

MEMORANDUM OF ACTION TAKEN

ON

**THIRD REPORT ON ILLEGAL MINING OF IRON AND
MANGANESE ORES IN THE STATE OF GOA**

OF

JUSTICE M.B. SHAH COMMISSION OF INQUIRY

MINISTRY OF MINES

‘Memorandum of Action Taken’ on the ‘Third Report on illegal mining of iron and manganese ores in the State of Goa’ 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 22nd 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 ‘Third Report on illegal mining of iron and manganese ores in the State of Goa’ on 14th October, 2013.

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

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

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1	Export of Iron Ore of Goa origin	
(i)	<p>Any quantity extracted beyond this annual permitted quantity is illicit unlawful and without authority. Further any quantity extracted and dispatched without paying royalty is illegal.</p> <p>All operations within lease area need to adhere to the lease conditions agreed by the lessee in the Lease Deed Agreement, conditions imposed in Forest Clearances and Environment Clearances and any other conditions under applicable law. Any mining activity, including extraction and transport in contravention of these conditions is illegal, unlawful and without authority. For example</p> <p>(a) Mining operations carried out outside a lease area or mining operations carried out through "raising contractors" in violation of para 17 of part VII of lease deed agreements.</p> <p>(b) Production and exports / dispatch without payment of royalty and not covered by permits or not shown in statutory returns (Form "H") etc. are illegal.</p>	<p>Government of Goa The Government of Goa will take appropriate action as per law after following the Principles of Natural Justice of hearing the parties concerned as the same has not been followed by the Commission.</p> <p>Ministry of Mines The Ministry has directed the Indian Bureau of Mines (IBM) to inquire and fix responsibility for failure on the part of any officers / officials of IBM for taking action indiscriminately.</p>

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	<p>(c) Production of ore during deemed extension period without having EC or/and FC is illegal.</p> <p>After analysis of data of production, for aggregate production in 114 (92) working iron ore mining leases in Goa it is noticed that in the last 4 years the actual aggregate production in these leases has exceeded by 15% of the approved production limit (which does not include production from dumps working reported by the State Government). On individual mine level basis, 44 mines had exceeded the production by 20% against the approved production limits.</p> <p>For the above IBM has "taken action" against 19 mines and has initiated action against for balance 25 mines in terms of provisions of MCDR 1988. But it is surprising to note that IBM has taken action indiscriminately wherein for similar types of violations, in some cases, leases were suspended under Rule 13(2) of MCDR-1988, whereas in others they were left free and allowed operation till the last report came in from IBM.</p>	
(ii)	<p>Most of the iron ore extracted from the mining leases in the State of Goa (Goan Origin) is exported to other countries. There is no domestic consumption in Goa. Should the Country afford such an adventure on the cost of natural beauty and green ecosystem.</p> <p>Between the years of 1994-95 to 2001-02, the export of iron ore varied from about 14.00 Million Metric Ton (MMT) per year to about 16.00 MMT per year. The export of iron ore increased exponentially from 16.00 MMT from 2001-02 and reaching a record level of about 46.85 MMT in 2010-11.</p>	<p>Ministry of Mines The Central Government is not in favour of blanket ban on export of iron and manganese ores. The Government, from time to time, reviews the position regarding export of minerals keeping in view the overall national interest.</p> <p>The Supreme Court, in its judgment dated 21.4.2014 in Writ Petition (Civil) No. 435 of 2012 – Goa Foundation vs. Union of India and Ors., has directed that the State Government, in the interests of sustainable development and intergenerational equity, will permit a maximum annual excavation of 20 million metric tonne from the mining leases in the State of Goa other than from dumps subject to certain conditions.</p>
(iii)	<p>The maintenance of data in Custom Department at Goa is very poor. The Chief Commissioner of Customs should take note of it. The performance of certain officials is below satisfactory.</p> <p>Role of Mormugao Port Trust, Customs Department and Port Authorities at Panaji Port should also be investigated in view of huge quantities of illegal export that has been permitted without documents and proven origin of source and legality of the Ore.</p> <p>The Customs Department shall make mandatory on part of exporter to indicate origin of ore from a specific lease / leases. If this is implemented many hurdles in checking illegal export could be solved in one go.</p>	<p>Department of Revenue, Ministry of Finance 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 (DRI) etc.</p> <p>Investigation under the provisions of the Customs Act has been taken up by DRI in coordination with Chief Commissioner of Customs. Out of the six cases selected for detailed investigation, DRI(Mumbai</p>
(iv)	The illegal exports of iron ore since 2001-02 to 2010-11 has	for detailed investigation, DRI(Mumbai

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	<p>been calculated by taking the production data of DMG and export data of Goa Mineral ore export Association.</p> <p>A. Illegal export with reference to data of Custom Department - Goa and Production data given by the State Mines and Geology Department in the state of Goa.</p> <p>B. Illegal export with reference to data of Port department and production data of State DMG in the State of Goa.</p> <p>Excess Illegal Export over the production as per the Goa Mineral Ore Export Association records from 2000-01 to 2000-11 is about 1,59,73,625 metric tonnes. [i.e. Quantity exported - Production data of DMG as per royalty payment]</p> <p>Considering an average price of US\$ 40 per ton, the value of the illegal exports that has been undertaken (non royalty paid iron ore). During the period 2000- 2010, works out to Rs. 2747 crores pegged at an Exchange Rate of Rs. 43/- Per Dollar.</p> <p>Hence, the aforesaid amount is required to be recovered under Section 21(5) of the MM(DR) Act, 1957 with interest as provided in Rule 64A of MCR, 1960 (24% p.a.) in addition to penal actions arising out of as theft of the ore outside the country and other actions.</p> <p>There were large differences in the production / export data given by Custom, Port and Goan Mineral Ore Exporters' Association. Accordingly, there would be difference in the Royalty collection, Custom Duty collection, etc. Further, there was large difference of quantity between the total quantity of ore exported and produced / dispatched as per the data given by the Director of Mines & Geology - State of Goa. The difference is taken as illegal export and corresponding loss to State Exchequer.</p>	<p>Zonal Unit) [DRI(MZU)] has booked and investigated a few cases against some firms prior receipt of the Report. M/s. Fomento Group of Companies and M/s. Magnum Minerals Pvt. Ltd. deposited Rs.30 crores and Rs.11.35 crore respectively during investigation.</p> <p>DRI(MZU) has also initiated investigation against Salgaocar Group of Companies mentioned in the Report, which has deposited Rs.50 crore during investigation. DRI had also issued alert dated 08.8.2013 in this regard sensitizing the field formations to safeguard the Government revenue.</p> <p>Central Board of Direct Taxes is making necessary enquiries and will take some time to ascertain its progress.</p> <p>Ministry of Shipping The extraction and transportation of iron ore does not come under the purview of the Port and hence Port did not know the source and legality of iron ore.</p> <p>From February, 2011, as per the directives of Government of Goa, vessels loaded with iron ore are allowed to sail from Mormugao Port only on production of No Objection Certificate issued by Directorate of Mines and Geology, Government of Goa, with regard to payment of royalty to the State Government and confirming that the said mineral ore are from legal source.</p> <p>Government of Goa The Government of Goa will take appropriate action as per law after following the Principles of Natural Justice of hearing the parties concerned as the same has not been followed by the Commission.</p>
(v)	<p>In the state of GOA, without obtaining transport permits minerals have been transported to the ports for export. There was no system in place. It was a total chaos. This appears to be the major cause for illegal mining & illegal export i.e. without payment of royalty or misuse of belated royalty payment for the iron ore already exported (sometime after 2 to 3 years later). Further, royalty were also paid for the ores which were not mined from the leases but from outside the leased areas illegally (of course the royalty per ton was negligible at that time). Since there was no system of transit pass, the illegal iron ore was also transported from Karnataka</p>	<p>Ministry of Mines To ensure proper accounting of dumps, Ministry of Mines has issued instructions to the Government of Goa to:</p> <p>(i) issue transit passes only to persons registered with the Indian Bureau of Mines (IBM) under Rule 45 of Mineral Conservation and Development Rules, 1988 (MCDR, 1988)</p> <p>(ii) include all dumps - related</p>

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	<p>and exported. Goa is the only State where the iron ore was transported outside the leased area without any pass.</p> <p>A computerized based system for Transit Passes shall be brought into force. It is strongly recommended that the State Government should immediately take up an exercise in a time bound manner as a Special Drive to identify all the mineral dumps in the State and its owners and register them as stockist under amended Rule 45 of MCDR.</p> <p>Further, it is advised that stockist registered under Rule 45 only be allowed to handle dumps with proper monthly reporting to the State Government and IBM. Before handling the dumps, quantification should be done with proper records conveyed to concerned authorities. This would ensure not only transparency but also accountability in all the mineral dump transactions. Further, the approval of the MoEF under the EP Act, 1986 should also be obtained. Any other statutory clearances should also be obtained. All illegal dumps shall be forfeited to Government.</p>	<p>operations as a part of mining plan / scheme of mining.</p> <p>(iii) ensure that in respect of old dumps, the State Government makes an assessment / evaluation with respect to grade, quantity of ore and geo-referencing of the dumps before allowing any dump removal</p> <p>(iv) enforce appropriate environment and other clearances as a pre-requisite before removal of dumps.</p> <p>IBM has issued a circular no. 1/2013 dated 10.1.2013 to ensure that dumping outside the mining lease area is done only after getting necessary clearances of the competent authority.</p> <p>The Ministry has advised the Government of Goa vide letter no. 8(3)/2011-M.V dated 25/10/2011 to introduce a computerized transit pass system. A Central Coordination-cum-Empowered Committee (CCEC) in the Ministry of Mines with representatives from concerned Ministries/ Departments of the Central Government and major mineral producing States including State of Goa in its quarterly meeting, regularly monitors and reviews the action taken with respect to mineral development and regulation by the State Governments.</p>
(vi)	<p>No real quantity and quality assessment of the dumps lying within the State were done by State Government. Some lease holders were showing that some part of production was done from these dumps and subsequently exported. But as per detail given by the Custom Department and port department most of the iron ore exported was of the grade of 52% to 62%.</p> <p>This quality of ore may not be available in the dumps some of them were very recent operated mines. So, most of these production shown from the dumps and export may have actually mined from the existing mines leases only. The production was actually done from mines but when it exceeded from EC limits, mining plan limits, etc. it has been shown as production from dumps. Production from dumps is actually proxy production.</p> <p>To stop this type of illegal movement of ore, the State Government did not take any measure and remained a silent spectator. There was no check on the source of the ore and allowed transport and export of minerals without Transit Passes or any other system. In the state, there was no mechanism for ensuring that only royalty paid mineral extracted from valid leased area were only transported and exported. The State did not bother that the minerals removed should be properly accounted.</p> <p>There was no mechanism with DMG-Goa to ascertain the correctness of the quantity of Iron Ore extracted and exported. As such the mining industry continued to pay royalty on self assessment basis. There was huge difference between the quantity produced, royalty paid, and quantity exported as per the records of exports. A time bound transparent exercise should be taken up by the Independent Agency because State is the party in their illegalities.</p>	<p>The Government of Goa has been advised to take appropriate action against Government officials, lessees and others regarding omission and/or commission in respect of dump working, if any.</p> <p>Ministry of Shipping Same as reply to Para 1(iii) above</p> <p>Government of Goa The Government of Goa will take appropriate action as per law after following the Principles of Natural Justice of hearing the parties concerned as the same has not been followed by the Commission.</p>
(vii)	Production reports for the year 2009-10 and 2010-11 indicates that during 2009-10, dump working was carried out	

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	<p>by lessees to extract the ore to an extent of 11948718 tonnes and 657060 tonnes of tailing (Table A: Page 45-47).</p> <p>Similarly for 2010-11 the quantum for dump working has increased to 15217805 tonnes and the quantum of tailings have been 230463 tonnes. (Table B: Page 48-50).</p> <p>Thus during two years itself the volume of dump working that has been extracted about 2,71,66,523 tonnes i.e. 35% of the total extraction in that year. Can such illegal mining go without notice? There should have been rampant corruption and connivance.</p> <p>There are no permissions or any directions issued by the Central Government / State Government in this matter.</p> <p>With a view to plug the evasion of royalty, the Directorate has issued instructions to the exporters to seek N.O.C's, ship-wise to be submitted before Captain of Ports, Panaji and Mormugao Port Authority before permission is granted by the said authorities for sailing the ship. It is surprising that NOC's is issued to the exporter/traders instead of lease holders. Due to the above directions, irregularities were absorbed with the active connivance of the Directorate of Mines, its Officials, the IBM and its Officials and other controlling Authorities.</p>	
(viii)	<p>It is observed that many cases, there is no sign of dump working. Possibilities of showing proxy dump production cannot be ruled out mainly to escape from the EC limits and mining plan limits. To verify the proxy production, vis-à-vis dump working the measurements of the pits are required to be taken for volumetric measurements on the lines of exercise carried out by Central Bureau of Investigation, Bangalore for some mines in Karnataka and Andhra Pradesh presently the State of Karnataka is doing this exercise on the directions of Supreme Court. The State/Central Government should take up this exercise for all the leases listed at Table: A at Page 45-47 and Table B at Page 48-50.</p> <p>It is learnt during the inspection to the Ports that the ores coming from Maharashtra for export are not differentiated and there is every possibility that the NoC was also issued for the Maharashtra origin ores along with Goan ores. Further, enquiry in this regard should be done.</p> <p>It appears that in certain cases, the department has issued permissions for stacking of ore outside the Mining Leases in violation of the Mining Laws. As per the MMDR Act vide Section 9 read with Rule 64 C of the Mineral Concession Rules 1960 and the order of the Hon'ble Supreme Court of India in the Case of NMDC v/s State of MP reported in 2004 (6) SCC, 281 the Royalty is required to be paid once the Ore is taken out of the Mine for commercial purpose.</p> <p>Further, the permission given for dump movement at that point of time can't be considered as ore now under the law.</p>	

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(ix)	To ensure compliance, State Government should have issued directions to field units which was not done during the entire period till 2012. Directorate of Mining and Geology (DGM) did not undertake the requisite inspections follow up action to earlier inspections of his subordinate. Further, State Government and the DGM have also allowed to operate mining leases that have applied for renewal but Environmental Clearance and Forest clearances were not obtained and operated under deemed extension illegally. This is one of the major illegalities noted in Goa State. State Government has to take up the drive to calculate the quantum of illegal ore produced in this manner i.e. production without EC and FC, and excess production to Environmental Clearance and should take follow up action.	Government of Goa The Government of Goa will take appropriate action as per law after following the Principles of Natural Justice of hearing the parties concerned as the same has not been followed by the Commission.
(x)	There is no provision of dispatch of ore from mine head without payment of Royalty and Royalty transit pass for iron ore. There is no provision of NOC for allowing export of iron ore. NOCs were issued by the office of the Director Mining & Geology - state of Goa to the Exporter which were not lessee in most of the cases and the sources of origin of ore was not verified at all. During verification of records, the Commission has observed that NOCs were issued for the quantity which was shown as DMT (Dry Metric Tonne). But as per the Section-9 of MMDR Act, 1957 read with Rule 64D of MCR 1960 lessee has to pay royalty when ore is dispatched from the mines i.e. WMT (Wet Metric tonne). If we are comparing Total WMT quantity with DMT quantity then there would be difference of almost 08 million tonnes of iron ore mined since 2006 to 2011. This shall be taken note of by State Government and investigating agencies.	
(xi)	<p>No royalty was paid at the time of export and thereafter, additional royalty was paid with retrospective effect for the ores exported in past</p> <p>The lessees have paid no royalty initially for a large quantity of ores but at latter stage, when this Commission initiated inquiry about export quantity from Ports and Custom department for the state of GOA, then some lessees have paid royalty for the ores dispatched and exported of the past years. List of some cases is given as Tables given at Page 32-36.</p> <p>In the above cases, recovery should be done under Section 21(5) of MM(DR) Act, 1957 read with Rule 64A of MCR, 1960 which provides the rate of interest (24% p.a.).</p> <p>Out of the six leases in five cases royalty of the quantity shown in column no.3 was not paid during the year 2006-07. Most of the quantity was exported. Surprisingly on latter stage when inquiry started by Commission five lease holders have paid only royalty for this quantity during 2012. One lease holder V. M. Salgaocar & Bro. (M/s Sallitho Ores Pvt. Ltd.) did not pay any royalty till date.</p>	
(xii)	Excess Export / over the production done by six lessees as per DMG record from 2005-06 to 2000- 11 (read as 2010-11) is 15316501 tonnes. This quantity should be considered as illegal / unlawful quantity and mineral value under section-21(5) of MM(D&R) Act, 1957 equivalent to export value	

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	<p>should be recovered. Considering an Average price of US\$ 40 per ton, the mineral values of illegal and Non royalty paid Ore, during the period 2005-2010, comes out to Rs. 2756 Crores pegged at an Exchange Rate of Rs.45/- Per Dollar.</p> <p>There may be many more cases of this kind. If details of NOCs issued by DMG is verified with the actual production shown in the return under MCDR1988 by the lessees with IBM as well as royalty paid through Challans in Banks, then such losses would come in hundreds of crores of rupees.</p>	
(xiii)	<p>To avoid large scale irregularities and illegalities for illegal dispatches, illegal export of iron ore, illegally excavation and unauthorized procurement of ore from various illegal quarries by paying royalty in proxy, the commission has recommended for investigation by CBI in the lines of directions issued on 07.09.2012 by the Supreme Court in the matter of illegal export through Belikare Port, State of Karnataka in W.P. No. 562 of 2009 (L.A. No. 68 and 10 of 2012).</p>	<p>Ministry of Mines</p> <p>A Writ Petition No. 435 of 2012 was filed in the Supreme Court by Goa Foundation, an NGO. The Government of Goa was one of the respondents. The petitioner, inter-alia, prayed for:</p> <p>(i) action against all the violators involved either directly or indirectly in illegal mining including those named in the report of Justice Shah Commission</p> <p>(ii) direction for the prosecution of offenders / violators involved in loss / pilferage of state revenue, offences and illegalities committed in the mining activities in State of Goa and connivance of public servants in abetting and aiding the offences and illegalities in the mining activities in the State of Goa.</p> <p>In response to this Writ Petition, the mining lessees from the State of Goa prayed the Supreme Court to quash the Commission's 'Report (First and Second) on illegal mining of iron and manganese ores in the State of Goa' on the ground that the Commission did not issue any notice under Section 8B and 8C of the Commissions of Inquiry Act, 1952 to the mining lessees giving a reasonable opportunity of being heard in the inquiry and to produce evidence in their defence i.e. gross breach of the Principles of Natural Justice and fair play by the Commission.</p> <p>The Government of Goa submitted to the Supreme Court that the State Government will take legal action as per law after following the Principles of Natural Justice of hearing the parties to place their defence against whom observations are made in the Commission's 'Report (First and Second) on illegal mining of iron and</p>

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		<p>manganese ores in the State of Goa’.</p> <p>Considering the submission of the Government of Goa, the Supreme Court held that the Court cannot direct prosecution of the mining lessees on the basis of the findings in the Commission’s ‘Report (First and Second) on illegal mining of iron and manganese ores in the State of Goa’, if lessees have not been given the opportunity of being heard and to produce evidence in their defence and not allowed the right to cross-examine and the right to be represented by a legal practitioner before the Commission as provided in Sections 8B and 8C respectively of the Commissions of Inquiry Act, 1952.</p> <p>Government of Goa The Government of Goa will take appropriate action as per law after following the Principles of Natural Justice of hearing the parties against concerned as the same has not been followed by the Commission.</p>
(xiv)	<p>The State Government should ensure that all the miners and other categories of persons comply with the amended Rule 45 of MCDR, 1988. In case of removal of material from dumps the Transit Passes should also be issued only after ensuring that the mineral is properly accounted for in the stock of the mining lease holders in terms of Rule 45 of the MCDR, 1988.</p> <p>The State Government should immediately place a transparent systems and issue directions that all jetties which are allowed the ore movement for miners / traders / exporters should be registered with the IBM/ State Government and a proper account of the source of ore be maintained in all the jetties indicating the registration number of the miner / trader / exporter. There should be CCTV cameras in adequate numbers at exit and end points, ports, mines and lease roads.</p>	<p>Ministry of Mines The Government of Goa has been advised to take appropriate action as suggested by the Commission in this regard.</p> <p>IBM has registered 587 lessees/ stockist/ traders/ end users in Goa under Rule 45 of Mineral Conservation and Development Rules, 1988.</p> <p>Ministry of Shipping Iron ore mines are located at different parts of North and South Goa, about 35-45 kms away from the Port. The only mode of transportation from mines to the vessel loading points is by barges through two navigable rivers viz. Mandovi and Zuari.</p> <p>After partial relaxation of ban by the Supreme Court on export of iron ore, a trip sheet for each barge is generated at the barge loading point giving all the details like Barge Name, Registration Number, Consignee Name, quantity of iron ore, destination for loading unto the vessels. Once after completion of unloading of barges unto the vessels, trip sheets are terminated by Port’s staff after</p>

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		<p>the acknowledgement from the Master of the Vessels.</p> <p>Mormugao Port has installed CCTV in the operational area in the year 2010. Mechanical Ore Handling Plant (MOHP) is also equipped with CC cameras. There are five cameras installed in MOHP for monitoring of waterfront and vessel/barge movement.</p>
(xv)	<p>Computerize the system for collection of royalty and to issue transport permits on similar basis as the Online Royalty Pass System implemented by (N) Code Solutions, a Division of Gujarat Narmada Valley Fertilizers Company (GNFC) Ltd.</p> <p>Such system would definitely improve the revenue collection and allow State to regulate their minerals more tightly. The system followed in the States of Karnataka and Orissa may be adopted in Goa without further delay.</p> <p>Improvement of mineral administration: Establishing modern check-post at all strategic points with CCTV cameras and all other facilities including weighing machines, bar code reading machines and others which could check transportation of iron ore. There shall be a cell in mines department for management of these check posts on day to day basis.</p> <p>Improving security features of the transit passes (for leases) / delivery challans (to traders) by use of holograms and bar-coding and introducing the system of a single permit per rake in trains if used;</p> <p>Take stringent action against overloading of trucks which is a substantial factor in illegal mining and royalty evasion.</p> <p>Put in place in - motion weigh bridges and modernization of old check-gates;</p> <p>Compulsory Registration of loading contractors and transporters intelligence sharing, enforcement squads, joint inspection, opening mining cells in police, forest, revenue, mines, Commercial Taxes, Customs and other departments.</p> <p>Mining should only be allowed to operate until a foolproof transparent system is in place to check movements of ore outside the lease.</p>	<p>Ministry of Mines The Government of Goa has been advised to take appropriate action as suggested by the Commission in this regard.</p>
(xvi)	<p>DMG needs to be strengthened immediately by appointing on deputation / recruitment, Senior Officers in the Department to increase its' strength and improve its' functioning. DMG should be headed by senior bureaucrat preferably with legal and mining knowledge.</p>	<p>Government of Goa Government of Goa has decided to set up two new offices to strengthen regulatory functions and strengthen the Department of Mines and Geology by deploying additional staff for effective checking, auditing and regulating mining activities in the State.</p>
2	<p>Under Invoicing, Evasion of Taxes, Duties and others: At the time of Export in State of Goa: The under invoicing of export data, export of ore on different</p>	<p>Department of Revenue, Ministry of Finance The matter is being examined from direct</p>

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	<p>prices by same company on the same date and grade, importing of ore from their mother companies at lower rate aspect is further required to be investigated by the Central investigating agencies under the Foreign Exchange Management Act (FEMA) Money Laundering Act, etc. preferably by Enforcement Directorate and the Income Tax Department.</p> <p>The prudent exporter can't afford such low prices. The exporter cannot sell the iron ore at the rate of Rs.500/- to Rs.600/- per MT (PMT). There are 63 export cases since 2006-07 to 2009-10 (Tables: 1 to 6), wherein exporters have charged the value of iron ore at the price less than Rs.600/- PMT. Under invoicing has amounted equal to Rs.148Crores.</p> <p>It is observed that since 2006-07 to 2010-11, 240 (Table: 1 to 9) export consignments (Lumps and Fines) have been found under invoiced by various exporters amounting to Rs. 6,94,27,15,242/- (Annexure: II at page 69-134)</p> <p>Out of 240 export consignments (2006-07 to 2009-10) 11 export consignments (Lumps and Fines) of V.S. Dempo & Co. Pvt. Ltd. has been noted under invoicing of Rs.17.0 1 Crores. (Annexure: III at page 135-137)</p> <p>Out of 240 export consignments (2006-07 to 2009-10), 13 export consignments (Lumps and Fines) of Timblo Pvt. Ltd. has been noted under invoicing of Rs.71.71 Crores. (Annexure: IV at page 138-141)</p> <p>Only under invoicing is taken into consideration. The evasion of other taxes and duties are not calculated. If they are also taken into account the evasion amount will be very high.</p> <p>Cases of under invoicing of more than 30% below the export price during the same period and same grade (Fe): Since 2006 to 2011, about 688 consignments of iron ore lumps have been exported to various countries. The analysis has been carried out as discussed in this chapter and it is noted that in 195 consignments there are a under invoicing of more than 30% difference to the base value taken for this computation. The under invoicing comes about 28% consignments of the total export consignments during this period. The list of such consignments is enclosed as Annexure: V at page 142-169.</p> <p>Further, 2352 consignments of iron ore fines were exported during 2006 to 2011 by the various exporters. The computation of under invoicing has been carried out as discussed in this chapter and it is noted that in 1084 consignments there are a under invoicing of 30% more from the base price. 46% of the total export consignment of fines were observed under invoicing. The list of such consignments is enclosed as Annexure: VI at page 170-252.</p>	<p>/ 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 (DRI) etc.</p> <p>Investigation under the provisions of the Customs Act has been taken up by DRI in coordination with Chief Commissioner of Customs. Out of the six cases selected for detailed investigation, DRI(Mumbai Zonal Unit) [DRI(MZU)] has booked and investigated a few cases against some firms prior receipt of the Report. M/s. Fomento Group of Companies and M/s. Magnum Minerals Pvt. Ltd. deposited Rs.30 crores and Rs.11.35 crore respectively during investigation.</p> <p>DRI(MZU) has also initiated investigation against Salgaocar Group of Companies mentioned in the Report, which has deposited Rs.50 crore during investigation. DRI had also issued alert dated 08.8.2013 in this regard sensitizing the field formations to safeguard the Government revenue.</p> <p>Central Board of Direct Taxes is making necessary enquiries and will take some time to ascertain its progress.</p>
3	ILLEGAL MINING IN VIOLATION OF RULE 37 OF MCR, 1960	
(i)	After inquiry by this Commission, it appears that the State Government has not taken note or any step in controlling	Ministry of Mines A Writ Petition No. 435 of 2012 was

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	<p>violation of Rule 37 nor it has determined such leases as provided under Rule 37(3) of MCR, 1960.</p> <p>68 lease holders of mines have transferred their lease hold rights / interest / title and "transferees" are operating mines without previous consent in writing of State Govt. or without previous approval of central govt. as provided under Rule 37 of MCR, 1960.</p> <p>Operation of mines by the person/s, firm or a company other than the actual lease holder would not be possible unless there is direct or indirect support from the regulatory authorities.</p> <p>Violation of Rule 37 of MCR, 1960 would automatically attract violation of Sections 4 and 4(1)(A) of MMDR Act, 1957. Breach of the said sections amounts to an offence punishable u/s.21 of MMDR Act, 1957.</p> <p>It is noticed by the Commission from the details provided and collected during investigation that the violators have conveniently avoided to obtain previous consent in writing from the Government for reason best known to them. Mostly they are the companies incorporated under the company law or partnership firms.</p> <p>(i) Some of such violators have posed themselves as power of attorney holder of the person/ s having leasehold interest in a mining area and</p> <p>(ii) Some of them have put on mask of raising contractors.</p> <p>(iii) Some of them have got "back door" entry by purchasing more than 50% shares or equity in the companies and taken the management of the lease under their control.</p>	<p>filed in the Supreme Court by Goa Foundation, an NGO. The Government of Goa was one of the respondents. The petitioner, inter-alia, prayed for:</p> <p>(i) action against all the violators involved either directly or indirectly in illegal mining including those named in the report of Justice Shah Commission</p> <p>(ii) direction for the prosecution of offenders / violators involved in loss / pilferage of state revenue, offences and illegalities committed in the mining activities in State of Goa and connivance of public servants in abetting and aiding the offences and illegalities in the mining activities in the State of Goa.</p> <p>In response to this Writ Petition, the mining lessees from the State of Goa prayed the Supreme Court to quash the Commission's 'Report (First and Second) on illegal mining of iron and manganese ores in the State of Goa' on the ground that the Commission did not issue any notice under Section 8B and 8C of the Commissions of Inquiry Act, 1952 to the mining lessees giving a reasonable opportunity of being heard in the inquiry and to produce evidence in their defence i.e. gross breach of the Principles of Natural Justice and fair play by the Commission.</p>
(ii)	<p>T.C. Nos. 11/41, 12/41, 13/41, 14/41 and 15/41</p> <p>The Ministry of Corporate Affairs directed to initiate action against Sesa Goa on various grounds. Thus, it is apparent that this is not a case of change in the name of a company incorporated earlier but is an acquisition /transfer of leasehold interest in above all five (5) lease areas.</p> <p>Further, the leasehold interest of M/s. Sesa Goa Limited (Sesa Goa together with its subsidiaries) has entered into merger agreement with Sterlite Industries (India) Limited and a multinational company namely Vedanta Resources. The word Vedanta includes Vedanta Resources Public Limited and its subsidiaries and the same forms a group. A note released for publication and distribution dated 25/02/2012 by Sesa Goa Limited as one of the Vedanta groups of companies amply clarifies that Sesa Goa Limited now is 'Sesa Sterlite Limited'. With this fact situation more than one company including Vedanta Resources can claim leasehold interest in the mines along with other mines claimed to be under control and operation by 'Sesa Goa Limited'. This includes one more T.C. No. 9/49.</p> <p>It would not be either legal or proper to say that certain procedures required under the Companies Act if are complied with, would immune such company from compliance of other</p>	<p>The Government of Goa submitted to the Supreme Court that the State Government will take legal action as per law after following the Principles of Natural Justice of hearing the parties to place their defence against whom observations are made in the Commission's 'Report (First and Second) on illegal mining of iron and manganese ores in the State of Goa'.</p> <p>Considering the submission of the Government of Goa, the Supreme Court held that the Court cannot direct prosecution of the mining lessees on the basis of the findings in the Commission's 'Report (First and Second) on illegal mining of iron and manganese ores in the State of Goa', if lessees have not been given the opportunity of being heard and to produce evidence in their defence and</p>

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	<p>statutory obligations which are mandatory in nature. This is not a case of a mere change in the name of a company on account of change of holding pattern of shares of a limited company. Hence, the excavation of mineral namely iron ore from the day one is in contravention of Rule 37 of MCR, 1960.</p> <p>The Stake in Multinational Company Vedanta Group of Companies by a Non Indian may have direct bearing on legality of even indirect transfer of lease hold interest in a lease area in view of the scheme Section 5(a) of MM(DR) Act, 1957. All Directors of Vedanta will have control on administration and dealing of other subsidiaries, including Sesa Goa Ltd. or Sesa Resources Ltd., etc. because Vedanta Group of Companies is holding 51 % or more shares. Unless all directors of Vedanta Group of Companies are Indian Nationals, they cannot obtain mining lease and / or create interest, in any direct or indirect manner, in the lease hold rights. The matter become more serious being the lease lands are forest land. This would amount of violation of the purpose of the Act in general and Section 5(a) of MM(DR) Act, 1957 in particular.</p> <p>Vedanta Resources Plc (Vedanta) holding in SesaGoa is more than 51%. As on 27th January, 2012, Vedanta was holding more than 55% shares in Sesa Goa through three 100% direct subsidiaries. Two companies have created interest in lease-hold rights of above TCs and other TCs, of which the Directors are not Indian Nationals. They have U.K. and Mauritius based. Acquisition of lease-hold rights over mining areas either in Goa or in anywhere in India by the companies having non-Indian Directors is illegal under Section 5(1)(a) of MMDR Act, 1957. Transfer of lease-hold interest is additional illegalities.</p> <p>All the above stated issues (relating to T.C. Nos. 11/41, 12/41, 13/41, 14/41, 15/41, 9/49) are required to be further investigated by Central Bureau of Investigation because the violation / misuse of the laws goes beyond the State jurisdiction.</p>	<p>not allowed the right to cross-examine and the right to be represented by a legal practitioner before the Commission as provided in Sections 8B and 8C respectively of the Commissions of Inquiry Act, 1952.</p> <p>Government of Goa The Government of Goa will take appropriate action as per law after following the Principles of Natural Justice of hearing the parties against concerned as the same has not been followed by the Commission.</p>
(iii)	<p>Admittedly, the Company Vedanta is working in Indian Mines and its Directors are non-Indians.</p> <p>Once it is realized that each company is a corporate legal entity, there is no question in change of mere name but it would establish that the company is transferred to another legal entity - a juristic person. This would not amount mere transfer of shares to contend that it was mere change of name. It is illusion to get out from the rigour of the law. Therefore, the contention of the Ld. Counsel for Sesa Goa that there was a mere change of name from "M/s. V. S. Dempo & Co. Limited" to "M/ s. Sesa Resources Limited" and from "Dempo Mining Corporation Private Limited" to "Sesa Mining Corporation Limited" requires to be rejected.</p> <p>Vedanta Group as reported in 2012 is having more than 55% shares in various companies of Sesa Goa Ltd. and Sesa Resources Ltd.</p>	

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	<p>The Ld. Advocate for the company contended that the aforesaid statement of the C.E.O. in the annual general meeting is merely a formal speech which cannot be considered as admission. In our view, we would again state that the said contention is merely illusion on the part of the company. The responsible officer like C.E.O. is presumed to state exact affairs of the company in its annual general meeting and the same cannot be ignored.</p> <p><u>T.C. Nos. 3/51, 35/52, 5/54, 20/54 and 21/54</u></p> <p>The Original Concessionary of all these five mines was one firm V.S. Dempo and Cia Limited of Goa. Thereafter, the leases were running in the name of "M/s. V.S. Dempo and Co. Pvt. Ltd." During investigation it is found that all these five (5) mines are being actually operated and iron ore is being extracted by "Sesa Resources Limited", a public limited company.</p> <p>The status of a private limited company is found changed alongwith the name of the company in present case. This has happened on account of transfer of leasehold interest in favour of Sesa Resources Limited. Transfer of leasehold rights of a firm in favour of a private limited company or transfer of such right of a private limited company in favour of a public limited company amounts to transfer of interest within the meaning of Rule 37 of MCR, 1960.</p> <p>However, it is found that the "Sesa Resources Limited", the company actually operating the mining areas of these five (5) leases. It has not approached the Government to accord sanction / consent from the Government required under Rule 37 of MCR, 1960 for reason best known to a responsible public limited company.</p> <p>M/s. V. S. Dempo & Co. Pvt. Ltd. is claiming to be a transfer of name of the business of five mines where the original concessions were in favour of one firm V. S. Dempo and Cia. Ltd. of Goa. This business has been taken over and is in control of SESA GOA and/or SESA RESOURCES LTD. These mines are operated by Sesa Resources Ltd., a public limited company.</p> <p>Undisputedly, the Sesa Resources Limited is a part of mining business of "VEDANTA" group of companies. This is a case of wilful disobedience of a statutory regulatory provision of Rule 37 read with Rule 37(A) of MCR, 1960.</p> <p>It is relevant to note that one Japanese firm Mitsui Finsider International Ltd. had majority control of Sesa Goa and decided to sale its stake to exit the mining business and a multinational company Vedanta has purchased shares with a bid of Rs. 2,036/-per share. The Ministry of Corporate Affairs directed to initiate action against Sesa Goa on various grounds. Thus, it is apparent that this is not a case of change in the name of a company incorporated earlier but is an acquisition / transfer of leasehold interest in above all five (5) lease areas.</p> <p>On inquiry by this Commission, the Registrar of Companies,</p>	

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	<p>Goa Daman and Diu, has issued a certificate dated 19/11/2010 to the effect that "M/s. V.S. Dempo & Company Private Limited" having duly passed the necessary resolution on 18/10/2010 in terms of Section 31/21 read with Section 44 of the Companies Act, 1956, the name of the said company was changed to "M/s. V.S. Dempo & Company Limited".</p> <p>He has also forwarded a second certificate dated 19/11/2010 to the effect that "M/s. V.S. Dempo & Company Limited" on the basis of the resolution and approval of the Central Government the name of the said was changed to "Sesa Resources Limited" under the Companies Act.</p> <p>This Commission found that without approval of the State Government, the transfer in both the cases namely "Dempo and Souza Limited" and "V.S. Dempo and Cia Limited" to "Sesa Mining Corporation" and "Sesa Resources Limited" respectively is apparently violation of Rule 37 of MCR, 1960.</p>	
(iv)	<p>T. C. No. 110/53</p> <p>Original concession was in favour of an individual. However, even as per the record of the Government M/s. Cosme Costa & Sons, a firm is in the control of the mine. Thus apparently this is a case of transfer, without prior permission from the Government.</p> <p>It is found that actual operation and control of the mine and mining operation is carried out by M/s. Sesa Resources Limited and of M/s. Sesa Goa Ltd.</p> <p>(a) For this purpose on record, there is one letter of Government of India (IBM dated 08/03/2006) reveals that IBM was aware about the fact that effective operation of lease area i.e. T.C. No. 110/53 is with M/s. Sesa Goa Ltd. The letter addressed to M/s. Cosme Costa & Sons was also sent to one Shri U.S. Tilve, Agent, C/o. Codli Mines of M/s. Sesa Goa Limited (Raising Contractor), P.O. Kirlapale, Dabal, Goa - 403 727.</p> <p>(b) Next letter is dated 07/11 / 2007 written by Junior Mining Geologist from the office of IBM, Goa to Shri U.S. Tilve, Agent, C/o. Codli Mines of M/s. Sesa Goa Limited (Raising Contractor), Post office: Kirlapale, Dabal, Goa - 403 727 stating that Regional Controller of Mines, IBM would be visiting the iron ore mines situated in village - Sonshi and therefore your representative be sent at IBM office, Margao with TMIS data sheet and random inspection proforma. This letter indicates that effective control was with M/s. Sesa Goa Limited and therefore they were asked to depute their representative to accompany IBM office.</p> <p>(c) Thereafter on 11/02/2008, Asst. Controller of Mines, IBM, Goa wrote again one letter to the same effect and a request was made to send a representative at the mine office at 10.00 AM. If original lessee was operating the mines there was no necessity to ask Mr. U.S. Tilve to send representative.</p> <p>(d) On 30/03/2007, a letter was written by Director of Mines Safety Goa Region to the effect that contraventions mentioned therein were found and therefore explanation</p>	

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	<p>and compliance was sought. That letter is also addressed to that Agent (i.e. Mr. U.S. Tilve). This would also establish that the Agent Mr. U.S. Tilve of M/s. Sesa Goa Limited was Incharge of the mining operation.</p> <p>(e) On 30/04/2007, Agent (i.e. Mr. U.S. Tilve) wrote a letter to Director of Mines Safety submitting explanation and compliance to the aforesaid letter.</p> <p>(f) Thereafter on 02/07/2008, a letter was written by the Director of Mines Safety, Goa to Mr. U.S. Tilve as Agent / General Manager with regard to the violation and copy was forwarded to M/s. Sesa Goa Limited, owners Gaval Sonshi (name of the village) Iron Ore Mines of M/s. Cosme Costa & Sons. This also establishes that M/s. Sesa Goa Limited was operating the mines.</p> <p>This very person Mr. U.S. Tilve has been addressed as an Agent / General Manager of M/s. Cosme Costa & Sons in the letter dated 23/07/2009 written by Ministry of Labour & Employment, Goa Region.</p>	
4	<p>ILLEGAL AND FRAUDULENT TRANSFER OF MINING LEASE T.C. NO. 63 OF 1951 AND T.C. NO. 43/1953 IN FAVOUR OF RAJESH P. TIMBLO T. C. NO. 63 OF 1951</p> <p>In pursuance of the said Abolition Act, 1987, the lessee - Shri Chandracanta Fandu Naique has applied for first renewal of the mining lease on 21.11.1988 in Form 'J'. As per the available records, in the file submitted by the Director of Mines, the renewal application was incomplete and correspondence was continued between the Departments and the lessee.</p> <p>On seeing the statement of the Department of Mines, it is observed that the mining lease was not working since 1975 till the date of filing of renewal application. Under non-operational of this lease, it should have been rejected under the then prevailing Mines Rules.</p> <p>After filing of the renewal application, Chandracanta Fandu Naique has executed a General Power of Attorney in favour of his sons, Shri Gurudas Chandracanta Naique and Padmanabh Chandracanta Naique on 26.10.1989. The General Power of Attorney was executed before the Notary.</p> <p>There is no record available whether the said General Power of Attorney has been withdrawn or otherwise. However, the lessee has executed Second Power of Attorney in favour of Shri Rajesh P. Timblo.</p> <p>Meanwhile, it is to be stated that Shri Chandracanta Fandu Naique has formed a firm namely M/s. Chandracanta Fandu Naique with the partners (his sons and others). All the correspondence was in favour of the said firm. This would mean that the lease hold rights were transferred in favour of the Partnership Firm without obtaining any approval under Rule 37 of the MCR, 1960 and for that, no action has been taken.</p> <p>Further, from the Report, it is observed that M/s.</p>	<p>Ministry of Mines</p> <p>A Writ Petition No. 435 of 2012 was filed in the Supreme Court by Goa Foundation, an NGO. The Government of Goa was one of the respondents. The petitioner, inter-alia, prayed for:</p> <p>(i) action against all the violators involved either directly or indirectly in illegal mining including those named in the report of Justice Shah Commission</p> <p>(ii) direction for the prosecution of offenders / violators involved in loss / pilferage of state revenue, offences and illegalities committed in the mining activities in State of Goa and connivance of public servants in abetting and aiding the offences and illegalities in the mining activities in the State of Goa.</p> <p>In response to this Writ Petition, the mining lessees from the State of Goa prayed the Supreme Court to quash the Commission's 'Report (First and Second) on illegal mining of iron and manganese ores in the State of Goa' on the ground that the Commission did not issue any notice under Section 8B and 8C of the Commissions of Inquiry Act, 1952 to the mining lessees giving a reasonable opportunity of being heard in the inquiry and to produce evidence in their defence i.e. gross breach of the Principles of Natural Justice and fair play by the Commission.</p>

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	<p>Chandracanta Fandu Naique has entered into a "raising contract" with Shri Rajesh P. Timblo.</p> <p>DEEMED RENEWAL IN FAVOUR OF SHRI RAJESH P. TIMBLO IS ON THE FACE OF ITS ILLEGAL</p> <p>Firstly, the mining lease has not been renewed within stipulated period of one year, as required under the then Rule 24A of the MCR, 1960 and rejected by the State Government, Goa. The said rejection has been appealed before the Tribunal of Mines, Government of India. The Government of India set aside the Rejection Order of the State Government and directed to consider the application within 200 days.</p> <p>From the record, it is clear that the State Government has not renewed the mining lease within the stipulated time, as stated above. Hence, the mining lease is deemed to be rejected under 'deemed refusal' under the then prevailing Rule 24A of the MCR, 1960.</p> <p>It is admitted fact that till Chandracanta Fandu Naique survived neither the lease was renewed nor his application for renewal of the lease was considered. By Order dated 13.10.1989, the Central Government set aside the deemed rejection and directed the State Government to decide the same within 200 days from the date of the order and if the State Govt. fails to pass orders, it was directed that the lessee may seek redress in appropriate Court of law, if so advised. It was not done within the stipulated period under the law which was prevailing at the relevant time and also, within the time prescribed by the Central Government by Order dated 13.10.1989. Hence, there was no renewal in favour of original lessee.</p> <p>Hence, it is apparent that continuation of possession by original lessee Chandracanta Fandu Naique as well as Shri Rajesh P. Timblo was unauthorized.</p> <p>Despite the aforesaid facts, lease has been renewed in favour of Shri Rajesh P. Timblo. This is totally unjustified.</p> <p>RELIANCE ON BOGUS WILL</p> <p>When the aforesaid firm was exercising its rights as a lessee, the deceased Chandracanta Fandu Naique ceased to be a lessee and therefore alleged Will executed by him could not confer any right on Shri Rajesh P. Timblo.</p> <p>(a) On the death of Shri Chandracanta Fandu Naique, Shri Rajesh P. Timblo has started making claims of ownership / title etc. of the said mining lease based on the document he claims as a "Public Will" executed in his favour by original concessionaire Shri Chandracanta Fandu Naique on 20.04.2000.</p> <p>It is essential to know on what basis, the Will was executed in favour of Shri Rajesh P. Timblo. Whether the same was executed by taking premium/consideration? Whether such Will was valid when there are number of legal/natural heirs, namely sons and daughters? This requires investigation either by</p>	<p>The Government of Goa submitted to the Supreme Court that the State Government will take legal action as per law after following the Principles of Natural Justice of hearing the parties to place their defence against whom observations are made in the Commission's 'Report (First and Second) on illegal mining of iron and manganese ores in the State of Goa'.</p> <p>Considering the submission of the Government of Goa, the Supreme Court held that the Court cannot direct prosecution of the mining lessees on the basis of the findings in the Commission's 'Report (First and Second) on illegal mining of iron and manganese ores in the State of Goa', if lessees have not been given the opportunity of being heard and to produce evidence in their defence and not allowed the right to cross-examine and the right to be represented by a legal practitioner before the Commission as provided in Sections 8B and 8C respectively of the Commissions of Inquiry Act, 1952.</p> <p>Government of Goa</p> <p>The Government of Goa will take appropriate action as per law after following the Principles of Natural Justice of hearing the parties against concerned as the same has not been followed by the Commission.</p>

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	<p>Vigilance Department or by Central Bureau of Investigation.</p> <p>The heirs of the deceased Chandracanta Fandu Naique have also issued notices to the State of Goa for cancellation of renewal of lease in favour of Rajesh P. Timblo on the alleged ground of lease.</p> <p>(b) There is nothing to suggest that the Director of Mines gave any notice to the Firm M/s. Chandracanta Fandu Naique before allegedly renewing the mining lease in favour of Rajesh P. Timblo.</p> <p>(c) Admittedly, the deceased Chandracanta Fandu Naique had left number of other heirs i.e. sons and daughters before his death. No notice was issued to known heirs namely Shri Gurudas Chandracanta Naique and Padmanabh Chandracanta Naique in whose favour, General Power of Attorney was executed. Notice was also required to be issued to other heirs of the deceased.</p> <p>(d) In any set of circumstances, it was the duty of the Director of Mines and other persons who dealt with the file including Law Officers, Legal Secretary and also Advocate General to verify and ascertain with regard to execution of the Will from the legal heirs of the deceased.</p> <p>(e) In any set of circumstances, the Authorities ought to have directed Rajesh P. Timblo to produce either Probate or Succession Certificate or in any set of circumstances, letter of Administration from the competent Court.</p> <p>(f) No such procedure has been followed which suggests that it was a collusive act indicating some fraud to take away the legal rights of the heirs of the deceased.</p> <p>Considering the aforesaid facts, it is necessary to hold the inquiry and to find out whether there was any conspiracy between Rajesh P. Timblo and concerned officers. For this purpose, either Vigilance Commission of the State Government may hold the inquiry or it can be handed over to Central Bureau of Investigation (C.B.I.).</p> <p>Further, neither the State Govt., MoEF or Goa State Pollution Control Board have considered the fact that at a distance of 400 meters from the alleged renewed lease area, there is a Dam namely Salinium Water Dam which is supplying drinking water to the State of Goa. Hence, excavation of minerals and its transportation is bound to pollute the Dam Water. This would amount to criminal negligence on the part of the concerned officers.</p> <p>It is further seen from the records that more than 3,39,279 MT iron ore has been removed from the said mine after the year 2000 onwards by Shri Rajesh P. Timblo of which approximate price would be atleast Rs.70 crores (figure to be calculated) and above which is the loss to the Government. Hence, the said amount should also be recovered from him. Other actions arising out of this should also be taken.</p>	

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5	<p>T.C. No.43/53</p> <p>Letter dated 14/08/2006 clearly states that T.C. No. 43/53 was operated and controlled by Timblo Minerals Pvt. Ltd. in alleged capacity of representative of Noor Mohamad Abdul Karim. One G.V. Kanekar had signed the said letter for and on behalf of Timblo Minerals Pvt. Ltd.</p> <p>Secondly, the forest approval was also prayed for by Timblo Minerals Pvt. Ltd. in the month of October, 2006.</p> <p>Thirdly, IBM sent copy of approved mining plan with PMCP to S/Shri G.V. Kanekar and Upkar Gupta. The address is of Timblo Minerals Pvt. Ltd. i.e. P.O. Box. No. 34, Cadar Manzil, Margao, Goa. This letter is of dated 27/07/2007.</p> <p>Fourthly, there is one letter dated 30/04/2004 addressed by IBM, Government of India to M/s. Timblo Minerals Pvt. Ltd. indicates that mining scheme on behalf of Shri Noor Mohamad Abdul Karim was submitted and approved.</p> <p>Fifthly, the renewal application in Form J came to be submitted for 20 years on 11/08/2006 which is signed by Chetan S. Timblo in capacity of Managing Partner of Timblo Minerals Pvt. Ltd. for this very mine.</p> <p>As state above, the original concession was to an individual and considering the aforesaid facts, it is apparent that without obtaining any approval, mining lease is transferred in favour of Timblo Minerals Pvt. Ltd.</p> <p>Not only this, upon examination of Google Image of this leased hold area, it clearly emerges that this mine is practically at adjacent of Dam namely Selaulim Dam. This mine is in vicinity of T.C. No.63/51 controlled and operated by Shri Rajesh P. Timblo, From the Google Image, it appears that encroachment is made by the operator of these mines so that both areas of T.C. No.43/53 and 63/51 are brought adjacent to each other.</p> <p>All these illegalities are continuing unhampered.</p> <p>There is no order or any notification published for transfer of leasehold interest in favour of M/s. Timblo Minerals Pvt. Ltd. Thus, this is a clear case of violation of mandatory Rule 37 of the MCR, 1960.</p>	<p>Government of Goa</p> <p>The Government of Goa will take appropriate action as per law after following the Principles of Natural Justice of hearing the parties concerned as the same has not been followed by the Commission.</p>
6	<p>VIOLATIONS AND MISUSE OF SECTION 6(1) AND (3) OF MMDR ACT, 1957</p> <p>By acquiring of the leases which was held earlier with M/s. Sesa Goa Limited, M/s. V.S. Dempo and Co. Ltd., Sesa Resources Ltd. and others by the United Kingdom based multinational company, it is necessary to look into the total leasehold area (leases) have been occupied by it. Under the provisions of Section 6(1)(b) & (iii) it should not exceed to 10 Sq. Kms. This exercise could not be done because of time constraints hence it requires further investigation from a Central Agency preferably Central Bureau of Investigation along with other illegalities and issues as discussed in the report of Goa.</p>	<p>Ministry of Mines</p> <p>Same as reply to S. No. 4 above</p> <p>Government of Goa</p> <p>The Government of Goa will take appropriate action as per law after following the Principles of Natural Justice of hearing the parties concerned as the same has not been followed by the Commission.</p>
