

The Goa Foundation

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10 December, 2014

To:
The Chief Secretary
Government of Goa
Secretariat Building
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Subj: Recoveries of proceeds from illegal mining in Goa (2007-2012)

Dear Sir,

Kindly refer to our note dated 28 April 2014 (copy enclosed) setting out our calculations on the minimum amount recoverable from various parties on account of illegal iron ore mining in the State of Goa post 21-Nov-2007. We find that we have significantly underestimated the amounts recoverable on three grounds in our letter dated 28.4.2014:

Section 21(5) of the MMDR Act

Section 21(5) of the MMDR Act, 1957 provides: "*Whenever any person raises, without any lawful authority, any mineral from any land, the State Government may recover from such person the mineral so raised, or, where such mineral has already been disposed of, the price thereof, and may also recover from such person, rent, royalty or tax, as the case may be, for the period during which the land was occupied by such person without any lawful authority.*"

We have calculated the value of the mineral disposed of by exports. Sesa Goa (now Sesa Sterlite) is the only public company engaged in mining in Goa. However, it is by far the largest producer and exporter of iron ore from Goa (30% by volume), so it is representative. We have used the official accounting data for the iron ore segment for Sesa Goa. An overwhelming majority (74%

by volume) of Sesa's mining operations were in Goa. Further, since it is well integrated, we can get an understanding of the complete cost structure right through exports. Taking the Sesa Goa figures as the base for our calculations, we have scaled up the data for Goan exports as a whole. Figures for Goan exports are taken from the Annual Selected Statistics of GMOEA. We were able to use GMOEA data only upto 2011-12.

As we know, mining in Goa was at best an eight-month season, As legal mining ended on 21-Nov-2007, we took only a half year value for 2007-08. However, we don't have figures for 2012-13, until the mining ban took effect.

The total value of exports (the mineral disposed of) was Rs. 66,695 crores. We then subtracted royalty as that was received by the State Government at Rs. 1,637 crores. The net value of the exports – which is therefore now recoverable by the State Government – is Rs. 65,058 crores.

Interest applicable

Rule 64A of the MCR 1960 states: *“The State Government may, without prejudice to the provisions contained in the Act or any other rule in these rules, charge simple interest at the rate of twenty four percent per annum on any rent, royalty or fee (other than the fee payable under sub-rule (1) of rule 54) or other sum due to that Government under the Act or these rules or under the terms and conditions of any prospecting licence or mining lease from the sixtieth day of the expiry of the date fixed by that Government for payment of such royalty, rent, fee or other sum and until payment of such royalty, rent, fee or other sum is made.”*

We have therefore calculated simple interest @ 24%. We have calculated this interest from the end of each year, upto March 31, 2014. The interest burden is Rs. 53,603 crores.

Total Recoverable

Conservatively, the total amount recoverable is thus Rs. 118,661 crores. This works out to Rs. 8,13,560 per person. The total amount is approximately the Goa Government budget for 10 years. If invested sensibly in the Goan Iron Ore Permanent Fund, this massive amount could easily earn the State a real return of 3%. This amount itself works out to Rs. 3,560 crores per annum in real terms, available indefinitely. We can easily solve the problems of the mining impacted persons.

In our previous letter, we had only calculated (and used) the profit after tax declared by the miners at Rs. 25,149 crores, and applied a 12% simple interest. If we apply 24% interest instead, the figures are as follows – Rs. 25,149 crores as profit after tax, interest is Rs. 21,261 crores, adding up to Rs. 46,410 crores. On a per person basis, this works out to Rs. 3,18,377.

Still more is recoverable

The calculations above do not include the following elements:

1. Recoveries on account of illegal mining after 1-Apr-2012;
2. Recoveries on account of domestic sales;
3. Under-invoicing as set out in the Shah Commission Report 3 on Goa mining;
4. Condonation cases mined, as set out in the Shah Commission Report
5. Mining outside lease boundaries (which according to the Shah Commission amounted to Rs.35,000 crores).

The list goes on.

Conclusion

On a conservative basis, Rs. 118,661 crores is recoverable, which is Rs. 8,13,560 for each person in Goa. If invested through a Permanent Fund, the State would get a real income of Rs. 3,560 crores each year indefinitely. The Government is the public trustee of the common wealth of the people, our *uttaradhikari*. It is your constitutional duty to act expeditiously to recover this money.

Please do not hesitate to contact us for any clarifications or supporting materials.

Yours faithfully,



(Dr Claude Alvares)
Director

Encl : Our Calculations

Note submitted to the Chief Secretary on 28-April-2014

Recoverable from Illegal Mining

Recoverable from illegal mining	Units	2007-08	2008-09	2009-10	2010-11	2011-12	Total	Remarks / Sources
Sesa iron ore sales	Mn Tons	6.2	15.1	21.4	18.1	16.0	76.8	Sesa Goa annual accounts
Sesa iron ore sales	Rs. Cr	1,645	4,308	5,241	8,594	7,516	27,304	Sesa Goa annual accounts
Sesa iron ore EBIT	Rs. Cr	1,022	2,171	2,869	4,819	3,246	14,128	Sesa Goa annual accounts
Sesa effective tax rate	%	33%	26%	23%	24%	34%	25%	Sesa Goa annual accounts
Sesa iron ore income tax (est.)	Rs. Cr	341	573	671	1,159	1,105	3,849	Multiplying EBIT by the effective tax rate
Sesa iron ore Profit After Tax (PAT)	Rs. Cr	681	1,598	2,198	3,660	2,141	10,278	EBIT - income tax (est.)
Sesa goan iron ore sales	Mn Tons	4.5	10.1	15.6	14.3	13.3	57.8	Sesa Goa annual accounts
Sesa goan iron ore to total iron ore	%	73%	67%	73%	79%	83%	75%	Ratio of Sesa's goan iron sales to total iron ore sales
Sesa goan iron ore sales	Rs. Cr	1,193	2,881	3,811	6,789	6,248	20,924	Sesa total iron ore sales x ratio above
Sesa goan iron ore PAT	Rs. Cr	494	1,069	1,598	2,892	1,780	7,833	
Goan iron ore exports	Mn Tons	16.7	38.1	45.7	46.8	38.3	185.6	GMOEA Special Statistics
Sesa goan iron ore sales	Mn Tons	4.5	10.1	15.6	14.3	13.3	57.8	Sesa Goa annual accounts
Sesa as % of Goa	%	27%	27%	34%	31%	35%	31%	Sesa sales a significant part of Goa exports
Goa exports / Sesa sales		3.72	3.77	2.93	3.28	2.88	3.21	Scaling factor
Total value of Goan iron ore exports	Rs. Cr	4,439	10,861	11,184	22,242	17,969	66,695	After 20-Nov-2007 to be recovered
Less : Royalty paid	Rs. Cr	18	36	292	951	339	1,637	PAC Report, budget documents
Net value of Goan iron ore exports	Rs. Cr	4,421	10,824	10,892	21,291	17,630	65,058	After 20-Nov-2007 to be recovered
Profits from Goan iron ore exports	Rs. Cr	1,838	4,029	4,690	9,473	5,120	25,149	After 20-Nov-2007 to be recovered
Goan iron ore exports net value	Rs. Cr	4,421	10,824	10,892	21,291	17,630	65,058	All of 2012-13 needs to be added. Penalties and interest needs to be added. Compensation for environmental damage needs to be added.
Years until 31-Mar-2014		6	5	4	3	2		
Interest @ 24% till Mar 31, 2014	Rs. Cr	6,366	12,989	10,456	15,330	8,462	53,603	Total interest due
Recoverable amount incl. Interest	Rs. Cr	10,787	23,813	21,348	36,621	26,092	118,661	Value of ore + interest
Goa Population	Lakhs						14.59	2011 Census
Per person recoverable amount	Rs.						813,560	
Goan iron ore recoverable amount (profits)	Rs. Cr	1,838	4,029	4,690	9,473	5,120	25,149	All of 2012-13 needs to be added. Penalties and interest needs to be added. Compensation for environmental damage needs to be added.
Years until 31-Mar-2014		6	5	4	3	2		
Interest @ 24% till Mar 31, 2014	Rs. Cr	2,647	4,835	4,502	6,820	2,458	21,261	Total interest due
Recoverable amount incl. Interest	Rs. Cr	4,485	8,864	9,192	16,293	7,577	46,410	Value of ore + interest
Goa Population	Lakhs						14.58	2011 Census
Per person recoverable amount	Rs.						318,377	

Note : Values for 2007-08 are for four illegal months out of a eight month season