

F.No-103/16/2015/NA  
Government of India  
Ministry of Coal

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120, F- Wing, First Floor,  
Shastri Bhawan, New Delhi  
Dated : 20<sup>th</sup> May, 2021

To,

**The Chairman and Managing Director**  
West Bengal Power Development Corp. Ltd,  
Bidyut Unnayan Bhaban,  
3/C, L.A. Block, Sector-III,  
Salt Lake City, Kolkata-700106

ALSO TO,

**Chief Manager,**  
Allahabad Bank,  
Kishore Bhavan,  
4<sup>th</sup> Floor, 17, R.N.Mukherjee Road,  
Kolkata-700001

**Sub: - Termination of Allotment Agreement and Allotment Order in respect of Kasta (East) coal mine allotted to M/s. West Bengal Power Development Corp. Ltd. under the Coal Mine (Special Provisions) Act' 2015.**

Sir,

This is in reference to the Allotment Agreement dated 26.03.2015 signed between the Nominated Authority and M/s. West Bengal Power Development Corporation Limited (WBPDC) in respect of Kasta (East) coal mine. As per clause 6.1.5 of the Allotment Agreement, "the Performance Security should remain valid until such time when the Coal Mine achieves the annual peak rated capacity" and as per clause 10.1 of the Allotment Agreement, "The conduct of mining operations at the Coal Mine shall be subject to the milestones listed in Schedule 'E' (the "Efficiency Parameter")".

2. Further, attention is also invited to Clause 24.3.1 (e)(f)(i) and (p) of the the Allotment Agreement dated 26.03.2015 in respect of the aforesaid coal mine which has been reproduced as under:-

*"24.3.1. This Agreement may be terminated upon occurrence of any of the following events (each a "Termination Event"):*

*..(e) failure of the Allottee to replenish the Performance Security within a period of 15 Business Days, in the event that a part of the Performance Security has been appropriated;*

*mji*

(f) non compliance of the Allottee with the Efficiency Parameters for more than five instances (in aggregate and not over a specified period) as provided in Clause 10.3;

(i) failure to provide any information requested by the Nominated Authority in terms of this Agreement;

(p) cessation of coal mining operation exceeding a period of one year continuously, or 18 months over a period of two years without occurrence of any Event of Force Majeure;”

3. Further, as per Clause 24.3.3 of the Allotment Agreement;

*“In case the Nominated Authority elects to terminate this Agreement, then the Performance Security and all other payments made by the Allottee shall be forfeited and the Allottee shall not be entitled to any benefits under this Agreement but would continue to be liable towards any antecedent liability, all obligations accrued before the effective date of surrender/termination and also for the obligations that must be fulfilled after termination.”*

4. It is pertinent to mention here that show cause notices were served to M/s WBPDCCL for following milestones and accordingly decision of appropriation of 65% of the Performance bank guarantee amounting to ₹13,32,50,000/- (₹ Thirteen Crore Thirty Two Lakh Fifty Thousand Only) i.e an amount equal to 65% of Rs. 20,50,00,000/- from the Bank Guarantee No. 0049417IPG000039 dated 22.12.2017 has been done on recommendation of the Scrutiny Committee in its meeting held on 05/06th February, 2020 :-

Sl. No.	Milestone as per Efficiency Parameters	Due Date for completion of Milestone	Actual Date of achievement of Milestone	Weightage prescribed for apportion of Performance Security (in %)
1	Mining Lease Application	16-August-2016	23-May-2017	7%
2.	Submission of Mining Plan	16-Nov-2016	22-Feb-2019	8%
3.	Mining Plan Approval	16-April-2017	Not yet completed	8%
4.	Previous Approval Application	16-May-2017	Not yet completed	6%
5.	Previous Approval	16-June-2017	Not yet completed	5%
6.	Forest Clearance Application	16-April-2017	Not yet completed	8%
7.	Forest Clearance	16-February-2018	Not yet completed	5%
8.	Environment Clearance	16-April-2017	Not yet completed	8%

*Mjn*

	Application			
9.	Environment Clearance	16-February-2018	Not yet completed	5%
10.	Grant of Mining Lease	16-May-2018	Not yet completed	5%

5. M/s WBPDCCL was required to top-up/replenish the bank guarantee constituting the Performance Security within fifteen business days of receipt of a notice under clause 6.3.3, which is still awaited.

6. In addition to this, a show cause notice dated 14.10.2020 was issued to M/s WBPDCCL for following milestones and Allottee was also asked to top up the Bank Guarantee but neither the response/ reply to the show cause notice has been received in this office nor the Bank Guarantee has been replenished.

Sl. No.	Milestones	Due Date
1.	Land Acquisition (To reach rated capacity)	16.11.2019
2.	Opening of Escrow Account	16.12.2019
3.	Application for opening Permission	16.12.2019
4.	Grant of Opening Permission	16.01.2020

7. In view of the clauses of the Agreement mentioned at 2 above (each a Termination Event) and by virtue of Clause 24.3.3 of the Allotment Agreement, the entire performance security shall be appropriated. Accordingly, this letter may be **treated as notice** under Clause 24.3.2 of the Allotment Agreement. On completion of notice period of **15 business days**, the Allotment Agreement dated 26 March, 2015 and Order No.103/16/2015/NA dated May 16, 2016 shall stand terminated and the Performance Security and all other payment made by M/s WBPDCCL shall be appropriated, whereupon M/s WBPDCCL shall not be entitled to any benefits under the Allotment Agreement but would continue to be liable towards any antecedent liability, and towards all obligations accrued before the effective date of termination and also for the obligations that must be fulfilled after termination.

8. In view of the above, Chief Manager, Allahabad Bank, Kishore Bhavan, 4<sup>th</sup> Floor, 17, R.N.Mukherjee Road, Kolkata-700001 is requested to treat this as notice of demand under **Bank Guarantee No.0150120IPG042577 amounting ₹7,17,50,000/-** issued on 24.08.2020 after partial appropriation by Allahabad bank in favour of the Nominated Authority, and deposit the amount of **₹7,17,50,000 (in words: Rupees Seven Crores Seventeen Lacs Fifty Thousand only)** which is 35% of the entire guaranteed amount to the account of PAO, Ministry of Coal, United Bank of India, Account no 0276050414586, Branch- Connaught Circus (New Delhi), **IFSC code-PUNB0027620** for the reason of termination of Allotment of Kasta East coal mine, after fifteen business days from the issue of this order.

9. Further, Allottee (M/s WBPDCCL) is directed to submit an amount of ₹13,32,50,000/- (in words: **Rupees Thirteen Crore Thirty Two Lakh Fifty Thousand Only**) i.e. the 65% of the guaranteed amount under the said bank guarantee with Nominated Authority without further delay to the account of PAO, Ministry of Coal, United Bank of India, Account

*M/s*

No.0276050414586, Branch- Connaught Circus (New Delhi), **IFSC code-PUNB0027620** failing which appropriate legal proceedings will be initiated for recovery of the said amount.

Yours faithfully,

  
[ M. Nagaraju ]

Additional Secretary & Nominated Authority

Copy to:-

1. The Chief Secretary, Government of West Bengal.
2. Deputy Secretary (CBA-II), Ministry of Coal.
3. Coal Controller, Coal Controller Organisation, Kolkata.
4. US (IFD)/US (CLD), Ministry of Coal, Government of India.
5. Pay & Accounts Officer, Pay & Accounts Office, Ministry of Coal- with a request to deposit the amount of **₹7,17,50,000** received from Allahabad bank and **₹13,32,50,000/-** received from M/s West Bengal Power Development Corp. Ltd, in detailed head 8443.00.117.03.07.00 until further directions from this office to deposit the above-mentioned amount in CFI.
6. Bank Manager United Bank of India, Connaught Circus Branch, New Delhi.
7. Sr. TD (NIC), MoC- for uploading on the website of Ministry of Coal.



## LARGE CORPORATE BRANCH KOLKATA

Kishore Bhavan, 4<sup>th</sup> Floor, 17, R.N. Mukherjee Road, Kolkata – 700 001Phone: (033) 2213-1006 / 7 / 8, Fax: (033) 2213-1004, E-mail: [br.ifbkolkata@allahabadbank.in](mailto:br.ifbkolkata@allahabadbank.in)

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Ref No: LCB/KOL/BG/2020-21/337

Date: 24.08.2020

The Nominated Authority/Joint Secretary to the Government of India  
Ministry of Coal  
World Trade Tower, Ground Floor,  
Barakhamba Lane,  
New Delhi – 110 001



Dear Sir,

**Sub: Partial appropriation of Bank Guarantee No 00497417IPG000039 dated 22.12.2017 and issuance of remaining amount of Bank Guarantee**

This has reference to your mail dated 24<sup>th</sup> Aug 2020 for appropriation of bank Guarantee No 0049417IPG000039 dtd 22.12.2017 constituting performance security for an amount of Rs.20,50,00,000.00 (Rupees Twenty Crores Fifty Lacs Only).

In this connection, on date we have, appropriated an amount of Rs.13,32,50,000.00 (Rupees Thirteen Crores Thirty Two Lacs and Fifty Thousand Only) as directed by you from the Bank Guarantee No 0049417IPG000039 dtd 22.12.2017 for Rs.20,50,00,000.00 (Rupees Twenty Crores and Fifty Lacs Only) and issued a fresh Bank Guarantee No 0150120IPG042577 of the remaining amount i.e., Rs.7,17,50,000.00 (Rupees Seven Crores Seventeen Lacs Fifty Thousand Only) dated 24<sup>th</sup> Aug 2020.

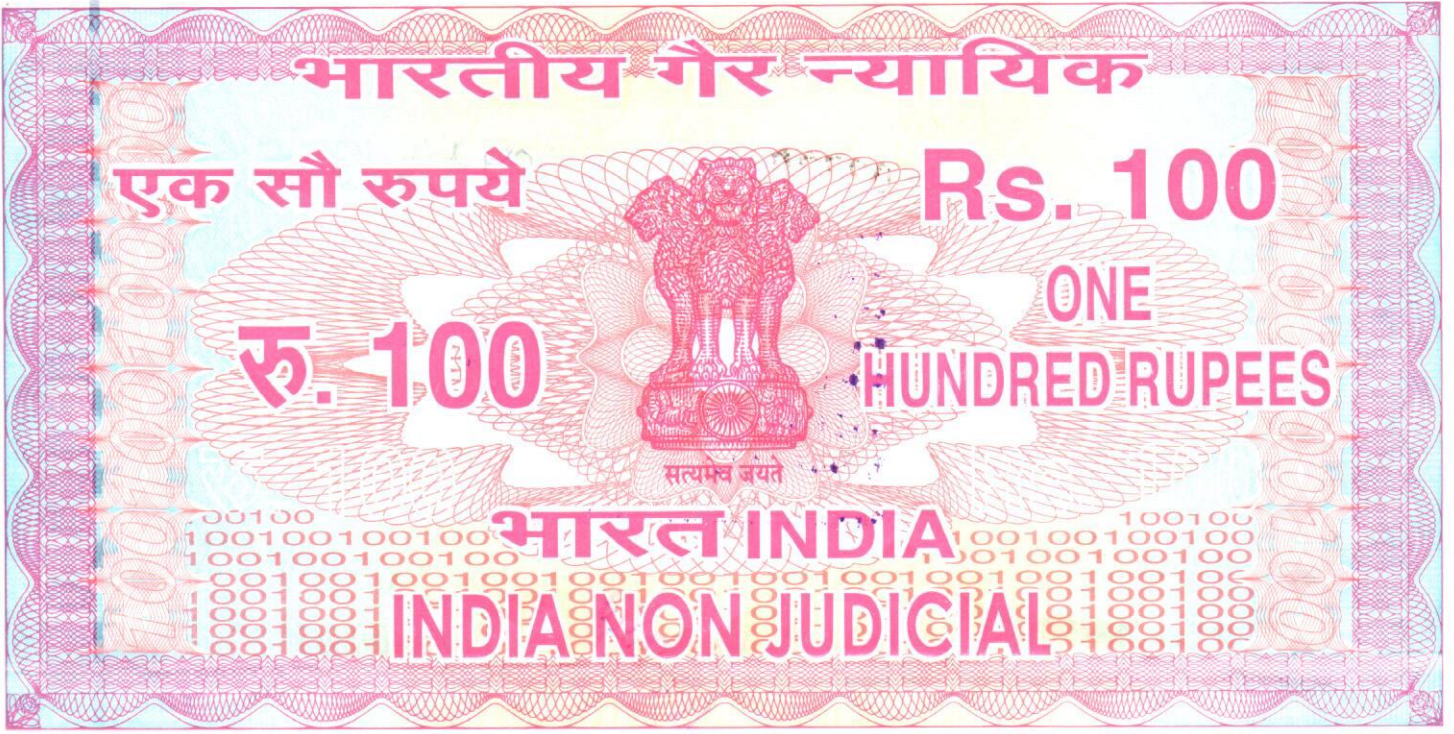
We request you to kindly acknowledge receipt.

Regards

(M Kar)  
Chief Manager



Encl : As stated above



पश्चिमबङ्ग पश्चिम बंगाल WEST BENGAL

AA 626315

PERFORMANCE SECURITY FOR KASTA (EAST) COAL MINE

Ref No : 0150120IPG042577

Date : 24.08.2020

BG No : 0150120IPG042577

Issue Date : 24.08.2020

Expiry Date ; 31.10.2021


Claim Date : 31.10.2022

The Nominated Authority,  
Ministry of Coal, Government of India,  
World Trade Tower, Ground Floor,  
Barakhamba Lane,  
New Delhi -110 001



WHEREAS

- A. **The West Bengal Power Development Corporation Ltd.** incorporated in India under the Companies Act, 1956 with Corporate Identity Number U40104WB1985SGC039154, whose registered office is at 'Bidyut Unnayan Bhaban', Plot No. 3/C, LA-Block, Sector-III, Salt Lake, Kolkata-700 098, India and principal place of business is at [address of principal place of business, if different from registered office] (the "Allottee") was required to provide an unconditional and irrevocable bank guarantee for an amount equal to INR 20,50,00,000 (Indian Rupees Twenty Crore Fifty Lakhs) in terms of the Allotment Agreement dated 26.03.2015 as a performance security. The said Bank Guarantee was later renewed till 31.10.2021

  
AMIT KUMAR  
SR. No.- 70705

  
MONOTOSH KAR  
SR No.-38554

037303

Indian Bank  
Le Branch  
D. R. Mukherjee Road  
Kalyan - 1

No.....  
SOLD TO.....  
of.....  
Rs: 100/- (HUNDRED ONLY)  
PRONATI MUKHERJEE  
LICENSED STAMPENDOR  
9, India Exchange Place, Calcutta - 700 001  
Date..... Sign.....

12 0 JUL 2020





BG No : 0150120IPG042577

Issue Date : 24.08.2020

Expiry Date ; 31.10.2021

Claim Date : 31.10.2022

B. The Bank Guarantee bearing ref no 0049417IPG000039 issued on 22<sup>nd</sup> December 2017 was partially invoked on 24.08.2020 as per your letter dated 12<sup>th</sup> Mar 2020 and remaining amount of INR 7,17,50,000.00 (Rupees Seven Crores Seventeen Lacs Fifty Thousand Only) is now being issued as Bank Guarantee No 0150120IPG042577 for the existing terms and conditions.

C. The Performance Security is required to be provided to The President of India, acting through the Central Government represented by the Nominated Authority appointed under Section 6 of the Coal Mines (Special Provisions) Ordinance, 2014 read with Coal Mines (Special Provisions) Second Ordinance, 2014 (the "Nominated Authority") for discharge of certain obligations under the Allotment Agreement dated 30.03.2015 (the "Agreement").

D. We, Indian Bank, Large Corporate Branch Kolkata, 4th Floor, Kishore Bhawan, 17 R.N.Mukherjee Road Kolkata-700001 (the "Bank") at the request of the Allottee do hereby undertake to pay to the Central Government an amount not exceeding INR 7,17,50,000.00 (Rupees Seven Crores Seventeen Lacs Fifty Thousand Only) to secure the obligations of the Allottee under the Agreement on demand from the Nominated Authority on the terms and conditions herein contained herein.

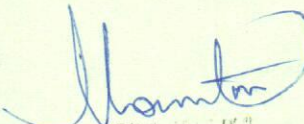
**NOW THEREFORE**, the Bank hereby issues in favour of the Nominated Authority this irrevocable and unconditional payment bank guarantee (the "Guarantee") on behalf of the Allottee for the amount INR 7,17,50,000.00 (Indian Seven Crores Seventeen Lacs Fifty Thousand Only),

1. The Bank for the purpose hereof unconditionally and irrevocably undertakes to pay to the Nominated Authority without any demur, reservation, caveat, protest or recourse, immediately on receipt of first written demand from the Nominated Authority, a sum or sums (by way of one or more claims) not exceeding in the aggregate the amount of INR 7,17,50,000.00 (Rupees Seven Crores Seventeen Lacs Fifty Thousand Only) without the Nominated Authority needing to prove or to show to the Bank grounds or reasons for such demand for the sum specified therein and notwithstanding any dispute or difference between the Nominated Authority and Allottee on any matter whatsoever. The Bank undertakes to pay to the Nominated Authority any money so demanded notwithstanding any dispute or disputes raised by the Allottee in any suit or proceeding pending before any court or tribunal relating thereto the Bank's liability under this present being absolute and unequivocal.

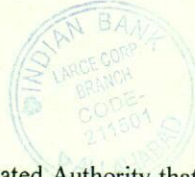
2. The Bank acknowledges that any such demand by the Nominated Authority of the amounts payable by the Bank to the Nominated Authority shall be final, binding and conclusive evidence in respect of the amounts payable by Allottee to the Nominated Authority under the Agreement.

3. The Bank hereby waives the necessity for the Nominated Authority from demanding the aforesaid amount or any part thereof from the Allottee and also waives any right that the Bank may have of first requiring the Nominated Authority to pursue its legal remedies against the Allottee, before presenting any written demand to the Bank for payment under this Guarantee.

  
AMIT KUMAR  
SR. No.- 70705

  
MONOTOSH KAR  
SR No.-38554





BG No : 0150120IPG042577

Issue Date : 24.08.2020

Expiry Date ; 31.10.2021

Claim Date : 31.10.2022

4. The Bank further unconditionally agrees with the Nominated Authority that the Nominated Authority shall be at liberty, without the Bank's consent and without affecting in any manner the Bank's obligation under this Guarantee, from time to time to:

- (i) vary and/or modify and of the terms and conditions of the Agreement;
- (ii) extend and/or postpone the time for performance of the obligations of the Allottee under the Agreement, or
- (iii) forbear or enforce any of the rights exercisable by the Nominated Authority against the Allottee under the terms and conditions of the Agreement.

and the Bank shall not be relieved from its liability by reason of any such act or omission on the part of the Nominated Authority or any indulgence by the Nominated Authority to the Allottee or other thing whatsoever which under the law relating to sureties would, but for this provision, have the effect of relieving the Bank of its obligations under this Guarantee.

5. Any payment made hereunder shall be made free and clear of and without deduction for, or on account of, any present or future taxes, levies, imposts, duties, charges, fees, commissions, deductions or withholdings of any nature whatsoever and by whom ever imposed; and where any withholding on a payment is required by law, the Bank shall comply with such withholding obligations and shall pay such additional amount in respect of such payment such that the Nominated Authority receives the full amount due hereunder as if no such withholding had occurred. It is clarified that even in such case the obligation of the Bank shall not in any manner exceed in the aggregate the amount of INR 7,17,50,000.00 (Indian Seven Crores Seventeen Lacs Fifty Thousand Only).

6. The Bank agrees that the Nominated Authority at its option shall be entitled to enforce this Guarantee against the Bank, as a principal debtor in the first instance without proceeding at the first instance against the Allottee.

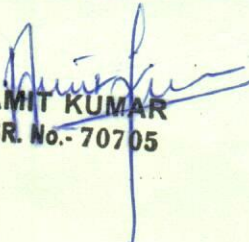
7. The Bank further agree that the guarantee herein contained shall remain in full force and effect during the period that specified in the Agreement and that it shall continue to be enforceable till all the obligations of the Allottee under or by virtue of the said Agreement with respect to the Performance Security have been fully paid and its claims satisfied or discharged or till the Nominated Authority certifies that the terms and conditions of the Agreement with respect to the Performance Security have been fully and properly carried out by the Allottee and accordingly discharges this guarantee. Notwithstanding anything contained herein, unless a demand or claim under this guarantee is made on the Bank in writing on or before the 31.10.2021 the Bank shall be discharged from all liability under this guarantee thereafter

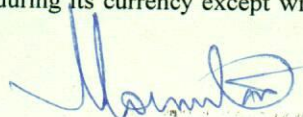
8. The payment so made by the Bank under this Guarantee shall be a valid discharge of Bank's liability for payment thereunder and the Nominated Authority shall have no claim against the Bank for making such payment.

9. This Guarantee is subject to the laws of India. Any suit, action, or other proceedings arising out of this Guarantee or the subject matter hereof shall be subject to the exclusive jurisdiction of courts at Delhi.

10. The Bank has the power to issue this Guarantee in favour of the Nominated Authority. This guarantee will not be discharged due to the change in the constitution of the Bank.

11. The Bank undertakes not to revoke this Guarantee during its currency except with the previous consent of the Nominated Authority in writing.

  
AMIT KUMAR  
SR. No.- 70705

  
MONOTOSH KAR  
SR No.-38554



BG No : 0150120IPG042577  
Issue Date : 24.08.2020  
Expiry Date ; 31.10.2021  
Claim Date : 31.10.2022

12. The Nominated Authority may, with prior intimation to the Bank, assign the right under this Guarantee to any other departments, ministries or any governmental agencies, which may act in the name of the President of India. The Nominated Authority may also assign this Guarantee in favour of the Governor of a State, with prior intimation to the Bank. Save as provided in this Clause 12, this Guarantee shall not be assignable or transferable.

Notwithstanding anything contained herein:-

1. Our liability under this Bank Guarantee shall not exceed INR 7,17,50,000.00 (Rupees Seven Crores Seventeen Lacs Fifty Thousand Only).
2. This Bank Guarantee shall be valid up to 31.10.2021
3. We are liable to pay the guaranteed amount or any part thereof under this bank guarantee only and only if a written claim or demand is served upon us on or before 31.10.2022 i.e. 12 months from the date of expiry mentioned in (ii) above (date of expiry of claim period). Unless a suit or action to enforce the claim under this Bank Guarantee made on or before date of expiry of claim period, all your rights under this Bank Guarantee shall be extinguished and we shall have been relieved and discharged from all liabilities thereunder, irrespective of return of original Bank Guarantee.

Date 24.08.2020

Place - Kolkata

**AMIT KUMAR**  
SR. No. - 70705

(Name & Designation)

(Bank Stamp)

In case the original Bank Guarantee bond is not released & Submitted to us by the beneficiary within 15 days form the date of expiry, (including claim period) the Bank Guarantee will stand automatically Cancelled and the liability will be Marked off. No. claim under the Guarantee will be admitted by the Bank.

**MONOTOSH KAR**  
SR No.-38554

(Name & Designation)

