INDEX

IN THE SUPREME COURT OF INDIA

Writ Petition (C) No. 435/2012

GOA FOUNDATION ... Petitioner

VERSUS

UNION OF INDIA & ORS. ... Respondents

AFFIDAVIT IN COMPLIANCE OF DIRECTION OF THIS HON'BLE COURT IN W.P. (C) 435/2012 DATED 14/08/2015.

I, Prasanna Achàrya, son of Arvind Acharya, aged about 39 years, resident of Davorlim, Salcete, Goa, most respectfully state and submit as under:

1. I state that, I am presently posted as the Director, in the Directorate of Mines & Geology, and Joint Secretary (Mines) Government of Goa, and I am authorised to file the present Affidavit.

2. I state that vide Order dated 14/08/2015, this Hon'ble Court was pleased to issue directions to Respondent No. 2 to file Affidavit as to how directions issued in paragraph 87 & 88 of the judgment dated 21/04/2014, has been implemented/complied. I state that

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PRESENTLY AT DELHI

this Respondent was further directed to file its response to the report of Expert Committee and also reply to IA No. 87, within a period of 4 weeks time' from the date of the order.

3. In W. P. (C) No. 435/2012, by judgment and order dated 21/04/2014, following seven directions were issued to the State of Goa which are reproduced here-in-under:

(i) the State Government will initiate action against those mining lessees who violate Rules 37 and 38 of the MCR Rules;

(ii) the State Government will strictly enforce the Goa (Prevention of Illegal Mining, Storage and Transportation of Minerals) Rules, 2013;

(iii) The State Government may grant mining leases of iron ore and other ores in Goa in accordance with its policy decision and in accordance with MMDR Act and the Rules made thereunder in consonance with the constitutional provisions.

(iv)until the final report is submitted by the Expert Committee, the State Government will, in the interests of sustainable development and intergenerational equity, permit a maximum annual excavation of 20 million MT from the mining leases in the State of Goa other than from dumps;

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(v) the entire sale value of the e-auction of the inventorised ores will be forthwith realised and out of the total sale value, the Director of Mines and Geology, Government of Goa, under the supervision of the Monitoring Committee will make the following payments:

(a) Average cost of excavation of iron ores to the mining lessees;

(b) 50% of the wages and dearness allowance to the workers in the muster rolls of the mining leases who have not been paid their wages during the period of suspension of mining operations;

(c) 50% of the claim towards storage charges of MPT.

(d) Out of the balance, 10% will be appropriated towards the Goan Iron Ore Permanent Fund and the remaining amount will be appropriated by the State Government as the owner of the ores;

(vi) henceforth, the mining lessees of iron ore will have to pay 10% of the sale price of the iron ore sold by them to the Goan Iron Ore Permanent Fund.

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(vii) the State Government will within six months from today frame a comprehensive scheme with regard to the Goan Iron Ore Permanent Fund in consultation with the CEC for sustainable development and intergenerational equity and submit the same to this Court within six months from today.

4) I shall now deal with each and every direction issued by this Hon'ble Court and the compliance thereof by the State of Goa.

A. Direction (i) as regards alleged <u>Violation of Rule 37 and Rule 38 of MCR 1960.</u>

a) I state that, pursuant to the directions of Hon'ble Court, proceedings were initiated under Rule 38 of MCR Rules, 1960, in respect of leases mentioned at **<u>Annexure "Ä"</u>** to this Affidavit and have since been disposed off by orders passed in each of such violations. I state that each and every order is not annexed hereto for the sake of brevity however; the list is annexed hereto showing the lease number and the order with respect to the said mining lease. I crave to refer and rely upon the said order as and when produced. (21)

b) With regards to proceedings under Rule 37 of MCR 1960 is concerned, initially show-cause notices were issued and the proceedings were initiated in respect of leases against whom the alleged violations were mentioned in the Hon'ble (Retd.) Mr. Justice Shah Commission's Report. List of which is annexed as **"Annexure B".** The said show cause notices mentioned the alleged violations by the respective mining companies. I state that pursuant to the said show cause notices, lease holders filed their reply and thereafter a personal hearing was accorded to them and they were permitted to make oral submissions before the Secretary (Mines). (22)

c) I state that before the final orders could be issued by the then Secretary, the Secretary was transferred and was relieved from Goa Administration. I state that it is imperative law that a person who hears must decide. I state that in view of this, notices have already been issued for fresh hearing before the new Principal Secretary who will hear the respective parties afresh and pass necessary orders therein. I state that the dates for hearing are tentatively fixed from 06th October 2015 onwards on different dates for different parties who are lessees of in all 12 leases pointed out by the Hon'ble (Retd.) Justice Mr. Shah Commission's Report.

d) I state that in terms of rule 5 & 6 of The Goa (Prevention of Illegal Mining, Storage and Transportation of Minerals) Rules, 2013 all raising contracts and transport contractors by whatever name called are required to register with the

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Directorate of Mines and Geology to prove to the satisfaction of the Director that such agreements are genuinely for raising and transportation of mineral respectively.

e) I state that rule 7 of The Goa (Prevention of Illegal Mining, Storage and Transportation of Minerals) Rules, 2013 bans contracts or agreements for sharing of minerals on long term basis and declares such agreements void from the date of publication of the rules i.e. w.e.f. 17.10.2013.

f) I state that any violations from the date of publication of the Rules of Rule 37 of Mineral Concession Rules , 1960 Shall be accordingly dealt with in terms of rule 37 of Mineral Concession Rules , 1960 read with the Goa (Prevention of Illegal Mining/Storage and Transportation of Minerals) Rules, 2013. However, since no mining operations have commenced post the judgment of this Hon'ble Court, so far the Directorate of Mines and Geology has not received any such agreement for registration.

B) Direction No. (ii) as regards the Enforcement of Goa (Prevention of Illegal Mining, Storage and Transportation of Minerals) Rules, 2013.

I state that, the provisions of Rules are strictly enforced in the State of Goa. I however, state that by the MMDR Amendment Act of 2015, there has been a significant

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change brought about in the Mines & Minerals (Development & Regulation), Act, 1957. The State Government has therefore proposed to amend the Goa (Prevention of Illegal Mining, Storage and Transportation of Minerals) Rules, 2013 to bring it in consonance with the Amended Central legislation.

C. Directions (iii) regarding grant of leases in accordance with State Governments policy decision and in accordance with MMDR Act and the Rules made thereunder in consonance with the constitutional provisions;

I respectfully state that in compliance of the directions of this Hon'ble Court, the Goa State Mineral Policy 2013 which was placed and upheld by this Hon'ble Court, and subsequently after the policy decision of the State Government, and in accordance with the policy reflected in the said decision, the State Government decided to grant renewal of leases with effect from 22/11/2007, for a period of 20 years to 88 mining leases. Incidentally, this Hon'ble Court in the matter of Common Cause vs UOI & Ors namely Writ Petition (c) No.114/2014 vide order dated 16/05/2014 issued similar directions to the State Government of Orrisa to consider and decide renewal applications within 6 months from the date of the order of this Hon'ble Court, after referring to the Judgement and order of this Hon'ble Court in this present Writ Petition namely Writ Petition (c) No. 435 of 2012. The State

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Government of Goa also similarly decided the renewal applications which were pending and which had not been decided, a fact which was mentioned before this Hon'ble Court

D. Direction (iv) as regards Permitting maximum value of excavation of 20 MT from the mining leases.

I state that an ad-hoc capping was fixed by this Hon'ble Court for fresh extraction of Iron Ore to the tune of 20 Million Tons in the State of Goa. The State Government has decided to distribute such production limit amongst renewed mining leases on ad-hoc pro-rata basis as per the maximum extraction limit specified in Environmental Clearances of respective leases. The details of such distribution is mentioned in "**Ännexure C**" annexed hereto.
(23-24)

E. Direction (v) as regards E-auction of inventorised ore etc.

a) I state that, till the date of finalization of the Affidavit, 11 e-auctions have been conducted and 2 e-auctions are proposed on 25th and 29th September, 2015 with offered quantity of about 2 million tons. initially the Ore inventorised was around 15.4 Million tons which after actual lifting has increased to around 16.5 million tons. As of today 11 e Auctions are conducted for offered quantity of about 13.4 million tons. Revenue generated from the auctions is around 800

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Crore rupees. Extraction cost to the tune of about 180 Crores is available for disbursement as per the demand of the lease holders in the prescribed format. An amount of about 59 Crores is available is in fixed deposits for the Goa Iron Ore Permanent Fund. Payment to MPT is made to the tune of Rupees 10,91,06,000/- for the storage charges inclusive of Rupees 250/- per ton for the spillage cargo owned by MPT for which storage charges are not given being their own cargo.

b) I state that, excavation cost of Rs.250/- per ton is decided to be paid to lease holders. I state that this amount is decided in consultation with the Monitoring Committee. I state that even in the Hon'ble (Retd.) Justice Shah Commission's Report, an average extraction cost in Goa is mentioned to be Rs.250/- per ton in case of Iron ore. I state that vide letter dated 2/9/2015 place at **Ännexure D"** lease holder, their sister concerns or traders are directed to claim such extraction cost of e-auctioned ore and same shall be paid to the rightful claimants thereof. So far as per claim of lessee, an amount of Rs. **8,00,000,00/-** has been disbursed. All the claims received in this behalf shall be expeditiously disposed of. (25-26)

c) in terms of the order of this Hon'ble Court, 50% of storage charges were to be paid to MPT. As per

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details submitted by MPT, State Government has paid Rs. 10,91,06,000/- out of which amount of Rs. Rs.9,61,06,000/- is paid as storage charges and an amount of Rupees 1,30,000,00/- as extraction cost as spillage cargo owned by MPT's of about 52000 M.T. find enclosed as "**Annexure E**" a copy of letter dated 8/10/2014 addressed to MPT which is self-explanatory. Over and above Storage charges MPT also claimed half of the pension levy @ 7% on Storage charges which they used to collect in normal course of business so also Service Tax @12.36% on Storage charges and pension levy which State Government had refused to pay being outside purview of this Hon'ble Courts Order. I state that this was also informed and brought to the notice of the Monitoring Committee. (27-28

d) Despite payment of such sums on equitable grounds, MPT over and above such payments has claimed storage charges from the lease holder, their sister concern or traders etc. for a period prior to 05/10/2012 and from successful bidders from 21/04/2014 onwards. MPT also restrained successful bidders from lifting such cargo. As such specific directions from this Hon'ble Court to MPT may be issued to the effect that

I. payment of 50% of storage charges on equitable grounds paid/payable to MPT by the State

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Government is full and final payment of their claims towards storage charges including period prior to 05/10/2012 or after 21/04/2014.

II. MPT should also be directed to allow lifting of such ore by successful bidders' till end of this season i.e. 30/06/2016 and not to illegally restrain the successful bidders from lifting the iron ore.

e) I state that the State Government had formulated a scheme namely 'Mining Affected People Scheme' which also brought within its ambit the demands of the workers who had employment during the ban period. Indeed this scheme was formulated immediately after the closure of mining operations in Goa which was much prior to the Judgment & Order of the Hon'ble Court dated 21/4/2014. I state that the direction issued by the Hon'ble Court as regards the payment of 50% wages & dearness allowance to the workers is taken care of under this scheme.

f) In the meantime various erstwhile lease holders attempted to file petitions before this Hon'ble Court as well as the Hon'ble High Court, that the ore lying in the mine and other places in Goa, claiming to be their own property. Vide Judgement and order dated 14/10/2014 in I. A No. 86/2014 filed in the present Petition in the matter of Mrs. Bandekar Brothers Pvt

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Ltd, that Application came to be rejected upholding that the entire ore in the state belongs to the State of Goa and the lease holders will have no right in so far as the said ore is concerned except entitlements for the cost of extraction. Despite this another erstwhile lease holder, allegedly claiming to be a valid lessee until March 2020 in terms of the MMDR Amendment Act 2015, sought stoppage of the e-auction of ore. In the said matter also the High Court has passed an order admitting the Writ Petition despite preliminary objections raised by the State Government. I state that yet another erstwhile lease holder, Salgaocar Mining Industries, has filed yet another Writ Petition before the Hon'ble High Court of Bombay at Goa, which has been kept on 28th of September 2015. I respectfully state and submit that in these two matters before the Hon'ble High Court, the State Government has raised a specific contention that as the matter is covered by the Hon'ble Supreme Court Judgement and that further this Honble Court is still in seisin of the main petition, the Petitioner should be relegated to approach this Honble Court.

F. Direction (vi) as regards Payment towards Goa Iron Ore Permanent Fund.

I state that, as directed by this Hon'ble Court, 10% of the sale value from e-auctioned ore is parked separately in fixed deposits for the purpose of a Goa Iron Ore Permanent Fund. I state that as and when fresh extraction of iron ore takes place, it shall be ensured that this 10% of the sale value is recovered on the freshly extracted iron ore from the respective mining companies. I however, state that MMDRA Amendment Act, 2015 has inserted Section 9(B) to MMDR Act, 1957 which requires to provide for District Mineral Fund upto amount equal to royalty payable on all minerals mined in all States across India.

I state that some of the mining companies have already filed I.A.s before this Hon'ble Court in present petition seeking clarification in this regard namely, Vedanta being I.A. No. 87/2015. I state that the State Government will abide by the directions by this Hon'ble Court in this regard. So far an amount of Rs. 59,44,809,26/- is already available in fixed deposits in Nationalised Banks corresponding to the 10% of sale value from e-Auctions. I also state that State Government is of the view that either District Mineral Fund or Goa Iron Ore Permanent Fund must be collected and in case this Hon'ble Court directs that former should remain than State of Goa may be allowed to divert the amount of Goa Iron Ore Permanent Fund to respective District Mineral Fund.

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G. Direction (vii) as regards of Framing of comprehensive schemes on Goa Iron Ore Permanent Fund.

I. I respectfully state that every direction of this Honble Court would be complied with by the State Government, in accordance with the directions issued. I seek indulgence of this Hon'ble Court to permit the State Government to raise a legal contention which has since arisen on account of the MMRD Amendment Act 2015, which contemplates vide Section 9(B) of MMDR Act 1957, thereof a separate District Mineral Fund which has to be created and managed in terms of the provisions of the said Act. I respectfully state that the directions contained in (VII) as regards framing of comprehensive scheme was subject to the creation of the Goa iron ore permanent fund which related to direction (VI) as regards 10% of the sale value from E-Auction as well as freshly extracted iron ore from the respect five mining companies. In my respectful submission in view of the statutory provision now being made, this Hon'ble Court may therefore issue appropriate directions as regards direction (VI) and (VII) in the main Judgement, either by modifying them, or recalling them or further clarifying the matter as regards collection of these funds. In the respectful submission of the State Government, since

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the statutory provisions have now been enacted by the parliament those directions be modified accordingly. Indeed, the amount collected under the 10% auction value, received by the State Government and parked separately can be merged in such statutory fund provided for in the MMDR Amendment Act, 2015.

II. <u>Without prejudice to the aforesaid I respectfully state that :</u>

a) I state that this Hon'ble Court vide Order dated 21/4/2014 directed State of Goa to frame comprehensive scheme with regards to the Goan Iron Ore Permanent Fund in consultation with the CEC for sustainable development and intergenerational equity and submit the same to the Apex Court within six months from the date of Judgement. I state that immediately thereafter on 25/4/2014, a letter sent to CEC by the State of Goa seeking copy of the draft if any, prepared in other State by CEC for using the same for the State of Goa with modifications. However, there was absolutely no reply and/or calling the State Government for consultation regarding finalization of Scheme.

b) I state that since there was no reply from the CEC, on 14/1/2015, State of Goa published

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Goa Mineral Ore Permanent Fund Scheme. Copy of the same is enclosed hereto as **"Annexure F"**. (29-31)

c) I state that on 22/1/2015, copy of the Goa Iron Ore Permanent Fund Scheme was sent to the CEC for perusal and information.

d) I state that on 5/3/2015 i.e. nearly after one and half month, CEC wrote to the Chief Secretary, Government of Goa that no consultation was made with CEC before finalization of the scheme and hence asked State to withdraw the Scheme.

e) I state vide communicated 29/4/2015, CEC was informed by Secretary (Mines), Government of Goa that the Scheme was formulated after intimating CEC by letter dated 25.04.2014 so also a copy of the scheme was sent to CEC by letter dated 22.01.2015. The CEC was therefore requested to offer comments and suggestions instead of withdrawing the scheme.

f) I state that vide letter dated 18/5/2015, CEC has written to the Chief Secretary, Goa that consultation means preparation of draft

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scheme, holding discussion with CEC and preparing final scheme hence the schemed is in violation of this Hon'ble Court order.

g) I state that on 6/6/2015, the Secretary (Mines) paid visit to CEC Office for seeking appointment for consultation. Secretary has informed by office of CEC that Member Secretary of CEC is out of Country and shall be available only in second week of July, 2015.

h) I state that vide letter dated 10/6/2015, CEC was requested to fix up dates for consultation.

i) I state that vide communication dated 13/7/2015, the CEC informs the State Government that the consultation meeting is scheduled on 28.07.2015 at New Delhi.

j) I state that vide telephonic communication dated 21/7/2015, a request was made to CEC for postponement of the consultation meeting as the Goa State Legislative Assembly was in session from 27/7/2015 till 14/08/2015. The CEC was also request to convey suitable dates for the meeting. I state that accordingly CEC has fixed the dates for consultation on 16/9/2015. I state that as per the intimation of CEC, the Chief Secretary of Goa attended the consultative meeting fixed by the CEC at New Delhi on 18th September, 2015 in which he was

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handed over the details of the Special Purpose Vehicle devised by CEC in State of Karnataka. I state that the matter will be examined in view of the existing scheme and the Special Vehicle purpose provisions and the same shall be placed before the Government for suitable favorable action in case this Honorable Court decided to continue with the Goa Iron Ore Permanent Fund Scheme for State of Goa. I state that in view of the aforestated facts, the comprehensive scheme with regard to Goan Iron Ore Permanent Fund could not be formulated within the time prescribed by this Hon'ble Court. I state that the delay was not at all intentional, and has occurred because of the facts mentioned hereinabove. I therefore tender, sincere apology for the delay and pray that the the delay in formulating the scheme be condoned and in case this Hon'ble Supreme Court directs that the present scheme be continued despite the Amendment and insertion of Section 9(B) in the MMRD Act, 1957, the time for the same may be extended by another 12 weeks. I however state that the 10% deduction from the E-Auction value has already been kept separately in fixed deposits in compliance of direction (VI) of this Hon'ble Court, and in the normal circumstances,

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subject to what this Hon'ble Court decides in view of the amended provisions, would abide by direction (VII) hereinabove.

5. I state that after the last hearing of this matter, the expert committee's report was placed before the State Government for decision. The State Government is of the considered view that the report takes care of the leases already considered for renewal. However if fresh leases are to be granted by Auction, such grants may not be possible because of the capping of production in the State. Hence in view of the Mines and Minerals Development Amendment Act, 2015 the continuation of the capping of production in the State of Goa may be looked at afresh subject to the improvement in infrastructure, road network, jetties and other modes of communication.

6. I state that the e-auction was conducted in accordance with the directions issued by this Hon'ble Court under the strict supervision of the monitoring committee appointed by this Hon'ble Court.

7. I state that I am filing this affidavit in order to highlight the compliances by the State of Goa in accordance with the direction issued by this Honorable Court.

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8. I state that what is stated by me in above Paras of this reply is true to my knowledge and based on legal submissions which I believe to be true and correct.

Solemnly affirmed at Delhi on this

23nd day of September, 2015.

DEPONENT

ATTESTED

RAJENDRA KUMAR
NOTARY, DELHI-R-5780
GOVERNMENT OF INDIA
SUPREME COURT OF INDIA
COMPOUND, NEW DELHI
Register Pg./Sl. No. 23.09.2015

Ph. 9212491692
9899446209

Identified by me:

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CERTIFIED THAT THE CONTENTS EXPLAINED TO THE DEPONENT EXECUTANT WHO IS SEEMED PERFECT TO UNDERSTAND & AFFIRMED DEPOSED BEFORE ME AT DELHI ON 23.09.2015 INDENTIFIED BY
IDENTIFY THE EXECUTANT/DEPONENT WHO HAS SIGNED IN MY PRESENCE

IDENTIFY THE EXECUTANT/
DEPONENET WHO WAS
SIGNED IN THE PRESENCE OF

"ANNEXURE A"

RULE 38 NOTICES ISSUED

Sr. No.	Name of the lease holder	Address	T.C. No.
1.	Legal heirs of late Shri V. D. Chowgule,	Chowgule House, Mormugao Harbour, Marmugao – Goa.	16/51 & 40/50
2.	M/s. Sesa Goa Ltd.,	Sesa Ghor, 20 EDC Complex, Patto, Panaji- Goa.	3/54, 9/49 & 10/49
3.	M/s. Sesa Goa Ltd.,	Sesa Ghor, 20 EDC Complex, Patto, Panaji- Goa.	69/51, 70/52 & 126/53
4.	M/s. Sesa Mining Corp. Ltd.	Sesa Ghor, 20 EDC Complex, Patto, Panaji- Goa.	11/41, 12/41, 13/41, 14/41 & 15/41
5.	M/s. Sesa Resources Ltd.	Sesa Ghor, 20 EDC Complex, Patto, Panaji- Goa.	3/51 & 40/54
6.	M/s. Sesa Resources Ltd.	Sesa Ghor, 20 EDC Complex, Patto, Panaji- Goa.	5/54, 20/54 & 21/54
7.	M/s Chowgule & Co. Pvt. Ltd.	Chowgule House, Mormugao Harbour, Marmugao – Goa.	40/57 & 42/57
8.	M/s Chowgule & Co. Pvt. Ltd.	Chowgule House, Mormugao Harbour, Marmugao – Goa.	31/53 & 41/56
9	M/s Chowgule & Co. Pvt. Ltd.	Chowgule House, Mormugao Harbour, Marmugao – Goa.	5/49 & 13/49
10.	M/s Chowgule & Co. Pvt. Ltd.	Chowgule House, Mormugao Harbour, Marmugao – Goa.	38/51, 22/50 & 12/57
11.	M/s. V. M. Salgaocar & Bro. Pvt. Ltd	Salgaocar House, P.O. No. 14, Francisco Luis Gomes Road, Vasco-da-Gama-Goa.	19/52, 44/56, 39/56 & 27/53
12.	M/s. V. M. Salgaocar & Bro. Pvt. Ltd	Salgaocar House, P.O. No. 14, Francisco Lujs Gomes Road, Vasco-da-Gama-Goa.	62B/52, 19/58, 29/54 & 83/52
13.	M/s. V. M. Salgaocar & Bro. Pvt. Ltd	Salgaocar House, P.O. No. 14, Francisco Luis Gomes Road, Vasco-da-Gama-Goa.	50/53, 13/55 & 47/54
14.	Smt. Kunda R. Gharse	Near Municipality, P.O. Box. No. 204, Marago- Goa.	3/57, 33/57 & 19/54
15.	Shri S. T. Pokle, Power of Attorney holder of Legal Heirs of Late N. S. Narvekar	Opp. Fatima Convent, Bombi Niwas, Margao – Goa.	40/51 & 12/52
16.	M/s. Emco Goa Pvt. Ltd	Shri Damodar Krupa Prasad, 1st Floor, Rawanfond-Mandopa Road, Aquem Baixo, Margao – Goa.	7/41 & 23/53

// TRUE COPY //

"ANNEXURE B"

LIST RULE 37 NOTICES ISSUED

Sr. No.	Name of the lease holder	Address	T.C. No.
1.	M/s. Sesa Resources Ltd.	Panaji – Goa.	03/51, 40/54, 05/54, 20/54 & 21/54
2.	M/s. Sesa Mining Corporation Limited	Panaji- Goa	11/41, 12/41, 13/41,14/41 & 15/41
3.	Shri Noor Mohammed Abdul Karim (Late)	Margoa – Goa.	43/53
4.	Shri Rajesh P. Timblo	Margoa - Goa	63/51

// TRUE COPY //

Annexure C

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Ad-Hoc Pro rata Distribution of Production as per 20 Million Tons Capping				
Sr.No	T.C. NO./ Lease No.	Name of Lessee	EC LIMIT	Prorata
1	69/51	M/S SESA GOA LTD	0.000	0.000
2	126/53	M/S SESA GOA LTD	0.000	0.000
3	70/52	M/S SESA GOA LTD	7.000	3.233
4	003/54	M/S SESA GOA LTD		0.000
5	009/49	M/S SESA GOA LTD		0.000
6	010/49	M/S SESA GOA LTD	0.200	0.092
7	011/41	M/S SESA MINING CORP. LTD.		0.000
8	012/41	M/S SESA MINING CORP. LTD.		0.000
9	013/41	M/S SESA MINING CORP. LTD.		0.000
10	014/41	M/S SESA MINING CORP. LTD.		0.000
11	015/41	M/S SESA MINING CORP. LTD.	2.000	0.924
12	003/51	SESA RESOURCES LTD.		0.000
13	40/54	SESA RESOURCES LTD.	0.200	0.092
14	005/54	M/S SESA RESOURCES LTD.		0.000
15	20/54	M/S SESA RESOURCES LTD.		0.000
16	21/54	M/S SESA RESOURCES LTD.	1.100	0.508
17	35/52	M/S SESA RESOURCES LTD.	0.100	0.046
18	76/52	M/S SESA GOA LTD	0.200	0.092
19	006/55	M/S SESA GOA LTD	1.000	0.462
20	28/51	M/S SESA GOA LTD	0.200	0.092
21	16/51	SHRI V. D. CHOWGULE (LATE)		0.000
22	40/50	SHRI V. D. CHOWGULE (LATE)	1.000	0.462
23	31/53	M/S CHOWGULE & CO. LTD.		0.000
24	41/56	M/S CHOWGULE & CO. LTD.	1.450	0.670
25	005/49	M/S CHOWGULE & CO. LTD.		0.000
26	13/49	M/S CHOWGULE & CO. LTD.	0.800	0.369
27	38/51	M/S CHOWGULE & CO. LTD.		0.000
28	22/50	M/S CHOWGULE & CO. LTD.		0.000
29	012/57	M/S CHOWGULE & CO. LTD.	0.420	0.194
30	98/52	M/S CHOWGULE & CO. LTD.	0.300	0.139
31	19/52	M/S V. M. SALGAOCAR & BRO. PVT. LTD		0.000
32	44/56	M/S V. M. SALGAOCAR & BRO. PVT. LTD		0.000
33	39/56	M/S V. M. SALGAOCAR & BRO. PVT. LTD	0.700	0.323
34	62B/52	M/S V. M. SALGAOCAR & BRO. PVT. LTD		0.000
35	19/58	M/S V. M. SALGAOCAR & BRO. PVT. LTD		0.000
36	29/54	M/S V. M. SALGAOCAR & BRO. PVT. LTD		0.000
37	83/52	M/S V. M. SALGAOCAR & BRO. PVT. LTD	1.602	0.740
38	50/53	M/S V. M. SALGAOCAR & BRO. PVT. LTD		0.000
39	13/55	M/S V. M. SALGAOCAR & BRO. PVT. LTD		0.000
40	47/54	M/S V. M. SALGAOCAR & BRO. PVT. LTD	0.720	0.333
41	007/41	M/S EMCO GOA PVT. LTD		0.000
42	23/53	M/S EMCO GOA PVT. LTD	0.700	0.323
43	33/53	M/S DAMODAR MANGALJI & CO. LTD.	0.100	0.046
44	95/52	M/S DAMODAR MANGALJI & CO. LTD.	0.700	0.323
45	18/53	M/S DAMODAR MANGALJI & CO. LTD.	0.075	0.035
46	001/55	M/S DAMODAR MANGALJI & CO. LTD.	0.100	0.046
47	88/52	M/S SOC. TIMBLO IRMAOS LTDA.(SFI)	0.550	0.254
48	14/53	M/S SOC. TIMBLO IRMAOS LTDA.(SFI)	0.500	0.231
49	45/52	M/S SOC. TIMBLO IRMAOS LTDA.(SFI)	0.500	0.231
50	40/51	N. S. NARVEKAR(LATE)		0.000
51	12/52	N. S. NARVEKAR(LATE)	0.750	0.346
52	008/41	SHRI GANGADHAR N. AGRAWAL	0.600	0.277
53	006/61	SHRI GANGADHAR N. AGRAWAL	0.500	0.231
54	55/51	SMT G. MANOHAR NAIK PARULEKAR	2.000	0.924
55	89/52	M/S LITHOFERRO	0.300	0.139
56	70/51	M/S R. S. SHETYE & BROS.	1.200	0.55[illegible]
57	002/51	M/S M.S.TALAULIKAR & SONS PVT. LTD	0.330	0.152

58	006/49	SHRI HIRALAL KHODIDAS(LATE)	0.400	0.185
59	61/53	M/S SOC. TIMBLO IRMAOS LTDA.(PTI)	0.600	0.277
60	87/53	M/S SOC. TIMBLO IRMAOS LTDA.(PTI)	0.400	0.185
61	143/53	M/S SOC. TIMBLO IRMAOS LTDA.(PTI)	0.540	0.249
62	34/50	M/S SOC. TIMBLO IRMAOS LTDA.(PTI)	0.200	0.092
63	29/52	M/S PANDURANG TIMBLO IND. (LATE)	0.100	0.046
64	59/51	SHRI ZOIRAM B.NEOGUI(LATE)	0.300	0.139
65	48/58	KASHINATH D.S.TALAULIKAR(LATE)	0.100	0.046
66	010/51	HAIDER KASSIM KHAN(LATE)	0.250	0.115
67	41/55	V. M. SALGAOCAR & BRO.LTD. (SMI)	0.100	0.046
68	86/53	SHRI V. M. SALGAOCAR (LATE)	0.600	0.277
69	45/54	M/S SOVA	0.750	0.346
70	004/55	M/S MARZOOK & CADAR PVT. LTD.	0.250	0.115
71	92/52	M/S SOC. TIMBLO IRMAOS LTDA.(TPL)	0.250	0.115
72	14/58	M/S SOC. TIMBLO IRMAOS LTDA.(TPL)	0.700	0.323
73	14/52	M/S BADRUDDIN HUSSAINBHAI MAVANI	0.400	0.[illegible]
74	51/52	SMT KUNDA RAGHUVIR GHARSE	0.723	0.334
75	19/54	SMT KUNDA RAGHUVIR GHARSE		0.000
76	003/57	SMT KUNDA RAGHUVIR GHARSE		0.000
77	33/57	SMT KUNDA RAGHUVIR GHARSE	1.350	0.623
78	84/52	M/S BANDEKAR BROS. PVT. LTD.	0.800	0.369
79	008/61	M/S MADACHEM BAT MINES PVT. LTD	0.025	0.012
80	004/49	M/S RAJARAM BANDEKAR (SIRIGAO) MINES PVT. LTD.	0.700	0.323
81	005/53	SHRI ALEIXO MANUAL DA COSTA	0.500	0.231
82	110/53	M/S COSME COSTA & SONS	3.000	1.385
83	29/55	SHRI ATCHUTA V.S.VELINGKAR	0.280	0.129
84	24/57	SHRI RAMACANT VELINGKAR	0.154	0.071
85	41/54	SMT AHILIABAI SARDESAI(LATE)	0.600	0.277
86	62A/52	SMT SUNANDA D BANDODKAR(LATE)	0.500	0.231
87	008/50	SHRI RAJARAM POIGUINKAR(LATE)	0.300	0.139
88	016/55	SHRI V. G. QUENIM(LATE)	0.437	0.202
89	63/51	RAJESH TIMBLO	0.100	0.046
			43.306	20.000

//TRUE COPY//

Annexure-D

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VIA E-MAIL MESSAGE

MOST URGENT
HON'BLE SUPREME COURT OF INDIA MATTER

No. DMG/SC-DIR/WP(C)-435/2012 /2540
Government of Goa,
Directorate of Mines & Geology,
Ground floor,
Institute Menezes Braganza,
Panaji – Goa.

Date: 02/09/2015

Sub: Disbursement of extraction cost to lease holders their sister concerns or traders.

WHEREIN, Hon'ble Supreme Court of India has directed the State Government to pay average cost of extraction to the mining leases in its order dated 21/04/2014, in W. P. (C) No. 435/2012.

AND WHEREAS, Apex Court vide order dated 14/10/2014 in IA No. 86/2014 mentioned that extraction cost is to be approximate cost (not actual cost) incurred by the lessees during the extraction of mine mineral.

AND WHEREAS, the undersigned was directed to decide under the supervision of Monitoring Committee, what would be the extraction cost payable to lease holders etc. The average extraction cost payable is arrived at Rs. 250/- per ton in the State of Goa, under the supervision of Monitoring Committee.

NOW THEREFORE, with the approval of the State Government, such extraction cost is proposed to be disbursed to respective lease holders, their sister concerns or traders as the case may be, as per the ownership of the inventorised ore for which e-auctions have been conducted and bid value thereof is deposited with the State Government. In case where the auctioned ore is not lifted, such payments shall be made subject to undertaking from

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the lease holders, their sister concerns or traders, that in cases of shortage of mineral than declared quantity of the lot, the amount received by such individual for such shortages shall be forthwith refunded to the State Government.

All the lease holders, their sister concerns and traders whose lots are auctioned are hereby called upon to submit their claims for extraction cost @250/- per ton with lot wise and auction wise details of calculations to the accounts section of this department and also mentioning in whose favour payments are to be made incase the ownership of lot was transferred to either sister concerns or traders as the case may be.

Incase of more than one claim for the extraction cost, the decision of the undersigned shall be final and payments in such instances shall be made subject to undertaking to that effect, that dispute if any with regards to such payments shall be a civil dispute between such two or more claimants and that DMG or the State of Goa shall not be party to any civil or other proceedings initiated in this behalf.

This may be treated as most urgent being Hon'ble Supreme Court of India matter.

(Prasanna A. Acharya)
Director of Mines & Geology

To,
All the Leaseholders whose ore is inventorised for e-auction.

Copy for information to:
Assistant Accounts Officer,
Directorate of Mines & Geology,
Accounts Section,
Panaji- Goa.

//TRUE COPY//

BY FAX MESSAGE

30/c

ANNEXURE – E 27

No. DMG/SC-DIRECTIONS/435/2012/STORAGE-MPT/01/2116
Government of Goa,
Directorate of Mines & Geology,
Menezes Braganza Institute,
Ground Floor,
Panaji Goa.

Dated: 8/10/2014.

To,
The Traffic Manager,
Marmugao Port Trust,
Headland Sada,
Vasco da Gama,
403804.

Sub:- Payment of Storage Charges to Mormugao Port Trust as per the Hon'ble Supreme Court No. 435/2012 dated 21/04/2014.

Sir,

You must be aware that by above captioned Order, Hon'ble Supreme Court of India has declared that the extracted ore lying in the State of Goa belongs to the State Government. Hon'ble Supreme Court has directed to the State Government to pay 50% of the storage charges to MPT from the sale proceeds of ore in the State for the ore lying at MPT.

There was about 1,97,000 Million tons of ore at Mormugao Port Trust which could not move as per ban imposed by the Hon'ble Supreme Court of India including 52,000 Million tons of spillage cargo which belongs to MPT.

The rates for storage from 5/10/2012 till 17/08/2013 was @ Rs. 2/- per tons and from 18/08/2013 onwards it was enhanced to 2.80/- per ton per day. In addition to storage charges, in normal transactions MPT also levied pension levy @ 7% of storage charges and paid service tax on storage charges and pension levy @ about 12.36%.

Hon'ble Supreme Court Order dated 21/04/2014 directed payment to MPT based upon MPT's Application to Supreme Court as a relief to MPT and payment of such compensation etc. by State Government cannot be called as service provided by MPT to State Government.

As regards State Government and MPT, there is perfect agreement on issue of quantity of ore i.e. 1,97,000 million tons including 52,000 million tons spillage cargo belonging to MPT being stored prior to 05/10/2012, the rates of storage charges from 05/10/2012 till 21/04/2014, however, on following issues, MPT and State Government has difference of opinion which are listed herein under:

1. MPT wants to claim storage charges plus 7% as pension levy on such storage charges and service tax @ of 12.36% on storage charges and pension levy. State Government is agreeable to pay storage charge without payment of pension levy or service tax which is in conformity with Supreme Courts Order dated 21/04/2014.

2. MPT wants to charge storage charges on spillage cargo belonging to MPT whereas State Government is agreeable to pay on equity, cost of extraction payable to lease holders @ Rs. 250/- per tons as arrived at

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by Shah Commission Reports subject to approval of Monitoring Committee.

3. Storage charges prior to 05/10/2012 with other levies are to be collected from the persons who stored in the cargo at MPT and only in case the person who stored such cargo and the successful bidder of the same stack are same, then MPT is justified in not releasing the same till its previous dues are settled by such bidder and not otherwise. MPT wants to recover storage charges from successful bidders prior to 05/10/2014.

4. For computing period of storage as per Supreme Court Order the State Government shall pay from 05/10/2012 to 21/04/2014 i.e. 564 days. For period from 05/10/2012 to 17/08/2013 i.e. for 317 days 50% of Rs. 2/- per day per ton which comes to Rs. 1/- Per day per ton and for the period from 18/08/2013 to 21/04/2014 i.e. 247 days @ 50% of Rs. 2.80 Paisa per ton per day which comes to Rs. 1.40 per ton per day. Since MPT has restrained the successful bidder from lifting the lots for want of payment of storage charges even prior to 05/10/2012 the subsequent delay has to be attributed to MPT. So also taking into account Supreme Courts Order, the maximum period for which storage charges can be paid would be 21/04/2014. MPT wants to charge even beyond 21/04/2014.

As such, the maximum amount payable to MPT shall be as under:

1. Spillage cargo: 52,000 X 250 = Rs. **1,30,00,000/-**
2. Normal Cargo:(a) 1,45,000 X 1X317 = **Rs. 4,59,65,000/-** from 05/10/2012 to 17/08/2013.
   (b) 1,45,000 X 1.4 X 247 = **Rs. 50,141,000**/- from 17/08/2013 to 21/04/2014.
3. Total amount payable as full settlement :- **Rs. 10, 91, 06, 000/-**
4. Total amount paid so far: **Rs. 4,80,49,794/-** as against claim of MPT for part quantity of ore including pension levy and service tax.
5. Total Amount payable: **Rs. 6,10,562,06/-** for full settlement of MPT claim of 1957000/- metric tons ore.

Yours faithfully,

8/X/14

(Prasanna A. Acharya)
Director of Mines & Geology

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