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Government of India

Ministry of Coal

....
12, Rajendra Prasad Road, Shastri Bhavan
New Delhi, the 23rd September, 2008

To

The Chief Secretary,
All State Govts/Union Territories

Subject: Captive coal mining by formation of Joint Venture Company/Special Purpose Vehicle and applicability of Sales Tax /VAT on transfer of coal to Joint Venture Partners/coal block allocates-Reg.

Sir,

I am directed to say that a number of Indian companies have been allocated captive coal blocks under the relevant provisions of the Coal Mines (Nationalisation) Act, 1973 from time to time. Some of the captive coal blocks have been allocated jointly, instead of a single company to a group or a consortium of companies, in order to encourage conservation of precious national resource and deployment of optimal technology.

2. In case of joint allocation of captive blocks, mining of coal block is taken up by the joint allocates or the consortium of companies by forming a Joint Venture Company (JVC)/Special Purpose Vehicle (SPV), where the allocatee end user companies hold equity stake proportionate to their share in coal production from the mine. The JVC/SPV mining company after mining the coal shall transfer it to the block allocatees for their captive end-use plant. This transfer of coal from a JVC/SPV mining company to the block cannot be treated as sale of coal from the mining company to the end-use company, since it is an arrangement entered into to facilitate mining operation by the joint allocatees, who in turn are using the coal for captive end use. This does not amount to trading of coal. This is akin to the situation where a single coal block allocatee carries on the mining operation in the allocated block for its captive end use plant and no sales tax is levied by the State Government on this.

3. Accordingly, the Central Government is of the view that in cases of transfer/handing over of coal by the JVC/SPV mining company, formed in pursuance of the terms and conditions of allocations, to the joint

allocates of a coal block, levying of sales tax/ VAT by the State Govt. /UTs may not be applicable.

4. The Governments of State/UTs are, therefore, requested to look into the matter and issue appropriate directives to the State tax authorities not to levy sale tax/VAT on transfer / handing over of coal by a JVC/SPV mining company to the joint allocates of a coal block. This Ministry may be kept apprised of action taken in this behalf.

Yours faithfully,


(V.S. Rana)

Under Secretary to the Govt. of India

Copy to:-

1. CMD, CIL, Kolkata.
2. CMD, SCL, Hyderabad
3. CMD, CMPDIL, Ranchi
4. Coal Controller, Kolkata
- ✓ 5. NIC, MoC for placing in Website.