

No. M.VI-1/2/2023-Mines VI
Government of India
Ministry of Mines

Shastri Bhawan,
Dr. Rajendra Prasad Road
New Delhi-110 001
Dated: 02nd June, 2023

NOTICE

Subject: Consultation on amendment of the Minerals (Other than Atomic and Hydro Carbons Energy Minerals) Concession Rules, 2016 (MCR, 2016) on the issue of double incidence of royalty due to inclusion of royalty in the calculation of ASP.

The Ministry of Mines is proposing to make amendments in the Minerals (Other than Atomic and Hydro Carbons Energy Mineral) Concession Rules, 2016 (MCR, 2016) on the issue of incidence of double royalty due to inclusion of royalty in the calculation of ASP. A draft note for consultation in this regard and draft amendment rules is **enclosed** with this notice.

2. In pursuance of the Pre-Legislative Consultation Policy, comments/ suggestions from the general public, Governments of States and Union Territories, mining industry stake-holders, industry associations, and other persons and entities concerned are invited on the said note for consultation and draft amendment rules.

3. The last date for receipt of the comments/suggestions is **03rd July, 2023**.

4. The comments/suggestions may be sent by e-mail in MS-Office Word file to the following ID:

jspolicy-mines@gov.in

The subject of the e-mail should be "Comments/ suggestions on the amendment of the MCR, 2016 on the issue of royalty on royalty".

5. Alternatively, comments/suggestions may also be sent by post to the following address:

Shri Mustaq Ahmad, Director
Ministry of Mines
Room No. 313,
D-Wing Shastri Bhawan,
Dr Rajendra Prasad Road
New Delhi -110 001

The envelope may kindly be superscribed on the top with:

"Comments/ suggestions on the amendment of the MCR, 2016 on the issue of royalty on royalty".

Encl.: As above.


(Mustaq Ahmad)
Director
Ph. 011-23383576

Enclosure

Note for consultation on amendment of the Minerals (Other than Atomic and Hydro Carbons Energy Minerals) Concession Rules, 2016 (MCR, 2016) on the issue of royalty on royalty

Average Sale Price (ASP) is weighted average of 'sale value' of minerals from each mine in a State. Rule 38 of the MCR, 2016 defines sale value as follows:

"Sale value is the gross amount payable by the purchaser as indicated in the sale invoice where the sale transaction is on an arms length basis and the price is the sole consideration for the sale, excluding taxes, if any."

Explanation - For the purpose of computing sale value, no deduction from the gross amount will be made in respect of royalty, payments to the District Mineral Foundation and payments to the National Mineral Exploration Trust."

2. Thus, as per the said rules, royalty, payments to District Mineral Foundation (DMF) and National Mineral Exploration Trust (NMET) are included in the 'sale value'. Royalty on minerals payable on *ad valorem* basis is calculated on the basis of ASP published by Indian Bureau of Mines. Further, ASP is also used in calculation of various auction parameters such as auction premium, upfront payment, reserve price for bidding, performance security and net worth requirement to determine the eligibility for participation in the auction.

3. A committee was constituted by the Ministry of Mines under chairmanship of Shri Praveen Kumar, IAS (Retd.) with members from Ministry of Mines, NITI Aayog, Ministry of Steel, Indian Bureau of Mines (IBM) and Indian Statistical Institute, *inter alia*, to examine the incidence of double calculation of royalty. The committee concluded that since the sale value already includes royalty, payments to the District Mineral Foundation (DMF) and payments to the National Mineral Exploration Trust (NMET), the lessee pays royalty on royalty, DMF and NMET. Due to this, there is an additional charge on the miners under the current methodology. The committee, *inter alia*, recommended calculating ASP after deducting royalty, DMF and NMET from sale value.

4. The charging of royalty, DMF, NMET and auction premium on the sale value which already includes royalty, DMF and NMET is not appropriate way to collect revenue and leads to cascading effect on both royalty and auction premium. Accordingly, the Ministry is considering to amend the MCR, 2016. A draft notification for amendment of the MCR, 2016 is enclosed as **Annexure-1** for comments and suggestions.

5. This change would apply only in cases where mining leases are granted pursuant to NITs issued after the amendment in the rules or pursuant to the reservation made after such amendment.

Annexure-1

Draft Notification

**[To be published in the Gazette of India, Extraordinary, Part II,
Section 3, Sub-section (i)]**

**MINISTRY OF MINES
NOTIFICATION**

New Delhi, the _____, 2023

G.S.R. __ (E).— In exercise of the powers conferred by section 13 of the Mines and Minerals (Development and Regulation) Act, 1957 (67 of 1957), the Central Government hereby makes the following rules further to amend the Minerals (Other than Atomic and Hydro Carbons Energy Mineral) Concession Rules, 2016, namely:—

1. (1) These rules may be called the Minerals (Other than Atomic and Hydro Carbons Energy Mineral) Concession Amendment Rules, 2023.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Minerals (Other than Atomic and Hydro Carbons Energy Mineral) Concession Rules, 2016, after rule 51, the following shall be inserted, namely:—

“51A. Payments in case of the mining leases granted pursuant to notice inviting tender issued or reservation made after the commencement of the Minerals (Other than Atomic and Hydro Carbons Energy Mineral) Concession Amendment Rules, 2023.—

Notwithstanding anything to the contrary contained in this chapter, in case of the mining lease granted pursuant to notice inviting tender (for composite licence or mining lease) issued after the date of commencement of the Minerals (Other than Atomic and Hydro Carbons Energy Mineral) Concession Amendment Rules, 2023 or pursuant to the reservation under section 17A of the Act made after the said date,—

(i) the average sale price to be used for calculation of the payment of the royalty, payment towards District Mineral Foundation and National Mineral Exploration Trust and payment under rule 13 of the Mineral (Auction) Rules, 2015 shall be the average sale price of the mineral grade or concentrate published by the Indian Bureau of Mines for the relevant month *minus* the royalty and payment towards District Mineral Foundation and National Mineral Exploration Trust calculated on

the average sale price published by the Indian Bureau of Mines;

(ii) clause (i) shall not be applicable in the cases where the rate of royalty is specified in the Second Schedule of the Act as a percentage of price published by the London Metal Exchange, London Bullion Market Association or any other exchange or agency.".

[F. No. M.VI-____-Mines VI]

(Dr. Veena Kumari Dermal)
Joint Secretary

Note:- The Minerals (Other than Atomic and Hydro Carbons Energy Mineral) Concession Rules, 2016 were published in the Gazette of India, Part II, section 3, sub-section (i) *vide* number G.S.R. 279(E) dated the 4th March, 2016 and lastly amended *vide* number G.S.R. 205(E), dated the 15th March, 2022.

