Government of Odisha</b> The State Government has directed to suspend the operation of working mines which has been deemed to have been refused as per the then provisions of MC Rules, 1960. Necessary action is being taken in the matter after following due process of law.</p>
2	<p><b>Increase in area:</b> The State Government has granted 722.00 acres of land instead 672.00 acres originally granted (1st lease grant deed dated 08.05.1939). There is overall increase of 50.00 acres of leased area. The State Government did not have power to increase the area over the original grant. It is an undue favour to lessee.</p>	<p><b>Government of Odisha</b> The matter will be examined to take action after following due process of law.</p>
3	<p><b>Not matching without boundary description</b> On perusal of the original schedule of area (lease deed dated 08.05.1939), it is noted that the present leasehold area does not match with the boundary description i.e. from 1st renewal onwards. All the manganese ore removed from this area is illegal (the northern sub-block of the present leasehold area).</p> <p>It is noted here that this sub-block on the northern side of the lease which was in excess illegally granted during the 1st renewal and subsequent. The State Government should take immediate action to take back this sub-block and also initiate action against those who are responsible for it.</p>	<p><b>Government of Odisha</b> The matter will be examined and necessary action will be taken as per law and action will be initiated against those who are responsible for such illegal grant in accordance with provisions of law.</p>
4	<p><b>Second renewal application</b> It is noted from the lease deed agreement that the deed was signed for 540.00 acres (218.53 ha.) but the grant was made to 722.00 acres (?). It seems that for remaining area of 182.00 acres at Kanther– Koirā villages another separate lease deed was signed. It is not known from the records whether such approvals have been obtained from a competent authority and if yes, under which provisions? As such, there is no provision for granting two leases against the sanctioned for a single lease.</p> <p>This block of Kolmong area (218.53 ha.) consists of 2.206 ha. revenue forest, 127.298 ha. DLC land, 22.124 ha. non-forest land and 66.902 ha. non-forest tenant land. It is to state here that though there was a revenue forest land no FC approval has been obtained because the grant of lease and execution of lease deed. Hence, there was a violation of Section 2 of F.C. Act, 1980.</p>	<p><b>Government of Odisha</b> Regarding splitting of the mining lease at the time of renewal, the matter will be examined and action will be taken as per provisions of law.</p> <p>The 2<sup>nd</sup> renewal was granted for the period 1.1.1980 to 31.12.1999. At the time of execution of 2<sup>nd</sup> renewal, the implementation of the provisions of the FC Act 1980 was in the initial stage which may have been responsible for execution of the lease without prior approval of the Government of India. The matter will be brought to the notice of the MoEF, GoI for taking necessary action.</p> <p><b>Ministry of Environment and Forests</b> The case shall be examined in detail and appropriate legal action, as required, under the provisions of the Forest Conservation Act, 1980; and various guidelines / instructions issued from time to time, shall</p>



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		be taken in a time bound manner. The MoEF will also direct the Government of Odisha to take appropriate legal action, as required, under the provisions of the Orissa Forest Act, 1972.
5	<p><b>Transfer</b></p> <p>Shri T.P. Rungta had applied on 05.12.1983 for the transfer of two leases i.e. (1) the lease of Kolmong area admeasuring 540.00 acres and (2) the lease of Kanther-Koira area admeasuring 182.00 acres. Both the leases have been granted for 2<sup>nd</sup> renewal as a single block but lease deeds were signed separately. The State Government vide its order dated 09.03.1984 has agreed a transfer lease from Shri T.P. Rungta to M/s. Rungta Mines Pvt. Ltd. It is observed that when this lease was transferred in favour of M/s. Rungta Mines Pvt. Ltd., its one of the director / partner Shri Sitaram Rungta, S/o. Late Mangilall Rungta is also partner / director in all the 14 leases (iron and / or manganese mines) in the Orissa State, thereby exceeding the limits of 10 Sq. Kms. in violation of Section 6(1)(b) of MM(DR) Act, 1957.</p> <p>Shri R.P. Rungta who had signed as transferee on behalf of M/s. Rungta Mines Pvt. Ltd. is also one of the director / partner of the said company. On looking a face of it, it is a gross of misuse of Rule 37 of MCR, 1960. One director of the same company transfers to another director of the said company. This appears to have been done to divert the attention and to escape from the clutches of Section 6(1)(b) of MM(DR) Act, 1957 wherein an area of more than 10 Sq. Kms. cannot be acquired by a single person.</p>	<p><b>Government of Odisha</b></p> <p>The matter will be examined and necessary action for misuse of Rule 37 of MCR, 1960 and violation of Section 6(1)(b) of MMDR Act, 1957 will be taken against the lessee after following due process of law.</p>
6	<p><b>Third renewal</b></p> <p>An application for renewal of mining lease for 3rd time was filed in Form J on 14.12.1998 over an area of 218.530 ha. by M/s. Rungta Mines Ltd. for 20 years. It is to be stated that there is no transfer of lease from M/s. Rungta Mines Pvt. Ltd., a private limited company to M/s. Rungta Mines Ltd., a public limited company. This is in violation of Rule 37 of MCR, 1960.</p> <p>The State Government has issued terms and conditions for 113.373 ha. on 21.08.2001. The terms and conditions are in violation of the applied area of 218.530 ha. This is an undue favour extended to lessee in neglect of the applicable provisions relating to surrender of area wherein the closure plan is required to be obtained from IBM and its implementation. The lessee has accepted the terms and conditions vide letter dated 22.08.2001, but grant order has not been issued till date. Hence, lessee continued in possession of 218.530 ha. on the basis of deemed extension.</p>	<p><b>Government of Odisha</b></p> <p>The alleged violation of the provisions of Rule 37 of MC Rules, 1960 and Section 6(1)(b) of MMDR Act and other violations will be examined for which necessary steps are being taken.</p>
7	<p>The application of the Forest (Conservation) Act, 1980 starts from the end of the period of second renewal i.e. 01.01.2000 onwards in 127.298 ha. DLC forest land irrespective of whether the area is broken or otherwise.</p> <p>The F.C. Act, 1980 is applicable for the DLC land since 01.01.2000 onwards (the date on which the second renewal period expires). The lessee did not obtain FC approval for</p>	<p><b>Government of Odisha</b></p> <p>The matter will be examined and necessary action will be initiated against the lessee for violation of the Forest (Conservation) Act, 1980 from the end of the period of second renewal i.e. 01.01.2000 onwards in 127.298 hectare DLC forest.</p>

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	the said area and continued his mining operations till 16.03.2006.	<b>Ministry of Environment and Forests</b> Same as replied in S. No. 4 above
8	<p><b>Surrender</b> On the request of the lessee, the MoEF, vide its letter dated 25.09.2003, has asked the user agency to surrender forest area of 69.309 ha. to the Forest Department. Accordingly, the lessee claims that he has surrendered the area.</p> <p>But, it is to be stated that the area under MM(DR) Act, 1957 remains the same i.e. 218.53 ha. and no follow-up action has been taken under the said Act and also the rest of area of non-forest remained to be surrendered (35.846 ha.) under the law.</p>	<p><b>Government of Odisha</b> The State Government will take necessary action in the matter.</p>
9	<p><b>Surrender</b> It is observed from the approval dated 16.03.2006 of MoEF, Government of India for diversion of 53.55 ha. of forest land within mining lease area of 218.530 ha. of manganese ore in Kolmong village. As per the said approval (condition No.7), the user agency shall surrender 69.309 ha. of forest area to the State forest department. The surrendered area shall be reclaimed and rehabilitated at the project cost.</p> <p>However, surprisingly, the lessee has again submitted proposal for diversion of 32.017 ha. of additional forest area including 6.645 ha. safety zone out of the 69.309 ha. to be surrendered areas and even, the Government of India (MoEF) has agreed to give approval for 32.017 ha. of forest land overruling their earlier approval dated 16.03.2006. In principle approval in this regard has been accorded by MoEF on 25.10.2011. It is also observed that EC approval has been given for the 113.375 ha. (60.195 ha. is forest and 53.18 ha. others). It is further observed that the lessee has already obtained approval under FC for an area of 85.55 ha. (including in principle approval). In the FC approval (16.03.2006), there is no condition acquiring the lessee to obtain the EC, though it is mandatory as per the MoEF guidelines existing at that time. Hence, it appears that there is rule of law, is not observed for reasons not known.</p>	<p><b>Government of Odisha</b> The lessee will be asked to reclaim and rehabilitate the surrendered area at his cost.</p> <p>The total forest area in the lease is 155.325 hectare. An extent of 53.55 hectare of forest land is diverted in 2006, and 69.309 hectare allowed for surrender. Subsequently, 32.017 hectare of forest land was diverted in 2011. Analysis of land schedule of 32.017 hectare of DLC / KF forest land indicates non-overlapping of the same with 69.309 hectare of surrendered forest area. Therefore, 2<sup>nd</sup> approval granted by MoEF has not encroached upon the surrendered area as the sum total of the approved area and surrendered area is within the total forest area of the lease. Hence, there is no inconsistency in FC approval. As the EC and forest clearance are regulated by two independent legislations, there is no illegality in not obtaining EC as a condition in FC approval.</p> <p><b>Ministry of Environment and Forests</b> Same as replied in S. No. 4 above</p> <p>The case shall be examined in detail and appropriate legal action, as required, under the provisions of the Environment (Protection) Act, 1986; EIA Notification, 2006 as amended; and various guidelines / instructions issued from time to time, shall be taken in a time bound manner.</p>
10	<p><b>Illegal Production</b> The Kolmong Block of 218.54 ha. consists of 127.59 ha. of DLC forest land which has come into existence from 29.08.1998. The F.C. Act, 1980 is applicable for the DLC land since 01.01.2000 onwards (the date on which the second renewal period expires). The lessee did not obtain FC approval for the said area and continued his mining operations till 16.03.2006. During the period the lessee has</p>	<p><b>Government of Odisha</b> Show cause notice has been issued to M/s Rungta Mines Ltd. on 4.1.2014 for illegal extraction of manganese ore from the DLC forest area during the period from 2000-01 to 2005-06. On receipt of the response from the User Agency, the matter will be examined and necessary action will be</p>

Sl.	Gist of Commission's Observations/ Findings / Recommendations	Action Taken Report
	<p>extracted the quantity of 43119 MT (<b>Table 1 at page 298</b>) from the DLC forest land illegally and without any lawful authority over the land.</p> <p>The production from the forest area has been cross-verified with the land use plan map, broken up area map submitted by Forest Department and Satellite imaginaries. Hence, it attracts the provisions of Section 21(5) of the MM(DR) Act, 1957 wherein the costs of the mineral should be recovered from the lessee at market value.</p> <p>Actions under Sections 3A and 3B of F.C. Act should also be taken against the lessee and the officers responsible for operating and allowing the mine to operate respectively in the forest area without having approval under the F.C. Act.</p> <p>Action should also be taken for non- implementing the direction of MoEF to surrender the land admeasuring 69.309 ha. of the forest area.</p>	<p>initiated in accordance with provisions of law.</p> <p><b>Ministry of Environment and Forests</b> Same as replied in S. No. 4 above</p>
11	<p><b>Violation of EC</b> Production for the year of 1993-94 in the leased area was 3,990 MT per annum. There is increase in the production in subsequent years. Hence, it attracts EIA Notification dated 27.01.1994. EC is required to be obtained for the project including the mining project for the enhanced production, as per the said Notification. Therefore, there is violation of EIA Notification. Further, the production of 1,42,030 MT (<b>Table: 2 at page 301</b>) from the year 1994-95 to 11.02.2009 is illegal and recovery of the value equivalent to market price should also be made for this illegal production.</p> <p>There is no basis for taking 12,000 tonnes for base production to enhance to 40,100 MT. As per the notifications, it should have been 3,990 MT (to production for the year of 1993-94). Hence, the EC approved by the MoEF is erroneous and should be re-examined with appropriate action against those who are responsible for it.</p> <p>Second RML period of lease expired on 31.12.1999. So, from 01.01.2000 onwards, there was no EC up to 11.02.2009 and no FC up to 16.03.2006, but the mining operations continued illegally resorting to deemed extension provision.</p> <p>(i) So, production from 01.01.2000 to 16.03.2006 is in violation of FCA, 1980; and (ii) from 27.01.1994 to 11.02.2009 in violation of EP Act, 1986 and EIA Notification, mining operations have been carried out.</p> <p>The lessee has been working in the leased area during the deemed extension period without having the approval under FCA, 1980 for DLC and EIA Notification dated 27.01.1994. Hence, it is illegal mining carried out by lessee, as per the letter No.16/12/2009-M VI (part XV) Vol. VI, dated 18.05.2011 of the Ministry of Mines, Government of India.</p>	<p><b>Government of Odisha</b> For the violation of the EP Act by the Lessee, Criminal Case has been instituted in the Court of SDJM, Bonai.</p> <p>Regarding violations of stipulation of EIA notification dated 16.3.2006, the matter will be examined and necessary action will be taken as per provisions of law.</p> <p>For production without EC during the period 2000-01 to 2007-08 and for excess production as against the production limits as per SPCB clearance for 2008-09, Rs.83,12,87,485/- has been demanded which will be recovered in accordance with provisions of law.</p> <p>Notice under section 21(5) of the MMDR Act, 1957 will be issued to seek explanation as to why the price of the ore raised without FC should not be recovered after following due process of law.</p> <p>The matter will be examined and necessary action will be initiated for recovery of the price of ore raised as per provisions of law from when the EIA notification 1994 came into force.</p> <p><b>Ministry of Environment and Forests</b> Same as replied in S. No. 4 and 9 above</p>

Sl.	Gist of Commission's Observations/ Findings / Recommendations	Action Taken Report
12	<p><b>Violation of Rule 37 of MCR, 1960</b></p> <p>For the second renewal, an application in Form J was submitted on 14.12.1998 by M/s. Rungta Mines Limited, a Public Limited Company registered office situated at 2<sup>nd</sup> Floor, P-564, Lake Road, Calcutta – 29, even though the lease is in the name of M/s. Rungta Mines (Private) Limited.</p> <p>How could M/s. Rungta Mines Ltd. have filed Form J without transfer under Rule 37 from State Government?</p> <p>The acceptance of Form J as submitted by M/s. Rungta Mines Ltd. by the Collector is illegal and is an undue favour.</p> <p>On seeing the annual returns of production filed by the lessee from the year 1998 onwards till date, M/s. Rungta Mines Ltd. is operated by the lessee on behalf of "M/s. Rungta Mines (P) Ltd." Hence, the lease was operated, managed, controlled and administered by M/s. Rungta Mines Limited in violation of Rule 37 of MCR, 1960.</p> <p>M/s. Rungta Mines Limited has engaged raising contractors for carrying all the mining operations from the year 2005–06 to till date. The raising contractors are:–</p> <ul style="list-style-type: none"> <li>(i) Kanakdhara Mining &amp; Minerals Pvt. Ltd.;</li> <li>(ii) Konark Mining Company;</li> <li>(iii) Nigam Enterprises;</li> <li>(iv) Vikash Construction Co.; and</li> <li>(v) Shivam Transport.</li> </ul> <p>Hence, there is the breach of agreement made by the transferor and transferee in respect to directly undertaking mining operations. Therefore, again, there is a violation of Rule 37 of MCR, 1960.</p> <p>The diversion of forest land admeasuring 32.017 ha. was approved under FCA, 1680 vide letter dated 16.03.2006 of the MoEF. On 25.10.2011 and EC approval dated 11.02.2009 by MoEF, Government of India are in the name of M/s. Rungta Mines Limited. Since the lease is not transferred in favour of M/s. Rungta Mines Limited, all the above approvals become infructuous. Action should be taken to cancel these approvals and also, action should be taken against the officers responsible for recommending and approving forest diversion proposals.</p> <p>Hence, action should be taken as per Rule 37 of MCR, 1960 and also against officials for their commissions and omissions for allowing the mining lease to be operated, approvals granted etc. in favour of M/s. Rungta Mines Limited.</p>	<p><b>Government of Odisha</b></p> <p>The matter will be examined and necessary action will be initiated for determination of the lease for violation of Rule 37 of MCR, 1960 after observing due process of law.</p> <p>After examination, disciplinary action will be initiated against officers for omissions and commissions, if any.</p> <p>Provision has been made vide MoEF's circular dated 3.5.2010 for levy of transfer fee in case of transfer of mining lease without prior approval of MoEF. Demand notice for depositing the transfer fee has been issued to M/s Rungta Mines Limited to regularize the transfer and settle the invalidity of the approval dt.16.3.2006 and 25.10.2011. Regarding default of the lessee to pay the transfer fee, legal proceeding shall be initiated to cancel the approval.</p> <p><b>Ministry of Environment and Forests</b> Same as replied in S. No. 4 and 9 above</p>
13	<p><b>Recommendation</b></p> <p>With the above facts and circumstances, the State/Central Government and other competent authorities should initiate action, as suggested in this chapter for all the issues.</p>	<p><b>Government of Odisha</b></p> <p>The State Government will take action in accordance with law.</p> <p><b>Ministry of Environment and Forests</b> Same as replied in S. No. 4 and 9 above</p>

#### 14A Violation and misuse of sub-sections (1) and (3) of Section 6 of the MM(DR) Act, 1957

Sl.	Gist of Commission's Observations/ Findings / Recommendations	Action Taken Report
1	<p>If provision of Section 6 of MMDR Act, 1957 is applied strictly in the case of S. R. Rungta Group/ Family members/ Partnership Firm/ Company, the Commission found that S. R. Rungta Group/ Family members/ Partnership Firm/ Company was/were holding more than 10 sq. kms. from 10.02.1987 to 18.12.1999. The total area held by S. R. Rungta Group in State of Orisha (3339.23 ha.) and Jharkhand (322.94 ha.) would be 3,662.17 ha. Hence the aforesaid acquisition of mining lease upto 18.12.1999 would be illegal.</p> <p>The concerned officers of the States of Orissa and Jharkhand would be responsible for the said illegalities. If the acquisition of mining lease in Jharkhand State is excluded, then also the concerned officers are responsible for the grant of mining lease for the excess holding by S. R. Rungta Group in State of Orissa.</p> <p>Not only this, the value equivalent to market rate for the production from excess mining lease area is required to be recovered from the lessee u/s. 21(5) of the MM(DR) Act, 1957.</p>	<p><b>Government of Odisha</b> The matter will be examined and necessary action as per law will be taken against the lessee for violation of section 6(1)(b) and 6(3) of MMDR Act, 1957 after following due process of law and for the recovery of the ore raised during the period without lawful authority by invoking the provisions of section 21(5) of the MMDR Act, 1957.</p> <p>The involvement of officers will be investigated and necessary action will be initiated against officers found responsible for omissions or commissions, if any.</p>
2	<p>M/s. Rungta &amp; Sons Pvt. Ltd. has acquired Mn. Bauxite Mines for an area of 43.06 ha. from U.C. Mishra. Kusumdihi – Kamanda Mn. / Bauxite Mines was transferred in favour of the Rungta Sons Pvt. Ltd. on 22.03.2003 from U. C. Mishra. As on date, S. R. Rungta Group was having an area of 3,335.251 ha. under its possession in the State of Orissa.</p> <p>Hence, the aforesaid lease of Bauxite mines was transferred in violation of Section 6(1)(b) and (3) of MM(DR) Act, 1957 and, therefore, the same should be treated as void and of no effect under Section 19 of the MM(DR) Act, 1957. Not only this but from the facts and circumstances discussed above, it is the duty of the State Government to initiate action for determining the leases which were granted / renewed, in excess to 10 Sq. Kms. The State Government should take possession of the excess area.</p>	<p><b>Government of Odisha</b> The matter will be examined and necessary action as per law will be taken against the lessee for violation of section 6(1)(b) and 6(3) of MMDR Act, 1957 after following due process of law.</p>
3	<p>It is inferred that all 14 or 15 leases for the area of 3,662.17 ha. are / were in direct control of Shri Mukund Rungta, Shri Siddharth Rungta &amp; Shri Nandlal Rungta in violation of Section 6(I)(b) &amp; Section 6(3) of MM(DR) Act, 1957.</p> <p>During the period 1987 to 1999, the restriction of upper limit was 10 Sq. Kms. in the whole country. Hence, the S. R. Rungta Group (Sita Ram &amp; Family) was holding an area of 2,658.194 ha, excess in violation of Section 6(I)(b) &amp; (3) of MM(DR) Act, 1957 during that period.</p>	<p><b>Government of Odisha</b> Same as replied in S. No. 2 above</p>
4	<p>It is to state here that Kolmong Kanther Mn. Mines (2 blocks of an area of 292.00 ha.) was bifurcated and accorded approval for 2 leases from 01.01.1980. These two mines were kept continued in the name of Shri Madan Gopal Rungta till 06.06.1984. Before this date, the Katasahi Mn. Ore Mines (226.62 ha.) which was transferred in favour of M/s. Rungta Mines Pvt. Ltd. on 25.10.1967, has been again transferred (second time) in favour of M/s. Rungta Sons Pvt. Ltd. on 05.01.1984 with a contrived strategy that leasehold area against the name of M/s. Rungta Mines Pvt. Ltd. do not exceed more than 10 Sq. Kms. in favour of</p>	<p><b>Government of Odisha</b> Same as replied in S. No. 2 above</p> <p>After examination, disciplinary action will be initiated against officers responsible for the lapse.</p>

Sl.	Gist of Commission's Observations/ Findings / Recommendations	Action Taken Report
	<p>M/s. Rungta Mines Pvt. Ltd. After this transfer, the 2 leases i.e. Kolmong Mn. Mines and Kanther Koira Mn. Mines of a total area of 292.18 ha. have been then transferred in favour of M/s. Rungta Mines Pvt. Ltd. on 06.06.1984 from Shri T.P. Rungta, one of the sons of Mangilall Rungta and brother of Madan Gopal Rungta. This has been done deliberately to escape from the clutches of the restrictions imposed under Section 6(I)(b) for 10 Sq. Kms. within the State from 1972 to 1987. The total area for these 4 leases was 1,188.157 ha. as stated in the above Table: 12. The officials of the State Government and the Steel and Mines Department were fully aware about these facts and circumstances but conspired with the company and granted the areas more than the prescribed limits within the State in the above manner. It is stated here that in all the four leases, Shri S. R. Rungta was one of the Directors or signatory of lease deeds.</p>	
5	<p>From the above Table: 12, it is also clear that lease at Sr. No.1 was transferred on 25.10.1967, lease at Sr. Nos.2 &amp; 3 were transferred on 06.06.1984 and lease at Sr. No.4 was transferred on 25.10.1967 to M/s Rungta Mines (P) Ltd. So, from 25.10.1967 onwards, lease area held by M/s Rungta Mines (P) Ltd., was exceeding 10 Sq. Kms. To escape from this, the lease at Sr. No.4 was again (second time) transferred to the M/s Rungta Sons (P) Ltd on 05.01.1984. This "all exercise had been done to facilitate the lessee, M/s. Rungta Mines (P) Ltd. (S. R. Rungta Group) to keep the leasehold area within 10 Sq. Kms. to escape from violation of Section 6(1)(b) of MM(DR) Act, 1957 for M/s Rungta Mines Pvt. Ltd. It has also ignored the provisions of Section 6(3) of the Act along with others, as discussed in this chapter. The State machinery had fully cooperated in this exercise. This was a blatant misuse of Section 6(I)(b) and Rule 37 of the MCR, 1960.</p>	<p><b>Government of Odisha</b> Same as replied in S. No. 4 above.</p>
6	<p>Further, the 2<sup>nd</sup> RML was granted for Sr. No.2 &amp; Sr. No.3 [218.53 + 196.86] leases and for both of them, lease deeds have been executed on 14.06.1982 in violation of FCA, 1980. Further, these two leases were transferred to M/s. Rungta Mines (P) Ltd. on 06.06.1984 in violation of FCA, 1980.</p>	<p><b>Government of Odisha</b> At the time of execution of 2<sup>nd</sup> renewal, the implementation of the provisions of the FC Act 1980 was in the initial stage which may have been responsible for execution of the lease without prior approval of the Government of India. The matter will be brought to the notice of the MoEF, GoI for taking necessary action.</p> <p><b>Ministry of Environment and Forests</b> The case shall be examined in detail and appropriate legal action, as required, under the provisions of the Forest Conservation Act, 1980; and various guidelines / instructions issued from time to time, shall be taken in a time bound manner. The MoEF will also direct the Government of Odisha to take appropriate legal action, as required, under the provisions of the Orissa Forest Act, 1972.</p>

Sl.	Gist of Commission's Observations/ Findings / Recommendations	Action Taken Report
7	<p>In case of Nadidiha Iron / Mn. Mines of BICO, a mining lease of an extent of 497.35 ha., all the original Directors have been replaced and the Company was captured by the family members of Rungta Group This is nothing but a "back door entry" to capture the lease by the Karta of Sitaram Rungta. Further, the violation and misuse of Section 6(I)(b) and (3) of MM(DR) Act, 1957 is on the lines, as discussed for all the leases.</p>	<p><b>Government of Odisha</b> Same as replied in S. No. 2 above</p>
8	<p><b>Kusumdih Bauxite I Mn. Mines of BICO</b> Another lease of an area of 52.17 ha. was granted in favour of BrCO on 14.01.1961. The Directors, at that time, were Kumar Harish Chandra Deo, Mangovind Mohanty and Bireswar Panda. Subsequently, Shri Sitaram Rungta was entered as one of the Directors on 14.07.1962 and remains continuously one of the Directors till 16.04.1994. The other Directors, other than Shri Sitaram Rungta, were also replaced by the family members of the Karta of S. R. Rungta. This lease was also in the same manner as discussed above, captured through "back door entry" by S. R. Rungta family.</p> <p><b>Nadidiha Iron/Mn. Mines of Feegrade &amp; Co. Ltd.</b> An area of 113.31 ha. had been granted in favour of Shri A. C. Feegrade on 07.10.1944. The said lease had been transferred in favour of M/s. Feegrade &amp; Co. Ltd. on 28.10.1969. On the date of transfer, Mrs. M. H. Feegrade, Mrs. A. M. D'Sena and Shri Sitaram Rungta were the Directors (See Tables). Subsequently, the other Directors (other than Sitaram Rungta) were replaced by the members of Rungta family on 03.01.1974 and the lease had been captured through "back door entry".</p> <p><b>Sarkunda Iron I Mn. Mines of Feegrade &amp; Co. Ltd.</b> The mining lease for an area of 389.51 ha. had been granted in favour of Mrs. M. H. Feegrade from 20.12.1960 for a period of 20 years. The said lease was transferred in favour of Feegrade &amp; Co. Ltd. on 28.10.1969. The Directors, from 19.05.1969 to 03.07.1970, were Mrs. M. H. Feegrade, Mrs. A. M. D'Sena and Shri Sitaram Rungta. Subsequently, the two Directors were replaced by the family members of Rungta Group on 03.01.1974- and lease was fully captured through back door entry.</p> <p>It is seen from the facts of the leases of M/s. BICO and M/s. Feegrade &amp; Co. Ltd. that Rule 37 of MCR, 1960 is misused and violated and, therefore, action should be taken as per Rule 37(3) of MCR, 1960 and Section 19 of MM(DR) Act, 1957.</p> <p>The violation of Section 6(1)(b) and (3) of MM(DR) Act, 1957 for the leases of M/s. Feegrade &amp; Co. Ltd. and M/s. BICO is observed as discussed in this chapter along with other companies.</p>	
9	<p><b>M/s. Rungta Mines Pvt. Ltd.</b> It is to state that 5 iron ore mining leases were granted in favour of Shri Madan Gopal Rungta / Shri Mangilall Rungta. The leases were inherited by his sons after his death. Subsequently, all these leases were transferred in favour of M/s Rungta Mines Pvt. Ltd. on various dates in the States of Orissa and Jharkhand both.</p> <p>The lessee made his submission that from 1998, M/s. Rungta Mines Pvt. Ltd. has been changed to M/s. Rungta Mines Ltd. under the Companies Act, 1956. It is observed here that the Company has changed from private limited to public limited and</p>	<p><b>Government of Odisha</b> The matter will be examined and necessary action will be initiated for determination of the lease for violation of Rule 37 of MCR, 1960 after observing due process of law.</p> <p>After examination, disciplinary action will be initiated against officers found responsible for omissions or commissions, if any.</p>

Sl.	Gist of Commission's Observations/ Findings / Recommendations	Action Taken Report
	<p>thereby considered as a change to another independent entity. In such circumstances, the lessee should have obtained the transfer of all the leases in favour of M/s. Rungta Mines Ltd. under Rule 37 of MCR, 1960. No such approval has been obtained.</p> <p>Hence, it is a violation of Rule 37(1) of MCR, 1960 and attracts the provisions of Rule 37(3) of MCR, 1960. The State Government should initiate the action, in this regard, along with actions against the officials responsible for allowing the leases to operate the leases. Action should also be initiated against the officials of MoEF who have issued approvals under FC and EC in favour of M/ s, Rungta Mines Ltd. without having got transferred of lease under Rule 37 of MCR, 1960.</p>	
10	<p><b>M/s. M. L. Rugta</b> Government of India have conveyed the approval to the grant of renewal of mining lease under Section 8(2) of the MM(DR) Act, 1957 for a period of 20 years for manganese ore with effect from 01.01.1956 over 1771.50 acres (date not given &amp; also in whose name the approval was given is not stated). It is pertinent to note here that Shri C. P. Rungta in his letter dated 26.07.1969 had requested to the State Government to grant renewal of ML in favour of M/s Mangilal Rungta which was much later than the date of renewal application dated 16.05.1955. How the lease was granted in favour of M/s. Mangilall Rungta (a partnership registered firm) without transfer under Rule 37 of MCR, 1960? On this ground itself, the lease should be treated as void and of no effect under Section 19 of the MM(DR) Act, 1957.</p>	<p><b>Government of Odisha</b> The matter will be examined and necessary action will be initiated to determine the lease for violation Rule 37 of MCR, 1960 after following due process of law.</p>
11	<p><b>First RML</b> The deed for 1st RML was executed on 29.12.1970 in favour of M/s. Mangilal Rungta, a Joint Hindu Family partnership firm represented by one of the partner, Shri S. R. Rungta with retrospective effect from 01.01.1956. In fact, the lease came under the then deemed refusal provision of Rule 24(3) of MCR, 1960 and hence, granted in violation of the then provisions of this Rule.</p>	<p><b>Government of Odisha</b> The matter will be examined and necessary action will be initiated in respect of deemed refused cases as per provisions of law.</p>
12	<p><b>Second RML</b> Shri S. R. Rungta, partner of the firm was holding the joint in interest with the all other leases of various companies like M/s. Rungta Mines (P) Ltd., M/s. Rungta Sons (P) Ltd., M/s. Feegrade &amp; Co. Ltd. and MI s, Bonai Industries Co. Ltd. in addition to the four leases, as stated above at various point of time much exceeding to total lease hold area of 10 square kilometres limit. Hence, it was a flagrant violation of Section 6(1)(b) &amp; (3) of MM(DR) Act, 1957 and on this ground, the renewal should be treated as void and of no effect under Section 19 of the MM(DR) Act, 1957.</p>	<p><b>Government of Odisha</b> Same as replied in S. No. 2 above</p>
13	<p><b>Third RML</b> The 3rd RML was granted vide proceeding No.490 dated 21.01.1999 in which it was stated that, (i) Whereas the applicant being a Limited company is incorporated and registered in India, (ii) Whereas the applicant by them do not in respect of manganese or related group of minerals held such area in the State as with the area over which the R.M.L. has now been asked for will exceed ten square kilometers in the aggregate.</p> <p>At this stage also, S. R. Group / Rungta family was holding the</p>	



Sl.	Gist of Commission's Observations/ Findings / Recommendations	Action Taken Report
	total lease area 3,658.194 ha. in the Country (Orissa and Jharkhand). For this RML, lease deed was executed on 02.08.1999 in favour of M/s. Mangilal Rungta (registered under Indian Partnership Act, 1932) partnership firm consisting of partners (1) Shri Nandlal Rungta, S/o. late Sitaram Rungta, (2) Sri Mukund Rungta, S/o. late Sitaram Rungta. Supplementary lease deed was executed for inclusion of iron as 2nd mineral on 27.09.2003.	
14	<b>M/s. Rungta Sons Pvt. Ltd.</b> All leases as mentioned in Table 13 (page 376) were granted in violation of Section 6(1)(b) & (3) of MM(DR) Act, 1957 and attracts the provisions of Section 19 of the said Act. All these leases which were granted over and above to the 10 Sq. Kms. limit are void and of no effect under the said Section 19 of the MM(DR) Act, 1957 from their respective date of grant and transfer.	

**14B Daitari BOT Project of Orissa Mining Corporation worth Rs.400 Crores to Kalinga Commercial Corporation Limited**

Sl.	Gist of Commission's Observations/ Findings / Recommendations	Action Taken Report
1	<p>The Commission recommended that the Chief Secretary of State Government, Orissa should constitute Special Investigation Team (SIT) of the experts in field, officers at the rank of Principal Secretary of known integrity to investigate the following issues in the matter of Daitari BOT Project of Orissa Mining Corporation worth Rs.400 Crores to Kalinga Commercial Corporation (KCC) Limited in a time bound manner and take action accordingly:</p> <ul style="list-style-type: none"> <li>(i) irregularities / illegalities in awarding the Contract to M/s. Kalinga Commercial Corporation Limited of Rs.420 Crores approximately which was possibly the largest iron ore raising contract handed over to anybody by the OMC Management.</li> <li>(ii) the actual claim of M/s. KCC Ltd. towards its so called capital investments</li> <li>(iii) a host of OMC officials at Daitari site had countersigned the Contractor's bills certifying its actual delivery and usage at BOT site which is a serious matter.</li> <li>(iv) despite specific clauses of force majeure event, some members of OMC were prepared to pay the amount without verifying the actual delivery and usage of machinery. Force Majeure Clauses (8.1) (i), (ii), (e) and (i) would definitely cover the dispute.</li> <li>(v) the dispute is required to be settled as provided under Article 12 of the Contract. Therefore, prima-facie, there is no question of paying any amount to the contractor at this stage without finalizing the dispute.</li> </ul>	<p><b>Government of Odisha</b></p> <p>The State Government will get the matter investigated by a team of experts, headed by an officer of the rank of Principal Secretary of known integrity and will take necessary action as per law.</p> <p>The contractor Kalinga Commercial Corporation Ltd. has approached the High Court of Orissa claiming relief from O.M.C Ltd. Steps are being taken to defend the case.</p>

**Second Report on illegal mining of iron and manganese ores in the State of Odisha (Volume III)**

Sl.	Gist of Commission's Observations/ Findings / Recommendations	Action Taken Report
	<p>The Commission has requested the State Government to identify the encroachment done by the lessees in all the leases of iron and/or manganese ores in the State of Orissa. The State Government, in turn, has carried out survey of the leases and the findings were submitted to the Commission. The Commission has accepted the finding of the State Government and plotted on the satellite images. These images with encroachments were sent to the lessees for their feedback. The lessees were heard through their respective learned Sr. Counsel at Bhubaneswar and Ahmedabad. Some of the lessees were agreed with the finding of the Commission. However, some of them differed. Lessees who were not agreed with the encroachments, the Commission has ordered to carry out re-survey of the leases at their cost.</p> <p>Re-survey done by the State Government has been examined by the Commission only for encroachment. The other findings of survey team could not be examined because of time constraint and, hence, no comments are offered. Further, the Commission has not gone into the geo-referencing the leases viz-a-viz present locations at the ground, shifting etc. because at the ground, it could not be verified by the Commission team.</p> <p><b>Recommendations</b></p> <p>(i) Encroachment in the forest land outside the leased area should be dealt in accordance with the Orissa Forest Act, 1972. The detailed report and comments in this regard have been made in the First Report for the State of Orissa.</p> <p>(ii) Assessment /Quantification of the ore removed from the illegal encroached quarry pits shall be done and the value of ore so removed should be recovered along with appropriate penalty from the lessees.</p> <p>(iii) For other kind of encroachments (due to various mining activities), an amount of Rs.2.0 crores per ha. should be charged.</p> <p>It is stated here that the Hon'ble Supreme Court has directed the State Government, Karnataka to recover the cost of damages due to the encroachment outside the leased area at the rate of Rs.1.00 crore per ha. But in Orissa, the ecosystem is very sensitive, high forest, best elephant habitat and corridor, hence, considered to impose Rs.2.00 crores per ha.</p> <p>(iv) The Hon'ble Supreme Court by its order dated 18.04.2013 in W.P. No.562 of 2009 has cancelled the leases in Karnataka State (C-category) who have encroached more than 15% of the forest land/other lands outside the leased areas. Similar action should be taken in the case of Orissa State also.</p> <p>The State Government should prepare Rehabilitation and Reclamation Plan (R&amp;R Plan) at the cost of the lessees</p>	<p><b>Government of Odisha</b></p> <p>The joint survey has been conducted by a multi-disciplinary team comprising Mining, Forest and Revenue Department with the technical support from Odisha Remote Sensing Application Centre. After survey, the committee finalised its findings and no large scale illegal mining has been detected as alleged. The encroachments as indicated in the Commission's Report are of various types, like agricultural land, barren land, road, playground, hutments, dumping yards etc, but no mining activity has been noticed.</p> <p>Re-survey exercise could not bring out any conclusion on the encroachment due to the following factors:</p> <p>(i) cadastral map may have inherent inaccuracies as the terrain in the region of Joda &amp; Koida is hilly and undulating.</p> <p>(ii) demarcation of lease area may have suffered from some inaccuracies due to lack of precise description of reference point (e.g. hill peak).</p> <p>(iii) lease boundary map prepared on geo-referenced cadastral maps is not matching with TS surveyed map (presently enjoyment) due to inherent inaccuracies in existing cadastral maps. Therefore, it is not proper to spatially compare the approved land use with enjoyment land use.</p> <p>Extent of lease area as per land schedule in original lease deed is more or less matching with enjoyment area, and the shape of lease deed map more or less matches with enjoyment map.</p> <p>The mining related activities as indicated in the Report will be examined after following due process and if they are found to be outside the adjacent mining leases, necessary action will be taken as per provisions of law.</p> <p>Regarding imposition of fines and Rehabilitation and Reclamation plans, the matter will be taken up with</p>

	<p>and implement the same to restore the environment of the area, in the same manner, as being done in the State of Karnataka, as per the order of the Supreme Court.</p> <p>All other actions arising out of the above violations should also be taken.</p>	<p>Government of India for necessary advice in implementation of the proposals.</p>
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