

F.No- 104/10/2015/NA
Government of India
Ministry of Coal

120, F- Wing, First Floor, Shastri Bhawan
New Delhi, Dated : December 31, 2021

To,

The Managing Director,
OCL Iron & Steel Limited,
Village- Lamloi, P.O- Garvana Rajgangpur,
Dist- Sundergarh
Odisha- 770017

Sub: - Termination of Coal Mine Development and Production Agreement and Vesting Order in respect of Ardhagram coal mine allotted to M/s OCL Iron & Steel Limited under the Coal Mine (Special Provisions) Act' 2015.

Sir,

I am to refer Coal Mine Development and Production Agreement (CMDPA) dated 28.02.2015 signed between Nominated Authority and M/s OCL Iron and Steel Limited in respect of Ardhagram coal mine. As per clause 6.1.5 of the CMDPA, "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 CMDPA :-

"The Conduct of the mining operations at the Coal Mine shall be subject to the milestones listed in SCHEDULE E (the "Efficiency Parameter")".

Further, as per "Efficiency Parameter" the schedule of production/ reaching Peak Rated Capacity should be as per Mine Plan".

2. In the instant case, the Performance Security (PBG) lapsed on 20.03.2021. Allocattee has been time and again requested to renew the irrevocable and unconditional guarantee for an amount equal to INR 92,25,20,000 (Indian Rupees Ninety Two Crore Twenty Five Lakh and Twenty Thousand) (the Performance Security) in substantially the same form as provided in Schedule F for the performance of its obligations. Allocattee two months prior to the expiry of PBG was requested to renew it vide e-mails dated January 12, 2021 and January 15, 2021.

3. The Allocattee in response to this office reminders for not renewing the BG mentioned vide their mail dated 12.04.2021 that they have applied for renewal of bank guarantee on 3rd February, 2021 to Andhra Bank. This was the same bank who had earlier issued bank guarantee in 2015 and thereafter renewal was done by them on regular basis. The same bank got merged with Union Bank of India, so the proposal was forwarded from Andhra Bank to Union Bank of India for issuance of BG. On approaching the Union Bank of India, Allocattee found that the bank were non-cooperative since they have never done such Bank Guarantee particularly for coal mines and after repeatedly follow-up, the bank agreed for renewal. Allocattee also mentioned that the whole process of renewal was getting delayed since maximum staff members from M/s OCL Iron and Steel Ltd. (Allocattee) were suffering from COVID-19. The Allocattee ensured that they will submit the original copy as soon as they received BG from bank but O/o NA did not receive the same till date.

4. Since the Allocattee did not renew the BG, therefore, before terminating the mine, Nominated Authority granted opportunity of personal hearing to M/s. OCL on 22.09.2021 at 3.00 PM following the principles of natural justice. However, M/s. OCL did not come in the meeting.

5. For this coal mine, it was also observed that production of coal from the coal mine was in deviation from scheduled production of coal as per Mine Plan i.e –

Sl. No.	FY	Scheduled Production	Actual production
1.	2015-16	0.4 MTPA	0
2.	2016-17	0.4 MTPA	0
3.	2017-18	0.4 MTPA	0
4.	2018-19	0.4 MTPA	0.161 MTPA
5.	2019-20	0.4 MTPA	0.115 MTPA
6.	2020-21	0.4 MTPA	0

6. As such, on 26.02.2021, a Show Cause Notice was issued to the Allocattee of the coal mine as to why action as appropriate should not be initiated against them. The reply to said Show Cause Notice was not submitted by allocattee and accordingly reminders were issued on 12.04.2021 and 19.05.2021 for sending reply, renewing PBG and payment of compensation due to the prior Allottee.

7. The show cause dated 20.10.2017 and 26.02.2021 were placed before the members in the 15th meeting of Scrutiny Committee held on 18.06.2021 wherein Committee directed the Allocattee to reply the show cause notice issued by O/o Nominated Authority and furnish the Performance Bank Guarantee to the Nominated Authority without further delay. The Committee also recommended that regarding ML, the comments of State Government of West Bengal is required and provided relaxation to the milestones in respect of Forest Clearance, Environment Clearances and Mine opening permission under transfer of statutory permissions.

8. The reply not much relevant to the delay in milestones were received on 13th September 2021 and presented before the 16th Scrutiny Committee meeting held on 24.09.2021. The representatives of the Allocattee Company were not present at the meeting. The Committee recommended that the O/o Nominated Authority should proceed for due administrative decision as per the contract/ agreement, since the bank guarantee has lapsed, as the decision on show cause notices could be taken only after a valid PBG was available with the Government.

9. As per Rule 13(6) of the Coal Mines (Special Provisions) Rules, 2014 the vesting order shall be cancelled by the Nominated Authority in case of breach of terms of the agreement (CMDPA).

10. Further, following events as per CMDPA w.r.t Ardhagrm coal mine forms a termination event:

- i. As per clause 24.3.1(k) of the CMDPA, failure of the Successful Bidder to ensure continued compliance with the Eligibility conditions
- ii. As per Clause 24.3.1(n) of the CMDPA, breach of any provisions of this Agreement, which is not cured by the Successful Bidder within thirty business days of becoming aware of the same, on its own or upon receipt of notice from the Nominated Authority
- iii. As per Clause 24.3.1 (f) i.e. non compliance of the Successful Bidder with the Efficiency Parameters for more than five instances (in aggregate and not over a specified period) as provided in clause 10.3;
- iv. Clause 24.3.1 (j) i.e. failure to provide any information requested by the Nominated Authority in terms of this Agreement;
- v. Clause 24.3.1 (p) i.e. cessation of coal mining operation exceeding a period of one year continuously constitutes a **termination event**.

11. 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."

12. Accordingly, this letter may be treated as notice under Clause 24.3.2 of the CMDPA. On completion of notice period of 15 business days, the CMDPA and Vesting Order shall stand terminated and the Performance Security and all other payment made by the Allocattee / Successful Bidder shall be appropriated and the successful bidder shall not be entitled to any benefits under the CMDPA. However, as the bank guarantee in respect of said coal mine has lapsed on 20.03.2021 and the same has not been renewed till date, the Allocattee is directed to submit an amount of INR 92,25,20,000/- (entire PBG) to Nominated Authority in the account of PAO, Ministry of Coal, Punjab National Bank, Account No.0276050414586, Branch- Connaught Circus (New Delhi), **IFSC code-PUNB0027620** for the reasons of termination of CMDPA of Ardhagram coal mine after fifteen days from the issue of this order.

Yours faithfully,


[M. Nagaraju]

Additional Secretary & Nominated Authority

Copy to:-

1. The Chief Secretary, Government of West Bengal.
2. Deputy Secretary (P&S), Ministry of Coal.
3. Coal Controller, Coal Controller Organisation, Kolkata.
4. US (IFD)/US (CLD), Ministry of Coal, Government of India.
5. Bank Manager, Punjab National Bank, Connaught Circus Branch, New Delhi.
6. Sr. TD (NIC), MoC- for uploading on the website of Ministry of Coal.