

**M/s. Sarada Mines (P) Ltd.
Thakurani Block-B Iron Ore Mines
(947.046 ha.)**

Findings recorded in this Chapter are based upon the information supplied by the various Departments of the State and Central Governments, lessee, MoEF, IBM, etc. It is for the competent authority to issue appropriate notices to the concerned party/lessee for taking action in accordance with law.

Pursuant to the notices dated **24.08.2011** and **12.02.2013 & 16.02.2013**, voluminous records have been submitted on behalf of the lessee and the same have been taken into consideration. The submission made on **03.10.2013** has also been considered. Further, the lessee was heard through its Ld. Sr. Counsel, Mr. Pinakin Mishna, exhaustively during the hearing held on **28.02.2013** at Bhubaneswar and thereafter in the month of **March, 2013** at Ahmedabad.

I. First grant and renewal of mining lease:--

The Ruling Chief of the State of Keonjhar had granted a mining lease comprising of 2590.40 acres in Block “A” and another mining lease of 2340.20 acres in Block “B” for manganese and iron ore on 01.08.1934 in favour of one Shri Babu Hiralal Sarada for a period of 30 years.

The above leasehold area falls within the limits of Thakurani R.F. and the village area of Sayabali, Balita and Nurgabeda in Keonjhar Forest Division. The lease deed was executed between the Ruling Chief of the State of Keonjhar and the lessee.

After the death of Babu Hiralal Sarada in the year 1947, his son Shri Baijnath Sarada filed the application for renewal of the mining lease on 25.08.1962.

The State Government failed to dispose of the R.M.L. application within 90 days as required under Rule 24(2) of the Mineral Concession Rules, 1960. The application, thus, stood rejected by virtue of the deemed rejection provision in the Rule.

Against that, Shri Baijnath Sarada preferred revision on 23.07.1963 before the Central Government against the deemed rejection.

The Central/State Government reserved the area for exploitation in public sector and for this purpose, issued a notification under Sections 17(2) and 17(4) of the MM(DR) Act, 1957 on 12.01.1965. The Central Government also, vide its order dated 09.02.1965, rejected the revision application dated 23.07.1963 of the lessee.

Shri Baijnath Sarada challenged the aforesaid revisional order of the Central Government before the Hon'ble High Court of Orissa in OJC No.30, 123 and 124 of 1965. The Hon'ble Court, vide its order dated 22.12.1967, quashed the aforesaid notification dated 12.01.1965 issued by the State/ Central Government as well as quashed the order dated 09.02.1965 and directed the Central Government to decide afresh the revision application of the petitioner.

In pursuance of the aforesaid decision of the Hon'ble High Court of Orissa, the Central Government again considered the revision application of Shri B. N. Sarda and decided to grant the renewal of the lease in question. The Central Government, Ministry of Steel, Mines and Metals, vide its letter No.MV-1(193)/68, dated 17.12.1968, directed the State Government to grant the renewal of the mining lease in favour of Shri B. N. Sarda for iron ore over an area of 2340.20 acres in village Thakurani in Keonjhar District for a period of 30 years.

Shri B. N. Sarda expired on 28.07.1974. Nothing much happened thereafter due to legal dispute amongst the legal heirs of Sarda family.

On 05.02.1983, the State Government, instead of granting renewal as ordered by the Central Government, issued notification vide (Mines and Geology Department) letter No.III(A)MG-31/83-1244, dated 05.02.1983, reserving the area for exploitation under public sector.

The validity of the above order of the State Government was again challenged in the Hon'ble High Court of Orissa, vide OJC Nos.2567/84, 1368/85 and 1369/85. The Hon'ble Court, vide its order dated 28.06.1991, directed the State Government to carry out the orders of the Central Government and to renew the lease in question for a period of 30 years.

Subsequently, the Hon'ble High Court of Orissa, in its order dated 18.12.1991 in OJC No.2567/84, modified its earlier order dated 28.06.1991 and issued direction to renew the lease for a period of 20 years first and then extend it for another 10 years without any break in favour of Sri Mohanlal Sarada.

Being aggrieved and dissatisfied with the judgment of the Hon'ble High Court of Orissa, in OJC Nos.2567/84, 1368/85 and 1369/85, the State Government of Orissa approached the Hon'ble

Supreme Court of India, by filing Civil Appeal Nos.39-40 & 41-42 of 1993.

Meanwhile, Shri Sunderlal Sarada, another son of late Shri B. N. Sarada, also challenged the Orissa Government's Gazette Notification dated 25.02.1983, reserving the lease area in question for exploitation under Public Sector vide OJC No.1803/1986 before the Hon'ble High Court of Odisha.

During the pendency of the aforesaid Writ Petition, the two warring groups of Sarada family, who were fighting among themselves for renewal of mining lease, entered into compromise by a deed of settlement dated 05.01.1998. They submitted that they will give up the claim for Block 'A' of Thakurani Mines (2590.40 acres), if the State Government agrees to renew the lease of Block 'B' (2340.20 acres) in favour of Shri Sunderlal Sarada and Mohanlal Sarada, representing the two branches of Sarada Family.

The State Government, vide its affidavit dated 22.06.1998, submitted its reaction on the above compromise petition of Sarada family before the Hon'ble High Court of Orissa in OJC No.1803/86. The State Government submitted that it was willing

to renew the lease in favour of Sarda family only in respect of Block 'B' and further, the State was not inclined to pursue the Civil Appeal Nos.39-40 and 41-42 of 1993 in the Hon'ble Supreme Court of India.

In the same OJC No.1803/86, the Central Government also submitted that it was not opposing settlement of the matter by way of compromise among the members of the Sarda family, provided necessary requirements of the statute are complied to.

The State Government submitted application for withdrawal of the Special Leave Petition (Civil No.39-40 and 41-42 of 1993), pending before the Hon'ble Supreme Court of India on 10.07.1998, in response to the compromise petition submitted to the Hon'ble High Court of Odisha, in OJC No.1803/86.

Shri Mohanlal Sarda also filed an affidavit before the Hon'ble Supreme Court of India, in terms of the compromise petition and order of Hon'ble High Court of Odisha, in OJC No.1803/86.

The Hon'ble Supreme Court, in its judgment dated 15.07.1998 in Civil Appeal Nos.39-40 and 41-42 of 1993, ordered that "*the appeals are*

allowed to be dismissed as withdrawal as prayed for”.

Accordingly, Shri S. L. Sarda and Shri M. L. Sarda, in their application dated 21.07.1998 to the Secretary, Department of Steel and Mines, Government of Orissa, have requested to grant renewal of mining lease in respect of Block ‘B’ of Thakurani Iron Ore Mines **over an area of 2340.20 acres in the district of Keonjhar, Orissa for a period of 30 years.**

The State Government, thereafter, in its letter No.7175/SM, dated 13.08.1998, had issued certain terms and conditions for acceptance by the Sarada family for mining lease in Block ‘B’ (2340.20 acres). Shri S. L. Sarada and Shri M. L. Sarada, vide their letter dated 21.08.1998, have accepted the terms and conditions and relinquished their rights of mining lease of Block ‘A’ of Thakurani Iron Mines of 2590.40 acres which has been accepted by the State Government.

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 Sarda family. Hence, action should be initiated in this regard.

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 & 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.

The State Government, in its Directorate of Mines & 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 & M.L. Sarda.

II. Mining lease over 947.046 ha. (lease deed dated 14.08.2001):--

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.**

III. Transfer of lease:--

After this first renewal of lease, the Sarda family filed an application to transfer the lease in favour of M/s. Sarda Mines Pvt. Ltd. (a newly created company by the same family members of Sarda family).

From the records, some of the important chronological events that have been taken place for transfer of the lease and subsequent, as noted from the State Government file of Ministry of Steel and Mines are as under:--

05.01.1998 The family dispute, within the Sarda Family members in respect of the mining lease, was settled through a deed of settlement.

- 21.01.1998 An application was filed by Sarda Family Members (both groups) for renewal of mining lease for Block-B, while surrendering Block-A in Thakurani RF.
- 18.03.1998 An application for grant of lease of iron ore was made by JSPL for Thakurani Iron Ore Mines, Block-A. The Block-A was offered to be surrendered by the Sarda Family Members.
- 06.10.2001 The family members of M. L. Sarda
10.10.2001 and S. L. Sarda jointly entered into
19.11.2001 an affidavit to seek transfer of the newly renewed mining lease in favour of a newly formed Company, M/s. Sarda Mines Pvt. Ltd. (SMPL) on the ground that “since the development and operation of iron ore mines would involve considerable expenditure and raising of funds, it would be advisable, if the lease is transferred in the name of a company M/s. Sarda Mines Pvt. Ltd. Further, the banks, Financial

Institutions and other lenders and suppliers would prefer dealing with the Company as compared to individuals and transfer of mining lease will also facilitate development of mines in a more scientific manner and on an economic scale of operation”.

23.11.2001 An application was submitted by Sarda family members for transfer of the mining lease in favour of M/s SMPL. The main reason submitted for transfer was that development and operation of iron ore mines would involve considerable expenditure and would require raising of large amount of funds from banks / financial institutions who would prefer dealing with a company as compared to individuals, the lease be transferred in favour of SMPL, a newly formed company and that the same would also facilitate development of mines in a more scientific manner and in an economic scale of operation.

- 20.02.2002 Second work order was issued in favour of JSPL for crushing and sizing of ore in the leased area. The language of the “work order” is quite vague and suspicious.
- 06.04.2002 The Director of Mines wrote to Joint Secretary, Department of Steel and Mines recommending the transfer of lease.
- 13.04.2002 The Chief Secretary of the State made a remark in the noting on the file of Steel and Mines Department as, **“It is well known that this mine is being operated by the Jindals. Would this not amount to a fraud?”**
- 25.04.2002 For the noting made by the Chief Secretary, the Joint Secretary of Department of Steel & Mines wrote to Director of Mines, which *inter-alia*, reads as follows:-
- “I am directed to invite reference to your letter No.3258 dt. 06.04.2002 on the above subject and to say that during consideration of proposal of*

transfer a doubt arisen that this mine is being operated by the Jindal, such transfer may amount to a fraud?"

- 03.10.2002 Director wrote to Pr. Secretary, Steel & Mines, stating that the lessee is winning the ore (ROM) through M/s. Sarda Mines Pvt. Ltd. and getting crushing and screening from M/s. JSPL of the two plants of 100 TPH and 250 tons per hour (deployed by the JSPL in the leased area) and take view by Government in violation of Rule 37 of the MCR, 1960.
- 10.04.2002 Based on the submission of the Director of Mines, the Joint Secretary, Steel and Mines put up a favourable note to transfer the mining lease in favour of M/s. Sarda Mines Pvt. Ltd.
- 04.10.2002 Further note has been prepared by Joint Secretary, stating that all the mining activities are being carried out by Sarda Family Members and only crushing activities had been given to JSPL.

10.10.2002 The file was marked to Law Officer.
The views of the Law Officer of the
Department are produced as under:-

“L.O. (Law Officer):

Notes from page 12-17/N along with the letter of the Director of Mines at page 123-118/C have been perused. In order to comply the observation of the Chief Secretary at the bottom of page 10/N, the Director of Mines was requested to furnish his views in the matter. However, the Director of Mines in his report has stated that he with Dr. D.K. Mishap, JDM and Sri B. K. Nandi, DDM, Jodi visited to Thakurani Iron Ore Mines of Sri S.L. Sarda and M. L. Sarda over 2340.20 area Acres in Thakurani R.F. near village Soyabali of Keonjhar Dist. on 5.9.2002 and verified the working of mines, observance of lease covenants and maintenance of statutory registers, returns, plans and sections.

It is observed from the report furnished by the Director of Mines that the lessees have undertaken the mining operations within the time.

They have employed technical personnels and installed adequate machineries and tools for systematic and scientific mining. The lessees have constructed the mining office within the lease-hold area and all the statutory and prescribed register records, returns and notices, plans and sections are maintained in the mines office. As per the report of the Director, the performance of the lessees are satisfactory.

The Director of Mines has stated that the mining operation has been started by the lessees w.e.f. 27.8.2001. The mining activities are carried out mainly in two following stages:

- (i) Development of mines face by removing the over-burden and raising of run-of-mines ore.*
- (ii) Crushing and sizing ROM ore. The lessees have engaged M/s. Sarda Mines (P) Ltd. as raising contractor and issued work order to M/s. Jindal Steel & Power Ltd. who has deployed its machineries and installed one crushing unit with capacity of 100 Ton per hour and also installed another*

iron ore crushing and sizing plant of 250 Tons per hour capacity within the lease-hold area which has started production since April 2002.

As per the views of the Director of Mines, except involvement of M/s. Jindal Steel and Power Ltd. in crushing and sizing of ore on job contract basis, all other mining activities are being undertaken by the lessees and Sarda Mines (P) Ltd. The Director of Mines while furnishing his views has suggested govt. to examine at govt. level the legal implication of Rule 37 (1) (B) of M.C. Rules, 1960 for such contract.

In view of Rule 37(1)(b) of M.C. Rules, 1960 the lessee cannot make any contract with anybody involving in mining work without previous consent of the State Govt.

*In this case, the lessee has already placed the work order since the execution of the lease Deed without previous consent of the State Govt. Further, the company with whom the work order has been placed has constructed a crushing and sizing plant within the premises of the lease-hold area. **As per part-***

II of the lease Deed only the lessee has the liberty of doing such work by himself. Hence, it appears that installation of crushing and sizing plant by a company other than the lessee without previous consent of State Govt. is violation of the provisions of M.C. Rules, 1960.

In view of the position stated above it appears that the involvement of M/s. Zindal Steel and Power Ltd. so far installation of crushing and sizing plant is concerned without obtaining previous consent of the State Govt. by the lessee violates the provisions of the M.C. Rules, 1960. However, for better appreciation the file may please be endorsed to the Law Deptt. for their considered views in the matter.

Sd/- (illegible)

10.10.02

(Law Officer)”

11.10.2002 The views of the Law Officer were recorded by the Joint Secretary, Mr. AK Sahoo stating that:-

- (1) The matter of violation of Rule 37
- (1)(b) would be referred separately to Law Deptt.

(2) The transfer of mining lease is permissible.

(3) The transferee company must not dilute the share of the company without prior consent of State Govt.

11.10.2002 Chief Secretary suggested that “*Can we also suggest that sponge iron and steel plants in Orissa will have the right of first ‘refusal’?*”

09.12.2002 The Minister of Steel and Mines suggested to get opinion of Advocate General on the points raised by the Joint Secretary and the Chief Secretary.

20.01.2003 A meeting was convened of the officers of the State Government and members of Sarda family and their representatives. In the meeting, it is (Mr. M. L. Sarda) stated that “*Jidnal is their old family friend. When the Sardas were involved in litigation in courts, they have approached Jidnals to help them to overcome all disputes.*”

Accordingly, Jindal have helped them in solving their problems.”

- 04.04.2003 The Advocate General Shri Sovesh
and Roy did not agree to the two
25.04.2003 conditions to be imposed by the
State while transferring the lease to
SMPL and also stated that there is
no violation of Rule 37 of the
MCR,1960 since there is no
agreement between JSPL & SMPL.
- 07.06.2003 Sarda Family Members' reply giving
the list of Directors in the M/s
SMPL, (1) Shri Mohan Lal Sarda,
(2) Shri Gopal Das Sarda, (3) Shri
Bijoy Kuamr Sarda and (4) Shri
Ashok Kumar Sarda.
- 13.06.2003 The Joint Secretary with a detailed
note submitted for consideration of
transfer of mining lease in favour of
SMPL.
- 11.10.2003 The Chief Secretary put a note as:-

*“In this connection, the note at P.22-
23/N and orders of Minister, Steel &
Mines at P.27/N may be seen. The
opinion of the Advocate General at*

P.41-48/N and P.51-54/N may also be seen. Advocate General has given his opinion that imposition of the two proposed conditions while allowing the transfer of lease from S.L. Sarda and ML Sarda in favour of M/s Sarda Mines (P) Ltd. is sure to be challenged in Court and this will usher in an era of litigation which will impede the exploitation of mineral wealth in the mines which would be the antithesis of mineral development in the State as contemplated in Section 8(3) of the Mines and Mineral (Development and Regulation) Act, 1957 vide P.48/N. He has also opined that there is no transfer of any part of the lease-hold area which is the subject matter of Rule 37 in favour of M/s Jindal Steel who are merely job contractors of the lessees, such an arrangement does not require the previous consent in writing of the State Government. It does not violate either sub-clause (a) or (b) of Clause (1) of Rule 37 of Mineral Concession Rules. However, they should have informed the State Government about setting up of the crusher unit but since the information is now with the State Government, there is no point in making an issue about it as it may hamper mining operations - vide P.54/N.

Based on the advice of the Advocate General, the then Pr. Secretary, Steel & Mines has recommended to obtain Government order for allowing transfer of mining lease of 947.046 hectares in Thakurani B block by SL Sarda and ML Sarda in favour of M/s Sarda Mines (P) Ltd. vide 'A' of P.69/N.

However, the office note at 'X' of P.69/N mentions that the lessees have sold the entire processed iron ore from the mines that have been procured by M/s Jindal Steel & Power Ltd. for consumption in their Sponge Iron Plant at Raigarh of Chhatishgarh State by rail through Deojhar Railway siding. **The statements at P.356-355/C from the Director of Mines buttress this position, clearly indicating the link between SL Sarda and ML Sarda on one hand and M/s Jindal Steel & Power Ltd. on the other hand. Almost, it appears, the entire sized ore raised during 2001-02, 2002-03, 2003-04 so far by the lessees and apparently crushed by M/s Jindal Steel & Power Ltd. has been sold to the Raigarh plant owned by the latter. Thakurani B has huge**

reserve of about 270 million tons of iron ore. It may be mentioned that M/s. Jindal Steel & Power Ltd. has separately applied for mining lease of Thakurani 'A' having an estimated reserve of 270 million tons of iron ore for setting up a steel plant at Deojhar. While a formal decision on the request for the mining lease could be taken separately, it would be worthwhile to suggest that the application by M/s Jindal Steel & Power Ltd. for mining lease of Thakurani 'A' should not repeat not be considered as it is obvious that they have already access to the iron ores of Thakurani 'B' through SL Sarda and ML Sarda as otherwise other potential investors in steel plant sector in the State would be debarred from having access to the huge reserve of Thakurani area, which would not be in the best interest of the State.

If this is agreed to, then the transfer of mining lease given in favour of SL Sarda and ML Sarda to M/s Sarda Mines (P) Ltd., as proposed at 'A' of P.69/N may be approved.

Chief Secretary
Orissa."

16.01.2004 The Minister for Steel and Mines recommended for transfer of lease.

29.04.2004 The Chief Minister makes a note,
“(i) whether the State Government should allow transfer of mining lease to M/s. Sarda Mines (P) Ltd.?
(ii) whether the State Government can impose the conditions mentioned at P.31/N while allowing transfer of mining lease?
And
(iii) what is the nexus between the M/s Jindal Steel and Power Ltd. and the lessees ?”

28.11.2005 The Chief Minister decided to examine the matter by Department to avoid delay (though the Department's view was already clear to transfer the lease).

09.03.2006 A favourable note was put up by the Joint Secretary for the transfer of the mining lease.

26.05.2006 The Chief Minister approved by stating as under:-

*“in view of the legal bar to imposition of conditions at the time of transfer of lease, permission is granted for transfer of lease in favour of Sarada Mines (P) Ltd. without the intended conditions in order to facilitate higher investment in the mines for a more scientific operation. **This will, however, be given due consideration at the time of grant of lease if any to JSPL as per the MOU with them.**”*

(It is to be noted that JSPL has applied in 1998 for grant of ML in Block A surrendered area of old Thakurani Mine of Sarda family).

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|------------|---|
| 02.06.2006 | The State Government issued order for transfer. |
| 22.06.2006 | A transfer deed in Form 'O' was executed and registered in favour of M/s. SMPL. |

From the above noting, it appears that:-

- (i) There is a “hidden understanding” between the Sarda family and JSPL.;

In a note dated 13.04.2002, the Chief Secretary of the State noted that “*it is well known that this mine is being operated by the Jindals. Would this not amount to a fraud?*”

On 25.04.2002, it is noted that mine is being operated by the Jindal and such transfer may amount to a fraud. Even Chief Minister, in his note dated 29.04.2004, doubted and wanted to verify nexus between Jindal and the lessee.

- (ii) The documents which were taken into consideration during transfer of lease, (as submitted by the lessee, Director and others) were pertaining to the years of 2001, 2002 and 2003. The facts, circumstances and situation had completely changed since 2004 onwards till 26.05.2006 wherein the lessee was selling all ROM to JSPL. In turn, it was crushed and sized by them (JSPL) for their use and business through their (JSPL) two well established big plants in the leased area of

M/s. SMPL. All other supporting infrastructure like employees' colony, playground, working pets and others, as stated in the letter of DFO, dated 10.01.2010, were created to use for the crushing plants of JSPL in the leased area. The lessee does not require all these infrastructures, since he was selling entire ROM to JSPL. Moreover, for production of ROM, a contract has been given by the lessee to M/s. G. S. Atwal & Co. Hence, in totality, the lessee did/does not do any operation at his own, though the transfer of lease was applied on 23.11.2001 for development and operation of mine by himself. (See events dated 23.11.2001).

- (iii)** All the documents for permission of various kinds from various Departments, like electric connection, labour contract and others were obtained in proxy in the name of lessee but they are actually used by JSPL for their business in the leased area.

IV. Forest Clearance (FC):--

An area of 865.276 ha. of forest land has been diverted under FCA, 1980 on 21.06.2001 (where 94.024 ha. is broken-up prior to 25.10.1980,

155.252 ha. is to be broken afresh in phases and 616 ha. interspersed area will be maintained as forest, as reported and claimed) for mining of iron ore in favour of Shri S. L. Sarda and Shri M. L. Sarda, in villages Sayabali, Balita and Thakurani in District Keonjhar with the following **conditions among others:-**

*“(iii) In first place mining will be done only over broken-up area (i.e. 94.024 ha.) prior to enactment of Forest Conservation Act, 1980 and in respect of **which approval of competent authority has already been obtained as per EIA Notification.***

(iv) Mining in the remaining forest area i.e. 155.252 ha. will not be done unless mining plan has been approved by IBM and Environmental Clearance is given by the Ministry.

(v) The balance 616 ha. of forest land will not be used for mining purposes and will be protected by the user agency in consultation with Forest Department whereby density of vegetation cover will be enriched.

... ..

(xii) The period of permission under the Forest (Conservation) Act, 1980 will be for 20 years subject to Environmental Clearance under the Environment (Protection) Act, 1986.”

On complete perusal of the historical background of this mining lease, it is to be stated that no mining activity was there, since the year 1962 to the date of lease deed execution i.e. 14.08.2001 for a period of more than 40 years.

- (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.
- (b) Secondly, in the proposal submitted for diversion of forest, it is noted that 1,817 trees were enumerated in the **broken-up areas** in addition with other **well stocked natural vegetations**. Such areas having naturally grown up trees similar to surrounding ecosystem could not have been considered as broken-up areas.
- (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 **EC approval was obtained** from the competent authority as per EIA Notification.

- (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 authority. Therefore, action should be taken under Section 21(5) of MM(DR) Act, 1957 for such illegal production of **45,03,241=00 MT and other excess, illegal and unlawful production.**

- (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.
- (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.

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.

V. Environmental Clearance (EC):--

On 22.09.2004, the lessee (Shri S. L. Sarda and Shri M. L. Sarda) has obtained EC under EIA Notification dated 27.01.1994 for expansion of Thakurani Iron Ore Mine Block 'B' (from 0.15 Million Metric Ton per annum (MMTPA) to 4.00 MMTPA) of iron ore.

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.

The relevant part of the aforesaid EC approval dated 22.09.2004 is reproduced as under:–

- “2. The Ministry of Environment and Forests hereby accords environmental clearance to the above opencast iron ore mine of **M/s. S. L. Sarda and M. L. Sarda for** a total lease area of **868.396 ha.**, to enhance production of iron ore (lump) per annum from 0.15 LTPA to 0.500 MTPA during the 1st year, 3.0 MTPA during the 3rd year and 3.750 MTPA from the 5th year onwards to achieve the rated capacity of production of **4.0 MTPA during the 17th year**, under the provisions of the Environmental Impact Assessment Notification, 1994 as amended on 04.05.1994 and 10.04.1997 subject to strict compliance of the terms and conditions mentioned below:-

A. Specific Conditions:-

- (i) The environmental clearance is for 20 years and fresh clearance would be required at the time of renewal of lease.
- (ii) Working of the mine should be confined to level 300 m above the ground water table.
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- (xii) Approval shall be obtained from the competent authority for abstraction of additional amount of 362 m³/d of ground water to meet the total requirement of 770 m³/d of ground water from 17th year of operation.”

The said EC has been given based on the land classification of the lease, as under:-

*“It has been noted that the total lease area is 868.396 ha. of which 865.276 ha. is forest land within the Thakurani Reserve Forest and the remaining 3.120 ha. is non-forest government land. Forestry Clearance has been obtained on 21.06.2001 for diversion of **865.276 ha., of which a total area of 684.795 ha. will be kept undisturbed.***

*Total mining area at the end of 20 years will be **169.544 ha.**, of which mining has been already done in 12 Blocks covering a total area of 103.879 ha. Mining will be carried out by open cast mechanized method. The proposal is for expansion of production of iron ore (lump) from 1.5 lakh tones per annum (LTPA) to 4.0 million tonnes per annum (MTPA). **No mineral beneficiation is involved.***

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 **(Table: 1A)**. 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 **1,03,14,163 MT** during the year 2004 to 2008.

Thereafter, the lessee has obtained second EC in favour of M/s. Sharda Mines Pvt. Ltd. on 29.10.2008 wherein it is *inter-alia* mentioned as under:-

“2. The Ministry of Environment and Forests has examined the application in accordance with Section 12 of the EIA Notification, 2006 read with para 2.2.1(i) of the Circular No.J-11013/41/2006-IA-II dated 13.10.2006 and hereby accords environmental clearance under the provisions thereof to the above mentioned Thakurani Iron Ore Mining Project of M/s. Sarda Mines Pvt. Ltd. for an annual production capacity of 15 million tonnes (ROM) of iron ore by opencast mechanized method involving total lease area of 947.046 ha., subject to implementation of the following conditions and environmental safeguards.

A. Specific Conditions:-

... ..

- (ii) Environmental clearance is subject to grant of forestry clearance.
- (iii) Environmental Clearance is valid upto the year 2013-14. Working of the mine beyond 2014 based on the established reserve shall be commenced only after obtaining prior clearance from the Ministry of Environment and Forests.

- (iv) *Beneficiation of the ore shall not be carried out without obtaining prior environmental clearance as per the provisions of the EIA Notification 2006.*

... ..

- (vi) *The project proponent shall ensure that no natural watercourse and / or water resources are obstructed due to any mining operations.*

... ..

- (xxi) *The project proponent shall obtain necessary prior permission of the competent authorities for drawl of requisite quantity of water [(surface water (Baitarni River) and ground water)] for the project.”*

In the said EC approval, the lease area has been classified as under:-

*“The total mine lease area of the project is 947.046 ha, out of which 943.926 ha is forest land (941.498 ha falling in the Thakurani RF and 2.428 ha. village forest) and 3.12 ha. is non-forest land (0.52 ha. safety zone and 2.6 ha. land used for colony). **Area***

proposed for mining is 337.474 ha., an area of 17.38 ha. is kept for storage of sub-grade mineral, 31.787 ha. for overburden dumps, 11.65 ha. for infrastructure, 24.261 ha for roads, 0.15 ha. for magazine and 524.344 ha. is others (11.804 ha. is for green belt, 63.626 ha. is for safety zone from explosive magazine,, 2.6 ha. for colony and township, 2.428 ha. is village forest, 3.74 ha. is disputed area and 440.146 ha. is virgin land).”

From the above, it is noted that production could not have been increased from 04.00 MMTPA to 15.00 MMTPA, if the excess forest area was not proposed.

In pursuance of the notice dated **12.02.2013**, the lessee has submitted production data at **Annexure: C.**

After considering the production data submitted by the lessee, IBM and Mines Department, the comparative statement of production data and the unlawful/illegal production have been compiled by the Commission as per **Table: 1A and 1B** respectively.

Table: 1A

Comparative statement of production submitted by DMG, IBM and Lessee

Name of the lease	Quantity approved (MT)		Production as per submission of DMG for Iron (MT)		Production as per submission of IBM for Iron (MT)		Production as per submission of lessee for Iron (MT)		
	EC approval No. and Date and upper limits from ... to ...	Upper limits as per First EC approvals by MoEF							
1	2	3		4		5		6	
M/s. Sarada Mines (P) Ltd. Thakurani Block-B Iron Ore Mines (947.046)	(i) J-11015/05/2003-IA. II (M), dated 22.09.2004 (1,50,000 MT to 40,00,000 MT)	2004-05	5,00,000	1994-95 to 2000-01	00	1994-95 to 2000-01	00	1994-95 to 2000-01	00
		2005-06	5,00,000	2001-02	366623	2001-02	289888	2001-02	227352
		2006-07	30,00,000	2002-03	1643698	2002-03	1284998	2002-03	826152
		2007-08	30,00,000	2003-04	2492920	2003-04	2492920	2003-04	1556455
		2008-09	37,50,000	2004-05	3741047	2004-05	3841047	2004-05	1954744
		2009-10	37,50,000	2005-06	5094405	2005-06	5094405	2005-06	2897229
		2010-11	40,00,000	2006-07	3656231	2006-07	3760750	2006-07	2554929
		2011-12	40,00,000	2007-08	4822480	2007-08	5146415	2007-08	2898290
	(ii) J-11015/ 1176/ 2007-IA. II (M), dated 29.10.2008 (40,00,000 MT to 1,50,00,000 MT)	Due to non-diversion of forest for the increased production as per EC dated 29.10.2008, the base is taken as per EC dated 22.09.2004		2008-09	5104695	2008-09	5104695	2008-09	5104695
				2009-10	7488080	2009-10	7313262	2009-10	7524080
				2010-11	10436015	2010-11	5995200	2010-11	5995200
				2011-12	6141780	2011-12	6736110	2011-12	7415110
				Total	50987974	Total	47059690	Total	39044236

Table: 1B

Comparative statement of unlawful production in violation of EC and FC

Name of the lease	Quantity approved (MT)			Unlawful/Illegal production based on DMG data for Iron (MT)		Unlawful/Illegal production based on IBM data for Iron (MT)	
	EC approval No. and Date and upper limits from ... to ...	Upper limits as per First EC approvals by MoEF					
1	2	3		4		5	
M/s. Sarada Mines (P) Ltd. Thakurani Block-B Iron Ore Mines (947.046)	(i) J-11015/05/ 2003-IA. II (M), dated 22.09.2004 (1,50,000 MT to 40,00,000 MT) (ii) J-11015/ 1176/ 2007-IA. II (M), dated 29.10.2008 (40,00,000 MT to 1,50,00,000 MT)	2004-05	5,00,000	1994-95 to 2000-01	00	1994-95 to 2000-01	00
		2005-06	5,00,000	2001-02	366623	2001-02	289888
		2006-07	30,00,000	2002-03	1643698	2002-03	1284998
		2007-08	30,00,000	2003-04	2492920	2003-04	2492920
		2008-09	37,50,000	2004-05	3241047	2004-05	3341047
		2009-10	37,50,000	2005-06	4594405	2005-06	4594405
		2010-11	40,00,000	2006-07	656231	2006-07	760750
		2011-12	40,00,000	2007-08	1822480	2007-08	2146415
		Due to non-diversion of forest for the increased production as per EC dated 29.10.2008, the base is taken as per EC dated 22.09.2004		2008-09	1354695	2008-09	1354695
				2009-10	3738080	2009-10	3563262
				2010-11	6436015	2010-11	1995200
				2011-12	2141780	2011-12	2736110
				Total	28487974	Total	24559690
				2001-02 to 2003-04	4503241	2001-02 to 2003-04	4067806
				2004-05 to 2007-08	10314163	2004-05 to 2007-08	10842617
				2008-09 to 2011-12	13670570	2008-09 to 2011-12	9649267

The production data submitted by IBM (in H Form), the Director of Mines and the lessee himself, have been analyzed together and it is surprising to note that there is vast difference of production quantity submitted by these three agencies. **(Table: 1A)**. In fact, the origin of data is from the lessee himself. This implies that the lessee submits the production data different to the different authorities. The data submitted by lessee to the Commission is incorrect and cannot be relied upon. The IBM, DMG and other all concerned authorities have to take note of it and initiate action against the lessee.

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.

From the above, it appears that:--

- (a)** In the first EC approval dated 22.09.2004, as quoted above, it is categorically stated that “*no mineral beneficiation is involved.*” **Hence, claim of approval of forest land for crushing plants (21.06.2001) does not sound convincing.**

Moreover, in the second EC obtained for expansion of production from 4.00 MMTPA to 15.00 MMTPA (ROM), there is no indication of forest land for two crushing and screening plants establishment and use of the forest land for this purpose.

It is surprising that crushing and screening plants do not belong to lessee but they belong to a third party i.e. JSPL (who used to process ROM purchased from lessee and flourishes its business on the forest land which is never leased to JSPL) and permitted by the lessee illegally. All the statutory clearances are taken on proxy in the name of M/s. SMPL for their establishment and function.

From the record, it appears that a conveyor belt of 316 mtr. x 4.7 mtr. long and underground water supply pipe was constructed by JSPL for their beneficiation plants for transportation of sized ore. All types of post-facto sanctions including diversion of forest land to an extent of 0.9457 ha. for this activity of conveyer belt and pipe lines has been obtained and accorded in proxy in favour of lessee i.e. M/s. Sarda Mines Pvt. Ltd. for the property of M/s. JSPL. The approval was also obtained much delayed after establishment.

- (b) Therefore, 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 illegally recommended the diversion of forest land in favour of the lessee whereas mining activities (conveyer belt & 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.

It is to state that the forest area of 166.320 (169.544) ha. has been allotted for phased production of 4.00 MMTPA of iron ore to reach at the end of 20 years lease period as per the approval of first EC dated 22.09.2004 in the manner as discussed therein **[Table: 1A and 1B]**.

Mining should not have been started in an area of 94.024 ha. claimed to be broken up area prior to the year 1980 for which diversion of forest land has been obtained for mining on 21.06.2001 till 22.09.2004 (the date of EC approval), since there was no EC obtained under EIA Notification, during the said period, as required under Condition (xii) of FC.

- (c) In the second EC dated 29.10.2008, the approval for expansion of project from a capacity of 4.00 MMTPA to 15.00 MMTPA has been accorded subject to certain conditions. The requirement of mining area for this purpose (to increase production) is proposed to use 337.474 ha. of forest land. The EC was given subject to obtaining Forest Clearance under FCA (Specific Condition (ii) of EC dated 29.10.2008) for the increased required forest land to produce ore more than 4.00 MMTPA. The lessee has not taken the FC approval but has increased the production after the year 2008 as shown in **Table: 1A and 1B**. The FC was only for 155.252 ha. There is no FC approval for additional 182.222 ha. of virgin forest, despite of that, the lessee has increased the production. The unauthorized production done in this manner comes to about **1,36,70,570=00 MT (DMG data)**. Further, it is pertinent to note that the lessee has not at all complied with the crucial conditions imposed in FC approval dated 21.06.2001, EC clearance dated 20.09.2004 and second EC dated 29.10.2008. For this purpose, all the three approvals of the MoEF have to be seen together.

In the context of the above, the production in excess of 4.00 MMTPA could have only been done after obtaining approval under FCA for 182.222 ha. forest land for fresh land use plan for the purpose of increase of production.

Obviously, no such approval has been taken by the lessee so far under the FCA. Had he taken approval, he should have paid NPV for the forest diversion land at that time. For this reason, he went on avoiding to take approval under FCA till he is forced. It is stated in Condition No.2 of the EC approved dated 29.10.2008 of MoEF that “*the Environmental Clearance is subject to grant of forestry clearance*”. Therefore, 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 **1,36,70,570=00 MT** (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.

(d) Illegalities noted by the Divisional Forest Officer on spot inspection:--

The Divisional Forest Officer, Keonjhar had written to Conservator of Forest, Rourkela on 10.01.2010 regarding illegalities committed by the lessee (SMPL) in violation of FCA and Odisha Forest Act. The said letter is *inter-alia* reproduced as under:–

**“OFFICE OF THE DIVISIONAL FOREST OFFICER:
KEONJHAR DIVISION**

PH. NO.06766-254315, FAX 06766-254041

email: ofsdp-kjr@redifmail.com

**Memo No. 167/mining dated Keonjhar the 10th Jan,
2010.**

**TO;
THE CONSERVATOR OF FORESTS
Rourkela Circle, Rourkela.**

**Sub. : Approval to modify land use pattern by
 M/s. Sarda Mines Pvt. Ltd.**

**Ref. : Your Office memo No.4437/3F (Mis-K)
 225/2009 dated 08.12.2009.**

This is to inform you that M/s. Sarda Mines Pvt. Ltd. in their letter dated 1.9.2009 represented in the Govt. of India through this office for according post facto approval of the already deviated land use pattern within their mining lease area. In this connection this is to inform you that on 7.12.2009 I personally inspected the lease hold area of M/s. Sarda Mines Pvt. Ltd. along with other field staff. During my inspection, series of grave irregularities were noticed within the ML area of M/s. Sarda Mines Pvt. Ltd. and adjacent to the ML area in Thakurani RF. Accordingly a show cause notice was issued vide this office letter No. 6721 dated 13.12.2009 to the lessee (copy enclosed). In response to the said show cause notice, the lessee submitted the reply vide their letter No. SMPL/TIOM/2009/177 dated 28.12.2009

(copy enclosed). On scrutiny of the show cause reply and their application for post facto sanction of already committed irregularities. **It is ascertained that the lessee has totally agreed to the irregularities pointed out in the field during my field inspection.** The lessee has cited some vague grounds to cover up the irregularities committed by them in the field. Some of them are as follows:-

- (1) Regarding unauthorized construction of 175 meter length of masonry boundary walls. The lessee has taken the plea of Maoist movement etc. which cannot be accepted.
- (2) As regards construction of ATM counter, BSNL Tower, laying out of electric poles etc. the plea taken by the lessee are not at all acceptable.
- (3) In case of construction of washing plant and water tanks within the old mining pit, **the lessee has wrongly reported about obtaining permission from the MOEF.** This is because the said constructions has been taken place over an old mining pit.
- (4) **As regards illicit felling of trees within the leasehold area, the lessee has not taken sufficient precaution to protect the forests within the leasehold area.** As regards the said illicit felling, the report of the Range Officer, Barbil range along with the stump enumeration list is enclosed herewith for ready reference.
- (5) **As regards construction of play ground along with ancillary buildings, the plea of**

the lessee regarding reclamation of the area is not a fact.

- (6) ***The most grave violation is the installation of 316 meter x 4.7 meter long conveyor belt and underground water supply pipe line outside the lease boundary and inside Thakurani RF by the lessee.*** The reply is not at all satisfactory. It is a fact that the lessee has unauthorizedly constructed the conveyor belt and underground pipe line within Thakurani RF without having forest clearance for the same, and that too outside their lease area.

In view of the above facts, the show cause reply of M/s Sarda Mines Pvt. Ltd is not at all satisfactory. The lessee has violated the stipulations under item No. (v)(x) and (xii) of the forest clearance accorded by the Government of India, MoEF vide their letter No. 8-55/2000-FC dated 21.06.2001.

As regards the application of M/s Sarda Mines Pvt. Ltd. regarding modification of land use pattern, this is to inform you that this is an after-thought of the lessee once the same was detected in the field by the group of Conservators of Forests deputed by the PCCF Orissa for inspection of the mines during August/September 2009. In their said application in Annexure-II, the lessee has stated the status of compliance of stipulations imposed by the MoEF, Government of India. The compliance submitted by the lessee is false and concocted. In item No. 05, the lessee reported regarding protection of forests within

the leasehold area with sufficient watch and ward, is never a fact. Report of the Range Officer about illicit felling of 59 trees is sufficient to deny the fact. In point No.9 the lessee reported that the entire leasehold area has been demarcated on the ground with 4' ht pillars with numbers, bearings etc. is not a fact. In many places, the pillars were found missing and necessary changes bearing GPS reading etc. were not given. In case of point No.10 the lessee reported that no felling of trees has been done within the lease area without prior permission of the DFO, Keonjhar, which is not a fact. As illicit felling of trees was noticed and reported in the show cause notice. In case of point No.11, the compliance of the lessee is not correct as regards supply of LPG and electric power the labourers working in the mines. It is to inform you that the poor tribals working in the mines depend on firewood for their cooking purpose and not at all accustomed with LPG and same has never been supplied by the lessee. In case of point No.13, the lessee reported that the forest land had been used as the specific purpose. This is not at all a fact in view of the show cause notice and reply cited above. **A lot of construction activities has been undertaken by the lessee within the leasehold area violating the land use pattern.** In case of point No.14 the guidelines of the forest department has never been complied at all. The unauthorized construction of the huge conveyor belt underground pipe line within Thakurani RF and that too outside the lease area by the lessee prove the credibility of the lessee.

As regards the proposed land use pattern and already land use pattern given in Annexure IX of the application of the lessee is not correct. This is because the construction of washing plants, crusher plants, conveyor belt, electric line, BSNL Tower and ATM Counter etc. said to have been constructed within the approved land use pattern as shown in Annexure IX is not correct.

The lessee in this application has applied for re-diversion of forest land over 346.914 ha for mining purpose and another 20.918 ha for infrastructure development. All the above infra-structures has already been constructed violating the stipulation imposed by the MOEF. When the matter was detected in the field by the forest officials, the lessee has applied for ex-facto sanction of the same to manage the show.

In view of the same, the Government of India, MoEF may kindly be moved for stern action as deemed proper against the lessee for deviation of the stipulation given at the time of forest clearance. In view of the great crisis of climate change. Such big mining company should have understood the problem and protected the forests and environment within their leasehold area. It is unfortunate to mention that the Company is taking plea to set a township with all modern facilities like BSNL Tower, ATM Counter, block topped roads and other modern facilities for their employees in the cost of environment of the area.

This is for your kind information and necessary action.

Sd/-

*DIVISIONAL FOREST OFFICER
KEONJHAR DIVISION.*

Copy along with copies of its enclosures forwarded to the Chief Conservator of Forests (Forest Diversion & Nodal Officer, FC Act) Office of the Pr. CCF Orissa, Bhubaneswar for favour of information and necessary action. The matter may please be reported to the CCF (Central) for necessary action at their end.

Sd/-

*DIVISIONAL FOREST OFFICER
KEONJHAR DIVISION.”*

- (i)** No action has been taken so far by MoEF wherein CCF/APCCF (Zonal Office, Bhubaneshwar) is empowered to file criminal case in this regard.

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.

- (ii)** Why the lessee, when he is selling ROM to JSPL, require all the infrastructures like, the conveyor belt, pipe line, ATM counter, BSNL Tower, electric poles, washing plants, water

tanks, play ground, a township and other infrastructure, as stated and found by Dy. C.F. during his visit on 07.12.2009 and reported in his letter dated 10.01.2010?

- (iii) The infrastructures, including township inside and outside the lease hold area, are used by the employees working in two big unauthorized crushing and screening plants and other mining activities belong to JSPL for its business.

VI. Violation of Rule 37 of MCR, 1960:--

From the records submitted by the State and lessee, the following is observed:--

- (a) In a noting of the then Chief Secretary dated 13.04.2002, it is mentioned that **“it is well known that this mine is being operated by the Jindals. Would this not amount to a fraud?”**
- (b) In the proceedings dated 20.01.2003 held by Principal Secretary, Steel and Mines Department, it has been *inter-alia* stated as under:--

“Principal Secretary participating in the discussion told that Jindal has set up a crushing plant within their lease hold area and wanted to know whether they have given any permission to Jindal to set up such unit. They mentioned that Jindal is their old family friend. When the Sardas were involved in litigation in Courts, they have approached Jindals to help them to over come all disputes. Accordingly, Jindal have helped them in solving their problems.”

- (c) The Chief Minister, State of Orissa in his noting dated 25.05.2006 has stated as under:-

*“In view of the legal bar to imposition of conditions at the time of transfer of lease, permission is granted for transfer of lease in favour of Sarada Mines (P) Ltd. without the intended conditions, in order to facilitate higher investment in the **mines for a more scientific operation**. This will, however, be given due consideration at the time of grant of lease if any to JSPL as per the MOU with them.”*

- (d) The then lessee, Shri S. L. Sarda and Shri M. L. Sarda has taken a sum of Rs.1,92,16,433/- as consideration money as against transfer of the aforesaid lease to SMPL. From where, this money has originated, is a matter of further investigation. This has been stated in his affidavit dated 19.11.2001.

- (e) The lessee has allowed the JSPL to carry out crushing, screening of the ROM purchased from lessee and other allied activities including the establishment of two big plants and then making use of various infrastructures in the lease hold area without having approval of the competent authority under the Rule 37 of the MCR, 1960.

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. **How can such a business involving hundreds of crores of rupees take place?**

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.

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?

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 & 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.

The lessee used to sale entire Run of Mines (ROM) to M/s. JSPL only within the leasehold area. In turn, M/s. JSPL process the ROM to produce sized ore for its own use and business. The screening and sizing of ore is processed from two big well established plants of 1,000 TPH and 3,000 TPH within the leasehold area of SMPL.

It is to state here that by spending insignificant amount (Rs.150/- to Rs.250/-)

on processing of ROM, the value of outcome ore product in the form of sized ore (calibrated ore) and fines get enhanced manifolds.

The ROM/Lump/others has been sold by M/s. Sarada Mines Pvt. Ltd. to M/s. JSPL at a very low rate during the financial years **(Table: 2)** as reported by lessee and IBM (It is noted that data submitted by lessee to IBM is incomplete). When ROM/Lump is converted into calibrated ore and fines, it would fetch much higher market value by spending relatively insignificant amount on processing. This fact is evident, if the market price is compared for the calibrated ore, as sold by other lessees in the District. This may range from Rs.3,000/- to Rs.5,000/- per MT depending on the Fe grade.

With the above, it is observed that the major benefits of the mining (in Thakurani Mines of SMPL) are captured by M/s. JSPL. The present arrangement of selling ROM to M/s. JSPL by M/s. Sarda Mines Pvt. Ltd. at a very low price and then allowing JSPL to process through their well established two big plants (1,000 TPH and 3,000 TPH) in the leasehold area for further use or sale of this

processed ore, amounts to transfer the interest of the mining lease to M/s. JSPL, against the provisions of Rule 37 of MCR, 1960.

This unholy arrangement between M/s. SMPL and M/s. JSPL contributed evasion of VAT, Income Tax, service taxes, Money Laundering and other taxes.

The lessee has permitted M/s. JSPL to install two crusher units of a capacity of 1,000 TPH and 3,000 TPH in proxy within the lease hold area without having obtained permission from State Government and Central Government and any other competent authorities under various statutes. Lessee can not allow a third party (JSPL) to install plants to carry out business. It is flagrant violation of Para: 17 of Part II of the lease deed agreement dated 14.08.2001. It is learnt that this massive plants are now further expanded by adding 14 imported machines by JSPL.

It is pertinent to note here that as to how the lessee, M/s. Sarda Mines Pvt. Ltd. has applied for post facto approval for diversion of forest land under FCA to install pipe line and conveyor for transportation of iron ore from the

plants of JSPL to Deojhar Rly. Siding which do not belong to the lessee. Moreover, the Forest Department has also recommended the forest diversion proposal in its favour, despite being aware that the processed ore which is being transported through conveyor does not belong to the lessee, rather belongs to JSPL. 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.

The act of seeking permission by the lessee for installation of pipe line, conveyor for major transportation of sized ore which do not belong to him leads to inevitable inference of the type of relationship and understanding between lessee and M/s. JSPL.

It is pertinent to note here that Advocate General (AG), Shri Shovesh Roy was requested to offer his opinion on violation of Rule 37 of MCR, 1960 in the matter on 25.04.2003.

Based on a copy of the work order (whose authenticity was not verified) provided directly by lessee to AG, he opined that the conditions laid down in “work order”, do not amount to violation of the provisions of Rule 37 of MCR, 1960. He has also opined that the work order was only for two years and all processed ore belonged to lessee.

The facts and circumstances on which AG had given his opinion were totally changed after 2004. In place of small portable crushing plants, two massive plants were established permanently by JSPL in leased area and presently, further expanded. All other infrastructure required to support these plants were also established by JSPL in the Thakurani Mine leasehold area. Subsequent to AG's opinion, the lessee started selling the entire ROM to JSPL at a through away price. There was no further work order (since 20.02.2002 for two years) produced by the lessee and also asked by the State Government. All these facts, which were relevant to consider, were ignored, when the lease was ordered to transfer on 02.06.2006.

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.

On perusal of the file of the State Government, Steel and Mines Department for the transfer of mining lease from Shri S. L. Sarda and Shri M. L. Sarda to M/s. Sarda Mines Pvt. Ltd. (SMPL) and the records submitted by lessee as well as by the Forest & Mines Department, the following inferences are drawn for further needful action.

- 1.** The facts and circumstances, prevailing before the year 2004, from the year 2004 to 02.06.2006 (the date of transfer of mining lease) and thereafter, are found quite different.
- 2.** As claimed by the lessee, on the day of execution of lease deed (after first renewal of mining lease), the lessee has given two contracts i.e. one for mining operations to extract ROM and other allied operations to M/s. Sarda Mines Pvt. Ltd. (SMPL) (a

company formed by the family members of Sarda family in 1997) and other to the crushing, sizing and screening work to M/s. Jindal Steel & Power Ltd. (JSPL).

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.

- 3.** It is claimed by lessee that the ROM produced in the leased area was processed through job work contract by M/s. JSPL and the calibrated ore and fines so produced were sold by SMPL largely to M/s. JSPL and some smaller quantity to others, before 2004.
- 4.** M/s. JSPL has been illegally permitted to install portable machinery for crushing, sizing and screening of ROM of 100 TPH and 250 TPH capacities within the leasehold area till the permanent big plants were established. The production of these plants had been started in April, 2002.

- 5.** The work order to M/s. SMPL has been issued by the Sarda family (lessee) for raising of iron ore (ROM) including drilling, loading, hauling and removing of over-burden at the rate of Rs.150/- per metric ton. It is to note here that the lessee i.e. S. L. Sarda and M. L. Sarda issued a “work order” to a company (M/s. MSPL) which is again owned by the same family. But, surprisingly, once the lease was transferred in favour of M/s. SMPL, the extraction contract was given to somebody else i.e. to M/s. G. S. Atwal & Co. (Asansel). Since many years, this contract is with the said company, as per the submission made by lessee.
- 6.** The lessee has claimed to issue the work order dated 14.08.2001 to M/s. SMPL for raising of iron ore in the mine, Block-B, including drilling, loading, hauling and removing of over-burden at the rate of Rs.150/- per metric ton. On the same date, the lessee has claimed to issue another work order for crushing and sizing of iron ore to M/s. JSPL.

- 7.** On 04.09.2001, the lessee has made an amendment in the work order issued in favour of M/s. SMPL for revising the rates from Rs.150/- to Rs.110/- per Metric Ton with retrospective effect. Such type of amendment is unethical for a prudent businessman and creates doubts to the genuineness of such unstamped letters for such a huge business.
- 8.** The work order issued on 14.08.2001 for crushing and sizing of iron ore at the rate of Rs.125/- per metric ton was for the period of 02 years and the same should have been ended on 13.08.2003. But the lessee has claimed to issue another work order on 20.02.2002 (even before expiry of the period of “the first work order”). The second work order was also issued for 02 years. The work order should have ended on 19.02.2004. This work order was issued for Rs.80/- per metric ton. Hence, the work order issued on 14.08.2001 for Rs.150/- per MT is reduced to Rs.80/- per MT in the year 2003. A reverse pattern is generally not observed in a progressive business.
- 9.** It is noted here that the rates quoted in work orders for crushing, sizing and wining of iron ore do not match with the returns filed to IBM and Balance Sheet of M/s. SMPL with having a vast differences. It creates a doubt of validity of such work orders.

While observing the submission made by the lessee and IBM, the prices of the iron ore at which the purported sale was taking place from lessee to JSPL was approximately 1/10th of the market price of iron ore and from which also, the cost of this crushing and screening was being deducted by way of adjustment in the prices and no upfront payments.

As per the submission of lessee, almost entire production of iron ore ROM from Thakurani Iron Ore Mines B Block has been sold to JSPL and only for a short duration, a small quantity of fines was sold to third parties from the year 2001 to 2003, as observed from IBM records.

Soon after the renewal of the lease (14.08.2001), on 06.10.2001, the Sarda Family Members entered into a memorandum of understanding to apply for transfer of the lease from their individual names to a private limited company, i.e. Sarda Mines Private Limited (a newly formed Company by them only and consequently, on 23.11.2001, an application for transfer (in favour of Sarda Mines Pvt. Ltd.) was submitted to the State Government.

The reasons given for the transfer was that:-

- (a) the banks and financial institutions would prefer dealing with the companies as compared to individuals or partnership firms; and
- (b) transfer of mining lease would facilitate development of mines in a more scientific manner and in an economic scale of operation.

That the purported reasons of facilitating development of mines in a more scientific or economic manner by a Company as compared to individual or a partnership firm is completely illogical reason as that depends entirely on individual capacity and the equipment used. Surprisingly, after the transfer of lease was completed, the lessee has given all mining operations to M/s. G. S. Atwal & Co. and produced ROM and sold to M/s. JSPL. Hence, the logic given by the lessee for transfer of lease has been totally defeated and violated.

It is pertinent to note that the Chief Secretary of the State Government had made a noting in the file stating that, *“it is well known that this mine is being operated by Jindal. Would this not amount to a fraud?”*

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 & 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).

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.

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.

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. **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.**

Whether the water consumption by JSPL/ SMPL from these natural streams, is as per the conditions imposed in EC or otherwise, should be further investigated. As seen from **Table: 2**, most of the ore is purchased/acquired by JSPL from the lessee. How this ore is used by JSPL, requires further investigation together with if any evasion of the freight charges of railways, etc.

Table: 2

Production, dispatch, consignees and sale value from the mining lease of M/s. Sarda Mines Pvt. Ltd. (as per H Form)

Sr. No.	Financial Year	Production as per submission to IBM for Iron by lessee (MT)	Qty. sold/ dispatched (MT)	Type of Ore & Name of Consignee	Sale value per Metric Tone (Rs.)	Cost of production per Metric Tone (including Royalty cost) (Rs.)
1	2	3	4	5	6	7
1	2001-02	289888	198522.48	65% Fe Size – JSPL	50	390
2	2002-03	1284998	595669.547	+65% Fe Size LUMP – JSPL	Not submitted	384.4
			233422.127	+65% Fe Size ROM & LUMP – JSPL		
3	2003-04	2492920	233422.127	65% Fe Size ROM & LUMP – JSPL	H Form is not properly filed.	295.72
4	2004-05	3841047	3051188	ROM (+65% Fe) – JSPL	310.73	242.31
5	2005-06	5094405	3459135	65% Fe Size ROM & LUMP – JSPL	266.591	201.35
			1347410	Lump +65 % size ore to JSPL	196.3594	
			EXPORT 48492.52	Fines (–65 % Fe) EXPORT TO CHAINA TO JSPL	584.04	
6	2006-07	3760750	3863895	65% Fe Size ROM & LUMP – JSPL	235.4074	189.43
			8038.05	65% Fe Size ROM & LUMP – JSPL	426.9817	
			EXPORT 129350.84	Fines (–65 % Fe) export to China	54.89	
7	2007-08	5146415	5117464.23	65% Fe Size ROM & LUMP – JSPL	239.6991	182.76
			28456.26	Fines (–65% Fe) to JSPL	55.55	
8	2008-09	5104695	5176391	65% Fe Size ROM & LUMP – JSPL	Not submitted	280.85

Sr. No.	Financial Year	Production as per submission to IBM for Iron by lessee (MT)	Qty. sold/ dispatched (MT)	Type of Ore & Name of Consignee	Sale value per Metric Tone (Rs.)	Cost of production per Metric Tone (including Royalty cost) (Rs.)
1	2	3	4	5	6	7
9	2009-10	7313262	7270274.29 *	65% Fe ROM – JSPL	307.133	244.95
			* In addition to this, 81399.36 MT old stock materials were dispatched.			
			1697.88	Fines (–65% Fe) to JSPL	508.99	
10	2010-11	5995200	6005705.129	62% to 65% ROM – JSPL	894.4981	562.46
			275991.38	62% to 65% +5 – 25	For consignees self use Captive Consumption	–
			1153668.17	62% to 65% +10–30		
			2857308.42	62% to 65% fines		
11	2011-12	6736110	6589739.51	58% Fe to 65% ROM – JSPL (Crusher site)	1614.688	710.29
			40314.7	Dump working sale to JSPL (Crusher site)		
			1409657.53	62% to 65% Lump	For consignees self use Captive Consumption	–
			478976	60% to 62% fines		
			2704070.43	62% to 65% fines		
			1281731.67	65% and Above		

On verification of the records and information submitted by the IBM, it is noted that the mining plan has been modified under Rule 10 of the MCDR, 1988 **about six times** in a period of five years in violation of Rule 10 of MCDR, 1988. The details, in this regard, are placed in the **first report** of the Commission **for Odisha State**.

It is further noted here that the Environmental Clearance, given on 29.10.2008 for 15 Million Tons per annum, is quite abnormal and perhaps, highest in the country for a single lease. Before this EC, there was another Environmental Clearance given on 22.09.2004 for expansion from 1.5 Lakh Tonnes Per Annum to 4.00 Million Tons Per Annum.

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.

It is further stated that two crushers have been illegally established by 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.

The history sheet of the lease, submitted by the Steel and Mines Department, indicates that the lease was not in operation from its inception to till 2001 because of various litigations, rejections, High Court's orders, Will nomination, etc. An approval under F.C. Act, 1980 dated 21.06.2001 for diversion of 865.276 ha. of forest land (wherein approval for 94.024 ha. is accorded as broken-up area prior to 25.10.1980, 155.252 ha. is to be broken fresh area **in phases and 616.000 ha. is to be maintained as forest**) has been reported. The broken-up area taken as 94.024 ha. is non-convincing and inappropriate, since the lease did not work till the year 2001. At the same time, there is no data made available either by Mines and Forest Departments or by the lessee which can substantiate that mining lease had been worked over to such a large extent of areas i.e. 94.024 ha. before the year 1980. 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. 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.

The first EC was taken on 22.09.2004 and before that, the mining was operated without having EC approval under EIA Notification. Further, a forest area of 0.9457 ha. has been diverted for laying of downhill pipe and conveyer system from the crushing / screening plant established by the JSPL to Rly. siding. 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). **Further, the FC approval was obtained much delayed. Therefore, action should be taken as discussed earlier in this Chapter.**

The matter of violation under Rule 37 of MCR, 1960 is lingering from the year 2000 onwards, since the lease was renewed. There are various notings in the file of the State Government which indicate that the matter of violation under Rule 37 of MCR, 1960 is always on record of the State Government since the year 2000 to till date and the Government is unable to decide it. Hence, immediate action should be taken, in this regard.

It is to state that the lease was transferred in favour of the present lessee for higher investment in the mine for a more scientific operations but by seeing H Forms submitted by lessee to IBM and the other documents, like Balance Sheet etc., all the production of ROM operations in the mine are being carried out by M/s. G. S. Atwal & Co. The lessee has invested hardly anything in the said mine. On perusal of the H Form submitted by the lessee to IBM, it is observed that the H Form is intentionally kept incomplete and there are many unattended corrections/over writings. The IBM has completely failed to obtain full details knowing fully the controversy of control of mine by JSPL. The rates for sale of ROM, as reported in H Forms for various years, are found highly non-convincing, since the cost of production, royalty, etc. itself is more than the sale value in some years.

VII. Recommendation:--

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.

* * *

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

Findings recorded in this Chapter are based upon the information supplied by the various Departments of the State and Central Governments, lessee, MoEF, IBM, etc. It is for the competent authority to issue appropriate notices to the concerned party/lessee for taking action in accordance with law.

Further, the lessee – MISL, through its authorized signatory has made a detailed submission before this Commission on 19.03.2013. While preparing this report, voluminous records submitted by the lessee have also been taken into consideration.

A mining lease over an area of 104.680 ha. was granted in favour of **M/s. K. N. Ram & Company on 23.01.1953 till 22.01.1983** for a period of 30 years. It is noted here that the lessee has not submitted lease deed agreement for this period. Further, remarkably, it is not known why the period was not restricted to 20 years, when it was applicable after the year 1957 under the MM(DR) Act, as was done in most of the cases in the State of Odisha.

I. First Renewal of Mining Lease:--

The lease was renewed (1st RML) from 23.01.1983 to 22.01.2003 for a period of 20 years and in this regard, an indenture was executed on 03.12.1986 between the Governor of Orissa and Shri Mangalji Narbheram S/o. Late Narbheram Vishram of Gua, Singhbhum District, Shri Dilipkumar Atha and others of a partnership firm and in the style of **M/s. Khatau Narbheram & Company** for iron ore in the agreed scheduled area with retrospective effect from 23.01.1983 for a period of 20 years.

It is further required to be noted that the lease expired on 22.01.1983. It is not known as to when renewal application (Form J) was submitted. Assuming that it was tendered in time, then also it ought to have been decided within one year. That having not been done, the lease expired on 22.01.1983 and first RML by indenture dated 03.12.1986 was not permissible in law. In fact, it amounted to grant of a new lease for which prescribe procedure was not followed.

The first renewal of mining lease was, therefore, bad in the eyes of law, as deemed extension clause did not exist then.

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.

II. Transfer in favour of M/s. MESCO Ltd. for captive consumption:--

During the aforesaid period, vide Memo No.8475, dated 30.08.1996 of State Government, Department of Steel and Mines, the lease was transferred in favour of M/s. MESCO Ltd. under Rule 37 of MCR, 1960 with certain conditions for iron ore for their captive use in proposed pig iron plant. The relevant part of the said transfer order with conditions stated therein, reads as under:--

“Whereas M/s. K.N. Ram & Co. in his application dated 16.9.94 have requested Government for transfer of the aforesaid mining lease in favour of M/s. MESCO Ltd. for their captive use of the ores in the proposed steel plants in orissa, under Rule 37 of Mineral Concession Rules, 1960, subject to receipt of Rs.4,25,000/- towards consideration money, which they have spent for development of the mine before execution of the transfer lease deed. Party has also submitted required documents as per rule;

- 1. The lessee M/s. K.N. Ram & Co. shall make available to the transferee the original and certified copies of all the plans, documents as would be required for execution of the transfer deed under Rule 37 of M.C. Rules, 1960;*

2. *The transfer lease deed shall be executed between the transferor & transferee in the presence of Collector, Keonjhar after clearance of all the arrear mining ores, if any pending with the original lessee.*
3. *Mining work either on the forest land broken up before 25.10.1980 or on the fresh forest land can be taken up by the transferee / after obtaining forest clearance from the MoEF, Government of India as provided under Section 2 of the Forest Conservation Act, 1980.”*

III. Transfer in favour of M/s. Mideast Integrated Steel Limited:--

Presently, the lease is under the control of M/s. Mideast Integrated Steel Limited (MISL). Most of the statutory clearances have been accorded in favour of MISL. Since lease was transferred in favour of MESCO Ltd., it is not known how MISL got the status of a lessee. No information has been submitted by the lessee, in this regard.

The Transfer Indenture, in this regard, was entered into on 31.10.1996 between M/s. Khatau Narbheram & Company (by its constituted attorney,

Shri Dilipkumar Atha) and M/s. Mideast Integrated Steel Limited represented by its Senior Vice President and constituted attorney, Shri Vijaykumar Singh S/o. Chaudhary Khusiram, resident of Nageshwar Tangi and the Governor of Orissa.

It is to state here that it is also not known that when the Government has issued order in favour of MESCO Ltd., **how the transfer indenture was executed with the M/s. Mideast Integrated Steel Limited?**

IV. History of Mideast Integrated Steel Ltd. (MISL)

Link: <http://www.mescosteel.com/history.htm>

“Mideast Integrated Steel Ltd. (MISL) belongs to one of the fastest growing business groups in India the MESCO STEEL GROUP which has business interests in steel to airlines. A brief account of MISL’s progress is as follows:

Incorporated in 1992 with assets in coastal Odisha in eastern India.

Secured the Roida iron ore mining lease in the prime iron ore belt of Odisha in 1996.

Joined hands with Stemcor, UK, for a strategic alliance in marketing and financing in 2004.

Pig iron plant at Jajpur successfully commissioned in 2005–since operating uninterrupted.

The first company in India to have technical collaboration with CMIEC now known as Sino Steel, China.

Negligible debt to equity ratio makes us essentially debt free – only company of this size in Iron and Steel business in the country.”

V. Second Renewal by MISL:--

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.

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.

VI. Temporary Working Permissions:--

Temporary Working Permissions under the FCA, 1980 were accorded twice for a period of:--

- (i) six months from 23.11.2004 (in which the lessee has not worked, as claimed); and
- (ii) 103 days from 02.06.2005 for the broken-up area of 23.544 ha. (up to 15.10.2005).

Further, the area admeasuring 51.99 ha. of forest land was diverted under FCA, 1980 from 19.02.2008. During the diversion (Stage I) dated 04.01.2006, the lessee was directed to surrender 44.109 ha. of forest land to State Forest Department with a compliance to be reported. (Condition VIII).

The said Condition VIII stated in Stage I clearance dated 04.01.2006, reads as under:--

“Remaining 44.109 ha. of forest area shall be surrendered by user agency to State Government Department and compliance reported for final approval.”

The occupant/lessee did not comply with this condition.

The said condition has not been taken into consideration by MoEF, while according Environmental Clearances dated 20.12.2007 and 06.09.2010. This has also not been taken into

consideration by IBM, while modifying the mining scheme thrice purely for commercial gains.

Further, after considering the proposal for diversion of said 51.99 ha. of forest land and the compliance report of the State Government with stipulated conditions, the Central Government (MoEF), on 19.02.2008, granted final approval under FCA for the diversion of the said 51.99 ha. of forest land, subject to fulfillment of the conditions stated therein. Condition 17 of the said diversion order reads as under:–

“The User Agency shall confirm to the policy decision of the State Government regarding grant of mining lease in scheduled areas in pursuance of the Gazette Notification in the Department of Steel & Mines S.R.O. No.37 / 2007 dated 15.01.2004 prior to commencement of mining operation on lease renewal.”

It is to be stated that the aforesaid condition has not been complied with yet.

VII. Illegal Production (in violation of Forest Clearance under FCA, 1980):--

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. This is abundantly clear from the enclosed **Annexure: 1** which is reproduced hereinafter for consideration of grant of EC.

Hence, it attracts Section 21(5) of the MM(DR) Act, 1957 and, accordingly, action should be taken to recover the market value with penalty.

The imposition of Penal Compensatory Afforestation (PCA) for the past violations i.e. before 23.11.2004 is also without there being any provision under the FCA, 1980, as stated in the **First Report for the State of Odisha** and as stated in the **summary report** for other leases.

VIII. Environmental Clearance (EC obtained only on 28.12.2007):--

The lessee has submitted the production data from the year 1993–94 to January, 2013 at **Annexure: C of the reply to the notice** issued by the Commission. **(Table: 1)**

Table: 1

Year	Production (MT) as per lessee
1993-94	0
1994-95	0
1995-96	0
1996-97	2443
1997-98	0
1998-99	0
1999-2000	0
2000-01	0
2001-02	0
2002-03	0
2003-04	0
2004-05	0
2005-06	3,11,829
2006-07	16,01,236
2007-08	24,77,200
2008-09	24,87,000
2009-10	27,61,200
2010-11	13,99,000
2011-12	12,62,562
2012-13	13,51,838 (Up to Jan., 2013)

Under the EIA Notification dated 27.01.1994 and amendments therein, the lessee was required to obtain EC before commencement of extraction of iron ore (the lease was lying idle for more than 08 years, even after the second renewal). The lessee has obtained first EC for 5,00,000 MT per year on 28.12.2007. The upper limit of production of iron ore given by the MoEF is quite high than the required capacity for their newly commissioned pig iron plant in Jajpur District. Not only this, the

lessee went for further expansion of the project to increase the production limit from 0.5 Million Tons to 3.00 Million Tons Per Annum, vide MoEF approval dated 06.09.2010.

The approval, in this regard, has been accorded by the MoEF in utter disregard to the actual requirement of the lessee for his plant.

Further, the lessee has submitted a copy of note sheet **(Annexure: 1)** of MoEF file. The note sheet, as submitted by the lessee, is reproduced as under:–

“(iv) The Ministry of Environment and Forests had conveyed its final approval under Section 2 of the Forest (Conservation) Act, 1980 for diversion of 51.99 ha. forest land for renewal of mining lease on 19.02.2008. Forestry Clearance is awaited for the remaining forest land. The following specific condition has been stipulated, therefore:

‘Environmental clearance is subject to grant of forestry clearance. Necessary forestry clearance under the Forest (Conservation) Act, 1980 for an area of 104.68 ha. forest land involved in the project shall be obtained before starting mining operation in that area. Till such time the mining operation shall be restricted to 51.99 ha. forest land for which forestry clearance was obtained

on 19.02.2008. **No mining shall be undertaken in the forest area without obtaining requisite prior forestry clearance.'**

- (v) It is a violation case, the environmental clearance is accorded prospectively and a letter to the State Environment Department has been drafted for taking action against the Company by invoking powers under section 19 of the Environment (Protection) Act, 1986 for the period for which the unit had operated without environmental clearance, therefore.

Since the Expert Appraisal Committee (Mining) has recommended the project for environmental clearance, the proposal is accordingly processed for environmental clearance. If approved, the project may be considered for grant of environmental clearance. Information in the revised check-list is provided at **F/A**. Draft environmental clearance letter (**DFA-I**) is submitted along with letter addressed to the State Environment Department (**DFA-II**) for consideration and approval, please.

(SATISH. C. GARKOTI)

Scientist 'E'

23.08.2010

Scientist 'F' (SKA) 'A' and 'B' above
for consideration pl.

Satish Aggarawal

23/8/2010

Adv (NB) Submitted for approval pl.
Sd/- 24/8/2010

AS (JMM) Sd/- 24/8/2010

Secretary (E & F) Vijay Sharma 25/8

Sd/- 25/8

M (EF) Pl speak Adv (NB)

Let us clear this but in future where there are violations, environmental clearance will not be granted. I am clearing this only because I am informed that if, it is rejected as it should be, in large number of Coal India projects / proposals could be adversely affected.

Sd/- 30.08

Adv (NB)

Dir (SKA) Sd/- Sd/-
01.09.2010 30/8/2010

729/ADBH/070

06/09/2010 AD (SG)

Please issue EC letter and letter addressed to State Env. Deptt. (By Regd. Post) to all concern.

Sd/- 06/09

Sd/- Pl. issue Sd/- 7/9/10"

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 / 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.

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.

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.

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.

IX. Violation of Rule 37 of MCR, 1960:--

The lessee has contracted out all mining operations to M/s. G. S. Atwal & 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.

The State Government has constituted a Committee to look into the violation of Rule 37 of MCR, 1960. The Committee went for field inspection, inspected/examined various documents and submitted a report to the State Government. The Commission has obtained the copy of the said Committee Report in respect of this mining lease and relevant part of the said Report is reproduced as under:--

“Enquiry Report of the Committee constituted vide Notification by Steel & Mines Department, Govt. of Odisha

The committee visited the mines of the Lessee M/s. MID EAST INTEGRATED STEELS LTD on 3rd August, 2011 and the observations are as below:--

1. *The lessee holds a mining lease over an area of 104.680 Hectares in Sidhamatha Reserve Forest of Roida in the District Keonjhar. The surface right granted in favour of the lessee is in respect of 97.19 Hectares.*
2. *The lease was transferred from the Principal lessee M/s. K. N. Ram to M/s. MESCO Ltd. w.e.f. 31.10.1996.*
3. *The lessee has sold sized iron ore to M/s. Padma Logistics & Khanij Pvt. Ltd. at a price abysmally lower vis a vis the market price.*
 - 3.1 *A quantity of about 1,05,237 MT has been sold to the above said buyer at a price of about Rs.3,14,60,468/- during the financial year 2009-10.*
 - 3.2 *The average price per MT to the above said buyer of sized ore predominantly containing the size 5-18 mm and 10-30 mm works out to about **Rs.299/- per MT.***
 - 3.3 *As against the above average price of Rs.299/- per MT charged to M/s. Padma Logistics & Khanij Pvt. Ltd., the lessee has sold similar sized ore to M/s. MAP Mines*

& Minerals Ltd at a price of Rs.2,902/- per MT showing a wide variation.

3.4 Apart from yielding lower revenue by way of VAT to the State Government, the practice followed amounts to parting away interest in the mining lease to the favoured party in violation of Rule 37 of MCR, 1960.

3.5 The representative of MISL stated that M/s. Padma Logistics & Khanij Pvt. Ltd. is the sister concern of M/s. Stemcor India Pvt. Ltd. which is a subsidiary company of Stemcor Holdings Ltd, UK.

4. During the financial year 2010-11 the lessee has affected sales to M/s. Stemcor India Pvt. Ltd. of sized and other iron ore including Calibrated Lump Ore of size 5-18 mm at a price of Rs.467/- per MT which is abysmally low compared to the market price.

4.1 For example, the sales register shows sale of 5000 MT of CLO to M/s. Stemcor India Pvt. Ltd. during June, 2010 at a price of Rs.467/- per MT.

4.2 During the same month the sale of similar product to M/s. Orissa Sponge Iron Steel

Limited is at a price of Rs.3,255/- per MT.

4.3 *The above are only examples out of substantial quantity of ore sold.*

4.4 *Clearly M/s Stemcor India Pvt. Ltd. is a favoured party.*

4.5 *It is of prime importance to note that M/s. Mid East Integrated Steel Limited has been getting financial favours from the Stemcor Group in violation of Rule 37 of MCR, 1960.*

4.6 *A look at the Annual Reports of MISL for the financial years 2007-08, 2008-09 and 2009-10 in the Directors' Report under the heading finance mention "Stemcor Group continued to support the Company in its requirement of finance for the operations and for the above one time settlement payments". Here the above one time settlement payments refer to one time settlements with financial institutions like IPICOL. The scanned copy of the Annual Report of MISL showing the relevant extract for the year 2009-10 is as below:-*



MESCO STEEL

The Global Scenario

Mid-term market estimates suggest a steady growth in demand for iron ore driven primarily by the emerging economies, especially China. On the supply side, enhanced exploration activities and increased production from mines is already taking place. And supply-side constraints of the past are expected to change by 2014. Much of the growth in demand is expected from China. Though China has its own source of iron ore, the deposits are of a quality that makes extraction expensive. Importing iron ore from Australia, Brazil and India is often more viable in an economic sense. What this means is that while the world may see an over-supply condition by 2014 at the macro level, it will also witness a rapid growth in sea-borne iron ore trade driven primarily by exports to China. In fact, seaborne trade has become dominant, and shapes the market by accounting for 95% of international iron ore trade and 55% of world iron ore consumption. The seaborne share of all iron ore consumed is estimated to rise by almost two-thirds by 2017.

Over the last five to seven years, given the lower cost structures, global steel production has been shifting away from developed countries to emerging economies, particularly China. The crude steel production for 66 countries reporting to the World Steel Association was 1220 million metric tons for calendar year 2009, lower by 8% against that of 2008. Hit by the economic downturn, the drop in production was nearly in all steel producing countries barring positive growth recorded in China, India and the Middle East. In most countries including the developed steel markets of the EU, the U.S.A., Japan, Brazil, CIS deterioration in the economy resulted in a sharp decline of demand in key steel using sectors.

China's production has been growing at a much faster pace than global output over the last eight quarters. Post the financial and economic crisis of 2008, steel demand is also shifting towards the emerging economies. The steel consumption in the emerging economies of Brazil, Russia, India and China (BRIC) increasing by 3.2% in 2008 and 19.2% in 2009. China alone witnessed a massive 27.4% increase in steel consumption in 2009. Growth in steel demand is now emanating from emerging economies. This changing landscape of the global iron and steel industry in terms of demand and supply has resulted in new opportunities and challenges. Fundamentally, given that China, Brazil, India and other emerging economies are in different phases of development compared to the advanced world, there is a re-alignment in favour of costs and towards more value-driven products. Consequently, competitive pricing and effective utilization of resources are increasingly becoming key strategic objectives for steel producers.

OPERATIONS REVIEW:

DIVIDEND

In view of the expansion program undertaken by the company to become an Integrated Steel Plant, the Board of Directors of the company, therefore, does not recommend any dividend for the year 2009-10.

EXPANSION

The company is on the committed path in commissioning the Sinter Plant, the Oxygen Plant and Pulverized coal dust injection unit and reheating furnace during 2009-10 with a forward integration to manufacture 0.8 Mt of billets and Blooms. In the immediate next phase of expansion the company will be installing an Electric Arc Furnace to increase the production of steel to 1 million tonnes per annum and also add a rolling mill to manufacture long products and a coke oven battery for manufacture of coke which will help reduce the cost of production. Apart from this the company is strategically tying up for expanding the capacity further to 3MTPA steel manufacturing plant in 2 phases by using the new high cost saving technologies, which are being examined.

FINANCE

Your company repaid all the secured creditors a One Time Settlement last year except for IIBI and IPICOL. As IIBI is under liquidation we are at government instruction in the matter. As regards IPICOL it is subjoined in the court. However we have already told the court that we are prepared to settle the loan under OTS for which no response is forthcoming from IPICOL. Negotiations are on with IIBI and IPICOL for reaching a reasonable and mutually convincing settlement. SBI loan is being repaid as per mutually concluded settlement under the aegis of DRT. Stercor Group continued to support the company in its requirement of finance for the operations and for the above one-time settlement payments.

DIRECTORS

The Honorable High court has appointed a committee chaired by Mr. Arvind Pandey the Ex- CMD of SAIL, India to oversee and monitor the progress of the company.

AUDITORS

M/s Sangram Paul & Co. Chartered Accountants, Bhubaneswar Statutory Auditors of the Company, hold office until the conclusion of the ensuing Annual General Meeting and are eligible for reappointment.

The Company has received letter from them to the effect that their reappointment, if made, would be within the prescribed limits under Section 224(1B) of the companies Act, 1956 and that they are not disqualified for such reappointment within the meaning of Section 226 of the said Act.

4.7 The Annual Report & Accounts of Stemcor Holdings Ltd, UK at page 16 under the heading “ Review of Operating Units” mentions “ The Group’s mining activity comprises and a 10% stake in Mid East Integrated Steel Ltd which also operates an Iron Ore Mine. The scanned copy of 2010 Report and Accounts of Stemcor Holdings Ltd showing relevant extract at page 16 is as below –

16 Stemcor Holdings Limited
2010 Report & Accounts

Operating review

Commission tonnage fell for the second consecutive year, from 3m tonnes to 2m tonnes. Commission tonnage became significant in 2000, when it first exceeded 1m tonnes. It rose to 2m tonnes per annum in 2006 and peaked at 5m tonnes in 2008. It is primarily a raw material trade flow. Commission tonnage now represents 10% of tonnes handled, down from 17% in 2009.

Group gross profit includes the contribution from commission tonnage and sundry fees.

	2010 Jul- Dec	2010 Jan- Jun	2009 Jul- Dec	2009 Jan- Jun	2008 Jul- Dec	2008 Jan- Jun
Tonnes invoiced (millions)	9.0	7.9	7.0	5.5	6.8	8.3
Turnover (£m)	2,706	2,435	1,678	1,862	3,482	2,807
Average sales price per tonne (£)	300	308	239	338	512	339
Gross profit %	4.6	4.9	4.1	1.8	2.3	4.9

The last three half year periods show a picture of continuing growth in tonnes invoiced and turnover. Average sales price and margin dipped in H2 2010, but the movement was not significant. The gross margin percentage has remained in the 4% to 5% band for the last three half years, where it was pre-recession. The recession of 2008/2009 seems to have abated and growth is once again becoming a feature of the Group's numbers.

Overheads

The move into a more profitable trading environment allowed the Group to relax some of the cost saving measures that were introduced in 2009. In particular, the pay and recruitment freezes were lifted. As the operating units in the Group have increased profitability, so bonus payments will also increase.

Total Group personnel numbers rose from 1,461 at the end of 2009 to 1,678 at the end of 2010. The increase of 217 employees is the net of starters and leavers. The Metalfar acquisition accounted for 158 of this increase. Of the remaining 59, Indian operations absorbed 20.

The result was that administrative expenses and distribution costs increased by 30%. Approximately half of this increase arose from the resumption of profit related pay. Core personnel costs remained stable.

Interest

The fall in net interest expense is a combination of higher interest receivable and lower interest expense. Interest receivable from customers and suppliers increased as prefinance bounced back from its 2009 lows. Interest expense decreased despite the increase in borrowings. Although year end borrowings in 2010 have increased by approximately 50%, this is largely due to the timing of the draw downs and the average level of borrowings was close to that of 2009.

Taxation

The effective tax charge for the year is 39%. Differing tax rates between jurisdictions and restrictions on the ability to offset losses, both between jurisdictions (as one would expect) and increasingly within jurisdictions (as restrictions are imposed on the speed at which losses may be offset against subsequent years' profits), mean that the tax charge is once again in excess of the UK standard rate of corporation tax. Despite making profits in the jurisdictions where losses were incurred in 2009, the Group still has substantial losses to carry forward to future years.

Minority interests

The Group has minority interests in two of its subsidiaries, Ansteel Spain and Anyan Mining, both of which had a profitable year. The marked increase in minorities' share of profits in 2010 reflects the particular success of Anyan Mining during 2010.

Review of operating units

The Group's business is divided into four principal activities: Mining, International Trading in steel and steel-making raw materials, Distribution and Stockholding. These four activities form a matrix which cuts across legal entities and geography. Within these activities, trading in specialist products and niche markets is encouraged and is proving to be an engine for growth.

The Group's Mining activity currently comprises Anyan Mining & Trading Corporation (AMTC), an iron ore mine, Brahmani River Pellets Ltd (BRPL), a beneficiation and pelletisation plant in the course of construction, and a 10% stake in Mid East Integrated Steel Ltd (MISL) which also operates an iron ore mine. AMTC increased its volumes invoiced and this, combined with the increase in raw materials prices, saw its turnover more than double. Exports from MISL also increased and benefited from the increase in international prices. There has been a review of mining permissions in the

Distribution Our import distribution and warehousing activities split bulk consignments and arrange inland delivery, mainly to stockholder and service centre customers.



- 4.8 *As evident from the Annual Reports of MISL mentioned above, and from the published report and accounts for the year 2010 of Stemcor Holdings Ltd, UK, there has been a systematic and planned action by MISL and Stemcor Holdings, UK to transfer interest in the mines of MISL to M/s. Stemcor Holdings Ltd, UK.*
- 4.9 *The acquisition of 10% stake in MISL by Stemcor Holdings Ltd is not just a simple financial investment in the stock market but to create interest in the mines of MISL in favor of Stemcor Holdings Ltd; the plan involving first a financial bailout package to MISL as evident from Annual Reports of MISL, followed by acquisition of 10% stake in MISL which is further followed by under value sales at abysmally low prices from mines of MISL to Stemcor dictated parties.*
- 4.10 *The agreements between MISL and Stemcor group which show substantial financing as well as transfer of interest in mining rights.*
- 4.11 *The said agreement, inter-alia, provides for right of Stemcor group towards purchase of 22.50 % of the iron ore raised*

at actual direct cost of raising exclusive of even depreciation ,interest cost or apportionment of fixed overheads except by agreement. Further, Stemcor group is entitled to commission on sale of balance 77.50 % of the quantity raised thus creating interest of Stemcor in the entire mining operations. In fact the agreement provides exclusive purchase rights from the mines in favour of Stemcor group.

5. *The observations above show that there is prima facie violation of Rule 37 of the Mineral Concession Rules, 1960.*

(P. C. PATRA)

*DDM, Directorate of Mines,
Orissa, Bhubaneswar.*

(U. N. NAYAK)

Finance Consultant, OMC Ltd.

(K. C. SAHOO)

*FA-cum-Dy. Secy. to Govt.,
Steel & Mines Deptt., Orissa.*

(ARUN KUMAR VERMA)

Chartered Accountant

(MANORANJAN NAYAK)

*Asst. Commissioner (Enforcement),
Commercial Taxes, BBSR.”*

X. Violation of the provisions of the MM(DR) Act, 1957; FCA, 1980 and MCR, 1960:--

From the above Report, it is inferred that the lessee has erred to collaborate with the foreign investors and, thereby, violated Section 5 of the MM(DR) Act, 1957, Section 2 of FCA, 1980 and Rules 22 and 37 of MCR, 1960. (This has been discussed in detail for the **lease summary report of AMTC Pvt. Ltd.**).

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.

XI. Captive Consumption:--

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.

Over and above to this, the lessee has filed a delayed Form J for second renewal of the lease

which was subsequently condoned by the State Government. As per Rule 24(B) of MCR, 1960, the lessee shall be entitled for the renewal of his mining lease for a mineral which is used in his own industry. The relevant **Paras: XD** and **xiii** of “**Form J**” are reproduced as under:-

“XD. *Is the mineral going to be used in his own industry? If so, give full details, (For “own industry” see Explanation under rule 24B)* : *Yes, M/s. MISL has proposed a steel plant of Khurunti in district jajpur, Once the plant comes to operating stage, the mineral is going to be utilised in this proposed plant.*

xiii. *Manner in which the mineral raised is to be utilized*

a. *For manufacture in India* : *For internal consumption in different steel industries.*

b. *For exports to foreign countries.* : *-----*

- c.** *In the former case the industries in connection with which it is required, should be specified. In the latter case the countries to which the mineral will be exported and whether the mineral is to be exported after processing or in raw form should be stated.*
- :** *The ore will be consumed in our own plant after operation of plant.”*

By reading together sub-paras ‘a’ and ‘c’ of **Para: xiii** and **Para: XD**, it is clear that the lessee had asked for renewal of lease for the consumption of iron ore for their own plant and taking that into consideration, the State Government has condoned this delay for late filing of Form J. The lessee has commissioned his pig iron plant in the year 2005 in Jajpur District.

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. The Table, in this regard, is reproduced as under:-

Table: 2**Statement of Production, Dispatch, Domestic Consumption and Export (MT)**

Sr. No.	Year	Balance of Previous Year (MT)	Production (MT)	Dispatch (MT)	Domestic Consumption (MT)	Export (MT)	Export to Whom	Transfer to Plant (MISL)
1	2006-07	2,37,061	14,30,042	13,69,279	10,77,833	23,960	Stemcor Sea Pte. Ltd.	2,87,421
2	2007-08	2,97,823	24,51,965	23,61,931	20,34,653	1,60,649	Stemcor Sea Pte. Ltd.	3,85,060
3	2008-09	4,08,527	24,86,430	22,03,183	17,95,593	3,67,554	Stemcor Sea Pte. Ltd.	1,07,962
4	2009-10	6,91,774	26,22,118	19,89,114	18,59,937	1,42,880	Stemcor Sea Pte. Ltd.	85,313
5	2010-11	13,24,778	13,99,000	13,47,092	11,98,775	1,65,902	Stemcor Sea Pte. Ltd.	1,02,105
6	2011-12	13,76,687	12,62,562	11,11,521	10,54,830	67,351	Stemcor Sea Pte. Ltd.	1,61,571
7	2012-13 (upto Dec. 2012)	15,27,728	13,51,838	9,65,534	9,73,808	0	###	2,50,438
Total:--		58,64,378	1,30,03,954	1,13,47,653	99,95,430	9,28,296		13,79,869

From the **Annexure: 2**, it is also pointed out that the lessee is only making use of the iron ore of an average **1,97,124 MT** per year in its pig iron plant (**Table: 2**).

The rest of the ore is either sold in the domestic market which might have again found the way to the export (in some cases) and also directly exported through its associated Company i.e. Stemcor Sea Pte. Ltd.

XII. Evasion of various Taxes:--

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 for calculation of profits and likewise. A prudent businessman would not keep such an unused quantity of iron ore which is even more than the yearly production in some years.

Further, in the context of under value sale to M/s. Padma Logistics & Khanij Pvt. Ltd. and Stemcor and others, for the quantity to be taken into consideration (the submission made by the lessee) is enclosed herewith at **Annexure: 2**.

XIII. Violation of Rule 10 of MCDR, 1988:--

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.

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.

XIV. Action taken by the Authority is sought to be frustrated:--

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**.

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).

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.

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).

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 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.

XV. Recommendation:--

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 mindset indifferent to law and resulted into the large scale illegal mining in the State.

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.

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.

(Contd.)

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- (iv) The Ministry of Environment and Forests had conveyed its final approval under Section 2 of the Forest (Conservation) Act, 1980 for diversion of 51.99ha forestland for renewal of mining lease on 19.02.2008. Forestry clearance is awaited for the remaining forestland. The following specific condition has been stipulated, therefore:

Environmental clearance is subject to grant of forestry clearance. Necessary forestry clearance under the Forest (Conservation) Act, 1980 for an area of 104.68ha forestland involved in the project shall be obtained before starting mining operation in that area. Till such time the mining operation shall be restricted to 51.99ha forestland for which forestry clearance was obtained on 19.02.2008. No mining shall be undertaken in the forest area without obtaining requisite prior forestry clearance.

It is a violation case, the environmental clearance is accorded prospectively and a letter to the State Environment Department has been drafted for taking action against the Company by invoking powers under section 19 of the Environment (Protection) Act, 1986 for the period for which the unit had operated without environmental clearance, therefore.

Since the Expert Appraisal Committee (Mining) has recommended the project for environmental clearance, the proposal is accordingly processed for environmental clearance. If approved, the project may be considered for grant of environmental clearance. Information in the revised check-list is provided at F/A. Draft environmental clearance letter (DFA-I) is submitted alongwith letter addressed to the State Environment Department (DFA-II) for consideration and approval, please.

(SATISH C. GARKOTI)
Scientist 'E'
23.08.2010

Scientist 'F' (SKA)

AW/MS

AS/HMM

Secretary (E&F)

M (E&F)

Submitted for approval Pl. 23/8/2010

24/8/2010

27/8/2010

25/8

Adv UNB

Sp. condition no (11)

Office of the
Env. Officer
Dy. No. 2662
Date 20/8/10

6821/A26-08
24/8/2010

MOS (I/C) E&F
Dy. No. 3029
Date 26/8/10

FI/AD/MS/1070
23/08/2010

1362/Dx/348
23/8/10

OIA S. (J. M.)
Dy. No. 2662
Date 24/8/2010

For Mideast Integrated Steels Ltd.

Authorised Signatory

Let us clear this but
in future where there are
violations, environmental
clearance will not be granted.
I am clearing this only because I
am informed that if it is
rejected as it should be, a large
number of Coal India projects/proposals
could be adversely affected.

JL

28/8

Akr (KJB)

Dinesh (A)

10 BHL

30/8/2010

729/ADSD/070

06/09/2010

A 1884

9/9/10

SR/A

FD (G)

Please issue GC letter and letter
addressed to State Env. Dept. (By Regd. Post) to all concerned.

2/9/06/01

For Mideast Integrated Steels Ltd.

Authorised Signatory

Annexure - 2

Statement of Production, Despatch, Domestic Consumption and Export (Metric Tonne) Year 2005

Iron Ore

(1)	Bal. of 2005-06 (2)	Production (3)	Despatch (4)	Domestic Consumption (5)	To whom sold of Col. 3 (6)	Qty. of Col. 6 (7)	Export Qty. (8)	To whom sold of Col. 8 (9)	Quantity (10)	Total Quantity (11)	Port of Origin (12)	Port of Destination (13)	Country (14)
1	237,060.95	1,430,041.61	1,369,279.40	1,077,833.14	Adani Enterprises Ltd.	942.65	13,000	STEMCOR SEAPTEL LTD.	13,000	39,017,447.00	HALDIA PORT	SINGAPORE	INDIA
					Adhunik Alloys & Power Ltd.	13,255.06	10,000	STEMCOR SEAPTEL LTD.	10,000		VIZAG PORT	SINGAPORE	INDIA
					Adhunik Metals Ltd.	4,489.83							
					Ajay Minerals	9,957.26							
					Anjani Steels Pvt.Ltd.	3,880.73							
					Ankit Metals & Powers Ltd.	95.74							
					B.T.M.Exports Pvt.Ltd.	55,302.24							
					Baba Bakdyanath Minerals	999.99							
					Bakdyanath Iron & Steels	1,009.62							
					Baleji Industrial Products	4,355.06							
					Banspani Iron Ltd.	4,872.46							
					Beekay Steel & Power Ltd.	3,335.01							
					Bhagwan Minerals	3,978.29							
					Birny Steel Pvt.Ltd.	5,743.08							
					Cargo Liners Pvt.Ltd.	3,993.83							
					Deepak Steel & Power Ltd.	2,963.01							
					East India Minerals Ltd.	2,000.00							
					Essar Steel	1,299.92							
					G.M.Corporation	7,114.75							
					G.N.G.Exports	19,787.81							
					Gampa India Pvt.Ltd.	34,602.08							
					Ganapati Metals	991.40							
					Gimpex Ltd.	3,705.21							
					Godawari Power & Ispat	7,057.50							
					Indcast Ore & Minerals	989.12							
					J.B.Industries	8,020.48							
					J.B.S.Minerals	1,904.99							
					Jagannath Minerals	8,589.00							
					Jai Maa Vaishnodevi Minerals	4,502.42							
					Jharkhand Ispat Pvt.Ltd.	1,000.26							
					Khatu Shyamjee Minerals	1,973.77							
					King Mineral	890.61							
					L.N.Exports	1,000.00							
					Legend Steel Pvt.Ltd.	2,787.00							
					LMJ International Ltd.	4,740.31							
					M.B.Ispat Corporation	26,871.48							
					M.V.Industries Pvt.Ltd.	13,265.06							

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ANNEXURE: 2

For Mideast Integrated Steels Ltd.

Authorised Signatory

Meta Engineering & Iron Ltd.	1,868.00
Meta Vidyawati Metals	1,000.00
MHT Ltd.	16,428.49
MHT Metals & Ore	19,497.32
MSP Sponge Ltd.	492.30
N.K.Bhojani Pvt.Ltd.	2,003.66
Neo Metalliks Ltd.	7,427.83
Odyssey Minerals Pvt.Ltd.	1,240.00
Ore Cast India	4,989.00
Orissa Minerals	34,375.88
R.Pyralat International	3,130.49
Raghuvansi Metals & Minerals	11,669.78
RAMCO Minerals	2,013.05
Rashmi Cement Ltd.	178,591.09
Rashmi Ferro Alloys Ltd.	479.30
Ritesh TradeFin	9,347.69
S.K.D.Steel Pvt.Ltd.	6,423.80
S.K.Sarawagi & Sons	11,347.96
S.P.Minerals	109.00
Sarwaria Steel Pvt.Ltd.	50.00
Shagun Projects	12,375.56
Shree Ganpati Minerals	991.40
Shree Mahavir Ferro Alloys	8,816.00
Sidhartha Sponge & Power	1,730.60
Sidhi Vinayak Ferro Alloys Ltd.	1,463.72
Singh Metalliks	3,894.86
SPS Steel & Power Ltd.	5,739.36
Sri Arival Parvati Bhagabati Minerals	24,926.79
Sri Balaji Minerals	958.97
Sri Sai Enterprises	2,076.80
Sri Virangana Steels Ltd.	9,319.01
Sunflag Iron & Steel Co.Ltd.	3,669.45
Surya Khanij	10,333.50
Swati International	19,975.98
Taurian Iron & Steel Co.Pvt.Ltd.	17,905.62
Urvee Minerals	315.35
Utkal Ispat Pvt.Ltd.	32,568.88
Vedryas Minerals Pvt.Ltd.	17,426.34
Volatile Logistics	965.28
Transfer to Plant	287,421.00

1,077,833.14

23,960.00

23,960.00

39,017,447.00

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Sl. No.	Particulars	Production (A)	Despatch (A)	Domestic Consumption (B)	Wholesale Col. (C)	Qty. of Col. (C)	Export Qty. (D)	Wholesale Col. (E)	Quantity (E)	Total Royalty paid (in Rs.) against col. 4 (11)	Grade of Col. 4 (12)	Name of the Export Firm (13)	Country Name (14)	Sl. after Despatch (For next year) (15)
	Hall Park Consultancy					13,191.52								
	Hansini Distributors					5,153.43								
	Hrithik Ferro Alloys					521.32								
	Indcast Ors & Minerals					1,498.80								
	Indo Ingots & Refiners					5,169.51								
	Inter-Ocean Impex Pvt.Ltd.					615.16								
	Iron Cement India Pvt.Ltd.					728.78								
	J.B. Industries					9,415.91								
	J.B.S. Minerals					9,859.05								
	Jai Maa Vaishno Devi Minerals					2,281.85								
	JISCO Enterprises					135.19								
	K.B. Roadlines					1,024.59								
	K.N. Ram					29,620.47								
	Kabra Brothers					2,388.98								
	Kalinga Minerals					50.00								
	Kalsi & Associates					19,237.40								
	Kandoi & Sons					9,959.65								
	King Mineral					5,498.52								
	Lata Industries					7,803.88								
	Legend Steels Pvt Ltd					73,656.37								
	Leharsh Exports & Services Pvt.Ltd.					1,369.97								
	LMJ International Ltd.					3,356.68								
	Lords Polymer (I) Pvt.Ltd.					1,640.50								
	Lucky Minerals(Sales)					21,078.58								
	Lucky Trader(Om shree infotech)					1,996.46								
	M.B.Ispat					8,221.85								
	M.V.Industries Pvt.Ltd.					6,804.86								
	Maa Chhinnamastika Sponge Iron Ltd.					9,078.96								
	Maa Samaleswari Crushing Plant					1,000.09								
	Maa Shakambari Steel Ltd					480.00								
	Maheswari Ispat Ltd.					245.00								
	Mangalam Metals and Ors					63,511.08								
	Million Minerals Trading Company					236.20								
	MMTC Ltd					10,655.26								
	N R Sponge Pvt.Ltd.					1,188.72								
	Neo Metalks Ltd.					14,402.10								
	Niranjan Hi tech Ltd.					635.21								
	Nobel Resources & Trading (I) Pvt.Ltd.					1,742.52								
	Nutan Ispat & Power Pvt.Ltd.					208.19								
	OCL India Pvt.Ltd.					17,784.30								

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Sl. No. (1)	Ref. No. (2)	Production (3)	Despatch (4)	Domestic Consumption (5)	To whom sold of Col.3 (6)	Qty. of Col.3 (7)	Export Qty. (8)	To whom sold of Col.3 (9)	Quantity (10)	Total Royalty paid (in Rs.) Against col.4 (11)	Fe grade of Col.4 (12)	Name of the Export Port (13)	Country Name Exported (14)	Balance (For next year) (15)
					Odyssey Mineral Pvt.Ltd.	2,991.80								
					Omar & Sons	14,981.29								
					Ore Cast India minerals	37,158.88								
					Orex Mineral Ltd.	4,776.88								
					Orisa Minerals	9,806.80								
					Orissa Motors Pvt.Ltd.	14,030.00								
					Padma Logistics & Khanji Pvt.Ltd.	104,780.02								
					PKS Ltd.	25,370.18								
					Prabha Minerals	2,469.70								
					Pratik Minerals	3,536.16								
					Pushpa International	1,051.74								
					R.Pyarelal Iron & Steel (P) Ltd.	5,963.05								
					R.K.Behuria	1,780.72								
					R.Pyarelal International Pvt.Ltd.	1,745.16								
					Radhika Enterprises	3,034.76								
					Ramsarup Loha Udyog	10,275.19								
					Ranisati Minerals Pvt.Ltd.	4,992.15								
					Rashmi Cement Ltd.	48,252.70								
					Rashmi Ferro Alloys Ltd.	507.00								
					Rashmi Metaliks Ltd.	199,846.64								
					Ravish Metalicks	1,508.56								
					Rawment Commodities Pvt.Ltd.	2,488.09								
					Ritika Alloys Pvt.Ltd.	1,973.22								
					S K D Steels Pvt Ltd	3,759.77								
					S.K.Sarawagi & Co.Pvt.Ltd.	11,955.29								
					S.M.Niryat Pvt.Ltd.	2,871.53								
					S.S. Raisers Pvt.Ltd.	3,700.45								
					S.S.Logistics	926.64								
					S.S.P Minerals	5,754.58								
					SAB Metaliks	976.79								
					Sanwaria Steel Pvt.Ltd.	2,075.62								
					Sara International Ltd.	9,709.73								
					Satguru Minerals & Steels(Sales)	4,994.00								
					Sesa International.	4,202.48								
					Sesa Minerals Ltd.	23,190.24								
					Seshdev Exports Pvt.Ltd.	3,935.69								
					Shakti Mines & Minerals	6,729.92								
					Sheetal Minerals & Alloy Pvt.Ltd.	3,401.00								
					Shiv Lord	6,472.16								
					Shiv Shakti Steel Pvt.Ltd.	7,189.81								
					Shree Balaji Fines & Chemicals	2,441.05								
					Shree Balaji Metal Industries	4,676.21								

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Shree Mahaveer Iron Works	1,179.81
Shree Ram Cracking Industries	1,091.79
Shree Shyam Minerals	16,848.17
Shree Shyam Minerals (Jharkhand)	2,478.88
Shree Shyam Minerals (Kazir) Sales	29,428.41
Shree Udyog	2,973.99
Shubham Enterprises	640.71
Shyama Minerals	607.46
Siddhi Vinayak Minerals	1,395.21
Sidhartha Sponcer & Power Pvt Ltd	210.24
Singh Metals	596.81
Singhania & Sons Pvt Ltd	28,026.07
Skylark Fiscal Services Pvt Ltd	1,824.60
Soorya Ores & Mining Pvt Ltd.	1,647.40
SPS Steel & Power Ltd.	30,226.53
Sri Virangana Steels Ltd.	5,557.96
SRMB Udyog Ltd.	10,120.00
Subham Enterprises	1,432.42
Sudama Export Pvt Ltd.	3,036.66
Sunflag Iron & Steel Co. Ltd.	3,505.86
Surya Khanij	1,807.82
Tarini Minerals	6,415.85
Tarini Supply Agency	3,151.15
Taurian Iron & Steel Co. Pvt Ltd.	3,861.58
Tirupati Balaji Enterprises	10,436.13
Tirupati Balaji Transport (Sales A/C)	3,554.95
Utkal Ispat Pvt Ltd.	35,125.47
Unison Logistics	34,885.38
Vardhaman Axles & Wheels Pvt Ltd	2,000.31
Vardhaman International	650.04
Vedvyas Minerals Pvt Ltd.	10.35
Vinayak Minerals	3,446.06
Vinesh Trading Pvt Ltd.	11,508.97
Westwell Iron & Steel Pvt Ltd	2,930.88
Yazdani International Pvt Ltd.	2,596.65
Transfer to Plant	385,059.66

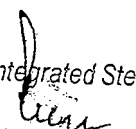
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160,649.00

160,649.39

52,520,778.00

For Mideast Integrated Steels Ltd.


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